

**RCW 80.28.330 Certificate of public convenience and necessity—
Bond or equivalent surety—Rule-making authority.** (1) A wastewater company may not own or develop a system of sewerage for the purpose of providing service for compensation without first having obtained from the commission a certificate declaring that the public convenience and necessity requires such service.

(2) Issuance of the certificate of public convenience and necessity must be determined on, but not limited to, the following factors:

(a) A comprehensive business plan detailing the design, construction, operation, and maintenance of the proposed service system;

(b) Demonstration of sufficient financial resources to properly operate and maintain the proposed system, and to replace and upgrade capital assets;

(c) The need to develop a new stand-alone system instead of connecting to an existing system;

(d) A statement of prior experience, if any, in such field by the petitioner, set out in an affidavit or declaration;

(e) A certification from the municipal corporation that it is not willing and able to provide the sewerage services being proposed; and

(f) A certification from the municipal corporation that the company's proposed service is consistent with the locally approved general sewer plan.

(3) The commission may, after providing notice and an opportunity for public comment, issue certificates, or for good cause shown refuse to issue them, or issue them for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted such terms and conditions as, in its judgment, the public convenience and necessity may require.

(4) No certificate may be transferred to any private or nonprofit entity unless authorized by the commission.

(5) (a) Prior to the commission approving a wastewater company to provide new service or extend existing service, the wastewater company must file and continuously maintain in effect, a bond, or equivalent surety as determined by the commission, with the commission to ensure that there are sufficient funds to:

(i) Design, construct, operate, and maintain the proposed system;

(ii) Replace and upgrade capital assets as required by federal or state law or by order of the department of health or department of ecology; and

(iii) Allow additional connections to the system, if approved by the department of health or the department of ecology.

(b) The bond, or its equivalent surety, is payable under this section to the commission upon:

(i) An order under RCW 80.28.340 to transfer a system or systems of sewerage to a capable wastewater company;

(ii) Notice that the wastewater company does not intend to renew the bond or its equivalent surety or has failed to renew the bond or its equivalent surety; or

(iii) A petition by the commission under RCW 80.28.350, 80.28.030, or 80.28.040 to place a wastewater company in receivership.

(c) The commission must hold the payment in trust until an acquiring wastewater company is designated under RCW 80.28.340 or a receiving entity is designated under RCW 80.28.350, 80.28.030, or

80.28.040, at which point the funds will be made available to the company or entity to expend as directed by the commission.

(6) For purposes of issuing certificates under this chapter, the commission may adopt rules to implement this section.

(7) A wastewater company must obtain commission approval before expanding an existing system beyond the approved capacity set forth in its certificate or acquiring new systems, either by construction or purchase. [2011 c 214 § 3.]

Findings—Purpose—Limitation of chapter—Effective date—2011 c 214: See notes following RCW 80.04.010.