

The Public Utility Commission of Texas (commission) proposes an amendment to §26.4 relating to Statement of Nondiscrimination. The proposed amendment will implement the provisions of the Public Utility Regulatory Act (PURA) §17.004(a)(4) and §64.004(a)(4), both of which add "income level" and "source of income" as protected categories, and adds a prohibition on "unreasonable discrimination on the basis of geographic location." Project Number 22706 is assigned to this proceeding.

A previous proposed amendment to §26.4 was published in the *Texas Register* on November 5, 1999. Based on comments received at a Public Hearing on February 28, 2000, that proposed amendment was withdrawn to broaden the scope of the rule. This proposed amendment expands the application of the rule to all telecommunications providers.

John S. Capitano, Jr., Senior Investigator, Customer Protection Division, has 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.

Mr. Capitano has 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 reduction in the number of public complaints

concerning disparate treatment, and an increase in compliance with the provisions of PURA by telecommunications providers. There will be no effect on small businesses or micro-businesses as a result of implementing this section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Mr. Capitano has also determined that for each year of the first five years the proposed section is in effect there should be no effect on the local economy, and, therefore, no local employment impact statement is required under Administrative Procedures Act §2001.022.

The commission staff will conduct a public hearing on this rulemaking pursuant to Government Code §2001.029 at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, on Tuesday, October 24, 2000. The hearing will be held in the Commissioners' Hearing Room from 9:30 a.m. to 11:30 a.m.

Comments on the proposed amendment (16 copies) 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. Reply comments may be submitted within 45 days after publication. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed amendment. All comments should refer to Project Number 22706.

This amendment is proposed under Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2000) (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, PURA §17.004(a)(4) and §64.004(a)(4), that require protection from discrimination on the basis of race, color, sex, nationality, religion, marital status, income level, or source of income and from unreasonable discrimination on the basis of geographic location.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 17.004(a)(4), and 64.004(a)(4).

§26.4. Statement of Nondiscrimination.

(a) No telecommunications provider~~utility~~ shall discriminate on the basis of race, nationality, color, religion, sex, ~~or~~ marital status, income level, or source of income.

(b) No telecommunications provider shall unreasonably discriminate on the basis of geographic location.

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 11th DAY OF AUGUST, 2000 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**