

Self-Evaluation Report



Office of Public Utility Counsel

September 2009

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Office of Public Utility Counsel Self-Evaluation Report

I. Agency Contact Information

A. Please fill in the following chart.

Office of the Public Utility Counsel Exhibit 1: Agency Contacts				
	Name	Address	Telephone & Fax Numbers	E-mail Address
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Agency's Sunset Liaison	Brenda Sevier Danny Bivens	Same as above	Same as above	Brenda.sevier@opc.state.tx.us Danny.bivens@opc.state.tx.us

II. Key Functions and Performance

A. Provide an overview of your agency's mission, objectives, and key functions.
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Background

In 1983, the Office of Public Utility Counsel (OPUC or the agency) was created as part of the 68th Legislature's sunset review of the Public Utility Commission (PUC) after concerns were raised that residential and small business consumers were not being adequately represented in, utility proceedings at the PUC. For approximately the first 15 years, OPUC concentrated its efforts primarily on consumer representation in utility proceedings at the PUC, State Office of Administrative Hearings (SOAH), and state and federal courts. During the past 10 to 15 years, since the restructuring of both the electric and telecommunications industries, OPUC has continued its consumer representation in contested cases to effectively advocate for its consumers in state and federal projects, rulemakings and other proceedings. OPUC also disseminates information to consumers regarding their available protections and OPUC's functions and efforts ensuring those protections. At ERCOT (The Electric Reliability Council of Texas), in the past 10 years, OPUC has been a consistent advocate for consumers serving on the Board of Directors and various committees.¹

There are 24 million people in Texas², all of whom use electricity and telecommunication

services.

Mission

The mission of the Office of Public Utility Counsel (OPUC or the agency) is to provide quality representation to Texas residential and small business telephone and electric utility consumers in proceedings and matters that come before the Public Utility Commission, the Electric Reliability Council of Texas, the Federal Energy Regulatory Commission, the Federal Communications Commission, and in state and federal courts to ensure that just and reasonable rates and reliable and capable services are available to them in an increasingly competitive environment.

Pursuant to and consistent with its most current legislative appropriation, OPUC has the following goals, objectives, and strategies to accomplish its mission and to bring value to the Texas regulatory and market processes on behalf of residential and small business consumers:

Goal/Objective/Strategy:

1. Goal: Equitable electric rates for residential and small business consumers.
 - Objective: To promote electric customer choices and consumer protection policies.
 - Strategy: Participation in proceedings.
2. Goal: Provide benefits and protect telephone consumers in competitive market.
 - Objective: Promote telephone customer choices and consumer protection policies.
 - Strategy: Telecommunications proceedings.

Accordingly, OPUC notes the following objectives and key functions responsive to the instructions herein:

Objectives

Ensure just and reasonable rates and acceptable rules and policies to protect the interests of residential and small business consumers.

OPUC is authorized by statute to ensure just and reasonable rates and the equitable availability of communications and electric industry services by assessing the effect of utility rate changes and other regulatory actions on residential and small business consumers. Accordingly, OPUC represents residential and small business consumers as a class in litigated proceedings, rulemaking meetings and workshops, market forums, ERCOT, and other venues on matters involving rates, rules, and policy pertaining to the provision of telecommunications and electric utility rates and services.

Inform, assist, and protect consumers with respect to issues and policies pertaining to and services available from telecommunications and electric utility providers.

OPUC, as the sole state agency tasked with representing the focused interests of the residential and small business consumer in the Texas utility regulatory and market environments, is singularly positioned to use its responsibility to provide information, assistance, and protection for consumers.

Key Functions

Represent residential and small business consumers in rate, rule, and policy proceedings.

OPUC provides professional, technical, and legal representation on behalf of residential and small business consumers in Public Utility Commission (PUC) proceedings. In addition, OPUC is an active consumer advocate in numerous PUC rate, rule, and policy proceedings and the Texas legislative process. OPUC collaborates with other market stakeholders in the electric wholesale and retail market design process in the Electric Reliability Council of Texas (ERCOT) environment. Finally, OPUC is involved in state and federal court proceedings and with matters before the Federal Energy Regulatory Commission (FERC), North American Electric Reliability Corporation (NERC), and the Federal Communications Commission (FCC).

Provide consumers with information to help them make informed choices in the restructured regulatory and market paradigm.

OPUC believes information is power, and finding new and improved ways to place information in the hands of consumers is essential for them to adequately address the many issues in today's Texas restructured communications and electricity environments. In addition to its statutory requirement to conduct annual customer surveys and an annual meeting for receiving feedback from its representative customer base, OPUC participates in community outreach and partners with Chambers of Commerce, health and social services organizations, small business associations, and other community associations in various towns and cities to arrange in-person outreach. These opportunities establish a two-way dialogue so OPUC can hear consumers' concerns and inform them of communications and electric industry services available to them. OPUC updates and maintains its website to continue to make it more consumer-relevant and informative regarding communications and electric industry services, with guidelines on energy savings, information on financial assistance, the process for filing a complaint with the appropriate entity, and updates on regulatory and market developments impacting consumers.

Provide consumers with assistance in understanding issues related to communications and electric industry rates and services and in helping them resolve those issues.

OPUC's objective of assisting consumers goes hand-in-hand with informing them. OPUC utilizes its community outreach efforts and its website tools to assist, as well as inform consumers. In addition, OPUC receives complaints or inquiries each year, and its professional

staff members work with customers to assist them to better understand and resolve the relevant issues and concerns they bring to the agency.

Provide consumers with protection against anti-competitive behavior by those who would seek to violate and/or manipulate the regulatory and market rules.

One primary reason OPUC was created in 1983 was because residential and small business consumers were not adequately represented, or protected, in communications and electric utility regulatory and market proceedings. The need to protect these classes of consumers continues to be relevant. OPUC serves as consumers' eyes, ears, and voice in both regulatory and market proceedings not only to bring a balance to these processes, but also to create value on consumers' behalf and to protect residential and small business customer classes from illegal, inappropriate, and anti-competitive behavior.

B. Do each of your key functions continue to serve a clear and ongoing objective? Explain why each of these functions is still needed. What harm would come from no longer performing these functions?

Represent residential and small business consumers in rate, rule, and policy proceedings.

There is a continuing need for the function of OPUC in consumer representation. Having OPUC represent residential and small business consumers in regulatory, market, rate, rule, and policy proceedings continues to be a vital part of developing an equitable and viable communications and electric industry that benefits all stakeholders. The PUC is charged with representing the broader "public interest," and does not singularly focus on the needs and concerns of the constituents for which OPUC has responsibility. It is this singular focus that allows OPUC to continue to bring value on behalf of these smaller customer classes that no other market participant or stakeholder represents. The PUC receives a great deal of input from the electric and communications industry, including testimony from expert witnesses and representation by experienced attorneys. In order for the PUC to have all of the evidence necessary to make informed decisions as to the public interest, it is necessary for residential and small business customers to be adequately represented. OPUC provides this representation with experienced attorneys, regulatory analysts, as well as contracting with outside expert witnesses when necessary. Without OPUC's input in these numerous proceedings, the resulting harm to residential and small business customers would be the notable absence of the consumer's voice and lack of understanding pertaining to their concerns and interests. These include reliability, costs, and the equitable availability of services.

Provide consumers with information to help them make informed choices in the restructured regulatory and market paradigm.

There is a continuing need for the function of OPUC in providing consumer information. While the PUC and many stakeholders provide a customer *education* function, OPUC *informs* consumers with more personalized customer service. OPUC's community outreach efforts and website tools specifically target the residential and small business customer classes, their needs and concerns, and focus on issues where informational gaps exist and where consumers are especially vulnerable. While customers may receive information from many sources, the value OPUC brings to this function is unique. OPUC is able to review state statutes, PUC rules, and federal policies and explain and simplify them for better consumer understanding. In the absence of OPUC's providing consumer information regarding electric and communications choice and other relevant matters, residential and small business customers would be disadvantaged by the lack of two-way communications and dialogue regarding Commission proceedings and processes, market offerings and discounts, and statutory protections and customer-relevant guidance.

Provide consumers with assistance in understanding issues related to communications and electric industry rates and services and in helping them resolve those issues.

There is a continuing need for the function of OPUC providing consumer assistance. The PUC and many stakeholders provide some form of assistance to consumers with respect to complaint intake and resolution. OPUC's assistance function is customer-service focused, and targets an individualized approach to researching each and every customer concern to help each customer better understand and resolve their issues. While OPUC works in tandem with the PUC, communications, and electric industry market participants, in many cases the agency brings a singular value that personalizes each inquiry and individually resolves customer concerns. Without OPUC's service of providing consumer information regarding electric and communications choice, the resulting harm to residential and small business customers would be placing those customers in a position of interpreting rules and policies on their own. OPUC assists consumers in determining their rights, responsibilities, choices and finding solutions.

Provide consumers with protection against anti-competitive behavior by those who would seek to violate and/or manipulate the regulatory and market rules.

There is a continuing need for the function of OPUC in providing consumer protection assistance. OPUC has a "place at the table" at all of the communications and electric industry regulatory and market processes, as does the PUC and other market participants. Everyone has their respective interests to represent, but OPUC's role in protecting its customer classes in these processes is exceptional. In regulatory proceedings, OPUC protects these classes who cannot protect themselves by bringing its professional, technical, and legal expertise to bear. OPUC's value is its unique ability to balance the need for functional profitable markets with necessary customer protections. OPUC participates to ensure market safeguards against illegal, inappropriate, and anti-competitive behavior. In the absence of OPUC's consumer protection

assistance, there is significant risk that some important residential and business concerns will not be taken into account

C. What evidence can your agency provide to show your overall effectiveness and efficiency in meeting your objectives?

OPUC Reorganization

One significant action OPUC has taken to improve its effectiveness and efficiency in meeting its objectives was to restructure its organization in 2008 into two functional areas of practice, the Litigation Function and the Market Representation and Communications Function. The new structure allows OPUC to better deploy its professional, legal, and technical expertise within the appropriate regulatory or market venue.

- **The Litigation Function** handles contested matters before PUC and other jurisdictional entities. Major regulatory matters include, but are not limited to, rate and fuel reconciliation cases, energy efficiency cost recovery factors cases, advanced metering applications, surcharge and hurricane cost recovery proceedings.
- **The Market Representation and Communications Function** handles non-contested matters, rulemakings, and projects, and advocates for residential and small business consumers before the PUC, the Texas Legislature, the Electric Reliability Council of Texas (ERCOT), and other jurisdictional entities. Market Representation projects include, but are not limited to, customer disclosure and retail electric provider rules, advanced metering matters, common terms on utility bills, agency annual meetings and reports, customer complaint resolution, legislative bill review, analysis, and advocacy, and public communication and education.

OPUC Participation at the PUC

At any point in time, OPUC is an intervenor or participant in multiple rate, rule, and policy proceedings involving communications and electric industry regulatory and market issues. For example, as noted in its 2008 Annual Report, including OPUC's role in state and federal cases, projects, rulemakings, and appeals, OPUC participated in 57 contested proceedings and appeals, and 45 projects/rulemakings in Fiscal Year (FY) 2008.

In deciding which proceedings OPUC may most effectively participate in, OPUC management and staff review all relevant sources of information regarding new electric and communications proceedings and projects, including the PUC Interchange, PUC Bulletins, PUC Notices, and *Texas Register* updates. When any OPUC staff member believes there is a Texas consumer interest at stake in a proceeding, the Public Counsel, Litigation Director and/or Director of Market Representation is informed of the matter to discuss possible participation. The Public Counsel and OPUC staff consider the following factors when considering participation: demonstrable consumer interests at stake; achievable consumer benefits; OPUC's chance of success; OPUC's goals for participation; OPUC's time and costs; and any prior law or

precedent relevant to the matter.

Before the Public Counsel approves participation in a contested case matter, the OAG is consulted to evaluate the merits of participation. Before initiating any participation in any proceeding, OPUC staff seeks approval from the Public Counsel. Upon approval, OPUC staff files either a statement of intent to participate or intervention in the approved docket or project with the appropriate regulatory entity, except for FCC proceedings which are deemed open upon Public Counsel approval.

OPUC Consumer Bill Savings

The agency reported bill savings of approximately \$114 million for residential and small business electric customers in FY 2008 as a result of OPUC participation in electric proceedings.

OPUC Participation at ERCOT and Texas Regional Entity (TRE)

OPUC has also been an active participant in the ERCOT electric market design stakeholder process since the inception of electric restructuring. In addition to OPUC's Public Counsel, who serves on the ERCOT Board of Directors, the Texas Regional Entity's (Texas RE's) Board of Directors, and the Texas RE Advisory Committee, three other OPUC staff are regular participants in the ERCOT process as members of ERCOT committees and sub-committees, including the Technical Advisory Committee (TAC), the Texas RE's Reliability Standards Committee (RSC), the Wholesale Market Subcommittee (WMS), the Retail Market Subcommittee (RMS), the Protocol Revision Subcommittee (PRS), and the Nodal Advisory Task Force (NATF). OPUC provides a unique residential and small business consumer perspective by participating on these committees and providing input on the issues each of these committees' addresses. For example:

- The ERCOT Board sets overall goals and policy direction, has approval powers over the organization's budget and market rules, and oversees ERCOT operations;
- The Texas RE Board oversees Texas RE's compliance methods and performance for reliability, employment, compensation, financial, audit and other administrative matters;
- The Texas RE RSC reviews and recommends action on regional standards and regional variances to North American Electric Reliability Corporation (NERC) standards;
- The TAC makes recommendations to the ERCOT Board of Directors, with the assistance of five subcommittees, regarding ERCOT policies and procedures and is responsible for prioritizing projects through the protocol revision request, system change request and guide revision processes;
- The WMS reviews issues related to the operation of the wholesale market in the ERCOT region and makes recommendations for improvement;
- The RMS serves as a forum for issue resolution with regard to retail market matters directly affecting ERCOT and ERCOT protocols. It also monitors PUC filings as they apply to the retail market participants, ensuring PUC requirements are reflected in the Retail Market Guides, protocols and Texas Standard Electronic Transaction (Texas SET);

- The PRS reviews and recommends actions on formally submitted procedures and processes used by ERCOT and market participants, Protocol Revision Requests (PRRs); and
- The NATF evaluates market participant readiness, nodal protocols and system designs to ensure a successful transition in ERCOT from a Zonal Market to a Nodal Market.

Each of the aforementioned committees and sub-committees meet, at a minimum, once a month, and OPUC staff participates in each of those meetings to represent and advocate on behalf of residential and small business customers.

Hundreds of market protocols are developed, reviewed, or approved each year to ensure efficient and reliable electric market operations. OPUC collaborates with the various market participants to bring value to the process on behalf of its constituents, residential and small business customers. In 2008/2009, to cite a few examples, OPUC helped promulgate market protocols in response to the volatility of wholesale power price spikes and the resultant customer impacts; the appropriate bid, or offer cap for the market clearing price of electricity; revisions in the retail market rules for protecting customers during mass transition events to POLRs when REPs default; and amendments to support the deployment of advanced metering systems by transmission and distribution service providers (TDSPs) so customers can enjoy all the bill savings and other benefits advanced meters can provide.

OPUC Strategic Planning

OPUC views its strategic planning process as an opportunity to examine the role the agency plays in Texas on a broad scale, taking into consideration the far-reaching vision and goals as set out in *Securing Our Future: The Statewide Strategic Planning Elements for Texas State Government* as provided for by the Legislative Budget Board (LBB) and the Governor's Office of Budget, Planning and Policy.³ OPUC completes and submits to LBB its strategic plan every two years but engages in planning on a continual basis. Strategic planning is key to determining efficiency and effectiveness of the agency in achieving its objectives. The plan communicates the agency's goals, directions and outcomes to various audiences, including the Governor, and the Legislature, consumers and consumer groups, the public, and the agency's employees. Through OPUC's strategic planning process, the agency seeks to improve its external communications and emphasize customer service.

OPUC Annual Meetings and Reports

Since 2005, OPUC has reached out to its consumers to formulate the goals, priorities and functions of the office.⁴ In FY 2008, OPUC held two annual meetings, Nacogdoches, an electric cooperative and competitive area, and McAllen, a competitive area. In FY 2007, OPUC held an annual meeting in Austin, a municipally-owned utility area. In FY 2006, OPUC held its first annual meeting in Houston, a competitive area. During each of these meetings, OPUC engaged to and heard from its constituency. Consumer surveys were also provided to interested participants to seek input on electric and communications priorities and concerns.

Also, since 2006, OPUC has prepared annual reports to the Legislature regarding the office's activities during the preceding year.⁵ Both the 2006 and 2007 Annual Reports provided highlights of OPUC's consumer advocacy efforts in contested proceedings, PUC projects, and PUC rulemakings implementing legislation. In addition to consumer advocacy highlights, in the 2008 Annual Report, OPUC advocated for legislative changes relating to customer deposits paid to retail electric providers, restoration and application of the System Benefit Fund, and summer moratoriums on electricity disconnections for vulnerable residential customers.

OPUC Website Redesign

OPUC undertook a website redesign in 2009 to improve navigation, appearance and accessibility to all users, in an effort to improve customer satisfaction and input. OPUC's operations and information are now more transparent and available to the public. OPUC is constantly updating its website based on consumer input and inquiries. Currently, the public may utilize the OPUC website to obtain: agency-specific information; consumer information relating to electric, telecommunication, consumer-advocacy, and regulatory contacts; consumer alerts regarding relevant state and federal regulatory actions and issues; news items relating to PUC and legislative actions; consumer information on filing complaints relating to PUC-regulated and non-regulated utilities; answers to frequently asked questions relating to common terms, electric choice, assistance programs and other issues. OPUC has also set up a Customer Contact email address for the public to send inquiries to the agency.

D. Does your agency's enabling law continue to correctly reflect your mission, objectives, and approach to performing your functions? Have you recommended changes to the Legislature in the past to improve your agency's operations? If so, explain. Were the changes adopted?

Yes. The agency's enabling statute correctly reflects OPUC's mission, objectives and approach to performing agency functions. The enabling statute could be refreshed, however, to correct small inconsistencies from changes in the law, and to recognize contemporary technology.

Although the implementation of competition in both the electric and communications markets has not changed the focus of the agency, it has changed the way that those goals are realized. Obtaining affordable, reliable services and products, encouraging innovation and modifying market structures that enhance competitive benefits still remain the focus of the agency. For services that are still regulated, OPUC's role is to recommend and present proposals to the regulator that review costs, recommend adjustments, and advocate rate designs beneficial to residential and small business consumers. In competitive markets, OPUC's role is to advocate for market structures, mitigation measures, and market monitoring that protects consumers, enhances choices, and results in attractive pricing and products. Customer protection continues to be a high priority for OPUC and is especially necessary for competitive services which have

less regulatory oversight.

E. Do any of your agency's functions overlap or duplicate those of another state or federal agency? Explain if, and why, each of your key functions is most appropriately placed within your agency. How do you ensure against duplication with other related agencies?

No. OPUC's functions are not duplicated by another state or federal agency. OPUC is statutorily-authorized to specifically represent residential and small commercial ratepayers in electric and communications cases, projects and appeals. No other state agency exclusively represents residential and small business consumers in regulatory proceedings before the PUC or courts, and no other state agency exclusively represents these interests in market processes before the PUC, ERCOT or other entities. OPUC advocates for a very different position and constituency from that of either the PUC, which weighs the public interest as a whole, or the OAG, which represents state agencies in matters before regulatory bodies and the courts. OPUC participates as a residential and small consumer representative in a variety of forums including the Texas Legislature, ERCOT, the Texas Regional Entity, the Federal Communications Commission, and other federal agencies and national associations.

Public Utility Commission

Contested Cases

OPUC's functions do not overlap or duplicate those functions of the PUC. Having OPUC represent residential and small business consumers in regulatory, market, rate, rule, and policy proceedings continues to be a vital part of developing an equitable and viable communications and electric industry that benefits all stakeholders. The PUC is charged with representing the broader "public interest," and does not singularly focus on the needs and concerns of the constituents for which OPUC has responsibility. It is this singular focus that allows OPUC to continue to bring value on behalf of these smaller customer classes that no other market participant or stakeholder represents. The PUC receives a great deal of input from the electric and communications industry, including testimony from expert witnesses and representation by experienced attorneys. In order for the PUC to have all of the evidence necessary to make informed decisions as to the public interest, it is necessary for residential and small business customers to be adequately represented. OPUC provides this representation with experienced attorneys, regulatory analysts, as well as contracting with outside expert witnesses when necessary. Without OPUC's input in these numerous proceedings, the resulting harm to residential and small business customers would be the notable absence of the consumer's voice and a lack of understanding pertaining to their concerns and interests. These include reliability, costs, and the equitable availability of services. OPUC has the additional statutory ability to appeal PUC decisions.

Projects and Rulemakings

OPUC represents the interests of residential and small business consumers in non-contested matters, focusing on consumer protection and creation of market policy before the PUC in rulemakings and other projects. As already noted, 2009 rulemakings regarding the retail electric market have resulted in numerous new market rules that better protect consumers. These new rules ensure more significant disclosure of relevant information to customers regarding products, services, and prices offered by retail electric providers (REPs); more stringent requirements for REPs to be certified to serve in the Texas retail electric market for safeguarding customers from poor-performing providers; a more expedited “switching” process that allows customers to change electric providers more efficiently; and a provider of last resort (POLR) process that better shields customers during mass transition events when REPs default or exit the market. Furthermore, since the enactment of SB 7 in 1999, the Customer Choice Act, OPUC has been an active advocate for customer protection provisions in the numerous rulemakings and projects promulgated to implement the statute.

Community Outreach and Assistance

OPUC also provides community outreach services and public interest information, not duplicated by the PUC. OPUC has conducted statutorily-required annual meetings to discuss agency priorities with residential and small business customers and to seek input from consumers on issues that affect them the most. OPUC has coordinated with market participants to educate high school students about electric choice and how they can take that information to their families to find lower rates and better terms of service among retail electric providers. Also, OPUC has engaged numerous customers and community organizations regarding OPUC’s functions, market assessments, consumer protections and other consumer-oriented issues.

Complaints and Customer Inquiries

The PUC is statutorily-tasked with accepting consumer complaints relating to public utility violations of laws or PUC rules.⁶ OPUC works with regulated entities, retail electric providers, telecommunications providers, and the PUC to address the individual complaints and concerns of residential and small business consumers. OPUC efforts have resulted in reconnecting electricity for consumers, working out customer payment plans, testing and replacing meters, answering rule-based questions, assisting in filing pleadings in PUC dockets, assisting in filing comments in PUC projects, resolving right of way and tree trimming issues, as well as a variety of other consumer complaints and inquiries. Because informing, assisting, and protecting consumers is foundational to OPUC’s objectives, resolution of consumer complaints has been assigned as a priority function.

Legislative Recommendations

OPUC's role is distinct from any other agency or entity. OPUC is statutorily-tasked with recommending legislation that OPUC determines "would positively affect the interests of residential and small commercial customers" to the Texas Legislature.⁷ OPUC has made such recommendations in its agency annual report. For example, OPUC's 2008 Annual Report to the Legislature included legislative recommendations relating to customer deposits paid to retail electric providers, restoration and reallocation of the System Benefit Fund, and summer moratoriums on electric disconnections for certain vulnerable consumers. Several of those recommendations were considered by the Legislature, though ultimately, none were enacted.

The PUC is tasked with making legislative recommendations regarding legislation the PUC finds appropriate to promote the "public interest" in a competitive electric market⁸ and in a competitive telecommunications market,⁹ along with legislative recommendations regarding nuclear decommissioning¹⁰ and renewable energy goals.¹¹

PURA is often amended during legislative sessions. These new laws are subject to numerous rulemakings and docketed proceedings for the PUC to implement. OPUC has been and will continue to be involved in these proceedings advocating on behalf of residential and small commercial consumers.

NASUCA

The National Association for State Utility Consumer Advocates (NASUCA) is an association of 44 consumer advocates in 40 states and the District of Columbia, and its members are designated by the laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and the courts.¹² OPUC is a member of NASUCA and has staff representatives on three of its committees: the electricity committee, the telecommunications committee; and the consumer protection committee. OPUC attends mid-year and annual meetings representing Texas's consumer interests and participates in working groups, teleconferences and email distribution lists pertaining to national consumer advocacy concerns and requests. OPUC's participation is necessary to coordinate state consumer advocate efforts with federal initiatives and work with other states in resolving issues having nationwide implications. Participation also keeps OPUC informed about the experiences, obstacles and best practices of other consumer advocate entities.

Office of the Attorney General

OPUC's functions do not overlap or duplicate functions of the Office of the Attorney General (OAG). The OAG participates at the PUC on behalf of the "states' interest as a consumer"¹³ primarily representing large governmental institutions like universities, other agencies, or prisons. These large electricity users take service from different rate classes than residential and small commercial customers. Size and usage characteristics of large customers markedly differ from residential customers and these differences are especially important when the PUC determines which classes should bear (and in what proportion) the cost of utility

service.

With respect to competitive market issues, residential and small business consumers' needs are unique, especially in the areas of customer protection (*i.e.*, defaulting REP providers, customer contract terms, REP certification). Energy consumers represented by the OAG have bilateral contracts and do not participate in the market in the same way as residential and small business consumers.

Electric Reliability Council of Texas

OPUC's role at ERCOT also distinguishes its functions from those of other state and federal agencies and market participants. ERCOT is a quasi-governmental entity, certified by the PUC,¹⁴ which ensures reliability and adequacy of the regional electric network and ensures that information relating to electric customer choice is conveyed to the public.¹⁵ OPUC is a *voting* member of ERCOT's Board of Directors and its various subcommittees, specifically representing the interests of residential and small commercial consumers.¹⁶ This role is not duplicated by another state agency or market participant. Statutorily, the ERCOT Board membership has one member representing industrial consumer interests¹⁷ and one member representing large commercial consumer interests.¹⁸ These facts support the need for OPUC's continued membership and involvement representing residential and small business interests to balance the interests of all consumers on ERCOT's governing body.

Additionally, OPUC is a voting member of both the Texas Regional Entity's Board¹⁹ and its Advisory Committee.²⁰ As already noted, OPUC's presence on these committees on behalf of residential and small business consumers is significant since these committees are singularly focused on ERCOT's compliance with federal reliability standards. From a consumer perspective, reliability and "keeping the lights on" is a significant priority.

OPUC staff also represents residential and small business interests in the following ERCOT committees and subcommittees: Technical Advisory Committee; Wholesale Market Subcommittee; Retail Market Subcommittee; Protocol Revision Subcommittee; and Nodal Advisory Task Force.

F. In general, how do other states carry out similar functions?

Most states have a consumer advocate function separate from the regulatory agency. Washington, D.C. and 17 other states have a statutorily-authorized, independent utility consumer advocacy agency; 14 states house their utility consumer advocate within their Office of Attorney General (OAG); 4 states have a consumer advocacy office or representative housed in separate state agency; 2 states have a non-profit consumer advocacy entity; and 1 state has a legislative office responsible for consumer advocacy. Six states have a consumer division within their utility commission; 5 states have no specific utility consumer advocate. To obtain comprehensive information regarding each state's utility consumer advocate, OPUC engaged states' advocates through email, phone calls, review of agency websites and NASUCA information.

G. What key obstacles impair your agency's ability to achieve its objectives?

OPUC does not perceive any key obstacles that impair its ability to achieve its objectives and key functions. OPUC's legal, technical, and professional expertise continues to bring value to regulatory and market processes on behalf of residential and small business consumers. That same proficiency applies to the agency's commitment to apply those resources to inform, assist, and protect consumers.

H. Discuss any changes that could impact your agency's key functions in the future (e.g., changes in federal law or outstanding court cases).

There are no anticipated changes in federal law or outstanding court cases that would impact the agency's key functions. However, there are anticipated changes in federal law that could potentially impact the industries that are regulated by the PUC, most notably a carbon sequestration or carbon cap and trade program. Without knowing the details of such future legislation, it is not possible at this time to specifically state how it could impact regulation, industry in Texas or the prices consumers pay for service.

Congress, FERC, ERCOT and the PUC are continuously evaluating viable renewable energy sources, energy efficiency, cleaner fuels, smart grid technologies, advanced metering initiatives and other issues impacting the state and the nation. OPUC will review each of these issues as they arise to determine the best way to represent the interest of Texas residential and small business consumers to ensure that utility services and technologies available to ratepayers are just and reasonable in regulatory and market environments.

I. What are your agency's biggest opportunities for improvement in the future?

OPUC anticipates future contested cases and customer service issues to develop and become increasingly complex. OPUC is committed to new, improved, and innovative ways to personalize its key functions of informing, assisting, and protecting consumers, and expanding its customer service.

J. In the following chart, provide information regarding your agency's key performance measures included in your appropriations bill pattern, including outcome, input, efficiency, and explanatory measures.

Office of Public Utility Counsel			
Exhibit 2: Key Performance Measures -- Fiscal Year 2008			
Key Performance Measures	FY 2008 Target	FY 2008 Actual Performance	FY 2008 % of Annual Target
Participation in Proceedings – Electric Cases	45	45	100%
Participation in Proceedings – Electric Projects	15	25	166.67%
Participation in Proceedings – Avg Cost/Electric Proceeding	\$11,400.00	\$7,679.70	67.37%
Electric Case Participation – % OPUC Elec/Competition Proceedings	55.00%	54.00%	98.18%
Telecommunications Proceedings – Telecom Cases Participated	6	1	16.67%
Telecommunications Proceedings – Telecom Projects	21	20	95.24%
Telecommunications Proceedings – Avg Cost Per Telecom Proceeding	\$3,300.00	\$4,189.69	126.96%
Consumer Choice and Protection – % Competition Proceedings	65.00%	62.00%	95.38%

III. History and Major Events

Provide a timeline of your agency's history and key events, including:

- the date your agency was established;
- the original purpose and responsibilities of your agency;
- major changes in responsibilities or statutory authority;
- changes to your policymaking body's name or composition;
- significant changes in state/federal legislation, mandates, or funding;
- significant state/federal litigation that specifically affects your agency's operations; and
- key changes in your agency's organization (e.g., a major reorganization of the agency's divisions or program areas).

Office of Public Utility Counsel (OPUC)

TEXAS TIMELINE

Prior to OPUC Creation

- 1942 Texas electric utilities informally organize to create Texas Interconnected System (TIS) to meet wartime demand for electricity.²¹
- 1970 TIS forms the Electric Reliability Council of Texas (ERCOT), to comply with North American Reliability Council (NERC) requirements.²²
- 1975 The 64th Texas Legislature creates the Public Utility Commission. Texas becomes the last state in the U.S. to establish a utility commission to provide for statewide comprehensive regulation of electric and telecommunications utilities.²³
- The Legislature establishes the PUC to oversee statewide issues not addressed by regulation at the local level.
 - The main issues for the PUC include fuel diversification and increased rates for electricity. PUC is to regulate rates of telephone utilities statewide, electric utilities in unincorporated areas, but not municipally-owned utilities (MOUs) or municipal utility districts (MUDs).
 - The PUC has regulatory jurisdiction over telephone, electric, water, and sewer utilities.
 - Four basic activities of the PUC include certification, rate-setting, monitoring regulated utilities for compliance with statutes and PUC rules, orders and service standards, and assisting consumers in resolving complaints against regulated

utilities.²⁴

1976 PUC begins operation following mandates of the Public Utility Regulatory Act (PURA).

- Prior to this date, municipalities held the jurisdictional rights of rate regulation.
- PURA shifts final regulatory powers to the PUC while keeping original jurisdiction at the municipal level.

1979 The 66th Texas Legislature amends water and sewer utilities laws.

1981 TIS members transfer all electric operating functions to ERCOT, and ERCOT becomes the central operating coordinator for Texas.²⁵

- The ERCOT grid covers 75% of Texas and serves 85% of Texas load. ERCOT is one of three North American grid interconnections, and four parts of Texas are outside of the ERCOT grid, the Panhandle, El Paso area and two areas of East Texas.

OPUC Creation

1983 The Sunset Advisory Commission and 68th Legislature conduct their first Sunset review of PUC.

- The Legislature finds that, while utilities and large businesses had a strong voice in PUC rate-setting hearings, residential and small commercial ratepayers were virtually unrepresented and such representation needed to be strengthened.²⁶

The 68th Legislature creates the Office of Public Utility Counsel (OPUC), through the PUC's sunset bill, as an independent state agency to represent the interests of residential and small commercial customers in utility proceedings.²⁷ OPUC is entitled to access to records gathered by the PUC and discovery of any nonprivileged matter relevant to the subject matter of a proceeding or petition before the PUC.

OPUC's original purpose and responsibilities include:

- Assessing the effect of utility rate changes and other regulatory actions, relating to electric, telecommunications, water and sewer, on residential customers in Texas;
- Appearing or intervening, as a matter of right, on behalf of residential and small commercial customers, as a class, in any proceeding before the PUC, including an alternative dispute resolution;
- Initiating or intervening, as a matter of right, or otherwise appearing in a judicial proceeding that involves an action taken by an administrative agency in which the Public Counsel is authorized to appear or in which the Public Counsel determines that residential electricity or small commercial electricity customers need

representation;

- Representing an individual residential or small commercial customer with respect to their disputed complaint concerning utility services unresolved before the PUC; and
- Recommending legislation to the Legislature OPUC determines would positively affect the interests of residential and small commercial customers.

The 68th Legislature enacts the new Gas Utility Regulatory Act (GURA),²⁸ through the sunset process, transferring the Texas Railroad Commission's authority from PURA to GURA and removing gas utility regulation from PURA to GURA. PURA, which provides for oversight and regulation of electric, telecommunications, water and sewer utilities, applies solely to the PUC.²⁹

After OPUC Creation

1985 The 69th Legislature removes the regulation of retail water and sewer rates from the PUC under PURA, and places those provisions in the Water Utility Regulatory Act (WURA) with water and sewer jurisdiction transferred to the Texas Water Commission, now the Texas Commission on Environmental Quality (TCEQ).³⁰

- Thus, advocacy for residential and small commercial customers in water and sewer ratemakings is removed from OPUC.

1986 ERCOT opens its first office and hires four full-time employees.³¹

1987 The 70th Legislature allows competitive rate offerings by telecommunications local exchange companies (LECs) and allows small LECs to request rate changes on an expedited basis.³²

1993 The Sunset Advisory Commission and 73rd Legislature conduct their second sunset review of the PUC, and first review of OPUC, continuing both agencies, without change, subject to further sunset review in 1995.³³

1995 The Sunset Advisory Commission and 74th Legislature conclude sunset review of OPUC and PUC, continuing both for six years, until September 1, 2001.³⁴

The 74th Legislature amends PURA to deregulate wholesale generation market, thus encouraging competition in the wholesale energy market by allowing flexible pricing for wholesale and some retail rates, requiring comparable transmission access and pricing, and requiring integrated resource planning.³⁵

- PUC begins process of expanding ERCOT's responsibilities to enable wholesale competition and facilitate efficient use of the power grid by all market participants.

The 74th Legislature requires the State Office of Administrative Hearings to establish a Utility Division to perform contested case hearings for the PUC as prescribed by PURA and other applicable law.³⁶

The 74th Legislature encourages local competition for telecommunications services by removing barriers to entry, creating new certificates, lessening regulation of small local exchange companies and cooperatives, provided incentive regulation for certain companies willing to make infrastructure commitments, and maintained commitments for universal service.³⁷

1996 ERCOT, with PUC endorsement, becomes the first independent system operator (ISO) in the United States.³⁸

1997 The 75th Legislature expands OPUC's statutory authority, under Subchapter B of GURA, to allow OPUC to appear or intervene on the behalf of residential customers, as a class, in gas utility appeals before the Texas Railroad Commission, *only at the request of a municipality*.³⁹ OPUC is entitled to the following:

- to initiate or intervene as a matter of right or otherwise appear in a judicial proceeding that involves an action taken by the Texas Railroad Commission in a proceeding in which OPUC was a party;
- the same access as a party, other than the Texas Railroad Commission Staff, to records gathered by the Commission;
- discovery of any nonprivileged matter relevant to the subject matter of a proceeding or petition before the Texas Railroad Commission;
- representation of an individual residential consumer with respect to the consumer's disputed complaint concerning utility services unresolved before the Commission; and
- may recommend legislation to the Legislature that the office determines would positively affect the interests of residential consumers.

The 75th Legislature eliminates price caps on optional telecommunications services, reduces access charges, prohibits disconnection of basic service for non-payment of long distance service, requires automatic enrollment of lifeline service and allows the bundling of services for marketing.⁴⁰

1999 The 76th Legislature continues OPUC and PUC for an additional five years, until September 1, 2005.⁴¹

OPUC's Public Counsel is designated as an ex-officio, non-voting member of the ERCOT Board of Directors.⁴²

The 76th Legislature enacts Senate Bill (SB) 7 which restructures the retail electric market by promoting competition for retail service and regulating transmission and distribution service, implements consumer safeguards, and requires automatic enrollment for eligible low income customers.⁴³ SB 7 provides for the following:

- Utilities must unbundle into three categories: generation, regulated transmission and distribution, and retail electric providers, using separate or affiliated companies;
- Municipally owned utilities and electric cooperatives are not affected by the law, unless they choose to open their territories to competition;
- Utilities are limited to owning and controlling no more than 20 percent of installed generation capacity in ERCOT;
- Generators are required to reduce nitrogen oxide and sulfur dioxide emissions from “grandfathered” power plants over a two-year period;
- Customer choice pilot projects may be used to allow the PUC to evaluate the ability of a region and utility to implement retail electric choice;
- PUC may delay competition and set new rates in any area of the state where it determines a power region is unable to offer fair competition and reliable service to customers by January 1, 2002;
- ERCOT is defined as the ISO, responsible for coordinating the actions of market participants and ensuring system reliability;
- ERCOT is assigned the following responsibilities: ensuring open access to transmission and distribution systems; ensuring reliability; ensuring timely conveyance of information needed to support customer choice; and ensuring accurate accounting for electricity production and delivery;
- ERCOT is named as central registration agent for retail choice.
- ERCOT is required to perform its responsibilities consistent with Texas legislation, NERC guidelines, PUC rules, ERCOT Protocols and Guides, and ERCOT rules; and
- ERCOT’s Board of Directors membership consists of a 14-member hybrid board with six stakeholder members selected by market participant segment (IOUs, municipal utilities, electric cooperatives, independent REPs, independent generators, and independent power marketers), three consumer members (industrial, commercial and residential), three unaffiliated members, the Public Counsel, the ERCOT CEO and the PUC Chair as an ex-officio, non-voting member.

Relating to OPUC, SB 7 amends PURA Chapter 13, by adding language relating to the following:

- allowing OPUC to participate in alternative dispute resolutions at the PUC or other administrative agency;
- allowing OPUC to initiate or intervene in a judicial proceeding in which the Public Counsel determines that residential or small commercial electricity consumers are in need of representation; and
- providing certain post-employment restrictions for the Public Counsel.⁴⁴

The 76th Legislature also enacts legislation relating to the following:

- increased flexibility for ILECs in pricing and packaging telecommunications services;⁴⁵
- greater customer protections for both electric and telecommunications services;⁴⁶ and
- a requirement that the PUC and Texas Commission for the Deaf and Hard-of-Hearing establish a financial assistance program that will allow certain individuals who are deaf, deaf-blind, hard-of-hearing and speech disabled that is functionally equivalent to that enjoyed by individuals without a hearing or speech disability.⁴⁷

2000 ERCOT sponsors a stakeholder process to address how ERCOT's organization will administer its responsibilities to support the competitive retail and wholesale electricity markets while maintaining the reliability of electric services.⁴⁸

2001 The 77th Legislature enacts legislation relating to the following:

- delays retail electric competition in the Texas Panhandle region, served by Southwestern Public Service Company (SPS) until after January 1, 2007;⁴⁹
- requires the PUC, acting with other agencies, to administer a grant program encouraging emissions reduction promoting clean air guidelines, in accordance with the Federal Clean Air Act;⁵⁰ and
- establishes the Texas Telemarketing Disclosure and Privacy Act to protect consumers from unwanted telemarketing calls.⁵¹

The PUC issues an order delaying retail competition in East Texas.⁵²

Texas electric choice pilot program begins in June.⁵³

Ten control areas in ERCOT region consolidate into a single control area.⁵⁴

- 2002 The Texas retail electric market opens, and retail competition begins within ERCOT enabling customer choice for 6.1 million electric customers on January 1.
- A six percent reduction from 1999 electric rates is mandated for residential and small commercial customers (<1MW), remaining in effect until 2005 or until affiliated REPs lose 40 percent of its customers to competition.
 - As of July 2002, more than 40 companies are certified as retail electric providers (REPs).
- 2003 The PUC orders ERCOT to develop a nodal wholesale market design to improve price signals, improve dispatch efficiencies, and provides for the assignment of all congestion costs to market participants whose activities result in congestion.
- An original completion date was set for December 2008, but ERCOT announced in May 2008 that the target date would not be met.
 - The PUC maintains responsibility for ERCOT oversight in developing and implementing the nodal market design, as well as dealing with issues that arise with operation of the current zonal market.

The 78th Legislature enacts legislation relating to the following:

- Providing for certain privacy protections for consumer information on the Texas no-call list;⁵⁵
 - Requiring telecommunications providers discounts, or other forms of flexible pricing, not be preferential, prejudicial or discriminatory;⁵⁶ and
 - Authorizing the PUC to name a provider of last resort to provide telecommunications to customers whose telecommunications provider goes out of business.⁵⁷
- 2004 Nueces Electric Cooperative becomes the first electric cooperative to opt to participate in the Texas competitive electricity market and enrolls its first customer on September 1.
- 2005 The Sunset Advisory Commission and 79th Legislature conclude sunset review of OPUC and PUC, continuing both for six years, until September 1, 2011.

OPUC's Sunset bill, SB 409 (79R), specifies the following, including across-the-board recommendations:

- OPUC must develop and implement a policy to encourage the use of alternative dispute resolution procedures to assist in the resolution of internal disputes under OPUC's jurisdiction;⁵⁸
- OPUC must maintain a complaint system;⁵⁹

- the Public Counsel must implement a technology policy to improve OPUC's ability to perform its functions and ensuring the public is able to interact with OPUC on the Internet;⁶⁰
- the State Auditor must coordinate with the Legislative Budget Board to conduct a management audit and evaluate OPUC's performance to determine the accuracy of OPUC's impact and estimation of savings to residential and small commercial customers attributable to its participation in proceedings (expiring September 1, 2006);⁶¹
- adds additional grounds for removal for the Public Counsel;⁶²
- provides for conflict of interest provisions for the Public Counsel and OPUC staff;⁶³
- requires OPUC to prepare an annual report for distribution to the standing legislative committees with OPUC jurisdiction, the House Appropriations Committee, the Senate Finance Committee and the Sunset Advisory Commission, including a list of the types of activities conducted by OPUC and time spent on each, the number of hours billed by OPUC for representing residential or small commercial customers in proceedings, the number of staff positions and type of work performed by each position, and the office's rate of success in representing consumers in appealing PUC decision;⁶⁴ and
- requires OPUC to conduct an annual stakeholder meeting to assist OPUC in developing a plan of priorities and to give the public an opportunity to comment on OPUC's functions and effectiveness.⁶⁵

OPUC's Public Counsel is designated as an *ex-officio*, *voting* member of the ERCOT Board of Directors representing residential and small commercial interests.⁶⁶

The PUC's Sunset bill codifies Sunset's recommendations for the following:

- granting PUC oversight authority over ERCOT's operations and finances;
- modifying the structure of the ERCOT Board of Directors;
- requiring ERCOT to fund and support an independent market monitor selected by the PUC; and
- requiring ERCOT to establish an Independent Market Monitor under rules adopted by the PUC.⁶⁷

The 79th Legislature further enacts the following:

- a transition to retail electric competition plan for the Southeast Texas region, served by Entergy Gulf States, Inc. (now Entergy Texas, Inc.);⁶⁸
- an allowance for the PUC to establish a nonbypassable surcharge for utilities to recover reasonable and necessary costs incurred in deploying advanced metering and meter information networks;⁶⁹

- a prohibition against the use of credit scoring and credit history in the denial of residential retail electric or telecommunications service;⁷⁰
- enforcement authority to the PUC over violations of the state and federal telemarketing no-call lists;⁷¹ and
- further deregulation of the telecommunications market.⁷²

By September, one-fourth of Texas residential customers have switched to a competitive retail electric provider.

The Texas Nodal Team submits draft nodal protocols to the PUC.

2006 PUC approves stakeholder-developed protocols for the nodal market with a projected nodal implementation date of January 1, 2009.

2007 The 80th Legislature encourages the rapid deployment of advanced meter systems to allow customers to better manage energy use, control costs, and to facilitate demand response initiatives.⁷³

2008 Public Counsel, Don Ballard, is appointed and organizes OPUC into two functional areas of practice, Litigation and Market Representation.

- The Litigation function which handles contested matters before PUC and other jurisdictional entities (State and Federal Courts, FERC, FCC, etc.). Major regulatory matters include rate and fuel reconciliation cases, energy efficiency cost recovery factors cases, advanced metering applications, surcharge and hurricane cost recovery proceedings; and
- The Market Representation and Communications function, which handles non-contested matters, rulemakings, and projects before the PUC, FCC and FERC, advocates for residential customers as a member of the ERCOT Board of Directors and other ERCOT committees, and outreaches to customers. Market projects include customer disclosure and retail electric provider rules, advanced metering matters, common terms on utility bills, agency annual meetings and reports, and public communication and education.

2009 Advanced metering deployment begins in parts of Texas.

ERCOT projects December 2010 as the new nodal “go-live” date.⁷⁴

The 81st Legislature enacts legislation providing for the following:

- free, Internet broadcasting of PUC and ERCOT meetings;⁷⁵
- requiring REPs to add the PUC’s website, www.powertochoose.com, to customer’s electric bills;⁷⁶
- requiring common terms to be utilized by electric and telecommunications

providers on customers' bills;⁷⁷

- allowing for certain utilities to securitize and recover storm costs due to hurricanes;⁷⁸
- allowing for delay of retail electric competition in Entergy Texas, Inc.'s service territory;⁷⁹ and
- allowing for delay of retail electric competition in Southwestern Electric Power Company's service area.⁸⁰

During the subsequently called special session, the Legislature required the Sunset Advisory Commission to conduct a special-purpose review of ERCOT, as part of the PUC's sunset review for 2011, that includes an assessment of the governance, management, and operating structure of ERCOT and ERCOT's compliance with the duties placed on it by the Legislature and PUC.⁸¹

FEDERAL TIMELINE

Prior to OPUC Creation

- 1920 The U.S. Congress enacts the Federal Water Power Act creating the Federal Power Commission (FPC).⁸² The FPC becomes the licensing authority for hydroelectric projects in the U.S.
- 1934 The U.S. Congress enacts the Communications Act of 1934 replacing the Federal Radio Commission with the Federal Communications Commission (FCC) and transferring the regulation of interstate telephone services from the Interstate Commerce Commission to the FCC.⁸³
- 1935 The Federal Water Power Act is renamed the Federal Power Act (FPA).⁸⁴ The FPC's jurisdiction is expanded to include regulation of all interstate electricity transmission and sales for resale of electric energy in interstate commerce. The FPA creates and empowers the Federal Power Commission (FPC), the Federal Energy Regulatory Commission's (FERC's) predecessor.

The U.S. Congress enacts the Public Utility Holding Company Act of 1935 (PUHCA 1935).⁸⁵ It is enacted for three primary reasons: (1) to limit the size of holding companies; (2) to discourage noncontiguous holding companies; and (3) to prevent holding company abuses. This marks the beginning of federal regulation of the electric utility industry.

- 1968 FPC recommends formation of a council on power coordination made up of representatives from each of the nation's regional coordinating organizations, and the National Electric Reliability Council (NERC) is established by the electric utility industry, formalizing nine regional planning coordination guides.

- 1970 The Texas Interconnected System, a group of interconnected Texas utilities, forms the Electric Reliability Council of Texas (ERCOT) to comply with NERC requirements.
- 1975 Congress enacts the Energy Policy and Conservation Act of 1975 adopting building energy efficiency standards.⁸⁶
- 1977 Congress reorganizes the FPC creating the Federal Energy Regulatory Commission (FERC), charging it with overseeing the rates, terms, and conditions of wholesale sales and transmission of electric energy in interstate commerce. Generally, FERC has no jurisdiction over wholesale electricity trades in Texas because the state has few connections with the two major interstate grid systems in the U.S., the Eastern and Western Interconnect.
- 1978 The U.S. Congress enacts the National Energy Act of 1978,⁸⁷ which is comprised of five Acts, including the Public Utility Regulatory Policies Act of 1978 (PURPA).⁸⁸ The PURPA opens the door for competition in the U.S. electric supply market by allowing nonutility generators that met certain FERC-set criteria to enter the wholesale market. PURPA provides certain small renewable resource and cogeneration facilities to be qualified facilities (QFs). QFs are allowed to sell electricity directly to their host utilities at the host utility's avoided cost, and interconnection of QFs is required. PURA also requires the consideration of various conservation and energy efficiency measures.
- 1981 NERC changes its name to the North American Electric Reliability Council in recognition of Canada's participation.
- 1983 The U.S. District Court's Modified Final Judgment (MFJ) goes into effect requiring divestiture of Bell Operating Companies from AT&T.

After OPUC Creation

- 1984 AT&T divests of its twenty-two local phone companies, transferring ownership to seven Regional Bell Operating Companies (RBOCs) as a result of a Modification of Final Judgment (MFJ) resolving an antitrust lawsuit initiated by the U.S. Department of Justice.⁸⁹
- 1992 The Energy Policy Act of 1992 (EPAcT 1992) is enacted.⁹⁰ The EPAcT 1992 creates a new class of electricity supplier, exempt wholesale generators (EWGs), and exempts EWGs from the PUHCA requirement of a single integrated contiguous electricity holding company, allowing anyone selling wholesale power to own unregulated generation units. EPAcT 1992 also requires open transmission access to facilitate more efficient wholesale markets. EPAcT 1992 promotes conservation, efficiency and competition in the electric power industry.

1996 FERC adopts Order 888 opening the national transmission system to wholesale suppliers and requiring all regulated utilities, along with unregulated utilities awaiting reciprocity, to provide open access and comparable transmission interconnection and service to generation units not owned by the regulated utilities.⁹¹ The order requires all public utilities that own, control or operate facilities used for transmitting electric energy in interstate commerce to have on file open access non-discriminatory transmission tariffs that contain minimum terms and conditions of non-discriminatory service, and permits public utilities and transmitting utilities to seek recovery of legitimate, prudent and verifiable stranded costs associated with providing open access and FPA Section 211 transmission services. FERC's goal is to remove impediments to competition in the wholesale bulk power marketplace and to bring more efficient, lower cost power to the Nation's electricity consumers.

FERC also adopts Order 889.⁹² The order establishes Open Access Same-Time Information System (OASIS) and prescribes standards of conduct for public utilities. The order requires public utilities to create or participate in an OASIS that will provide open access transmission customers with information about available transmission capacity, prices, and other information enabling them to obtain open access non-discriminatory transmission service.

ERCOT is endorsed by the Public Utility Commission of Texas and becomes the first ISO in the U.S.

The U.S. Congress enacts the Federal Telecommunications Act of 1996 amending and repealing portions of the Communications Act of 1934.⁹³ The FTA opens the telecommunications market to competition and overhauls the nation's telecommunications laws by amending the Communications Act of 1934. The FTA establishes standards for interconnection, resale and functional unbundling of the network.

1999 FERC adopts Order 2000 encouraging, but not mandating, all privately-owned utilities to voluntarily place their transmission facilities under the control of a broader market entity, for grid operation, called a regional transmission organization (RTO).⁹⁴ Currently, FERC oversees and regulates six RTOs or independent system operators (ISOs) in the U.S., and the seventh, the ERCOT ISO, is primarily regulated by the Public Utility Commission of Texas. ISO and RTO characteristics are similar, and in many cases, FERC uses the terms interchangeably; however, RTOs are intended to cover a large region and, in practice, tend to be multistate. Their functions generally include administering electricity transmission, managing and monitoring the competitiveness of wholesale markets for electricity and other services, and planning for long-term reliability.

2002 FERC proposes a Standard Market Design for all Regional Transmission Organizations that establish standard procedures for wholesale markets.

2005 The Energy Policy Act of 2005 (EPAAct 2005) is enacted creating rules for mandatory and enforceable reliability standards for the interstate bulk-power system (BPS) and provides for FERC to certify an Electric Reliability Organization (ERO).⁹⁵ FERC is given jurisdiction over all users, owners and operators in the BPS, including utilities in the ERCOT system, which were not otherwise subject to FERC jurisdiction. The ERO is to be independent from the users, owners and operators of the BPS and draft FERC-approved reliability standards and impose FERC-approved penalties for violations of the reliability standards. The EPAAct 2005 amends PURPA, the FPA, and repeals and replaces PUCHA 1935 with the PUHCA 2005.⁹⁶

2006 FERC issues Order 672, the final rule outlining requirements for certification of the ERO.⁹⁷

NERC files an application with FERC to become the ERO, and FERC certifies NERC as the ERO for the U.S. NERC develops and enforces mandatory electric reliability standards under FERC's oversight.

ERCOT applies to NERC to become the Regional Entity for Texas, and in doing so, establishes an independent and functionally separate division, the Texas Regional Entity (Texas RE), in accordance with the ERO rule.

2007 NERC changes its name to the North American Electric Reliability Corporation.

FERC issues Order No. 693 approving NERC's first reliability standards, 83 total, meeting FPA requirements.⁹⁸

FERC approves eight regional entity delegation agreements by which NERC will delegate its authority to monitor and enforce compliance with NERC Reliability Standards in the U.S.

NERC delegates authority to Texas RE. The delegation agreement includes a Compliance Monitoring and Enforcement Program to be used to monitor, assess, and enforce compliance with NERC Reliability Standards.

The Energy Independence and Security Act of 2007 provides for increased energy efficiency and the availability of renewable energy.⁹⁹ Three key provisions enacted include the Corporate Average Fuel Economy Standards, the Renewable Fuel Standard, and the appliance and lighting efficiency standards.

2009 The U.S. Congress passes the American Recovery and Reinvestment Act of 2009 making supplemental appropriations for energy efficiency and smart grid technologies.¹⁰⁰

IV. Policymaking Structure

A. Complete the following chart providing information on your policymaking body members.

Not applicable. OPUC does not have a policymaking body. All policymaking decisions are made by the Public Counsel who serves as Executive Director of the agency.

V. Funding

A. Provide a brief description of your agency's funding.

General Appropriations Act, Article VIII, Regulatory, Office of Public Utility Counsel

OPUC is funded from the State's General Revenue Fund. The assessment authority for OPUC funding is in the Texas Utilities Code, or Public Utility Regulatory Act (PURA), Chapter 16, Commission Financing. PURA Section 16.001 authorizes an assessment to be imposed on each public utility, retail electric provider, and electric cooperative within the jurisdiction of the Public Utility Commission, that serves the ultimate consumer, "to defray the expenses incurred in the administration" of PURA. This assessment is known as the Public Utility Gross Receipts Tax. PURA Section 16.004 authorizes the Texas Comptroller of Public Accounts to collect the assessment and any penalty or interest due. Per PURA Section 16.001(b), the assessment is equal to one-sixth of 1% of the Public Utility Gross Receipts Tax on utility bills charged to Texas consumers.

Since the agency's inception, the assessment has exceeded the funds appropriated to the agency, and those excess funds have remained in the General Revenue Fund. Below is a chart comparing the total assessment collected on behalf of the agency with the funds appropriated to the agency for the past six fiscal years.

Fiscal Year	Statutory Assessment Collected	Appropriation from General Revenue
2006	57,565,511	1,660,410
2007	59,489,830	1,660,410
2008	57,559,795	1,717,981
2009	60,249,000 (est.)	1,717,981
2010	62,414,000 (est.)	1,758,717
2011	64,413,000 (est.)	1,758,717

B. List all riders that significantly impact your agency's budget.

Unexpended Balance Authority, Rider 2, General Appropriations Act

The unobligated and unexpended balances of appropriations to OPUC for the Fiscal Year ending August 31, 2010 are appropriated to OPUC for the same purposes as for the Fiscal Year ending August 31, 2011.

C. Show your agency's expenditures by strategy.

Office of the Public Utility Counsel Exhibit 5: Expenditures by Strategy, Fiscal Year 2008 (Actual)		
Goal/Strategy	Total Amount	Contract Expenditures Included in Total Amount
Goal A: Equitable Electric Rates A.1.1. Participation in Major Electric Rate Cases, Rules and Other Proceedings	\$991,023.05	\$126,489.49
Goal B: Telephone Competition B.1.1. Participate in Telecom Proceedings Involving Competitive Issues	\$477,259.66	\$56,357.56
GRAND TOTAL:	\$1,468,282.71	\$182,847.05

D. Show your agency's objects of expense for each category of expense listed for your agency in the General Appropriations Act FY 2009-2010.

Office of the Public Utility Counsel			
Exhibit 6: Objects of Expense by Program or Function, Fiscal Year 2009			
Object of Expense	Participate in Major Electric Rate Cases, Rules and Other Proceedings	Participate in Telecom Proceedings Involving Competitive Issues	Totals
Salaries and Wages	\$835,972	\$411,748	\$1,247,720
Other Personnel Costs	\$20,261	\$9,979	\$30,240
Professional Fees and Services	\$299,804	\$21,148	\$320,952
Consumable Supplies	\$8,375	\$4,125	\$12,500
Utilities	\$269	\$132	\$401
Travel	\$2,573	\$1,267	\$3,840
Rent-Building	\$1,867	\$919	\$2,786
Rent-Machine and Other	\$21,119	\$10,402	\$31,521
Other Operating Expense	\$45,574	\$22,447	\$68,021
Total	\$1,235,814	\$482,167	\$1,717,981

E. Show your agency’s sources of revenue. Include all local, state, and federal appropriations, all professional and operating fees, and all other sources of revenue collected by the agency, including taxes and fines.

Office of the Public Utility Counsel Exhibit 7: Sources of Revenue, Fiscal Year 2008 (Actual)	
Source	Amount
General Revenue Fund	\$1,468,282.71
TOTAL	\$1,468,282.71

F. If you receive funds from multiple federal programs, show the types of federal funding sources.

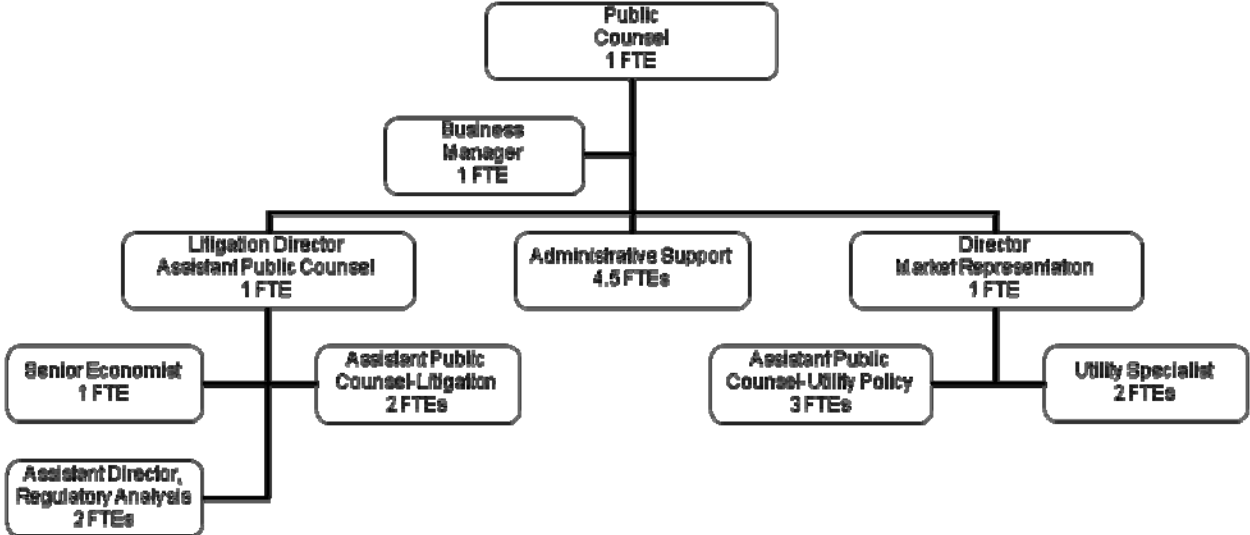
Not applicable.

G. If applicable, provide detailed information on fees collected by your agency.

Not applicable.

VI. Organization

A. Provide an organizational chart that includes major programs and divisions, and shows the number of FTEs in each program or division.



B. If applicable, fill in the chart below listing field or regional offices.

Not applicable.

C. What are your agency’s FTE caps for fiscal years 2008-2011?

Fiscal Year	FTE Cap
2008	23
2009	23
2010	23
2010	23

D. How many temporary or contract employees did your agency have as of August 31, 2008?

None.

E. List each of your agency's key programs or functions, along with expenditures and FTEs by program.

Office of the Public Utility Counsel		
Exhibit 11: List of Program FTEs and Expenditures — Fiscal Year 2008		
Program	FTEs as of August 31, 2008	Actual Expenditures
Program Operations	15	\$1,468,282.71
TOTAL	15	\$1,468,282.71

VII. Guide to Agency Programs

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

A. Provide the following information at the beginning of each program description.

Name of Program or Function	Program Operations
Location/Division	1701 N. Congress Avenue, Suite 9-180 Austin, Texas 78711-2397
Contact Name	Brenda Sevier and Danny Bivens
Actual Expenditures, FY 2008	1,468,282.71
Number of FTEs as of August 31, 2008	15

B. What is the objective of this program or function? Describe the major activities performed under this program.

Please refer to Sections II.A. and II.B.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Please refer to Section II.C.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

Included in general agency history. Please see Section III, History and Major Events.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

This program affects residential and small business consumers who purchase electric and telecommunication services in Texas. The only qualification or eligibility requirement is that a person is either a Texas residential or small business consumer of telecommunications or electric service. Consumers can be denied utility service if they have failed to pay for previously provided service, and failure to render payments can result in customer utility service disconnections.

Electric

As of March 2009, there were approximately 6.3 million residential consumers of electric service and telecommunication products in Texas.¹⁰¹ This number is based on the number of customers in the Electric Reliability Council of Texas (ERCOT) service area multiplied by 115% to derive the statewide number of customers since ERCOT represents 85 percent of the state's electric load and 75 percent of the Texas land area.

As of March 2009, there were approximately 1.1 million small business customers in Texas.¹⁰² This number is based on the number of small commercial customers in ERCOT multiplied by 15% to derive the statewide number of customers.

Communications

The program also affects residential and small business telecommunications consumers in Texas along with the telecommunications companies serving these customers and operating in Texas. The impact on these entities comes in the form of OPUC's participation in rulemakings.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Please refer to Section II.C.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

OPUC's sole funding source is the State General Revenue Fund. OPUC's total appropriation for the fiscal year 2008-2009 biennium was \$3,435.962.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.

Please refer to Section II.E.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Please refer to Section II.E.

J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.

Please refer to Section II.E.

K. If contracted expenditures are made through this program please provide:

- the amount of those expenditures in fiscal year 2008;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

OPUC's contracted expenditures in fiscal year 2008 were \$182,847.05.

These expenditures were for eight expert witness contracts for participation in electric and telephone proceedings.

Invoices received are reviewed by agency legal staff, the Public Counsel, and the Business Manager for performance and funding verification. Payment is made after all verifications and approvals are completed.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Please refer to Sections II.D. and II.I.

M. Provide any additional information needed to gain a preliminary understanding of the program or function.

Not applicable.

N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Not applicable.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable.

VIII. Statutory Authority and Recent Legislation

A. Fill in the following chart, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact your agency. Do not include general state statutes that apply to all agencies, such as the Public Information Act, the Open Meetings Act, or the Administrative Procedure Act. Provide information on Attorney General opinions from FY 2005 – 2009, or earlier significant Attorney General opinions, that affect your agency’s operations.

Office of Public Utility Counsel Exhibit 13: Statutes/Attorney General Opinions	
Statutes	
Citation/Title	Authority/Impact on Agency (e.g., “provides authority to license and regulate nursing home administrators”)
State Statutes	
Texas Utilities Code , Public Utility Regulatory Act (PURA), §§13.001 <i>et seq.</i>	OPUC’s enabling legislation, contains authority for most agency powers and duties, Public Counsel and Staff qualifications and prohibitions, public information, annual report and annual meeting requirements.
PURA §11.003(12)	Defines “office” as OPUC in PURA.
PURA §14.052(b)(5)	Authorizes the PUC to adopt and enforce rules governing practice and procedure before the PUC and the utility division of the State Office of Administrative Hearings relating to allowing administrative law judges to group parties, other than OPUC, that have the same position on an issue to facilitate cross-examination.
PURA §39.101(d)	Provides for retail customer safeguards and requires retail electric providers (REPs), power generation companies, aggregators and other entities to submit certain reports to OPUC and PUC annually.
PURA §39.261(a), (b)	Requires OPUC and PUC to review electric utilities’ annual reports relating to annual revenues and annual costs.
PURA §39.262(b)	Requires OPUC and PUC to review annual reports, as provided in PURA 39.261, after the “freeze period.”
PURA §39.902(a)	Requires the PUC’s customer education program to inform customers of their rights and protections available to them through the PUC and OPUC.
PURA §39.903(e)	Allows money in the System Benefit Fund to be appropriated to, in order of priority, low-income

	discount and one-time bill payment assistance programs, customer education programs, administrative expenses incurred by PUC and expenses incurred by OPUC under Chapter 39, low-income customer energy efficiency programs, low-income customer 20% discounts, and HHSC reimbursement.
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PURA §52.0583(a), (c)	Requires incumbent local exchange companies (ILECs) to provide informational notices on new services to OPUC, PUC and any certificate holders. Allows OPUC, affected persons or PUC to file a complaint at the PUC challenging whether an ILECs pricing is compliant with PURA.
PURA §52.0584(a), (c)	Requires ILECs to provide an informational notice on pricing flexibility to OPUC, PUC and any certificate holders. Allows OPUC, affected persons or PUC to file a complaint at the PUC challenging whether an ILECs pricing standards are compliant with PURA.
PURA §52.060	Allows PUC to prescribe and collect a fee or assessment from LECs necessary to recover the cost to the PUC or OPUC relating to activities carried out and services provided under PURA 52.006, PUC Report to the Legislature.
PURA §53.304(a)(2)	Requires ILECs to file statements of intent relating to minor changes to their rates or tariffs with OPUC and PUC.
PURA §53.308	Allows PUC to prescribe and collect a fee or assessment from LECs necessary to recover the cost to the PUC or OPUC relating to activities carried out and services provided under PURA 53, relating to rates and deregulation and 55, relating to telecommunications' regulation.
PURA §53.355	Requires a telecommunications cooperative to file a statement of intent, relating to partial deregulation, with OPUC and PUC.
PURA §58.063(a)	Requires an ILEC, electing to be subject to PURA Chapter 58 incentive regulation, to file an informational notice relating to its pricing flexibility with OPUC, PUC and any certificate holder.
PURA §58.153(a),(c)	Requires an ILEC, electing to be subject to PURA Chapter 58 incentive regulation, to provide informational notices on new services to OPUC, PUC and any certificate holders. Allows OPUC, affected persons or PUC to file a complaint at the PUC challenging whether an ILECs pricing is compliant with PURA.
PURA §59.030(a), (c)	Requires an ILEC, electing to be subject to PURA Chapter 59 incentive regulation, to file an informational notice relating to new services with OPUC, PUC and any certificate holder. Allows OPUC, affected persons or PUC to file a complaint at the PUC challenging whether an ILECs pricing is compliant with PURA.
PURA §59.031(a),(c)	Requires an ILEC, electing to be subject to PURA Chapter 59 incentive regulation, to file an informational notice relating to its pricing flexibility with OPUC, PUC

	and any certificate holder. Allows OPUC, affected persons or PUC to file a complaint at the PUC challenging whether an ILECs pricing standards are compliant with PURA.
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Texas Utilities Code, Gas Utility Regulatory Act (GURA), §§101.051 <i>et seq.</i>	Under Subchapter B of GURA, OPUC’s statutory authority is expanded beyond electric and telecommunications residential and small commercial customers to allow the office to appear or intervene on the behalf of residential customers, as a class, in gas utility appeals before the Texas Railroad Commission, <i>only at the request of a municipality</i> . OPC is entitled to the following: <ul style="list-style-type: none"> • to initiate or intervene as a matter of right or otherwise appear in a judicial proceeding that involves an action taken by the Texas Railroad Commission in a proceeding in which OPC was a party; • the same access as a party, other than the Texas Railroad Commission Staff, to records gathered by the Commission; • discovery of any nonprivileged matter relevant to the subject matter of a proceeding or petition before the Texas Railroad Commission; • representation of an individual residential consumer with respect to the consumer’s disputed complaint concerning utility services unresolved before the Commission; and • may recommend legislation to the Legislature that the office determines would positively affect the interests of residential consumers.
Texas Government Code §2003.049	Provides for the State Office of Administrative Hearings (SOAH) to establish a Utility Division to perform contested case hearings for the PUC as prescribed by PURA and other applicable law.
Federal Statutes	
Federal Telecommunications Act of 1996 (FTA), Pub. L. 104-104, 110 Stat. 56, 47 U.S.C. §252 <i>et seq.</i>	The U.S. Congress enacted the federal Telecommunications Act of 1996 overhauling the nation’s telecommunications laws and amending the Communications Act of 1934. The FTA establishes standards for interconnection, resale and functional unbundling of the network.
Federal Power Act, 15 U.S.C. §791a <i>et seq.</i>	The Federal Power Act (FPA) created and empowered the Federal Power Commission (FPC), predecessor to the Federal Energy Regulatory Commission (FERC) and expanded FPC’s jurisdiction to include regulation of all interstate electricity transmission and sales for resale of electric energy in interstate commerce.
Public Utility Holding Act of 1935, 15 U.S.C. §79 <i>et seq.</i>	The U.S. Congress enacted the Public Utility Holding Company Act of 1935 for three primary reasons: (1) to limit the size of holding companies; (2) to discourage noncontiguous holding companies; and (3) to prevent holding company abuses. This marks the beginning of federal regulation of the electric utility industry.

Public Utility Holding Company Act of 2005, 42 U.S.C. §1261 <i>et seq.</i>	The EAct 2005 amended PURPA, the FPA, and repealed and replaced PUCHA 1935 with the PUHCA 2005, redefining “public utility holding company” and “electric utility company” and provides for certain cost allocation along with books and records requirements.
Public Utility Regulatory Act of 1978 (PURPA), 16 U.S.C. §2601 <i>et seq.</i>	The U.S. Congress enacted the National Energy Act of 1978, comprised of five Acts, including the Public Utility Regulatory Policies Act of 1978 (PURPA). The PURPA opened the door for competition in the U.S. electric supply market by allowing nonutility generators that met certain FERC-set criteria to enter the wholesale market. PURPA provided certain small renewable resource and cogeneration facilities to be qualified facilities (QFs). QFs are allowed to sell electricity directly to their host utilities at the host utility’s avoided cost, and interconnection of QFs is required.
Energy Policy Act of 1992, 16 U.S.C. §824L	The U.S. Congress enacted the Energy Policy Act of 1992 (EAct 1992) creating a new class of electricity supplier, exempt wholesale generators (EWGs), and exempts EWGs from the PUHCA requirement of a single integrated contiguous electricity holding company, allowing anyone selling wholesale power to own unregulated generation units. EAct 1992 also required open transmission access to facilitate more efficient wholesale markets.
Energy Policy Act of 2005, 16 U.S.C. §824o (2005)	The Energy Policy Act of 2005 (EAct 2005) created rules for mandatory and enforceable reliability standards for the interstate bulk-power system (BPS) and provided for FERC to certify an Electric Reliability Organization (ERO). FERC was given jurisdiction over all users, owners and operators in the BPS, including utilities in the ERCOT system, which were not otherwise subject to FERC jurisdiction. The ERO is independent from the users, owners and operators of the BPS and drafts FERC-approved reliability standards and imposes FERC-approved penalties for violations of the reliability standards. The EAct 2005 amends PURPA, the FPA, and repeals and replaces PUCHA 1935 with the PUHCA 2005.
Energy Independence and Security Act of 2007 (EISA), Pub. L. 110-140, 121 Stat. 1492 (2007)	The Energy Independence and Security Act of 2007 provided for increased energy efficiency and the availability of renewable energy. Three key provisions enacted include the Corporate Average Fuel Economy Standards, the Renewable Fuel Standard, and the appliance and lighting efficiency standards.
American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. 111-5 (2009)	The U.S. Congress passed the American Recovery and Reinvestment Act of 2009 making supplemental appropriations for energy efficiency and smart grid technologies.
Attorney General Opinions	
Attorney General Opinion No.	Impact on Agency
Not Applicable.	

B. Provide a summary of recent legislation regarding your agency by filling in the chart below or attaching information already available in an agency-developed format. Briefly summarize the key provisions. For bills that did not pass, briefly explain the key provisions and issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation).

Office of the Public Utility Counsel Exhibit 14: 81st Legislative Session Chart		
Legislation Enacted – 81st Legislative Session		
Bill Number	Author	Summary of Key Provisions
HB 1783	Solomons	The Public Utility Commission (PUC) and the Electric Reliability Council of Texas (ERCOT) are now required to make their hearings and meetings available via live streaming video without charge to the public on the Internet. The PUC is required to broadcast its open meetings, shown free of charge, on its website (www.puc.state.tx.us). The PUC also must ensure that ERCOT make all of its public hearings and meetings, including Board and subcommittee meetings open to the public, available free of charge for viewing from an Internet website. OPUC is involved in the rulemaking process (PUC Project No. 37262).
HB 1799	Bohac	This legislation requires that all retail electric providers include on each residential customer's bill a statement, in at least 12-point type on the front of the first page, the statement: "For more information about residential electric service please visit www.powertochoose.com ." OPUC will be involved in the rulemaking process.
HB 1822	Solomons	This legislation requires the PUC to adopt and enforce rules that include a list of electric and telecommunications' industry common terms and require those terms be labeled uniformly on each retail bill sent to a customer by a certificated telecommunications utility, retail electric provider, or electric utility to make the bills more customer friendly. Retail electric providers must also now notify their customers with a fixed rate contract with a least one written notice of the date of expiration of that contract. OPUC is involved in the rulemaking process (PUC Project Nos. 37070, 37214 and 37215).
HB 1831 Companion SB 12 by Carona	Corte	This legislation amends current law relating to the PUC's authority during a declaration of natural disaster or other emergency by the governor. It provides the PUC with the authority to require a utility to sell electricity to another utility that is unable to supply power to meet customer demand due to a natural disaster, requires the receiving utility to reimburse the supplying entity for the actual cost of the electricity, grants the receiving utility the ability to timely recover the cost of the electricity through a fuel cost or surcharge, allows the PUC to order a utility to provide interconnection to another utility, and requires the PUC to promptly submit a report to the Legislature if it does not order the sale of electricity from one utility to another during a declared emergency. The bill also requires the PUC to prepare a study by November 1, 2009 evaluating the locations of the State most likely to experience a natural disaster or emergency, the ability of each entity to comply with orders to sell electricity or for interconnection in case of a natural disaster or emergency, and any steps the entities should take to be able to comply with the PUC's orders. The bill requires the PUC to conduct a rulemaking. OPUC is involved in the rulemaking process (PUC Project No. 37285).

<p>SB 547 Companion HB 870 by Hughes</p>	<p>Eltife</p>	<p>This legislation delays the transition to competition in the Southwestern Electric Power Company (SWEPCO) service area.</p>
<p>SB 769 Companion HB 1378 by Thompson</p>	<p>Williams</p>	<p>This legislation allows electric utilities to recover system restoration costs incurred following hurricanes, tropical storms, ice or snow storms, floods, and other weather-related events and natural disasters. OPUC is involved in the related utilities’ filings (PUC Docket Nos. 36918, 36931, 37200 and 37247).</p>
<p>SB 1492 Companion HB 4233 by Ritter, relating to Entergy</p>	<p>Williams</p>	<p>This legislation allows for the delay of electric competition in areas of the state covered by the South Eastern Electric Reliability Council, including Entergy Texas, Inc., allows for the recovery of certain transmission costs by electric utilities in those areas, and provides for the purchase and sale of electric power during a natural disaster or declared emergency.</p> <p>This legislation also includes language similar to HB 1831 regarding PUC oversight of utilities’ emergency electricity sales of electricity and interconnection during natural disasters, creates a “Communications Coordination Group” to facilitate emergency communications and planning and includes the PUC in its membership, requires each electric utility to submit a report regarding infrastructure improvement and maintenance, and adds provisions relating to the ability of electric utilities to provide electric service during a major power outage. The bill requires the PUC to adopt rules related to the new PURA Chapter 39 provisions. OPUC is involved in the rulemaking process (PUC Project No. 37285).</p>
<p>Legislation Not Passed – 81st Legislative Session</p>		
<p>Bill Number</p>	<p>Author</p>	<p>Summary of Key Provisions/Reason the Bill Did Not Pass</p>
<p>HB 230</p>	<p>Pitts</p>	<p>This legislation would have exempted certain schools, nonprofit athletic or sports associations, municipally-owned facilities, summer camps, places of worship, and fairgrounds from certain demand charges, or demand ratchets, by transmission and distribution</p>

		utilities. This bill was voted out of House State Affairs and referred to Senate Business and Commerce but did not advance.
HB 444	Edwards	This legislation would have allowed for the issuance of estimated bills by electric utilities and Retail Electric Providers (REPs). No committee hearing was held.
HB 491	Zerwas	This legislation would have allowed customer to opt out of the Provider of Last Resort (POLR) provision. No committee hearing was held.
HB 631	S. Turner	This legislation would have codified the requirement that retail electric providers (REPs) comply with Public Utility Commission of Texas (PUC) rules regarding customer protections, disclosure and marketing guidelines. The bill was reported from House State Affairs committee but was not placed on a House Calendar.
HB 725 Companion SB 630 by Davis	Veasey	This legislation would have granted certain bill payment protections for elderly or disabled residential electric customers. No committee hearing was held.
HB 841	Martinez	This legislation would have allowed for certain utility payment protection for elderly or disabled residential or electric customers. No committee hearing was held.
HB 870 Companion SB 547 by Eltife	Hughes	This legislation would have delayed retail electric competition in the Southwestern Electric Power Company Service Area. The bill was laid on the table subject to call.
HB 995 Companion SB 1468 by Davis	C. Turner	This legislation would have provided for notice of expiration and price change in retail electric service contracts with customers. The bill was reported from the House State Affairs committee but was not placed on a House Calendar.
HB 1160 Companion SB 1468 by Davis	Geren	This legislation would have provided for a REP written notice of expiration and price change in customer fixed-price contracts. This bill was referred to House State Affairs. Companion bill, SB 1468, language was added as an amendment to HB 1822 during Senate floor consideration. HB 1822 was signed into law by Gov. Perry.

HB 1182	S. Turner	This legislation would have restored certain System Benefit Fund programs. The House of Representatives passed the bill but it did not advance in the Senate.
HB 1378 Companion SB 769 by Williams	Thompson	This legislation would have allowed electric utilities to recover system restoration costs incurred following hurricanes, tropical storms, ice or snow storms, floods, and other weather-related events and natural disasters. This bill was laid on the table subject to call.
HB 1519 Companion SB 1762 by Watson	Vo	This legislation would have provided for suspension of disconnection of electric services for certain customers, including critical care customers. No committee hearing was held.
HB 1695	S. Turner	This legislation would have required electric utilities to create and implement a plan for infrastructure improvement and maintenance. The bill was voted out of House State Affairs and referred to Senate Business and Commerce but did not advance.
HB 1698 Companion SB 464 by Zaffirini	Martinez	This legislation would have reconstituted the System Benefit Fund as a trust fund. No committee hearing was held.
HB 1718 Companion SB 1762 by Watson	Thibaut	This legislation would have provided certain utility customer safeguards, including prohibiting disconnecting of electric service for critical care and elderly customers. No committee hearing was held.
HB 1797 Companion 1468 by Davis	Bohac	This legislation would have provided for a REP written notice of expiration and price change in customer fixed-price contracts. This bill was left pending in House State Affairs. Companion bill, SB 1468, language was added as an amendment to HB 1822 during Senate floor consideration. HB 1822 was signed into law by Gov. Perry.
HB 1900	S. Turner	This legislation would have standardized electric utility contracts and provided additional benefits to customers. No committee hearing was held.
HB 1904 Companion SB 265 by Hinojosa	S. Turner	This legislation would have provided protections for certain classes of residential retail electric customers from disconnection of service. The bill was voted out of the House State Affairs committee but was not placed on a House Calendar.
HB 2305	S. Turner	This legislation would have provided for certain retail electric provider customer protections, including requirements

		relating to retaining customer deposit money. The bill was voted out of the House State Affairs committee but was not placed on a House Calendar. The subject matter of this bill was also an OPUC legislative recommendation from the 2008 Annual Report.
HB 2421	Solomons	This legislation would have required the Sunset Advisory Commission to conduct a special-purpose review of ERCOT as part of the PUC's review and would have made certain changes to the membership of ERCOT's Board of Directors. The bill was voted out of House State Affairs and referred to Senate Business and Commerce.
HB 2852	Farabee	This legislation would have provided certain prohibitions on retail electric providers, including a change of law provision in a contract for retail electric service. The bill was left pending in the House State Affairs committee.
HB 3115	Otto	This legislation would have eliminated consolidated tax savings adjustments in electric utility proceedings. This bill was left pending in committee.
HB3245	Solomons	This legislation would have provided numerous customer protections in the electric market (omnibus bill), including requirements relating to electricity disconnection during extreme weather emergencies, deferred payment plans, a retail electric market monitor, wholesale market power abuse and granting OPUC the right to represent residential and small commercial customers in enforcement proceedings seeking refunds for wholesale market power abuses , retail market power abuse investigations, prohibiting nodal market implementation costs to be passed to retail customers or REPs, PUC website publishing natural gas fuel and electric energy pricing information, and PUC rulemaking authority effectuating such statutory changes. A successful point of order was called on the bill on the House floor.
HB 3838	Hilderbran	This legislation would have transferred the Texas Commission on Environmental Quality's (TCEQ's) Office of Public Interest Counsel's powers and duties relating to representing residential and small commercial consumers in certain water or sewer utility service matters

		before TCEQ to OPUC. The bill was voted out of the House of Representatives but was left pending in Senate Natural Resources. This bill would have expanded OPUC's authority to allow for OPUC representation of residential and small commercial customers in water and sewer proceedings before the TCEQ.
HB 3894 Companion SB 1865 by Ellis	Oliveira	This legislation would have made changes to the Provider of Last Resort (POLR) price structure and provide for certain additional customer protections. The bill was referred to House State Affairs but no committee hearing was held.
HB 4011	Weber	This legislation would have allowed for money in the System Benefit Fund to be utilized for the purchase of advanced meters for low-income customers. The bill was referred to House State Affairs but no committee hearing was held.
HB 4233 Companion SB 1492 by Williams	Ritter	This legislation would have delayed retail electric competition in areas of the state covered by the South Eastern Electric Reliability Council, including Entergy Texas, Inc., and allowed for the recovery of certain transmission costs by electric utilities in those areas, and provides for the purchase and sale of electric power during a natural disaster or declared emergency. This bill was left pending in committee.
HB 4610	Oliveira	This legislation would have allowed for alternative ratemaking to be utilized by transmission and distribution utilities. No action was taken in House State Affairs.
SB 12 Companion HB 1831 by Corte	Carona	This legislation would have amended current law relating to the PUC's authority during a declaration of natural disaster or other emergency by the governor. This bill was placed on the House Calendar.
SB 123	Ellis	This legislation would have allowed the System Benefit Fund to be dedicated for its original purposes only. No committee hearing was held.
SB 265 Companion HB 1904 by S. Turner	Hinojosa	This legislation would have provided protections for certain customers from summer disconnections of electric service for nonpayment. The bill was voted out of the Senate Business and Commerce committee but did not advance on the Senate floor.

SB 428	West	This legislation would have required REPs to give notice to customers before going out of business. No committee hearing was held.
SB 464 Companion HB 1698 by Martinez	Zaffirini	This legislation would have reconstituted System Benefit Fund as a trust fund outside the state treasury to be used for its original purposes only and provided provisions relating to self-enrollment in the low-income discount program. No committee hearing was held.
SB 630 Companion HB 725 by Veasey	Davis	This legislation would have provided for bill payment protections for elderly and disabled persons by allowing for delay or deferral of payment for up to three months upon written request. No committee hearing was held.
SB 1468 Companions HB 995 by C. Turner; HB 1160 by Geren; HB 1797 by Bohac	Davis	This legislation would have provided for a REP written notice of expiration and price change in customer fixed-price contracts. The bill language was added as an amendment to HB 1822 during Senate floor consideration. HB 1822 was signed into law by Gov. Perry.
SB 1700	Fraser	This legislation would have made certain changes to the membership of ERCOT's Board of Directors. The bill was referred to Senate Business and Commerce but did not advance.
SB 1761	Watson	This legislation would have required retail electric providers to protect customer deposits. No committee hearing was held. The subject matter of this bill was also an OPUC legislative recommendation from the 2008 Annual Report.
SB 1762 Companions HB 1519 by Vo; HB 1718 by Thibaut	Watson	This bill would have protected certain retail electric customers from temporary electric service disconnection during summer months. No committee hearing was held. The subject matter of this bill was also an OPUC legislative recommendation from the 2008 Annual Report.
SB 1772	Fraser	This bill would have allowed the Public Utility Commission to order restitutions for violations to those parties affected by market power abuse. The bill passed the Senate but did not advance in the House.
SB 1865 Companion HB 3894 by Oliveira	Ellis	This legislation would have made changes to the Provider of Last Resort (POLR) price structure and provide for certain additional customer protections. No committee hearing was held.

SB 2128	Davis	This legislation would have provided for certain customer protections on fixed-price electricity contracts. No committee hearing was held.
SB 2130	Davis	This legislation would have made changes to the Provider of Last Resort price structure and provided for certain customer protections. No committee hearing was held.
SB 2588	Davis	This legislation would have provided for certain customer protections in the electric market (omnibus bill), relating to customer electricity disconnections during an extreme weather emergency, establishing a retail electric market monitor, wholesale market power abuses and refunds, granting OPUC the right to represent residential and small commercial customers in enforcement proceedings seeking refunds for wholesale market power abuses , PUC investigatory authority over retail market power abuses, prohibiting ERCOT from passing through nodal market implementation costs to retail customers or REPs, requiring the PUC to publish natural gas fuel and electric energy pricing information on its websites, and granting the PUC rulemaking authority to effectuate the statute. No committee hearing was held.

IX. Policy Issues

A. Brief Description of Issue

Should the Office of Public Utility Counsel (OPUC) be authorized to act as an ombudsman?

B. Discussion

OPUC acting as an ombudsman was discussed during the 79th and 81st Legislative Sessions by various legislators. Discussions centered on OPUC handling residential and small business customer utility complaints, educating utility customers, assisting utility customers in market decisions, and assisting in proceedings before regulatory entities.

During the 79th Legislative Session, Representative Hilderbran's office issued a press release regarding proposed legislation to protect consumers from water and sewer utility rate hikes.¹⁰³ The press release also mentioned creating an Ombudsman position for Texas Commission on Environmental Quality (TCEQ) to work directly with the Legislature to ensure TCEQ worked equally for consumers and corporations. However, this proposed ombudsman language was not included in the bill's language as introduced.

During the 81st Legislative Session, Representative Hilderbran filed a bill that would have transferred TCEQ's Office of Public Interest Counsel (OPIC) functions, relating to residential and small commercial customer representation in water and sewer rate proceedings, to OPUC.¹⁰⁴ Similar legislation was filed during the 80th Legislative Session that would have abolished TCEQ's OPIC and transferred its authority OPUC.¹⁰⁵

C. Possible Solutions and Impact

The Public Utility Regulatory Act (PURA) could be amended with language similar to that found in other Texas statutes providing for agency ombudsman programs.

Texas Labor Code Chapter 404 requires the Office of Injured Employee Counsel (OIEC) to establish an ombudsman program. The OIEC Public Counsel assigns staff attorneys and supervises the work of the ombudsman program in providing assistance to claimants and preparing for informal and formal hearings.¹⁰⁶ The OIEC ombudsman program assists injured employees and persons claiming death benefits and obtaining benefits under the Worker's

Compensation Act.¹⁰⁷ The ombudsman must meet with and provide information to injured employees; investigate complaints; communicate with employers, insurance carriers, and health care providers on behalf of injured employees; assist unrepresented claimants to enable those persons to protect their rights in the workers' compensation system; and meet with unrepresented claimants privately for a minimum of 15 minutes prior to any informal or formal hearing.¹⁰⁸ OIEC assigns one staff member to handle ombudsman issues full-time, and that staff member must meet certain requirements prior to designation and attend certain training.¹⁰⁹ Employers are required to notify their employees of the OIEC's Ombudsman Program,¹¹⁰ and the OIEC is required to disseminate information to the public about its program.¹¹¹

Another example is the Health and Human Services Commission's (HHSC's) ombudsman program required under Family Code Chapter 231. HHSC's ombudsman tracks complaints against the agency, and the HHSC director designates a chief ombudsman to manage the program and an employee in each field office to act as the ombudsman for the office.¹¹² HHSC is required to implement a uniform process for receiving and resolving complaints against the agency throughout the state.¹¹³

In a similar manner, OPUC's Public Counsel could be granted statutory authority to operate an ombudsman program, to assign staff attorneys as appropriate, to provide assistance to residential and small business utility customers. Such assistance could include the following: preparing for informal and formal hearings before the PUC; providing general information to the public relating to complaints and inquiries in relation to rules, regulations, programs, policies and procedures relating to customers; meeting with customers on various matters; assisting customers in investigating complaints; and communicating with the PUC on behalf of consumers. An OPUC ombudsman program could process, track and resolve complaints against public utilities and create and promote public awareness of available programs, government assistance, and private sector resources. The ombudsman program could also assist customers picking the right electric or telephone plan for their circumstances and understanding their bills.

A. Brief Description of Issue

Should OPUC's statutory authority to represent residential and small commercial customers in electric and telecommunications proceedings before the Public Utility Commission, federal regulatory agencies and courts be expanded to:

- Represent residential and small commercial customers in water and sewer proceedings before the Texas Commission on Environmental Quality (TCEQ), federal regulatory agencies and the courts; and/or
- Represent residential and small commercial customers in natural gas proceedings before the Texas Railroad Commission, federal regulatory agencies and the courts?

B. Discussion

OPUC Consumer Representation in Water Proceedings

Historically, the regulation of water utilities was managed by the PUC, and residential and small business consumer representation was handled by OPUC. In 1985, the 69th Legislature removed the regulation of retail water and sewer rates from the PUC under PURA, and placed those provisions in the Water Utility Regulatory Act (WURA) with water and sewer jurisdiction transferred to the Texas Water Commission, now the Texas Commission on Environmental Quality (TCEQ).¹¹⁴ Thus, advocacy for residential and small commercial customers in water and sewer ratemakings was effectively removed from OPUC.

During the 77th Legislative Session, Representative Sylvester Turner filed HB 724 to transfer water-related powers and duties (Water Code, Chapter 13) from the Texas Natural Resources Conservation Commission (TNRCC, formerly the Texas Water Commission, and now TCEQ) back to the PUC. Included in the bill was a provision allowing the OPUC to initiate or intervene in a judicial proceeding “in which the counselor determines that residential or small commercial consumers of water or sewer utility need representation” and entitling OPUC to the same access to PUC-gathered records as other parties under Water Code Chapter 13. HB 724 would have transferred TNRCC’s powers and duties regarding water rates and services back to the PUC; however, the legislation failed.

During the 81st Legislative Session, HB 3838 was introduced by Representative Hilderbran transferring the powers, duties, functions, programs, activities, obligations, contracts, property, records, and appropriated funds from the Texas Commission on Environmental Quality’s (TCEQ’s) Office of Public Interest Counsel (OPIC) (or, TCEQ OPIC) to OPUC granting OPUC the authority to represent the interests of residential and small commercial consumers in water and sewer proceedings prescribed by Chapter 13 of the Water Code. Under the legislation, OPUC would have been granted the same duties, responsibilities, and authority for water and sewer utility proceedings as those currently set forth in the Public Utility Regulatory Act (PURA) for the OPUC’s representation in electric and telecommunications proceedings. In addition, OPUC would have been allowed to represent residential or small commercial consumers with respect to a complaint concerning retail services unresolved before the TCEQ. And, OPUC also would have had the ability to recommend legislation to the Legislature that positively affects the interests of residential and small commercial consumers. The legislation passed the House Chamber, was considered before the Senate Business and Commerce Committee and was left pending on May 22, 2009. Similar legislation had been introduced by Representative Hilderbran the prior session.¹¹⁵

OPUC Consumer Representation in Natural Gas Proceedings

During the 75th Legislative Session, the legislature expanded OPUC's statutory authority, under Subchapter B of the Gas Utility Regulatory Act (GURA), to allow OPUC to intervene on behalf of residential and small commercial customers, as a class, in gas utility appeals before the Texas Railroad Commission, but only at the request of a municipality.¹¹⁶ OPUC is entitled to the following: to initiate or intervene as a matter of right or otherwise appear in a judicial proceeding that involves an action taken by the Texas Railroad Commission in a proceeding in which OPUC was a party; the same access as a party, other than the Texas Railroad Commission Staff, to records gathered by the Commission; discovery of any nonprivileged matter relevant to the subject matter of a proceeding or petition before the Texas Railroad Commission; representation of an individual residential consumer with respect to the consumer's disputed complaint concerning utility services unresolved before the Commission; and may recommend legislation to the Legislature that the office determines would positively affect the interests of residential consumers.

Other OPUC Alternatives

Other alternatives have also been addressed by the Legislature. For example, during the 77th Legislative Session, Senator Van de Putte proposed an Office of Public Interest Counsel that would advocate on utility, insurance and environmental issues affecting consumers.¹¹⁷ SB 662 would have consolidated OPUC, TNRCC's Office of Public Interest Counsel (TCEQ-OPIC), and the Office of Public Insurance Counsel (OPIC) into a single Office of Public Interest Counsel to administer and enforce certain provisions of the Insurance, Water and Utilities Code. SB 662 was referred to Senate State Affairs and did not progress further.

C. Possible Solutions and Impact

Language granting authority to OPUC in PURA Chapter 13 could be duplicated in the Texas Water Code and Texas Utilities Code, Gas Utility Regulatory Act (GURA), as proposed by filed legislation. By reinstating OPUC's authority to represent residential and small business consumers before TCEQ in water and sewer proceedings, those consumers will be provided an advocate in TCEQ proceedings. By expanding OPUC's authority, and eliminating the requirement for a municipality's request in natural gas proceedings, OPUC could intervene on behalf of residential and small business consumers before the Texas Railroad Commission.

X. Other Contacts

A. Fill in the following chart with updated information on people with an interest in your agency, and be sure to include the most recent e-mail address.

Office of Public Utility Counsel Exhibit 15: Contacts			
INTEREST GROUPS (groups affected by agency actions or that represent others served by or affected by agency actions)			
Group or Association Name/ Contact Person	Address	Telephone	E-mail Address
AARP Tim Morstad	98 San Jacinto Boulevard, Ste 750 Austin, Texas 78701	512 - 480-2436	TMorstad@aarp.org
Air Liquide Large Industries U.S. L.P. Bill Smith	2700 Post Oak Blvd., Suite 1800 Houston, TX 77056	877-855-9533	Bill.smith@airliquide.com
Alliance of TXU/Oncor Customers Alliance of Xcel Municipalities Cities Texas Coast Utilities Coalition of Municipalities (TCUC) TNMP Municipalities & Cities Alfred Herrera Jim Boyle	Herrera & Boyle, PLLC 816 Congress Avenue, Suite 1700 Austin, TX 78701	512-474-1492	aherrera@herreraboylelaw.com jboyle@herreraboylelaw.com
Alliance for Retail Markets (ARM) Stephen Davis	701 Brazos, Suite 970 Austin, Texas 78701	512-479-9995	davis@sjdlawoffices.com
American Electric Power (AEP) Pablo Vegas	539 N. Carancahua Corpus Christi, Texas 78478	361-881-5321	pavegas@aep.com
Association of Electric Companies of Texas (AECT) John Fainter	1005 Congress, Suite 600 Austin, Texas 78701	512-474-6725	john@aect.net
AT&T Bob Digneo Shane Cordova	400 W. 15 th Street Austin, Texas 78701	512-870-1370 512 -870-1380	Robert.digneo@att.com shane.cordova@att.com m
Camden Public Affairs	P.O. Box 12951 Austin TX 78711	512-322-9915	max@camdenpublicaffairs.com

Max Yzaguirre			
City of Houston Alton Hall, Jr. Tammy Wavle Shea	Epstein Becker Green Wickliff & Hall, PC 1000 Louisiana, Suite 5400 Houston, TX 77002	713-750-3100	ahall@ebglaw.com tshea@ebglaw.com

CenterPoint Energy Jeff Bonham DeAnn Walker	1005 Congress Ave., Ste 650 Austin, Texas 78701	512-397-3001 512-397-3032	Jeff.bonham@centerpointenergy.com Deann.walker@centerpointenergy.com Scott.rozzell@centerpointenergy.com
Scott Rozzell Paul Gastineau	P.O. Box 4567 Houston, TX 77210	713-207-1502 713-207-7347	Paul.gastineau@centerpointenergy.com
Cities (Entergy) Daniel Lawton Stephen Mack	Lawton Law Firm 816 Congress Avenue, Suite 1120 Austin, TX 78701	512-322-0019	dlawton@lawtonlaw.com
City of Austin d/b/a Austin Energy Mark Dreyfus	721 Barton Springs Rd., Suite 500 Austin, TX 78701	512-322-6544	mark.dreyfus@austinenenergy.com
City of El Paso Norman Gordon	Mounce Green Myers Safi Paxson & Galatzan 100 N. Stanton, Suite 1700 El Paso, TX 79901	915-541-1552	
CPL Retail Energy, LP James Checkley, Jr. John Arnold	Locke Liddell & Sapp, LLP 100 Congress Avenue, Suite 300 Austin, TX 78701	512-305-4719	jcheckley@lockeliddell.com jarnold@lockeliddell.com
CPS Energy Patricia Ana Garcia Escobedo Kenan Ogelman	P.O. Box 1771 San Antonio, TX 78296 401 West 15 th St., Ste 800 Austin, Texas 78701	210-353-5689 512-423-3570	paescobedo@cpsenergy.com kogelman@cpsenergy.com
The Honorable John K. Dietz 250 th Judicial District Civil Court	1000 Guadalupe, 3rd Floor Austin, Texas 78701	512-854-9312	
Direct Energy Jessica Mahaffey Read Comstock	919 Congress Ave, Ste 1300 Austin, Texas 78701	512 - 320-7904	jessica.mahaffey@directenergy.com read.comstock@directenergy.com
El Paso Electric Tom Newsom	123 W. Mills El Paso, TX 79901	512-391-1571	newsom@epelectric.com
Entergy Gulf States, Inc. (EGSI) Jack Blakley	919 Congress Avenue, Suite 840 Austin, TX 78701	512-487-3998	jblak12@entergy.com
Environmental Defense Fund (EDF) Scott Anderson Ramon Alvarez	44 East Avenue, Suite 304 Austin, TX 78701	512-691-3410	sanderson@edf.org ralvarez@edf.org
ERCOT Bob Kahn	7620 Metro Center Dr. Austin, TX 78744	512-225-7000	bkahn@ercot.com

Fox & Smolen Paul Smolen	707 West Ave, Ste 207 Austin, Texas 78701	512 - 619- 5314	smolen@foxsmolen.com
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FPL Energy Elizabeth Drews	Brown McCarroll, LLP 111 Congress Avenue, Suite 1400 Austin, TX 78701	512-479-1144	edrews@mailbmc.com
GCPA John Moore	Navigant Consulting 98 San Jacinto, Suite 900 Austin, TX 78701	512-472-3400	jmoore@navigantconsulting.com
Gexa Energy Rosemary Troxle	20 Greenway Plaza Suite 600 Houston, Texas 77046	713-401-5723	rosemary.troxle@gexaenergy.com
Green Mountain Energy Company Bob Thomas	3815 Capital of Texas Highway South, Suite 100 Austin, TX 78704	512-691-6120	robert.thomas@greenuenergy.com
Gulf Coast Coalition of Cities (GCCC) Cities Cities Aggregation Power Project / South Texas Aggregation Project (CAPP/STAP) Geoffrey Gay Thomas Brocato Chris Brewster	Lloyd Gosselink Rochelle & Townsend, PC 816 Congress Avenue, Suite 1900 Austin, TX 78701	512-322-5800	ggay@lglawfirm.com tbrocato@lglawfirm.com cbrewster@lglawfirm.com
IBEW Local 66 Richard Levy	Deats Durst Owen & Levy, PLLC 1204 San Antonio St, Suite 203 Austin, TX 78701	512-474-6200	rlevy@ddollaw.com
International Power America Bob Helton		(512) 267- 9462	bhelton@ipr-us.com bhelton@anpower.com
Kroger Co. Michael Kurtz Kurt Boehm Kevin Higgins	Boehm Kurtz & Lowry 36 E. 7 th Street, Suite 1510 Cincinnati, OH 45202 Energy Strategies, LLC 215 South State Street, Suite 200 Salt Lake City, UT 84111	512-421-2255 801-355-4365	mkurtz@bkllawfirm.com kboehm@bkllawfirm.com khiggins@energystrat.com
Lower Colorado River Authority Becky Motal	P.O. Box 220 Austin, TX 78767	512- 473- 4033	bmotal@lcra.org
Luminant Phil Wilson Brad Jones	1005 Congress Ave, Ste 750 Austin, Texas 78701	512-349 – 6440 512-349-6467	Phil.wilson@luminant.com Brad.jones@luminant.com

McClendon Law Shannon McClendon	400 West 15 th Street, Suite 720 Austin, Texas 78701	512- 561- 0550	shannonk@mcclendonlaw.net
MJB Consulting Mark Bruce	3720 Gattis School Road, Ste 800-287 Round Rock, Texas 78664	512-810-1516	markbruce@mjbconsulting.com

NRG Texas Mark Walker Michael Tomsu	1001 Congress Ave., Suite 360 Austin, TX 78701 Vinson & Elkins 2801 Via Fortuna, Suite 100 Austin, Tx 78746	512-585-0450 512-542-8527	mark.walker@nrgenergy.com mtomsu@velaw.com
NFIB Lance Lively	400 West 15 th St., #804 Austin, TX 78701	512-476-9847	Lance.lively@nfib.org
Nucor Steel Texas Stephen Karina Nelson Nease	Brickfield Burchette Ritts & Stone PC 1025 Thomas Jefferson St, NW Washington, DC 20007 Brickfield Burchette Ritts & Stone PC 1005 Congress Avenue, Suite 400 Austin, TX 78701	202-342-0800 512-472-1081	Steve.karina@bbrslaw.com nnease@bbrsaustin.com
Occidental Power Marketing Sharyland Utilities Richard Noland	Sutherland Asbill & Brennan LLP 701 Brazos St., Suite 970 Austin, TX 78701	512-721-2700	Richard.noland@sablaw.com
Office of the Attorney General Bryan Baker	300 W. 15 th Street Austin, Texas 78701	512-475-4237	Bryan.baker@oag.state.tx.us
Oncor Paul McKaig Jo Ann Biggs	1005 Congress Ave, Ste 700 Austin, Texas 78701 Vinson & Elkins LLP 2001 Ross Avenue, Suite 3700 Dallas, TX 78201	512-349-6430 214-220-7700	Paul.mckaig@oncor.com jbiggs@velaw.com
One Voice Texas Laurie Glaze	4550 Post Oak Place Dr., Suite 100 Houston, Texas 77027	713-333-2232	lglaze@onevoicetexas.org
Public Citizen Texas Tom "Smitty" Smith	1303 San Antonio Street Austin, Texas 78701	512 - 477-1155	SMITTY@citizen.org
Regulatory Compliance Services Patricia Dolese	P.O. Box 15103 Austin, TX 78761-5103	512-656 -3185	pdolese@your-rcs.com
Reliant Vicki Oswalt	1005 Congress Ave, Ste 1000 Austin, Texas 78701	512- 494 -3001	VOswalt@reliant.com

Rural Texas CLEC's Catherine Webking	The Webking Lawfirm, PC 400 West 15 th Street, Suite 720 Austin, TX 78701	512-651-0515	webking@webkinglaw.com
Shumate & Associates Walt Shumate	5525 Greenwich Drive Arlington, TX 76018	512-496-7704	walt@shumate-and-associates.net

Stream Gas & Electric, Ltd Darrin Pfannenstiel	1950 N. Stemmons Freeway Suite 6053 Dallas, TX 75207	512-699-5323	darrinp@streamenergy.net
South Texas Electric Cooperative (STEC) Jo Campbell	P.O. Box 154415 Waco, TX 76715	254-799-29778	jocampbell@stec.org
Southwestern Electric Power Co. (SWEPCO) Jeff Broad	400 West 15 th Street, Suite 1520 Austin, TX 78701	512-481-4555	jcbroad@aep.com
Southwestern Public Service Company (SPS) Stephen Fogel	816 Congress Avenue, Suite 1650 Austin, TX 78701	512-478-9229	Stephen.e.fogel@xcelenenergy.com
Star Tex Power Marcie Zlotnik	P.O. Box 4802 Houston, TX 77210	713-304-000	mzlotnik@startexpower.com
Tenaska Power Generation Brad Cox	1701 East Lamar Blvd., Suite 100 Arlington, TX 76006	817-462-1500	bcox@tnsk.com
Texas Association of Community Action Agencies Stella Rodriguez	2512 IH 35 South, Suite 100 Austin, TX 78704	512-462-2555	stella@taca.org
Texas Competitive Power Advocates Marianne Carroll	Brown McCarroll, LLP 111 Congress Avenue, Suite 1400 Austin, TX 78701	512-479-1156	mcarroll@mailbmc.com
Texas Electric Cooperatives (TEC) Eric Craven Deborah L. Ingraham Campbell McGinnis Melissa Salhab Sykes Shawn St. Clair	1122 Colorado Street, 24 th Floor Austin, TX 78701 McGinnis Lochridge & Kilgore LLP 600 Congress Avenue, Suite 2100 Austin, TX 78701	512-454-0311 512-495-6029	cmginnis@mcginnislaw.com msykes@mcginnislaw.com sstclair@mcginnislaw.com
Texas Electricity Professionals Association (TEPA) Brian Markham	TES Energy Services, LP 17480 Dallas Parkway, Suite 200 Dallas, TX 75287	214-802-2111	brian@tesenergyservices.com
Texas Energy Association of Marketers Catherine Webking	400 W. 15th St. Ste 720 Austin, Texas 78701	512-651-0515	webking@webkinglaw.com

Texas Industrial Energy Consumers (TIEC) Phillip Oldham	Andrews Kurth, LLP 111 Congress Avenue, Suite 1700 Austin, Tx 78701	512-320-9237	phillipoldham@andrewskurth.com
Texas Legal Services Center (TLSC) Randy Chapman	815 Brazos, Ste 1100 Austin, Texas 78701	512 - 477-6000	rchapman@tlsc.org

Texas Municipal Power Association City of Garland Denton Municipal Electric Lambeth Townsend	Lloyd Gosselink Blevins Rochelle & Townsend, PC 111 Congress, Suite 1800 Austin, Texas 78701	512-322-5800	ltownsend@lglawfirm.com
Texas-New Mexico Power Company Scott Seamster	225 E. John Carpenter Freeway Suite 1500 Irving, Texas 75062-2282	469- 484-8577	Scott.seamster@pnmresources.com
Texas Public Power Association Mark Zion	701 Brazos, Suite 1005 Austin, Texas 78701	512-472-5965	mzion@tpa.com
Texas Ratepayers Organization to Save Energy (TXROSE) Carol Biedrzycki	815 Brazos Street, Ste 1100 Austin, Texas 78701-2509	512- 472-5233	carolb@texasrose.org
Texas Silver Haired Legislators Carlos Higgins	10712 Fountainbleu Circle Austin, TX 78750	512-258-3564	
Texas Telephone Association Lyn Kamerman	1001 Congress Avenue, Ste 450 Austin, Texas 78701	512-472-1186	kamerman@tta.org
Tex-La Electric Cooperative of Texas Mark Davis	Brickfield Burchette Ritts & Stone, PC 1005 Congress Avenue, Suite 400 Austin, TX 78701	512-472-1081	mdavis@bbrsaustin.com
TXU Energy Carl Richie Eric Blakey John Munn	1005 Congress Ave, Ste. 750 Austin, Texas 78701 6555 Sierra Blvd., 3 rd Floor Irving, TX 75039	512 - 349-6412 512-349-6464 972-868-2823	Carl.Richie@txu.com Eric.blakey@txu.com John.munn@txu.com
United Telephone Company of Texas, Inc. d/b/a Embarq Central Telephone Company of Texas, Inc. d/b/a Embarq Kevin Zarling	400 West 15 th Street, Suite 1400 Austin, TX 78701	512-867-1075	Kevin.k.zarling@embarq.com
United Way Evelyn Carlson	50 Waugh Drive Houston, Texas 77007-5813	713-685-2338	ecarlson@unitedwayhouston.org
USF Reform Coalition Bill Magness Robin Casey	Casey Gentz & Magness, LLP 98 San Jacinto Blvd., Suite 1400 Austin, TX 78701	512-480-9900	bmagness@phonelaw.com rcasey@phonelaw.com

Verizon Wireless Alfred Banzer Carl Erhart	701 Brazos Street, Ste 600 Austin, Texas 78701	512 -370- 4200	Carl.erhart@verizon.com
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West Texas Municipal Power Agency Maria Sanchez	Davidson & Troilo, P.C. 919 Congress Avenue, Suite 810 Austin, TX 78701	512-469-6006	msanchez@davidsontroilo.com
Windstream Communications Jose Camacho	400 West 15 th Street, Suite 440 Austin, TX 78701	512-457-9949	Jose.camacho@windstream.com
INTERAGENCY, STATE, OR NATIONAL ASSOCIATIONS (that serve as an information clearinghouse or regularly interact with your agency)			
Group or Association Name/ Contact Person	Address	Telephone	E-mail Address
Electric Reliability Council of Texas (ERCOT) Jan Newton, Board Chair	7620 Metro Center Drive Austin, Texas 78744	512 - 225 - 7040	Jannewton2@sbcglobal.net
National Association of Regulatory Utility Commissioners (NARUC) Charles Gray	1101 Vermont Avenue, NW, Ste 200 Washington, D.C. 20005	202-898-2208	cgray@naruc.org
National Association of State Utility Consumer Advocates (NASUCA) Charlie Acquard	8380 Colesville Road, Ste 101 Silver Spring, Maryland 20910	301- 589-6313	charlie@nasuca.org
LIAISONS AT OTHER STATE AGENCIES (with which your agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General's office)			
Agency Name/Relationship/ Contact Person	Address	Telephone	E-mail Address
Governor's Office of Budget, Planning and Policy Mary Katherine Stout, Director of Budget, Planning & Policy Brian Lloyd, Governor's Advisor	1100 San Jacinto Blvd Austin, Texas 78711	512 - 463-1778	mkstout@governor.state.tx.us brian.lloyd@governor.state.tx.us
Legislative Budget Board Emily Sentilles, Analyst	1501 N. Congress Ave, 5 th Floor Robert E. Johnson Bldg Austin, Texas 78701	512- 463-6678	emily.sentilles@lbb.state.tx.us
Comptroller of Public Accounts Cheryl Ornelas, Appropriations Control Officer (ACO)	111 East 17 th Street Austin, Texas 78701	512-463-3848	Cheryl.ornelas@cpa.state.tx.us
Public Utility Commission	1701 N. Congress Avenue Austin, Texas 78711	512- 936-7000	Barry.Smitherman@puc.state.tx.us

Chairman Barry Smitherman Commissioner Donna Nelson Commissioner Kenneth W. Anderson, Jr.		Donna.nelson@puc.state.tx.us Kenneth.anderson@puc.state.tx.us
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Office of the Attorney General Jeb Boyt	209 W.14 th St Austin, Texas 78701	512-475-4200	Jeb.Boyt@oag.state.tx.us
State Office of Administrative Hearings Cathy Parsley Lilo Pomerleau	300 W. 15th Street, Ste 502 Austin, Texas 78701	512- 475-4993	Cathy.parsley@soah.state.tx.us Lilo.pomerleau@soah.state.tx.us

XI. Additional Information

- A. Fill in the following chart detailing information on complaints regarding your agency. Do not include complaints received against people or entities you regulate. The chart headings may be changed if needed to better reflect your agency's practices.

Not applicable.

- B. Fill in the following chart detailing your agency's Historically Underutilized Business (HUB) purchases.

Office of the Public Utility Counsel Exhibit 17: Purchases from HUBs				
FISCAL YEAR 2006				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	\$0	\$0	0%	11.9%
Building Construction	\$0	\$0	0%	26.1%
Special Trade	\$0	\$0	0%	57.2%
Professional Services	\$0	\$0	0%	20.0%
Other Services	\$3,222	\$2,948	91.4%	33.0%
Commodities	\$7,939	\$3,211	40.4%	12.6%
TOTAL	\$11,161	\$6,159	55.1%	

FISCAL YEAR 2007				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	\$0	\$0	0%	11.9%
Building Construction	\$0	\$0	0%	26.1%
Special Trade	\$0	\$0	0%	57.2%
Professional Services	\$0	\$0	0%	20.0%
Other Services	\$159,746	\$3,338	2.08%	33.0%
Commodities	\$34,691	\$11,375	32.7%	12.6%
TOTAL	\$194,437	\$14,713	7.56%	
FISCAL YEAR 2008				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	\$0	\$0	0%	11.9%
Building Construction	\$0	\$0	0%	26.1%
Special Trade	\$0	\$0	0%	57.2%
Professional Services	\$0	\$0	0%	20.0%
Other Services	\$18,240	\$653	3,58%	33.0%
Commodities	\$30,491	\$4,381	14.3%	12.6%
TOTAL	\$48,732	\$5,034	10.3%	

C. Does your agency have a HUB policy? How does your agency address performance shortfalls related to the policy? (Texas Government Code, Sec. 2161.003; TAC Title 34, Part 1, rule 20.15b)

The Office of Public Utility Counsel's HUB policy is incorporated into its purchasing and policies and procedures. The agency is committed to purchasing from minority vendors. However, not all expenditures are available from minority vendors. Many required purchases for books, and on-line services, such as West Publishing, can only be purchased directly from a sole source vendor. OPUC makes every effort to purchases goods and services from HUB vendors whenever appropriate.

D. For agencies with contracts valued at \$100,000 or more: Does your agency follow a HUB subcontracting plan to solicit bids, proposals, offers, or other applicable expressions of interest for subcontracting opportunities available for contracts of \$100,000 or more? (Texas Government Code, Sec. 2161.252; TAC Title 34, Part 1, rule 20.14)

Not applicable.

E. For agencies with biennial appropriations exceeding \$10 million, answer the following HUB questions.

Not applicable.

F. Fill in the chart below detailing your agency's Equal Employment Opportunity (EEO) statistics.¹¹⁸

Office of the Public Utility Counsel Exhibit 18: Equal Employment Opportunity Statistics							
FISCAL YEAR 2006							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	2	0%	6.6%	0%	14.2%	100%	37.3%
Professional	12	8.3%	8.3%	0%	13.4%	41.6%	53.2%
Technical	0	0%	12.4%	0%	20.2%	0%	53.8%
Administrative Support	6	16.6%	11.2%	33.3%	24.1%	83.3%	64.7%
Service Maintenance	0	0%	13.8%	0%	40.7%	0%	39.0%
Skilled Craft	0	0%	6.0%	0%	37.5%	0%	4.8%

FISCAL YEAR 2007							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	2	0%	9.0%	0%	23.7%	100%	38.8%
Professional	11	9.0%	11.7%	0%	19.9%	45.4%	54.5%
Technical	0	0%	17.0%	0%	27.0%	0%	55.6%
Administrative Support	6	16.6%	13.2%	33.3%	31.9%	66.6%	66.2%
Service/Maintenance	0	0%	12.8%	0%	44.8%	0%	39.7%
Skilled Craft	0	0%	5.1%	0%	46.9%	0%	5.1%
FISCAL YEAR 2008							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	3	0%	9.0%	0%	23.7%	66.6%	38.8%
Professional	15	6.6%	11.7%	0%	19.9%	53.3%	54.5%
Technical	0	0%	17.0%	0%	27.0%	0%	55.6%
Administrative Support	9	11.1%	13.2%	55.5%	31.9%	77.7%	66.2%
Service/Maintenance	0	0%	12.8%	0%	44.8%	0%	39.7%
Skilled Craft	0	0%	5.1%	0%	46.9%	0%	5.1%

G. Does your agency have an equal employment opportunity policy? How does your agency address performance shortfalls related to the policy?

OPUC fully recognizes the importance of maintaining a staff with diverse ethnic backgrounds and adheres to an Equal Employment Opportunity (EEO) policy requiring full compliance with non-discrimination guidelines as set out by state and federal laws and regulations.

Currently, the agency's staff is comprised of 68% female, 32% male, with 26% of the staff being minorities. Any shortfalls in performance related to the agency's EEO policy are mostly due to the small size of the agency, limiting available number of positions in each job category.

XII. Agency Comments

None.

¹ OPUC's Public Counsel is statutorily designated as an ex officio, voting member of the ERCOT Board of Directors representing residential and small commercial interests (PURA §39.151(g)(2)). OPUC also advocates for residential and small commercial consumers as a member of the Texas Regional Entity Board of Directors, Standard Advisory Committee and Reliability Standards Committee; Technical Advisory Committee; Wholesale Market Subcommittee; Retail Market Subcommittee; Protocol Revision Subcommittee; and Nodal Advisory Task Force.

² See Texas QuickFacts from the US Census Bureau at <http://quickfacts.census.gov/qfd/states/48000.html>

³ See Appendix A at http://www.lbb.state.tx.us/Strategic_Plans/StrategicPlansInstructions_forFY_2009-2013.pdf.

See also Texas Government Code Chapter 2056.

⁴ PURA §13.064.

⁵ PURA §13.063(b).

⁶ PURA §15.051.

⁷ PURA §13.003(8).

⁸ PURA §31.003(3).

⁹ PURA §52.006(b)(3).

¹⁰ PURA §39.206(q).

¹¹ PURA §39.904(k).

¹² For more information, please see <http://www.nasuca.org/>.

¹³ See Texas Constitution Article IV, §22; Texas Government Code §§402.021 and 402.023(b).

¹⁴ PURA §39.151(c).

¹⁵ PURA §39.151(a).

¹⁶ PURA §39.151(g)(2).

¹⁷ PURA §39.151(g)(5).

¹⁸ PURA §39.151(g)(6).

¹⁹ See ERCOT Bylaws, Section 6.1 at

<http://www.ercot.com/content/about/governance/legal/3.0a%20ERCOT%20Bylaws%20Approved%20by%20PUC%2009.18.2007.pdf>.

²⁰ See ERCOT Bylaws, Sections 3.1 and 6.1; See also Regional Standards Committee Procedures, p. 2 of 7 at

<http://www.texasre.org/CPDL/ReliabilityStandardsCommitteeProcedures.pdf>.

²¹ See ERCOT History at <http://www.ercot.com/about/profile/history>.

²² See ERCOT History at <http://www.ercot.com/about/profile/history>.

²³ HB 819 (64R); V.A.C.S. Art. 1446c-0.

²⁴ HB 819 (64R); Jack Hopper, *A Legislative History of the Texas PURA of 1974*, 28 Baylor L. Rev. 777 (1976).

²⁵ See ERCOT History at <http://www.ercot.com/about/profile/history>

²⁶ Sunset Advisory Commission, *Guide to the Sunset Process*, p. 38 (July 2008).

²⁷ SB 232 (68R); V.A.C.S. Art. 1446c-0, Sec. 1.054.

²⁸ HB 593 (68R),

²⁹ SB 232 and HB 593 (68R).

³⁰ SB 249 (69R).

³¹ See ERCOT History at <http://www.ercot.com/about/profile/history>

³² SB 444 (70R).

³³ SB 498 (73R).

³⁴ SB 373 and HB 2128 (74R).

³⁵ SB 373 (74R).

³⁶ SB 373 (74R); Texas Government Code §2003.049.

³⁷ SB 373 (74R).

³⁸ See ERCOT History at <http://www.ercot.com/about/profile/history>

³⁹ Texas Utilities Code §101.051 *et seq.*

⁴⁰ SB 560 (75R).

⁴¹ SB 7 (76R), PURA §§12.005 and 13.002.

⁴² SB 7 (76R).

⁴³ SB 7(76R).

⁴⁴ SB 7 (76R).

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- ⁴⁵ SB 560(76R).
- ⁴⁶ SB 86 (76R). Establishes PURA Chapter 17, Customer Protections.
- ⁴⁷ SB 667 (76R); See <http://www.puc.state.tx.us/relay/about/staphist.cfm>
- ⁴⁸ See ERCOT History at <http://www.ercot.com/about/profile/history>
- ⁴⁹ HB 1692 (77R).
- ⁵⁰ SB 5 (77R).
- ⁵¹ HB 472 (77R).
- ⁵² PURA §39.103.
- ⁵³ PURA §39.104.
- ⁵⁴ See ERCOT History at <http://www.ercot.com/about/profile/history>
- ⁵⁵ HB 149 (78R).
- ⁵⁶ SB 732 (78R).
- ⁵⁷ SB 1829 (78R).
- ⁵⁸ PURA §13.004.
- ⁵⁹ PURA §13.005.
- ⁶⁰ PURA §13.006.
- ⁶¹ PURA §13.007.
- ⁶² PURA §13.023(a)(1), (2) and (c).
- ⁶³ PURA §13.042.
- ⁶⁴ PURA §13.063(b).
- ⁶⁵ PURA §13.064.
- ⁶⁶ SB 408; PURA §39.151(g)(2).
- ⁶⁷ SB 408 (79R).
- ⁶⁸ HB 1567 (79R).
- ⁶⁹ HB 2129(79R).
- ⁷⁰ HB 412 (79R).
- ⁷¹ HB 210 (80R).
- ⁷² SB 5 (79R).
- ⁷³ HB 3693 (80R).
- ⁷⁴ For more information, please see <http://nodal.ercot.com/index.html>.
- ⁷⁵ HB 1783 (81R).
- ⁷⁶ HB 1799 (81R).
- ⁷⁷ HB 1822 (81R).
- ⁷⁸ SB 769 (81R).
- ⁷⁹ SB 1492 (81R).
- ⁸⁰ SB 547 (81R).
- ⁸¹ SB 2 (81, C.S.1).
- ⁸² Federal Water Power Act, as amended, 16 U.S.C. §791 *et seq.*
- ⁸³ Communications Act of 1934, as amended, 47 U.S.C. §151 *et seq.*
- ⁸⁴ Federal Power Act of 1935, as amended, 16 U.S.C. §791a *et seq.*
- ⁸⁵ Public Utility Holding Company Act of 1935, 15 U.S.C. §79 *et seq.*
- ⁸⁶ Energy Policy and Conservation Act of 1975, 49 U.S.C. §32906 *et seq.*
- ⁸⁷ National Energy Act of 1978.
- ⁸⁸ Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 16 USC §2601 *et seq.*
- ⁸⁹ Modification of Final Judgment (MFJ), *United States v. American Telephone and Telegraph Co.*, 552 F.Supp. 131, 226 (D.D.C. 1982), *aff'd sub nom, Maryland v. United States*, 460 U.S. 1001, 103 S.Ct. 1240 (1983).
- ⁹⁰ Energy Policy Act of 1992, 16 U.S.C. 824L.
- ⁹¹ *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, FERC Order No. 888 (Open Access Final Rule), 18 CFR Parts 35 and 385 (April 24, 1996).
- ⁹² *OASIS: Open Access Same-Time Information System (formerly Real-Time Information Networks) and Standards of Conduct*, FERC Order No. 889, 18 CFR Part 37 (April 24, 1996).
- ⁹³ Federal Telecommunications Act of 1996 (FTA), Pub. L. 104-104, 110 Stat. 56, 47 USC §252 *et seq.*
- ⁹⁴ *Regional Transmission Organization*, FERC Order No. 2000, 18 CFR Part 35 (December 20, 1999).
- ⁹⁵ Energy Policy Act of 2005, 16 U.S.C. 824o (2005).

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- ⁹⁶ Public Utility Holding Company Act of 2005, 42 U.S.C. §1261 et seq.
- ⁹⁷ *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, Order No. 672, 18 CFR 39 (February 3, 2006).
- ⁹⁸ *Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, 18 CFR Part 40 (March 16, 2007).
- ⁹⁹ Energy Independence and Security Act of 2007 (EISA), Pub. L. 110-140, 121 Stat. 1492 (2007).
- ¹⁰⁰ American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. 111-5 (2009).
- ¹⁰¹ For information relating to the number of residential customers in ERCOT, please see <http://www.cpa.state.tx.us/specialrpt/energy/uses/electricity.php>.
- ¹⁰² For information relating to the number of small business customers in ERCOT, please see <http://www.cpa.state.tx.us/specialrpt/energy/uses/electricity.php>.
- ¹⁰³ See Press Release, *Hilderbran Drafts Legislation to Protect Consumers from Rate Hikes* (February 15, 2005) at <http://www.house.state.tx.us/news/release.php?id=1095>.
- ¹⁰⁴ HB 3838 (81R).
- ¹⁰⁵ HB 1695 (80R).
- ¹⁰⁶ Texas Labor Code §404.103(b).
- ¹⁰⁷ Texas Labor Code §404.151(a).
- ¹⁰⁸ Texas Labor Code §404.151(b).
- ¹⁰⁹ Texas Labor Code §404.152.
- ¹¹⁰ Texas Labor Code §404.153.
- ¹¹¹ Texas Labor Code §404.154.
- ¹¹² Texas Family Code §231.119(a).
- ¹¹³ Texas Family Code §231.119(b)-(f).
- ¹¹⁴ SB 249 (69R).
- ¹¹⁵ HB 1695 (80R).
- ¹¹⁶ SB 1751 (75R); Texas Utilities Code §§101.051 *et seq.*
- ¹¹⁷ SB 662 (77R).
- ¹¹⁸ The Service/Maintenance category includes three distinct occupational categories: Service/Maintenance, Para-Professionals, and Protective Services. Protective Service Workers and Para-Professionals are no longer reported as separate groups. Please submit the combined Service/Maintenance category totals, if available.