

PROJECT NO. 31937

RULEMAKING TO ESTABLISH A	§	PUBLIC UTILITY COMMISSION
CLASSIFICATION SYSTEM FOR THE	§	
ASSESSMENT OF ADMINISTRATIVE	§	OF TEXAS
PENALTIES	§	

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §22.246
AS APPROVED AT THE APRIL 13, 2006 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes an amendment to §22.246, relating to Administrative Penalties. The proposed amendment will increase the maximum penalty per violation from \$5,000 to \$25,000 and limit penalties in excess of \$5,000 per violation to only those violations included in the highest class of violations. Project Number 31937 is assigned to this proceeding.

Jeffrey Pender, Attorney, Legal 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. Pender 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 increased compliance with the laws, rules and orders of the commission affecting the electric power and telecommunications industries. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Mr. Pender has also determined that for each year of the first five years the proposed section 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 (APA), Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to the Administrative Procedure Act, 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 Tuesday, June 6, 2006, at 9:30 a.m. The request for a public hearing must be received within 30 days after publication.

Comments on the proposed amendment 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. Sixteen copies of comments to the proposed amendment are required to be filed pursuant to §22.71(c) of this title. Reply comments may be submitted within 45 days after publication. Comments should be organized in a manner consistent with the organization of the proposed rule(s). 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 31937.

This amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 and §14.052 (Vernon 1998, Supplement 2005) (PURA), which provide the

Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, including rules of practice and procedure; and specifically, PURA §15.023 which grants the commission the authority to assess an administrative penalty in an amount not to exceed \$25,000 per violation, provided that a penalty in an amount that exceeds \$5,000 may be assessed only if the violation is included in the highest class of violations in the classification system.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 14.052, and 15.023.

§22.246. Administrative Penalties.

(a) - (b) (No change.)

(c) **Amount of penalty.**

(1) (No change.)

(2) The penalty for each separate violation may be in an amount not to exceed ~~\$25,000~~~~\$5,000.00~~ per day, provided that a penalty in an amount that exceeds \$5,000 may be assessed only if the violation is included in the highest class of violations in the classification system.

(3) (No change.)

(d) – (h) (No change.)

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 13th DAY OF APRIL 2006 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**

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