

The Public Utility Commission of Texas (commission) proposes an amendment to §26.107, relating to Registration of Nondominant Telecommunications Carriers. The proposed amendment will implement the provisions of the Public Utility Regulatory Act (PURA) §§17.051-17.053 and §§64.051-64.053 (Vernon Supplement 2000), which direct the commission to adopt registration requirements for all telecommunications utilities that are not dominant carriers, allow the commission to require registration as a condition of doing business in the state of Texas, establish customer service and protection rules, suspend or revoke certificates or registrations for repeated violations of PURA or commission rules, and require telecommunications service providers to submit reports concerning any matter over which the commission has authority. Project Number 21456, *Amendments to Substantive Rules §§26.107, 26.109, 26.111 and new 26.114 Regarding Certification, Registration, and Reporting Requirements in Relation to SB 560 and Miscellaneous Revisions*, was assigned to this proceeding on September 29, 1999. The timeline for this proposed rulemaking, amendment to substantive rule §26.107, coincides with the revised timeline for the entire rulemaking project. Copies of the proposed amendment and proposed new annual reporting form entitled *Reporting Requirements for Interexchange Carriers, Prepaid Calling Services Companies, and other Nondominant Telecommunications Carriers* may be obtained in the commission's Central Records and on the commission's web page at <http://www.puc.state.tx.us/telecomm/projects/21016/21456.cfm>.

Tamarian Stevens, Network Analyst, Telecommunications Industry Analysis, Office of Regulatory Affairs, and Denise E. Taylor, Senior Enforcement Investigator, Office of Customer Protection, have determined that for each year of the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Stevens and Ms. Taylor have determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be greater protection of the public interest, a more uniform process of certifying and registering telecommunications utilities in the state of Texas, a reduction in the number of public complaints against telecommunications utilities concerning the provision of service and quality of service, and an increase in compliance by telecommunications utilities with the certification, registration, and reporting requirements of PURA. There will be no effect on small businesses or micro-businesses as a result of enforcing this section. There is an anticipated economic cost to persons who are required to comply with this section as proposed which cannot be quantified at this time.

Ms. Stevens and Ms. Taylor have also determined that for each year of the first five years the proposed section is in effect there should be no affect 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 under Texas Government Code §2001.029 at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, on Wednesday, May 31, 2000, at 9:00 a.m. in Hearing Room Gee.

Comments on the proposed amendment and the proposed new annual reporting form may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 30 days after publication. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed section. The commission will consider the costs and benefits in deciding whether to adopt the section. All comments should refer to Project Number 21456.

This amendment is proposed under Senate Bill 86, Act of May 26, 1999, 76th Legislative Session, chapter 1579, §3, 1999 Texas Session Law Service, 5424 (Vernon) (codified as an amendment to the Public Utility Regulatory Act (PURA) §§17.051-17.053), Senate Bill 560, Act of May 26, 1999, 76th Legislative Session, chapter 1212, §55, 1999 Texas Session Law Service, 4237 (Vernon) (codified as amendments to PURA §§64.051-64.053), and PURA §§14.002, 15.023, 17.004, 17.051, 17.052, 17.053, 64.051, 64.052, and 64.053. Section 14.002 provides the commission with the authority to make and enforce rules reasonably required in the exercise of its power and jurisdiction. Section 15.023 grants the commission authority to impose an administrative penalty against an entity for violation of a rule adopted under PURA. Section

17.004 grants the commission authority to adopt and enforce rules as necessary or appropriate to establish customer protection standards. Section 17.051 and §64.051 direct the commission to adopt registration requirements for all telecommunications utilities that are not dominant carriers. Section 17.052 and §64.052 allow the commission to require registration as a condition of doing business in Texas, establish customer service and protection rules, and suspend or revoke certificates or registrations for repeated violations of this chapter or commission rules. Section 17.053 and §64.053 allow the commission to require a telecommunications service provider to submit reports to the commission concerning any matter over which it has authority under this chapter.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 15.023, 17.004, 17.051, 17.052, 17.053, 54.008, 64.051, 64.052, and 64.053.

§26.107. Registration of Interexchange Carriers, Prepaid Calling Services Companies,
and Other Nondominant Telecommunications Carriers.

(a) Application. This section applies to the registration of persons and entities who provide intralata and interlata long distance telecommunications services, prepaid calling services companies pursuant to §26.34 of this title (relating to Telephone Prepaid Calling Services), pay telephone service providers pursuant to §26.102 of this title (relating to Registration of Pay Telephone Service Providers), and other telecommunications services that do not require certification as established in the Public Utility Regulatory Act, Chapter 54, Subchapter C.

(b) Purpose. Through this section, the commission strives to identify, monitor, and protect the public interest against telecommunications entities providing uncertificated telecommunications services. The commission's overall goal is to encourage the development of a competitive marketplace for nondominant telecommunications services, free of unreasonable barriers to entry, that will provide consumers with the best services at the lowest cost.

(c)(a) Each nondominant carrier not holding a certificate of operating authority (COA) or service provider certificate of operating authority (SPCOA) ~~and not currently registered with the commission~~ shall file with the commission the information set forth in paragraphs (1)-(10)

~~(1)-(7)~~ of this subsection within 30 days of commencing service in Texas. Each registered ~~uncertificated~~ nondominant carrier shall keep this information updated and current at all times. ~~Each certificated nondominant carrier also shall keep updated and current the similar information included in its application for a certificate:~~

- (1) Legal name and all assumed names under which the registrant conducts business, if any; A registrant shall use only one name in which to provide telecommunications services to the public per registration;
- (2) Address ~~and telephone number~~ of the principal office and business office;
- (3) Principal office and business office telephone number, fax number, website address, E-mail address, and toll-free customer service telephone number. (If the registrant has not obtained a toll-free customer service telephone number at the time of the registration, the registrant must commit to obtaining one before commencing business);
- ~~(4)(3)~~ Date service commences/commenced in Texas;
- ~~(4) Name, address, and office location of each partner (if applicable) or each officer;~~
- (5) Form of business (e.g., corporation, partnership, sole proprietorship), state in which business was formed, certification/authorization number, and date business was formed; Names and addresses of five largest shareholders (if applicable);
- (6) Legal name of all affiliated companies that are public utilities or that are providing telecommunications services and the states in which they are providing service. Give a description of all affiliates and explain in detail the relationship between the

registrant and its affiliates. An organizational chart should be provided; Name, address, and telephone number of registered agent or designated person who can be contacted by the commission; and

(7) FCC Carrier Identification Code (CIC) or National Exchange Carriers Association (NECA) Operating Carrier Numbers (OCNs), if available; Name, address, and telephone number of attorney, if any;

(8) Name, addresses, phone numbers, and e-mail/website address, and office location of each director, officer, or partner (if applicable);

(9) Names, addresses, phone numbers, and e-mail/website address of the five largest shareholders (if applicable); and

(10) Name, address, telephone number, and e-mail/website address of authorized/registered agent who can be contacted by the commission.

~~(d)(b)~~ By June 30 of each year, each nondominant carrier ~~that during the previous 12 months has not filed changes to the information required pursuant to subsection (a) of this section~~ shall file with the commission an updated registration form ~~a letter informing the commission that no changes have occurred~~. An uncertificated nondominant carrier failing to file an updated registration form by either the letter or the updates required by subsection (a) of this section during the 12-month period ending June 30 may no longer be considered to be registered with the commission.

~~(e)~~ All nondominant carriers shall comply with the reporting requirements in §26.89 of this title
(relating to Information Regarding Rates and Services of Nondominant Carriers).

(f) Compliance enforcement.

- (1) Administrative penalties.** If the commission finds that a registrant has violated any provision of this section, the commission shall order the registrant to take corrective action, as necessary, and the registrant may be subject to administrative penalties and other enforcement actions pursuant to PURA, Chapter 15.
- (2) Revocation or suspension.** If the commission finds that a registrant is repeatedly in violation of PURA or commission rules, the commission may suspend or revoke a registration pursuant to PURA Chapter 17.
- (3) Enforcement.** The commission shall coordinate its enforcement efforts 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.

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

**ISSUED IN AUSTIN, TEXAS ON THE 13th DAY OF APRIL 2000 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**