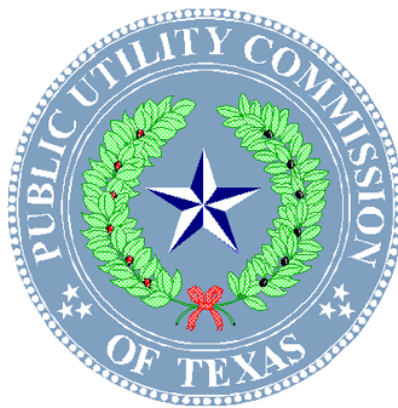


Public Utility Commission of Texas
Self-Evaluation Report

A Report to the
Texas Sunset Advisory Commission



September 2009

Barry T. Smitherman
Chairman

Donna L. Nelson
Commissioner

Kenneth W. Anderson, Jr.
Commissioner

W. Lane Lanford
Executive Director



Rick Perry
Governor

Public Utility Commission of Texas

September 4, 2009

Honorable Members of the Sunset Advisory Commission:

We are pleased to submit our Self-Evaluation Report for our upcoming Sunset review. The Public Utility Commission (PUC or Commission) was last reviewed by the 79th Legislature in 2005, and since that time has continued to evolve in response to changes in law and the industries we regulate and oversee.


Over the past fourteen years, the PUC has been called upon to implement legislative mandates associated with the restructuring of the electric and telecommunications industries. The agency has adjusted its focus as telecommunications and electric markets mature, while continuing to regulate parts of the State not yet open to competition.


The enactment of legislation in 2005 reduced the Commission's role in the oversight of retail telecommunications voice markets. Over the last four years, several markets served by large incumbent local exchange telephone companies have been deregulated. As a result, there have been fewer regulatory matters at the Commission relating to these markets. The Commission has taken the opportunity to re-allocate resources within the agency to ensure that areas such as enforcement activities, implementation of Competitive Renewable Energy Zones, and improving customer protections in retail electric markets receive appropriate attention.

Although the PUC's traditional regulatory functions have decreased over the years, many of those functions have been replaced by other, more challenging responsibilities. Effective oversight of competitive wholesale and retail markets is necessary to ensure that customers receive the benefits of competition.

We look forward to working with the Sunset Advisory Commission and its staff.

Sincerely,


Barry T. Smitherman
Chairman


Donna L. Nelson
Commissioner



Kenneth W. Anderson, Jr.
Commissioner

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I. Agency Contact Information

A. Please fill in the following chart.

Public Utility Commission of Texas				
Exhibit 1: Agency Contacts				
	Name	Address	Telephone & Fax Numbers	E-mail Address
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Agency's Sunset Liaison	Paula Mueller	P.O. Box 13326, Austin, TX 78711-3326	TEL: 512-936- 7305 FAX: 512-936- 7361	paula.mueller @puc.state.tx. us

II. Key Functions and Performance

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

The mission of the Public Utility Commission of Texas is to protect customers, foster competition and promote high-quality infrastructure.

In 1975, Texas became the last state in the country to provide for state-wide comprehensive regulation of electric and telecommunications utilities by creating the Public Utility Commission of Texas (PUC). At that time, public utilities were considered to be, by definition, natural monopolies in the areas they served, and regulation of rates and services substituted for market forces to keep rates reasonable and service quality high. Since that time, as a result of key legislation and developing technology, Texas has emerged as a national leader in the progressive development of competitive markets in both the electric and telecommunications industries. The PUC has responded to an ever - changing landscape to ensure that Texas customers continue to receive reliable, reasonably priced electric and telecommunications services.

Significant changes have occurred in the telecommunications and electric power industries since the original enactment of the Public Utility Regulatory Act (PURA). For approximately the first 20 years of the PUC's existence, the agency's primary role was traditional regulation of electric and telecommunications utilities. Although the PUC originally regulated water utilities, jurisdiction was transferred to the Texas Water Commission in 1986. Significant legislation enacted by the Texas Legislature in 1995, along with the Federal Telecommunications Act of 1996, dramatically changed the PUC's role by allowing for competition in telecommunications wholesale and retail services, and by creating a competitive electric wholesale market. Then, in 1999, the Legislature provided for restructuring of the electric utility industry, further changing the PUC's mission and focus. As a companion to these laws that changed the structure of the industries, the Legislature also passed new laws to ensure that customers' rights continued to be protected in the new environment.

Retail competition began on schedule in the Electric Reliability Council of Texas (ERCOT) region of the state on January 1, 2002. However, competition in all parts of Texas outside ERCOT has been delayed indefinitely. As a result, the PUC now oversees competitive electric markets in ERCOT, but continues traditional cost of service regulation in East Texas, the Panhandle, and El Paso area.

Important changes affecting the telecommunications market occurred in 2005, when the Legislature passed Senate Bill 5. New PURA Chapter 65, part of Senate Bill 5, provided for deregulation of certain markets served by incumbent local exchange companies. Senate Bill 5 also authorized the PUC to issue statewide certificates of franchise authority to providers of cable and video services, which replaced the then-current system whereby cable providers obtained franchises from municipalities as local franchising authorities. Senate Bill 5 also contained provisions related to broadband over power lines.

The PUC has statutory duties and authority in the following areas:

Electric Power Activities

- Within the ERCOT area
 - Oversight of competitive wholesale and retail markets
 - Oversight of ERCOT, the independent organization responsible for operating the electric grid for approximately 70% of the state and settling the transactions in competitive markets
 - Jurisdiction over ratemaking and quality of service of investor-owned transmission and distribution utilities
 - Establishing wholesale transmission rates for investor owned utilities, cooperatives, and municipally owned utilities
 - Licensing of retail electric providers
 - Registration of power generation companies and aggregators
 - Implementation of a customer education program for retail electric choice
- Outside ERCOT, continuing the regulation, including rate regulation, of vertically integrated investor owned utilities until retail competition begins
- Issuance of certificates of convenience and necessity for service areas and proposed transmission lines
- Monitoring industry progress in meeting the renewable energy mandate adopted in the 1999 legislation
- Resolution of customer complaints, using informal processes whenever possible
- Overall administration of the System Benefit Fund, including administration of a low-income discount program with automatic enrollment of eligible customers

Telecommunications Activities

- Arbitration of interconnection agreements and post-interconnection disputes pursuant to the Federal Telecommunications Act
- Administration of the Texas Universal Service Fund, including the Lifeline program for low-income customers with automatic enrollment of eligible customers
- Administration of the Relay Texas program for deaf and hearing-impaired customers
- Administration of the Specialized Telecommunications Assistance Program
- Facilitation of the availability of broadband service throughout Texas
- Resolution of customer complaints, using informal processes whenever possible
- Issuance of State-Issued Certificates of Franchise Authority to cable providers
- Issuance of Service Provider Certificates of Operating Authority and Certificates of Operating Authority to local service providers
- Review of one-day and ten-day informational filings made by incumbent local exchange companies
- Registration of long distance providers, automatic dial announcing devices, and pay phones
- Setting franchise fee rates for municipalities pursuant to Local Government Code Chapter 283

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- Monitoring area code exhaustion and working with the national number administrator to conserve numbers and implement new area codes
- Reviewing tariffs for companies subject to rate regulation
- Administration of the Texas No-Call List

The PUC's offices are located in Austin, and most hearings and open meetings are held in Austin. The Commissioners and staff may conduct hearings and meetings in other locations to receive additional public input on issues and cases that are pending before the Commission, such as area code changes and transmission line routing issues. In addition, Commissioners and staff may travel outside of Texas to participate in national-level meetings and conferences. Such participation is necessary to coordinate state efforts with federal initiatives, to work with other states in resolving issues having multi-state implications, and to be informed about the experiences of other states with the same issues faced by Texas.

The PUC is a labor-intensive organization that relies on its expert and support staff to implement its mission. The expertise, creativity, dedication, and professionalism of agency staff are the agency's most essential assets. Agency staff includes engineers, accountants, economists, attorneys, and customer care specialists.

The total number of agency staff authorized by the Legislature is 188.6 full time equivalent (FTE) employees in fiscal years 2010 and 2011. The three Commissioners and the Executive Director are exempt from the State Classification Act; all other agency employees are classified employees. A large number of PUC employees hold advanced degrees or other professional credentials, while technical and para-professional staff provide the primary administrative support for the agency. Approximately 85 percent of the Commission's operating budget funds salaries for agency staff.

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?

The PUC's activities fall into two broad areas: regulation of monopoly utility providers and oversight of competitive markets. The PUC's programs are essential to successfully meeting the needs of Texas consumers for electricity and telecommunications services.

As stated in PURA § 11.002 (b), where utility service is provided by monopolies, “. . . the normal forces of competition that regulate prices in a free enterprise do not operate. Public agencies regulate utility rates, operations, and services as a substitute for competition.” The purpose of regulation is to assure rates, operations and services that are just and reasonable to the consumers and the utilities. Failure to regulate monopoly providers would allow them to operate without the

discipline of a competitive market, which would likely result in higher prices and lower service quality.¹

Oversight of competitive markets provides minimum standards of service quality, customer service, and fair business practices to ensure high-quality service to customers and a healthy marketplace. Because of the essential character of electricity and telecommunications services, consumer protections in addition to those that apply to other competitive markets, e.g. Deceptive Trade Practices Act, are necessary. Oversight of electric and telecommunications markets requires a level of detail and responsiveness that necessitates the existence of an administrative agency to respond to changes by adopting or amending rules to ensure that markets work as intended. In addition, market rules must be enforced. The PUC's enforcement actions and administrative penalty authority are necessary elements of functioning markets.

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

The best indication of the PUC's effectiveness is the confidence the Legislature has shown in the agency. Over the last 15 years, the Legislature has enacted numerous laws containing significant policy initiatives, in which additional authority and responsibility were conferred on the PUC. The Legislature has also required the PUC to prepare a number of reports and studies to provide information for future legislative action.

Like other state agencies, the PUC has performance measures that provide information about agency activities. Many of the PUC's performance measures are based to a large degree on factors outside the PUC's control, such as the number of applications filed in a given period, the behavior of participants in contested cases, and activities in other states. While these performance measures provide useful information about PUC activities, they do not necessarily reflect the agency's effectiveness and efficiency.

During the last strategic planning cycle, the PUC proposed a number of changes to its strategies and performance measures to better align the strategic plan with the agency's current activities. Some, but not all, of the proposed changes were approved. In preparing the strategic plan for fiscal years 2011-2015, the PUC plans to again review its performance measures, and may propose additional changes. The primary focus of the review will be to determine whether the quality and usefulness of the information provided by the performance measures can be improved through changes in methodology.

Of the PUC's non-key performance measures, those listed in the chart below probably provide the best reflection of the PUC's agency's success in meeting its objectives. The PUC's key performance measures are provided in Subsection J, below.

¹ In the case of municipally owned utilities and cooperatives, customers have the opportunity to participate in selecting the governing body.

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Performance Measures		FY 2008 Target	FY 2008 Actual Performance²
*Indicates new measure for 2010-2011			
Outcome Measures			
*OC 1-1.02	Percentage of Residential Customers in Areas Open to Competition Having a Choice of More than Five Electric Service Providers		99.70%
OC 1-1.03	Percent of Goal Achieved for Renewable Energy	201.00%	288.50%
OC 1-2.07	Percentage of Telephone Subscriber Lines Served by Exchanges Meeting Commission Service Quality Standards	85.00%	89.86%
OC 1-2.08	Percentage of Electric Customers Served by Transmission and Distribution Utilities Meeting Commission Service Quality Standards	96.70%	96.65%
OC 1-3.02	Dollar Amount of Administrative Penalties Assessed for Violations of Statutes, PUC Rules or Orders	\$2,200,000.00	\$537,931.00 ³
OC 2-2.02	Credits and Refunds Obtained for Customers through Complaint Resolution	\$1,250,000.00	\$1,214,083.36
Efficiency Measures			
*EF 2-1-1.01	Percent of Customer Information Products Distributed Electronically		75.00%
*EF 3-1-1.01	Percent of Low Income Discount Program Participants who are Automatically Enrolled		86.00%

² Values for new measures are estimates provided in the PUC's Legislative Appropriation Request for 2010-2011

³ For FY 2009, \$19,782,252 has been assessed as of July 31, 2009.

Performance Measures, cont.		FY 2008 Target	FY 2008 Actual Performance
EF 3-1-1.02	Average Number of Days for Retail Electric Provider Reimbursement	5	2.55
Output Measures			
OP 2-1-1.03	Number of Customer Information Products Distributed	300,000	535,189

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?

The PUC bases its mission, objectives and approach to performing its functions on its enabling legislation, and modifies its activities in response to changes in legislation. The dynamic nature of the electric and telecommunications industries requires that state law be amended regularly to enact new policies to keep pace with industry changes.

The PUC has the opportunity to make recommendations to the Legislature in the statutorily required scope of competition reports that are produced in odd-numbered years.⁴ The scope of competition reports for 2005, 2007 and 2009 are included as attachments. When appropriate, the PUC has recommended changes in the statute to improve the agency’s operations and enhance the tools needed to provide effective oversight of the electric and telecommunication markets in Texas, while continuing to regulate parts of the state not yet open to competition.

⁴ PURA §§ 31.003 and 52.006.

The following recommendations were proposed to the 81st Legislature:

Wholesale Electric Market Oversight:

- **Make investigation records of the PUC, the Independent Market Monitor, and the Texas Regional Entity confidential as a matter of law.**

The PUC is concerned that the release of information related to investigations while those investigations are underway will hamper the ability of the agency to perform its enforcement duties and could unfairly impugn the business practices of telecommunications or electric providers before all the facts have been determined. Section 552.101 of the Public Information Act exempts information considered confidential by law from disclosure. The enabling statute of many state agencies, including the State Securities Board, the Health and Human Services Commission, and the Texas Board of Chiropractic Examiners, provides this confidentiality protection during the investigatory phases of prosecutions. The PUC believes this statutory change would enhance the PUC's enforcement abilities and enhance confidence in both the telecommunications and electric markets.

- **Authorize the PUC to order an entity found to have violated a statute or rule to make restitution to the market, market participants, or other parties injured in the violation.**

While the PUC has the authority to impose administrative penalties for violations of statute or PUC rules and the authority to adjudicate complaints relating to basic customer protections, it does not have the authority to require restitution to participants in the wholesale electric market. The PUC believes this change would be an effective complement to the agency's administrative penalty authority.

- **Authorize the PUC to provide informal guidance on regulatory issues through advisory opinions.**

The issuance of an advisory opinion can provide valuable advice to a company before making investments or conducting operations that might be questionable under state law. In the electricity business, providing clarification to a company concerning issues such as the purchase of assets or the acquisition of another company could provide valuable advice and permit it to avoid expensive regulatory proceedings, without impairing the PUC's authority.

- **Make all PUC Commissioners non-voting members of the ERCOT Board of Directors.**
- **Require ERCOT to obtain PUC approval before incurring debt.**

One of the important functions of the board of directors is to approve financial policies and the incurrence of debt. While the PUC approves the fees that permit ERCOT to recover its costs of operating, current law does not require the PUC's approval for ERCOT to incur debt. Without this authority, it is possible that ERCOT could incur additional debt that might require a higher fee, in order to pay the principal and interest on the debt as they come due. The PUC believes that requiring approval prior to the incurrence of debt would facilitate the PUC's control over ERCOT's financial situation and provide greater ability to avoid increases in the ERCOT fee.

- **Consider modifying ERCOT Board of Directors structure to facilitate obtaining 501(c)(3) status from the Internal Revenue Service.**

ERCOT is currently recognized for federal income tax purposes as a non-profit organization under Section 501(c)(4) of the Internal Revenue Code. This status does not give ERCOT the ability to borrow using bonds whose interest is exempt from federal income taxes. The PUC

recommends that the benefits of 501(c)(3) status be quantified, and, if warranted, that consideration be given to modifying membership provisions to make it more feasible for ERCOT to obtain 501(c)(3) status.

Generation Resources:

- **Repeal PURA §§ 39.107 and 39.9048, which favor gas-fired plants for electric generation.**

Repealing these sections of PURA would promote a more diverse mix of resources used to generate electricity in Texas and lessen the impact that natural gas prices have on the overall price of electricity in the state.

- **Ensure availability of nuclear decommissioning funds**

House Bill 1386, 80th Legislature, required the PUC, in conjunction with the Nuclear Regulatory Commission, to investigate and file legislative recommendations regarding the development of “a mechanism whereby the State of Texas could ensure that funds for decommissioning will be obtained when necessary in the same manner as if the State of Texas were the licensee under federal law.” The PUC recommended mechanisms for the State to provide financial assurance include prepayment, an external sinking fund, or a guarantee agreement.

- **Create innovation prizes with private-public revenue aimed at the commercialization of large-scale energy storage.**

Energy storage technology has several potential uses in an electric system, including meeting peak demand with less generating capacity and enhancing the role of intermittent resources, such as wind energy. The PUC believes innovation prizes will encourage entrepreneurship that will help these technologies mature more quickly.

- **Adopt a sales tax exemption for the purchase and installation of solar generation systems by residential and commercial customers.**

The PUC believes that this sales tax exemption would provide another incentive to residential and commercial customers and encourage the use of solar generation systems.

- **Establish an innovation prize for the large-scale deployment of a clean coal generating facility that uses Texas lignite as its primary fuel and captures nearly all carbon emission for storage. Institute a five-year sales tax exemption for equipment used to capture and store carbon dioxide for facilities using Texas lignite as a fuel source.**

The PUC believes that if demonstration projects are successful, carbon capture and storage (CCS) could prove beneficial for Texas because it could sustain the demand for Texas lignite, aid in enhanced oil recovery, and reduce the costs and risks of developing CCS projects.

- **Amend the energy efficiency goals in PURA § 39.905 to provide for meeting 30% of electricity demand growth by the end of 2010 and 50% of electric demand growth by the end of 2015.**

House Bill 3693, 80th Legislature, directed the PUC to conduct a study of the ability of electric utilities to meet higher energy efficiency goals. Consistent with this study’s findings, the PUC recommended the above changes.

- **Enhance opportunities for distributed renewable generation (DRG)**

The PUC identified two obstacles to installation of DRG: the requirement for the owner of such facilities to register as a power generation company, and difficulties associated with third party ownership of DRG facilities. The PUC recommended amendment of PURA to address these obstacles. The PUC also recommended that the Legislature consider clarifying PURA §§ 39.914 and 39.916 to require retail electric providers to buy excess energy from DRG facilities and establish a pricing principle for such sales. These sections authorize a customer that owns DRG to sell excess generation to a retail electric provider, if the customer is in an area open to retail competition. However, these sections do not require the REP to buy back the excess energy generated by the DRG facility. The recommendations also proposed establishing a pricing principle for such sales of excess generation. The PUC believes that these changes would remove existing barriers to installing DRG, thereby fostering additional renewable capacity that would be installed at customers' homes and businesses, including solar generation on the buildings of school districts.

Retail Electric Market Oversight:

- **Consider permitting provider-of-last-resort (POLR) service to be partially funded from a source other than POLR retail-electric-providers (REPs).**

This recommendation included authorizing the establishment of an insurance pool to reduce retail prices for customers that are transferred to a POLR REP. Under the current rules, a REP's inability to meet its obligations or collateral requirements with ERCOT can trigger the transfer of the customers to POLRs, which may result in a customer losing an advantageous rate, and being offered POLR service at a much higher rate. The insurance pool would compensate POLR REPs for any losses associated with providing service to customers at a rate that is below the cost of serving the customers and losses related to non-payment by POLR customers.

- **Clarify that the PUC has the authority to order utilities to deploy advanced meters as rapidly as possible, with appropriate cost recovery provided under the PUC's advanced metering rule.**
- **Clarify whether PURA § 39.107, relating to advanced metering, applies to utilities outside of ERCOT.**
- **Ensure that State policy provides all retail customers with the option to have their billing determined on actual interval data captured from advanced meters**

The PUC believes this change will help to ensure that customers make informed purchasing decisions and receive the full benefits of changes in consumption behavior.

Electric Service Quality:

- **Enact legislation to permit utilities to use securitization as a means of financing storm repair costs.**

Current law allows for the securitization of stranded costs, regulatory assets and certain other costs that were determined in the proceedings to true-up stranded costs. In addition, in 2007, the Legislature enacted new sections that permitted storm repair costs associated with Hurricane Rita to be securitized. This type of financing lowers the carrying costs associated with the recovery of hurricane reconstruction costs relative to the costs that would be incurred using conventional financing methods. The 81st Legislature enacted SB 769 which provided

for recovery of system restoration costs outside of a general rate case and authorizes the use of securitization financing for such costs.

Open Meeting Deliberations:

- **Amend PURA to make it clear that the PUC has the authority to conduct a closed meeting to deliberate on matters involving confidential information.**

There is no provision in the Open Meetings Act allowing a state agency to hold a closed meeting or executive session to consider information that is exempted from disclosure under the Texas Public Information Act (TPIA). The Attorney General has held that there is no implied authority in the Open Meetings Act for an agency to meet in executive session to consider information that is exempted from disclosure under the TPIA and that the exceptions from disclosure under the TPIA do not permit a closed session where none is authorized by law. The PUC is currently operating as required by law, but is concerned that the proliferation of confidential, competitively sensitive information may inhibit its ability to discuss confidential information without revealing its content.

Customer Education:

- **Increase agency appropriations for customer education.**

In 1999, the PUC was appropriated \$12 million for fiscal years 2000 and 2001 from the System Benefit Fund, to conduct a statewide education campaign to inform Texans about changes in the electric market. Since 2004, the PUC has been appropriated \$750,000 each fiscal year from the System Benefit Fund for the same purposes. This level of funding covers a customer-education Website, a contact call center, and minimal outreach. As the competitive market continues to mature and new features like advanced metering are introduced, the PUC believes it is important to provide additional information and conduct additional outreach to customers.

Telecommunications Law Updates:

- **Amend PURA § 52.057 to eliminate the requirement for PUC approval of customer specific contracts and to limit the filing of these contracts to cases in which an inquiry or complaint is filed by an affected party or the PUC has a need for the information.**

Current law requires PUC approval of customer specific contracts offered by an incumbent local exchange company for the provision of central office based PBX-type services for a system of 200 stations or more, billing and collection services, high-speed private line services of 1.544 megabits or greater, and customized services. These services are competitive services, usually involving contracts between large telecommunications companies and large business customers, and volume pricing.

- **Amend PURA §§ 58.255 and 59.074 to require companies to provide contracts for private networks only in the event of an inquiry or complaint filed by an affected party or if the PUC has a need for the information.**

Current law requires certain electing companies to file contracts for private networks, but does not require PUC approval of such contracts. Given the highly competitive market for these services, the PUC recommended repealing the requirement to file these contracts on a routine basis.

- **Repeal § 53.202 and the associated required billing adjustment.**

The purpose of this provision was to adjust the utilities' billings to reflect increases or decreases in their state franchise tax amount owed pursuant to changes in the franchise tax law. The replacement of the previous state franchise tax with the new margins tax during the 80th Legislative Session in 2007 renders this provision obsolete. The 81st Legislature enacted Senate Bill 2565 which repealed PURA § 53.202.

- **Amend PURA Chapter 55, Subchapter B, to eliminate the process for establishing new extended area service, while at the same time permitting exchanges to retain existing service plans.**

Expanded area service has increasingly been rendered obsolete by competitive options available to customers in the form of "all-distance" and nation-wide calling plans as well as the unlimited or high-volume calling plans offered by wireless companies and VoIP companies. The last petition requesting extended area service to a metropolitan exchange was filed in May 1998.

- **Authorize the PUC to establish updated deadlines for the achievement of the infrastructure goals outlined in PURA §§ 58.203, 58.204 and 59.052 for companies that make an election under Chapter 58 or Chapter 59.**

PURA §§ 58.203 and 58.204 require Chapter 58 electing companies to achieve specific infrastructure goals by January 2000. Similarly, PURA § 59.052 requires Chapter 59 electing companies to achieve specific infrastructure goals by January 2000.

- **Repeal PURA § 51.002(11)(G).**

Among the entities included in definition of the term "Telecommunications Utility" in PURA § 51.002(11) is a separated affiliate or an electronic publishing joint venture as defined in Chapter 63, which was repealed in 2005.

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?

Most of the authority granted to the PUC by PURA is conferred exclusively on the PUC, so there is no opportunity for duplication. However, there are a few areas in which the agency must exercise diligence to avoid duplication of efforts.

The federal Energy Policy Act of 2005 (the Act) authorized federal electric reliability standards for the continental United States. The Act created an Electric Reliability Organization (ERO) to be approved and regulated by the Federal Energy Regulatory Commission (FERC). In 2006, FERC approved the North American Electric Reliability Corporation (NERC) as the ERO, and in 2007 FERC approved delegation agreements for eight Regional Entities, including the Texas Regional Entity (TRE). As the ERO, NERC is required to propose, monitor, audit, investigate and enforce compliance with NERC Reliability Standards through the delegation agreements with the Regional Entities. Because the PUC's rules and ERCOT protocols also address reliability matters, it is crucial that all applicable requirements are consistent. Although the areas overseen by the TRE, ERCOT, and the PUC overlap, each entity has its own focus and areas of primary concern. The PUC

staff carefully monitors proposed changes to the ERCOT protocols, and the activities of FERC, NERC and the TRE to ensure that regulations are consistent. The entities that are subject to the regulations also play a key role in minimizing overlap and ensuring consistency.

There is some overlap of responsibility associated with the PUC’s role in emergency management situations.⁵ However, because emergency management activities are, for the most part, focused on specific events, the roles of the various parties related to a specific event are coordinated by the State Operations Center and duplication of effort is avoided.

The Federal Communications Commission (FCC) administers a universal service fund that is similar to the Texas Universal Service Fund⁶; however, the programs complement rather than overlap each other.

There is also a potential for duplication of effort in addressing customer-related issues through enforcement actions. Some activities that constitute violations of the Public Utility Regulatory Act, which the PUC has authority to enforce, may also constitute violations of the Deceptive Trade Practices Act or other state laws that the PUC does not have authority to enforce. The PUC Oversight and Enforcement staff and Legal Division staff consult with the Attorney General’s office whenever the PUC plans an enforcement action that could overlap with efforts underway by the Attorney General’s office. Examples of areas where this has occurred are no-call enforcement and resolving complaints about door-to-door marketing practices. The PUC has avoided inconsistencies and/or duplication of effort through coordination with the Attorney General’s office.

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

All other states have regulatory agencies that oversee provision of telephone and electric service either through rate regulation or oversight of competitive markets.

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

Attracting and retaining qualified employees

The biggest challenge the PUC faces is hiring, developing and retaining qualified staff. PUC operations are dependent on knowledgeable individuals who can work effectively with representatives of industry and customers to help shape policy in the areas of the PUC’s competence. The PUC competes not only with industry for this talent, but with other federal and state governmental entities.

It has never been easy for the PUC to recruit and retain the necessary skills and expertise it needs in its workforce. The fact that the PUC’s work is interesting, challenging, and ever-changing

⁵ See program description in Section VII at page 128.
⁶ See descriptions of USF programs in Section VII at page 204.

has helped in the past to attract and retain talented employees. However, in recent years, the agency has found it increasingly difficult to attract and retain qualified employees in certain key areas, most notably attorneys, engineers, and market oversight specialists.

Because of the salary constraints faced by the PUC as a state agency, it is very difficult to hire new employees with experience in electric and telecommunications matters. Therefore, the agency uses a strategy of hiring professionals with expertise in related fields as well as relatively inexperienced staff with relevant education background. The PUC staff includes a number of long-time, highly experienced professionals who provide advanced expertise and continuity to agency programs in addition to training less experienced personnel. The agency staff also includes many individuals who are not expected to make a career with the agency, but nonetheless provide valuable expertise and new insight to agency programs during their service with the PUC.

In addition to continuing to lose valuable employees to private sector opportunities, the PUC is facing a new challenge. A number of key senior employees are either currently eligible to retire from state employment, or will become eligible over the next few years. If these employees do, in fact, leave the agency, there could be a serious gap in institutional knowledge as well as loss of program continuity. The agency is placing additional emphasis on succession planning, although such efforts are complicated by the increasing difficulty to hire talented individuals in the first instance. Also, most of the staff turnover occurs with employees who have worked at the PUC fewer than five years, such that the proportion of experienced staff to inexperienced staff is decreasing.

Although the PUC's management team has always devoted attention and effort to this area, it will be necessary to redouble those efforts if the PUC is to maintain the high quality of work for which it is known. Over the past year, the situation has improved due to overall economic conditions. However, as economic conditions improve, the PUC expects turnover to return to historic levels.

Adapting agency workforce to changing responsibilities.

Beginning in 1995, the Legislature has enacted laws to introduce competition to the electric and telecommunications industries, and concomitantly reduce regulation; however, the staff resources required to accomplish the PUC's duties and responsibilities have not decreased overall as a result. The ERCOT wholesale and retail markets are open to competition, but significant portions of Texas continue to be served by vertically integrated investor owned utilities which are subject to traditional cost of service regulation. Retail electric competition in East Texas, the Panhandle, and the El Paso area has been delayed, and it is not certain whether these parts of the state will ever have retail customer choice. As a result, in addition to developing and maintaining expertise in competitive market issues, the PUC is required to maintain staff with expertise in regulating electricity prices and service. The PUC has also needed to substantially increase the number of employees dedicated to assisting customers with their information needs and helping to resolve complaints against service providers. In addition, the Legislature acted in 2005 to deregulate large portions of the telecommunications market, such that the PUC needs fewer resources than in the past to meet its telecommunications responsibilities. However, while the Legislature provided for deregulation of certain telephone markets, it did not reduce or eliminate the regulatory requirements across the board,

and there are still companies and areas that are regulated, such that the PUC needs to maintain staff expertise in telephone regulation.

The PUC has used a variety of techniques to adapt to its changing staffing needs. The agency implemented major organizational changes in the fall of 2007 to improve efficiencies and make better use of its work force. The PUC takes advantage of vacancies created by turnover to shift staff positions to areas needing additional resources. In addition, as the PUC's regulatory authority over the telecommunications industry has decreased, the agency has redeployed current employees to new assignments.

A related challenge has been to continue to perform statutory duties with fewer employees. In FY 2003, the PUC had 244 authorized FTEs. Due to budget cuts that year, the PUC was forced to implement a reduction in force and laid off 37 employees (34 FTEs). The PUC's authorized FTEs were reduced to 210.9 in FY 2004, and again reduced to 188.6 in FY 2008.

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).

Telecommunications law is likely to continue to evolve through changes at both the state and federal level. Key issues that are likely to arise in telecommunications relate to the objectives and level and mechanisms for supporting the universal service policies, compensation among carriers, fostering broadband deployment and use, and rate treatment for telephone and information services.

The federal American Recovery and Reinvestment Act and other recent federal legislation will result in the availability of over \$4.5 billion for broadband development nationwide. One of the funding opportunities under federal law is for mapping broadband infrastructure in each state. The PUC and the Texas Department of Agriculture are working together with a third party to conduct broadband mapping and related activities on behalf of the State of Texas. Completion of the mapping for the state should provide information that would be useful in assessing whether changes in Texas policy to foster broadband deployment should be changed.

The most significant external force that is likely to affect the electric industry in the next several years is concern over global climate change and the likelihood that Congress will enact legislation to address it directly through regulation of greenhouse gasses and indirectly through a federal renewable portfolio standard. These new laws are likely to have a significant impact on electric generation, and a federal portfolio standard would affect the operation of the state renewable energy program. Taking up PUC Sunset when this issue is being addressed at the national level provides an opportunity to modify state electric policies to conform state policies to the national policy, where required, and to address the impact of federal legislation on customers and on the state's competitiveness.

New laws in related areas such as renewable energy and energy efficiency are also likely.

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

Advances in information technology provide the biggest opportunities for improvement.

The PUC has for some time made effective use of the Internet for providing information to the regulated community, market participants, and consumers, and continues to work to make information available in an easily obtainable, easily understood format. The PUC has recently undertaken a comprehensive review of its Internet site to improve the organization, availability, and timeliness of the information posted to the Website. A number of new features, such as the use of RSS feeds, are being explored. When the review is completed, the PUC will create a plan to prioritize planned improvements consistent with available resources.

Since 1996, the PUC has made Central Records filings available over the Internet.⁷ However, an area that has not been fully developed is the use of the Internet and electronic resources to obtain information. The PUC has made limited use of Web-based tools to allow for secure, direct entry of information by entities which are required to provide various information. Examples of these applications are reporting of access line counts by telecommunications providers for calculation of municipal franchise fees, and posting of competitive retail electric offers on the Power To Choose Website. Because of the PUC's numerous reporting requirements, there is an opportunity to create efficiency and improve the availability of information. These projects are undertaken as resources permit, consistent with applicable records management requirements.

Although the PUC makes all Central Records filings available electronically, the agency's procedural rules require submission of paper copies for almost all filings. These copies are maintained in Central Records or distributed throughout the agency. Review of the PUC's records management practices and need for convenience copies in paper form could yield efficiencies and cost savings.

⁷ At first, the PUC charged a per-page fee to download documents, which was required to pay for the initial costs of the system. However, Internet access to Central Records filings has been free since 2001.

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.

PUBLIC UTILITY COMMISSION

Exhibit 2: Key Performance Measures Fiscal Year 2008

Key Performance Measures	FY 2008 Target	FY 2008 Actual Performance	FY 2008 % of Annual Target
OUTCOME MEASURES			
<u>Goal A</u>			
Average Price of Electricity Per kWh in Texas for Residential Customers from Competitive Suppliers as a Percentage of the National Residential Average	113.00%	129.40%	114.51%
Average Annual Residential Electric Bill from Competitive Suppliers as a Percentage of the National Average	150.00%	164.20%	109.47%
Percent of Texas Cities Served by Three or More Certificated Telecommunication Providers	85.20%	84.59%	99.28%
Average Annual Residential Telephone Bill in Texas as a Percentage of the National Average	72.20%	77.31%	107.08%
<u>Goal B</u>			
Percentage of Customer Complaints Resolved through Informal Complaint Resolution Process	99.00%	99.72%	100.73%
<u>Goal C</u>			
Percent of Eligible Low-income Customers Provided a Discount for Electric Service	99.00%	92.98%	93.92%

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OUTPUT MEASURES

A.1.1

Number of Investigations Conducted for Market Power, Market Design, or Anti-competitive Conduct in the Electric Market	10.00	0.00	0.00%
Number of Investigations Conducted for Market Power, Market Design, or Anti-competitive Conduct in the Telephone Market	3.00	0.00	0.00%
Number of Cases Completed Related to Competition Among Providers	500.00	402.00	80.40%

A.1.2

Number of Rate Cases Completed for Regulated Electric Utilities	20.00	40.00	200.00%
Number of Rate Cases Completed for Regulated Telecommunications Providers	6.00	16.00	266.67%

B.1.1

Number of Information Requests to Which Responses Were Provided	100,000.00	76,093.00	76.09%
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B.2.1

Number of Utilities for Which a Detailed Review of Earnings is Conducted	5.00	4.00	80.00%
Number of Enforcement Investigations Conducted	150.00	36.00	24.00%
Number of Customer Complaints Concluded	15,000.00	13,800.00	92.00%

EFFICIENCY MEASURES

A.1.1

Average Number of Days to Process an Application for a Certificate of Authority and Service Provider Certificate of Authority	60.00	42.00	70.00%
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A.2.1

Average Number of Days to Process a Major Rate Case for a Transmission and Distribution Utility	220.00	370.33	168.33%
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B.1.1

Average Cost Per Customer Information Product Distributed	\$0.25	\$0.08	32.00%
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B.2.1

Average Cost Per Enforcement Investigation Conducted	\$500.00	\$1,405.35	281.07%
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Average Number of Days to Conclude Customer Complaints	30.00	19.00	63.33%
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EXPLANATORY MEASURESB.1.1

Number of Calls Completed through Relay Texas	3,100,000.00	1,109,063.00	35.78%
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III. History and Major Events

- 1975 The 64th Legislature enacted the Public Utility Regulatory Act (PURA) and created the Public Utility Commission of Texas (PUC or Commission) to regulate the rates and services of telephone utilities statewide, electric utilities in unincorporated areas, radio-telephone statewide, and water and sewer utilities in unincorporated areas. The PUC was not given authority to regulate municipally owned utilities or political subdivisions such as municipal utility districts or public utility districts. However, the PUC was given appellate jurisdiction of municipal decisions involving investor-owned electric utilities.
- 1979 The 66th legislature amended the laws concerning water and sewer utilities to remove PUC jurisdiction over rates of federally-financed, member-owned, non-profit water supply corporations, although still requiring certificates of convenience and necessity for these entities.
- 1981 The 67th Legislature deregulated radio-telephone common carriers based on a PUC study that indicated the industry had become so highly competitive that regulation was no longer needed to protect the public interest. The Legislature also transferred collection of utilities' gross receipts assessments to the Comptroller and deregulated small power producers using renewable resources and co-generators.
- 1983 The 68th Legislature conducted the first Sunset review of the PUC. Changes included abolishing the automatic fuel adjustment clause and establishing new fuel cost review procedures for electric rates; initiating a notice of intent process for utilities seeking to build new generation facilities; creating a stricter standard for including construction work in progress (CWIP) in utility rates; transferring responsibility for programs formerly administered by the Texas Energy and Natural Resources Council (TENRAC), which was abolished by the Legislature, to the PUC; and providing for statewide hearings to identify intrastate telecommunications markets in which dominant carriers would be regulated. The Legislature also created the Office of Public Utility Counsel to represent interests of residential and small commercial customers at the PUC.
- The Federal Communications Commission established a system of access charges that would be paid by long-distance carriers to local exchange carriers for the origination and termination of traffic over local networks.⁸
- 1984 AT&T was required to divest itself of the Bell Operating Companies as a result of the Modification of Final Judgment (MFJ)⁹ resolving an antitrust action by the United

⁸ Third Report and Order, *MTS and WATS Market Structure*, CC Docket No. 78-72, Phase I, 93 FCC 2d 241 (1983).

⁹ Modification of Final Judgment, *United States v. American Telephone & 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).

States Department of Justice against AT&T and Western Electric Company. The MFJ ended the existence of the 100 year old Bell System.

- 1985 The 69th Legislature transferred jurisdiction over water and sewer utilities to the Texas Water Commission (now Texas Commission on Environmental Quality).
- 1986 The Tax Reform Act of 1986 reduced the corporate income tax rate from 46% to 34%. This change in tax rate required the PUC to examine the rates of every investor owned utility regulated by the PUC.
- 1987 The 70th Legislature passed landmark legislation (SB 444) which greatly increased the Commission's responsibilities to determine the existence, impact and scope of competition in the telecommunications industry, while maintaining customer protections and universal service provisions. The Legislature also established a 12 member advisory committee to make recommendations on the way the Commission considers requests for Extended Area (telephone) Service; gave the Commission authority to review and certify contracts between co-generators and utilities; and transferred energy conservation programs funded by the federal government to the Governor's office.
- 1988 The PUC implemented SB 444, adopting rules involving the processes by which local exchange carriers may offer and price new and experimental telephone services, and rate setting flexibility for services subject to significant competition; establishing the process by which local exchange carriers may obtain authorization for offering promotional rates for the purpose of increasing long term demand for a service and/or utilizing unused capacity of the LEC network; establishing the Tel-Assistance Service program; establishing the Universal Service Fund to assist local exchange companies in providing basic local service at reasonable rates in high cost areas, to reimburse local exchange companies for revenues lost as a result of providing Tel-Assistance Service, and to reimburse the Texas Department of Human Services and the PUC for certain implementation costs.
- 1989 The Legislature created Relay Texas, a statewide telephone interpreting service for persons with hearing or speech disabilities.
- 1992 The Energy Policy Act of 1992 amended the Public Utility Holding Company Act (PUHCA) and Public Utility Regulatory Policies Act (PURPA) in ways that created new obligations for state regulators. PUHCA was amended to increase the authority of state commissions over the investment activities of exempt holding companies in foreign or domestic utility projects. The Energy Policy Act also amended the PUHCA to require that certain findings be made by state commissions before a generating unit can be certified to be an exempt wholesale generator. PURPA was amended to require state commissions to consider the adoption of standards in four areas: 1) an integrated resource planning process; 2) investments in conservation and

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demand management; 3) energy efficiency investments in power generation and supply; and 4) long-term power purchases.

1993 The 73rd Legislature conducted its second Sunset review of the PUC and continued the agency without changes, subject to further Sunset review in 1995.

1995 The 74th Legislature concluded its second Sunset review of the PUC.

The Legislature enacted SB 373, finding that the wholesale electric market was becoming a more competitive industry that does not lend itself to traditional electric utility regulatory rules and principles, and providing for development of a competitive wholesale market that would allow for increased participation by electric utilities and certain non-utilities. SB 373 also provided for members of electric cooperatives to vote to have rates deregulated.

The Legislature enacted HB 2128, opening local exchange telecommunications markets to competition, providing a framework for competitive local exchange carriers (CLECs) to obtain authority to provide local exchange service, and establishing the duty of telecommunications providers to interconnect their networks with each other. HB 2128 also provided for members of telephone cooperatives to vote to have rates deregulated.

1996 The United States Congress enacted the Federal Telecommunications Act of 1996, fundamentally changing telecommunications markets for the entire country. The following principles were established: opening local markets to competitive entry; promoting increased competition in telecommunications markets that were already open to competition, including the long distance market; and reforming the system of universal service.

The Federal Energy Regulatory Commission issued Orders 888 and 889 to provide non-discriminatory open access to FERC-jurisdictional transmission systems.

1999 The 75th Legislature enacted key legislation for both telecommunications and electric industries.

SB 7 restructured the electric utility industry and provided for retail customer choice beginning January 1, 2002.

SB 560 provided for increased flexibility for incumbent local exchange carriers (ILECs) in pricing and packaging telecommunications services.

SB 86 provided for significant customer protections in electric and telecommunications markets.

1999 Pursuant to the Federal Telecommunications Act of 1996, Section 271, the Public Utility Commission of Texas found that local telephone markets were open to

competition in Texas, and recommended to the Federal Communications Commission that Southwestern Bell Telephone be allowed to enter long distance markets.

The Federal Energy Regulatory Commission issued Order 2000 to encourage all transmission owners to voluntarily join regional transmission organizations to help address the engineering and economic inefficiencies in the transmission system.

2000 The FCC concluded that local telephone markets in Texas were open to competition and allowed Southwestern Bell Telephone to enter inter-LATA long distance markets.

2001 The 77th Legislature enacted legislation for both telecommunications and electric industries:

HB 1692 delayed the opening of retail competition in the Panhandle region until 2007.

SB 5 provided for a number of clean air initiatives, including an energy efficiency grant program to be administered by the PUC.

HB 472, the Texas Telemarketing Disclosure and Privacy Act, authorizes the PUC to create the Texas No-Call List.

The PUC issued orders pursuant to PURA § 39.103 to delay retail competition in East Texas.

The electric retail choice pilot project began in June.

2002 Beginning January 1, electric customers within the Electric Reliability Council of Texas (ERCOT) had a choice of retail electric providers.

2003 The 79th Legislature enacted legislation for both telecommunications and electric industries:

SB 2548 authorized the PUC to order the construction of electric transmission capacity.

SB 1829 authorized the PUC to name a provider-of-last-resort to provide telecommunications service to customers whose provider has gone out of business.

HB 147 applied no-call list provisions to calls made to a mobile telephone number.

2005 The 79th Legislature conducted its third Sunset review of the PUC and continued the agency for six years, strengthening PUC oversight of ERCOT, improving monitoring

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of the wholesale electric market, and increasing the maximum administrative penalty to \$25,000. This legislation also authorized the PUC to select an independent market monitor to detect and prevent market manipulation strategies, market rule violations, and market power abuses in the ERCOT wholesale electric market.

The 79th Legislature enacted legislation for both telecommunications and electric industries:

SB 5 promoted competition among and investment in advanced telecommunications networks by authorizing broadband over power line systems, reducing regulations on telecommunications providers, and establishing a state- issued franchise to provide cable or video services in the state of Texas.

SB 20 amended PURA § 39.904 to direct the PUC to establish Competitive Renewable Energy Zones and provide for construction of transmission lines to facilitate delivering to electric customers, in a manner that is most beneficial and cost-effective, the electric output from renewable energy technologies.

SB 412 prohibited REPs and providers of basic local telecommunications services from using a credit score or credit history as the basis for determining the price for service.

HB 2129 encouraged the establishment of programs to deploy advanced electric meters. This legislation also required the PUC to establish a nonbypassable surcharge for electric utilities and TDUs to use as a recovery mechanism for costs incurred in deploying advanced meters.

HB 210 granted the PUC enforcement authority over violations of both the state and federal no-call lists and authorized the PUC to share consumer names with the Federal Trade Commission to ensure consumers on the state no-call list were also on the federal no-call list.

The federal Energy Policy Act of 2005 was enacted, authorizing federal electric reliability standards for the continental United States and creating an Electric Reliability Organization to be approved and regulated by the Federal Energy Regulatory Commission (FERC).

Hurricane Rita made landfall on Saturday, September 24, 2005, on the Texas/Louisiana border as a Category 3 hurricane with 117 mph winds and a 20-foot storm surge. Over 1.5 million electric utility customers were affected.

2006 Pursuant to SB 408, the PUC's Sunset legislation enacted by the 77th Legislature, the PUC performed a comprehensive review of telecommunications providers' reporting requirements established by statute or Commission rules.

As required by SB 5, enacted by the 79th Legislature, the PUC conducted a comprehensive review and evaluation of whether the Texas Universal Service Fund accomplishes the fund's purposes.

FERC approved the North American Electric Reliability Corporation (NERC) as the Electric Reliability Organization.

2007 The 80th Legislature enacted legislation for both telecommunications and electric industries:

HB 143 added unsolicited text and graphic messages to the coverage under the Texas no-call statute.

HB 735 discontinued the Telecommunication Infrastructure Fund, which was a grant program to support the deployment and use of advanced telecommunications technologies in Texas public schools, hospitals, libraries, and other public institutions.

HB 1386 required power generation companies to establish trusts to ensure funding obligations for nuclear decommissioning can be attained.

HB 3693 instituted new energy efficiency measures for school districts, institutions of higher education and state agencies, and created new energy efficiency standards for certain residences.

Texas Regional Entity (TRE) was designated as one of eight regional entities to create and enforce federal electric reliability standards.

The PUC undertook a comprehensive reorganization to update the agency's structure to more efficiently and effectively implement priorities and changing legislative directives.

2008 Hurricane Ike made landfall on Saturday, September 13, 2008, on Galveston Island as a Category 2 hurricane with 110 mph winds and a 12-foot storm surge. After the storm hit, nearly 2.87 million customers were without power and 366 transmission lines were out throughout Texas. All power was restored by October 1.

The PUC issued an order designating five competitive renewable energy zones (CREZ), a level of wind development in each CREZ, and the transmission improvements necessary to deliver the wind capacity to customers.

2009 The PUC assigned \$4.93 billion of CREZ transmission projects to be constructed by seven transmission and distribution utilities. The project will eventually transmit 18,456 MW of wind power from West Texas and the Panhandle to highly populated metropolitan areas of the state.

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The PUC commissioned a cost-benefit analysis to identify cost efficient and effective practices and procedures to improve electric and telecommunications infrastructure in order to minimize long-term outages and restoration costs associated with hurricanes.

The 81st Legislature enacted legislation for both telecommunications and electric industries:

SB 1783 required the PUC and ERCOT to provide free internet video of both entities' public hearings and meetings.

SB 769 authorized the PUC to permit an electric utility to obtain timely recovery of system restoration costs incurred following certain weather-related events and natural disasters, without having to file a general rate case and to use securitization financing for that recovery.

IV. Policymaking Structure

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

Public Utility Commission Exhibit 3 Policymaking Body			
Member Name	Term/Appointment Dates	Qualification (e.g., public member, industry representative)	City
Barry T. Smitherman	Appointed by Governor Rick Perry April 24, 2004; reappointed September 13, 2007. Appointed Chairman November 14, 2007. Term expires August 31, 2013.	PURA § 12.053 provides that commissioner appointees must be representatives of the general public.	Houston
Donna L. Nelson	Appointed by Governor Rick Perry August 15, 2008. Term expired August 31, 2009.	PURA § 12.053 provides that commissioner appointees must be representatives of the general public.	Austin
Kenneth W. Anderson, Jr.	Appointed by Governor Rick Perry September 2, 2008. Term expires August 31, 2011.	PURA § 12.053 provides that commissioner appointees must be representatives of the general public.	Dallas

B. Describe the primary role and responsibilities of your policymaking body.

The PUC's policymaking body is composed of three full-time, salaried commissioners serving six year staggered terms. The Commissioners are appointed by the Governor with the advice and consent of the Senate.¹⁰ The Commissioners' role is to implement legislation, primarily PURA, through issuance of orders in contested cases and adoption of rules, and to establish goals and policies of the agency.

C. How is the chair selected?

The Chair is appointed by the Governor.¹¹

D. List any special circumstances or unique features about your policymaking body or its responsibilities.

In addition to the ethical requirements that apply to most state officials and employees, PURA contains some provisions that are specific to the PUC.

PURA § 12.053 contains eligibility requirements that are specific to the PUC. A person is not eligible for appointment as commissioner if at any time during the two years preceding appointment the person personally served as an officer, director, owner, employee, partner, or legal representative of a public utility, affiliate, or direct competitor of a public utility; or owned or controlled, directly or indirectly, stocks or bonds of any class with a value of \$10,000 or more in a public utility, affiliate, or direct competitor of a public utility. In addition, PURA §§ 12.152 and 12.153 contain eligibility conflict of interest provisions which relate to relationships with utilities, fuel suppliers, suppliers of utility related services, suppliers of utility-related products, and trade associations.

PURA § 12.154 contains additional conflict of interest provisions, as well as post employment restrictions.

- (a) During the period of service with the commission, a commissioner or commission employee may not:
 - (1) have a pecuniary interest, including an interest as an officer, director, partner, owner, employee, attorney, or consultant, in:
 - (A) a public utility or affiliate; or
 - (B) a person a significant portion of whose business consists of furnishing goods or services to public utilities or affiliates;

¹⁰ Public Utility Regulatory Act (PURA) § 12.051

¹¹ PURA §12.052.

- (2) directly or indirectly own or control securities in a public utility, affiliate, or direct competitor of a public utility; or
 - (3) accept a gift, gratuity, or entertainment from:
 - (A) a public utility, affiliate, or direct competitor of a public utility;
 - (B) a person a significant portion of whose business consists of furnishing goods or services to public utilities, affiliates, or direct competitors of public utilities; or
 - (C) an agent, representative, attorney, employee, officer, owner, director, or partner of a person described by paragraph (A) or (B).
- (b) A commissioner or a commission employee may not directly or indirectly solicit, request from, or suggest or recommend to a public utility or an agent, representative, attorney, employee, officer, owner, director, or partner of a public utility the appointment to a position or the employment of a person by the public utility or affiliate. Further, a person may not give or offer to give a gift, gratuity, employment, or entertainment to a commissioner or commission employee if that person is:
- (1) a public utility, affiliate, or direct competitor of a public utility;
 - (2) a person who furnishes goods or services to a public utility, affiliate, or direct competitor of a public utility; or
 - (3) an agent, representative, attorney, employee, officer, owner, director, or partner of a person described in (1) or (2), above.

PURA § 12.055 contains a post-employment restriction that applies to commissioners and employees. A commissioner may not be employed by a public utility that was in the scope of the commissioner's official responsibility while the commissioner was associated with the commission for two years after the commissioner ends his or her association with the PUC. Further, a commissioner is permanently barred from representing a person before the PUC or State Office of Administrative Hearings or a court in a matter in which the commissioner was personally involved while associated with the PUC, or that was within the commissioner's official responsibility while the commissioner was associated with the PUC.

E. In general, how often does your policymaking body meet? How many times did it meet in FY 2008? In FY 2009?

The PUC meets approximately twice per month to consider contested cases, rulemakings, and other matters. The PUC also holds workshops associated with rulemakings and oversight activities. When the Commissioners plan to attend such session, the workshops are posted as open meetings.

During FY 2008, the PUC held 23 regular open meetings and posted two workshops as open meetings. Through July 31, 2009, the PUC has held 24 open meetings and posted two workshops as open meetings.

The PUC Commissioners serve as presiding officers for contested case hearings involving significant policy issues. In FY 2008, four such hearings were held. In FY 2009 through July 31, two Commissioner-held hearings were conducted.

F. What type of training do members of your agency's policymaking body receive?

The PUC provides the training required by PURA § 12.059, which states that before a commissioner may assume the commissioner's duties and before the commissioner may be confirmed by the Senate, the commissioner must complete a training program which provides the following information:

- (1) The enabling legislation that created the Commission and its policymaking body to which the commissioner is appointed to serve;
- (2) The programs operated by the commission;
- (3) The role and functions of the commission;
- (4) The rules of the commission with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) The current budget of the commission;
- (6) The results of the most recent formal audit of the commission;
- (7) The requirements of Government Code, Chapters 551, 552, and 2001;
- (8) The requirements of the conflict of interest laws and other laws relating to public officials; and
- (9) Any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

PUC Commissioners are required to receive training on the Open Meetings Act pursuant to Government Code § 551.012 and on open records pursuant to Government Code § 552.012. The training is provided by the Office of the Attorney General. PUC staff ensures that the Commissioners are aware of the Government Code provisions and assists them in fulfilling the training requirements.

In addition to the statutorily required training, the Commissioners receive training through attendance at workshops held in conjunction with rulemakings, and are briefed by PUC staff on legal and technical matters. The PUC's General Law Division is available to respond to specific questions Commissioners may have about ethics issues. Commissioners may also attend professional and industry conferences and seminars.

G. Does your agency have policies that describe the respective roles of the policymaking body and agency staff in running the agency? If so, describe these policies.

PURA § 12.103 provides that the Executive Director is responsible for the daily operations of the PUC and shall coordinate the activities of Commission employees. The Executive Director's job description provides further information. The PUC's employee handbook contains detailed information about agency policies and procedures, including the respective roles of the Commission and the agency staff. The employee handbook is being updated, a project which is expected to be completed by September 30, 2009. A copy will be provided as soon as it is available.

H. What information is regularly presented to your policymaking body to keep them informed of your agency's performance?

The PUC Commissioners serve full-time, and as such have daily access to all information resources that are available to agency employees. The PUC uses a combination of the PUC Website and an agency intranet to make information available. Databases relating to agency programs, reports prepared for the legislature, performance measure reports, articles appearing in print media, and a variety of other information is available.

The Executive Director and PUC staff meet with the Commissioners and their staffs on an as-needed basis to inform them of ongoing activities and events. Because the Commissioners serve full-time, they are generally available for meetings. For example, when the PUC is audited by the State Auditor's Office, the Executive Director ensures that the Commissioners are informed of the progress and outcome of the audit. During emergency events such as hurricanes, the Emergency Management Response Team regularly briefs the Commissioners via email and in person. Status reports on activities associated with responding to the federal American Recovery and Reinvestment Act are provided. When the Legislature is in session, the Executive Director and Governmental Relations staff stay in close communication with the Commissioners.

If there is a need, or if one or more Commissioners desire to discuss anything, the matter is scheduled for open meeting discussion and possible action. The PUC's open meeting agendas always include postings that allow for discussion of matters under the PUC's jurisdiction.¹²

¹² Discussions associated with specific cases or rulemaking projects are posted separately.

I. How does your policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of your agency?

The PUC obtains input from the public in the following ways:

Contested Cases. The PUC allows participation in contested cases in accordance with the Administrative Procedures Act (APA), Government Code Chapter 2001. The PUC's Procedural Rules (16 T.A.C. Chapter 22) also provide for public comment in contested cases. Due to ex parte restrictions contained in the APA, the Commissioners may not communicate directly or indirectly with any persons concerning an issue of fact or law in a pending contested case without notice and opportunity for all parties to participate. Because of this restriction, communications with the Commissioners about contested cases must be in writing and served on all parties, or must take place at a hearing or in an open meeting for which the case is posted. The PUC bases its decisions in contested cases on the evidence in the record.

Rulemakings. The PUC seeks comments from interested persons in accordance with the APA. Although it is not required for all rulemakings, the PUC routinely schedules public hearings on almost all proposed rules to allow an opportunity for oral comments from persons who may not wish to file written comments. In addition to observing the requirements of the APA, the PUC holds workshops and public meetings to obtain input from interested persons. Notice of all workshops and public meetings is published in the Texas Register whenever possible, posted on the PUC's Website, and published in the PUC Update, a weekly publication providing information about PUC activities. The PUC also communicates about rulemakings through listserv arrangements, to which any interested person may subscribe. The PUC considers all comments submitted orally or in writing when adopting a rule.

Customer Satisfaction Survey. The PUC conducts a customer satisfaction survey every two years in connection with the agency's strategic planning effort in accordance with Government Code § 2114.002(b).

Customer service surveys are administered by the Survey of Organizational Excellence Group (SOE) at the University of Texas at Austin's School of Social Work. The surveys are designed to provide meaningful customer service data for strategic planning and organizational initiatives, to accurately portray and represent the perceptions of agency customers, and to provide a forum in which the persons receiving service from the agency can evaluate the agency, recognize outstanding service, or offer insights into how the agency delivers service and where the agency needs to improve.

The agency uses the information from the customer satisfaction survey to identify areas needing improvement.

Agency Call Center. The PUC maintains an agency call center with a toll-free number (1-888-782-8477), which the public may call to obtain information about electric or telecommunications service, to file a complaint against an electric or telecommunications service provider, or to obtain

information about or complain about the PUC. The call center number is listed in local telephone directories, on the PUC's Website, and on many service providers' bills. The PUC's Customer Protection Division responds to all complaints, investigates complaints against entities over which the PUC has jurisdiction, and provides information in response to inquiries.

Meetings. Individual Commissioners meet in person with stakeholders and the public, subject to the ex parte constraints of Government Code § 2001.061.

Written Communications. The PUC receives written communications from the public by e-mail and regular mail. The agency Website provides information about contacting the PUC.

J. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart.

N/A

V. Funding

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

The tables below depict the major funding sources appropriated to the PUC for the 2008-09 and 2010-11 biennia.

FY 2008-09 Appropriations

Method of Finance	Amount Appropriated	Percent of Total Funding
General Revenue Fund	\$20,860,572	10.5
GR Dedicated – System Benefit Account No. 5100	\$175,791,184	89
Appropriated Receipts	\$950,000	.50
Total	\$197,601,756	100

Source: 2008-09 General Appropriations Act

FY 2010-11 Appropriations

Method of Finance	Amount Appropriated	Percent of Total Funding
General Revenue Fund	\$21,662,956	7.7
GR Dedicated – System Benefit Account No. 5100	\$257,771,141	91.9
Appropriated Receipts	\$950,000	.40
Total	\$280,384,097	100

Source: 2010-11 General Appropriations Act

PURA § 16.001 imposes a gross receipts assessment on each public utility, retail electric provider, and electric cooperative within the jurisdiction of the PUC that serves the ultimate consumer, including each interexchange telecommunications carrier. The revenues generated by this assessment are deposited into the General Revenue Fund. The assessment is set in statute at a rate of one-sixth of one percent of gross receipts from the sale of electric and telecommunications services to Texas customers. This assessment, which is collected by the Comptroller of Public Accounts, totaled approximately \$50.3 million in fiscal year 2008. However, the PUC's General Revenue appropriation is not tied to this assessment. The level of General Revenue funding is based on historical appropriations necessary to accomplish the PUC's mandates.

The PUC also receives an appropriation from General Revenue – Dedicated System Benefit Account No. 5100 (System Benefit Fund). This fund, which was established in 1999 as part of the electric restructuring legislation, is financed by a nonbypassable fee set by the PUC in an amount not

to exceed 65 cents per megawatt hour of usage and is charged to customers in areas of the state having retail competition. The fee produced approximately \$144.0 million in fiscal year 2008. To the extent that revenues deposited into the System Benefit Fund exceed appropriations from the fund, the amounts remain in the fund and accrue interest, which totaled approximately \$19.3 million in fiscal year 2008. Utilities Code § 39.903 authorizes money in the System Benefit Fund to be appropriated only for the following purposes:

- Energy assistance programs to provide low income customers a reduced rate or to provide one-time bill payment assistance to electric customers who are or who have in their households one or more seriously ill or disabled low-income person and who may be disconnected for nonpayment;
- Customer education programs;
- Programs to assist low-income customers by providing targeted energy efficiency programs administered by the Texas Department of Housing and Community Affairs;
- Expenses incurred by the PUC and the Office of Public Utility Counsel in implementing and administering electric restructuring; and
- Reimbursement to the PUC and the Health and Human Services Commission for expenses incurred in the implementation of automatic enrollment in the low-income electric discount program.

The amounts appropriated to the PUC from the System Benefit Fund for the low-income electric discount program and customer education are appropriated in Goal 3, Electric Restructuring, and are nontransferable.

Finally, the PUC receives an Appropriated Receipts appropriation in the amount of \$475,000 each fiscal year. This includes \$400,000 in reimbursements from the Universal Service Fund for certain telecommunication industry regulation activities performed by the PUC, \$45,000 for the sale of printed, recorded, or electronically produced matter or material and \$30,000 in fees paid by utilities to gain access to the PUC Interchange.

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

The following riders contained in the 2010-11 General Appropriations Act impact the PUC's budget:

2. Capital Budget. None of the funds appropriated above may be expended for capital budget items except as listed below. The amounts shown below shall be expended only for the purposes shown and are not available for expenditure for other purposes. Amounts appropriated above and identified in this provision as appropriations either for "Lease Payments to the Master Lease Purchase Program" or for items with a "(MLPP)" notation shall be expended only for the purpose of making lease-purchase payments to the Texas Public Finance Authority pursuant to the provisions of Government Code § 1232.103. Upon approval from the Legislative Budget Board, capital budget funds listed below under "Acquisition of Information Resource Technologies" may be used to lease information resources hardware and/or software versus the purchase of information

Self-Evaluation Report

resources hardware and/or software, if determined by commission management to be in the best interest of the State of Texas.

	2010	2011
a. Acquisition of Information Resource Technologies		
(1) Digital Copiers Lease	\$160,000	\$160,000
(2) Desktop Software and Desktop Computer Lease	\$240,000	\$240,000
(3) Data Center Consolidation	\$479,000	\$386,440
Total, Acquisition of Information Resource Technologies	\$879,000	\$786,440
Total, Capital Budget	\$879,000	\$786,440
Method of Finance (Capital Budget):		
General Revenue Fund	\$879,000	\$786,440
Total, Method of Finance	\$879,000	\$786,440

3. Transfer Authority. The Public Utility Commission shall not transfer an appropriation to or from any item under Goal C: Electric Utility Restructuring, and shall not expend amounts above those appropriated above in each strategy in Goal C: Electric Utility Restructuring.

5. Appropriation of Unexpended Balances: 2010 Appropriations. The unobligated and unexpended balances of appropriations to the Public Utility Commission for the fiscal year ending August 31, 2010, are hereby appropriated to the commission for the same purposes for the fiscal year ending August 31, 2011.

6. Contingent Revenue. Of the amounts appropriated above to the Public Utility Commission from the GR Dedicated – System Benefit Account No. 5100, the estimated amounts of \$122,525,075 in fiscal year 2010 and \$135,246,066 in fiscal year 2011 are contingent on the Public Utility Commission assessing a rate sufficient to generate the estimated needs of the GR Dedicated – System Benefit Account No. 5100. The Public Utility Commission, upon completion of the necessary actions for the assessment, shall furnish copies of the Public Utility Commission’s order and other information supporting the estimated revenues to be generated for the 2010-11 biennium to the Comptroller of Public Accounts. If the comptroller finds the information sufficient to support the projection of revenues, a finding of fact to that effect shall be issued and the contingent appropriation shall be made available for the intended purposes.

7. Allocation of System Benefit Account. The maximum statutory assessment rate of the GR Dedicated – System Benefit Account No. 5100 is estimated to be \$147,936,000 in fiscal year 2010 and \$149,922,000 in fiscal year 2011. The estimated balance as of August 31, 2009 is \$565,169,000 and interest income is estimated to be \$66,640,000 for the biennium. The total account balance available for appropriation for 2010-11, estimated to be \$929,667,000, has been allocated throughout this act as follows:

Self-Evaluation Report

	2010	2011
Public Utility Commission:		
Electric Market Oversight Contracts	\$1,200,000	\$1,200,000
Wholesale and Retail Market		
Low Income Discount	\$119,570,603	\$132,291,594
Customer Education	\$750,000	\$750,000
Administration	\$1,004,472	\$1,004,472
Total	\$122,525,075	\$135,246,066

8. Low Income Discount. All amounts appropriated above in Strategy C.1.1, Energy Assistance, shall only be expended to provide a discount of up to 17 percent during the months of May through September in each fiscal year.

9. Consumer Education Requirements. Out of amounts appropriated above, the Public Utility Commission shall develop a section on its “power-to-choose” Website as well as other educational materials for retail and commercial customers that provides easily comparable information about buy-back rates offered by all retail electric providers (REPs) for electricity generated on-site, and renewable energy credit marketers and the contract terms they offer. If a REP does not offer a buy-back rate for on-site generated power, the column will indicate “no offer.” The PUC shall also make available on its Website information about on-site renewable rebates and tax incentives offered by the state, federal government and utilities.

10. Cable and Video Service Provider Study. Out of funds appropriated above, the Public Utility Commission shall conduct a comprehensive and objective study to determine the extent to which any cable service providers or video service providers currently offering cable services or video services in Texas engage in the discriminatory practice of redlining. The commission shall report any and all objective and verifiable data at its disposal, including but not limited to average home value, median household income, race of household occupants, and whether or not the cable service or video service consumers own or rent their residences, of areas served per county compared to these same statistics for areas not served within the same county. The commission shall include in its study an analysis, for all cable service providers or video service providers that have been granted a state-issued certificate of franchise authority, of workforce diversity and ways to increase opportunities for historically underutilized businesses. The commission shall provide a copy of its study to every member of the Texas Legislature, and the Texas Sunset Commission, by December 1, 2009.

Source: 2010-11 General Appropriations Act

C. Show your agency's expenditures by strategy.
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Public Utility Commission (2008-09 Budget Structure)		
Exhibit 4a: Expenditures by Strategy for Fiscal Year 2008 (Actual)		
Goal/Strategy	Total Amount	Contract Expenditures Included in Total Amount
Goal A. Ensure Competition, Choice, Just Rates, and Reliable Quality Service	\$7,106,120	
Strategy A.1.1, Market Competition	\$4,297,153	\$320,860
Strategy A.2.1, Utility Regulation	\$2,808,967	
Goal B. Educate Customers, Ensure Compliance with Laws, and Assist Customers	\$3,759,814	
Strategy B.1.1, Provide Facts about Changes	\$1,812,951	
Strategy B.2.1, Investigations and Enforcement	\$1,946,863	
Goal C. Electric Utility Restructuring	\$80,715,629	
Strategy C.1.1, Energy Assistance	\$80,064,767	\$791,175
Strategy C.2.1, Consumer Education	\$650,861	\$639,900
Goal D. Indirect Administration	\$1,518,411	
Strategy D.1.1, Central Administration	\$738,418	
Strategy D.2.1, Information Resources	\$506,800	
Strategy D.3.1, Other Support Services	\$273,193	
GRAND TOTAL:	\$93,099,973	\$1,751,935

Public Utility Commission (2010-11 Budget Structure)		
Exhibit 4b: Expenditures by Strategy for Fiscal Year 2008 (Actual)		
Goal/Strategy	Total Amount	Contract Expenditures Included in Total Amount
Goal A. Ensure Competition, Choice, Just Rates, and Reliable Quality Service	\$9,053,214	
Strategy A.1.1, Market Competition	\$4,186,872	\$320,860
Strategy A.2.1, Utility Regulation	\$3,528,524	
Strategy A.3.1, Investigations and Enforcement	\$1,337,817	
Goal B. Educate Customers and Assist Customers	\$1,585,561	
Strategy B.1.1, Provide Facts about Changes	\$1,102,461	
Strategy B.2.1, Assist Customers	\$483,101	
Goal C. Electric Utility Restructuring	\$80,715,629	
Strategy C.1.1, Energy Assistance	\$80,064,767	\$791,175
Strategy C.2.1, Consumer Education	\$650,861	\$639,900
Goal D. Indirect Administration	\$1,745,570	
Strategy D.1.1, Central Administration	\$1,126,835	
Strategy D.2.1, Information Resources	\$520,262	
Strategy D.3.1, Other Support Services	\$98,473	
GRAND TOTAL:	\$93,099,973	\$1,751,935

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.

Public Utility Commission						
Exhibit 5a: Objects of Expense By Program or Function - FY 2009 (2008-09 Budget Structure)						
Object-of-Expense	Market Comp. 1.1.1	Utility Reg. 1.2.1	Consumer Education 2.1.1, 3.1.2	Invest. and Enforcement 2.2.1	Energy Assistance 3.1.1	Admin. 4.1.1, 4.1.2, 4.1.3
1001-Salaries and Wages	3,970,924	2,526,452	1,631,209	1,752,040	-	1,448,688
1002-Other Personnel Costs	137,984	87,790	56,682	60,881	-	59,163
2001-Professional Fees and Services	401,064	255,172	1,013,892	176,957	1,859,000	25,244
2003-Consumable Supplies	22,283	14,177	9,154	9,832	-	9,554
2004-Utilities	9,370	5,961	3,849	4,134	-	4,017
2005-Travel	22,283	14,177	9,154	9,832	-	9,554
2006-Rent - Building	3,274	2,083	1,345	1,444	-	1,404
2007-Rent - Machine and Other	-	-	-	-	-	-
2009-Other Operating Expense	233,591	148,619	95,956	103,064	-	100,157
3001-Client Services	-	-	-	-	102,287,624	-
5000-Capital Expenditures	293,687	186,855	120,643	129,580	-	125,924
Total	5,094,460	3,241,288	2,941,884	2,247,763	104,146,624	1,783,706

Public Utility Commission							
Exhibit 5b: Objects of Expense By Program or Function - FY 2009 (2010-11 Budget Structure)							
Object-of-Expense	Market Comp. 1.1.1	Utility Reg. 1.2.1	Consumer Education 2.1.1, 3.1.2	Invest. and Enforce. 1.3.1	Customer Assistance 2.2.1	Energy Assistance 3.1.1	Admin. 5.1.1, 5.1.2, 5.1.3
1001-Salaries and Wages	3,487,207	2,906,006	1,743,604	1,049,109	467,908	-	1,675,478
1002-Other Personnel Costs	120,750	100,625	60,375	36,225	16,100	-	68,425
2001-Professional Fees and Services	306,957	255,798	1,002,618	92,087	40,928	1,859,000	173,942
2003-Consumable Supplies	19,500	16,250	9,750	5,850	2,600	-	11,050
2004-Utilities	8,199	6,833	4,100	2,460	1,093	-	4,646
2005-Travel	19,500	16,250	9,750	5,850	2,600	-	11,050
2006-Rent - Building	2,865	2,388	1,433	860	382	-	1,624
2007-Rent - Machine and Other	-	-	-	-	-	-	-
2009-Other Operating Expense	204,416	170,347	102,208	61,325	27,256	-	115,836
3001-Client Services	-	-	-	-	-	102,287,624	-
5000-Capital Expenditures	257,007	214,172	128,503	77,102	34,268	-	145,637
Total	4,426,402	3,688,668	3,062,340	1,330,868	593,134	104,146,624	2,207,688

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.

Public Utility Commission	
Exhibit 6: Sources of Revenue Fiscal Year 2008 (Actual)	
Source	Amount
General Revenue Fund	\$9,744,932
GR Dedicated - System Benefit Account No. 5100	\$82,822,355
Appropriated Receipts	\$659,113
TOTAL	\$93,226,400

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

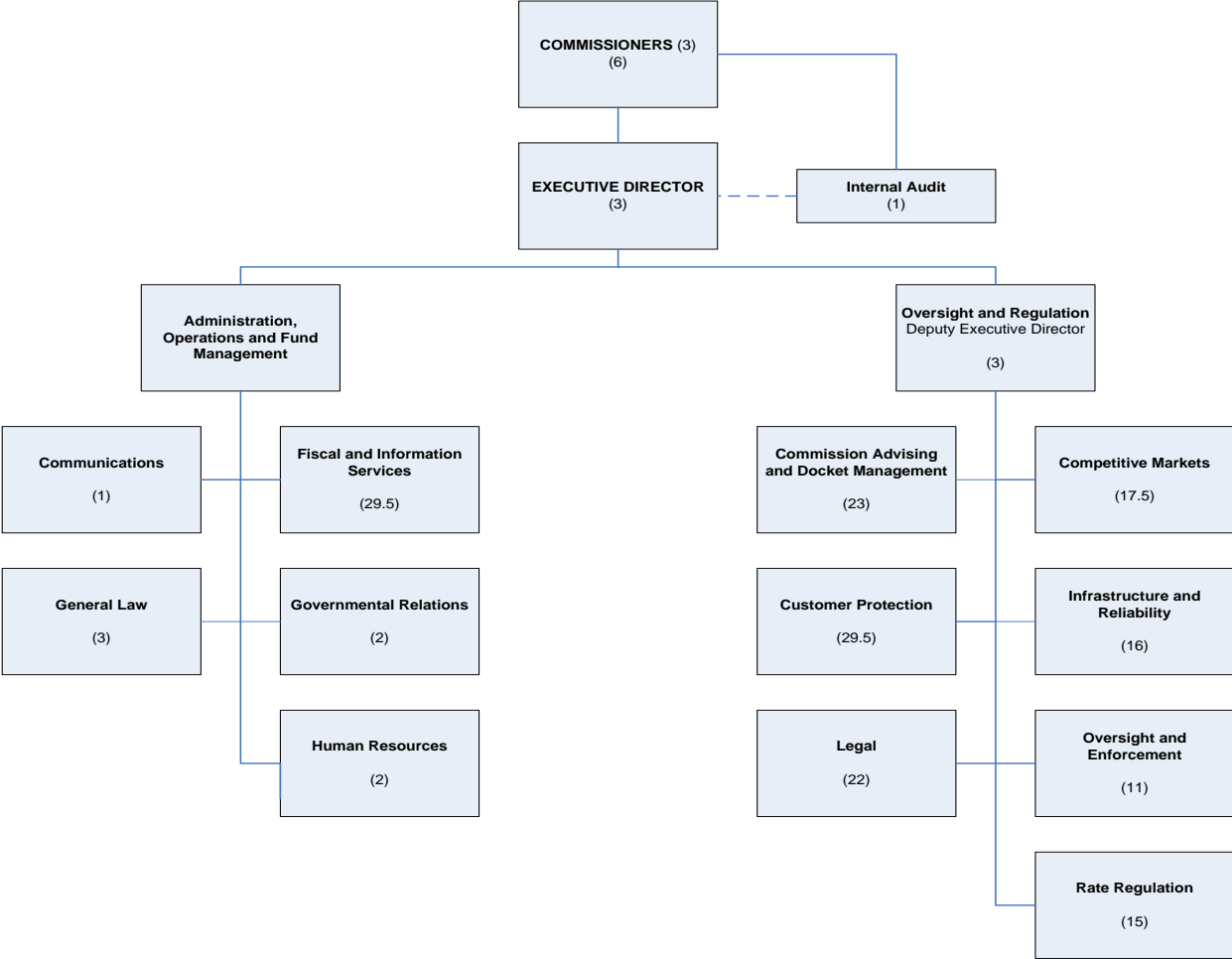
N/A

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

N/A

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.

N/A

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

FY 2008-09	188.6 FTEs
FY 2010-11	188.6 FTEs

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

On August 31, 2008, the PUC employed one part-time temporary employee. This employee became a full-time temporary employee on September 1, 2008 and a classified full-time regular employee on April 1, 2009. The PUC also employed two temporary interns during fiscal year 2008 who were no longer employed as of August 31. Currently, the PUC employs one temporary employee who was hired on February 4, 2009.

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

Public Utility Commission		
Exhibit 7a: List of Program FTEs and Expenditures for Fiscal Year 2008 (2008-09 Budget Structure)		
Program	FTEs as of August 31, 2008	Actual Expenditures
Market Competition	55.9	\$4,297,153
Utility Regulation	41.3	\$2,808,967
Consumer Education	26.6	\$2,463,812
Investigations and Enforcement	28.7	\$1,946,863
Energy Assistance	0.0	\$80,064,767
Administration	21.5	\$1,518,411
TOTAL	174.0	\$93,099,973

Public Utility Commission		
Exhibit 7b: List of Program FTEs and Expenditures for Fiscal Year 2008 (2010-11 Budget Structure)		
Program	FTEs as of August 31, 2008	Actual Expenditures
Market Competition	58.8	\$4,186,872
Utility Regulation	49.6	\$3,528,524
Investigations and Enforcement	18.8	\$1,337,817
Consumer Education	15.5	\$1,753,322
Consumer Assistance	6.8	\$483,101
Energy Assistance	0.0	\$80,064,767
Administration	24.5	\$1,745,570
TOTAL	174.0	\$93,099,973

VII. Guide to Agency Programs

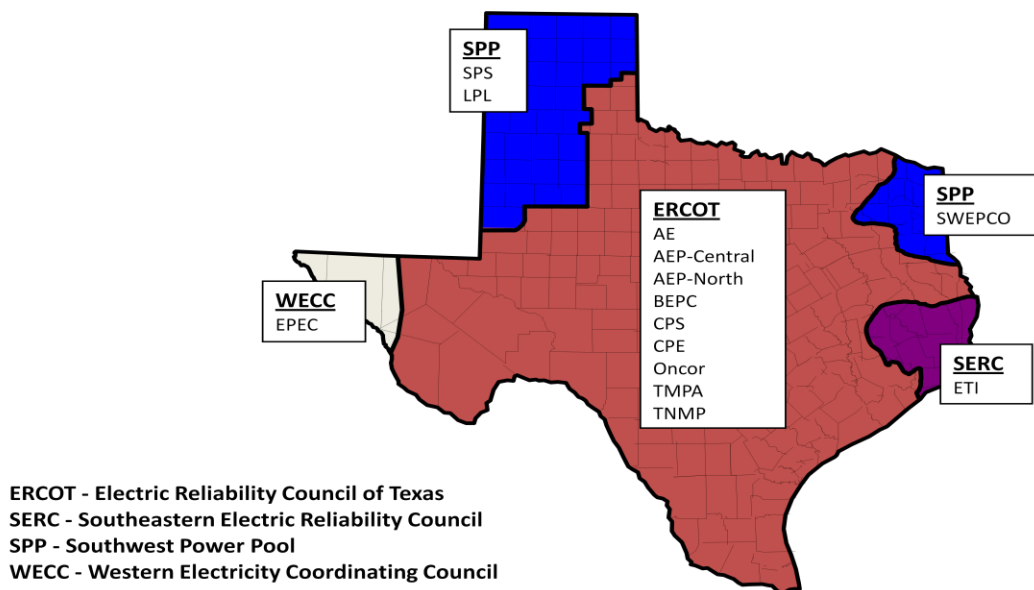
Strategy 1-1-1:	Foster and monitor market competition by evaluating the relevant electric and telecommunications markets, and develop policies to enhance effectiveness of competition and benefits for customers, and register and license competitive service providers. Develop rules, conduct studies and prepare reports responsive to changes in electric and telecom markets.
Actual Expenditures, FY 2008	\$4,186,872
Number of FTEs as of August 31, 2008	58.8

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

Name of Program or Function	Electric Wholesale Market Oversight
Location/Division	Competitive Markets Division
Contact Name	Jess Totten, Director, Competitive Markets Division

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

Texas is unique among the 48 contiguous states in that there is a power grid located wholly within the state. In most states, electric utilities are interconnected with utilities in other states, and are subject to the jurisdiction of the FERC because of the interstate character of the wholesale transactions. In Texas, however, the PUC is responsible for overseeing the wholesale market in ERCOT. The map below shows the boundaries of ERCOT.



In addition to defining a geographical area of the state, ERCOT is the organization designated as the independent organization under PURA § 39.151. As the independent organization, ERCOT is required to establish and enforce procedures relating to non-discriminatory access to the transmission and distribution network, the reliability of the regional electric network, and accounting for the production and delivery of electricity among generators and all other market participants.¹³ These procedures, which also provide for short-term energy markets, are known as the ERCOT Protocols. ERCOT is subject to PUC oversight and review, and, in particular, is subject to PUC oversight with respect to the Protocols.

PURA § 39.157 mandates that the PUC monitor market power associated with the generation, transmission, distribution and sale of electricity in Texas and gives the PUC the authority to require mitigation of market power. In addition, PURA § 39.155(a) gives the PUC authority to request any information it needs from market participants to assess market power and evaluate the development of a competitive retail market in the state. Market power abuses can lead to higher prices for customers and dysfunction in the operation of the competitive electricity market.

The PUC’s authority over the ERCOT wholesale market involves the following key functions:

- Oversight of ERCOT as the independent organization under PURA § 39.151;¹⁴
- Oversight and review of the ERCOT protocols;
- Oversight of the Independent Market Monitor authorized by PURA § 39.1515;
- Participating in market design and implementation activities at ERCOT to proactively eliminate market design flaws as they are recognized;
- Determination of the share of installed capacity for power generation companies; and
- Providing for registration of power generation companies and power marketers.

¹³ The FERC also has authority to establish and enforce national reliability standards in ERCOT.

¹⁴ This function is described as a separate program.

The PUC is also engaged in wholesale market activities with respect to areas outside of ERCOT. While the regulatory authority for wholesale market and reliability issues lies with the FERC, the PUC may participate in FERC proceedings relating to wholesale market issues. In the case of the Southwest Power Pool (the area marked SPP on the map above), a regional transmission organization has been established, and its governance rules include a role for a Regional State Committee (RSC), an advisory committee of state regulators. A member of the PUC participates with members of the state regulatory commissions from the other states in the SPP region to advise the SPP board of directors on market and open-access issues. PUC staff members provide support to the Commissioner that serves on the RSC. Recently, the Entergy Regional State Committee has been formed to coordinate activities related to enhancing the reliability of electric service in the Entergy service areas of the four states in which Entergy operates.

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.

The effectiveness and efficiency of the program may be measured by the efficiency of the wholesale market. Indications of efficiency include a lack of barriers to enter the market, market participants' willingness to enter the market to satisfy customers' demand for energy, and the absence of wholesale prices that are affected by the exercise of market power. Another measure of efficiency is the lack of operating and pricing anomalies that would be indications of market design flaws or the exercise of market power. ERCOT provides regular reports that show the kind and amount of new generation facilities that have been proposed for the region and have initiated the process of obtaining transmission service. ERCOT also provides twice yearly a report on the existing capacity, the demand for electricity, and the level of reserves. Whether the reserves exceed the required reserve margin in the current year and near term is an important measure of the health of the market. Because electricity cannot be stored, the electricity market must invest in sufficient generation plant to meet customers' demand. Reserve margins are the metric by which the sufficiency of generation is measured. Investment in new generation occurs competitively rather than as the result of a regulatory approval, so adequate reserve margins demonstrate sufficient competitive investment in new generation to meet growth and replace old and obsolete generation retired from service. The annual reports on the State of the Market issued by the Independent Market Monitor (IMM) provide information on the competitiveness of the market, assessing factors like evidence of the exercise of market power and anomalies in operations and pricing.

The following points summarize the latest reports from these sources:

- In May 2009, ERCOT reported that the reserves in the region are projected to exceed the reserves that are required through 2014. The required level of reserves is 12.5%, and the projected level for 2009 is 16.8%. The lowest level of projected reserves is 13.9% in 2014.
- A July 2009 report from the ERCOT Planning Staff indicates that new generation projects totaling 25,000 megawatts of capacity have signed interconnection agreements. These projects include a variety of generation types, projects in all sub-

regions of ERCOT, and notably 2700 megawatts of coal-fired generation capacity planned to be completed in 2009 or 2010.

- The IMM's State of the Market Report for 2008 indicated that wholesale power prices in ERCOT were significantly higher in 2008 than in 2007. It attributed the higher prices primarily to higher natural gas prices and problems managing congestion that were particularly acute in May and June.
- While the State of the Market report indicates that the ERCOT market was quite competitive and in many respects performed better in 2008 than in 2007, it pointed out that the current zonal market design permits certain operating and pricing anomalies. Many of these anomalies will be eliminated by the implementation of a nodal market design, which ERCOT expects to implement in December 2010.

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.

The intrastate wholesale electric market in Texas was opened to competition as a result of the amendments to PURA adopted by the Legislature in 1995.¹⁵ As a part of these amendments, independent power producers (IPPs) were permitted to construct generation facilities and open access rules were adopted for the transmission lines of utilities, cooperatives, and municipally owned utilities in order for utilities, IPPs and power marketers to move power to wholesale customers.

SB 7, which was enacted in 1999, introduced retail competition, restructured the electric utility industry, and required investor-owned utilities to separate their business functions into three distinct companies: a power generation company (PGC), a transmission and distribution utility (TDU), and a retail electric provider (REP). PGCs operate as wholesale providers of generation services, in the same manner as independent generators. REPs operate as retail providers of electricity and energy services, and are the entities that have the primary contact with retail customers in the new market. TDUs remain regulated by the PUC and are required to provide non-discriminatory access to the transmission and distribution grid at rates and terms prescribed by the PUC.

Although the transmission and distribution facilities remain regulated by the PUC, the prices for the production and sale of electricity are now dictated by market forces instead of regulatory rate-setting procedures.

SB 408, enacted in 2005, provided for establishment of an Independent Market Monitor (IMM) at ERCOT. The creation of the IMM was recommended by the Sunset Advisory Commission staff after its review of the PUC.

¹⁵ Similar reforms were adopted in the interstate market through federal legislation that provided broad authorization for non-utility generators and FERC open-access rules.

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 all market participants in the competitive market in ERCOT – power generation companies, power marketers, qualified scheduling entities, and retail electric providers. It also affects all customers who purchase electricity at retail.

There are currently 244 power generation companies and 196 power marketers registered with the PUC. Qualified scheduling entities (QSE) are not required to register with the PUC, but must be certified by ERCOT. There are currently 271 QSEs registered with ERCOT. There are 149 retail electric providers (REPs).

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.

Oversight and review of the ERCOT protocols. The ERCOT Protocols are a complex set of rules developed largely through a consensus process involving all market sectors. The Protocols are amended as needed when market design flaws become apparent or when process improvements are identified. The original Protocols were approved by the PUC, and a major market redesign required by a PUC rule is under development. Protocol revisions are approved by the ERCOT Board of Directors subject to appeal to the PUC. Changes to protocols may be initiated by stakeholders, ERCOT, or PUC staff. The protocol approvals, including amendments, are conducted as contested cases under the Administrative Procedures Act, Government Code Chapter 2001.

Participating in market design and implementation activities. PUC staff participates in ERCOT stakeholder meetings on a routine basis to monitor discussion of design issues and contribute to the development of design decisions that are supportive of vibrant wholesale competition. ERCOT has a number of standing committees, subcommittees, and working groups that meet frequently to study and resolve market design issues.

Determination of share of installed capacity. PURA § 39.154 limits the amount of installed generating capacity that may be owned by a power generation company (PGC). Based on annual calculations, PGCs that own more than 20% of the total installed generating capacity must file a market power mitigation plan under PURA § 39.156. The PUC adopted 16 T.A.C. § 25.90 and 16 T.A.C. § 25.401 to implement this requirement.

Providing for registration of power generation companies and power marketers. PURA § 39.351 and § 39.355 require that power generation companies and power marketers, respectively, register with the PUC. The PUC adopted 16 T.A.C. § 25.101 and 16 T.A.C. § 25.109 to implement this requirement. Forms for registration are available on the PUC's Website.

Enforcement of statutes, PUC rules, ERCOT Protocols, and PUC orders. The PUC's enforcement work is described as a separate program. Interactions with ERCOT staff and market participants on market design issues may provide information that suggests areas for investigation and possible enforcement.

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).

The PUC's role in this program is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund). Beginning in FY 2004, the PUC requested and received additional funding of \$2 million per year from General Revenue - Dedicated (System Benefit Fund) (SBF) for market oversight functions. Beginning in FY 2008, based on the PUC's request, the amount appropriated from the SBF was reduced to \$1.2 million to reflect transfer of the market monitoring function to the IMM. The money appropriated from the SBF for wholesale market oversight is not used to support PUC employee positions, but is used for consulting contracts to assist the PUC in performing its duties.

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

There are no similar programs.

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.

N/A

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.

N/A

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.

Independent Market Monitor

In accordance with PURA § 39.1515, wholesale market monitoring activities are performed by an Independent Market Monitor (IMM). The consulting firm Potomac Economics serves as the IMM. The IMM analyzes the market by using computer programs that permit it to organize and analyze large amounts of market data. The IMM provides reports to the PUC on a daily and monthly basis, special reports as required by market events, and an annual report. The PUC publishes the IMM's annual report on its Website, and uses its daily reports in an interactive reporting section on the PUC Website relating to prices and congestion in the wholesale market. The IMM's reports may identify areas requiring further investigation or enforcement activities, and it has participated in enforcement investigations. The oversight activities relating to wholesale market design include:

- Review of the operations of the market, as measured through the analysis of ERCOT wholesale market data, IMM reports, and other competitive market indicators;
- Review of PUC rules and the ERCOT Protocols governing the operation of the wholesale market in order to identify opportunities for improving the efficiency of the market; and
- Analysis of ERCOT and its role in the operation of the wholesale market.

PURA § 39.1515 requires ERCOT to fund the costs of the IMM. Potomac Economics was selected as the IMM after a competitive bidding process. The annual cost of the contract going forward is \$2.5 million for calendar year 2009, \$2.6 million for calendar year 2010, \$2.7 million for calendar year 2011, and \$2.8 million for calendar year 2012.¹⁶

Consulting Services

The PUC had a contract with Dr. Shmuel S. Oren to provide consulting services regarding market design and monitoring of the day to day operation of the ERCOT wholesale electricity market.

The amount of the contract in 2008 was \$72,000. The contract is funded from General Revenue – Dedicated (System Benefit Fund). The PUC staff works directly with Dr. Oren and therefore directly experiences his performance of the contract.

¹⁶ The contract payments are based on calendar years because ERCOT's fiscal year is the calendar year.

Self-Evaluation Report

The current contract expired August 31, 2009. The PUC is assessing whether and on what terms it will procure similar consulting services after that date.

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

The PUC's Report to the 81st Texas Legislature on the Scope of Competition in Electric Markets in Texas contains legislative recommendations that are summarized in Section II (D) of this report.

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

Detailed information about the ERCOT wholesale electric market is included in the PUC's Report to the 81st Texas Legislature on the Scope of Competition in Electric Markets in Texas. Copies of the scope of competition reports for 2005, 2007 and 2009 are included as attachments.

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.

Oversight of the electric wholesale competitive market is necessary to address possible market power abuses and to facilitate improvements in market design. The PUC's overall monitoring activities are explained above. When non-compliance is suspected, the PUC performs both informal and formal investigations and pursues appropriate remedies. The PUC's enforcement activities are described as a separate program.

Because of the nature of this program, the PUC does not receive complaints from the public or consumers about this area. Complaints may be filed by a market participant concerning actions of ERCOT or another market participant. These complaints are handled as contested cases under the Administrative Procedures Act, Government Code Chapter 2001.

O. For each regulatory program, if applicable, provide the following complaint information.

N/A

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

Name of Program or Function	Oversight of Electric Reliability Council of Texas as Independent Organization Under PURA § 39.151
Location/Division	Competitive Markets Division Rate Regulation Division
Contact Name	Jess Totten, Director, Competitive Markets Division Darryl Tietjen, Director, Rate Regulation Division

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

PURA § 39.151 requires the PUC to certify an independent organization to perform the following functions:

- Ensure access to the transmission and distribution system for all buyers and sellers of electricity on a nondiscriminatory basis
- Ensure the reliability and adequacy of the regional electric network
- Ensure that electricity production and delivery are accurately accounted for among the generators and wholesale buyers and sellers in the region.

The Electric Reliability Council of Texas (ERCOT) is the organization designated as the independent organization under PURA § 39.151.

As the independent organization, ERCOT is directly responsible and accountable to the PUC. The PUC has complete authority to oversee and investigate ERCOT’s finances, budget, and operations as necessary to ensure ERCOT’s accountability and to ensure that the organization adequately performs its functions and duties.

ERCOT is required to establish and enforce procedures relating to the reliability of the regional electric network and accounting for the production and delivery of electricity among generators and all other market participants. These procedures, which are known as the ERCOT Protocols, are subject to PUC oversight and review.

The PUC may authorize the independent organization to charge a reasonable and competitively neutral rate to wholesale buyers and sellers to cover the independent organization’s costs.

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.

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.

Over time, the Legislature and PUC have modified the rules relating to independent organizations to strengthen ERCOT's accountability to the public. In 2003 the PUC adopted 16 T.A.C §§ 25.361 and 25.362 to require ERCOT to conduct its board meeting in public and to provide access to certain records; these rules also established requirements for reporting to the PUC. In 2005, the Texas Legislature adopted amendments to PURA § 39.151 that increased the number of independent directors and strengthened the PUC's oversight authority. PURA § 39.151 gives the PUC broad oversight authority over an independent organization and sets out requirements for the membership of its governing body.

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 ERCOT and all entities which participate in the competitive electricity market, including customers.

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.

The PUC adopted 16 T.A.C. §§ 25.361 and 25.363 which set out the functions of the independent organization, standards for access to meetings and information, qualifications for board members, and reporting requirements.

The PUC chairman is an ex officio non-voting member of the ERCOT Board of Directors. The chairman and other PUC commissioners routinely attend ERCOT Board meetings, which are posted as PUC open meetings.

The PUC Commissioners and Executive Director are in frequent contact with ERCOT Board members and employees. ERCOT provides quarterly presentations at PUC open meetings to brief the Commissioners on current issues and allow an opportunity for Commissioner discussion.

ERCOT protocol revisions are approved by the ERCOT Board, subject to review by the PUC. Appeals of protocol revisions are processed as contested cases under Government Code Chapter 2001. Appeals of protocol revisions are uncommon.

16 T.A.C. § 25.363 prescribes how requests by ERCOT to change its administrative fee or adopt a new fee are processed. These cases are processed as contested cases under Government Code Chapter 2001.

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).

This program is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

There are no similar programs.

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.

N/A

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.

N/A

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.**

Workforce Analysis

In June 2007, the PUC entered a contract with R.W. Beck, Inc. to perform a workforce analysis of ERCOT. The analysis included:

- Evaluation of ERCOT's organizational design and effectiveness;
- Evaluation of performance measurement goals and achievement, including the appropriateness of the chosen measures;
- Evaluation of staffing levels, staffing mix, and retention and recruitment for non-executive positions;
- Evaluation of use of contract workers; evaluation of whether the organizational structure and workforce are appropriate for ERCOT's mission and responsibilities; and
- Development of specific changes for areas that are not effective.

R.W. Beck delivered its final report on November 20, 2008. The total amount paid under the contract was \$138,000, which was funded by General Revenue and General Revenue – Dedicated (System Benefit Fund).

Nodal Cost Benefit Study Update

In October 2008, the PUC and ERCOT entered a tri-party agreement with CRA International Inc. (CRA) to review and update the ERCOT nodal market cost-benefit analysis originally performed in November 2004. ERCOT paid for the study. No appropriated funds were spent. CRA delivered its report on December 17, 2008. As of August 24, 2009, ERCOT had paid \$197,050.51 and an additional invoice for \$25,000 had been submitted. The contract has a cap of \$250,000.

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

The PUC made recommendations in the Report to the 81st Legislature on the Scope of Competition in Electric Markets in Texas relating to PURA § 39.151. These recommendations are summarized above in Section II.D. of this report.

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

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.

N/A

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.

N/A

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

Name of Program or Function	Renewable Energy
Location/Division	Competitive Markets Division
Contact Name	Jess Totten, Director of Competitive Markets

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

The renewable energy program established under Utilities Code § 39.904 is intended to increase the production of renewable energy in Texas. Section 39.904 established a renewable portfolio standard (RPS) and directed the PUC to adopt a credit trading system for renewable energy credits (RECs). The PUC has adopted detailed rules for the RPS and REC trading and oversees implementation of the rules. The PUC has also designated ERCOT as the administrator of the REC trading program, to issue and retire RECs and report program results, including program compliance, to the PUC. In addition to adopting and periodically amending the program rules, companies that produce renewable energy must register with the PUC to participate in the program, and the PUC reviews annual reports from the program administrator to assess whether program goals are being met and identify instances of non-compliance, to determine whether sanctions should be imposed.

Amendments to § 39.904 adopted in 2005 (SB 20) directed the PUC to identify regions that are suitable for further development of renewable energy (Competitive Renewable Energy Zones, or CREZs). The PUC has identified such regions, adopted a transmission plan to permit energy from the CREZs to be transmitted to populous areas in ERCOT, and has designated the utilities that will build the new transmission facilities.

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.

Key indicators of the success of this program are the dramatic increase in renewable capacity and energy in Texas, meeting the goals of the program, and the cost of RECs. PURA § 39.904 includes a goal of 5000 megawatts (MW) of new renewable resources by January 2015; it also includes goals for total renewable capacity, with intermediate goals, and a target of 500 MW of new non-wind renewable capacity by 2015. Under the PUC rule, 16 T.A.C. § 25.173, RECs are awarded for renewable energy produced from new renewable resources, and the goals in the rule are expressed in terms of new renewable capacity. These goals have consistently been met. In addition, the prices of RECs have declined since the program was initiated. The Legislature directed the PUC to submit a

report on the impact of renewable resources on electricity prices. In that report, submitted in January 2009, the PUC concluded that renewable energy had reduced energy prices at both the retail and wholesale levels. The table below shows the goals and the actual registered year-end renewable capacity and reported renewable energy in Texas. (Some renewable resources are not registered in the program, and their capacity and energy are not reported by the program administrator.)

Year	Goal for Renewable Capacity (MW)	Actual Renewable Capacity (MW)	Actual New Non-wind Renewable Capacity (MWH)	Renewable Energy Reported by Program Administrator (MWH)
2008	3272	8300	144	17,192,589
2006	1400	3100	77	7,107,797
2004	850	1190	45	3,685,014

Energy from renewable energy facilities is, in general, more expensive than conventionally produced energy, and the RECs, property-tax abatements, and tax benefits from the federal government are relied on to make renewable energy more competitive with conventional resources. The cost of the RECs is borne initially by the retail electric providers (REPs) and integrated utilities that are subject to the program and the municipal utilities and cooperatives that choose to buy RECs. It is expected that they pass these costs on to their customers. The reported cost of RECs was about \$12 in July 2005 and had fallen by July 2008 to the \$2.50 to \$4.50 range.

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.

The renewable-energy program was adopted as a part of comprehensive legislation enacted in 1999 to introduce retail competition in the Texas electric industry (Senate Bill 7). The PUC adopted rules to implement the program in December 1999, 16 T.A.C. § 25.173. Important program changes occurred in 2005, when legislation was enacted to increase the renewable-energy goals and require the PUC to establish CREZs and a transmission plan for the CREZs (Senate Bill 20). In December 2006, the PUC amended § 25.173 and adopted rules relating to the CREZs, 16 T.A.C § 25.174, to implement SB 20. It also initiated a contested case proceeding to establish the CREZs and adopt a transmission plan in December 2006. That proceeding was completed in October 2007.

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.

The renewable-energy program directly affects producers of energy and retail electric providers; it also affects municipal utilities and electric cooperatives that buy renewable energy or RECs from the producers. The program indirectly affects producers of energy from other sources, who compete with the renewable energy producers, and it affects customers, who would be expected to bear the cost of renewable energy and RECs through retail prices. The electric utilities that construct and operate transmission facilities that are built to support the production of renewable energy are also affected. The abundance of renewable energy in the ERCOT region has also stimulated a demand from customers to have renewable energy to meet a part of the energy needs at their homes and businesses through renewable energy products. These customers may have a higher level of interest in the program than customers generally. The program under PURA § 39.904 applies in areas served by investor-owned utilities. Municipal utilities and electric cooperatives are not subject to the program, but some of them participate through purchases of renewable energy or RECs.

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.

The renewable-energy program operates under PUC rules and with PUC oversight, but decisions on investment in renewable resources and the operation of renewable resources to supply customers are decisions made by market participants in the competitive wholesale energy markets. Producers of renewable energy participate in the wholesale market like producers of energy from other sources, and they have the option to sell energy on a bilateral basis or provide balancing energy and ancillary services in the markets operated by ERCOT, if their technology is capable of doing so. Integrated utilities and REPs have an obligation to buy renewable energy or RECs, and this obligation creates value in the RECs. The revenue from the sale of the REC provides a financial support for the renewable energy producers. The PUC does not have regional offices to assist in administering the program, and all of its program activities are conducted from Austin.

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).

This program's strategy is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

There are no similar programs.

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.

N/A

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.

N/A

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.

N/A

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

None identified.

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

The PUC estimates that approximately 1 FTE is required for this program. This estimate does not include resource requirements related to Competitive Renewable Energy Zones.

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.**

N/A

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.

N/A

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

Name of Program or Function	Retail Electric Market Oversight
Location/Division	Competitive Markets Division
Contact Name	Jess Totten, Director, Competitive Markets Division

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

In areas of the state open to retail competition, electric service is provided by competitive retail electric providers (REPs) whose rates are not regulated, but who are required to observe customer-protection rules and market protocols designed to ensure a functioning market and a positive customer experience.

The following functions are the primary features of this program:

- Certification and Registration of REPs and Aggregators;
- Development of retail market and customer-protection rules;
- Participation in development of ERCOT Protocols and Guides;
- General oversight of retail markets;
- Designation and oversight of Providers of Last Resort; and
- Oversight of implementation of advanced meters.

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.

Texas has one of the few functioning retail electric markets in the country. There are 149 retail electric providers (REPs) and 250 aggregators certified by the PUC. REPs are encouraged to post their product descriptions and prices for residential offerings on the PUC’s Power To Choose Website¹⁷; currently, 36 REPs are posting products. In December 2008 the Energy Retailer Research Consortium (ERRC), an independent research consortium that supports retail energy choice, issued a report on the status of retail electricity competition in residential and commercial/industrial markets in North America. The report identified Texas and New York as leaders in the U.S., and Texas as the best North American retail energy market.

¹⁷ See page 196 for information about the Power to Choose Website.

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.

The retail market opened in January 2002, and for the first five years of its operation, affiliated REPs were required to offer a Price to Beat to residential and small commercial customers. This price was based on the retail prices of the utilities in December 2000 and could be adjusted in response to changes in the price of natural gas. It was intended to protect customers who might be unwilling to switch to a competitive REP but also provide an opportunity for the competitive REPs to provide more attractive prices than the Price to Beat. Under PURA, the Price to Beat expired at the end of 2006, and prices for all customers in competitive areas are set by market forces.

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.

Certification and registration of REPs and Aggregators affects REPs and aggregators, as well as the customers who benefit from having qualified service providers who understand their obligation to comply with market and customer protection rules and, in the case of REPs, have the financial capability to stand behind the terms of service they offer to customers. The transmission and distribution utilities are indirectly affected, because they are exposed to financial risks associated with the failure of a REP.

Development of retail market rules and ERCOT Protocols affects all entities to which the rules apply, including REPs, aggregators, and the transmission and distribution utilities that interact with them in the market.

Providers of Last Resort affect the REPs designated to perform this function and benefits customers whose service has been discontinued.

There are approximately 6.5 million retail customers in areas of the state open to competition.

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.

Certification and Registration of REPs and Aggregators. Companies wishing to become REPs must apply to the PUC for certification. 16 T.A.C. §§ 25.107 and 25.108 set out the requirements and process for certification. Applications are contested cases processed in accordance with the Administrative Procedures Act and PUC rules.

Companies wishing to be aggregators must register with the PUC. 16 T.A.C. § 25.111 sets out the requirements for registration as an aggregator. Aggregator registrations are reviewed by PUC

staff for compliance with applicable requirements, but are not contested cases subject to intervention by affected parties or hearing.

Development of Retail Market and Customer Protection Rules. Development of effective retail market rules is perhaps the most important function of this program. New rules or amendments to existing rules are initiated in the following ways:

- In response to legislative directives;
- Based on observation of market activity, including customer complaints, that suggests a need for a rule covering an activity not currently covered;
- Based on observation of market activity, including customer complaints, that suggests that existing rules are not functioning as intended or producing the intended result; and
- Based on petitions filed by interested persons pursuant to Government Code § 2001.021.

16 T.A.C. §§ 25.471-25.498 relate to customer protection for retail markets.

Development of ERCOT Protocols. PUC staff has been actively involved in the development of retail market protocols by ERCOT, the independent organization that administers the market transactions for most of Texas.¹⁸ The initial ERCOT protocols were approved by the PUC and are subject to amendment as the need for changes and improvements arises. Staff works with ERCOT and other interested parties in a stakeholder process on amendments to the Protocols and ERCOT market guides. Amendments to the Protocols are approved by the ERCOT Board of Directors, subject to appeal to the PUC.

Market Oversight. The PUC staff monitors retail market activities to ensure that market participants are observing all legal requirements and that the market is operating efficiently. When activities of concern are discovered, the PUC will usually contact the company or companies in question to obtain more information. If the alleged illegal behavior is of sufficient concern due to harm to the market and/or customers, the Oversight and Enforcement Division will pursue more formal action, including possible imposition of administrative penalties. Enforcement activities are described as a separate program at page 169. Oversight activities may also lead to rule changes, as is described above.

Designation and Oversight of Providers of Last Resort. The PUC is required to designate providers of last resort (POLR) to serve customers whose service has been discontinued by a REP. The PUC is also required to set the POLR rates. The PUC rules provide for a group of REPs to be selected as POLRs for each customer class and service area, with the REPs serving the largest number of customers selected. Other eligible REPs may serve as volunteer POLRs. In 2009, for example, there were 11 REPs that were selected as POLRs for the residential class in at least one service area, and ten REPs selected for the small non-residential class in at least one area. The rates for POLR service are the sum of nonbypassable charges incurred in serving customers (primarily

¹⁸ ERCOT protocols focus on market transactions and interactions of market participants, whereas the PUC rules tend to focus on activities that directly affect end-use customers.

delivery charges and ERCOT fees), an energy rate based on clearing prices in the balancing energy market, and a mark-up.

Oversight of Implementation of Advanced Meters. Legislation has been enacted to foster the deployment of advanced meters by the investor-owned utilities in competitive areas. PUC rules prescribe required functions for advanced metering systems and mechanisms for utilities to recover the costs of deploying advanced meters. These rules require PUC approval of deployment plans and cost recovery mechanisms for advanced meters. In addition to participating in the review of deployment plans and proposals for cost recovery, PUC staff participate in developing standards for the infrastructure behind the metering systems to ensure that broad benefits to utilities, customers and REPs are achieved, namely, that consumption information will be available to customers, particularly through in-home devices and hourly consumption information will be incorporated into wholesale-market settlement. Staff also works with market participants on customer education.

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).

This program's strategy is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

There are no similar programs.

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.

N/A

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.

N/A

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.

N/A

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

None identified.

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

The PUC adopted amendments to several rules relating to competitive retail service in early 2009 to address issues that arose in 2008. During a period of high wholesale electricity prices in May and June 2008, four REPs were unable to meet their obligations to ERCOT, and their customers were transferred to POLRs. These transfers resulted in problems for customers and REPs serving as POLRs. Many of the customers were unable to obtain refunds of deposits they paid to their original REPs, and the POLRs or REPs to which they were transferred typically requested deposits to serve them. In addition, many of the customers lost the benefit of low fixed-price contracts with a REP that left the market, and the prices they faced for POLR service or competitive service with a different REP were much higher. The POLRs had to deal with angry customers, and some of the customers failed to pay their bills for POLR service. The PUC amended the rules on POLR service and REP certification to establish more stringent financial and technical standards for REPs and to reduce the POLR rate. The more stringent REP standards should reduce the likelihood that customers will be transferred to the POLR in the future.

During the 2009 legislative session, House Bill 1822 was enacted, which will affect the obligations of REPs to their customers. The bill includes the following changes:

- The PUC is to define common terms on electric and telephone bills;
- A “fixed price product” is defined; and
- REPs are required to provide notice of termination of fixed-price contract 30 to 60 days before the contract expires.

The PUC has published proposed rules to implement HB 1822. Other bills were filed that would have made changes in retail service, but most of these bills were not passed.

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.**

Certification and registration of REPs and Aggregators are needed to ensure that providers have the necessary qualifications to provide service, and to provide information about providers that is necessary for the PUC to investigate alleged violations and abuses.

The PUC requires REPs, transmission and distribution utilities, and ERCOT to file quarterly reports demonstrating compliance with market rules and protocols (16 T.A.C. § 25.88). The Commission requires REPs to file semi-annual reports demonstrating their ongoing compliance with the certification requirements of the Commission, and their compliance with other rules and laws (16 T.A.C. § 25.107).

The PUC also requires aggregators to file annual reports demonstrating their ongoing compliance with the registration requirements and their compliance with other rules and laws (16 T.A.C. § 25.111)

The PUC's enforcement activities are described as a separate program at page 169.

Customer complaints are handled by the Customer Protection Division's informal complaint resolution process, which is included as a separate program at page 181.

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.

Please see the description of the Informal Complaint Resolution program at page 181 for information about customer complaints.

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

Name of Program or Function	Telecommunications Wholesale Market Oversight
Location/Division	Competitive Markets Division
Contact Name	Jess Totten, Director of Competitive Markets

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

The PUC’s oversight of the wholesale telecommunications market is intended to foster competition in telecommunications services in Texas and fair access by competitive local exchange carriers (CLECs) and wireless providers to the networks of incumbent local exchange carriers (ILECs), as required by PURA and the Federal Telecommunications Act of 1996 (FTA). Two of the key activities that the PUC carries out are to conduct arbitrations under the FTA and manage the state universal service program. The PUC’s wholesale market oversight involves the following key functions:

- Arbitration of disputed terms in interconnection agreements between telecommunications companies;
- Arbitration of disputes between telecommunications companies that arise after they interconnect;
- Regulation and oversight of competition of certain ILECs in Texas;
- Oversight of the Texas Universal Service Fund (TUSF) plans, the largest of which are the Texas High Cost Universal Service Plan (THCUSP) and the Small and Rural ILEC Universal Service Plan (SRIUSP);¹⁹
- Issuance of designations of eligibility to participate in the TUSF and the Federal Universal Service Fund (FUSF), namely, Eligible Telecommunications Carrier (ETC), Eligible Telecommunications Provider (ETP) and Resale Eligible Telecommunications Provider (RETP); and
- Rate regulation of telecommunications providers which includes intrastate access charges and inter-carrier compensation.

¹⁹ This function is described as a separate program.

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.

An indicator of the effectiveness of the PUC's oversight of the telecommunications wholesale market can be seen in the deregulation of certain telecommunication markets where sufficient competition exists, the number and type of new entrants into the telecommunications market, and the availability of affordable telecommunications service throughout Texas.

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.

The provision of telephone and other telecommunications services has changed radically over a period of roughly 30 years. At the beginning of the 1980's most telephone service in the United States was provided by companies that had a monopoly on local service in an area and also controlled access to long-distance service. Technological and policy changes have introduced competition first in customer equipment, then long-distance service, and finally in local service. One of the important milestones was the 1996 enactment of the FTA. The development of the internet and wireless telephone service expanded customer services, beginning in the 1990's. The focus of telephone regulation in the late 1990's was on enforcing obligations in the FTA, requiring ILECs to interconnect with competitive telecommunications companies seeking to provide local or long-distance service and to sell services or unbundled network elements to the competitive companies. During this period, the new features that had been added to telephone service offerings (caller ID, call waiting, etc.) were deregulated for many companies. In the early years of the current decade, the competition policy of the federal government shifted to emphasize inter-modal competition, as wireless service became more widespread and as cable companies began offering telephone service over the Internet.

Senate Bill 5, which was passed by the Texas Legislature in during the 79th Legislative session in 2005, brought significant changes to the telecommunications market that required PUC oversight of the wholesale telecommunications markets. Senate Bill 5:

- Required that certain markets of ILECs be deregulated on January 1, 2006, which resulted in the deregulation of the markets in metropolitan areas and a number of smaller cities in the state;
- Introduced state-issued franchises for cable and video service;
- Required that all certificated providers of local exchange telephone service provide Lifeline Service, a discount on basic telephone service for low-income customers.
- Established the resale eligible telecommunications provider (RETP) designation for certain telecommunication providers relying on the resale of ILEC services to receive TUSF support for discounts given to qualified Lifeline customers²⁰; and

²⁰ S.B. 5 required resale telecommunications providers to provide Lifeline service to qualified customers and 16 T.A.C. § 26.419 allows these providers to receive state support for Lifeline discounts provided to eligible customers.

- Authorized the PUC to revise the monthly per line support amounts to be made available from the THCUSP and SRIUSP funds.

More recent developments have been an expansion in the supply and demand for broadband services, as many residential and commercial customers have become accustomed to using the Internet on a routine basis, and widespread use of wireless devices (Blackberries and iPhones) that provide customers telephone, Internet, and email service.

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 all telecommunications carriers doing business in Texas. It indirectly affects purchasers of telecommunications at retail who are customers of non-incumbent telecommunications companies or are customers of incumbents but may procure telecommunications service on better terms as a result of competition. Currently, in Texas there are 63 licensed ILECs. This number includes the many rural telephone companies that generally are exempted from interconnection obligations under the FTA. The primary ILECs that are parties to interconnection agreements are AT&T Texas, CenturyTel, Verizon, Embarq, and Windstream. Currently, there are 440 CLECs licensed in Texas. Because the FCC, not the PUC, licenses wireless providers, the current number of these providers in Texas is unknown.

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.

The PUC administers this program primarily through the resolution of disputes by means of arbitration under the FTA, approval of interconnection agreements, review of applications for recognition under the state or federal universal service program, and issuance of franchises for cable and video services. The arbitration of disputes under the FTA is conducted under rules of procedure adopted by the PUC. Such an arbitration proceeding is not considered a “contested case” under the Texas Administrative Procedures Act (APA). A disputed application for recognition under the universal services program is an APA contested case. The telecommunications providers in Texas are also required to submit various reports to indicate their compliance with the requirements of PURA, the FTA, and various FCC rules.

Negotiated Interconnection Agreements. In many instances, parties successfully reach agreement of the rates, terms, and conditions for interconnection of their respective networks and access to unbundled network elements through voluntary negotiations. Although carriers are free to negotiate unique, individualized contracts, many have chosen to adopt the standardized interconnection agreements that have been approved by the PUC. The standard interconnection agreement allows a competitive carrier to enter the market quickly, because AT&T Texas is required to promptly provide the new market entrant a signed interconnection agreement consistent with the standard interconnection agreement, and an expedited process for PUC approval applies. In addition,

the FTA requires a local exchange carrier (LEC) to allow a CLEC to opt-in to any interconnection agreement that has been approved by the PUC thereby eliminating the need for negotiation. Parties to interconnection agreements also routinely amend their agreements through negotiation to reflect changes in law mandated by the FCC or the PUC. Table 1 shows the number of negotiated interconnection agreements and amendments that were processed by the PUC in recent years.

Table 1–Negotiated Interconnection Agreements and Amendments

Year	Agreements Processed	Amendments Processed
FY 2005	129	114
FY 2006	125	46
FY 2007	92	28
FY 2008	69	61

Compulsory Arbitration. When voluntary negotiations of an interconnection agreement are unsuccessful, FTA § 252(b) allows parties to seek arbitration. The FTA gives state commissions responsibility for arbitrating open issues in the negotiation of interconnection agreements. State commissions must ensure that resolution of any open issues meets the requirements of the FTA and FCC regulations. Far fewer interconnection agreements are developed through arbitrations than through voluntary negotiations. Table 2 shows the number of arbitrated interconnection agreements and post-interconnection disputes that were brought before the PUC.

Table 2–Arbitrated Interconnection Agreements and Post-Interconnection Disputes

Year	Arbitrated Interconnection Agreements	Post-Interconnection Disputes
FY 2005	6	12
FY 2006	1	4
FY 2007	3	3
FY 2008	5	5

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).

This program's strategy is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

There are no similar programs.

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.

N/A

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.

N/A

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.

N/A

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

None identified.

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

The PUC estimates that approximately 3 FTEs are required for this program.

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.

N/A

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.

N/A

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

Name of Program or Function	Broadband Services
Location/Division	Competitive Markets Division
Contact Name	Jess Totten, Director of Competitive Markets

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

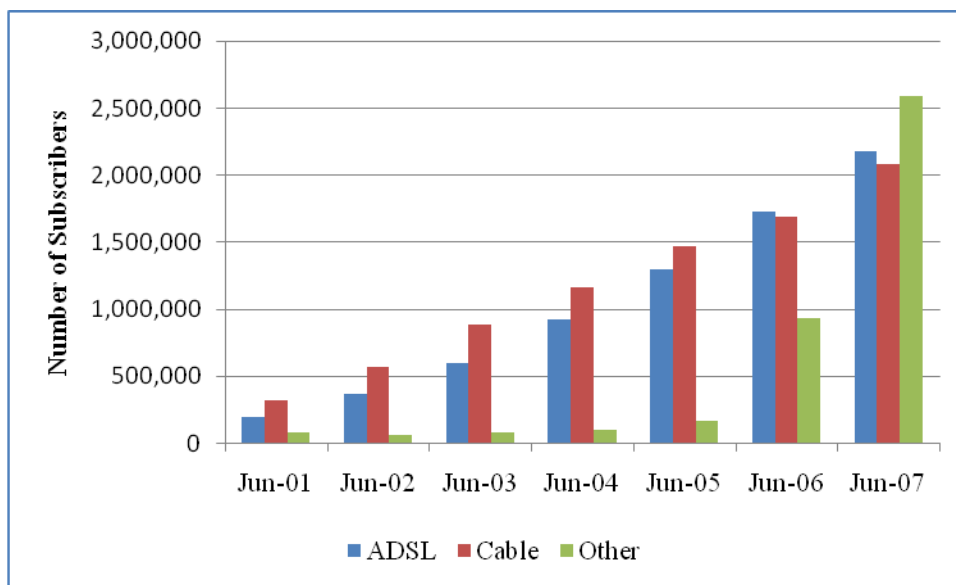
The objective of this program is to promote the deployment of facilities necessary to provide broadband services to the unserved and underserved areas of the state. Broadband services provide a platform for communications firms to offer information content, such as entertainment and video and business services involving data transfer. Telecommunications companies to which PURA § 55.014 applies are required, in response to a bona fide request, to provide advanced telecommunications services to rural areas that are reasonably comparable to the advanced services provided in urban areas. In addition, PURA Chapter 66 provides for the issuance of franchises for cable and video services by the PUC to facilitate market entry by providers of these services in new areas or in areas in which another company is already providing such services.

Based on recent federal legislation, the PUC is working with the Texas Department of Agriculture (TDA) to develop a statewide map of all broadband facilities. This map would enable the PUC to identify the unserved and underserved areas of the state that are still in need of broadband services in order to preserve and create jobs and promote economic stability in these communities.

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.

Widespread deployment of facilities capable of delivering broadband service is a relatively new development in the telecommunications industry, and broadband services may be delivered by companies that are largely regulated by the federal government (cable and wireless companies) or by companies that are largely under state control but have been deregulated (telephone companies). The FCC issues statistics on the number of broadband subscribers in each state, and the PUC has gathered information on the number of broadband service providers in each county in the State. Table 1 shows the increase in the number of broadband subscribers in Texas by technology type. In this table, Asymmetrical Digital Subscriber Line (ADSL) is a technology used by telephone companies through enhancements to traditional telephone facilities, Cable is fiber-optic or coaxial cable, and Other is primarily wireless broadband.

Table 1 - Broadband Subscribers in Texas



SOURCE: High-Speed Services for Internet Access, FCC (March 2008)

Table 2 shows the number of broadband providers operating in each Texas county. As shown in Table 2, the number of counties with no broadband service has declined, and an increasing number of counties have multiple providers of broadband service.

Table 2 – Broadband Providers in Texas

Number of Providers	Number of Counties in 2006	Number of Counties in 2008
0	22	4
1	37	31
2-6	157	192
7-15	37	22
16-24	1	5

SOURCES: Public Utility Commission of Texas 2006 and 2008 Scope of Competition Data Responses and Texas Cable Association.

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.

PURA § 55.014, which addresses the provision of advanced telecommunications services, was enacted in 1999. In 2003, the FCC issued orders that eliminated most of the unbundling requirements for broadband service, stating that eliminating these requirements, would provide greater incentive for incumbent local exchange carriers (ILECs) to invest in the equipment necessary for companies to deploy the high-speed services that consumer's desire. In Senate Bill 5, enacted in 2005, PURA was amended to add Chapter 66, which provides for the issuance of franchises for cable and video services by the PUC to facilitate market entry by providers of these services in new areas or in areas in which another company is already providing such services.

The federal American Recovery and Reinvestment Act (ARRA) of 2009 and the Broadband Data Improvement Act (BDIA) provide funding through grants and loans to develop and maintain a comprehensive inventory map of existing broadband service capability and availability. Developing a Texas broadband map would provide data on the deployment and adoption of broadband service. This data will assist the PUC and service providers in determining where there is unmet demand for broadband technology. The Governor has delegated authority to the Texas Department of Agriculture (TDA), in conjunction with the PUC and the Texas Public Safety Commission (PSC) to designate an entity to apply for federal funds to conduct the broadband mapping in Texas, and on July 28 TDA made a designation. In addition, the federal Departments of Agriculture and Commerce are offering grants and loans under ARRA to support deployment of broadband facilities nationwide and to foster demand for broadband services. A number of entities are expected to apply for these funds. The Governor has designated TDA, in conjunction with the PUC and PSC, to provide recommendations on the applications to these agencies.

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.

PURA § 55.014 applies to local exchange carriers that have elected incentive regulation under PURA Chapter 58, and to companies that hold certificates of operating authority or service provider certificates of operating authority. Cable and video providers are affected by the statewide franchising authority. Efforts to expand broadband services affect persons who live in rural areas of the state where advanced telecommunications services are not comparable to those in urban areas and probably affect persons in urban areas and small towns where broadband services are not affordable or are inadequate to their needs.

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.

The PUC has adopted 16 T.A.C. § 26.143 regarding the provision of advanced services in rural areas of Texas. Under this rule, a retail customer within a rural service area may seek advanced services and request that the PUC post relevant portions of the request on its Website, so that providers become aware of the customer demand. The rule establishes a “competitive response process” and, within 50 days after posting, any advanced services provider may submit a proposal for provision of advanced services in the area. Based on submitted proposals, the persons seeking the advanced services would then negotiate and select a provider for service. This rule has not been successfully used since its adoption in May 2002.

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).

The funding for extending broadband services within the state comes primarily from funds invested by telecommunications companies that are raised through the capital markets. In addition, the federal Departments of Agriculture and Commerce are offering grants and loans under ARRA and other federal law to support deployment of broadband facilities nationwide and to foster demand for broadband services.

The PUC’s role in this program is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

There are no similar programs.

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.

N/A

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.

Local units of government may participate in filing requests for advanced services pursuant to PURA § 55.014 and 16 T.A.C. § 26.143.

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.

N/A

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

None identified.

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

The PUC estimates that less than one FTE is required for this program.

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.

N/A

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.

N/A

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

Name of Program or Function	Uniform Compensation for Use of Municipal Rights of Way
Location/Division	Rate Regulation Division
Contact Name	Darryl Tietjen, Director, Rate Regulation Division

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

Local Government Code Chapter 283, which was enacted in 1999, established a uniform method for certificated telecommunications providers (CTPs) to compensate Texas municipalities for the use of public rights-of-way. Establishing a uniform method of compensating cities is an important component of a healthy competitive marketplace because it gives no provider an advantage over another regarding this cost. Local Government Code Chapter 283 strikes a balance between the interest in ensuring fair and reasonable compensation of cities and the need to encourage competition and reduce barriers to entry by developing a franchise fee methodology that is competitively neutral and non-discriminatory.

Franchise fees are based on the PUC-determined fee-per-access line rates. Each city is compensated by an amount equal to the number of lines per category in a city multiplied by the access line rate for each category in that city. CTPs are required to compensate municipalities four times per year, based upon quarterly access line counts sent in by telecommunications providers to the PUC.

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.

The PUC provides detailed information about this program on its Website, which allows program participants to learn about the program and stay up-to-date on any changes. The PUC has created password protected, Web-based tools that allow CTPs to report access line counts and for municipalities to obtain access line counts.

The PUC’s annual order adjusting access line rates is issued administratively.

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.

Historically, telecommunications companies paid franchise fees to cities for the use of public rights-of-way based upon individually negotiated franchise fee agreements. The majority of those fees were based on a percentage of the telecommunications provider's gross revenues, while others were on a flat rate, a per-foot charge, or a per-line charge. Local Government Code Chapter 283 required that the PUC establish rates for each city in Texas by March 1, 2000, for public right-of-way use based on a fee-per-access line method. The Commission developed rates for about 1140 incorporated municipalities in Texas.

The enactment of Senate Bill 5 in 2005 resulted in two changes to Chapter 283. First, the bill changed the definition of a "certificated telecommunications provider" in § 283.002 to include any person that provides voice service, regardless of whether that person holds a certificate of convenience and necessity, a certificate of operating authority, or a service provider certificate of operating authority. Second, Senate Bill 5 added a definition of "voice service" to PURA § 283.002 clarifying that any person who delivers voice communications through wireline facilities located, at least in part, in the public right-of-way is a CTP, regardless of the technology employed. There is one technology exception: voice service provided by commercial mobile service providers is expressly excluded.

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 approximately 1140 incorporated municipalities and 200 providers of telecommunications services.

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.

The PUC adopted 16 T.A.C. §§ 26.461-26.467 to implement this program.

Telecommunications franchise fees are based on a per-access line method. The total amount to be recovered by each municipality was initially determined based on the level of franchise revenues received in 1998. A rate for each of the three categories of access lines—residential, non-residential, and point-to-point—was calculated based on 1998 access line counts. The rate for each category, multiplied by the number of access line counts, equaled each city's base amount to be recovered.

Beginning in 2002, the PUC has adjusted the access line fees for each city annually by half the increase in the Consumer Price Index. CTPs submit quarterly access line counts, and the

franchise fee due to each city is calculated and paid quarterly. The PUC's orders setting the annual access line rates and spreadsheets showing the rates for each city are available on the agency Website.

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).

This program's strategy is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

There are no similar programs.

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.

N/A

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.

Because municipalities are program participants, the PUC works extensively with cities in its implementation, as described above.

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.

N/A

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

None identified.

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

The PUC estimates that less than one FTE is required for this program.

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.

Establishing a uniform method of compensating cities for public right-of-way use is an important component of a healthy competitive marketplace because it gives no provider an advantage over another regarding this cost.

The PUC's enforcement activities are described as a separate program.

The PUC does not receive complaints from the public or consumers about the activities involved in this program.

O. For each regulatory program, if applicable, provide the following complaint information.

N/A

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

Name of Program or Function	Registration of Interexchange Carriers, Prepaid Calling Services Companies, and Other Non-dominant Telecommunications Carriers
Location/Division	Infrastructure and Reliability Division
Contact Name	David Featherston, Director, Infrastructure and Reliability Division

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

PURA § 52.103 requires “telecommunications utilities” to register with the PUC not later than the 30th day after the date the utility commences service to the public. “Telecommunications utility” is a defined term which includes the following:

- A public utility;
- An interexchange carrier;
- A specialized communications common carrier;
- A reseller of communications;
- A communications carrier who conveys, transmits, or receives communications wholly or partly over a telephone system;
- A provider of operator services, unless the provider is a subscriber to a customer-owned pay telephone service; and
- A separated affiliate or an electronic publishing joint venture.

In addition, an interexchange telecommunications utility doing business in Texas must maintain on file with the PUC tariffs or lists governing the terms of providing its service.

The PUC’s rules require registration of prepaid calling services companies.

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.

The PUC has minimized the resources needed for this function by providing comprehensive information on the PUC Website and through automation of the annual re-registration process. Tracking these companies helps the commission to ensure compliance with applicable requirements and assists consumers by providing a search for providers within their area and updated information for company contacts. The PUC estimates that the program requires less than one FTE.

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.

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 “telecommunications utilities” as described in (B), above. Each company is required to re-register annually to ensure accurate contact information.

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.

The PUC provides information about registration and provides downloadable registration forms and electronic re-registration forms on its Website. The information is maintained in a database format.

The PUC adopted 16 T.A.C. § 26.34, which requires registration of prepaid calling services providers, in 2000 pursuant to PURA § 55.253. Registration of prepaid calling services providers facilitates enforcement of requirements relating to disclosures about rates and terms of service.

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).

This function's strategy is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

There are no similar programs.

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.

N/A

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.

N/A

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.

N/A

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

In the 2009 Report on Scope of Competition in Telecommunications Markets, the PUC recommended the repeal of PURA § 51.002(11)(G). Among the entities included in definition of the term “Telecommunications Utility” in PURA § 51.002(11) is a separated affiliate or an electronic publishing joint venture as defined in Chapter 63, which was repealed in 2005.

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

The PUC estimates that less than one FTE is required for this program.

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.

Registration of telecommunications utilities is necessary because, although these companies are not regulated, there are statutory requirements with which they must comply. Registration of the companies facilitates enforcement of the applicable requirements. This requirement was enacted in 1987.

The PUC does not conduct audits or inspections of the entities subject to this requirement. The agency uses its informal complaint resolution process to assist consumers who file complaints against telecommunications utilities. Complaints generally do not relate to the registration requirement itself, but concern possible violations of other requirements applicable to telecommunications utilities.

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.

Please see the Informal Complaint Resolution program description at page 181 for information about complaints.

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

Name of Program or Function	State-Issued Certificates of Franchise Authority (SICFA) for Cable and Video Service Providers
Location/Division	Infrastructure and Reliability Division
Contact Name	David Featherston, Director, Infrastructure and Reliability Division

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

PURA Chapter 66, enacted in 2005, established a state-issued certificate of franchise authority (SICFA) for new entrants as well as incumbent cable providers wishing to compete in new markets or obtain certificates in existing service areas after the expiration of their current municipal franchises. The intent of this legislation was to encourage investment and competition among cable and video service providers by removing the requirement to seek and negotiate separate franchise agreements with individual municipalities. This provision has been especially significant for traditional telecommunications companies that have been providing video services to compete with cable companies offering phone service.

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.

PURA § 66.003 requires that the PUC issue a SICFA before the 17th business day after receipt of a completed affidavit submitted by the applicant and signed by an officer or general partner. The PUC developed procedures to process the applications within this short time frame, which includes administrative approval of the applications.

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.

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 entities that wish to offer cable or video service. In FY 2007 there were 50 holders of SICFAs and in FY 2008 there were 55 holders of SICFAs.

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.

The PUC adopted 16 T.A.C. § 28.6 to implement the provisions of PURA Chapter 66, and franchises are issued consistent with the statute and rule.

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).

This program's strategy is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

Prior to the enactment of PURA Chapter 66, cable and video service providers entered into franchise agreements with municipalities. Some of the preexisting franchise agreements are still in existence because providers who had such agreements prior to September 1, 2005, are not eligible to seek a SICFA until the expiration of the existing municipal franchise agreement except as provided in PURA § 66.004. However, when the old municipal franchise agreements expire or are terminated, the PUC is the only franchising authority for the state for the area in question. As a result, the functions do not overlap. The FCC requires that all cable and video providers obtain local franchise agreements to operate.

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.

There is no need to coordinate activities because PURA § 66.004 clearly provides for the transition from municipal franchises to SICFAs.

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.

N/A

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.

N/A

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

None identified.

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

The PUC estimates that this program requires less than one FTE. This estimate does not include time required for customer complaints.

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.**

Cable and video service providers who hold SICFAs are required to pay municipalities in which they provide service a franchise fee of five percent of gross revenues. There are also requirements relating to in-kind contributions and public, educational and governmental access channels. Certification is necessary to identify providers of cable and video service who are subject to these requirements.

The PUC has limited authority to enforce requirements applicable to SICFA holders. PURA § 66.015 grants authority to “courts of competent jurisdiction” to determine noncompliance with the requirements of Chapter 66, to order any noncompliance to be cured, and to assess penalties, up to and including revocation of the SICFA.

PURA § 66.014 prohibits SICFA holders from denying access to any group of potential residential subscribers based on the income of the residents in the area in which the group resides. An affected person may seek enforcement of this requirement by initiating a proceeding with the PUC. A SICFA holder has a reasonable period of time to become capable of providing service throughout its franchise area, and may satisfy that requirement through the use of alternative technology that provides comparable content, service and functionality. The PUC has the authority to make the determination regarding the comparability of the technology and service provided. No proceedings under § 66.014 have been initiated to date.

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.

The PUC does not have the authority to resolve complaints relating to the provision of cable or video service. However, because customers contact the agency concerning their cable and video service, the PUC forwards complaints to cable providers and maintains records of the contacts. In addition, as a convenience to the public, the PUC has implemented an electronic database that allows consumers to identify the SICFAs that operate within their city and county.

Please see the description of the Informal Complaint Resolution program at page 181 for information about complaints.

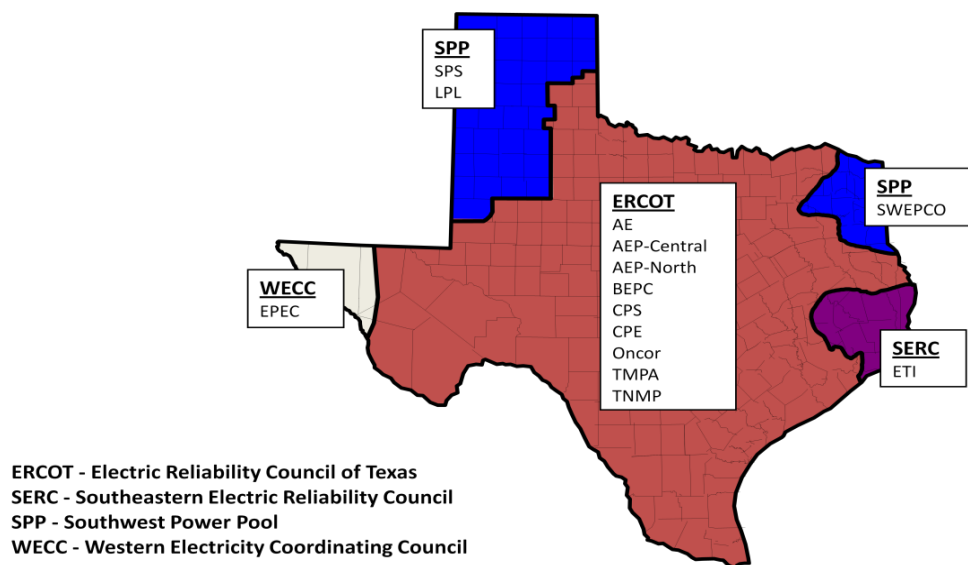
Strategy 1-2-1:	Conduct rate cases for regulated telephone and electric utilities under the Administrative Procedures Act and methods of alternative dispute resolution to evaluate whether revenue requirements, cost allocation, rate design, and affiliate transactions are reasonable and in compliance with all laws and PUC rules; register and license regulated service providers; evaluate utility infrastructure and quality of service.
Actual Expenditures, FY 2008	\$3,528,524
Number of FTEs as of August 31, 2008	49.6

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

Name of Program or Function	Regulation of Investor-Owned Electric Utilities
Location/Division	Rate Regulation Division Infrastructure and Reliability Division
Contact Name	Darryl Tietjen, Director, Rate Regulation Division David Featherston, Director, Infrastructure and Reliability Division

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

As result of the way the electric industry has evolved in Texas, including electric restructuring, electric service is provided to customers by different types of entities with differing degrees of regulation, depending on where the customer lives. Customers living inside ERCOT may be served by an electric cooperative, a municipally owned utility, or a retail electric provider. Outside of ERCOT, customers are served by electric cooperatives, municipally-owned utilities, or integrated investor-owned utilities. The map below shows the parts of the state located within ERCOT.



Inside ERCOT, which covers about 75 percent of Texas, investor owned electric utilities were required to separate into generation, transmission and distribution, and retail services companies as part of the transition to retail electric choice. The only service which is still subject to traditional regulation is the transmission and distribution function. PUC regulation of wholesale transmission service is described as a separate program at page 105.

In areas of Texas outside ERCOT, retail competition has been delayed indefinitely. In these areas of the state where competition has not begun, utilities are still vertically integrated, i.e. they have not separated into generation, transmission, and retail service companies, and are still subject to traditional cost-of-service regulation by the PUC for their retail rates.

The key features of this program are the following:

Service Area and Transmission Line Certification. An electric utility may not provide service to the public without a certificate of convenience and necessity (CCN). Almost all service area CCNs were granted to existing utilities in the late 1970s when the PUC was first established. Since that time, the PUC’s main role in service area certification has been to consider requests for amendments to service area boundaries, to decide disputes over service areas, and to resolve issues related to dually or triply certificated areas.

An electric utility that wishes to construct a transmission line must obtain a certificate and convenience and necessity before constructing the facility. PURA Chapter 37 governs CCNs.

Rate Regulation. Traditional rate regulation is premised on the idea that utilities are natural monopolies, and that regulation is a substitute for competitive forces to ensure reasonable prices and high quality service. Rates are established by the PUC based on the utility’s cost of providing service, including a reasonable opportunity to earn a reasonable return on invested capital used and useful in providing service. In Texas, municipalities have original rate jurisdiction over electric utilities doing business within their incorporated boundaries, in accordance with PURA § 32.001. Actions of municipalities are subject to appeal to the PUC, and the PUC has exclusive rate

jurisdiction in areas outside municipalities, and within municipalities that surrender their jurisdiction to the PUC under PURA § 33.002. Virtually all rate-setting decisions of municipalities are appealed to the PUC and consolidated with pending cases relating to areas outside the cities. PURA Chapter 36 establishes the statutory framework for rate regulation.

Service Quality Regulation. Service quality refers to the statutory requirement that electric utilities furnish service and facilities that are safe, adequate, efficient and reasonable. Electric utilities are required to furnish safe and adequate facilities under PURA § 38.001. The PUC has adopted rules under PURA § 38.002 establishing service quality standards for electric utilities, including power quality, reliability and continuity, and emergency operation. The rules require electric utilities to report on their compliance with the standards. If the standards are not met, the PUC may investigate, require improvements in service quality, and impose administrative penalties, if appropriate.

Customer Protections. PURA and the Commission's rules provide significant customer protections in areas such as billing, privacy, protection from discrimination, and metering. The applicable PURA provisions include Chapter 17.

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.

Performance Measures	FY 2007 Target	FY 2007 Actual	FY 2008 Target	FY 2008 Actual
OC 1-2-1.07 Percentage of Electric Customers Served by TDUs Meeting Service Quality Standards	96.80%	96.83%	96.70%	96.65%
OP 1-2-1.01 Number of Rate Cases Completed for Regulated Electric Utilities	35	34	20	40
EF 1-2-1.01 Average Number of Days to Process a Major Rate Case for a TDU	220	436	220	370.33
EF 1-2-1.02 Average Cost per TDU Rate Case	\$110,000	\$108,991	\$80,000	\$114,138
EX 1-2-1.01 Number of Electric Utilities Regulated	11	11	11	12

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.

Since the PUC's creation in 1975, regulation of electric utilities did not change significantly until the passage of SB 7 and electric restructuring. At the present time, inside ERCOT, traditional regulation applies only to investor-owned transmission and distribution companies. Outside ERCOT, until retail competition begins, rate regulation applies to fully integrated electric utilities.

Although the nature of electric utility regulation has changed and the focus has narrowed in areas open to retail competition, it will exist for the foreseeable future. The market structure created by SB 7 for retail competition includes regulated transmission and distribution companies as a key

component. Unbundled monopoly electric utilities will exist outside of ERCOT until the PUC, after consideration of market readiness in these areas, authorizes the implementation of customer choice. As areas outside ERCOT open to retail competition and the electric utilities in these areas separate into generation, transmission and distribution, and retail service companies, the PUC will continue to regulate the transmission and distribution rates of these utilities.

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.

Electric utility regulation applies to investor-owned electric utilities operating outside ERCOT, and transmission and distribution utilities operating inside ERCOT. All persons living in Texas who are served directly or indirectly by investor-owned utilities are affected.

There are four (4) investor-owned electric utilities operating outside ERCOT: El Paso Electric Company, Southwestern Public Service Company, Southwestern Electric Power Company, and Entergy Texas, Inc.

There are eight (8) transmission and distribution utilities operating inside ERCOT: Oncor Electric Delivery Company, Center Point Energy Houston Electric, AEP Texas North Company, AEP Texas Central Company, Texas-New Mexico Power Company, Electric Transmission Texas, Cap Rock Energy Corporation, and Sharyland Utilities.

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.

Service Area and Transmission Line Certification. Almost all service area CCNs were granted to existing utilities in the late 1970s when the PUC was first established. Since that time, the PUC's main role has been to consider requests for amendments to service area boundaries, to decide disputes over service areas, and to resolve issues related to dually or triply certificated areas.

16 T.A.C. § 25.101 applies to CCNs for service areas and transmission lines.

Applications to amend service area boundaries or to build transmission facilities are initiated by application of the electric utility, and are processed as contested cases in accordance with the Administrative Procedures Act and the Commission's Procedural Rules (16 T.A.C. Chapter 22). The Commission Staff participates as a party representing the public interest.

Rate Regulation. Applications to change rates may be initiated by the utility, the PUC, or any affected customer. The applications are processed in accordance with the Administrative Procedures Act, the Commission's Procedural Rules, and PURA Chapter 36. The Commission Staff participates as a party representing the public interest. The Commission is required to act within 185 days or the rates become effective, subject to the PUC's authority to continue a hearing in progress.

Self-Evaluation Report

16 T.A.C. § 25.231 – 25.238 and 16 T.A.C. § 25.241 contain the standards for setting retail rates of investor-owned utilities.

Service Quality Regulation. Service quality standards are established by 16 T.A.C. §§ 25.51 - 25.53. Companies are required to file annual reports and to report incidents of non-compliance, e.g. significant interruptions.

Customer Service and Protection. The PUC adopted 16 T.A.C. §§ 25.21 - 25.31 which establish standards for initiation of service, credit requirements and deposits, billing, switchovers, bill payment, disconnection of service, and complaints. Customers' complaints often relate to these requirements. The PUC has an informal complaint resolution program to address individual customers' concerns. The PUC also investigates individual companies based on customer or market participant complaints or identification of problems by Commission staff, and may pursue administrative penalties.

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).

This program's strategy is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

Municipalities have original jurisdiction over electric utilities operating within their boundaries. Municipalities may cede jurisdiction to the PUC pursuant to PURA § 33.002, and 296 cities have done so.

With limited exceptions, rate decisions of municipalities are appealed to the PUC, which then sets system-wide rates for the company involved. In general, municipalities exercising original jurisdiction do not conduct detailed reviews of requested rate changes.

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.

Although municipalities have original jurisdiction over the rates and services of investor owned electric utilities operating within their boundaries, there is not a potential for conflict because the PUC exercises appellate jurisdiction over those areas, so its orders supersede the actions of the city. Duplication is limited because the cities generally do not conduct detailed reviews of requested

rate changes. Because the PUC exercises original jurisdiction over the electric utility's rates outside the city's boundaries, the Commission will necessarily conduct a detailed review of the utility's cost of service before setting system-wide rates.

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.

Municipalities frequently participate in PUC proceedings in which rates are set, participating in their capacities as regulatory authority, commercial customer, and on behalf of residential customers residing in the municipality.

PURA § 32.004 provides that on the request of a municipality, the PUC may advise and assist the municipality with respect to a question or proceeding arising under PURA. Assistance provided by the Commission may include aid to a municipality on a matter pending before the Commission, a court, or the municipality's governing body, such as making a staff member available as a witness or otherwise providing evidence to the municipality. The PUC has not received a formal request for assistance from a municipality for many years, if ever, but works with cities informally within the context of contested cases in which the cities intervene.

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.**

The PUC entered a tri-party agreement with Huron Consulting Services, LLC and Cap Rock Energy Corporation (Cap Rock) to perform an independent management audit of Cap Rock. Cap Rock paid the amounts due; no appropriated funds were spent. The contract contained a billing cap of \$187,450. The consultant's final report was provided in December 2007.

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

In the Report to the 81st Legislature on the Scope of Competition in Electric Markets in Texas (2009 Scope Report), the PUC included in the section on emerging issues a description of certain proposals for streamlining rate regulation. As detailed in the report, during 2008, AEP Texas began a series of discussion with PUC staff and industry stakeholders to explore ways in which the traditional rate-setting process for regulated utilities could be streamlined. In November 2008 the PUC requested comments on the PUC's legal authority to adopt specific alternate ratemaking methodologies. The PUC considered the comments at its January 29, 2009 open meeting, but did not

determine whether it had the authority to implement alternate ratemaking approaches. Rather, given the timing of AEP's proposal, the PUC decided to wait until the legislature had had an opportunity to address the issue.

The PUC did not recommend any statutory changes in the 2009 Scope Report.

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

Resource requirements for this program can vary significantly from month to month and year to year, depending on whether utilities file applications for transmission line CCNs and rate cases, and on the level of controversy associated with any particular filing. Both transmission line CCN cases and rate cases are subject to statutory time limits, which necessitates giving priority to these cases. In addition, PURA § 36.107 requires the Commission to give preference to hearings and deciding issues in rate cases and to decide questions as quickly as possible.

The PUC estimates that, ordinarily, service area certification and transmission line certification require approximately seven FTEs. However, due to the number of applications for transmission line certification associated with Competitive Renewable Energy Zones, additional resources will be assigned to this function for the next 3-4 years. This estimate does not include legal support or resources required to handle customer complaints.

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.**

Service Area and Transmission Line Certification. An entity holding a CCN to serve a geographic area has the obligation to provide service, coupled with a right to provide service. The right to provide service may or may not be exclusive, depending on whether other entities also have a CCN to serve all or a portion of the same area. Approximately 30% of Texas is certificated to two or more entities, which is largely a result of the fact that utility regulation began in 1975 long after service had been established throughout the state. Because of the short time allowed by PURA to complete certification, the PUC did not attempt to resolve service area overlaps at the time service area CCNs were initially issued in 1976.

Service area certification promotes economic efficiency in providing service by avoiding duplication of facilities, preserves community values by avoiding construction of unnecessary

transmission and distribution facilities, and minimizes impacts of providing transmission and distribution services on customers on whose property facilities are constructed. Service area certification allows the PUC to balance the need for providing reliable service with other policy objectives. Transmission line certification serves many of the same purposes as service area certification, i.e., economic efficiency, preservation of community values, and minimizing impact on affected landowners.

The PUC has found it unnecessary to actively monitor compliance with service area certification requirements. Utilities routinely serve the customers in their certificated areas. Disputes arising between companies regarding which company is entitled to serve a customer are usually settled, and the affected companies request any necessary CCN boundary changes from the PUC. Companies which are not able to resolve disputes through agreements may file complaints with the PUC and avail themselves of contested cases procedures. In addition, the PUC's Informal Customer Complaint program, which is described as a separate program, allows customers to bring any difficulties they are having to the PUC's attention.

Similarly, the PUC is not aware of instances in which a utility has constructed transmission facilities without receiving necessary approvals. Because construction of transmission facilities often involves the exercise of the power of eminent domain by the utility, construction without necessary approvals would be ill-advised. In addition, a possible sanction for construction of a transmission line without first obtaining a CCN is disallowance of the costs of the line from rates, which provides an effective compliance inducement.

Rate Regulation. Rate regulation is premised on the idea that public utilities are natural monopolies in the areas they serve, and as a result, the normal forces of competition that regulate prices in a free enterprise society do not operate. Regulation by public agencies is a substitute for competitive forces that can ensure reasonable prices and quality service.

Due to resource constraints, the PUC does not currently have a proactive program for determining whether electric utilities actually charge their approved rates. Transmission and distribution utilities operating in ERCOT provide service to retail electric providers, which are sophisticated customers able to determine whether the correct rates are being charged. Most utilities have internal systems that screen for anomalous bills, which are then examined for accuracy.

Because the PUC must approve all changes in rates, periodic rate reviews provide an opportunity to examine compliance with all regulatory requirements. Intervenors and PUC staff use rate cases to investigate and raise issues concerning all areas of a utility's operations.

Service Quality Regulation. Service quality regulation is needed for the same reasons as rate regulation. Even in areas where rate regulation has been replaced with competition, the Legislature has provided for service quality regulation to ensure that customers receive, at a minimum, an acceptable level of service for this essential commodity, and are protected from abuses that may exist in unregulated competitive markets.

Self-Evaluation Report

The PUC relies chiefly on reports submitted by the utilities pursuant to the PUC's rules to determine compliance with statutory and rule requirements for service quality. The PUC's rules require utilities to file annual reports on service quality, to keep records of service interruptions, and to notify the PUC when significant interruptions occur. Sanctions available for non-compliance with the requirements include imposition of administrative penalties and adjustments to the rate of return included in the company's rates pursuant to PURA § 36.052.

The PUC's enforcement activities are described as a separate program at page 169.

**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.**

Please see the description of the Informal Complaint Resolution program at page 181 for information about complaints.

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

Name of Program or Function	Rate Regulation of Wholesale Transmission Service
Location/Division	Rate Regulation Division
Contact Name	Darryl Tietjen, Director, Rate Regulation Division

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

Texas is unique among the 48 contiguous states because most of the state is served by a power grid wholly located within the state called the Electric Reliability Council of Texas (ERCOT), which is interconnected to other regions through only two limited ties. In most states, electric utilities are interconnected with utilities in other states, and are subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC) for regulation of wholesale transmission services. In ERCOT, however, the PUC has jurisdiction to regulate wholesale transmission rates for all providers, including electric utilities, municipally owned utilities, and cooperatives. In areas of Texas outside ERCOT, the FERC has jurisdiction over the investor owned utilities.

Regulation of wholesale transmission service is necessary because the services are provided by companies which are monopolies in the areas in which they serve. Wholesale transmission service is an essential service in the wholesale and retail competitive markets, and PUC regulation facilitates competition in those markets.

PURA § 35.004, enacted in 1995, requires the PUC to:

- Ensure that an electric utility, including a municipally owned utility or an electric cooperative, or a transmission and distribution utility provides nondiscriminatory access to wholesale transmission service for qualifying facilities, exempt wholesale generators, power marketers, power generation companies, retail electric providers, and other transmission and distribution utilities; and
- Establish rates for wholesale transmission services within ERCOT.

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.

The Commission has established procedures, set out in 16 T.A.C. § 25.192, which are designed to facilitate and expedite necessary rate changes. The provisions of this rule allow a transmission service provider (TSP) to update, on an annual basis and without going through a full rate proceeding, its transmission rates to reflect changes in the capital costs of providing such services. The TSP's updated rates reflect the addition and retirement of transmission facilities and include related depreciation, federal income taxes and other associated taxes, and the PUC-allowed rate of return on such facilities as well as changes in loads. These annual updates of transmission rates are subject to reconciliation at the next complete review of the TSP's transmission cost of service, when the PUC determines whether the costs of the transmission plant additions are reasonable and necessary. Any over-recovery of costs that has occurred as a result of the annual updates is subject to refund.

Although utility companies continue to file for complete cost-of-service rate reviews on an as-needed basis, virtually all the larger and many of the smaller transmission service providers have regularly availed themselves of the ability to file the interim capital-cost updates. Unlike full rate cases in which a transmission service provider's overall cost of service is examined, these updates are generally noncontroversial and are therefore completed within a much shorter period of time (two to three months) than a typical full cost-of-service proceeding (six months or often longer). These interim proceedings decrease regulatory lag and enhance the regulatory process by providing a more efficient and timely inclusion in rates of new plant additions and they also significantly reduce for all parties the expenses incurred and the expenditure of time and resources required to fully litigate a general rate case.

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.

When this program was initiated in 1995, it was needed to facilitate competition in the wholesale electric market. With statutory changes enacted in 1999 that introduced retail competition in 2002, the program is now needed to facilitate retail competition, as well as wholesale competition.

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 electric utilities, including municipally owned utilities and electric cooperatives, and transmission and distribution utilities which provide wholesale transmission service in ERCOT.

Rate regulation of wholesale transmission services affects all electric utility customers in ERCOT.

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.

The PUC adopted 16 T.A.C. §§ 25.191 – 25.203 to implement PURA Chapter 35, Subchapter A. The rules provide for the following:

- Standards for establishing transmissions service rates;
- Distribution service provider Transmission Cost Recovery Factors;
- Terms and conditions for transmission service;
- Standards of conduct;
- Standards for initiating transmissions service;
- Requirements for load shedding, curtailments and redispatch;
- Commercial terms for transmission service; and
- Alternative dispute resolution.

Wholesale transmission service providers are required to file tariffs which must be approved by the PUC in accordance with requirements for contested cases in the Administrative Procedures Act, Government Code Chapter 2001, and the Commission’s Procedural Rules, 16 T.A.C. Chapter 22. The Commission has established procedures, set out in 16 T.A.C. § 25.192, which are designed to facilitate and expedite necessary rate changes.

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).

This program’s strategy is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

There are no similar programs.

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.

N/A

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.

N/A

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.

N/A

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

None identified.

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

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.**

Regulation of wholesale transmission service is necessary because the services are provided by companies which are monopolies in the areas in which they serve.

The PUC does not conduct inspections or audits of wholesale transmission providers. Providers are required to obtain approval of tariffs filed with the Commission. The customers of wholesale transmission providers, which are sophisticated entities also in the electric power business, may bring formal or informal complaints to the Commission.

The PUC's enforcement activities are described as a separate program.

Because this program involves wholesale providers, the PUC does not receive complaints from consumers or the public about this program.

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.

N/A

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

Name of Program or Function	Energy Efficiency
Location/Division	Competitive Markets Division
Contact Name	Jess Totten, Director, Competitive Markets Division

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

The energy-efficiency program established under Utilities Code § 39.905 is intended to improve electric customers' energy use through measures that reduce electric demand and energy consumption. This program is funded through the rates of electric utilities.

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.

The utilities file reports of their performance in achieving the demand-reduction and energy-saving goals of the program. The demand goal has been in effect for a number of years, and the utilities, on an aggregate basis, have consistently met the demand goals. The PUC adopted an energy goal in 2008, and the utilities met this goal for the 2008 program year. The PUC has internal performance measures by which it tracks the utilities' performance. A review of the utilities' program was prepared by a PUC consultant in 2006, evaluating the program results in 2003 and 2004. This review confirmed that the utilities were accurately reporting their achievements and were meeting the statutory goals. The utilities' demand and energy savings for recent years are shown in the table below.

Year	Demand Goal (MW)	Actual Demand Savings (MW)	Energy Goal (MWH)	Actual Energy Savings (MWH)
2008	177	189	440,451	515,070
2007	122	152	No goal	372,000
2006	128	162	No goal	357,000
2005	142	181	No goal	496,890

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.

The energy-efficiency program was adopted as a part of comprehensive legislation enacted in 1999 to introduce retail competition in the Texas electric industry (Senate Bill 7). The PUC adopted rules to implement the program in March 2000. Important program changes occurred in 2007, when legislation was enacted to increase the demand-reduction goals (House Bill 3693) and in 2008, when the PUC adopted rules to implement HB 3693 and adopted an explicit energy-saving goal. Senate Bill 5, adopted during the 2001 legislative session, amended the Health and Safety Code to require the reporting of emission reductions resulting from the energy-efficiency program.

The demand-reduction goals in Senate Bill 7 required the utilities to reduce the growth in their customers' demand by 10% (for all customers). The 2007 legislation established goals to reduce growth in demand of residential and commercial customers by 15 percent by January 2009, and by 20 percent by January 2010. House Bill 3693 also provided for a cost recovery mechanism designed to expedite utilities' recovery of reasonable expenditures on energy efficiency and permitted the PUC to award performance bonuses for utilities that exceed the goal.

House Bill 3693 also required the PUC to conduct studies and report to the legislature on the potential for cost-effective energy efficiency in Texas and the feasibility of increasing the statutory goals for the program and a report on the potential for combined heat and power technology in Texas. The PUC hired consultants to prepare these reports and submitted the reports to the legislature in January 2009. A number of bills were introduced during the 2009 session that would have increased the energy-efficiency goals and made other program changes, and several bills passed one or more houses, but no bill was enacted to modify this program.

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.

The energy-efficiency program affects the electric utilities that carry it out, companies throughout the state that are the primary implementers of measures to improve customers' energy-efficiency, and customers, both residential and commercial. Utilities are required to adopt energy-efficiency programs that will reach all customers (except industrial customers, who are largely

excluded from the program), and the PUC's 2008 amendments included a requirement that each utility report whether any counties in its service area are under-served by the utility's program. The program under Utilities Code § 39.905 applies in areas served by investor-owned utilities, and municipal utilities and electric cooperatives are not subject to the program.

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.

The energy-efficiency program is carried out through standard-offer and market-transformation programs that are funded by utilities but actually implemented by third parties that have the customer connections and expertise in energy-efficient technology. For example, for several years, when new home construction was strong, many of the utilities offered incentives to home builders in their service areas to build homes that were more efficient than standard construction and qualified for the Department of Energy's Energy Star rating. The utilities operate under the statute and rules adopted by the PUC and, in turn, prescribe detailed program requirements for the third-party implementers that carry out the program. The program participants report the energy and demand savings to the utility and are compensated, in accordance with program rules. The program participants are required to submit information to the utilities to verify the savings claimed, and the utilities have the right to inspect the energy-efficiency measures to ensure that the claimed savings are realistic. The utilities provide an annual report to the PUC that shows prior year programs, costs, and savings, and planned programs, budgets, and savings goals for the next year. The utilities also apply for rate adjustments to recover the costs of the programs and, if eligible, for bonuses for meeting the program goals. The PUC does not have regional offices to assist in administering the program, and all of its program activities are conducted from Austin.

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).

The PUC's role in this program is funded under Strategy 1-2-1, which is funded by General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

There are no similar programs.

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.

N/A

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.

N/A

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.

House Bill 3693 enacted by the 80th Legislature required the PUC to conduct studies and report to the legislature on the potential for cost-effective energy efficiency in Texas and the feasibility of increasing the statutory goals for the program and a report on the potential for combined heat and power technology in Texas. The PUC hired Itron, Inc and Summit Blue Consulting, LLC (Summit Blue) to prepare these reports. In accordance with PURA § 39.905(b-2), the energy efficiency study was funded by electric utilities for a fixed fee of \$500,000. The Summit Blue contract amount was \$95,360, which was paid in FY 2009.

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

None identified.

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

The PUC estimates that approximately one FTE is required to perform the agency’s role in this program.

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.

N/A

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.

The PUC does not separately track customer complaints relating to this program.

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

Name of Program or Function	Electric Cooperative Regulation and Oversight
Location/Division	Infrastructure and Reliability Division (Certification) Rate Regulation Division (Wholesale Transmission Rates) Customer Protection Division (Customer Complaints)
Contact Names	David Featherston, Director, Infrastructure and Reliability Division Darryl Tietjen, Director, Rate Regulation Division Mike Renfro, Director Customer Protection Division Paula Mueller, Deputy Executive Director

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

Electric cooperatives provide retail electric service to approximately 1.2 million customers throughout Texas. The PUC has the following jurisdiction over electric cooperatives, which is set out at PURA § 41.004.

- (1) to regulate wholesale transmission rates and service, including terms of access, to the extent provided in PURA Chapter 35, Subchapter A;
- (2) to regulate certification to the extent provided in PURA Chapter 37;
- (3) to establish a code of conduct for cooperatives which opt into retail customer choice;
- (4) to establish terms and conditions, but not rates, for open access to distribution facilities for electric cooperatives providing customer choice; and
- (5) to require reports of electric cooperative operations only to the extent necessary to:
 - (A) ensure the public safety;
 - (B) enable the Commission to satisfy its responsibilities relating to electric cooperatives under PURA Chapter 41;
 - (C) enable the Commission to determine the aggregate electric load and energy requirements in the state and the resources available to serve that load; or
 - (D) enable the Commission to determine information relating to market power.

Pursuant to PURA § 41.060, the PUC is also required to keep information submitted by customers and retail electric providers pertaining to the provision of electric service by electric cooperatives. The PUC must notify the appropriate electric cooperative of information submitted by a customer or retail electric provider, and the electric cooperative must respond to the customer or retail electric provider and notify the PUC of its response. Further, the PUC is required to prepare a report for the Sunset Advisory Commission that includes information submitted and responses by electric cooperatives in accordance with the Sunset Advisory Commission's schedule for reviewing the PUC.

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.

The PUC administers the specific areas in which it has jurisdiction over cooperatives as part of programs that relate to other regulated entities.

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.

Prior to 1995, electric cooperatives were subject to comprehensive regulation of their rates and services. In 1995, the Legislature enacted SB 373, which authorized electric cooperatives to deregulate their retail rates based on members' votes. In 1999, as part of SB 7 electric restructuring, the PUC's jurisdiction over electric cooperatives was limited as set out in PURA § 41.004.

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 electric cooperatives. The term "electric cooperative" is defined at PURA § 11.003(9) as:

- (A) a corporation organized under Chapter 161 or a predecessor statute to Chapter 161 and operating under that chapter; or
- (B) a corporation organized as an electric cooperative in a state other than Texas that has obtained a certificate of authority to conduct affairs in the State of Texas.

There are currently 64 electric cooperatives in Texas providing retail service in Texas, and 11 generation and transmission cooperatives. Approximately 1.2 million retail customers are served by cooperatives. One electric cooperative, Nueces Electric Cooperative, has opted into retail electric choice.

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.

Regulation of wholesale transmission rates and service. This function is explained as a separate program.

Service Area and Transmission Line Certification. An electric cooperative may not provide service to the public without a certificate of convenience and necessity (CCN). Almost all service area CCNs were granted to existing utilities in 1976, soon after the PUC was first established. Since that time, the PUC's main role has been to consider requests for amendments to service area boundaries, to decide disputes over service areas, and to resolve issues related to dually or triply certificated areas.

PURA Chapter 37 applies to CCNs. Chapter 37 establishes the requirement to obtain a CCN, the standards for granting a CCN, and the duties and obligations of CCN holders.

Code of Conduct. The PUC adopted 16 T.A.C. § 25.275 as a code of conduct for electric cooperatives that opt into retail choice.

Terms and conditions for open access to distribution facilities. The PUC adopted 16 T.A.C. § 25.215 to establish terms and conditions for open access to distribution facilities of electric cooperatives that opt into retail choice.

Reporting Requirements. Electric cooperatives are required to file reports relating to emergency operations plans pursuant to 16 T.A.C. § 25.53(h); generating capacity pursuant to 16 T.A.C. § 25.91; wholesale electricity transactions pursuant to 16 T.A.C. § 25.93; transmission construction reports pursuant to 16 T.A.C. § 25.83; transmission costs and revenues pursuant to 16 T.A.C. § 25.73; and system benefit fee and code of conduct related activities for electric cooperatives participating in retail customer choice pursuant to 16 T.A.C. § 25.457 and § 25.275.

Information Submitted by Customers and Retail Electric Providers. Information submitted by customers is entered into the Customer Protection Division complaint database, and is forwarded to the cooperative for response.

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).

This program's strategy is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

There are no identical or similar programs.

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.

N/A

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.

N/A

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.

N/A

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

None identified.

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

In April 2008, Pedernales Electric Cooperative (PEC) retained Navigant Consulting to perform a management operational review. Senator Troy Fraser, Representative Patrick Rose, and PEC General Manager Juan Garza requested that the PUC direct and control Navigant's study. PUC

staff worked with Navigant to develop a scope of work, met with Navigant periodically throughout the review period, and reviewed and commented on the draft final report.

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.**

The PUC's limited jurisdiction over electric cooperatives is necessary to ensure that the integrated electric grid operates in a reliable and safe manner, that electric cooperatives construct and route transmission facilities appropriately and that power generation companies and power marketers have access to transmission services on reasonable terms and conditions. For cooperatives offering choice, the program protects against anti-competitive practices and ensures that retail electric providers have access to distribution systems owned by cooperatives on reasonable terms.

The PUC does not conduct audits of electric cooperatives. If an alleged non-compliance relating to an activity over which the PUC has jurisdiction were to be brought to the Commission's attention, an investigation would be performed to determine whether any action were appropriate.

The PUC is required to keep records of complaints against cooperatives but has no authority to resolve them unless they relate to the specific areas over which the PUC has jurisdiction.

O. For each regulatory program, if applicable, provide the following complaint information.

Please see the Informal Complaint Resolution program description at page 181 for information about complaints.

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

Name of Program or Function	Municipally Owned Utility Appellate Rate Regulation
Location/Division	Rate Regulation Division
Contact Name	Darryl Tietjen, Director, Rate Regulation Division

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

Customers of a municipally owned utility (MOU) who reside outside the municipality may, if certain requirements are met, appeal to the PUC an action of the governing body of the municipality affecting the MOU’s rates.

This program was created in 1975 when PURA was first enacted. Generally, rates and services of MOUs are not regulated because customers may participate in electing the municipality’s governing body. Ratepayers who live outside of the municipality but are served by the MOU lack the opportunity to participate in electing the governing body. The purpose of the program is to protect the interests of these customers against unreasonable decisions concerning the rates of the MOU that serves them.

PURA §§ 33.101-33.104 and §§ 33.121-33.123 apply to this program.

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.

Petitions for review of MOU rates are rare. The PUC has not received a petition to review an MOU’s rates in over fifteen years.

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.

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 all MOUs which serve customers outside the boundaries of the applicable municipality. There are 72 MOUs in Texas; the PUC does not have information about how many serve customers outside the boundaries of the applicable municipality.

This program also affects all customers served by MOUs who reside outside the boundaries of the municipality which governs the MOU. The PUC does not have information on the numbers of customers affected.

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.

The PUC adopted 16 T.A.C. § 25.240 as required by PURA § 33.122(j). If an appeal were filed, the PUC would conduct a review similar to an investor owned utility rate case in accordance with the Administrative Procedure Act, Government Code Chapter 2001.

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).

This function's strategy is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

There are no similar programs.

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.

N/A

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.

N/A

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.

N/A

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

None identified.

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

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.**

The opportunity for review by the PUC may provide a deterrent against unreasonable rate decisions.

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.

N/A

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

Name of Program or Function	Regulation of Electric Submetering, Central Systems Utilities, Non-Submetered Master Metered Utility Service and Metering in Recreational Vehicle Parks
Location/Division	Customer Protection Division
Contact Name	Mike Renfro, Director, Customer Protection Division

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

Many apartment complexes, condominiums, and mobile home parks provide electricity to tenants through submetering arrangements. The apartment complex, condominium, or mobile home park owns the meters which measure each tenant's consumption, and bills the tenants for electric service. The tenants do not have a direct relationship with the utility, cooperative, municipally owned utility, or retail electric provider that provides service to the apartment complex, condominium, or mobile home park.

The PUC is required to have rules addressing standards for submetering including appropriate safeguards for tenants. The PUC is also required to have rules which apply to apartment complexes and mobile home parks where the individual dwelling units are not individually metered but the electricity costs are nevertheless charged to tenants. Somewhat different requirements apply to recreational vehicle (RV) parks that meter electricity use of their occupants because of the time lag between use and billing, and the transient occupancy of most RV parks.

Regulation of submetering was authorized in 1977 by Utilities Code, Chapter 184. Provisions relating to non-submetered electricity and recreational vehicle (RV) parks were added in 1985 and 1991, respectively. The purpose of the program is to ensure that tenants of apartment complexes, condominiums, mobile home parks, and RV parks pay only the actual cost for electricity, with no mark-ups.

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.

Most of the PUC's work in this area relates to customer complaints against submeterers. These complaints are handled through the informal complaint resolution process, which is described as a separate program.

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.

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 tenants of apartment complexes, condominiums, mobile home parks, and RV parks and the owners of apartment complexes, condominiums, mobile home parks, and RV parks.

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.

The PUC adopted 16 T.A.C. § 25.141 and § 25.142 to implement statutory requirements of the program. The PUC's efforts include providing information about the requirements of the law, resolution of complaints, approving non-standard methods of charging for electricity where the individual dwelling units are not individually metered, and conducting enforcement actions.

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).

This program's strategy is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

There are no similar programs.

. 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.

N/A

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.

N/A

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.

N/A

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

None identified.

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

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.

The PUC's efforts include providing information about the requirements of the law, resolution of complaints, approving non-standard methods of charging for electricity where the individual dwelling units are not individually metered, and conducting enforcement actions.

The regulation is needed to ensure that tenants of apartment complexes, condominiums, mobile home parks, and RV parks pay only the actual cost for electricity, with no mark-ups.

The PUC does not conduct audits or inspections of the regulated entities under this program. The agency attempts to resolve customer complaints through the informal resolution process. The Commission also uses information provided in individual complaints as the basis for possible enforcement actions.

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.

Please see the Informal Complaint Resolution program description at page 181 for information about complaints.

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

Name of Program or Function	Emergency Management and Homeland Security
Location/Division	Infrastructure & Reliability Division
Contact Name	David Featherston, Director, Infrastructure & Reliability Division

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

The PUC’s Emergency Management Response Team’s (EMRT) primary function is to provide accurate utility outage and restoration information to the State Operations Center (SOC), part of the Governor’s Division of Emergency Management, during emergency situations. This information is incorporated into the Situation Report supplied to the Office of the Governor and used to determine the state’s resource allocation during the course of the emergency situation. Emergency situations include terrorist events and natural disasters such as tornados, hurricanes, flood and wild fires.

The PUC’s Infrastructure & Reliability Division (IRD) collects and evaluates Emergency Operations Plans (EOPs) from electric and telecommunications providers as well as utilities’ security procedures, including cyber protections and emergency drills. IRD has created a database that, in the event of a natural disaster or terrorist event, allows the utilities to submit and update outage and restoration information in a secure manner. The EMRT members are then able to determine from this data the location of outages, the number of customers affected, restoration efforts, generation capabilities and other information as required.

The EMRT works proactively with impacted utilities to minimize outages and customer inconvenience during and after any event. The EMRT also helps the SOC identify critical utility infrastructure and assists members of the State’s Homeland Security Council and the State’s Critical Infrastructure Protection Council to protect critical infrastructure during emergency situations.

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.

In the aftermath of Hurricane Rita and Hurricane Ike many consumers were left without utility services for periods of up to 4-8 weeks. Throughout these outages, the EMRT monitored the progress of the utilities in restoring service within their areas. As a result of its efforts, the PUC's EMRT received recognition from the PUC and the Office of the Governor for its diligence in working with the utilities for full restoration of services.

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.

The PUC's EMRT performs its functions as part of its duty to insure that electric and telecommunications utilities provide safe, adequate, efficient and reasonable services to the Texas public. This responsibility was a key reason for the creation of the PUC in 1975. Since September 11, 2001, the EMRT has evolved to address potential terrorist situations, including biological and cyber attacks and their impact upon the utility infrastructure.

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 all electric and telecommunications customers in Texas when they experience service interruptions as a result of emergency situations.

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.

The PUC has assembled a team of 11 members from throughout the agency to perform this function. Ten of the members staff the SOC when it is activated. Other team members provide information and communication support functions. The EMRT also has one member dedicated to Homeland Security issues.

The EMRT works with investor owned utilities, municipalities and cooperatives to coordinate restoration of power and telecommunications after an emergency event.

The PUC's EMRT is headed by the Division Director of the Infrastructure and Reliability Division. The EMRT provides information regarding electric and telecommunications outages and restoration efforts to the Office of the Governor to be used in determining resource allocation.

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).

This program's strategy is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

The PUC's work with the SOC is not duplicated because the PUC's statewide utilities knowledge and expertise is unique.

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.

N/A

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.

The PUC's work in emergency management operations may involve local units of government located within the geographic area encompassed by the emergency situation, and may require interaction with state and federal Homeland Security operations as needed.

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.

N/A

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

None identified.

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

N/A

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.

N/A

O. For each regulatory program, if applicable, provide the following complaint information.

N/A

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

Name of Program or Function	Regulation and Oversight of Local Telephone Service
Location/Division	Rate Regulation Division Competitive Market Division Infrastructure and Reliability Division
Contact Name	Darryl Tietjen, Director, Rate Regulation Division Jess Totten, Director, Competitive Market Division David Featherston, Director, Infrastructure and Reliability Division

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

Local telephone service providers, also called local exchange companies, fall into two main categories for regulatory and oversight purposes: incumbent local exchange companies and competitive local exchange companies. Competitive local exchange companies (CLECs) are local exchange companies operating under a certificate of operating authority (COA) or a service provider certificate of operating authority (SPCOA) and experience minimal rate regulation. An incumbent local exchange company (ILEC) is a local exchange company that had a certificate of convenience and necessity (CCN) on September 1, 1995, that is, before local markets were opened to competition. In implementing legislative directives regarding ILECs, the PUC is charged with incorporating an appropriate mix of regulatory and market mechanisms reflecting the level and nature of competition in the marketplace.

The primary aspects of local telephone service regulation are:

- Certification;
- Rate regulation;
- Quality of service oversight; and
- Customer protections.

PURA Chapter 65, which was enacted in 2005 as part of Senate Bill 5, provided for deregulation of certain ILEC markets. All ILECs except AT&T Texas, Verizon, Embarq (formerly known as Sprint-Centel), Windstream, and Windstream Kerrville (formerly known as Valor and Kerrville Telephone Company) – a total of 57 companies – have elected to remain regulated. The

PUC determined that Windstream and Windstream Kerrville should remain regulated because no evidence was presented by these companies regarding competition in the markets they serve.

A total of 71 markets have been deregulated since Senate Bill 5 was enacted: 36 in markets with a population greater than 100,000, 18 in markets with a population between 30,000 and 100,000, and 17 in markets with a population of less than 30,000.

Certification. PURA § 54.001 provides that a person may not provide local exchange telephone service, basic local telecommunications service, or switched access service unless the person obtains a CCN, COA, or SPCOA. Requiring certification of service providers ensures that they will have the qualifications necessary to provide service and establishes the legal obligations of the provider based on the type of certificate obtained.

Rate Regulation. Rate regulation is needed to protect customers during the transition to fully competitive markets to ensure that rates are reasonable. For the purposes of rate regulation, ILECs fall into the following four categories:

- Deregulated companies: ILECs for which all of the company's markets have been deregulated;²¹
- Transitioning companies: ILECs for which at least one, but not all, of the company's markets has been deregulated;
- ILECs regulated under Chapter 52;
- ILECs that elect incentive regulation under PURA Chapter 58 or Chapter 59;
- Small ILECs regulated under PURA Chapter 53; and
- Cooperatives that have partially deregulated themselves.

Quality of Service. Regulation of quality of service is needed to ensure that customers receive service that meets reasonable expectations for quality and reliability. Holders of CCNs and COAs are required to offer all basic local telecommunications services in the certificated area and provide continuous and adequate service. Dominant certificated telecommunications utilities must comply with service objectives and performance benchmarks established by the PUC.

Customer Protections. Customer protections are needed to ensure that a customer's choice of provider is honored and that bills are accurate and timely, and to protect customers from discriminatory and unfair practices. Customer protection regulations apply to holders of CCNs, COAs, and SPCOAs.

²¹ There are no deregulated companies.

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.

Rate regulation has been a driving force behind the relatively low cost of service for the average residential and business telephone bill in Texas when compared to the national average. Last year, the average residential telephone bill for local telephone service in Texas was \$11.73 (weighted average of the ten largest ILECs in Texas), compared to the national average of \$15.18. Similarly, the average business telephone bill for local telephone service in Texas last year was \$27.36 (weighted average of the ten largest ILECs in Texas), compared to the national average of \$36.59. Texas has consistently remained below the national average in spite of the fact that Texas has a large rural area compared to other states, where providing service is relatively expensive. Another factor that has kept rates low has been the Universal Service Fund, which has provided support to companies that incur higher costs to provide telephone service.

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.

The advancements in wireless technologies, speed and capacity of wireless and wireline transmission and the intelligence of the networks and peripheral equipment associated with those networks have significantly altered the cost of providing service and the way telecommunications service is delivered. Technological changes and competition in telecommunications service have had a greater impact in urban areas than in rural areas, however.

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 63 CCN holders and 439 COA and SPCOA holders.

This program also affects all purchasers of local telecommunications services in Texas.

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.

The PUC administers this program in accordance with the rules related to regulation and oversight of local telecommunications service.

Certification. 16 T.A.C. §§ 26.101-26.114 set standards for granting, amending, suspending and revoking CCNs, COAs and SPCOAs. Applications for certificates are initiated by the telecommunications provider and are processed as contested cases in accordance with the

Administrative Procedures Act and the Commission's Procedural Rules (16 T.A.C. Chapter 22). The PUC staff participates as a party representing the public interest.

Rate Regulation. 16 T.A.C. §§ 26.201 - 26.216 establish standards and procedures for setting rates, tariff review, filing of long-run incremental cost studies, promotional rates, and new and experimental services. 16 T.A.C. §§ 26.224 – 26.229 establish standards for companies regulated under Chapter 52, Chapter 58, and Chapter 59.

Transitioning companies have differing requirements for regulated versus deregulated markets. In a market that remains regulated, the transitioning company must price its retail services in accordance with the provisions that applied to the company immediately before the date the company was classified as a transitioning company. In a market that is deregulated, a transitioning company must price its retail services in accordance with PURA § 65.153(b).

ILECs regulated under Chapter 52 are subject to traditional cost of service regulation for basic local services. Chapter 52 ILECs may offer a new service 10 days after providing an informational notice to the PUC. New services must be priced at or above long run incremental cost (LRIC). New service informational filings are subject to challenge by an affected person, i.e., a customer or competitor, the Office of Public Utility Counsel, or the PUC. If an informational notice is challenged, the ILEC has the burden of proving that it set the price for the service in accordance with the law.

ILECs that elect Chapter 58 incentive regulation are no longer subject to traditional regulation. The company's services are classified as basic and non-basic pursuant to statute. Basic services must be offered separately, under tariff, and are subject to traditional tariff review. Basic services are also rate capped for four years from the date of initial election. Non-basic services may be packaged and changes to the rates or terms may occur as a result of an expedited informational filing. Rates for non-basic services must be set above long run incremental cost.

Additionally, any company that elects Chapter 58 incentive regulation must provide private network services and meet the infrastructure needs of non-profit medical center and hospitals, educational institutions and libraries within its territory. The company must develop a statewide averaged, non-distance sensitive rate for T1 services that is no higher than 105% of its statewide average LRIC and upon request, must provide 45-megabit point-to-point service under a customer specific contract.

An ILEC that elects Chapter 59 incentive regulation is no longer subject to traditional rate of return regulation. This election remains in effect for two years. The company is allowed to make informational service filings for new services, promotions and pricing and packaging flexibility. Rates cannot be increased – the rates may be lower than the tariffed rate, but must remain above LRIC.

PURA Chapter 53 allows small ILECs great latitude in reporting, adoption of other larger companies' rates without cost studies, and changes in amortization and depreciation rates. In addition, pursuant to 16 T.A.C. § 26.171, a small ILEC may increase its basic local service rates by

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10% per year and may increase the rates for other services by more than 10% per year so long as the total of all changes do not exceed 5% of the company's total regulated intrastate gross annual revenues over a 12 month period.

PURA Chapter 53, Subchapter H allows a cooperative to vote to partially deregulate itself if a majority of the members who return ballots within 45 days favor deregulation. A cooperative may reverse its own deregulation. Deregulated cooperatives may change their rates without PUC review and approval, by giving notice to affected customers, so long as they follow specific procedural requirements, including the filing of certain documents with the PUC. A proposed change is subject to PUC review if it is challenged by at least 5 per cent of the affected customers.

CLECs are not subject to rate regulation.

Quality of Service. 16 T.A.C. §§ 26.51-26.55 set out requirements for continuity of service, emergency operations, inspections and tests, service objectives and performance benchmarks, and monitoring of service. 16 T.A.C. § 26.54 requires companies to report noncompliance and to provide additional information at the request of the PUC. A transitioning company is not required to comply with exchange-specific retail quality of service standards or reporting requirements in a market that is deregulated.²²

Customer Service and Protection. 16 T.A.C. §§ 26.21 - 26.32 set out requirements relating to initiation of service, billing, disconnection of service, prepaid service, and protection against unauthorized charges. Customer complaints often relate to these requirements. The PUC has an informal complaint resolution program to address individual customers' concerns. The PUC also investigates individual companies based on customer complaints, and may pursue administrative penalties.

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).

This program's strategy is funded with General Revenue and General Revenue –Dedicated (System Benefit Fund).

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

There are no similar programs.

²² PURA § 65.152(b).

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.

N/A

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.

N/A

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.

N/A

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

None identified.

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

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.**

Certification of service providers is needed to ensure that providers have the qualifications necessary to provide service and to establish the legal obligations of the provider based on the type of certificate obtained. Rate regulation is needed to protect customers in areas where competition is not economically feasible and during the transition to fully competitive markets to ensure that rates are reasonable. Regulation of service quality is needed to ensure that customers receive service that meets reasonable expectations for quality and reliability. Customer protections are needed to ensure that a customer's choice of provider is honored, and that bills are accurate and timely, and to protect customers from discriminatory and unfair practices.

The PUC has adopted reporting requirements that provide information needed by the agency to determine whether companies are in compliance with applicable service quality requirements. The agency also obtains information about possible noncompliance from complaints filed by individual customers. The PUC's enforcement activities are described as a separate program at page 169.

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.

Please see the description of the Informal Complaint Resolution program at page 181 for information about complaints.

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

Name of Program or Function	Area Code Oversight
Location/Division	Infrastructure and Reliability Division
Contact Name	David Featherston, Director, Infrastructure and Reliability Division

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

The Federal Communications Commission (FCC) has jurisdiction over telephone number administration in the United States. Area codes do not cross state boundaries, so each state has the authority to decide when and in what form to introduce new area codes. In Texas, this authority rests with the PUC.

The area code system was first designed and implemented in the 1940s. The Federal Telecommunications Act § 251(e) provides for the North American Numbering Plan.

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.

The PUC has developed a consumer fact sheet and provides information on its Website to assist the public in obtaining information about area codes. There are no agency performance measures related to this program. The PUC devotes resources to this program intermittently, as needed.

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.

In 1947 Texas was assigned its first four area codes. The number of area codes has increased over the years due to population growth and proliferation of devices that use telephone numbers, such as cell phones and fax machines. Area code administration has received more attention in the last ten to fifteen years as the available numbers in an area code of run out. (This is referred to as number exhaust). This phenomenon has been particularly prevalent in large metropolitan areas. Solutions to the number exhaust problem include splitting an area code into two area codes or overlaying a new

area code over an existing area code within a city. There are currently 24 area codes in Texas and a 25th area code (737) will be implemented in 2011.

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 all persons who use telecommunications services in Texas.

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.

The North American Numbering Plan Administration (NANPA) studies historic growth, makes projections for future growth, and notifies the PUC when a new area code is needed. The NANPA is currently administered by NeuStar, Inc. When the affected area code is described as being near “exhaust,” the area code implementation process begins

After NANPA has notified the PUC of its determination that a new area code is needed, NANPA holds a series of meetings with representative of the telecommunications industry, such as local and long distance companies and related companies; emergency 911 systems; burglar alarm systems and mobile telephone providers; and affected local communities. The representatives consider a variety of options and comments, and then forward a recommendation to the PUC. The PUC considers the recommendation in an open meeting, and may accept, reject or modify it.

In addition to NANPA’s activities, the PUC will usually conduct one or more public meetings in the region served by the area code nearing exhaust to explain available options and to ask for public comment. Persons may also submit written comments to the PUC.

After NANPA receives the PUC decision on how a new area code will be added, NANPA determines the new area code and informs the PUC, which announces it to the public.

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).

This program's strategy is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

The PUC is the only entity with authority to make the area code decisions required by the state. There are no similar programs.

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.

N/A

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.

The interests of local governments are taken into account in making area code decisions.

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.

N/A

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

None identified. This PUC's role in this program is established by federal law.

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

This program requires intermittent use of resources estimated at less than one FTE.

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.

N/A

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.

The PUC does not separately track complaints about area codes.

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

Name of Program or Function	Extended Area Service and Expanded Local Calling Service
Location/Division	Infrastructure and Reliability Division
Contact Name	David Featherston, Director, Infrastructure and Reliability Division

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

Extended area service (EAS) allows persons to make calls outside their local calling area for a flat-rated fee. The PUC may order a local exchange carrier that is a dominant carrier to provide mandatory EAS if there is sufficient community of interest in the area and the company can reasonably provide the service. The PUC may order optional EAS if the affected company and the representatives of at least one political subdivision in the proposed calling area agree to the service and the proposed common calling area has a single, continuous boundary.

Expanded local calling service (ELCS) is similar to EAS. The PUC is authorized to expand a toll-free calling area into an exchange that is not in a metropolitan exchange but is in a calling area that is contiguous to a metropolitan exchange based on a community of interest finding. The fee for ELCS service is capped by statute at \$3.50 per month for residential customers and \$7.00 for business customers. The incumbent local exchange carrier that provides the service is entitled to recover all costs incurred and all loss of revenue from its local exchange customers in Texas.

These programs are authorized by PURA Chapter 55, Subchapters B and C. EAS was first authorized in 1975. ELCS was authorized in 1993. The purpose of both programs is to recognize the fact that local calling scopes and communities do not always coincide, and to provide a cost-effective way for people to communicate within their communities by telephone.

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.

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.

EAS and ELCS were popular services when they were introduced. Since 1984, 194 EAS petitions have been filed. Since 1993, 1348 ELCS petitions have been filed. However, the number of petitions has declined steadily, with only ten (10) petitions filed in the 2007-2008 period and only one (1) petition filed in 2009.

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 primarily affects persons living in exchanges with EAS or ELCS. However, because PURA provides that revenue shortfalls experienced by the service providers as a result of ELCS may be recovered from customers, customers throughout the state are affected by this service.

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.

The PUC adopted 16 T.A.C. § 26.217 and 16 T.A.C. § 26.219 to implement these programs. The rules set out requirements for petitions, information required to support a request, and standards for granting the requested service.

Applications to establish or increase ELCS surcharges are governed by 16 T.A.C. § 26.221.

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).

This program's strategy is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

There are no similar programs.

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.

N/A

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.

EAS petitions may involve political subdivisions located within the proposed calling area.

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.

N/A

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

In its 2009 Scope of Competition in Telecommunications Markets Report, the PUC recommended that the Legislature amend PURA Chapter 55, Subchapter B, to eliminate the process for establishing new extended area service because the concept has increasingly been rendered obsolete by competitive options available to customers in the form of “all distance” and nation-wide calling plans as well as the unlimited or high-volume calling plans offered by wireless companies and voice over Internet protocol companies. The last petition requesting EAS service was filed in May 1998.

This recommendation does not affect impact the provision of ELCS, which is typically offered in rural areas and small exchanges in Texas.

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

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.

N/A

O. For each regulatory program, if applicable, provide the following complaint information.

The PUC does not separately track complaints related to EAS and ELCS.

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

Name of Program or Function	Regulation of Automatic Dial Announcing Devices
Location/Division	Infrastructure and Reliability Division
Contact Name	David Featherston, Director, Infrastructure and Reliability Division

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

An Automatic Dial Announcing Device (ADAD) is a mechanism that automatically dials a telephone number and then plays a recorded message or leaves a recorded message on voicemail. As of July 29, 2009 there were 258 ADAD permit holders in Texas.

For many consumers, receiving calls from ADADs can be an unwelcome intrusion. Requirements for the use of ADADs provide protection for consumers from unreasonable and annoying practices, such as lengthy messages and calls made at inappropriate times. PURA Chapter 55, Subchapter F applies to ADADs.

PURA §§ 55.121 – 55.138 establish requirements for the use of ADADs, including prohibition of random or sequential number calling, hours when use is prohibited, a requirement that the device disconnect not later than 5 seconds after a call is terminated, and restrictions concerning the content of the message.

The Commission began issuing ADAD permits for a fee in June 1986. PURA § 55.130 provides that a person may not use an ADAD without a permit issued by the PUC. PURA § 55.131 authorizes the PUC to charge a registration fee not to exceed \$500. Over the past 22 years, an average of 50 ADAD permits have been issued every 12 months. The ADAD permit fee of \$500, and renewal fee of \$100, remained unchanged until July 2002, when the Commission amended 16 T.A.C. § 26.125 to reduce the permit fee to \$50 and renewal fee to \$15. The Commission reduced the fee in an attempt to increase compliance with its rules, and provide a clearer picture of the market segment that uses ADADs to dial telephone subscribers in Texas.

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.

The PUC has minimized the resources needed for this function by providing comprehensive information on the PUC Website, and through automation of the registration process. The PUC estimates that the program requires less than one FTE. This estimate does not include time related to handling customer complaints.

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.

Issues surrounding the use of ADADs have been to a large extent ameliorated by the existence of no-call lists that allow consumers who object to receiving calls from telemarketers to stop receiving most telemarketing calls and caller ID service (which permits customers to not answer unknown callers). However, there are exceptions to the no-call list restrictions, and consumers who choose not to be on the no-call lists nevertheless should be protected from unreasonable ADAD practices.

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 ADAD users who must comply with PURA and the PUC's rules, as well as consumers who benefit from the protections contained in the law.

There are currently 258 ADAD permit holders. In FY year 2007 there were 184 permit holders and in FY 2008 there were 211.

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.

The PUC adopted 16 T.A.C. § 26.125 to implement this program. Information about obtaining permits and downloadable forms are available on the agency's Website.

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).

This function's strategy is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

There are no similar programs.

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.

N/A

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.

N/A

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.

N/A

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

None identified.

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

The PUC estimates that this program requires less than one FTE. This estimate does not include time related to handling customer complaints.

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.**

Requirements for the use of ADADs provide protection for consumers from unreasonable and annoying practices, such as lengthy messages and calls made at inappropriate times. Permitting of ADADs facilitates enforcement of the statutory requirements for their use.

Due to resource constraints, the Commission does not actively enforce ADAD requirements. The PUC does not conduct inspections or audits of ADAD permit holders. The agency maintains records of complaints received from customers, and attempts to address the complainant's problem through the informal complaint resolution process.

The PUC has authority under PURA § 55.137 to impose administrative penalties against a person who owns or operates an ADAD in violation of PURA or a Commission rule or order. However, due to resource constraints and the difficulties associated with proving violations of ADAD requirements, the Commission focuses its enforcement efforts on other areas. The PUC assists individual consumers through the informal complaint resolution process.

**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.**

Please see description of Informal Complaint Resolution program at page 181 for information on customer complaints.

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

Name of Program or Function	Regulation of Pay Telephones
Location/Division	Infrastructure and Reliability Division
Contact Name	David Featherston, Director, Infrastructure and Reliability Division

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

To promote competition in the payphone industry, the Federal Communications Commission (FCC) in 1996 deregulated coin rates for all local calls made from pay phones. That same year, the PUC began to register and certify pay telephone service (PTS) providers as required under PURA. PURA § 55.173 provides that a person may not provide pay telephone service unless the person is registered with the PUC. Holders of certificates of convenience and necessity are not required to register. In that year, the Commission registered 539 providers, including many already doing business in the state.

The purpose of the program is to protect consumers who use pay telephones from unfair rates and charges. This purpose is effectuated through statutory rate caps and notification requirements. Registration of pay telephone providers facilitates enforcement of those requirements. PURA Chapter 55, Subchapter H applies to pay telephone providers.

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.

The PUC has minimized the resources needed for this function by providing comprehensive information on the PUC Website, and through automation of the registration process and record-keeping associated with pay phone registration. The PUC estimates that the program requires less than one FTE. This estimate does not include resources required for customer complaints.

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.

The need for and use of pay telephones has been greatly affected by use of cellular phones by many consumers. The trend toward less use of pay phones is apparent in the number of providers registered and the number of complaints received. However, as long as pay telephones exist, there will be a need for consumer protections and registration to facilitate compliance with the law.

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.

To date, the Commission has registered 1,898 PTS providers. As of July 31, 2009, there were 123 registered pay phone providers. This includes new and re-registered providers and does not include those whose re-registration is incomplete.

Pay Telephone Providers Registered in Texas

YEAR	NUMBER OF PROVIDERS
1996	539
1997	315
1998	251
1999	192
2000	142
2001	105
2002	271
2003	368
2004	231
2005	187
2006	157
2007	140
2008	121

Approximately half the registered providers have five pay phones or fewer. To better monitor and understand this segment of the telecommunications market, in 2001 the Commission amended 16 T.A.C. § 26.102 to require all PTS providers to re-register by July 31 of each year to retain their status.

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.

The PUC adopted 16 T.A.C. § 26.102 to implement the requirements of PURA §§ 55.171 – 55.180. Information about registering and downloadable forms are available on the agency's Website.

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).

This program's strategy is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

There are no similar programs.

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.

N/A

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.

N/A

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.

N/A

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

None identified.

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

The PUC estimates that the program requires less than one FTE . This estimate does not include resources required for customer complaints.

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.

Limited regulation of pay telephone providers protects consumers who use pay telephones from unfair rates and charges. This purpose is effectuated through statutory rate caps and notification requirements. Registration of pay telephone providers facilitates enforcement of those requirements.

The PUC does not routinely audit or inspect pay telephones for compliance with applicable laws.

If non-compliance is detected, the PUC may assess administrative penalties, or revoke or suspend a pay telephone provider's registration.

Complaints concerning pay telephones are handled through the Informal Complaint Resolution program in the Customer Protection Division.

**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.**

Please see description of Informal Complaint Resolution program at page 181 for information about customer complaints.

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

Name of Program or Function	No-Call List Administration
Location/Division	Customer Protection Division
Contact Name	Mike Renfro, Director, Customer Protection Division

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

Texas Business and Commerce Code §§ 304.051-304.062 authorize the Texas No-Call List. The PUC is required to establish and provide for the operation of a database to compile a list of names, addresses, and telephone numbers of consumers in this state who object to receiving unsolicited telemarketing or telephone calls. Telemarketers may not contact consumers whose names appear on the list unless one of the statutory exemptions applies.

By statute, the no-call list restrictions do not apply to telemarketers contacting customers:

- With whom they have an established business relationship;
- If the consumer requests contact;
- To collect a debt;
- On behalf of a non-profit organization or charity if the call does not meet the definition of “telephone solicitation” by attempting to make a sale or gather information that will lead to a sale; or
- If the telemarketer is a state licensee (e.g., insurance or real estate agent) and:
 - The call is not made by an automated device;
 - The solicited transaction is completed with a face-to-face presentation to finalize a sales transaction and make a payment; and
 - The consumer has not previously told the licensee that the consumer does not wish to be called.

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.

The PUC has minimized the resources needed for this function by providing comprehensive information on the PUC Website. The PUC has also developed a consumer fact sheet.

Because the Texas No-Call List is administered by a third party contractor, the PUC expends minimal resources related to maintenance of the list itself. The PUC receives numerous complaints regarding alleged violations, which are documented in the same database used for the informal complaint resolution process.²³

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.

In 2003, the Texas Telemarketing Disclosure and Privacy Act was amended to add additional privacy protections by removing the requirement for the Texas No-Call List to include consumers' addresses. Beginning January 1, 2004, consumers could register mobile telephone numbers on the no-call list.

In 2005, the 79th Legislature enacted House Bill 210, which affected the Texas No-Call List in several ways. HB 210 re-defined the Texas No-Call list to include the names and telephone numbers of all consumers who have registered for the Texas No-Call list as well as the names and telephone numbers of all Texas consumers who have registered for the national Do Not Call registry. HB 210 also allowed the Commission or its designee to share information on the Texas No-Call List with the administrator of the national Do Not Call registry and permitted the names and telephone numbers on the Texas No-Call List to be placed on the national Do Not Call registry. Finally, HB 210 codified free Internet registration for the Texas No-Call List, excepted from public disclosure under the Texas Public Information Act any information provided to or received from the administrator of the national Do Not Call registry and amended PURA to reflect that the Electric No-Call List²⁴ would apply only to nonresidential customers.

²³ See page 181 for a description of the Informal Complaint Resolution program.

²⁴ PURA § 39.1025, which was enacted in 1999, created the electric no-call list and is applicable only to telephone solicitation relating to choice of retail electric providers.

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.

Any consumer in Texas may register a residential phone number on the Texas No-Call List by phone, Internet, or mail. Business numbers may be registered with the retail electric service no-call list. From September 1, 2006, through August 31, 2008, there were 264,509 telephone numbers submitted to the Texas No-Call List of which 42,805 were registration renewals. Since the inception of the Texas No-Call List in April 2002 through August 31, 2008, a total of 1,523,960 numbers have been registered on the list.

The Texas No-Call List applies to all telemarketers operating in Texas except those meeting the exemptions described above. The Texas No-Call List is updated and republished on January 1, April 1, July 1, and October 1 of each year. Telemarketers may purchase the list, which is disseminated in multiple formats. In FY 2005-2006, 4,123 subscriptions were sold. In FY 2007-2008, 3,257 subscriptions were sold. During FY 2009, through July 31, 2009, 1,260 subscriptions were sold.

The retail electric service no-call list applies to telephone solicitations regarding a customer's choice of retail electric provider, and is limited to nonresidential consumers.

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.

After a competitive bidding process, the agency entered a contract with Gryphon Networks to create and maintain the no-call lists. Consumers can use the Texas No-Call List Website (www.texasnocall.com) for an easy, automated method of registration. Registration over the Internet is free. A customer can also call toll free to register or obtain an application. Additionally, a consumer may obtain an application by submitting a written request.

The PUC files a report on its enforcement efforts each December in even numbered years, as required by Tex. Bus. and Com. Code § 304.201. The reports are available in the PUC's Interchange under Project Nos. 30434, 33567, and 36742.

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).

The operation of the Texas No-Call List itself is financed with consumer fees and distribution fees paid by telemarketers who purchase the list. The current fee for registration by telephone or mail is \$2.25. 16 T.A.C. § 26.37 provides for a fee, not to exceed \$75, for a telemarketer to purchase the list. All fees collected go directly to the database administrator to cover the costs of operating the list.

The PUC's activities related to the Texas No-Call List are funded by General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

The Federal Trade Commission (FTC) administers the national Do-Not-Call registry. Registration is free, and must be renewed every five years. The exceptions for contacting persons on the national Do-Not-Call registry are somewhat different than those for the Texas No-Call List. The waiting period between registration and the date by which telemarketers must cease contacting the customer is 90 days for the national Do-Not-Call registry and 60 days for the Texas No-Call List. States are permitted to enforce the federal law through the filing of civil actions in district court. For the Texas No-Call List, violators are subject to administrative penalties or penalties imposed pursuant to civil court actions.

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.

The PUC and Office of the Attorney General (OAG) have concurrent jurisdiction to handle Texas No-Call List, facsimile solicitation, and interference with Caller ID service violations in cases where the violator is not licensed by another state agency or is a telecommunications provider. The PUC and OAG entered a Memorandum of Understanding pursuant to which they have agreed to cooperate, assist one another and share information regarding these potential violations.

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.

The PUC's contractor works directly with the FTC to incorporate the persons on the federal Do-Not-Call registry into the Texas No-Call List.

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.**

The PUC has a contract with Gryphon, Inc. to administer the No-Call List. Gryphon, Inc.'s compensation is consumer fees and distribution fees paid by telemarketers who purchase the list. No appropriated funds are expended.

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

None identified.

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

The PUC has received nearly 26,000 complaints relating to the Texas No-Call List since its inception. Each complaint is logged into the Customer Protection Division's (CPD's) complaint database. CPD staff determines whether the complainant is actually on the no-call list. If the complainant is not on the list, the PUC sends a letter explaining how to get on the list. If the complainant is on the list, the PUC sends a letter acknowledging the complaint.

The PUC's Oversight and Enforcement Division uses the complaint information in the CPD database as a basis for pursuing enforcement actions. In addition, the PUC sends monthly summaries to the OAG.

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.**

N/A

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.

Please see the description of the Informal Complaint Resolution program at page 181 for information about complaints.

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

Name of Program or Function	Historically Underutilized Businesses and Workforce Diversity Plan Reporting
Location/Division	Infrastructure and Reliability Division
Contact Name	David Featherston, Director, Infrastructure and Reliability Division

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

PURA contains provisions that require certain entities under the PUC’s jurisdiction to file reports relating to use of historically underutilized businesses (HUBs) and workforce diversity.

PURA §§ 12.251-12.255 were enacted in 1995 to encourage utilities to contract with historically underutilized businesses. PURA § 12.253 provides that the PUC shall require each utility subject to regulation under PURA to prepare and submit a comprehensive annual report detailing its use of historically underutilized businesses. PURA § 12.252 authorizes the PUC, after notice and hearing, to require a utility to make an effort to increase its use of historically underutilized businesses.

PURA §§ 39.909 and 52.256 were enacted in 1999 to provide information to the PUC, the public, and the Legislature concerning electric utilities’ and telecommunications utilities’ workforce diversity and HUB contracting.

PURA § 39.909(b) required an electric utility to develop and submit to the PUC by January 1, 2000, a comprehensive plan to enhance diversity in its workforce in all occupational categories and to increase contracting opportunities for small and historically underutilized businesses. PURA § 39.909(c) requires each electric utility to submit an annual report to the PUC and the legislature relating to its efforts to improve workforce diversity and contracting opportunities for small and historically underutilized businesses.

PURA § 52.256 is identical to § 39.909 except that it applies to telecommunications utilities.

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.

This is a reporting requirement only, and the PUC is not required to compile or analyze the information received, so the amount of resources devoted to this function is small.

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.

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.

PURA §§ 12.251 – 12.255 relating to HUB contracting apply to “utilities subject to regulation under this title.” PURA § 39.909 and § 52.256 apply to “electric utilities” and “telecommunications utilities,” respectively. The term “electric utility” is defined at PURA § 31.002(6), and means investor-owned utilities. The term “telecommunications utility” is defined at PURA § 51.002(11) and includes incumbent local exchange companies, competitive local exchange companies, and long distance companies.

There are 12 investor owned electric utilities, 63 incumbent local exchange companies holding certificates of convenience and necessity, 493 competitive local exchange companies holding certificates of operating authority or service provider certificates of authority, and 934 long distance companies registered with the PUC.

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.

The PUC adopted 16 T.A.C. §§ 25.80, 25.85, 26.80 and 26.85 to implement the statutory requirements. Reports are filed in Central Records, where they are available for public inspection, and may also be viewed over the Internet free of charge.

Reporting entities are checked against the Commission’s lists of electric utilities and telecommunications utilities. Commission staff attempts to contact by telephone companies who do not file to inform them of the requirement and the need for compliance.

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).

This program's strategy is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

There are no similar programs.

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.

N/A

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.

N/A

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.

N/A

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

PURA § 12.251 provides that the term “historically underutilized business” has the meaning assigned by Government Code § 481.101, which was repealed in 1997. The PUC amended its rules to define historically underutilized business (HUB) for the purposes of the reports required by PURA § 12.251 by replacing the reference to Government Code § 481.101 with a reference to Government Code § 481.191, which is essentially the same as the definition in § 481.101. PURA §§ 39.909 and 52.256, which also contain reporting requirements related to HUBs, incorporate the definition in Government Code § 481.191.

This outdated reference has not caused any problems with compliance with the filing requirement. While not essential to the success of the program, amendment of PURA § 12.251 to incorporate a current definition of historically underutilized business would clarify the reporting requirement.

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

The PUC estimates that less than one FTE is required for this program.

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.**

Due to budget and resource constraints, the agency has been unable to ensure complete compliance with these filing requirements by telecommunications utilities. If full compliance is to occur, the Commission would need to expend considerable resources identifying companies that are actually in business, contacting them to encourage filing, and pursuing enforcement actions against those who do not comply. Current funding does not support that level of effort.

**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.**

N/A

Strategy 1-3-1:	Conduct investigations and initiate enforcement actions to ensure compliance with relevant law, PUC rules, and orders.
Actual Expenditures, FY 2008	\$1,337,817
Number of FTEs as of August 31, 2008	18.8

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

Name of Program or Function	Enforcement
Location/Division	Oversight and Enforcement Division
Contact Name	Pam Whittington, Director, Oversight and Enforcement Division

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

The objective of this program is to promote and enforce compliance with statutes, rules, and orders applicable to entities under the jurisdiction of the Commission. The Commission’s enforcement efforts focus on violations of PURA, the Commission’s Substantive Rules and ERCOT protocols.

The Oversight and Enforcement Division’s (O & E) goal is to promote compliance with PURA, other applicable laws, and PUC Substantive Rules by electric and telecommunication service providers in order to protect customers and markets, and to ensure reliability. O&E works with the PUC’s Legal Division, as well as other divisions, in its investigations and enforcement activities. The main areas of compliance oversight and enforcement are:

- Wholesale electric issues
- Retail electric issues
- ERCOT protocol violations
- Market manipulation
- Retail telecommunications issues
- Service quality

The major activities performed under this program are review/audit, investigation, and enforcement (including but not limited to Notices of Violation (NOV) with administrative penalties).

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.

This program works to ensure effectiveness and efficiency in several ways. Review and audit plans have been established to monitor compliance levels in an efficient manner and to incent remedies for possible non-compliant situations. For settled NOVs, settlement agreements include ongoing mitigation and/or improvement plans from the violating entity. A high, ongoing degree of coordination has been established with the Independent Market Monitor (IMM), Electric Reliability Council of Texas (ERCOT), and the Texas Regional Entity (TRE) to ensure effectiveness and efficiency in compliance and enforcement of ERCOT protocols. Also, work done to clarify ERCOT protocol language has led to increased efficiency due to more clearly enforceable protocols.

Following is a summary of certain key statistics this program for the period September 1, 2007 to July 31, 2009:

Investigations opened:	122
Investigations closed:	109
Warning letters sent:	9
NOVs filed:	35
Administrative penalties assessed:	\$20,299,252 ²⁵

The number of investigations opened and closed for this timeframe is lower than established forecasts because formerly the enforcement program opened investigations for every occurrence of inaccurate municipal access line reporting, leading to huge quantities and backlogs of investigations. This practice was revised to a methodology in which each municipality deals with the reporting entities directly to resolve discrepancies or problems. This revised practice has been very effective and efficient. As a result, the number of investigations opened and closed dropped significantly.

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.

In the past, much of the PUC's enforcement efforts were accomplished during utility rate reviews, in which a comprehensive review of a company and all its activities could be performed.

²⁵ This number includes a penalty of \$15,000,000 assessed against a single entity.

Because the PUC's rate jurisdiction has become narrower, it has become necessary to view enforcement as a stand-alone activity. The PUC created an Enforcement Section in the Legal Division in 2001, and in 2002 expanded the Enforcement Section and renamed the division Legal and Enforcement Division to emphasize the Commission's intent to develop this program. Although staff throughout the agency could become involved in an enforcement case, depending on the subject matter and expertise needed, enforcement efforts were coordinated by the Enforcement Section of the Legal and Enforcement Division and later by the PUC's enforcement coordinator. In October of 2007, to further focus on enforcement, the Oversight and Enforcement Division was created and the enforcement activities of the Legal Division were shifted to this division. The Oversight and Enforcement Division focuses solely on enforcement and compliance, and works in conjunction with the Legal Division when legal representation is appropriate.

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 public utilities, pay telephone service providers, affiliates, and "persons". The terms "public utility," "affiliate," and "person" are defined in PURA §§ 11.003 and 11.004. A list of entities subject to regulation by the PUCT would include:

1. Telecommunications industry
 - a. Pay phone providers
 - b. Automatic dial announcing devices (ADAD)
 - c. Incumbent local exchange carriers (ILECs)
 - d. Competitive local exchange carriers (CLECs)
 - e. Cable or Video service providers with state-issued certificates of franchise authority
2. Electric industry
 - a. Transmission and distribution utilities (TDUs)
 - b. Retail electric providers (REPs)
 - c. Power generation companies (PGCs)
 - d. Qualified scheduling entities (QSEs)
 - e. Investor owned utilities
 - f. Municipally owned utilities
 - g. Electric cooperatives

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.

Although PURA provides several enforcement options for the PUC, the agency's most frequently used enforcement tool has been administrative penalties. The PUC adopted 16 T.A.C. § 22.246 to implement the administrative penalty program. Enforcement initiatives are pursued based on information obtained from multiple sources, including other PUC divisions, market participants,

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the TRE, ERCOT, various reports, and the customer complaint database. The enforcement staff proactively implements programs to monitor compliance.

The O&E Division has set up programs and processes to accomplish oversight of the industry through coordination with other PUC divisions regarding information on potential violations, and review or audit formal reports submitted to the PUC. Once O&E has received information regarding a potential violation, the information is reviewed to determine if an investigation is warranted. If warranted, an investigation is opened and the provider is notified of the investigation. The investigation is conducted through research, meetings, and requests for information to the provider.

An investigation may be concluded with a recommendation for action, if needed, or no further action if it is determined no violation occurred. If a violation is found, the provider may be sent a warning letter for a minor violation. Otherwise, the investigation is closed and the Notice of Violation (NOV) process begins.

The first step in the NOV process is to send a Pre-NOV letter to the provider describing the violation and recommending an administrative penalty. The provider has the opportunity to meet with PUC Staff to resolve the matter. The Staff and the provider may enter into a settlement agreement resolving the issues of the violation, the amount of administrative penalty, and any other appropriate remedies such as a mitigation plan. Settlement documents are filed with the PUC.

PURA provides for a three-level classification system for violations which includes a range of administrative penalties. The classification system includes the following factors for determining penalty levels:

- The seriousness of the violation;
- The economic harm caused;
- The history of previous violations;
- The amount of penalty necessary to deter future violations;
- The efforts to correct the violation; and
- Any other matter justice may require.

If the issues are not resolved through a settlement agreement, the Executive Director sends a Notice of Violation to the provider. This action initiates a contested case proceeding to resolve the issues of the violation and the administrative penalty. The NOV is referred to the State Office of Administrative Hearings (SOAH) and a hearing is conducted. The SOAH judge issues a proposal for decision that is subsequently ruled on by the PUC Commissioners to determine whether a violation has occurred and, if so, the appropriate penalty.

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).

This program is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

PURA § 15.028 provides that the Attorney General may file a suit for civil penalties on the Attorney General’s own initiative. If the Attorney General, on its own initiative, intended to bring an enforcement action on behalf of the PUC, the PUC is confident that the Attorney General would inform the PUC.

There is potential for overlap with functions of FERC/NERC and the Office of the Attorney General (OAG). However, PURA uniquely assigns certain functions to the PUCT. The ERCOT area and Texas have specific parameters best served by the unique expertise of the PUCT.

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.

Coordination with OAG on projects and issues eliminates duplication of efforts.

Potential duplication with FERC/NERC is avoided by monitoring FERC/NERC rules and by dealing with issues on a more granular basis than the federal agencies.

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.

1. PURA § 15.028 provides that the Attorney General may file a suit for civil penalties on the Attorney General's own initiative or at the request of the PUC.
2. FERC is an independent agency that regulates the interstate transmission of electricity, natural gas, and oil.
3. NERC has been granted authority from FERC to enforce reliability standards with all U.S. users, owners, and operators of bulk power systems.
4. ERCOT operates the electric grid and manages the deregulated market for 85 percent of the state's electric load.
5. TRE is a functionally independent division of ERCOT. TRE has been authorized by NERC to develop, monitor, assess, and enforce compliance with NERC reliability standards within the ERCOT region. TRE has been authorized by the PUC to investigate and report to the PUC and ERCOT protocol and operating guide violations.
6. The IMM is funded by ERCOT and reports to the PUC. The IMM monitors wholesale market activities to recommend measures to enhance market efficiency and to detect and prevent market manipulation.

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.

The PUC had a contract with Energy Mark, Inc. to provide consulting and hearing proceeding services in connection with Docket No. 34738, Notice of Violation by International Power America, Inc. et al.

The compensation provided for in the contract was based on an hourly fee plus expenses, not to exceed \$150,000. The contract was executed August 8, 2008. Most of the work was performed in fiscal year 2009. The total amount expended under the contract was \$111,500. The amount expended was less than the contract limit because the case ultimately settled. A final order was issued July 8, 2009.

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

N/A

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

The Oversight and Enforcement Division is staffed with nine employees. Legal support is provided by the Legal Division.

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.**

For follow-up activities conducted when non-compliance is identified and for sanctions available to the agency to ensure compliance see Section F above.

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.

Please see the Informal Complaint Resolution program at page 181 for information about complaints.

Strategy 2-1-1:	Provide information and distribute materials to customers on changes in the electric and telecommunications industries. Respond to requests for information from the public and media. Conduct outreach activities; administer Relay Texas and the Specialized Telecommunications Assistance Program (STAP) responsibilities.²⁶
Actual Expenditures, FY 2008	\$1,003,322
Number of FTEs as of August 31, 2008	15.5

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

Name of Program or Function	Information and Education
Location/Division	Customer Protection Division
Contact Name	Mike Renfro, Director, Customer Protection Division

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

The Public Utility Commission of Texas conducts customer education activities under two strategies. Strategy 3-1-2 was created after the enactment of Senate Bill 7, the legislation that restructured the electric utility industry, to track customer education efforts conducted pursuant to PURA § 39.902. Activities under this strategy, which are funded by appropriations from the System Benefit Fund (SBF), are described as a separate program.

The PUC also conducts customer education and outreach under Strategy 2-1-1. This strategy applies to both the electric and telecommunications industries.

The PUC makes a wide variety of information available on the agency Website. In addition to the agency's main Website, the PUC has a separate Customer Protection home page (accessed through the agency home page) that provides information that would be of particular interest to electric and telecommunications customers.

The following education materials are produced by PUC staff:

²⁶ The Relay Texas and STAP program descriptions are grouped with the Universal Service Fund Programs at pages 218 and 222.

- PUC Update – a weekly publication available on-line and by on-line subscription. Information about PUC hearings, workshops, and meetings, as well as new cases filed.
- Fact Sheets - 36 Fact Sheets about a variety of information are available on the agency Website. The Fact Sheets are also mailed to people who file complaints and inquiries.
- Public Utility Connection - a quarterly on-line newsletter that has articles about current issues in electric and telecommunications service. Also available by on-line subscription.

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.

The following performance measures relate to this program:

	FY 2007 projected	FY 2007 actual	FY 2008 projected	FY 2008 actual
OP 2-2-1.03 Number of Customer Information Products Distributed	90,000	556,349	300,000	535,189
EF 2-1-1.01 Percent Customer Information Products Distributed Electronically (new measure for 2010-2011)		82%	75%	
OP 2-2-1.01 Number of Website Hits to Customer Protection Home Page	200,000	311,113	425,000	270,383

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.

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 benefits electric and telecommunications customers who need information about their utility service, including how to obtain utility services in competitive markets.

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.

The Information and Education section of the Customer Protection Division has three employees who work on this activity in addition to the Texas Electric Choice customer education program.

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).

This program is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

There are no similar programs.

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.

N/A

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.

N/A

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.

N/A

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

None identified.

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

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.**

N/A

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.

N/A

Strategy 2-2-1:	Assist customers in resolving disputes concerning electric and telecommunications services consistent with statutes and rules.
Actual Expenditures, FY 2008	\$483,101
Number of FTEs as of August 31, 2008	6.8

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

Name of Program or Function	Informal Complaint Resolution
Location/Division	Customer Protection Division
Contact Name	Mike Renfro, Director, Customer Protection Division

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

The primary purpose of this program is to assist customers with any problems they are experiencing with their electric and telecommunications service. Each month, the PUC's Customer Protection Division (CPD) receives approximately 2000 complaints and 300 inquiries. These complaints and information requests are received by telephone, letter, fax, e-mail, on line submission and from walk-in customers.

The PUC has dedicated staff resources to informal customer complaint resolution since the agency's inception. In the mid 1990's, the number of complaints received began to increase dramatically, primarily as a result of slamming and cramming problems in the telephone long distance markets. In 1997, the agency created the Customer Protection Division to focus additional resources on this area and to address the increasing numbers of complaints that were being received.

PURA § 15.051 provides that persons may complain to the PUC about their utility service, and requires the PUC to keep records of the following information:

1. the date the complaint was received;
2. the name of the complainant;
3. the subject matter of the complaint;
4. a record of each person contacted in relation to the complaint; and

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5. a summary of the results of the review or investigation of the complaint and, if the PUC took no action on the complaint, an explanation of the reason the complaint was closed without action.

The PUC is also required to provide to the complainant and to each entity complained about information concerning the PUC’s policies and procedures on complaint investigation and resolution. The PUC is required to notify the complainant about the status of its complaint at least quarterly until final disposition.

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.

The PUC has five performance measures relating to this program.

	FY 2007 Target	FY 2007 Actual	FY 2008 Target	FY 2008 Actual
OC 2-2.01 Percentage of customer complaints resolved through informal complaint resolution process	99	99.79	99%	99.72%
OP 2-2-1.03 Number of customer complaints concluded	20,700	14,504	15,000	13,800
EF 2-2-1.02 Average number of days to conclude customer complaints	30	23	30	19
OC 2-2.03 Credits and refunds obtained for customers through complaint resolution	\$1,900,000.00	\$1,299,565.06	\$1,250,000	\$1,214,083
EX 2-2-1.01 Number of complaints received for unauthorized changes in service	5,000	1,859	1,600	828

The target for EF 2-2-1.02 has been lowered to 25 days for FY 2010 and FY 2011.

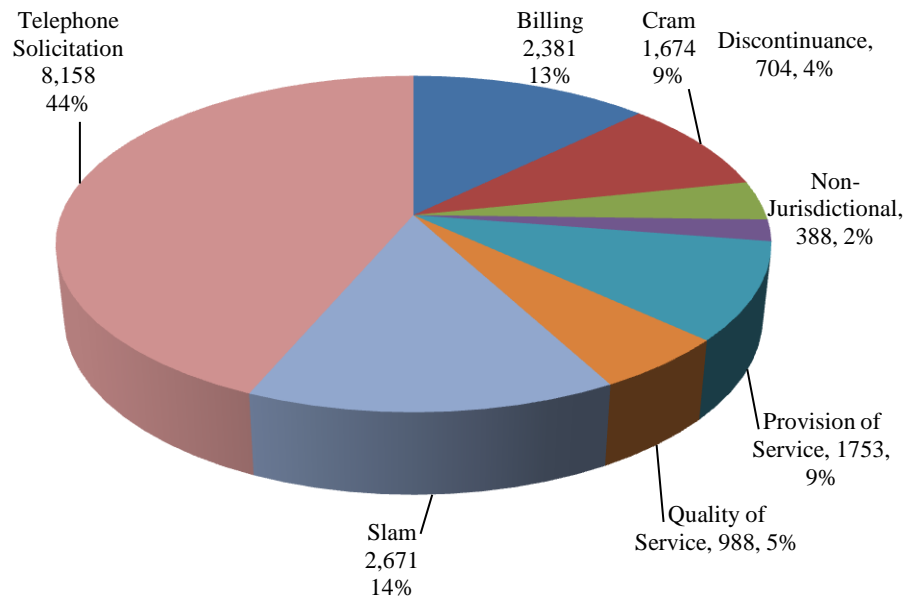
D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

While the purpose of this program has not changed, a significant level of resources continues to be devoted to keep up with the increasing number of informal customer complaints. The PUC relies on customer complaint statistics and trends observed by CPD staff for gauging company behavior, compliance with PUC rules and how customers may be affected. The statistics and trends that are identified may lead to meetings with companies to address issues and to alert PUC Staff to the need for possible enforcement actions.

Telecom Complaints: Aside from the large percentage of complaints related to the Texas No Call List, the majority of other telecommunications complaints received include Slamming at 14 percent, Billing at 13 percent, Cramming at 9 percent and Provision of Service at 9 percent. Slamming is the switching of a customer’s telecommunications service without proper authorization and verification. Cramming is placing an unauthorized charge on a customer’s telecommunications utility bill without proper consent and verification of authorization from the customer.

The ongoing decline in telephone complaints received during 2007 and 2008 can be attributed to the advancing technologies in mobile wireless and broadband. With the number of wireless subscribers increasing there has been a decrease in land-line subscribers. Since these advanced technologies are not under the jurisdiction of the Commission, customers wishing to file complaints regarding mobile wireless and broadband services must be referred to the Federal Communications Commission (FCC) for assistance.

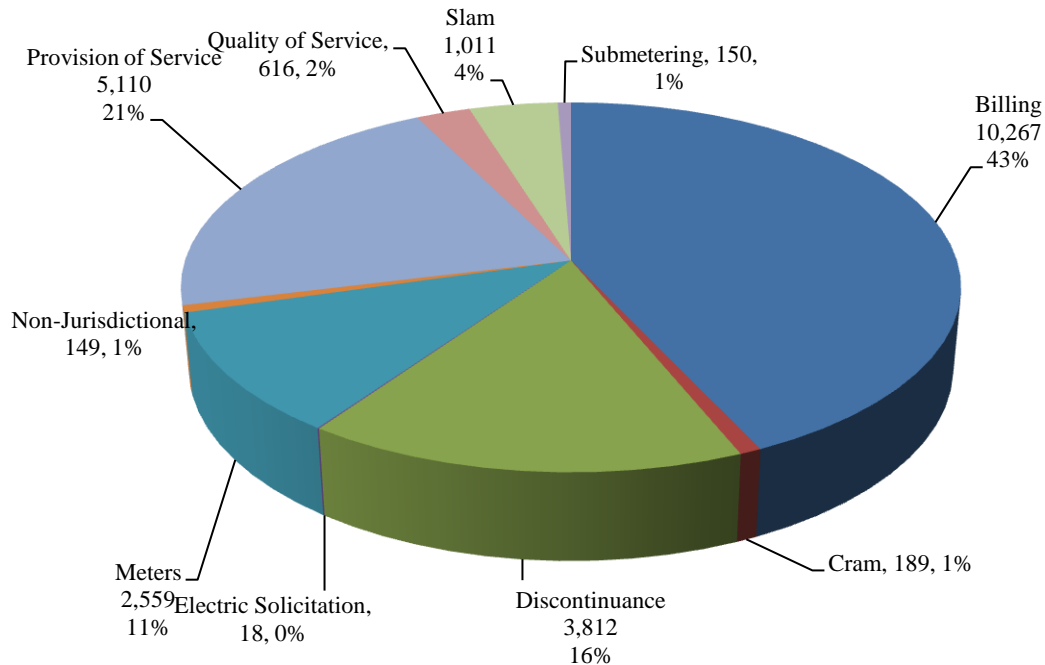
**Telephone Complaints Received
September 2006 – August 2008**



Electric Complaints: Since FY 2003, Billing complaints represent the largest percentage of complaints received by the PUC. Complaints relating to Provision of Service represent the second largest percentage at 21 percent and Discontinuance of Service is third at 16 percent. Metering complaints increased from 7 percent in FY 2005/2006 to 11 percent FY 2007/2008. In late April 2008, the number of customer complaints spiked. The high electricity prices coupled with some REPs leaving the market were important factors in the recent increase in the number of complaints. The increase can also be explained by increased customer awareness of the structure of the deregulated market and various REP plans and offers. Customers have exercised their option to question their bills when rate increases were implemented by REPs.

As of FY 2006, electric complaints surpassed telephone complaints in the number of complaints.

**Electric Complaints Received
September 2006 - August 2008**



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.

Any person who purchases electric or telecommunications services in Texas may file a complaint with the PUC concerning the service. Complaints may be filed against any entity under the jurisdiction of the PUC. Customers who file complaints concerning entities that are not under the PUC's jurisdiction receive a letter informing them that the PUC lacks jurisdiction, and suggesting other agencies that may be able to help.

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.

The PUC maintains a call center staffed by 10 employees who answer questions and receive complaints by telephone. The PUC also has a staff of 11 employees who process all complaints and all written inquiries. Records are maintained on every complaint received. All complaints, except non-jurisdictional complaints, ADAD complaints and no-call list complaints, are forwarded to the service provider for response. A complaint investigator reviews the service provider's response, and sends a letter to the complainant describing the resolution of the complaint.

The Commission uses a sophisticated database-type work management system to maintain records and process the complaints.

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).

This program's strategy is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

There are no other similar programs. The Texas Attorney General's Consumer Protection Office accepts complaints from customers, but does not pursue informal resolution of the complaints.

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.

N/A

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.

N/A

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.

N/A

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

None identified.

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

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.

N/A

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.

Public Utility Commission Informal Complaint Resolution Exhibit 8: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2007 and 2008			
	FY 2007	FY 2008	FY 2009 (through July 31, 2009)
Total number of complaints received	20,524	22,426	23,026
Number of complaints sent to company for response	14,006	15,362	16,515
Number of complaints needing additional information	850	1,363	1,943
Number of complaints found to be non-jurisdictional			
Cable	264	260	205
Wireless	374	321	166
Municipally owned utilities	37	24	47
Other	311	228	180

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	FY 2007	FY 2008	FY 2009 (through July 31, 2009)
Number of jurisdictional complaints found to be without merit	12,692	12,130	14,954
Number of complaints resolved	14,504	13,890	17,761
Number of complaints pending from prior years	0	0	0
Average number of days for complaint resolution	23	19	26
Number of complaints relating to electric utilities operating outside ERCOT	172	162	165
Number of complaints relating to transmission and distribution utilities operating in ERCOT	1,754	1,821	2,509
Number of complaints relating to retail electric providers	8,996	10,281	11,770
Number of complaints relating to electric cooperatives	147	134	114
Number of complaints relating to electric submetering	84	66	74
Number of complaints relating to local telephone service	3,326	2,658	1,890
Number of complaints relating to pay telephones	7	7	9
Number of complaints relating to ADADs and telephone solicitation	1,767	643	109
Number of complaints relating to No-Call List	1,965	3,801	3,812

Strategy 3-1-1: Reimburse retail electric providers from the System Benefit Fund for electric service billing discounts; administer automated and self enrollment of eligible participants for the billing discounts. Nontransferable.	
Actual Expenditures, FY 2008	\$80,064,767
Number of FTEs as of August 31, 2008	0

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

Name of Program or Function	System Benefit Fund Low Income Discount Program
Location/Division	Information and Fiscal Services Division
Contact Name	Jim Albright, Director, Information and Fiscal Services Division

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

The low-income discount program, also called LITE-UP Texas, was created pursuant to PURA § 39.903, which established the System Benefit Fund (SBF) to provide funding for the following purposes:

1. programs to
 - a. assist low income customers by providing a ten percent reduced rate; and
 - b. provide one-time bill payment assistance to electric customers who are or who have in their households one or more seriously ill or disabled low-income persons and who have been threatened with disconnection for nonpayment;²⁷
2. customer education programs, administrative expenses incurred by the PUC in implementing and administering PURA Chapter 39, and expenses incurred by the Office of Public Utility Counsel;
3. programs to assist low-income customers by providing targeted energy efficiency programs administered by the Texas Department of Housing and Community Affairs;

²⁷ The one-time bill payment assistance program was added in 2005, but has not been funded.

Self-Evaluation Report

4. programs to assist low-income electric customers by providing a twenty percent reduced rate; and
5. reimbursement to the commission and the Health and Human Services Commission for expenses incurred in implementation and administration of an integrated eligibility process, including outreach expenses.

The PUC sets the level of the rate discount based on the amount appropriated for the program, the projected cost of electricity, and projected electricity usage.

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.

The following performance measures relate to this program.

Performance Measure	FY 2007 Target	FY 2007 Actual	FY 2008 Target	FY 2008 Actual
*indicates new measure for FY 2010 and FY 2011 Values for new measures are estimates provided in Legislative Appropriation Request for 2010-2011				
EF 3-1-1.01 Average Number of Days to Reimburse Retail Electric Providers	5	1.44	5	2.55
*EF 3-1-1.01 Percent Low Income Program participants Who Automatically Enroll		98% ²⁸		86%
*EX 3-1-1.01 Total Number of Low Income Discount Participants		353,017		365,000

The cost of administering this program is approximately 2% of the total program cost. Program costs include the contract with Solix, Inc. (described below) and PUC resources of approximately .5 FTE.

²⁸ This is not a representative number. Because funding for the 2007 program was provided as a supplemental appropriation in June 2007, there was a very limited opportunity for customers to self-enroll.

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.

The PUC has received funding for the electric low income discount program from the SBF at the following levels:

Fiscal Year	Appropriated Amount
2002	\$97,083,960
2003	\$135,957,827
2004	\$97,129,705
2005	\$117,504,085
2006	\$0
2007	\$30,000,000 ²⁹
2008	\$80,000,000
2009	\$90,000,000
2010	\$119,570,603
2011	\$132,291,594

From FY 2002 through FY 2005, the program provided a discount year-round. Beginning in the summer of 2007, when the PUC received a supplemental appropriation for the program, the Legislature has specified that the discount should be provided May – September only.

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.

LITE-UP Texas benefits low income electric customers in areas where retail choice is in effect who are eligible based on household income of not more than 125% of federal poverty guidelines or who receive food stamps from the Health and Human Services Commission (HHSC) or medical assistance from a state agency administering a part of the medical assistance program.

There are currently approximately 430,000 persons enrolled in the program. As required by PURA § 39.903(j), the PUC adopted rules providing for automatic enrollment for customers who qualify based on receiving food stamps or medical assistance. Customers may also self-enroll.

²⁹ This funding was received as a supplemental appropriation in June 2007.

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.

The PUC adopted 16 T.A.C. §§ 25.452 and 25.454 to administer the LITE-UP Texas program.

The basic program elements are as follows:

- The PUC establishes the amount of the rate discount each year based on the amount appropriated for the program by the Legislature, projected electricity rates, projected usage, and projected participants.
- The list of eligible customers is created each month using both an automatic enrollment process in conjunction with the Texas Health and Human Services Commission (HHSC) and self enrollment. The PUC has outsourced the functions of administration of program enrollment and creation of the list of eligible customers.
- Retail electric providers reflect the rate discount on eligible customers' monthly electric bills.
- Retail electric providers submit requests for reimbursement from the SBF to the PUC each month. The PUC processes the requests within 5 working days.

The PUC has a memorandum of understanding with HHSC that addresses its role in automatic enrollment and program outreach.

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).

The program is funded by the SBF, which was created in 1999. The source of revenues for the SBF is a nonbypassable fee paid by electric utility customers in areas of the state where retail competition exists. The maximum amount of the fee is 65 cents per megawatt hour, which is roughly \$8 per year for a customer who uses 1,000 kilowatt hours per month. The PUC sets the amount of the system benefit fund fee annually.

From September 1, 1999, to August 31, 2001, the SBF was an account in the General Revenue Fund which could be appropriated only for the purposes stated in PURA § 39.903. From September 1, 2001, to August 31, 2003, the SBF was a trust fund. Beginning September 1, 2003, the SBF is again General Revenue.

The PUC's role in administration of the program is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

There are no similar programs. Related programs, such as bill payment assistance programs, do not provide sustained benefits or feature automatic enrollment based on HHSC programs.

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.

The PUC has a memorandum of understanding with HHSC that addresses its role in automatic enrollment and program outreach.

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.

N/A

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.

The PUC entered into a contract with Solix, Inc. (Solix) based on a competitive bidding process. Solix is responsible for administering the Low-Income Electric Discount Program (LITEUP-TEXAS). Solix duties include but are not limited to managing the automatic enrollment process, processing self-enrollment forms, matching data files from HHSC and the self-enrollment database against the electric companies customer lists, providing output files to the electric companies of matched customers, resolving customer eligibility issues, notifying applicants of their failure to meet eligibility requirements or when their self-enrollment status needs to be recertified, and maintaining all software and hardware along with providing a secure password-protected Website for all file transfers. In addition, Solix maintains the LITE-UP TEXAS call center and handles all the fulfillment center mailouts. Solix provides 9 standard reports monthly along with any ad hoc reports requested by the PUC and must meet 4 performance measure standards.

The amount expended in FY 2008 for the Solix contract for the LITE-UP program was \$800,000.

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

None identified.

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

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.

N/A

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.

Complaints about and requests for assistance with the LITE-UP program that are received by the PUC are logged into the database used for the Informal Complaint Resolution program, and are forwarded to Solix, Inc., the third party program administrator, for resolution. In addition, the LITE-UP Program Administrator, who is a PUC employee, works directly with customers to assist with enrollment and other issues. The chart below reflects the number of inquiries tracked through the Customer Protection Division database.

Public Utility Commission LITE-UP Program Information on Contacts from the Public Fiscal Years 2007 and 2008		
	FY 2007	FY 2008
Total number of program participants	982,323	1,844,720
Average number of participants per month	327,441	368,944
Total number of complaints or inquiries received from the public	15	137

Strategy 3-1-2:	Produce and disseminate customer education information for electric market competition through outsourcing; address customer inquiries through a website and call center. Nontransferable.
Actual Expenditures, FY 2008	\$750,000
Number of FTEs as of August 31, 2008	0

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

Name of Program or Function	Texas Electric Choice Customer Education Program
Location/Division	Customer Protection Division
Contact Name	Mike Renfro, Director, Customer Protection Division

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

PURA § 39.902 requires the PUC to develop and implement an educational program to inform customers, including low-income and non-English-speaking customers, about changes in the provision of electric service resulting from the opening of the retail electric market within ERCOT.

Since the program’s inception in January 2001, the “Texas Electric Choice” campaign has worked to educate Texans about the changes and choices in the retail electric market. The level of outreach in the program is directly related to the amount appropriated for this purpose. The PUC has received funding for customer education from the SBF at the following levels:

Fiscal Year	Appropriated Amount
2001	\$12,000,000
2002	\$12,000,000
2003	\$6,000,000
2004	\$750,000
2005	\$750,000
2006	\$750,000
2007	\$750,000
2008	\$750,000
2009	\$750,000
2010	\$750,000
2011	\$750,000

The three primary components of the campaign are the Power to Choose Website, the Texas Electric Choice Call Center, a toll-free resource for information on the retail electric market, and a marketing and outreach effort.

Power to Choose Website

The campaign's PowerToChoose.org Website is designed to deliver comprehensive electric choice information. Through interactive features, the site allows consumers to locate rate offerings based on zip code and compare providers by price as well as service offering, such as green power, and fixed and variable rate plans.

Texas Electric Choice Call Center

The PUC provides a toll-free call center operation to provide consumers with information on Electric Choice. Currently, the call center provides four full-time bilingual customer service representatives dedicated to the Texas Electric Choice campaign. The call center is staffed from 8 am – 6 pm Monday-Friday and there is an interactive voice response system available 24/7.

Texas Electric Choice Marketing and Outreach Efforts

Educational Materials

To meet the demand for information regarding electric deregulation in Texas, the campaign has produced and re-developed a variety of brochures, fact sheets, Web pricing tool and the PowerToChoose.org Website. The campaign's "Official Guide to Electric Choice" was designed in 2006 and in 2008 won first place in the National Association of Government Communicators' (NAGC) Blue Pencil/Gold Screen awards for most outstanding brochure produced by a government agency. The campaign's popular hand fans, designed in 2008, won an award of excellence by the NAGC in 2009.

TV and Radio PSA Strategies

The Texas Electric Choice campaign has been able to broadcast professional non-paid commercials on very limited budgets. Sherry Matthews Advocacy Marketing (SMAM) developed a creative concept for TV and radio that featured the characters from “Greater Tuna,” a comic play that has been a hit for 20 years around the state and across the country. To reach Hispanic audiences, the campaign produced Spanish-language public service announcements (PSAs) for TV and radio. To promote these new PSAs, SMAM secured a “non-commercial sustaining announcement placement” (NCSA) with the Texas Association of Broadcasters. This agreement has allowed the PUC to reach consumers across deregulated markets at a fraction of the cost of paid airtime.

E-Marketing Strategies

The campaign began using geo-targeted search engine marketing (SEM) in 2006 to reach Texans in deregulated areas who are searching for information regarding electricity in Texas. Low-cost SEM on Google and Yahoo! networks propelled more than 67,000 Texans to use the Web pricing tool. The campaign has also used email blasts in three separate e-campaigns. Nearly 17,000 Texans opened their eBlasts, and 14 percent of readers clicked through to the PowerToChoose.org Website.

Media/Public Relations Strategies

The campaign has used a variety of non-paid media relations strategies to successfully extend and amplify the impact of campaign activities, including “prepackaged” TV and radio news articles, media tours and television news events (telethons). Media messages attained through these strategies directed customers to other sources for more detailed information, such as the Website, toll-free Answer Center and Consumer Guide.

Statewide Radio Network

Through SMAM’s Lone Star Radio News Network, the campaign has generated news features promoting electric choice messaging and urging listeners to visit the Website or phone the Answer Center for more information. The news format enhances the campaign’s credibility and promotes direct consumer action. During the last two years, the campaign released twelve 60-second news features. Network configuration for Texas Electric Choice campaign was tailored to include only those stations that broadcast in markets where electric choice is an option.

Video News Releases

The summer of 2008 provided an opportunity to deliver the PUC’s message of electric energy conservation and provider choice during one of the warmest summers in Texas history. Through the production and distribution of a video news release, free TV coverage promoted the one-time ENERGY STAR tax-free weekend.

Community Partnership Strategies

Grassroots outreach continues to play a significant role in the Texas Electric Choice campaign. Since 2004, the campaign has emphasized a critical part of the PUC’s electric competition outreach efforts – the Power Partner Program. Over the last three years, the campaign has moved away from individual Power Partners to focus on a smaller number of distribution partners that are asked to distribute campaign materials during a specific time or event. The campaign has found this approach to have a lower maintenance cost as well as producing more effective and measurable results.

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.

Over the past six years, the PUC Texas Electric Choice consumer education campaign has leveraged innovative, low-cost marketing strategies to achieve millions of dollars of free media exposure and increase public awareness of electric provider options to a high of 92.5 percent among targeted consumers in deregulated markets.

Results Highlights

Texas Electric Choice Call Center

Total Calls

FY 2005	183,088
FY 2006	229,544
FY 2007	178,213
FY 2008	145,975

Power To Choose Website

Unique Visitors to Website

FY 2005	325,927
FY 2006	713,554
FY 2007	843,415
FY 2008	682,714

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Marketing and Outreach Efforts

Information Products Distributed

FY 2005	340,168
FY 2006	560,816
FY 2007	556,349
FY 2008	535,939

- Special video news release promoting 2008 ENERGY STAR tax-free weekend garnered nearly \$1.5 million in unpaid media exposure and reached 7.3 million Texans.
- Donated radio airtime valued at \$2.4 million reached 3.8 million Texans through SMAM's exclusive Lone Star Radio News Network.
- English and Spanish-language "telehons" reached 2.4 million Texans in 2006 and netted \$500,000 in non-paid media exposure.
- 26,000 PSA airings over the Texas Association of Broadcasters' non-commercial announcement program produced \$1.4 million in media exposure.
- Search engine marketing delivered more than 67,000 users of the Web pricing tool and generated an additional value of \$1.2 million in Web exposure.
- The Power Partner Program expanded to more than 350 community partners and outdoor events, including National Night Out and outdoor festivals, resulting in the distribution of more than 750,000 consumer education items.
- The PUC's 2006 PSA starring the cast of the hit theatrical series "Greater Tuna" won a bronze Telly Award, recognizing outstanding local and regional television commercials and PSAs. The PUC produced new Texas Electric Choice television and radio PSAs in both English and Spanish in the spring of 2009; the cast of "Greater Tuna" reprised their roles in the English language spots.

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.

N/A

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.

PURA § 39.902 was enacted in 1999 as part of the S.B. 7 electric restructuring legislation. The Legislature recognized that customers would need information and education in order to understand and participate in the competitive retail electric market, and the Legislature provided specific authorization and funding for this purpose. The customer education campaign is targeted to residential electric customers within the ERCOT region of Texas.

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.

The Information and Education section (I&E) of the PUC's Customer Protection Division manages the Texas Electric Choice campaign. This I&E group consists of a coordinator and two information specialists. The PUC has contracted with two outside vendors (Harte-Hanks Response Management/Austin L.P. and Sherry Matthews, Inc.) to provide call center and marketing/outreach services, respectively, through the end of FY 2009.

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).

The Texas Electric Choice campaign is funded by General Revenue – Dedicated (System Benefit Fund) (SBF), which was created in 1999 as part of the Senate Bill 7 electric restructuring. The source of revenues for the SBF is a nonbypassable fee paid by electric utility customers in areas of the state where retail electric service competition exists.

The PUC's role in administering the Texas Electric Choice campaign is funded with General Revenue and General Revenue – Dedicated (System Benefit Fund).

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

The PUC-sponsored customer education program is required to be neutral and unbiased in informing customers about their choices in the competitive electric market. The Texas Electric Choice campaign is the only comprehensive, statewide customer education initiative on the competitive retail electric market.

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.

N/A

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.

N/A

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.

Beginning in August 2003, the PUC contracted with Harte-Hanks Response Management/Austin L.P. to provide a toll-free call center operation to provide consumers with information on Electric Choice. The total amount of expenditures in FY 2008 was \$240,000.

Beginning in August 2003, the PUC engaged Sherry Matthews Advocacy Marketing (SMAM) to manage the campaign. Total expenditures under the SMAM contract in FY 2008 were \$230,000.

Both contracts require the vendors to provide the PUC with periodic detailed reports of contractor activity that underscore accountability of expenditures and delivery of contracted services at performance levels specified in the respective contracts.

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

None identified.

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

N/A

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.**

N/A

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.

N/A

Name of Program or Function	Texas Universal Service Fund Programs
Actual Expenditures, FY 2008	\$543,532,680

The Texas Universal Service Fund (TUSF) was established by statute in 1987 to implement a competitively neutral mechanism that enables all residents of the state to obtain basic telecommunications service needed to communicate with other residents, businesses, and governmental entities.

The TUSF programs are authorized by PURA Chapter 56, and consist of the following major components:

- Assist telecommunications providers in providing basic local telecommunication service at reasonable rate in high cost rural areas (consisting of separate programs for large and small companies);
- Provide support for Lifeline program (described as a separate program);
- Provide support for a telecommunications relay service for persons with hearing or speech impairments, known as Relay Texas (described as a separate program);
- Provide support for the specialized telecommunications assistance program (described as a separate program);
- Reimburse a provider designated to serve an uncertificated area;
- Reimburse a provider designated as a successor utility; and
- Finance an audio newspaper assistance program

The TUSF is funded by a statewide uniform charge, or “assessment,” payable by each telecommunications provider that has access to the customer base. The PUC oversees the ongoing administration of the TUSF and delegated the ministerial functions to Solix (formerly, National Exchange Carriers Association) through a contractual arrangement. In addition, the PUC has the authority to initiate annual performance audits and financial audits of the TUSF at its discretion. The TUSF is operated as a fund outside of state government, and revenues from the assessment are not paid into or appropriated from a state fund.

The table below sets out the TUSF disbursements for the TUSF programs since 2002. The disbursements have remained relatively flat over the last six years although there has been a downward trend in the disbursements in recent years. The fund’s disbursement total in fiscal year 2008 was approximately \$544 million.

As of fiscal year 2008, disbursements from the Large Company Area High-Cost Program, (THCUSP), accounted for approximately 72 percent of the fund’s total disbursements. Disbursements from the Small Company Area High-Cost Program to providers serving the small ILEC study areas accounted for 17 percent of the fund’s total. The remaining programs and administration costs account for the remaining 11 percent of the fund’s disbursements, which amounts to approximately \$60 million. The cost to administer the TUSF in fiscal year 2008 was approximately \$4.3 million, or about 0.79 percent of the total fund.

TUSF Disbursements by Program (in dollars)

TUSF Program Disbursements	FY 2002 (Actual)	FY 2003 (Actual)	FY 2004 (Actual)	FY 2005 (Actual)	FY 2006 (Actual)	FY 2007 (Actual)	FY 2008 (Actual)	Percent of Total USF (FY 2008)
Texas High Cost Universal Service Plan	445,002,169	443,032,847	440,643,128	431,880,066	425,383,884	420,207,703	393,876,729	72.47%
Small and Rural ILEC Universal Service Plan	100,594,768	100,447,214	99,514,307	98,239,843	95,440,073	93,111,431	90,270,094	16.61%
Texas Relay Service	12,670,839	11,514,114	10,631,171	8,375,622	6,969,244	6,098,570	4,429,161	0.81%
Lifeline	15,829,769	17,664,460	21,529,197	27,459,478	26,034,089	26,455,745	34,562,621	6.36%
Specialized Telecommunications Assistance Program	1,344,227	2,338,080	3,315,463	3,589,626	7,126,452	6,782,605	9,577,807	1.76%
Implementation of PURA § 56.025	4,448,772	4,683,495	4,680,411	4,728,275	4,699,968	4,633,812	4,549,439	0.84%
USF Reimbursement for Certain IntraLATA Services	1,656,968	1,694,250	1,984,816	1,998,737	1,844,331	1,853,683	1,931,418	0.36%
Service to Uncertificated Areas	0	0	0	12,507	372	0	0	0.00%
Tel-Assistance	1,465	0	0	0	0	0	5,629	0.00%
DARS (STAP)	455,181	488,222	592,599	578,048	685,166	739,481	675,421	0.12%
PUC	166,769	358,760	466,964	342,537	429,930	415,930	635,902	0.12%
TDHS	9,275	0	0	0	0	0	0	0.00%
Other	0	398,607	2,112,874	2,312,245	2,321,585	262,800	346,566	0.06%
NECA/Solix	773,900	740,550	780,000	804,000	828,000	2,087,881	2,671,893	0.49%
TOTAL USF	582,954,102	583,360,599	586,250,930	580,320,984	571,763,094	562,649,641	543,532,680	100%

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

Name of Program or Function	Universal Service Fund – High Cost Assistance
Location/Division	Competitive Markets Division
Contact Name	Jess Totten, Director, Competitive Markets Division

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

The two largest programs funded by the Texas Universal Service Fund (TUSF) are the Texas High Cost Universal Service Plan (THCUSP) and the Small and Rural ILEC Universal Service Plan (SRIUSP) which help subsidize rates in high-cost, rural areas.

The THCUSP program supports basic local telecommunications service provided by an eligible carrier in a high cost rural area that is carried over all flat-rate residential lines and a limited number of single-line business lines at a business customer’s location. Support is competitively neutral; therefore, support for a customer location is available to incumbent and competitive providers. Generally, the amount of support available to each eligible carrier is based on a comparison of the forward-looking economic cost (calculated using a cost proxy model) to specific revenue benchmarks.

The PUC recognized that state and federal statutes place small and rural carriers on a different competitive footing than other carriers, and therefore established a separate mechanism for the small and rural carriers. Monthly per-line support for each eligible small/rural carrier consists of the sum of (1) the amount necessary to replace support previously provided by the intraLATA toll pool and (2) the loss of revenue realized by the carrier upon implementing Commission-ordered switched access and intraLATA toll rate reductions.

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.

The cost to administer the TUSF in fiscal year 2008 was approximately \$4.3 million, or about 0.79 percent of the total fund.

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.

The PUC established the initial monthly per-line support amounts to fund the TUSF in January 2000. In 2005, Senate Bill 5 directed the Commission to evaluate whether the TUSF accomplishes its purposes and deliver a report to the Legislature on the results of the evaluation.³⁰ In 2005, the Legislature also enacted PURA § 56.031, which provides that the Commission may revise the THCUSP support amounts at any time after September 1, 2007.

In September 2007, the Commission initiated a proceeding to determine and potentially revise the monthly per-line support amounts available to qualified Eligible Telecommunications Providers (ETPs) from the THCUSP, the largest of the programs within the TUSF.³¹ Ultimately, the parties to the proceeding entered into a unanimous settlement agreement providing that THCUSP support amounts available to ETPs would be reduced over a four-year period. For example, the parties estimated that the THCUSP support provided to the four incumbent local exchange carriers (ILECs) would be reduced by approximately \$63.3 million annually beginning on January 1, 2009, and by approximately \$144.35 million after all reductions are fully implemented.³² This amount equates to approximately a 36.5 percent reduction in current THCUSP disbursements and approximately a 25 percent reduction in disbursements for the entire TUSF. Such reductions will result in a lower TUSF surcharge on customers' bills.

In establishing these reduced support amounts, the agreement also addressed the adequacy of basic rates to support universal service, as required by PURA § 56.031. The agreement provides that basic rates within a range of \$15.50 to \$17 per month are adequate to support universal service, and the agreement coordinates the reduction of THCUSP support against potential gradual increases to basic rates to levels within this range.³³ To offset this reduced THCUSP support, affected ILECs may seek to modify basic rates consistent with the prescribed range, in subsequent proceedings. The agreement, however, does not require ILECs to change their rates. Finally, the agreement reduced the number of eligible lines that are entitled to receive THCUSP support and provides for several rulemaking proceedings including one to increase the state Lifeline discount amount.

In an Order issued on April 25, 2008 the PUC adopted the agreement in its entirety and in July 2008, the PUC reduced the TUSF assessment rate to 3.4 percent from 4.4 percent, effective January 1, 2009. This reduction lowered the TUSF charge on customers' bills.

³⁰ PURA § 56.029.

³¹ *Petition for Review of Monthly Per Line Support Amounts from the Texas High Cost Universal Service Plan Pursuant to PURA §56.031 and P.U.C. SUBST. R. 26.403*, Docket No. 34723.

³² The four ILECs that receive THCUSP support are Verizon, Embarq, Windstream, and AT&T Texas (THCUSP ILECs). Under this Settlement, the support for ETPs will be reduced, not just the ILECs' support, and therefore the total THCUSP support reductions will be greater than the amounts estimated.

³³ These reductions are only a portion of the total THCUSP support reductions called for in the Agreement.

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 directly affects telecommunications providers that receive support from the TUSF for high-cost assistance, as well as the persons who are served by those providers. For both of the high-cost assistance programs, both ILECs and CLECs are eligible for support payments, if they meet the program criteria.

This program indirectly benefits all Texans by promoting universal service and communications over the telephone network.

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.

The PUC adopted 16 T.A.C. §§ 26.401 – 26.411 and §§ 26.417 – 26.423 to implement the TUSF high-cost assistance programs. Pursuant to the procedures set out in the rules, the PUC:

- Determines the amount of support to be provided under THCUSF;
- Designates telecommunications providers as eligible telecommunications providers (ETPs) to receive TUSF or eligible telecommunications carriers (ETCs) to receive federal USF funds,
- Establishes the amount of the TUSF charge to be assessed to all telecommunications providers having access to the customer base, including wireline and wireless providers, based on the amount of funding needed for all USF programs;
- Disburses funds from the TUSF to ETPs, ILECs, and other entities based on reports filed with the TUSF administrator.

ETP and ETC designations are initiated by application of the telecommunications provider seeking designation. They are considered contested cases under the Administrative Procedures Act, Government Code Chapter 2001, but may be processed administratively under the PUC's procedures.

Solix, Inc. is the TUSF administrator, and was selected based on a competitive bidding process. The Commission has the authority to monitor and audit the TUSF administrator's activities related to the operation and administration of TUSF. In addition, the Commission has the authority to initiate annual performance audits and financial audits of the TUSF at its discretion.

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).

The TUSF is funded by a statewide uniform charge or assessment rate payable by each telecommunications provider, i.e., local, long-distance, and wireless carrier that has access to the Texas customer base. TUSF contributions are determined by multiplying the assessment rate by a telecommunications provider's monthly taxable intrastate telecommunications receipts reported to the Texas Comptroller of Public Accounts. The current assessment rate is 3.4 percent.

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

There are no similar programs.

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.

N/A

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.

N/A

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.

Fund Administration

The PUC has a contract with Solix, Inc. to administer the TUSF. The total amount paid to Solix, Inc. in 2008 for TUSF administration was \$810,000. This amount includes costs related to the Specialized Telecommunications Assistance Program.

Fund Audit

The PUC had a contract with Warinner, Gesinger and Associates, LLC, a certified public accounting firm, to audit the TUSF and determine whether Solix has adequate internal controls and administers the TUSF in compliance with PURA, PUC Substantive Rules, PUC/Solix contract terms and Solix's administrative procedures, and that the Solix procedures are adequate. Fiscal years 2004, 2005, 2006, 2007, and 2008 were audited under this contract. The amount paid to Warinner, Gesinger in FY 2008 was \$30,000.

The PUC plans to issue a Request for Proposals to contract for an audit for FY 2009.

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

None identified.

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

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.**

N/A

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.

N/A

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

Name of Program or Function	Universal Service Fund: Lifeline and Link Up Programs
Location/Division	Fiscal and Information Services Division
Contact Name	Jim Albright, Director, Fiscal and Information Services Division

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

The Lifeline program was created in 1987 and is required by federal law, 47 C.F.R. Part 54, Subpart E. Lifeline is a telephone assistance program which helps individuals who meet certain eligibility requirements receive telephone service at reduced rates. This service provides a discount of up to \$7.00 on basic monthly telephone rates of which the state portion is up to \$3.50. In conjunction with the \$7.00, the State is giving an additional discount to lifeline customers because of a settlement agreement in Docket 34723.³⁴ The additional discount is a direct correlation to the basic service level increases allowed and will vary from year to year. PURA § 56.021 provides for reimbursement to telephone providers from the Texas Universal Service Fund. Link Up is a federal program which provides a 50% discount on local telephone service installation. The PUC oversees a contractor that determines the customers who are eligible for Lifeline and Link Up.

Customers living on tribal lands may receive local telephone service for as little as \$1.00 per month if they qualify. In addition, a 50% reduction, up to a maximum of \$30.00, for installation of local telephone service and additional savings on installation fees over \$60.00 may be available to these customers.

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.

PURA § 17.004 and § 55.015 require the PUC to develop, in coordination with the Texas Health and Human Services Commission (HHSC), an automatic enrollment process for customers who are eligible for Lifeline service. PURA § 17.007 further requires that the eligibility process for Lifeline be integrated with the electric low income discount program authorized by PURA § 39.903.

³⁴ *Petition for Review of Monthly Per Line Support Amounts from the Texas High Cost Universal Service Plan Pursuant to PURA §56.031 and P.U.C. SUBST. R. 26.403, Docket No. 34723.*

Approximately 93% of the program participants are automatically enrolled based on participation in other assistance programs.

The PUC makes information about the program available on its Website and has developed a Consumer Fact Sheet.

Costs for administration of this program are less than 4.5% of the total program costs.

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.

Eligibility requirements, which are set out in PURA § 55.015, were broadened in 2005 by Senate Bill 5. Income eligibility was increased from 125% to 150% of federal poverty level. In addition, the eligibility requirements cover not only a customer participating in any of the enumerated programs, but any customer in whose household resides a person, or a person who has a child, receiving benefits under one of the enumerated programs. Also, health benefits covered under the state child health plan under Chapter 62, Health and Safety Code (CHIP) was added to the list of programs conferring eligibility.

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 directly affects persons who are enrolled in the Lifeline program by providing financial assistance for basic telephone service. Households with incomes at or below 150% of the federal poverty guidelines or any customer in whose household resides a person who received of has a child who receives benefits under the following programs are eligible: Medicaid, food stamps, supplemental security income (SSI), Low Income Energy Assistance Program (LIHEAP); federal public housing assistance, or health benefits covered under the state child health plan under Chapter 62, Health and Safety Code (CHIP).

This program indirectly benefits all Texans by promoting universal service and communications over the telephone network. Approximately 12% of residential customers are Lifeline eligible.

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.

The PUC adopted 16 T.A.C. § 26.412 to implement the Lifeline and Link Up programs.

Self-Evaluation Report

The basic program elements are as follows:

- The Texas Health and Human Services Commission (HHSC) provides the PUC contractor (Solix) a list of Medicaid, Food Stamp (SNAP), and CHIP recipients monthly.;
- The telecommunications companies provide Solix a monthly listing of all their residential customers;
- Solix processes self-enrollment applications into a database;
- Solix matches the HHSC file & self-enrollment against the telecommunications companies to produce a matched list of customers who are entitled to the Lifeline discount.
- Solix provides a list of customers who matched for the Lifeline discount, which is updated monthly, to the telecommunications providers;
- The telecommunications providers reflect the Lifeline discount on the customers' bills from the match list provided by Solix;
- The telecommunications provider reports to the Texas USF administrator and the federal Lifeline administrator, and is reimbursed from the Texas USF or federal USF, as appropriate.

The PUC has a memorandum of understanding with the HHSC that addresses HHSC's role in automatic enrollment and program outreach. HHSC's role is also set out in 16 T.A.C. § 26.142(f)(2).

Solix, Inc. has been the TUSF administrator since 1999. Solix, Inc. was selected based on a competitive bidding process.

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).

The Lifeline program is both a State (TUSF) and Federal program (FUSF) and is funded by both. The TUSF is funded by a statewide uniform charge or assessment rate payable by each telecommunications provider, i.e., local, long-distance, and wireless carrier that has access to the Texas customer base. TUSF contributions are determined by multiplying the assessment rate by the monthly taxable actual intrastate telecommunications services receipts reported by that telecommunications provider under Chapter 151 of the Texas Tax Code. As of January 1, 2009, the assessment rate set by the PUC is 3.4 percent.

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

Link Up is a federal program which provides a 50% discount, up to a maximum of \$30.00, on local telephone service installation. In addition, the Federal Communications Commission (FCC) subscriber line charge, which applies only to basic monthly phone service, is waived for Lifeline participants, resulting in an additional savings of up to \$6.50 per month, depending on a customer's telephone company charges.

The federal USF is funded by a charge assessed on all telephone companies providing interstate service.

There are no other programs that provide a monthly discount. Related programs, such as bill payment assistance programs, do not provide sustained benefits or feature automatic enrollment based on eligibility in HHSC programs.

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.

The PUC has a memorandum of understanding with HHSC that addresses its role in automatic enrollment and program outreach.

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.

PURA § 55.015(b-1) required the PUC, on or before June 1, 2006, to the maximum extent feasible, to enter into memoranda of understanding (MOU) with housing authorities in the principal cities of each metropolitan statistical area to improve enrollment rates in the Lifeline program. In May, 2006, the PUC contacted 63 such housing authorities and requested them to enter an MOU. Of those contacted 32 responded and 32 entered into MOUs with the PUC.

The PUC intends to make another attempt to work with federal housing authorities, either formally or informally, as part of its FY 2010 outreach efforts.

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.

The PUC entered into a contract with Solix, Inc. (Solix) based on a competitive bidding process. Solix is responsible for administering the Lifeline program. Solix duties include, but are not limited to:

- managing the automatic enrollment process,
- processing self-enrollment forms,

Self-Evaluation Report

- matching data files from HHSC and the self-enrollment database against the telecommunications companies customer lists,
- providing output files to the telecommunications companies of matched customers,
- resolving customer eligibility issues,
- notifying applicants of their failure to meet eligibility requirements or when their self-enrollment status needs to be recertified,
- maintaining all software and hardware along with providing a secure password-protected Website for all file transfers,
- maintaining the Lifeline call center, and
- handling all the fulfillment center mailouts.

Solix provides 9 standard reports monthly along with any adhoc reports requested by the PUC and must meet 4 performance measure standards.

Solix was paid \$2,700,000 in FY 2008 for its services related to the Lifeline program.

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

None identified.

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

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.

N/A

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.

Complaints about and requests for assistance with the Lifeline program that are received by the PUC are logged into the database used for the Informal Complaint Resolution program, and are forwarded to Solix, Inc., the third party program administrator, for resolution. In addition the Lifeline Program Administrator, who is a PUC employee, works directly with customers to assist with enrollment and other issues. The chart below reflects the number of inquiries tracked through the Customer Protection Division database.

Public Utility Commission Lifeline Program Information on Contacts from the Public Fiscal Years 2007 and 2008		
	FY 2007	FY 2008
Total number of program participants	8,085,899	10,274,596
Average number of program participants per month	673,825	856,216
Total number of complaints or inquiries received from the public	231	245

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

Name of Program or Function	Universal Service Fund: Telecommunications Relay Service
Location/Division	Customer Protection Division
Contact Name	Eileen Alter, Relay Texas Administrator

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

The Relay Texas program was created to provide persons with hearing or speech impairments access to the telecommunications network equivalent to the access provided to other customers.

In 1989, the Legislature authorized a telecommunications relay service (TRS) in Texas and directed the Commission to supervise its provision. The name “Relay Texas” was coined for the Texas TRS. Relay Texas is available 24 hours a day, 365 days a year, with no restrictions on the length or number of calls placed. Relay Texas has led the nation in improving the quality of TRS, with such enhancements as voice-carry-over, speech-to-speech, Texas Video Interpreting Service, a customer database, Spanish interpreting, and other features. In 2004, Texas began providing Captel, a telephone relay service that allows users with a Captel telephone to both hear the other party’s response and read a text transcript of the spoken words.

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.

In September 1990, the first month of operation, Relay Texas processed nearly 50,000 relay calls; by September 2000, the number of calls had increased to an average of over 415,000 per month. The current monthly average number of calls handled is approximately 184,720, equating to approximately 3,289,621 conversation minutes.

Federal regulations require relay service agents to answer 85% of all incoming calls received each day within 10 seconds. The Average Speed of Answer (ASA) for FY 2008 was 1.37 seconds; 95% of calls were answered within 10 seconds.

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.

Relay Texas call volumes have decreased over the past nine years due to the development and availability of video relay and internet relay services, both of which allow individuals to use American Sign Language (ASL) as their primary form of communication. Wireless pagers, e-mail, text messaging, and other advancements and alternative methods of telecommunications have also contributed to the decline of telephone relay service use.

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 all people, in particular persons with hearing and speech impairments, by providing increased ability and opportunities for communication over the telephone network. Relay Texas is available to all Texans. The services provide improved telecommunication access between individuals with and without disabilities. Persons with hearing or speech impairments may need a text capable telephone (TTY) or computer with appropriate communications programs to use the service.

Relay services can increase business opportunities by enhancing accessibility to a new consumer market, increase the employability of individuals with disabilities, and improve the quality of life for all citizens.

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.

Pursuant to PURA §§ 56.021 and 56.108, TRS is provided by a designated carrier and funded by a surcharge on all telecommunication providers through the USF. Using a competitive bidding process, the PUC selects a vendor based on such key criteria as price, service quality, and availability over a five-year term. The PUC awarded five-year contracts to Sprint Communications Company, L.P. (Sprint) for Texas in 1990 and in 1995. In 2006, Sprint was again selected as the preferred vendor. The new contract will expire in 2011.

The PUC employs a program administrator to oversee the Relay Texas program and Specialized Telecommunications Assistance Program (STAP).

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).

Relay Texas is funded by the TUSF, pursuant to PURA § 56.021(2) and (4).

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

There are no similar programs in Texas. PURA § 56.108 requires the PUC to select one telecommunications carrier to provide the statewide telecommunications relay access service.

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.

N/A

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.

N/A

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.

In FY 2008, Relay Texas expenditures totaled \$4,920,161.

By law, Relay Texas services must be provided by one contracted service provider who may use one or more subcontractors to perform TRS. Sprint Communications Company, L.P. (Sprint) is the contracted carrier. Sprint is required to provide monthly and annual service provision reports specifying statistical performance information relating to the quantitative and qualitative level of

service being provided. These reports are reviewed in depth by the Relay Texas administrator to ensure desirable service level performance is maintained.

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

None identified.

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

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.

N/A

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.

N/A

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

Name of Program or Function	Universal Service Fund: Specialized Telecommunications Assistance Program
Location/Division	Customer Protection Division
Contact Name	Eileen Alter, Program Administrator

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

The Specialized Telecommunications Assistance Program (STAP) was created in 1997 to provide financial assistance to persons with disabilities that impair their ability to access the telephone network. The financial assistance is provided in the form of a voucher for the purchase of telecommunications equipment or services so that they may access the telephone network.

STAP is coordinated by two agencies: the Texas Department of Assistive and Rehabilitative Services (DARS) and the PUC. The PUC is responsible for registering and reimbursing vendors. DARS is responsible for most of the program's functions, including developing applications, approving equipment, and issuing vouchers. Texas uses a voucher system under which qualified persons receive a voucher to purchase the telecommunications equipment. Unlike many other states, the equipment becomes the property – and responsibility – of the purchaser. Approved products, such as TTYs, amplified phones and speech aids, assist persons with a wide variety of disabilities with using the telephone. Since the inception of the STAP program, 148,052 vouchers have been issued and 104,224 vouchers have been exchanged.

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.

STAP staff, consisting of two administrative clerks and a program coordinator, process all vouchers submitted for payment by STAP vendors that exchange vouchers for specialized equipment authorized to qualifying applicants. As mandated by law, within 45 days of receipt of all required documentation, the PUC authorizes payments to reimburse properly-registered vendors by an electronic funds transfer into the vendor's registered bank account. The exception to this 45 day payment practice applies to any vouchers held due to a dispute regarding the amount or propriety of the payment or a dispute concerning whether the device or service is appropriate or adequate to meet

the voucher recipient's needs. Solix, Inc. is the PUC contractor responsible for collecting and disbursing the funds earmarked for this purpose.

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.

The initial STAP legislation included persons with hearing and speech disabilities only, but was expanded in 1999 to include all persons having a disability that interferes with access to the telephone network. The impact of this change resulted in the provision of over a dozen additional types of voucher categories in order to provide additional forms of telecommunication access for those newly qualifying applicants through the provision of equipment tailored to meet their specific needs.

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 all people experiencing difficulty accessing the telephone network due to the existence of a disability by providing funding for equipment that provides them with increased accessibility to the telephone network.

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.

The PUC adopted 16 T.A.C. § 226.415 to administer the STAP program. The PUC employs a program administrator to oversee both the Relay Texas and STAP programs.

STAP eligibility requirements are established by DARS as provided by PURA § 56.152. To be eligible, a person must be a Texas resident with a disability that interferes with the person's ability to effectively access the telephone network. Qualifying applicants receive a voucher they can use to purchase a device that will provide them telecommunication access.

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).

STAP is funded by the TUSF as provided in PURA § 56.021(3) and (4).

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

There are no similar programs.

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.

The PUC has a memorandum of understanding with DARS setting out each agency's responsibilities for the program.

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.

N/A

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.

The PUC has a contract with Solix, Inc. (Solix) to reimburse STAP vendors for the lesser of the face value of a voucher or the actual sales price of the equipment sold to the program participant. The PUC reviews all vouchers submitted for reimbursement by STAP vendors and forwards them to Solix by the 4th day of the following month with a letter authorizing payment. The contract provides for progressive penalties in the event that Solix fails to reimburse vendors by the 10th day of each month.

The Solix contract also covers other aspects of Universal Service Fund administration. The annual amount attributable to the STAP program is not separately identified in the contract.

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

The following changes would improve the program's effectiveness:

Reduce the length of time qualifying applicants must wait before qualifying for a new voucher to purchase a replacement device from five to three years. Many of the devices purchased using a STAP voucher are not engineered to last for five years and oftentimes individuals who must rely on specialized telecommunication devices cannot afford to fix or replace malfunctioning equipment.

Allow the reimbursement of warranties for equipment and shipping of products.

Expand participation in the program by vendors. Many voucher recipients who live in areas without a nearby STAP vendor who can exchange the voucher for an authorized device must either travel great distances or pay for shipping a device provided by a vendor located in another city or state.

Provide the PUC with greater oversight over vendors, including authority to investigate deceptive practices and take action, including administrative penalties, to foster compliance with program rules.

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

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.

N/A

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.

N/A

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

Name of Program or Function	Universal Service Fund: Audio Newspaper
Location/Division	Fiscal and Information Services Division
Contact Name	Jim Albright, Director, Fiscal and Information Services Division

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

PURA § 56.301 requires the PUC to establish a program funded by the TUSF to provide financial assistance for a free telephone service for persons who are blind or visually impaired that offers the text of newspapers using synthetic speech.

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.

In June 2009 there were 2,775 registered users and 126,314 minutes of use for the month. There are currently eleven periodicals available, with four more planned to be added by the end of August.

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.

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 benefits persons who are blind or visually impaired.

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.

The PUC entered a contract with the National Federation of the Blind of Texas to administer this program.

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).

This program is funded by the Texas Universal Service Fund.

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

The PUC is not aware of any similar programs.

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.

N/A

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.

N/A

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.

The FY 2008 expenditure for the contract with the National Federation of the Blind of Texas (NFBT) was \$340,000.

The audio newspaper program converts text from participating newspapers into synthetic speech, which is made available twenty four hours a day, seven days a week to customers by using a touch-tone telephone and entering a personal identification number.

NFBT is required to file monthly usage reports and quarterly content acquisition reports.

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

None identified.

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

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.

N/A

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.

N/A

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.

Public Utility Commission of Texas	
Exhibit 9: Statutes	
Statutes	
Citation/Title	Authority/Impact on Agency
Utilities Code, Title 2, Public Utility Regulatory Act	Agency’s enabling legislation, contains authority for most agency functions required under state law.
Utilities Code, Title 4, Delivery of Utility Services	Contains laws pertaining to electric and telephone cooperatives and miscellaneous provisions affecting electric and telephone utilities.
Texas Business and Commerce Code, Chapter 43, §§ 304.051-304.062	Provides authority to administer Texas No-Call List.
Texas Health and Safety Code, Chapter 386, Subchapter E	Provides authority to administer energy efficiency grant program.
Texas Local Government Code, Chapter 283	Establishes uniform method for compensating municipalities for use of public rights-of-way by certificated telecommunications providers.
Energy Policy Act of 2005	Authorizes federal electric reliability standards for the continental United States.
Federal Power Act, 15 USC § 791a et seq.	Establishes federal regulation of interstate sales of power at wholesale, thereby limiting PUC’s authority over the wholesale market in some areas of Texas.

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<p>Public Utility Holding Company Act, 15 USC § 79 et seq</p>	<p>Limits the organizational structure and geographic scope of electric and gas utilities that operate in more than one state, thereby limiting merger and acquisition activities.</p>
<p>Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. § 2601 et seq.</p>	<p>Requires state commissions to implement federal laws relating to purchases from and sales to qualifying facilities.</p>
<p>Federal Telecommunications Act of 1996</p>	<p>47 U.S.C. 151 et seq.:</p> <ul style="list-style-type: none"> § 153 Definitions § 160(e) State Enforcement After Federal Forbearance § 208 Complaints to FCC § 214(e) Universal Service § 224(c) State Regulatory Authority Over Rates, Terms and Conditions (Pole Attachments) § 225(f) Telecommunications Services for Hearing-Impaired and Speech Impaired Individuals § 227 Restrictions on the Use of Telephone Equipment (No-Call Lists) § 251 Interconnection § 252 Procedures for Negotiation, Arbitration and Approval of Agreements § 253 Removal of Barriers to Entry § 254 Universal Service § 271 BOC Entry Into InterLATA Service § 272 Separate Affiliate; Safeguards
<p>Code of Federal Regulations, 47 C.F.R. Part 54, Subpart E</p>	<p>Requires telephone Lifeline program.</p>
<p>Internal Revenue Code, 26 USC § 45.</p>	<p>Provides for tax credit for energy produced from renewable resources, which supports state goal of increasing output from renewable resources.</p>

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).

Public Utility Commission		
Exhibit 10: 81st Legislative Session Chart		
Legislation Enacted – 81st Legislative Session		
Bill Number	Author	Summary of Key Provisions
HB 1783	Solomons	<p>Relating to the Internet broadcasting of PUC and ERCOT public hearings and meetings.</p> <p>The bill requires the PUC to provide free access to Internet video of the Commission public hearings and meetings on the PUC Website. The bill authorizes the PUC to recover the costs of providing free webcasts of public hearings and meetings by imposing an assessment against a public utility, a corporation described in Section 32.053 of the Utilities Code, a retail electric provider that serves more than 250,000 customers, or a power generation company that owns more than 5,000 megawatts of installed capacity in this state. The bill also requires the PUC to ensure ERCOT provides free access to Internet video of their public hearings and meetings.</p>
HB 1799	Bohac	<p>Relating to information that must be included on certain electric bills.</p> <p>The bill requires retail electric providers to include on a residential customer's bill a statement directing the customer to the PUC's Power-to-Choose Website. The bill requires the PUC to adopt rules to implement these provisions. The provisions of the bill expire on September 1, 2011.</p>

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<p>HB 1822</p>	<p>Solomons</p>	<p>Relating to the use of certain terms by certificated telecommunications utilities, retail electric providers, and electric utilities in retail bills, and to notice of expiration or price change for certain retail electric products.</p> <p>The bill requires the PUC to adopt new rules including a list of defined terms common to the telecommunications and electricity industries. The bill establishes requirements for retail electric providers to notify customers who have a fixed rate product of the date the fixed rate product will expire.</p>
<p>HB 1831</p>	<p>Corte</p>	<p>Relating to disaster preparedness and emergency management and to certain vehicles used in emergencies.</p> <p>The bill requires the Communication Coordination Group to include a member of the PUC. This group is responsible for coordinating interagency communication during state declared disasters. The bill permits the PUC to order utilities and other electric companies to sell power to another utility or electric company that is unable to meet its customers' demand during a natural disaster. The bill also requires the PUC, not later than June 1, 2010, to conduct a study to evaluate the locations in this state that are most likely to experience a natural disaster or other emergency, actions that utilities and other electric companies should take to prepare for a natural disaster, and the potential for distributed generation, including renewable power with battery backup and combined heat and power systems, to strengthen reliability of electric service during a natural disaster or other emergency.</p>
<p>HB 2052</p>	<p>Hilderbran</p>	<p>Relating to electric service reliability measures.</p> <p>The bill amends the service quality standards in PURA that are enforced by the PUC, removing a standard relating to utility feeders that appear on the list of worst performing feeders in consecutive years, and requiring the PUC to take a number of factors into consideration in deciding whether to take enforcement action against a utility.</p>

HB 3309	Gattis	<p>Relating to certificates of convenience and necessity for the construction of transmission facilities.</p> <p>The bill requires the PUC to consolidate the proceedings on applications to obtain or amend a certificate of convenience and necessity (CCN) for the construction of a transmission lines if it is apparent that the lines that are the subject of the separate proceedings share a common point of interconnection. The bill exempts a proceeding on an application for a CCN for a transmission line to serve a competitive renewable energy zone. The bill authorizes the PUC to grant a transmission service CCN to a person operating a transmission facility serving the ERCOT power region.</p>
SB 361	Patrick	<p>Relating to the requirement that certain water service providers ensure emergency operations during an extended power outage.</p> <p>The bill requires water utilities to submit an emergency preparedness plan to the Texas Commission on Environmental Quality, county judges, and the PUC. These affected utilities are also required to submit information identifying the location and providing a general description of all water and wastewater facilities that qualify for critical load status and emergency contact information for the affected utility. Affected utilities must provide these submissions by November 1, 2009.</p>
SB 547	Eltife	<p>Relating to transition to competition in the Southwestern Electric Power Company service area.</p> <p>The bill delays retail competition in the Southwestern Electric Power Company area until fair competition and reliable service are available to all retail customers in the state.</p>
SB 769	Williams	<p>Relating to methods for the recovery of system restoration costs incurred by electric utilities following hurricanes, tropical storms, ice or snow storms, floods, and other weather-related events and natural disasters.</p> <p>The bill permits an electric utility to obtain timely recovery of its system restoration costs without having to file a general rate case and to use securitization financing for that recovery. The bill also authorizes the PUC to require a utility to file for a securitization financing order, if securitization would benefit ratepayers.</p>

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<p>SB 1253</p>	<p>Seliger</p>	<p>Relating to the repeal of the power of certain districts and water supply corporations to allow the use of right-of-way easements for certain energy-related purposes.</p> <p>The bill repeals Water Code § 49.2205, which authorizes a water district or water supply corporation to allow others to construct, operate, and maintain transmission lines and pipelines along its rights-of-way and easements for the transmission of electricity generated by clean coal projects and renewable energy projects and for the transportation of carbon dioxide and other greenhouse gases.</p>
<p>SB 1492</p>	<p>Williams</p>	<p>Relating to the delay of retail electric competition in the areas of the state covered by the Southeastern Electric Reliability Council and to the recovery of certain transmission costs by electric utilities in those areas and to the provision of power during a natural disaster or declared emergency.</p> <p>The bill delays retail electric competition in the Texas portion of the Southeastern Electric Reliability Council (Entergy). The bill permits such a utility to adjust its transmission rates on an annual basis, in the same way as utilities in the Southwest Power Pool and Western Electricity Coordinating Council are permitted to do. The bill also authorizes the PUC to require certain entities to sell electricity to an electric utility, municipally owned utility, or electric cooperative that is unable to supply power to meet customer demand due to the natural disaster or other emergency. The bill requires the PUC to conduct a study by November 1, 2009 of the areas that are most likely to be affected by a natural disaster, the ability of utilities to make such sales, and the actions that will be required by utilities to prepare for such sales.</p>
<p>SB 2565</p>	<p>Averitt</p>	<p>Relating to adjustments of rates of certain telecommunications utilities for changes in certain tax liabilities.</p> <p>The bill repeals PURA § 53.202, which required the PUC to provide adjustments of a telecommunications utility's billing to reflect an increase or decrease in the utility's tax liability to the state. The replacement in 2007 of the state franchise tax with the new margins tax rendered § 53.202 obsolete.</p>

Legislation Not Passed – 81st Legislative Session		
Bill Number	Author	Summary of Key Provisions/Reason the Bill Did Not Pass
HB 1182	Turner	<p>Relating to the administration and purposes of the system benefit fund and the eligibility of customers for benefits under certain programs financed by the system benefit fund and other programs.</p> <p>The bill would have established the System Benefit Account 5100 as a trust fund outside the state treasury solely for the benefit of programs and purposes provided for in the bill and transferred the balance of the fund to General Revenue. The PUC would have served as trustee to administer the fund. The PUC would have been required to spend all available funds on the statutory programs of SBF. This change would have occurred September 1, 2011.</p> <p>This bill passed the House, was voted out of the Senate Business and Commerce Committee and was placed on the Intent Calendar, but was never debated on the Senate floor.</p>
HB 1243	Gallego	<p>Relating to net metering for retail electric service customers and compensation for excess electricity generated by a retail electric customer's on-site generator.</p> <p>The bill would have established a minimum price at which the excess electricity from customer-sited small renewable generation must be bought by retail electric providers.</p> <p>The bill passed the House, passed the Senate with amendments, and failed passage on the House floor when a point of order was sustained.</p>

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<p>SB 541</p>	<p>Watson</p>	<p>Relating to renewable energy and to incentives for Texas renewable energy jobs and manufacturing.</p> <p>The bill would have established definitions of tier 1 (all renewable resources) and tier 2 renewable energy (non-wind resources and energy storage) and created new goals for renewable energy generation capacity. The PUC would have been required to establish alternative compliance payments for tier 2 renewable energy credits and deposited tier 2 alternative compliance payments into the Texas Emerging Technology Fund for the purposes of research and development of tier 2 renewable energy technologies and storage technologies. Finally, the PUC would have been required to create a "Made in Texas" renewable energy credit to provide incentives for generation equipment that is wholly produced or substantially transformed by a Texas workforce.</p> <p>This bill passed the Senate, was voted out of the House State Affairs Committee and was placed on the Major State Calendar, but was never debated on the House floor.</p>
<p>SB 545</p>	<p>Fraser</p>	<p>Relating to the creation of a distributed and wholesale solar generation incentive program and to encouraging the use of solar energy devices.</p> <p>The bill would have required the PUC to establish a solar generation incentive program to be implemented by electric utilities, including provisions for cost recovery for the solar generation program through a nonbypassable fee. The State Energy Conservation Office would have established a revolving loan fund, patterned after the Loan STAR program, to be used by school districts and religious organizations to install solar panels on schools or religious organization buildings.</p> <p>This bill passed the Senate, was voted out of the House Energy Resources Committee and was placed on the Major State Calendar, but was never debated on the House floor.</p>
<p>SB 546</p>	<p>Fraser</p>	<p>Relating to energy efficiency goals and programs and demand reduction targets; creating an office of energy efficiency deployment in the state energy conservation office.</p> <p>The bill would have increased the demand-reduction goals of the energy-efficiency program, established a rate cap for energy-efficiency programs, established an energy-saving goal for the program, and required the PUC to determine whether additional programs or measures are appropriate to facilitate demand</p>

		<p>response. The bill would have required the PUC to conduct three studies, funded by electric utilities: (1) a study regarding the feasibility of mechanisms to decouple electric utility revenue and earnings from the amount of electricity consumed by customers; (2) a study regarding the effectiveness of energy efficiency and demand-response programs; and (3) a study regarding the potential for demand response and load management programs and assessing whether load management programs would achieve a five percent reduction in electric utility peak demand. The bill would repeal requires the PUC to establish a credit trading program to ensure that 50 percent of the electric generation capacity installed after January 1, 2000, other than renewables, uses natural gas.</p> <p>This bill passed both houses, was referred to a conference committee, but the conference committee did not issue a report.</p>
<p>SB 921</p>	<p>Fraser</p>	<p>Relating to access by the members of electric cooperatives to meetings of the boards of directors and certain information of the electric cooperatives.</p> <p>The bill would have amended various provisions of Utilities Code Chapter 161 regarding board meetings, elections for directors, casting of proxy votes and board procedures of electric cooperatives. The bill also established complaint procedures for cooperative members.</p> <p>The bill passed the Senate, was reported by the House State Affairs Committee and placed on the House Major State Calendar, but was not debated on the House floor.</p>
<p>SB 1772</p>	<p>Fraser</p>	<p>Relating to the authority of the Public Utility Commission of Texas to address market power abuse, including the right to order restitution for violations.</p> <p>The bill would have amended the options the PUC has to address market power abuses in the wholesale electric market to include refunds to affected persons or to the market. The bill would have also required the PUC to permit the Office of Public Utility Counsel to participate in enforcement proceedings regarding alleged market power abuses or manipulation.</p> <p>This bill passed the Senate and was voted out of the House State Affairs Committee, but was never debated on the House floor.</p>

IX. Policy Issues

A number of policy issues relating to the electric and telecommunications industries have been discussed in the recent past in PUC proceedings and during the legislative session. For the most part, these issues relate to substantive changes in the way regulated entities would be regulated, competitive markets would operate, or the public benefit programs would be conducted. These issues do not typically represent an effort to improve program delivery by the PUC but an effort to improve the results of regulation or competition from the perspective of either customers or businesses operating in the electric or telecommunications industry. Issues may arise in a variety of contexts, three of which are discussed below.

The first set of issues consists of major issues raised during the 81st Regular Session of the Texas Legislature. All of these issues relate to the electric industry; there were very few bills filed that raised issues for the telecommunications industry. A summary of legislation considered during the 81st Regular Session is included in Section VIII (B) of this report. Legislative activity focused on proposals to:

- Modify standards for assessing market power in electric generation;
- Increase the energy efficiency goal;
- Adopt solar energy requirement;
- Adopt non-wind energy requirement;
- Adopt energy storage requirement;
- Allow the PUC to require restitution, in lieu of an administrative penalty, in an electric market power case;
- Modify procedures for assessing administrative penalties;
- Streamline rate regulation;
- Adopt a moratorium for disconnection of electric service during summer months;
- Modify metering and compensation rules for customers with distributed generation;
- Provide greater security for the return of electric customers' service deposits;
- Modify requirements for the governing board of ERCOT; and
- Establish governance rules for electric cooperatives.

During the interim before the 81st legislative session, the Governor convened a Competitiveness Council. This council made several recommendations that related to areas of PUC competence that were endorsed by the Governor:

- Permit the PUC to order the deployment of advanced meters;
- Clarify that the provision of law relating to advanced meters applies in areas that are not open to competition.
- Exempt certain solar generation facilities from sales taxes;
- Establish an energy storage innovation prize;
- Establish a clean coal technology innovation prize; and
- Increase the energy efficiency goals.

The PUC provides reports to the Legislature on the scope of competition in the two industries that it oversees, and it provides recommendations for legislation in connection with these reports. The PUC included the recommendations of the Competitiveness Council in its report on the scope of competition in the electric industry. The recommendations made by the PUC in the Scope of Competition Reports for 2009 are described in Section II (D). The Scope of Competition Reports for both industries that were submitted in 2005, 2007, and 2009 are included as attachments to this report.

The PUC is often able to address issues that arise through the rulemaking authority conferred in statute. For example, in 2008, during a period of high wholesale electricity prices in May and June, issues concerning retail electric service arose when four retail electric providers (REPs) were unable to meet their obligations to ERCOT, and their customers were transferred to providers of last resort (POLRs). These transfers resulted in problems for customers and REPs serving as POLRs. Many of the customers were unable to obtain refunds of deposits they paid to their original REPs, and the POLRs or REPs to which they were transferred typically requested deposits to serve them. In addition, many of the customers lost the benefit of low fixed-price contracts with a REP that left the market, and the prices they faced for POLR service or competitive service with a different REP were much higher. The POLRs had to deal with angry customers, and some of the customers failed to pay their bills for POLR service. The PUC adopted amendments to several rules relating to competitive retail service in early 2009 to address these issues. The PUC amended the rules on POLR service and REP certification to establish more stringent financial and technical standards for REPs and to reduce the POLR rate. The more stringent REP standards should reduce the likelihood that customers will be transferred to POLR in the future.

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.

Public Utility Commission			
Exhibit 11: 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	98 San Jacinto Blvd., Suite 750 Austin, TX 78701	1-866-227-7443	
Association of Electric Companies of Texas John Fainter	1005 Congress, Suite 600 Austin, TX 78701	512-474-6725 Fax: 512-474-9670	info@aect.net cer
Association of Retail Marketers (ARM) Stephen J. Davis	Steve Davis Consulting, Inc. 701 Brazos Suite 1040 Austin, Texas 78701-3232	512-479-9995 Fax: 512-479-9996	stevedavisconsulting@austin.rr.com
Coalition of Texans With Disabilities	316 West 12 th St., Suite 405 Austin, TX 78701	512-478-3366 Fax: 512-478-3370	cotwd@cotwd.org
Communications Workers of America Andy Milburn	The Terrace, Building One 2600 Via Fortune, Suite 260 Austin, TX 78746	512-330-0871 Fax: 512-330-0886	amilburn@cwa-union.org
Consumers Union	506 West 14th St., Suite A Austin, Texas 78701	512- 477-4431 Fax: 512- 477-8934	

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Environmental Defense Fund	44 East Avenue Suite 304 Austin, TX 78701	512-478-5161 Fax: 512-478-8140	
Gulf Coast Power Association John Stauffacher Executive Director	6140 Hwy 6, Suite 67 Missouri City, TX 77459	936-447-3783 Fax: 936-588-3784	gcpaxd@gulfcopower.org
Public Citizen	1303 San Antonio St Austin, Texas 78701	512-477-1155 Fax: 512-479-8302	
TEXALTEL Charles Land Executive Director	500 N. Capital of Texas Hwy. Building 8, Suite 250 Austin, Texas 78746	512-320-0430 Fax: 512-435-5838	cland@texaltel.org
Office of the Attorney General Marion Taylor Drew Assistant AG, Public Agency Representation Section	Office of the Attorney General PO Box 12548 Austin, Texas 78711	512-475-4171 Fax: 512-322-9114	marion.drew@oag.state.tx.us
Texas ACORN	4415 San Jacinto Dallas, TX 75204	214-823-4580	www.acorn.org
Texas Cotton Ginners Association	408 W. 14th St. Austin, TX 78701-1619	512-476-8388	
Texas Electric Cooperatives, Inc.	2550 S. IH-35 Austin, TX 78704	512-454-0311	
Texas Industrial Energy Consumers Phillip Oldham	Andrews & Kurth, LLP 111 Congress Avenue Suite 1700 Austin, Texas 78701	512-320-9237 Fax: 512-320-9292	phillipoldham@andrews-kurth.com
Texas Legal Services Center Randall Chapman	815 Brazos St., Suite 1100 Austin, TX 78701-2509	512-477-6000 Fax: 512-477-6576	rchapman@tlsc.org

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Texas Municipal Power Agency	Lambeth Townsend Lloyd, Gosselink, Rochelle, & Townsend, PC 816 Congress Avenue, Suite 1900 Austin, Texas 78701	512-322-5830 Fax: 512-472-0532	ltownsend@lglawfirm.com
Texas Ratepayers Organization to Save Energy Carol Biedrzycki	815 Brazos St., Suite 1100 Austin, TX 78701-2509	512-472-5233 Fax: 512-472-5310	carolb@texasrose.org
Texas Statewide Telephone Cooperatives, Inc.	5929 Balcones Drive, Suite 200 Austin, TX 78731	512-343-2587 Fax: 512-343-0119	tstci@tstci.org
Texas Telephone Association Lyn Kamerman Director of Governmental Affairs	1001 Congress Ave, Suite 450 Austin, TX 78701	512-472-1186	lkamerman@tta.org
TEAM Catherine Webking Executive Director	400 W 15 th St, Suite 720 Austin, TX 78701	512-651-0515 Fax: 512-651-0520	admin@teamtex.org
Good Company Associates Bob King	816 Congress Avenue Austin, TX 78701	512-480-2220	
Texas Competitive Power Advocates Marianne Carroll Executive Director	111 Congress Avenue Suite 1400 Austin, TX 78701	512-476-1156	mcarroll@mailbmc.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) Bob Kahn, CEO	ERCOT 7620 Metro Center Drive Austin, TX 78744	512-225-7010 Fax: 512-225-7020	bkhan@ercot.com

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<p>Energy Intermarket Surveillance Group (EISG) Wayne Silk, EISG Chairman</p>	<p>Market Surveillance Administrator Suite 500, 400 – 5th Avenue SW Calgary, AB T2P 0L6 Canada</p>	<p>403-705-8522</p>	<p>Wayne.silk@albertamsa.ca</p>
<p>Federal Communications Commission (FCC) Kris Monteith Enforcement Bureau Chief</p>	<p>455 12th Street, SW Washington, DC 20544</p>	<p>202- 418 7450 Fax: 202- 418 2810</p>	
<p>Federal Energy Regulatory Commission Susan Court Director of Enforcement</p>	<p>FERC 888 First Street, N.E. Washington, DC 20426</p>	<p>202-502-8100 Fax: 202-208-011</p>	<p>susan.court@ferc.gov</p>
<p>Governor’s Office of Budget, Planning, and Policy Brian Lloyd Analyst</p>	<p>1100 San Jacinto, 4th Floor P.O. Box 12428 Austin, TX 78711</p>	<p>512-463-1778 Fax: 512-463-1880</p>	<p>brian.lloyd@governor.state.tx.us</p>
<p>National Association of Regulatory Commissioners (NARUC) Brad Ramsey General Counsel</p>	<p>1101 Vermont Avenue, Suite 200 Washington, DC 20005</p>	<p>202-898-2207 Fax: 202-898-2213</p>	<p>jramsey@naruc.org</p>
<p>National Association of Regulatory Commissioners (NARUC) Consumer Affairs Subcommittee Anne C. Boyle Chairwomen</p>	<p>Nebraska Public Service Commission 1200 N Street, Suite 300, Lincoln, NE 68508</p>	<p>1-800-526-0017</p>	<p>anne.boyle@nebraska.gov</p>
<p>Office of Public Utility Counsel Brenda Sevier Business Manager Danny Bivens Director of Market Representation</p>	<p>1701 N. Congress Austin, TX 78711</p>	<p>512-936-7500</p>	<p>sevier@opc.state.tx.us danny.bivens@opc.state.tx.us</p>

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Texas State Library and Archives Diana Houston	1201 Brazos Austin, TX 78711	512-436-5455	dhouston@tsl.state.tx.us
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
Commission on State Emergency Communications Paul Mallet Executive Director	333 Guadalupe Street, Suite 2-212 Austin, TX 78707-3942	512-305-6911 Fax: 512-305-6937	www.911.state.tx.us
Comptroller of Public Accounts Chris Anderson Payroll Backup/Assistant	111 E. 17 th Street Austin, Texas 78701	512-463-4021 Fax: 512-475-5437	chris.anderson@cpa.state.tx.us
Department of Information Resources Joy Hall Bryant Program Manager - IRM Outreach	300 W. 15 th St. Austin, TX 78711	512-475-2346 Fax: 475-4759	joy.bryant@dir.state.tx.us
Employees Retirement System Edward Esquivel Benefits and Pre-Retirement Manager	1801 Brazos Street Austin, Texas 78701	512-867-7574	edward.esquivel@ers.state.tx.us
Office of the Attorney General Elizabeth Sterling Natural Resources Division	P.O. Box 12548 Austin, TX 78711-2548	512-475-4152	Elizabeth.Sterling@oag.state.tx.us
Office of the Attorney General Esther Chavez Consumer Protection Director	P.O. Box 12548 Austin, TX 78711-2548	512-463-1269	esther.chavez@oag.state.tx.us

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Office of Rural Community Affairs Eric Beverly Governmental Relations Director	1700 N. Congress, Suite 220 Austin, TX 78701	512-936-6728 Fax: 512-936-6776	ebeverly@orca.state.tx.us
State Auditor's Office Sharon Schneider Senior Classification Analyst	Robert E. Johnson, Sr. Building 1501 North Congress Avenue Austin, Texas 78701	512-936-9631	sschneider@sao.state.tx.us
State Auditor's Office Juliette Torres Senior Classification Analyst	P.O. Box 12067 Austin, TX 78711-2067	512-936-9634	jtorres@sao.state.tx.us
State Office of Administrative Hearings Lilo Pomerleau	300 West 15th Street, Suite 502 P.O. Box 13025 Austin, TX 78711-3025	512-936-0720 Fax: 512-936-0770	lilo.pomerleau@soah.state.tx.us
State Office of Risk Management Samuel Arant Risk Management Specialist	300 W. 15th Street 6th Floor Austin, Texas 78701	512-936-2926 Fax: 512-472-4769	samuel.arant@orm.state.tx.us
Texas Department of Public Safety Jack Colley State Coordinator of the Division of Emergency Management	5805 N. Lamar Austin, TX 78752	512-424-2208	soc@txdps.state.tx.us
Texas State Library and Archives Arann Sheperd Records Analyst	4400 Shoal Creek Blvd Austin, TX 78756-3213	512-421-7208	asheperd@tsl.state.tx.us

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Texas State Library and Archives Laura Saegert Archivist	1201 Brazos Austin, TX 78711	512-463-5480	lsaegert@tsl.state.tx.us
Comptroller of Public Accounts Cheryl Ornelas Appropriations Control Officer	Lyndon B. Johnson State Office Building 111 E. 17 th St. Austin, TX 78774	512-463-3848 Fax: 512-936-5972	cheryl.ornelas@cpa.state.tx.us
Comptroller of Public Accounts Patricia King Sigg State Property Accounting	Lyndon B. Johnson State Office Building 111 E. 17 th St. Austin, TX 78774	512-936-6210 Fax: 512-475-5505	patricia.king.sigg@cpa.state.tx.us
Comptroller of Public Accounts Janie Barrette FTP Reports Section	Lyndon B. Johnson State Office Building 111 E. 17 th St. Austin, TX 78774	512-936-6181	janie.barrette@cpa.state.tx.us
Legislative Budget Board Emily Sentilles Budget Analyst	1501 N. Congress Ave. Austin, Texas 78701	512-463-6678	emily.sentilles@lbb.state.tx.us
Comptroller of Public Accounts Dub Taylor Director, State Energy Conservation Office	111 East 17th Street, #1114 Austin, Texas 78701	512-463-1931	dub.taylor@cpa.state.tx.us
Texas Department of Agriculture Rick Rhodes Assistant Director for Rural Economic Development	P.O. Box 12847 Austin, Texas 78711	512-463-7577	Rick.Rhodes@texasagriculture.gov

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.

The PUC receives very few complaints directed at the agency itself. Typically, such complaints involve a person's perception that an agency employee has not been helpful, e.g. failure to timely return a phone call. Such complaints are usually made by telephone, and are dealt with by ensuring that the customer's problem is addressed, and by following up with the individual employee whose conduct may have been questioned.

Because the number of complaints received against the agency is so small, the PUC does not keep records of the complaints other than to maintain any correspondence received in accordance with our records management policy.

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

Public Utility Commission				
Exhibit 12: Purchases from HUBs				
FISCAL YEAR 2006				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	-	-	-	11.9%
Building Construction	-	-	-	26.1%
Special Trade	-		-	57.2%
Professional Services	\$6,800	\$6,800	100.0%	20.0%
Other Services	\$1,956,541	\$392,799	20.1%	33.0%
Commodities	\$652,895	\$356,707	54.6%	12.6%
TOTAL	\$2,616,236	\$756,306	28.9%	

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FISCAL YEAR 2007				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	-	-	-	11.9%
Building Construction	-	-	-	26.1%
Special Trade	-	-	-	57.2%
Professional Services	\$6,800	\$6,800	100%	20.0%
Other Services	\$1,140,098	\$352,561	30.9%	33.0%
Commodities	\$528,148	\$278,620	52.8	12.6%
TOTAL	\$1,675,046	637,981	38.1%	

FISCAL YEAR 2008				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	-	-	-	11.9%
Building Construction	-	-	-	26.1%
Special Trade	-	-	-	57.2%
Professional Services		-	-	20.0%
Other Services	\$1,823,419	\$557,438	30.6%	33.0%
Commodities	\$585,219	\$245,687	42.0%	12.6%
TOTAL	\$2,408,638	\$803,125	33.3	

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 PUC's purchaser reviews each individual purchase to consider whether a HUB opportunity exists. If a HUB opportunity does exist, and the method of procurement through a HUB vendor will result in the best-value for the agency and the State, Purchasing will make arrangements to make the purchase through such means. On a monthly basis, the purchaser compiles a report, describing the number of HUB vendors used for the previous month and the amount of money spent with each vendor. The HUB Coordinator then provides this report with appropriate feedback for the Executive Director and other Senior Level staff to analyze and discuss performance shortfalls and to develop ways to meet and exceed the agency's and the State's HUB goals.

In addition, the PUC's program addresses the following topics: HUB coordinator responsibilities; mentor-protégé program; HUB business forums; reporting requirements; subcontracting opportunities; and subcontracting plan compliance. This program (the processes described above) serves as the agency's HUB policy. The PUC also has a Goal, Objective, and Strategy in the strategic plan that addresses the use of HUBs by the agency.

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)

The PUC includes the HUB subcontracting plan in all Requests for Proposals, regardless of the dollar amount.

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

	Response/Agency Contact
1. Do you have a HUB coordinator? (Texas Government Code, Sec. 2161.062; TAC Title 34, Part 1, rule 20.26)	Yes. Chris Wood is the PUC's HUB Coordinator. Contact: Chris Wood, HUB Coordinator
2. Has your agency designed a program of HUB forums in which businesses are invited to deliver presentations that demonstrate their capability to do business with your agency? (Texas Government Code, Sec. 2161.066; TAC Title 34, Part 1, rule 20.27)	<p>The PUC's HUB forum program is based on the Comptroller of Public Accounts' guidelines and statutes. The purpose of the program is to sponsor forums in which HUBs are invited to deliver technical and business presentations that demonstrate their capability to conduct business with the agency. The HUB Coordinator is responsible for: 1) organizing the PUC's HUB business forums; 2) collaborating with other agencies on HUB business forms; 3) informing HUB's about potential contract opportunities; 4) and preparing the annual report.</p> <p>The PUC sponsors forums in the agency's offices, but may also sponsor forums in concert with other agencies in other agreed locations. When possible, the agency may attend regional and statewide HUB forums.</p>
3. Has your agency developed a mentor-protege program to foster long-term relationships between prime contractors and HUBs and to increase the ability of HUBs to contract with the state or to receive subcontracts under a state contract? (Texas Government Code, Sec. 2161.065; TAC Title 34, Part 1, rule 20.28)	Yes. The PUC has a mentor-protégé program. The PUC HUB Coordinator is responsible for the administration, outreach, education, program evaluation, compliance, and reporting of the program.

F. Fill in the chart below detailing your agency's Equal Employment Opportunity (EEO) statistics.³⁵

Public Utility Commission							
Exhibit 13: 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	13	7.7%	6.6%	0.0%	14.2%	23.1%	37.3%
Professional	100	3.0%	8.3%	14.0%	13.4%	40.0%	53.2%
Technical	9	0.0%	12.4%	11.1%	20.2%	0.0%	53.8%
Administrative Support	41	12.2%	11.2%	36.6%	24.1%	92.7%	64.7%
Service Maintenance	14	13.8%	13.8%	28.6%	40.7%	64.3%	39.0%
Skilled Craft	0	0.0%	6.0%	0.0%	37.5%	0.0%	4.8%

³⁵ 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.

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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	13	7.7%	9.0%	7.7%	23.7%	30.8%	38.8%
Professional	94	5.3%	11.7%	13.9%	19.9%	38.3%	54.5%
Technical	7	0.0%	17.0%	28.6%	27.0%	14.3%	55.6%
Administrative Support	39	15.4%	13.2%	38.5%	31.9%	92.3%	66.2%
Service/Maintenance	14	21.4%	12.8%	35.7%	44.8%	64.3%	39.7%
Skilled Craft	0	0.0%	5.1%	0.0%	46.9%	0.0%	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	14	7.1%	9.0%	7.1%	23.7%	35.7%	38.8%
Professional	97	7.2%	11.7%	17.5%	19.9%	38.1%	54.5%
Technical	8	0.0%	17.0%	25.0%	27.0%	12.5%	55.6%
Administrative Support	41	20.0%	13.2%	34.0%	31.9%	90.2%	66.2%
Service/Maintenance	15	20.0%	12.8%	33.3%	44.8%	66.7%	39.7%
Skilled Craft	0	0.0%	5.1%	0.0%	46.9%	0.0%	5.1%

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

The PUC has an equal employment opportunity (EEO) policy in its employee handbook. Employees receive EEO training as part of the New Employee Orientation and attend refresher training at least once every two years thereafter. Employees are encouraged to meet with their supervisor, an EEO coordinator, Human Resources, or the Director of General Law whenever an employee believes he/she has been subjected to discrimination or harassment whether by another employee or a third party who has contact with an employee because of work. Complaints are investigated and resolved either informally or through the employee complaint process outlined in the Employee Handbook. The employee handbook is being updated, a project which is expected to be completed by September 30, 2009. A copy will be provided as soon as it is available.

ATTACHMENTS

1. A copy of the agency's enabling statute.
 - Utilities Code, Title II (Public Utility Regulatory Act)
 - Utilities Code, Title IV
 - Local Government Code Chapter 283
 - Business & Commerce Code §§ 304.051 – 304.062
2. A copy of each annual report published by the agency from FY 2004 – 2008.
 - Scope of Competition Reports for Electric and Telecommunications Markets in Texas
3. A copy of each internal or external newsletter published by the agency from FY 2007 – 2008.
 - PUC Consumer Fact Sheets
 - Public Utility Connection
 - 2009 STAP Newsletters
4. A list of publications and brochures describing the agency.
 - Overview of the Commission Fact Sheet
5. A list of studies that the agency is required to do by legislation or riders.
 - Cable and Video Service Provider Study (2010-11 General Appropriations Act, Rider 10)
 - Disaster Preparedness and Emergency Management Study (HB 1831 by Cortez)
 - Disaster Preparedness and Emergency Power Sales (SB 1492 by Williams)
6. A list of legislative or interagency studies relating to the agency that are being performed during the current interim.
 - N/A
7. A list of studies from other states, the federal government, or national groups/associations that relate to or affect the agency or agencies with similar duties or functions
 - N/A
8. Biographical information (e.g., education, employment, affiliations, and honors) or resumes of all policymaking body members.
9. A copy of the agency's current rules.
 - Texas Administrative Code, Title 16, Chapters 21, 22, 25, 26, 27 and 28.
10. A copy of the agency's Legislative Appropriations Request for FY 2010 – 2011.
11. A copy of each annual financial and non-financial data report from FY 2006 – 2008.
12. A copy of each operating budget from FY 2007 – 2009.
13. If applicable, a map to illustrate the regional boundaries, headquarters location, and field or regional office locations.

- N/A
14. A copy of each quarterly performance report completed by the agency in FY 2006 – 2008.
15. A copy of any recent studies on the agency or any of its functions conducted by outside management consultants or academic institutions.
- N/A
16. A copy of the agency’s current internal audit plan.
- Not available at this time. The PUC’s internal auditor retired effective July 31, 2009. The position is posted, but not filled. The 2010 plan will be provided when available.
17. A copy of the agency’s current strategic plan.
- 2009-2013 Strategic Plan
18. A list of internal audit reports from FY 2005 – 2009 completed by or in progress at the agency.
- 2009
 - Legal Division
 - General Law
 - Information and Education
 - 2008
 - Systems Development Report
 - Tariff and Rate Analysis
 - Wholesale Markets
 - Reliability and Licensing
 - Commission Advising
 - Central Records
 - 2007
 - Performance Measures
 - Fiscal Budget
 - Financial Review Accounting Report
 - Relay Texas
 - General Accounting
 - Docket Management
 - Human Resources
 - 2006
 - Arbitrations
 - Legal Telecommunications and Cable
 - Management Information and Control
 - Contracting and HUB Compliance
 - Customer Care
 - Electric Transmission Oversight
 - PUC Library
 - Performance Measures

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- 2005
 - Network and Quality of Service
 - Central Records
 - Government Relations
 - Financial Analysis
 - Human Resources-Payroll Cycle

19. A list of State Auditor reports from FY 2005 – 2009 that relate to the agency or any of its functions.

- An Audit Report on Performance Measures at the Public Utility Commission of Texas
- A Classification Compliance Review Report on the State's Attorney, Assistant Attorney General, and General Counsel Positions
- A Classification Compliance Review Report on the State's Inspector and Investigator Positions

20. A copy of any customer service surveys conducted by or for your agency in FY 2008.

- 2008 PUC Customer Service Report