

2026 TCAA SUMMER CONFERENCE

June 24-26, 2026
Galveston, TX

PUC Update

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Certificates of Convenience and Necessity

- What are CCNs?
- Why did cities get them?
- With changes in state law and PUC policy, are CCNs still useful tools?



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Certificates of Convenience and Necessity

CCNs are water or sewer service areas where the holder of the CCN has the exclusive right to serve, but the obligation to provide continuous and adequate service to all customers and qualified service applicants.



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Certificates of Convenience and Necessity

- Cities are not required to have CCNs but may obtain them.
- Historically, cities chose to get CCNs to:
 1. Protect future service;
 2. Assist in controlling land use outside the city;
 3. Assist with utility planning.



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Certificates of Convenience and Necessity

- Changes in state law and PUC Policy have stripped CCNs of their usefulness in high growth areas.
 - Restrictive “need” analysis
 - Expedited decertifications
 - Landowner opt-outs of CCN requests
 - Landowner opt-outs of ETJ



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Certificates of Convenience and Necessity

Need for Service Analysis

1. Written requests for service;
2. Inside city limits;
3. Areas/customers already served.



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Certificates of Convenience and Necessity

Landowner Opt-Outs of CCN Request

Landowners with 25 acres or more must receive notice of any application for a CCN application and those landowners may opt-out of the CCN requested area.



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Certificates of Convenience and Necessity

Expedited Decertifications

- Landowners with 25 acres or more, located in certain counties, and not receiving service can request to be removed from a CCN.
- Only issue in dispute is the compensation required.



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Certificates of Convenience and Necessity

Trends in Streamlined Expedited Decertification Cases

- Mapping and acreage issues.
- Appraisals and compensation.
- Extensions of time by agreement.



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Certificates of Convenience and Necessity

Landowner Opt-Outs of ETJ

- Impacts on Utility Planning.
- Impact Fees.



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Certificates of Convenience and Necessity

Likely Consequences of Changes

- State and Regional Water Planning.
- Regionalization Policy.
- Increased Cost to Developer if Obtaining Service from City.
- Increased Pressure on Groundwater.
- Proliferation of Wastewater Treatment Plants.



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Certificates of Convenience and Necessity

How are Some Cities Responding?

- Decertification of CCN Territory
 - City of Round Rock (denied)
 - City of Weatherford (granted)
 - City of Cedar Park (granted)
 - San Antonio Water System (granted)
 - City of Cleburne (granted)
 - City of McKinney (pending)
 - City of Waxahachie (pending)



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Certificates of Convenience and Necessity

Why was Round Rock's Application Denied?

- Notice was not adequate.
- City had existing customers in the area to be decertified.



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Update on 7 USC §1926(b) Cases

7 U.S.C. § 1926(b)

“The service provided or made available through any such association shall not be curtailed or limited by inclusion of the area served by such association within the boundaries of any municipal corporation or other public body, or by the granting of any private franchise for similar service within such area during the term of such loan”



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Update on 7 USC §1926(b) Cases

Green Valley Special Utility Dist. v. City of Schertz,
969 F.3d 460 (5th Cir. 2020)

- Adopted the “physical ability” test:
“for service to be ‘provided or made available,’ utilities must have adequate facilities to provide service to the area within a reasonable time after a request for service is made and the legal right to provide service.”



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Update on 7 USC §1926(b) Cases

Dobbins Plantersville Water Supply Corp. v. Lake,
108 F.4th 320 (5th Cir. 2024)

- Property release from Dobbin’s CCN through streamlined expedited release process.
- Dobbin sued PUC *after* the CCN was already released.
- Requested injunctive relief prohibiting the PUC from enforcing the decertification order.
- Court held enjoining the PUC from further enforcement of the decertification orders did not redress Dobbin’s injuries and invalidating the PUC’s orders would be retrospective and thus out of bounds under the Ex Parte Young exception.



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Update on 7 USC §1926(b) Cases

Other 1926(b) Cases

North Collin Special Utility Dist. v. Lake (W.D. Texas 2023). No. 1:21-CV-807-DAE

- sought injunction before SER petition was granted
- W.D. Texas said 1926(b) applies to the PUC as a state regulator and a public body

Crystal Clear Special Utility Dist. v. Jackson, 142 F.4th 351 (5th Cir. 2025) (No. 1:23-CV-878)

- Crystal Clear owns water pipes in the ground within and adjacent to the property that was the subject of the SER
- Question raised as to whether services are priced so excessively as to negate “availability” under 1926(b)
- Tex. Water Code § 13.2541 is not expressly preempted by § 1926(b), but Court left open whether 1926(b) conflicts with or preempts TWC §13.2541



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Update on 7 USC §1926(b) Cases

Other 1926(b) Cases

Crystal Clear SUD v. Cobos, (W.D. Texas) No. 1:22-CV-1293

North Collin SUD v. City of Princeton, (E.D. Texas) No. 4:23-CV-2-ALM-KPJ

High Point USC v. Lake, (W.D. Texas) No. 1:23-CV-13

Dobbin Plantersville WSC v. Montgomery County MUD No. 180, (S.D. Texas) No. H-23-1583

North Collin SUD v. Meritage Homes of Texas, (E.D. Texas) No. 4:23-00002

Jonah Water SUD v. Gleeson, (W.D. Texas) No. 1:25-CV-1441

Rockett SUD v. Gleeson, (W.D. Texas) No. 1:25-CV-1665



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Outside City Rate Cases

Texas Water Code § 13.043

- Allows outside city customers to appeal rate changes.
- Requires city to provide written notice of rate change within 60 days after date of final decision:
 - Requires notice to include
 - Effective date
 - The new rates
 - Location of where additional information may be obtained
- Petition appealing rates must be filed within 90 days after the effective date of rate by the lessor of 10,000 or 10 percent of the ratepayers whose rates were changed.



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Outside City Rate Cases

Jurisdictional Issues with Petitions:

1. Signatures must meet PUC requirements
2. Sufficient number of rate payers
 - Duplicate at same address
 - Non-customers
 - Not outside city customer

PUC Staff Position in Recent Case: The petition must be signed by 10% of all customers, not just 10% of the number of outside city customers.



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Outside City Rate Cases

Can a city use a multiplier for outside city rates (ex. 1.5 x inside city rates)?

Yes, but . . .

Threshold issue: Are the rates unreasonably preferential, prejudicial, or discriminatory?

Reasonable basis to discriminate:

- Increased costs of service
- Increased risks
- Different usage demands

PUC Staff position in Corpus Christi case (PUC Docket No. 56427)

PUC Staff position in Leander case (PUC Docket No. 53063)



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Outside City Rate Cases

Does my city need a new rate study every year prior to the City's adoption of the new rates?

No, but . . .

- Post-decision rates studies will not be allowed because the PUC may only consider information that was available to the City Council when it made its decision
 - Prior year's rate studies are "available" to the city council



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Outside City Rate Cases

Other Matters to Consider

- Rate case expenses.
- General fund transfers.
- Other “payments” to other city programs.



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Wholesale Rate Appeals

Texas Water Code § 13.044

- District may appeal the rates imposed by the city to the PUC.
- Key issue: Does the resolution, ordinance, or agreement of the city consenting to the creation of the district *require* the district to purchase water or sewer service from the city?
- If § 13.044 applies, these cases go straight to setting a rate. There is no threshold public interest consideration.



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Wholesale Rate Appeals

Texas Water Code §§ 13.043(f) and 13.0431

- Applies to appeals of wholesale contract rates, but not to:
 - Contract rates between cities; or
 - § 13.044 cases



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Wholesale Rate Appeals

Texas Water Code §§ 12.013, 13.043(f) and 13.0431

- Requires the PUC to determine if the amounts charged under the contract harms the public interest.
- Allows an immediate appeal to district court of public interest decision, with the underlying PUC case abated.



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Wholesale Rate Appeals

PUC Rulemaking on Wholesale Rate Appeal Rules
(PUC Docket No. 53981)

- Comments due July 9, 2026
- Key changes:
 - Has PUC determining if the rate is charged pursuant to a contract
 - Still allows for a consolidate public interest and rate determination hearing
 - Still allows a consideration of the seller's cost of service in considering the public interest



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Questions?



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