

**PROJECT NO. 33401**

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

**ORDER ADOPTING AMENDMENT TO §26.73 AND THE REPEAL OF §26.77, §26.84, AND §26.98 AS APPROVED AT THE APRIL 12, 2007 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts amendments to §26.73, relating to Financial and Operating Reports, and repeals §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 with no changes to the proposed text as published in the December 29, 2006 issue of the *Texas Register* (31 TexReg 10484). The 79<sup>th</sup> Legislature, Senate Bill 408 (SB 408), §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. The repeal of §26.77, §26.84, §26.98, and the amendments of §26.73 are adopted under Project Number 33401.

The commission received written comments on its proposals for repeals and amendments from Southwestern Bell Telephone, L.P. d/b/a AT&T Texas (AT&T Texas) on January 26, 2007.

On February 12, 2007, the commission received written replies from Verizon Southwest (Verizon).

AT&T Texas agreed with the commission's proposal to repeal §§26.77, 26.84 and 26.98. AT&T Texas also supported the commission's amendments to §26.73 and noted that the elimination of duplicative reporting was welcome. However, AT&T Texas did offer specific recommendations regarding the continued filing of the annual earning reports in §26.73.

### ***Section 26.73***

AT&T Texas reiterated its comments filed in Project No. 32460, *Legislative Report Pursuant to SB 408, §13, Evaluation of Telecommunications Carriers' Reports to the Public Utility Commission of Texas*, regarding the burden of the earning report's preparation (estimated at over 200 hours) and stated its position that the report is unnecessary in a competitive market. AT&T conceded that many dominant certificated telecommunications utilities (DCTUs) are still subject to rate of return regulation but requested that the commission scrutinize ways to update the commission-prescribed form for the annual earnings report. Specifically, AT&T Texas recommended the commission streamline the earnings report requirements for companies that are not subject to rate of return regulation. To this end, AT&T Texas offered the suggestions of eliminating the need to file separately its regulated and non-regulated earnings or its earnings by interstate and intrastate jurisdiction, and its imputed yellow page revenues. AT&T Texas argued that comparisons of the financial information provided by rate of return companies with those revenues of companies that have elected incentive regulation is not valid and that yellow page

revenues distort financial results. AT&T Texas did not offer specific language for the section to accomplish these ends.

*Commission response*

**The commission believes that AT&T Texas' recommendation to streamline the requirements of the earnings report for companies that are no longer subject to rate of return regulation may be addressed in a workshop proceeding conducted by the commission's Financial Review section. Such a proceeding will be undertaken. As a result, the commission will not further amend §26.73 at this time.**

Verizon's reply comments reiterated the position taken by the company in its comments for Project No. 32460; that the annual earnings report should be eliminated or limited to the data filed in the Federal Communications Commission's (FCC's) Automated Reporting Management Information System (ARMIS) Report. Verizon recommended this data be obtained from the FCC's website, [www.fcc.gov](http://www.fcc.gov). Verizon supported AT&T Texas' position that companies under PURA Chapter 58 and 59 regulations should not be required to provide the same information as companies under rate of return regulation. Verizon concurred in AT&T Texas' recommendation that the commission eliminate or re-design and simplify the annual earnings report.

*Commission response*

**As noted, the commission will undertake a proceeding to re-evaluate the requirements for the annual earnings report with the purpose of streamlining the processes where appropriate. As a result, the commission will not further amend §26.73 at this time.**

These repeals and amendments are adopted 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.**

Each utility shall file with the commission, on commission-prescribed forms available on the commission's website, 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 15<sup>th</sup> of each year.
- (3) A 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.

**§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 adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that the amendment to §26.73, relating to Financial and Operating Reports, and the repeals 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, are hereby adopted without changes to the text as proposed.

**ISSUED IN AUSTIN, TEXAS ON THE \_\_\_\_\_ DAY OF APRIL 2007.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**PAUL HUDSON, CHAIRMAN**

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**JULIE C. PARSLEY, COMMISSIONER**

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**BARRY T. SMITHERMAN, COMMISSIONER**