

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS.

Subchapter A. GENERAL PROVISIONS.

§26.9. Classification System for Violations of Statutes, Rules, and Orders Applicable to Telecommunications Service Providers.

- (a) **Purpose.** The purpose of this rule is to establish a classification system for violations of certain provisions of the Business and Commerce Code, the Public Utility Regulatory Act (PURA), and related commission rules and orders, and to establish a range of penalties that may be assessed for each class of violations.
- (b) **Classification system.**
 - (1) **Class C violations.**
 - (A) Penalties for Class C violations may not exceed \$1,000 per violation per day.
 - (B) The following violations are Class C violations:
 - (i) Failure to file a report or provide information required to be submitted to the commission under this chapter within the timeline required;
 - (ii) Failure by a certificated telecommunications utility to investigate a complaint by a customer and appropriately report the results within the timeline required;
 - (iii) Failure to update information relating to a registration or certificate by the commission within the timeline required;
 - (iv) Failure to comply with the requirements for the use and permitting of an automatic dial announcing device (ADAD); and
 - (v) A violation of the Texas no-call list.
 - (2) **Class B violations.**
 - (A) Penalties for Class B violations may not exceed \$5,000 per violation per day.
 - (B) All violations not specifically enumerated as a Class C or Class A violation shall be considered Class B violations.
 - (3) **Class A violations.**
 - (A) Penalties for Class A violations may not exceed \$25,000 per violation per day.
 - (B) The following types of violations are Class A violations if they (1) create economic harm in excess of \$5,000 to a person or persons, property, or the environment, or create an economic benefit to the violator in excess of \$5,000; (2) create a hazard or potential hazard to the health or safety of the public; or (3) cause a risk to the reliability of the telecommunications network or a portion thereof.
 - (i) A violation related to service quality, service objectives, or performance benchmarks;
 - (ii) A violation related to prohibited discrimination in the provision of telecommunications service;
 - (iii) A violation related to prohibited discrimination by a cable service provider or video service provider that has been granted a state-issued certificate of franchise authority;
 - (iv) Engaging in acts that adversely affect the integrity of the state's 9-1-1 system relating to network interoperability, service quality standards and database integrity standards;
 - (v) A violation relating to improper suspension or disconnection of a customer;
 - (vi) A violation related to fraudulent, unfair, misleading, deceptive, or anticompetitive business practices;
 - (vii) Conducting business subject to the jurisdiction of the commission without proper commission authorization, registration, licensing, or certification;

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- (viii) A violation not otherwise enumerated in this paragraph (3)(B) of this subsection that creates a hazard or potential hazard to the health or safety of the public;

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§26.9(b)(3)(B) continued

- (ix) A violation not otherwise enumerated in this paragraph (3)(B) of this subsection that creates economic harm to a person or persons, property, or the environment in excess of \$5,000, or creates an economic benefit to the violator in excess of \$5,000; and
 - (x) A violation not otherwise enumerated in this paragraph (3)(B) of this subsection that causes a risk to the reliability of the telecommunications network or a portion thereof.
- (c) **Application of enforcement provisions of other rules.** To the extent that the Business and Commerce Code, PURA, or other rules in this chapter establish a range of administrative penalties that are inconsistent with the penalty ranges provided for in subsection (b) of this section, the other provisions control with respect to violations of those rules.
- (d) **Assessment of administrative penalties.** In addition to the requirements of §22.246 of this title (relating to Administrative Penalties), a notice of violation recommending administrative penalties shall indicate the class of violation.