

OVERSIGHT & ENFORCEMENT

PUBLIC UTILITY COMMISSION OF TEXAS

PAM WHITTINGTON, DIVISION DIRECTOR
OVERSIGHT & ENFORCEMENT DIVISION

Presented to the Nicaragua Institute of Energy
July, 2008

2

Topics in this Presentation

PUC Oversight and Enforcement

Oversight and Enforcement Process

Administrative Penalty Authority

PUC Oversight & Enforcement

The goal of PUC oversight and enforcement is to promote compliance with the Public Utility Regulatory Act and the PUC Substantive Rules by electric service providers and telecommunications service providers in order to protect customers and markets and to ensure reliability.

Areas of PUC Oversight & Enforcement

4

□ Customer Protection

- Slamming, cramming, and other billing issues
- Billing Issues
- Improper disconnection or suspension of customer
- Service Connection

□ Markets

- Wholesale (including ERCOT protocols)
- Retail

□ Reliability

- Quality of service for the retail customer
- Reliability of the telecommunications network and the electric grid

Oversight & Enforcement Division

5

- Division created in October, 2007
- Currently have 7 Enforcement Analysts
- Working on investigations
- Developing internal processes and procedures
- Developing compliance processes and procedures

6

Oversight & Enforcement Process

The Investigations Process

Notice of Violation (NOV) Process

7

The Investigation Process

Investigation Sources

The Investigation

Investigation Conclusion: Possible Actions

Investigation Sources

8

- ❑ ERCOT
- ❑ Texas Regional Entity
- ❑ Independent Market Monitor
- ❑ Self-Reporting by Service Providers
- ❑ Other Divisions of the PUC
- ❑ Results of Compliance Reviews
- ❑ Service Providers report other Service Providers

The Investigation

9

- Investigation opened and provider notified if the investigation proceeds
- Investigation conducted through meetings, research, and requests for information to the provider
- Investigation concluded with recommendation for action, if needed

Investigation Conclusion: Possible Actions

10

☐ No violation found

- No action needed

☐ Violation found

- If minor, a warning letter is sent to provider; otherwise
- Notice of Violation process begins

11

Notice of Violation Process

Pre-NOV Letter

Notice of Violation

Notice of Violation Process – First Step

12

- A Pre-Notice of Violation letter sent to the provider describing the violation and recommended administrative penalty
- The provider has the opportunity to meet with PUC Staff to resolve the matter
- The Staff and the provider may enter into a settlement agreement resolving the issues of the violation and the recommended administrative penalty

Settlement Agreements

13

- The agreement includes administrative penalties and can include other remedies, such as a mitigation plan
- Settlement documents filed at the PUC
- The Commissioners rule on the settlement agreement in an Open Meeting

Notice of Violation Process – Second Step

14

- If not resolved through a settlement agreement, the Notice of Violation is sent to the provider by the Executive Director and filed at the PUC
- This action initiates a contested case proceeding to resolve the issues of the the violation and the administrative penalty

NOV Contested Case Proceeding

15

- ❑ The NOV is referred to the State Office of Administrative Hearings and an Administrative Law Judge (ALJ) is assigned to the case
- ❑ The PUC Staff has the burden of proof
- ❑ The PUC Staff and the provider have the opportunity for discovery
- ❑ The PUC Staff and the provider file testimony
- ❑ The ALJ conducts the Hearing on the Merits
- ❑ The ALJ issues a Proposal for Decision (PFD)
- ❑ The Commissioners rule on the PFD in an Open Meeting

16

Administrative Penalty Authority

PURA §15.023

PUC Substantive Rule §25.8 applicable to
Electric Service Providers

PUC Substantive Rule §26.9 applicable to
Telecommunications Service Providers

Administrative Penalties – PURA §15.023

17

- The PUC may impose an administrative penalty against a person regulated under PURA who violates PURA or a rule or order adopted under PURA
- The penalty for a violation may not exceed \$25,000 per day
- The PUC shall establish a classification system for violations that includes a range of administrative penalties

Basis for the Classification System

18

- ❑ The seriousness of the violation including the nature, circumstances, extent, and gravity of a prohibited act
- ❑ The seriousness of the violation including the hazard or potential hazard created to the health, safety, or economic welfare of the public
- ❑ The economic harm to property or the environment caused by the violation
- ❑ The history of previous violations
- ❑ The amount necessary to deter future violations
- ❑ Efforts to correct the violation
- ❑ Any other matter justice may require

Classification System Rules

19

- PUC Substantive Rule §25.8 applicable to Electric Service Providers
- PUC Substantive Rule §26.9 applicable to Telecommunications Service Providers

The Classification System

20

- Class C Violations

- Class A Violations

- Class B Violations

Class C Violations

21

- May not exceed \$1,000 per violation per day
- Examples of Class C violations
 - Failure to file a report on time
 - Failure to investigate a customer complaint and report the results within the time required
 - Failure to update information relating to a registration or certificate
 - A violation of the no-call list

Class A Violations

22

- May not exceed \$25,000 per violation per day
- To be a Class A violation, it must
 - Create economic harm in excess of \$5,000; or
 - Create an economic benefit to the violator in excess of \$5,000; or
 - Create a hazard or potential hazard to the health or safety of the public; or
 - Cause a risk to the reliability of the telecommunications network or the electric transmission or distribution system

Examples of Class A Violations

23

- ❑ A violation related to service quality
- ❑ A violation related to reliability
- ❑ A violation related to prohibited discrimination
- ❑ A violation related to the wholesale electric market
- ❑ A violation related to improper disconnection of a customer
- ❑ A violation related to fraudulent, unfair, misleading, deceptive or anticompetitive business practices

Class B Violations

24

- May not exceed \$5,000 per violation per day
- All violations not enumerated as a Class C or Class A violation shall be considered Class B violations

25

Questions and Discussion