

PROJECT NO. 33401

RULEMAKING TO AMEND AND/OR	§	PUBLIC UTILITY COMMISSION
REPEAL COMMISSION RULES	§	
RELATED TO THE FILING OF	§	OF TEXAS
FINANCIAL REPORTS AS	§	
RECOMMENDED IN PROJECT NO.	§	
32460	§	

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §26.73
AND THE REPEAL OF §26.77, §26.84, AND §26.98
AS APPROVED AT THE DECEMBER 14, 2006, OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes an amendment to §26.73, relating to Financial and Operating Reports, and the repeal of §26.77, relating to Payments, Compensation, and Other Expenditures, §26.84, relating to Annual Reporting of Affiliate Transactions of DCTUs, and §26.98, relating to Cost Allocation Manual. The 79th Legislature, Senate Bill 408 (SB 408), Section 13, required the commission to perform a comprehensive review of reporting requirements, whether required by statute or commission rules, relating to telecommunications providers. The commission's evaluation, performed in Project Number 32460, pursuant to SB 408, concluded that numerous reporting requirements contained in the sections proposed for repeal and the section proposed for amendment were duplicative, no longer necessary, or required additional review. Project Number 33401 has been assigned to this proceeding.

Ms. Janis Ervin, Senior Policy Specialist, Infrastructure Reliability Division, and Ms. Angie Welborn, Attorney, Legal Division, have determined that for each year of the first five-year period the proposal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering these sections.

Ms. Ervin and Ms. Welborn have determined that for each year of the first five years the proposal is in effect the public benefit anticipated as a result of enforcing the amended section will be the consolidation and clarification of the reporting requirement and procedures relating to the annual earnings report and that the repeal of reporting requirements in the three proposed repealed sections will result in efficiency and cost savings for the telecommunications providers and the commission. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this proposal. There is no anticipated economic cost to persons who are required to comply with the proposal.

Ms. Ervin and Ms. Welborn have also determined that for each year of the first five years the proposal is in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act §2001.022.

The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to the Texas Government Code §2001.029, or deemed necessary by commission staff, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on Wednesday, February 28, 2007 at 10:00 a.m. The request for a public hearing must be received within 30 days after publication.

Comments on the proposed sections (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, PO Box 13326, Austin, Texas 78711-3326, within 30 days after publication. Reply comments may be submitted within 45 days after publication. Parties are also requested to e-mail an electronic copy of comments to

janis.ervin@puc.state.tx.us, if possible. The commission invites specific comments regarding any costs associated with, and benefits that will be gained by, implementation of the proposed sections. The commission will consider the costs and benefits in deciding whether to repeal and adopt the proposed sections. All comments should refer to Project Number 33401 and should be organized in sequence by the applicable sections and subsections.

These repeals and amendment are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2006) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically, pursuant to the general requirements of SB 408 regarding the commission's ability to act upon those conclusions that do not require statutory review.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002 and SB 408 §13.

§26.73. Annual Earnings Report~~Financial and Operating Reports.~~

~~(a) Annual reports.~~

~~(1) Each Class A and B public utility, as classified in §26.72(b), shall file with the commission the same annual report as is required of such utility by the Federal Communications Commission or United States Department of Agriculture Rural Utilities Service. Such annual reports shall be filed on the same dates as required to be filed by the Federal Communications Commission or the United States Department of Agriculture Rural Utilities Service, whichever is applicable.~~

~~(2) Each utility holding company subject to annual reporting to the Securities and Exchange Commission and each utility shall file with the commission three copies of its annual report to shareholders, customers, or members. Unless included in the annual report to shareholders, customers, or members, each utility shall file concurrently with the filing of such report three copies of any audited financial statements that may have been prepared on its behalf.~~

~~(b) Annual earnings report.~~ Each utility shall file with the commission, on commission-prescribed forms available on the commission's website, ~~commission-prescribed forms~~, an earnings report providing the information required to enable the commission to properly monitor public utilities within the state.

(1) Each utility shall report information related to the most recent calendar year as specified in the instructions to the report.

(2) Each utility shall file three copies of the commission-prescribed earnings report and shall electronically transmit one copy of the report no later than May 15th of

~~each year the date prescribed in §26.71(f)(4) of this title (relating to General Procedures, Requirements, and Penalties) May 15th of each year.~~

(3) ~~On the due date of the annual earnings report, each~~ utility with a rate proceeding pending before the commission on the due date of the annual earnings report, pursuant to the Public Utility Regulatory Act, Chapter 53, in which a rate filing package is required, or who had a final order issued in such a proceeding within the previous 12 months, is exempt from filing the report ~~may submit an abbreviated earnings report. Specifications for the abbreviated filing are included in the General Filing Instructions for the annual earnings report.~~

~~(4) Each dominant certificated telecommunications utility shall submit annually an access line report as part of its annual earnings report.~~

~~(c) **Securities and Exchange Commission reports.** Each utility and utility holding company subject to reporting requirements of the Securities and Exchange Commission shall file three copies of each required report with the commission. Three copies of each such report including 10-Ks, 10-Qs, 8-Ks, Annual Reports, and Registration Statements filed with the Securities and Exchange Commission shall be submitted to the commission no later than 15 days from the initial filing date with the Securities and Exchange Commission.~~

~~(d) **Duplicate information.** A utility shall not be required to file with the commission forms or reports which duplicate information already on file with the commission.~~

§26.77. Payments, Compensation, and Other Expenditures

Repeal

§26.84. Annual Reporting of Affiliate Transactions of DCTUs

Repeal

§26.98. Cost Allocation Manual

Repeal

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 15th DAY OF DECEMBER 2006 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**