

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS.

Subchapter F. REGULATION OF TELECOMMUNICATIONS SERVICE.

§26.133. Business and Marketing Code of Conduct for Certificated Telecommunications Utilities (CTUs).

- (a) **Purpose.** The purpose of this section is to establish a code of conduct in order to implement Public Utility Regulatory Act (PURA) §51.001 and §64.001 relating to fair business practices and safeguards against fraudulent, unfair, misleading, deceptive, or anticompetitive practices in order to ensure quality service and a competitive market.
- (b) **Application.** This section applies to all certificated telecommunications utilities (CTUs), as defined in §26.5 of this title (relating to Definitions), and CTU employees. This section also applies to all authorized agents of the CTU. This section does not apply to a deregulated company holding a certificate of operating authority or to an exempt carrier under Public Utility Regulatory Act (PURA) §52.154.
- (c) **Communications.**
- (1) A CTU employee or authorized agent shall conduct communications with competitors and competitors' end-user customers with the same degree of professionalism, courtesy, and efficiency as that performed on behalf of their employer and end-user customers.
 - (2) A CTU employee or authorized agent, while engaged in the installation of equipment or the rendering of services (including the processing of an order for the installation, repair or restoration of service, or engaged in the actual repair or restoration of service) on behalf of a competitor shall not make statements regarding the service of any competitor and shall not promote any of the CTU's services to the competitor's end-user customers.
- (d) **Corporate advertising and marketing.**
- (1) A CTU, CTU employee or authorized agent shall not engage in false, misleading or deceptive practices, advertising or marketing with respect to the offering of any telecommunications service.
 - (2) A CTU, CTU employee or authorized agent shall not falsely state or falsely imply that the services provided by the CTU on behalf of a competitor are superior when purchased directly from the CTU.
 - (3) A CTU, CTU employee or authorized agent shall not falsely state or falsely imply that the services offered by a competitor cannot be reliably rendered, or that the quality of service provided by a competitor is of a substandard nature.
 - (4) A CTU, CTU employee or authorized agent shall not falsely state nor falsely imply to any end-user customer that the continuation of any telecommunications service provided by the CTU is contingent upon ordering any other telecommunications service offered by the CTU. This section is not intended to prohibit a CTU from offering, or enforcing the terms of, any bundled or packaged service or any other form of pricing flexibility permitted by PURA and commission rules.
- (e) **Information sharing and disclosure.**
- (1) Pursuant to the federal Telecommunications Act §222(a), each CTU has a duty to protect the confidentiality of proprietary information of, and relating to, other CTUs.
 - (2) Pursuant to the federal Telecommunications Act §222(b), each CTU that receives or obtains proprietary information from another CTU for purposes of providing any telecommunications service shall use such information only for such purpose, and shall not use such information for its own marketing efforts or any other unauthorized purpose.

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- (f) **References to other Chapter 26 substantive rules.** The following commission rules also affect the conduct of CTU employees and authorized agents. All CTU employees and agents must be trained to comply with the specific substance of these rules which affect their employment responsibilities. Copies of specific commission rules shall be made available by the CTU to any employee or agent upon their request. The applicability of each of the following sections is unaffected by the reference in this section and does not relieve any CTU of its responsibility to abide by other applicable commission rules.
- (1) Section 26.21 of this title (relating to General Provisions of Customer Service and Protection Rules);
 - (2) Section 26.31 of this title (relating to Disclosures to Applicants and Customers);
 - (3) Section 26.32 of this title (relating to Protection Against Unauthorized Billing Charges (“Cramming”));
 - (4) Section 26.37 of this title (relating to Texas No-Call List); and
 - (5) Section 26.130 of this title (relating to Selection of Telecommunications Utilities).
- (g) **Adoption and dissemination.**
- (1) Every CTU or authorized agent shall formally adopt and implement all applicable provisions of this section as company policy, or modify existing company policy as needed to incorporate all applicable provisions, within 90 days of the effective date of this section. A CTU shall provide a copy of its internal code of conduct required by this section to the commission upon request.
 - (2) Every CTU or authorized agent shall disseminate the applicable provisions of this section to all existing and new employees and agents, and take appropriate actions to both train employees and enforce compliance with this section on an ongoing basis. Every CTU shall document every employee’s and agent’s receipt and acknowledgement of its internal policies required by this section, and every CTU shall make such documentation available to the commission upon request.
- (h) **Investigation and enforcement.**
- (1) **Administrative penalties.** If the commission finds that a CTU has violated any provision of this section, the commission shall order the utility to take corrective action, as necessary, and the utility may be subject to administrative penalties and other enforcement actions pursuant to PURA, Chapter 15.
 - (2) **Certificate revocation.** If the commission finds that a CTU is repeatedly in violation of this section, and if consistent with the public interest, the commission may suspend, restrict, or revoke the registration or certificate of the CTU.
 - (3) **Coordination with the Office of the Attorney General.** The commission shall coordinate its enforcement efforts regarding the prosecution of fraudulent, misleading, deceptive, and anticompetitive business practices with the Office of the Attorney General in order to ensure consistent treatment of specific alleged violations.