

REVIEW OF AGENCY RULES

This section contains notices of state agency rules review as directed by the Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2)

notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the *Texas Administrative Code* on the web site (<http://www.sos.state.tx.us/tac>).

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the web site and printed copies of these notices may be directed to the *Texas Register* office.

Proposed Rule Reviews

Texas Alcoholic Beverage Commission

Title 16, Part 3

The Texas Alcoholic Beverage Commission (Commission) proposes to review 16 Texas Administrative Code §41.20, Timely Filing of Reports, in accordance with Texas Government Code §2001.039. An assessment will be made by the Commission as to whether the reasons for adopting the rule continue to exist. The review will examine whether the rule is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule reflects current procedures of the Commission.

Comments on the review may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127 or by facsimile transmission to (512) 206-3280. They may also be submitted electronically through the Commission's public website at http://www.tabc.texas.gov/laws/proposed_rules.asp. Comments will be accepted for 30 days following publication in the *Texas Register*.

The staff of the Commission will hold a public hearing to receive oral comments on the review on Thursday, April 28, 2016, at 1:30 p.m. in the commission meeting room at the Commission's headquarters, which is located at 5806 Mesa Drive in Austin, Texas.

TRD-201601382

Martin Wilson

Assistant General Counsel

Texas Alcoholic Beverage Commission

Filed: March 23, 2016



The Texas Alcoholic Beverage Commission proposes to review 16 Texas Administrative Code §45.101, Rebates, Coupons and Premium Stamps, in accordance with Texas Government Code §2001.039. An assessment will be made by the Commission as to whether the reasons for adopting the rule continue to exist. The review will examine whether the rule is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule reflects current procedures of the Commission.

Comments on the review may be submitted in writing to Martin Wilson, Assistant General Counsel, Texas Alcoholic Beverage Commission, at P.O. Box 13127, Austin, Texas 78711-3127 or by facsimile transmission to (512) 206-3280. They may also be submitted electronically through the commission's public website at http://www.tabc.texas.gov/laws/proposed_rules.asp. Comments will be accepted for 30 days following publication in the *Texas Register*.

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TRD-201601383

Martin Wilson

Assistant General Counsel

Texas Alcoholic Beverage Commission

Filed: March 23, 2016



Adopted Rule Reviews

Texas Facilities Commission

Title 1, Part 5

Pursuant to the notice of the proposed rule review published in the December 11, 2015, issue of the *Texas Register* (40 TexReg 8915), the Texas Facilities Commission (the "Commission") has reviewed and considered for readoption, revision, or repeal Texas Administrative Code, Title 1, Part 5, Chapter 111, Administration, in accordance with Texas Government Code, §2001.039.

The Commission received no public comments concerning the review of Chapter 111. The Commission has completed its review and has determined that the reasons for originally adopting Chapter 111 continue to exist. In addition, the Commission reviewed the rules to determine whether the rules are obsolete, reflect current legal and policy considerations, reflect current procedures and practices of the Commission, and are in compliance with the Texas Administrative Procedure Act, Texas Government Code Chapter 2001. The Commission has determined that Chapter 111 requires amendment and a new rule that is required due to the passage of Senate Bill 20 by the 84th Legislature.

The Commission has determined to readopt the rules in Chapter 116 with amendments pursuant to Texas Government Code §2001.039. A concurrent notice of proposed rule amendment related to Chapter 111 will be published in the *Texas Register* for public comment.

This completes the Commission's review of Texas Administrative Code, Title 1, Part 5, Chapter 111, Administration.

TRD-201601455

Kay Molina

General Counsel

Texas Facilities Commission

Filed: March 29, 2016



Pursuant to the notice of the proposed rule review published in the December 11, 2015, issue of the *Texas Register* (40 TexReg 8915), the Texas Facilities Commission (the "Commission") has reviewed and considered for readoption, revision, or repeal Texas Administrative Code, Title 1, Part 5, Chapter 126, Surplus and Salvage Property Programs, in accordance with Texas Government Code, §2001.039.

The Commission received no public comments concerning the review of Chapter 126. The Commission has completed its review and has determined that the reasons for originally adopting Chapter 126 continue to exist. In addition, the Commission reviewed the rules to determine whether the rules are obsolete, reflect current legal and policy considerations, reflect current procedures and practices of the Commission, and are in compliance with the Texas Administrative Procedure Act, Texas Government Code Chapter 2001. The Commission determined that Texas Administrative Code, Title 1, §§126.1, 126.2, 126.3, 126.4, and 126.5 are still necessary as these rules were promulgated to direct the transfer, sale, auction, or other disposition of State of Texas surplus and salvage property either by the state agency that owns the subject property or by the Commission, on behalf of the State of Texas under Texas Government Code, Chapter 2175. Revisions to §§126.1, 126.4, and 126.5, however, are required to ensure consistency with governing statutes and to correct typographical errors.

Accordingly, the Commission has determined to readopt the rules in Chapter 126 with amendments pursuant to Texas Government Code §2001.039 and Texas Government Code §2165.0012 and §2165.058 (West 2008 & Supp. 2015). A concurrent notice of proposed rule amendment related to Chapter 126 will be published in the *Texas Register* for public comment.

This completes the Commission's review of Texas Administrative Code, Title 1, Part 5, Chapter 126, Surplus and Salvage Property Programs.

TRD-201601456

Kay Molina

General Counsel

Texas Facilities Commission

Filed: March 29, 2016



Texas Department of Public Safety

Title 37, Part 1

Pursuant to the notice of proposed rule review published in the November 23, 2012, issue of the *Texas Register* (37 TexReg 9371) and the notice of proposed rule review published in the March 15, 2013, issue of the *Texas Register* (38 TexReg 1881), the Texas Department of Public Safety has reviewed and considered for readoption, revision or repeal all sections of the following chapters of Title 37, Part 1 of the Texas Administrative Code, in accordance with Texas Government Code, §2001.039: Chapter 1 (Organization and Administration); Chapter 5 (Criminal Law Enforcement); Chapter 17 (Administrative License Revocation); Chapter 19 (Breath Alcohol Testing Regulations); Chapter 21 (Equipment and Vehicle Safety Standards); Chapter 27 (Crime Records); Chapter 29 (Practice and Procedure); and Chapter 36 (Metals Recycling Entities). The department received no written comments regarding the review of its rules.

The department has completed its required review and determined that the original reasons for adoption of these chapters continue to exist. As a result of the rule review, the department did identify and publish proposed changes in other issues of the *Texas Register* in accordance with the Administrative Procedure Act (the Act). Any future revisions will also be published in the *Texas Register* in accordance with the Act.

This concludes the department's review of 37 TAC Chapters 1, 5, 17, 19, 21, 27, 29, and 36.

TRD-201601476

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Filed: March 30, 2016



Public Utility Commission of Texas

Title 16, Part 2

This Order addresses the agency rule review of Chapter 21, Interconnection Agreements for Telecommunications Service Providers, pursuant to Texas Government Code §2001.039, *Agency Review of Existing Rules*. The commission's Chapter 21 Interconnection Agreement rules (Texas Administrative Code, Title 16, Part 2) establish procedures for approving interconnection agreements and resolving open issues pursuant to the Federal Telecommunications Act of 1996 (FTA) §252. The purpose of this review was to consider whether to re-adopt this Chapter. The notice of intention to review Chapter 21 was published in the *Texas Register* on November 20, 2015 (40 TexReg 8345). Project Number 45166 is assigned to this rule review project. Having completed this review, the commission finds that the reasons for initially adopting Chapter 21 continue to exist and re-adopts Chapter 21.

The commission received comments from the Texas Cable Association and Level 3 Communications LLC (Joint Commenters) and TEXALTEL.

General Comments

Joint Commenters and TEXALTEL recommended that the commission readopt Chapter 21 without modification. Joint Commenters noted that the Interconnection Agreement rules in Chapter 21 establish a clear process for arbitration of interconnection agreements and adjudication of post-interconnection agreement disputes and that the process has worked well overall for both competitors and incumbent local exchange carriers.

Joint Commenters stated that it is premature to either repeal the existing rules or adopt wholesale modification of Chapter 21 in light of the Commission's decision at the November 19, 2015, Open Meeting to initiate a rulemaking proceeding to explore whether it should continue to arbitrate interconnection agreements or cede responsibility for doing so to the Federal Communications Commission (FCC). Joint Commenters noted that commission staff was directed to seek additional input on the possible use of baseball-style arbitration, to explore whether to conduct another mega-arbitration proceeding and to find ways to assure a level of staff expertise in telecommunications matters for arbitration. While Joint Commenters expressed concerns about transferring responsibility for arbitrations to the FCC, it, nevertheless, urged the commission to readopt Chapter 21 and wait to examine its procedural rules until after its inquiry into the commission's future role has concluded.

TEXALTEL, similarly, noted that in November 2015, the Commissioners had agreed to proceed with a project to examine several interconnection related issues including arbitrations, conduct of a proceeding to establish a T2A3 model interconnection agreement and other issues. TEXALTEL opined that the issues raised by the Commissioners are intertwined with Chapter 21 and any philosophical issues that the commission chooses to address may result in modifications of Chapter 21 rules. TEXALTEL did not find it necessary to have two separate proceedings to address the same chapter.

Commission Response

The commission appreciates the comments submitted by Joint Commenters and TEXALTEL. Given the commission's decision at the November 19, 2015, Open Meeting to initiate a rulemaking to explore whether it should continue to arbitrate interconnection agreements and to seek input on several arbitration process related issues, the commission agrees with Joint Commenters and TEXALTEL that it would be prudent to readopt Chapter 21 without modifications. Chapter 21 is, therefore, readopted without modifications.

The commission readopts Chapter 21, Interconnection Agreements for Telecommunications Service Providers under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (West 2007 & Supp. 2015), 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 Texas Government Code §2001.039 (West 2008 & Supp. 2015) which requires each state agency to review its rules every four years.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002; Texas Government Code §2001.039.

TRD-201601386
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 23, 2016



This Order addresses the agency rule review of Chapter 27, Rules for Administrative Services, pursuant to the Texas Government Code, Administrative Procedure Act (APA), §2001.039, *Agency Review of Existing Rules*. The commission's initial adoption of 16 Texas Administrative Code (TAC) Chapter 27 complies with Texas Government Code §2260.052, which requires the commission to develop rules to govern the negotiation and mediation of certain contract claims against the

state; and Texas Government Code §2155.076, which requires the commission to develop and adopt protest procedures for vendors' protests concerning commission purchases that are consistent with the Texas Facilities Commission's rules on the same subject. The purpose of this review was to consider whether to re-adopt Chapter 27. The notice of intent to review Chapter 27 was published in the *Texas Register* on October 23, 2015 (40 TexReg 7445). Project Number 45167 is assigned to this proceeding. Having completed the review, the commission finds that the reasons for initially adopting Chapter 27 continue to exist and readopts Chapter 27.

The commission received no comments on the proposed review of Chapter 27.

The commission readopts Chapter 27, Rules for Administrative Services, pursuant to the Public Utility Regulatory Act (PURA), Texas Utilities Code Annotated §14.002 and §14.052 (West 2007 and Supp. 2015) which provides the 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 pursuant to Texas Government Code §2001.039 (West 2008 and Supp. 2015) which requires each state agency to review and readopt its rules every four years.

Cross Reference to Statutes: Texas Government Code §2001.039, Chapter 2155, Subchapter B, Chapter 2161 and Chapter 2260; PURA §14.002 and §14.052.

TRD-201601387
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 23, 2016

