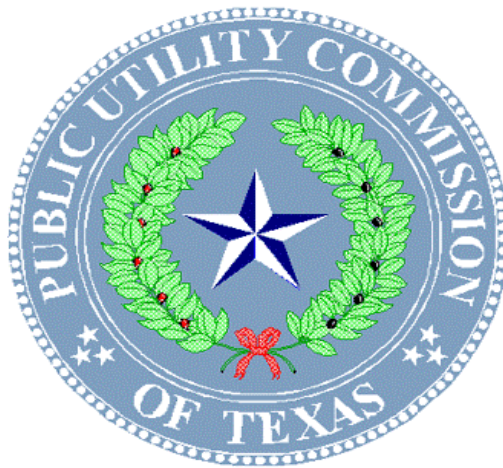


# **Public Utility Commission of Texas Self-Evaluation Report**

## **A Report to the Texas Sunset Advisory Commission**



**September 2021**

**Peter M. Lake**  
Chairman

**Will McAdams**  
Commissioner

**Lori Cobos**  
Commissioner

**Jimmy Glotfelty**  
Commissioner



**Greg Abbott**  
Governor

**Thomas J. Gleeson**  
Executive Director

## *Public Utility Commission of Texas*

September 1, 2021

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 (PUCT or Commission) was last reviewed by the 83rd Legislature in 2013, and since that time has continued to evolve in response to changes in law and the industries we regulate and oversee.

The legislation enacted in 2013 transferred economic regulation of water and wastewater utilities from the Texas Commission on Environmental Quality to the Commission. Since 2013, the Legislature has passed, and the PUC has implemented legislation to improve the efficiency of water and wastewater regulation.

Winter Storm Uri in February 2021 had a profound effect on all Texans and the electric industry. The 87<sup>th</sup> Legislature enacted several laws addressing the impacts of this storm. The PUCT has begun implementing this legislation and these efforts are ongoing.

The PUCT's regulatory functions have evolved over the years, but the importance of its overall mission to serve all Texas electric and telecom customers, and more recently, water and wastewater customers, remains unchanged.

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

Sincerely,

A blue ink signature of Peter M. Lake.

Peter M. Lake  
Chairman

A blue ink signature of Will McAdams.

Will McAdams  
Commissioner

A blue ink signature of Lori Cobos.

Lori Cobos  
Commissioner

A blue ink signature of Jimmy Glotfelty.

Jimmy Glotfelty  
Commissioner



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# Public Utility Commission of Texas Self-Evaluation Report

## 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	Email Address
Agency Head	Thomas Gleeson Executive Director	P.O. Box 13326, Austin, TX 78711	TEL: (512) 936-7040 FAX: (512) 936-7058	thomas.gleeson@puc.texas.gov
Agency's Sunset Liaison	Thomas S. Hunter Executive Counsel	P.O. Box 13326, Austin, TX 78711	TEL: (512) 936-7116 FAX: (512) 936-7058	tom.hunter@puc.texas.gov

## 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.**

The State of Texas created the Public Utility Commission of Texas in 1975 to provide for statewide comprehensive regulation of electric, telecommunications, and water utilities. At the time of its inception, the prevailing regulatory and economic philosophy toward utilities was to consider public utilities as natural monopolies within their service area, with regulation acting in lieu of market forces to provide for reasonable rates and high service quality. Since 1975, this philosophy has changed significantly, and brought significant changes in the regulation of all the utilities with which the PUCT was originally tasked by the Texas Legislature when it adopted the Public Utility Regulatory Act (PURA) and created the PUCT.

### Regulation of Electricity

In 1999, the Texas Legislature passed Senate Bill 7, which envisioned an unprecedented reshaping of the Texas electric market, resulting in the Texas market being singular of its kind in the United States and one of the few competitive wholesale and retail markets in the world. The wholesale competitive electric market has produced some of the lowest power prices available in the United States, and retail

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competition in the areas open to competition has been in place for almost two decades, with 97% of these customers exercising their right to customer choice and switching retail providers, incentivizing these providers to offer new products and low rates to retain customers in a competitive market. Together with the mandate to provide for competition in the wholesale and retail electric markets, the Texas Legislature also tasked the PUCT with the protection of retail customers in the transition to the new marketplace.

One of the PUCT's most important duties is the oversight of the Electric Reliability Council of Texas (ERCOT). ERCOT oversees the reliable and safe transmission of electricity over the ERCOT power grid and operates open and non-discriminatory electric markets that serve approximately 90% of the state's electric load. As outlined in PURA § 39.151, the PUCT has complete authority over ERCOT. Like the PUCT, ERCOT is also subject to Sunset review in 2023. ERCOT will also file a Self-Evaluation Report to the Sunset Advisory Commission. Today, in addition to its oversight of the Texas electric market within ERCOT, the PUCT continues to provide traditional rate-of-return regulation of the investor-owned vertically integrated utilities outside the competitive market regions, such as in El Paso, the Panhandle, Northeast Texas, and Southeast Texas areas. In addition, where the local utility has joined an independent system operator or regional transmission organization, the PUCT remains engaged with those organizations working for the interests of Texas customers. Additionally, as will be discussed in more detail later in this report, the PUCT is currently engaged in the extensive market redesign work and legislative implementation resulting from Winter Storm Uri.

### **Regulation of Telecommunications**

Significant legislation enacted by the Texas Legislature in 1995, together with the Federal Telecommunications Act of 1996, dramatically changed the PUCT's role in its regulation of telecommunications utilities by allowing for competition in telecommunications wholesale and retail services.

New PURA Chapter 65, part of Senate Bill 5 passed by the Legislature in 2005, provided for deregulation of certain markets served by incumbent local exchange companies. Senate Bill 5 also authorized the PUCT 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. Since 2005, the telecommunications market has continued to evolve. The most significant development over this period has been the continued growth of mobile wireless and broadband carriers. Over the last 10 years, cable providers have greatly expanded their provision of local telephone service and television programming. During this period, there has also been a steady decline in land-line telephone service as many customers have "cut the cord" in favor of wireless service. In tandem with these technological developments, another significant development over the last decade has been the changes in the Texas Universal Service Fund, a program originally designed to provide funding for basic local

telecommunications service in rural areas of the state. These changes are discussed in more detail later in this report.

### Regulation of Water

The regulation of public water utilities was included in the original mandate from the Texas Legislature in 1975. The PUCT retained regulation of water and sewer service regulation until 1986, at which point these duties were transferred to the Texas Water Commission, now the Texas Commission on Environmental Quality (TCEQ). As discussed in more detail later in this report, in 2013, the 83rd Legislature transferred the economic regulation of water and sewer rates and services from the TCEQ back to the PUCT effective September 1, 2014.

### Statutory Duties of the PUCT

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

#### Electric Power Activities

- Within the ERCOT area, oversight of competitive wholesale and retail markets
  - “Complete authority to oversee and investigate ERCOT’s finances, budget, and operations as necessary to ensure the organization’s accountability and to ensure the organization adequately performs the organization’s functions and duties.”<sup>1</sup>
  - Oversight of ERCOT, includes settling the transactions in competitive markets, including review and approval of the ERCOT budget and system administrative fee, the ERCOT rules and protocols, and extensive engagement with the ERCOT stakeholder process and leadership to ensure the reliability of the ERCOT power grid.
  - Jurisdiction over ratemaking, quality of service and certification of transmission lines 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, aggregators, power marketers, and brokers
- Outside ERCOT, continuing the regulation, including rate regulation, of vertically integrated investor owned utilities until retail competition begins, including commissioner and supporting staff assignment to key committees of other independent system operators or regional transmission organizations and energy imbalance markets outside ERCOT, as well as engagement on multi-state supporting committees for these operators and organizations

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<sup>1</sup> PURA § 39.151(d)

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- Outside ERCOT, participate as appropriate in electric proceedings before the Federal Energy Regulatory Commission (FERC) that may impact the quality of service or wholesale transmission rates paid by Texas customers
- Issuance of certificates of convenience and necessity for service areas, facilities, and proposed transmission lines as well as electric generating facilities in non-ERCOT areas.
- Resolution of customer complaints, using informal processes whenever possible

### **Telecommunications Activities**

- 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
- Funding of the Specialized Telecommunications Assistance Program
- 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
- 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
- Arbitration of interconnection agreements and post-interconnection disputes pursuant to the Federal Telecommunications Act

### **Water and Sewer Activities**

- Jurisdiction over rates, service areas and financial and managerial review of water and sewer utility retail public utilities
  - Original jurisdiction over investor-owned water and sewer utilities
  - Appellate jurisdiction over wholesale and retail rates, service areas and financial activities of political subdivisions (municipalities, water districts and counties), water supply and sewer service corporations (WSCs).
- Review of the sale, transfer and merger applications involving sale of facilities and/or service areas of water and sewer utilities
- Review of applications to amend service area certificates of convenience and necessity (CCNs), including petitions for expedited and streamlined expedited release of all or a part of a tract of land from an existing CCN holder



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- Serve as a resource to small and mid-size water and sewer retail public utilities to help them maintain financial, managerial, and technical capabilities
- Administer the contract with Superior Water Management of Texas, LLC which is administered by the PUCT's Division of Utility Outreach to help smaller water and sewer utilities on service area issues, rate studies, tariffs, customer service issues, corporate governance, and consolidation or regionalization of utilities and other regulatory matters
- Registration and complaint resolution authority over entities that submeter or allocate water and wastewater bills to customers.
- Resolution of customer complaints, using informal processes whenever possible
- Coordinate on a regular basis with TCEQ on water and sewer regulatory issues, especially in the appointment of temporary managers for troubled utilities. Broadly speaking the TCEQ regulates the health and safety standards of water and sewer utilities while the PUCT regulates rates and service areas of these utilities. This requires regulation coordination between the two agencies.

### **B. Do your key functions continue to serve a clear and ongoing objective? Explain why each of these functions is still needed?**

The PUCT's activities fall into two broad areas: regulation of monopoly utility providers and oversight of competitive markets. The PUCT's programs are essential to successfully meeting the needs of Texas customers for electricity, telecommunications, water, and sewer 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 customers 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.<sup>2</sup> This same rationale applies to the regulation of water and sewer utilities.<sup>3</sup>

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, customer protections in addition to those that apply to other competitive markets, e.g., the 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.

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<sup>2</sup> In the case of municipally owned utilities and cooperatives, customers have the opportunity to participate in selecting the governing body. Where a municipally owned utility serves customers that are not residents of the municipality that owns the utility, the PUC retains appellate jurisdiction over rate setting in these areas.

<sup>3</sup> TEX. WATER CODE, §13.001.

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In addition, market rules must be enforced. The PUCT's enforcement actions and administrative penalty authority are necessary elements of functioning markets.

**C. What, if any, functions does your agency perform that are no longer serving a clear and ongoing purpose? Which agency functions could be eliminated?**

The PUCT believes that all of its current functions, as established by the Texas Legislature, continue to serve clear and ongoing purposes.

**D. Does your agency's enabling law continue to correctly reflect your mission, objectives, and approach to performing your functions?**

The PUCT 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, telecommunications and water and sewer industries requires that state law be amended regularly to enact new policies to keep pace with industry changes.

As a result of Winter Storm Uri and its aftermath, the 87<sup>th</sup> Legislature passed several bills designed to strengthen the reliability of the electric grid and to protect customers. This legislation is discussed in more detail later in this report. The PUCT has already begun the process of implementing these legislative changes.

**E. Have you previously recommended changes to the Legislature to improve your agency's operations? If so, briefly explain the recommended changes, whether or not they were adopted, and if adopted, when.**

The following recommendations were proposed to the 87th Legislature as part of the Commission's *Biennial Agency Report to the 87<sup>th</sup> Legislature* (Biennial Report)<sup>4</sup> submitted to the Legislature in January 2021.

### **Authorize Fees for Filing Certain Documents at PUCT**

Recommended Change: A predominantly electronic system for accepting filings has numerous benefits for both the agency and outside parties. However, there are instances in which paper copies are necessary for PUCT staff and Commissioners to analyze a filing. Many such filings are voluminous, consisting of hundreds and sometimes thousands of pages. Therefore, cost shifting from companies and other parties to the agency is a concern. To offset this cost, the PUCT recommends that it be granted statutory authority to charge fees to certain parties that make filings with the PUCT. The filing fee would be set at a level not to exceed the costs incurred by the agency.

Status: This recommendation was not adopted by the 87<sup>th</sup> Legislature.

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<sup>4</sup> *Biennial Agency Report to the 87<sup>th</sup> Legislature* at 61-62.

### **Clarify the Regulatory Status of Electric Vehicle Charging Stations**

Recommended Change: The Commission proposed that the Legislature clarify that the use of an electric vehicle charging station is not a transaction to be governed by existing retail electric policies. Such policies are extensive in their protections for lives and livelihood. However, the full reach of these protections may not be appropriate for an electric vehicle charging station. An electric vehicle charging station is not an electric utility or a retail electric provider. These changes will provide regulatory right-sizing and consistency across the state, in areas inside and outside competition, to facilitate deployment and competition of electric vehicle charging stations for customers.

Status: The 87<sup>th</sup> Legislature passed SB 1202, which made these clarifications consistent with the Commission's recommendation. As the clarification is simply of regulatory status, the Commission will only need to amend certain definitions in its substantive rules to implement this legislation.

### **Texas Universal Service Fund (TUSF)**

Recommended Change: The Commission requested guidance from the from the Legislature regarding the State's policy on the continuation of universal service support and funding of the TUSF. Currently, the TUSF is funded through a surcharge based on an estimate of intrastate telecommunications service usage. A surcharge is assessed on the estimated intrastate voice service portion of telecommunication companies' taxable receipts. In fiscal year 2019, wireless service providers reviewed their service packages and determined that a much smaller part of their packages was devoted to providing voice service than previously estimated. As a result, a smaller amount of taxable receipts is eligible for TUSF surcharge assessment. This has created an unanticipated, marked shortfall of TUSF revenues.

Status: The 87<sup>th</sup> Legislature passed HB 2667 to expand the scope of the TUSF surcharge assessment to include Voice-over-Internet-Providers (VoIP). The Governor vetoed HB 2667.

### **Water**

Recommended Change: Since the transfer of economic regulation of water and sewer utilities, the PUCT has identified many recommended revisions to the Texas Water Code. These revisions would clarify existing statutory ambiguities and, where appropriate, harmonize the regulation of water and sewer utilities with the PUCT's regulation of the electric industry. The extent of these revisions indicates that comprehensive review of the Texas Water Code, as it relates to economic regulation, is warranted.

Status: The PUCT withdrew this recommendation from consideration by the Legislature.

**F. Do any of your agency's functions overlap or duplicate those of another local, 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?**

While much of the work delegated to the PUCT is conferred exclusively, the agency has identified several points in each major area of focus where it must exercise diligence to avoid duplication of efforts.

**Electric**

The federal Energy Policy Act of 2005 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 Reliability Entity (Texas RE). 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 PUCT's rules and ERCOT protocols also address reliability matters, it is crucial that all applicable requirements are consistent. Although the areas overseen by the Texas RE, ERCOT, and the PUCT overlap, each entity has its own focus and areas of primary concern. The PUCT staff carefully monitors proposed changes to the ERCOT protocols, and the activities of FERC, NERC, and the Texas RE 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.

**Water**

Regulation of water and sewer utilities in Texas is shared between the PUCT and TCEQ. The division of authority between these two agencies is generally clear. The PUCT regulates the retail rates of water and sewer utilities, with limited appellate jurisdiction over the wholesale and retail water and sewer rates of certain other entities. The PUCT also regulates the issuance of certificates of convenience and necessity (CCNs). The TCEQ regulates safe drinking water standards, surface water rights and availability, water quality standards for Texas rivers, lakes and estuaries, wastewater and stormwater permitting and registration, and groundwater protection. However, because water and sewer utilities are regulated by both the PUCT and TCEQ, there is also potential duplication of effort in this area. Specifically, there is an overlap in how the two agencies respond to troubled water and sewer utilities. This issue is discussed in more detail in the Major Issues section of this report.

**Telecommunications**

The Federal Communications Commission (FCC) administers a universal service fund that is similar to the Texas Universal Service Fund<sup>5</sup>; however, the programs

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<sup>5</sup> See descriptions of TUSF programs in Section VII of this report.

complement rather than overlap each other. The current challenges to the TUSF are discussed in more detail in Section VII. of this report.

### **Emergency Management**

There is some overlap of responsibility associated with the PUCT's role in emergency management situations.<sup>6</sup> 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.

#### **G. In general, how do other states carry out similar functions?**

All other states have regulatory agencies similar to the PUCT that generally focus on the oversight of and development of policies related to utility services, often encompassing electric, telecommunications, and water and sewer services either through rate regulation or oversight of competitive markets.

#### **H. What key obstacles impair your agency's ability to achieve its objectives?**

##### **Attracting and retaining qualified employees**

The main challenge the PUCT faces is hiring, developing, and retaining qualified staff. PUCT 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 PUCT's competence. The PUCT competes not only with industry for this talent, as well as with other governmental entities.

It has never been easy for the PUCT to recruit and retain the necessary skills and expertise it needs in its workforce. The fact that the PUCT's work is interesting, challenging, and ever-changing 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. This difficulty has been exacerbated by COVID-19. As a direct result of COVID-19, all state agencies were required to decrease their budgets by 5% in early 2020. The PUCT complied with this mandate by not filling 13 open positions and by laying off 8 employees in April and May 2020. Although the country has begun to recover from the COVID-19 pandemic, hiring qualified employees remains challenging. One of the manifestations of the recovery is the addition of new jobs in all sectors of the economy. Virtually all industries, including state government, are currently having a difficult time filling job vacancies. As part of SB 2, the PUCT is expanding from three to five commissioners. The two new commissioners will require additional staff. Filling these positions may also be challenging.

Because of the salary constraints faced by the PUCT as a state agency, it is exceedingly difficult to hire new employees with experience in electric,

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telecommunications, water, and sewer matters. Therefore, the agency uses a strategy of hiring professionals with expertise in related fields as well as relatively inexperienced staff with relevant educational background. The PUCT staff includes several 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 PUCT.

In addition to loss of valuable employees to private sector opportunities, the PUCT is facing a new challenge. Several 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 PUCT less than five years, such that the proportion of experienced staff to inexperienced staff is decreasing.

Although the PUCT's management team has always devoted attention and effort to this area, it will be necessary to redouble those efforts if the PUCT 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 PUCT 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 PUCT's duties and responsibilities have not decreased overall. The ERCOT wholesale and retail markets are open to competition, but there are extensive and significant complexities involved in overseeing a multi-billion dollar market that produces a service critical for the life and safety of Texas residents. In addition, significant portions of Texas continue to be served by vertically integrated investor-owned utilities that 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 PUCT is required to maintain staff with expertise in regulating electricity prices and service. Finally, the telecommunications industry has changed significantly over the last ten years. The PUCT now needs fewer resources than in the past to meet its telecommunications responsibilities. However, some telecommunications regulation remains which requires the PUCT to maintain some level of staff expertise in these areas.

The PUCT has used a variety of techniques to adapt to its changing staffing needs. For example, the PUCT takes advantage of vacancies created by turnover to

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shift staff positions to areas needing additional resources. Significantly, since 2018, the PUCT has renewed its focus on ensuring optimal effectiveness and efficiency. The leadership team continues to examine agency operations, organization, and budgeting.

When the Legislature assigned oversight for the business regulation of water and sewer utilities to the PUCT in 2014, several TCEQ employees were transferred to the PUCT. As an interim strategy to accommodate the change, the transferred employees were housed within a separate division at the PUCT. These employees handled functions like rate regulation and infrastructure development, despite the fact those functions already existed at the PUCT in separate divisions. In 2019, water utility responsibilities and those staff were distributed to their corresponding PUCT divisions to reduce duplication and enhance collaboration. At the same time, the Division of Utility Outreach (DUO) was created to educate small to mid-sized water utilities on the applicable regulations to help them attain compliance before they become distressed utilities. DUO also works with distressed utilities to find ownership solutions to better serve the customers of those utilities.

In August 2021, the Commission created the Division of Compliance and Enforcement (DCE) to provide oversight and enforcement in a stand-alone division with dedicated attorneys and subject matter experts. This division is discussed in more detail in Section VII. of this report.

The PUCT continues to refine its approach to contracting with outside parties. Approximately 10 to 15 active contracts are required for services that cannot be performed in-house. These tasks require specific expertise, staffing levels, or specialty equipment not readily available within the agency. For example, the Texas Relay contract provides help for Texans with speech and hearing disabilities to complete telephone calls, as required by PURA § 56.101. Call center agents must possess real time typing skills and be fluent in sign language to be an intermediary in completing telephone calls. Other contract-based programs include cybersecurity outreach for utilities and an independent monitor of the wholesale electric market. Throughout the last biennium, the PUCT has worked to build relationships with its current vendors to better understand how the programs could be optimized. This work has resulted in increased competition for the agency's business and an overall better work product for Texas.

As discussed in more detail later in this report, Winter Storm Uri has had and will continue to have a profound impact on the PUCT. The 87<sup>th</sup> Legislature enacted several laws aimed at improving the reliability of the electric market. Some of this legislation requires prompt adoption of rules or initiation of contested cases. The PUCT requested and received an increase in its authorized FTE count to accomplish not only its existing functions, but to handle the additional responsibilities created by the 87<sup>th</sup> Legislature. Much of the additional funding requested by the PUCT does not become effective until September 1. However, the PUCT has already begun preparing for the addition of new employees and will seek to fill its staffing needs as quickly as possible. One of the other changes adopted by the 87<sup>th</sup> Legislature was the addition of two

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commissioners. With that addition, the PUCT will expand from its existing three commissioners to a five-member commission. The addition of two new commissioners will necessitate significant changes to the agency's current workspace. Two new commissioner offices must be added, and existing office space must be reconfigured to accommodate this change. The PUCT requested a plan for this work from the Texas Facilities Commission and is currently discussing the timeline for this work.

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

There are several pending court cases that could impact some key functions of the PUCT.

- ERCOT is currently involved in a lawsuit by Panda Power Generation Infrastructure Funds and its affiliates. Panda's original lawsuit alleged that ERCOT had issued an intentionally misleading electric capacity forecast that induced Panda to build three power plants that proved to be unprofitable for Panda. The merits of Panda's original lawsuit have yet to be addressed. Over the last several years, ERCOT and Panda have been litigating whether ERCOT has sovereign immunity and whether the PUCT has exclusive jurisdiction over this complaint. If ERCOT does have sovereign immunity, this would prevent Panda from suing ERCOT. If the PUCT has exclusive jurisdiction, then Panda's complaint must be filed first with the PUCT. After an initial round, the Dallas Court of appeals ruled that ERCOT is immune from suit but did not address exclusive jurisdiction. In response, the Grayson County district court dismissed Panda's complaint. This dismissal is currently pending in the Dallas Court of Appeals in cause number 05-18-00611-CV. That court recently reset oral argument before the court *en banc* for late October. A decision on this issue is expected early next year. The final decision on whether ERCOT has sovereign immunity is important for purposes of potential future lawsuits. If the Dallas Court of Appeals determines that ERCOT does not have sovereign immunity, this could open ERCOT up for more litigation in the future. The PUCT expects that any decision by the Dallas Court of Appeals on the sovereign immunity issue will be appealed to the Texas Supreme Court.
- There are several pending court cases challenging the Commission's emergency orders issued in response to Winter Storm Uri. These cases are pending in the 3<sup>rd</sup> Court of Appeals in Austin, or state district courts in either Travis or Bexar counties. Generally, speaking, these court cases challenge the authority of the Commission to issue some or all of these emergency orders and the way they were issued. The substance of the Winter Storm Uri emergency orders is discussed in more detail in the Wholesale Electric Market Oversight portion of Section VII. of this report. The ultimate decisions in these cases could impact the ability of the Commission to issue similar emergency orders in the future.
- There are several federal court cases challenging the PUCT's authority to issue expedited release orders for water utilities that have federally protected loans.



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The PUCT has authority under the Texas Water Code to release the property of certain landowners from a utility's certificated service area by expedited release and streamlined expedited release. Expedited release and streamlined expedited release applications are discussed in more detail in the Water and Sewer Regulation portion of Section VII of this report. The ultimate outcome of these court cases could remove the authority of the PUCT to issue expedited- and streamlined-expedited-release orders for utilities that have federal loans. These cases could also result in the PUCT having to pay court costs and attorney's fees to the plaintiffs in some or all of these federal court proceedings.

- Brazos Electric Cooperative bankruptcy proceeding. As a result of Winter Storm Uri, Brazos Electric Cooperative filed on March 1, 2021, for a Chapter 11 bankruptcy in the United States Bankruptcy Court for the Southern District of Texas Case No. 21-30725 (DRJ)). The bankruptcy court could rule on the PUCT's authority to issue the February 2021 emergency orders, which address the impacts of Winter Storm Uri. This is the same issue currently pending before several state courts discussed in item 2. It is likely that the bankruptcy court will rule on this issue first.
- There are additional bankruptcy cases by certificated retail electric providers that may impact the operations of the PUCT. It is unclear at this time what impact, if any, these bankruptcies may have on the PUCT, but it is possible these entities may, among other things, challenge the authority of the Commission to revoke their certifications that allow them to sell electricity.

**J. Aside from additional staff or funding, what are your agency's biggest opportunities for improvement in the future? For example, are there other programs or duties the agency could take on to better carry out its mission?**

Implementation of legislation from the 87<sup>th</sup> Legislature regarding the reliability of the Texas electric grid provides the biggest opportunity for improvement. Significant changes to the structure of both the PUCT and ERCOT were enacted by the 87<sup>th</sup> Legislature. The PUCT will gain two additional commissioners and the current ERCOT Board of Directors will soon be comprised exclusively of independent members rather than industry segment representatives. Additionally, the Legislature passed laws to address the financial impacts of Winter Storm Uri, to improve the competitive market in ERCOT and to increase the reliability of the Texas electric grid.

Additionally, the PUCT has for some time made effective use of the Internet for providing information to the regulated community, market participants, and customers, and continues to work to make information available in an easily obtainable, easily understood format. The PUCT regularly reviews its Internet site to improve the organization, availability, and timeliness of the information posted to the Website.

The social distancing protocols of the COVID-19 pandemic necessitated that the PUCT waive its rules requiring the filing of physical paper copies of documents with the PUCT's Central Records Division and move to an all-electronic filing system for most of the documents filed with the PUCT. The parties that make frequent filings with the

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PUCT lauded the change, and in July 2021, the PUCT implemented a permanent electronic filing system that will allow participants in PUCT proceedings to make filings electronically, eliminating the requirement to physically file hard copies. As of the time of writing, this process encompasses only non-confidential filings. Given the sensitive nature of the information that is filed confidentially with the PUCT, the agency continues to require physical copies to be filed for confidential information. However, the agency is working expeditiously on a process that will encompass electronic filing of confidential information in a manner that is efficient and secure and plans to have this process in place by the end of calendar year 2021. The PUCT believes the implementation of a permanently available electronic filing process will reduce the burden and cost on parties and the public participating in the PUCT's projects and dockets. The PUCT's procedural rules need to be revised to reflect this new policy.

### K. Overall, how does the agency measure its effectiveness in carrying out its objectives?

Like other state agencies, the PUCT has performance measures that provide information about agency activities. Many of the PUCT's performance measures are based to a large degree on factors outside the PUCT'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 PUCT activities, they do not necessarily reflect the agency's effectiveness and efficiency.

Of the PUCT's non-key performance measures, those highlighted in the chart below probably provide the best reflection of the PUCT's agency's success in meeting its objectives.

**Public Utility Commission**  
**Exhibit 2: Non-Key Performance Measures – Fiscal Year 2020**

<b>Non-Key Performance Measures</b>	<b>Dataset Reference Number* (if applicable)</b>	<b>Calculation (if applicable)</b>	<b>FY 2020 Target</b>	<b>FY 2020 Actual Performance</b>	<b>FY 2020 % of Annual Target</b>
OUTCOME MEASURES	N/A	N/A	N/A	N/A	N/A
GOAL A	N/A	N/A	N/A	N/A	N/A
OC 1-1.02 % of Residential Customers in Areas Open to Competition Having a Choice of More than Five Providers for Electric Service	N/A	N/A	99.70%	99.69%	99.99%
OC 1-1.04 Avg Price Electricity/kWh for TX Commercial Customers As % Nat'l Avg	N/A	N/A	70.00%	71.18%	101.69%

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Non-Key Performance Measures	Dataset Reference Number* (if applicable)	Calculation (if applicable)	FY 2020 Target	FY 2020 Actual Performance	FY 2020 % of Annual Target
OC 1-1.05 Avg Price Electricity/kWh for TX Industrial Customers As % Nat'l Avg	N/A	N/A	75.00%	82.07%	109.43%
OC 1-2.02 Avg Price Electricity Per kWh for Residential Cust as % of Nat'l Avg	N/A	N/A	80.00%	78.93%	98.66%
OC 1-2.03 Avg Price Electricity Per kWh for Commercial Cust as % of Nat'l Avg	N/A	N/A	70.00%	71.61%	102.30%
OC 1-2.04 Average Annual Res Elec Bill from Reg Suppliers as % of Nat'l Avg	N/A	N/A	97.00%	92.35%	95.21%
OC 1-2.05 % of Subscribers Served by Telephone Exchanges Meeting Service Quality Standards	N/A	N/A	85.00%	83.00%	97.65%
OC 1-2.06 % of Electric Customers Served by TDUs Meeting Service Quality Standards	N/A	N/A	98.00%	96.91%	98.89%
OC 1-3.01 % of Agreements with Specific Provisions for Avoiding Future Violations	N/A	N/A	80.00%	63.00%	78.75%
GOAL B					
OC 2-2.02 Credits & Refunds Obtained for Customers through Complaint Resolution	N/A	N/A	\$300,000.00	\$381,333.62	127.11%
OUTPUT MEASURES	N/A	N/A			
OP 1-1-1.01 Number of Retail Electric Providers Registered	N/A	N/A	112.00	120.00	107.14%
OP 2-1-1.02 Number of Customer Information Products Distributed	N/A		1,250,00.00	929,760.00	74.38%
EXPLANATORY MEASURES					
Ex 1-1-1.01 Number of Elect Coops and Municipal Utilities Reg for Wholesale Trans Rate	N/A	N/A	37.00	37.00	100.00%
Ex 1-1-1.02 Percent of Statewide Electric Generating Capacity Above Peak Demand in ERCOT	N/A	N/A	12.30%	5.50%	44.72%

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<b>Non-Key Performance Measures</b>	<b>Dataset Reference Number* (if applicable)</b>	<b>Calculation (if applicable)</b>	<b>FY 2020 Target</b>	<b>FY 2020 Actual Performance</b>	<b>FY 2020 % of Annual Target</b>
EX 1-1-1.03 Percent of Energy Savings Due to Energy Efficiency Programs	N/A	N/A	150.00%	190.55%	127.03%
EX 1-1-1.04 Percent of Demand Reductions Due to Energy Efficiency Programs	N/A	N/A	200.00%	245.55%	122.78%
EX 1-1-1.05 Number of Power Generation Companies in Texas	N/A	N/A	359.00	464.00	129.25%
EX 1-1-1.06 Number of Aggregators in Texas	N/A	N/A	368.00	174.00	47.28%
EX 1-1-1.07 Number of Applications and Amendments for Cable Franchise Certificates	N/A	N/A	80.00	83.00	103.75%
EX 1-2-1.01 Number of Electric Utilities Regulated	N/A	N/A	14.00	14.00	100.00%
EX 1-2-1.02 Number of Telecommunications Service Providers Regulated	N/A	N/A	63.00	61.00	96.83%
EX 1-2-1.03 Number of Water and Sewer Utilities Regulated	N/A	N/A	680.00	608.00	89.41%
EX 1-3-1.01 Dollar Amount Administrative Penalties Assessed for Violations	N/A	N/A	\$5,000,000.00	\$2,244,100.00	44.88%
EX 2-1-1.01 Number of Website Hits to Customer Protection Home Page	N/A	N/A	390,000.00	230,761.00	59.17%
EX 2-2-1.01 Number Complaints Received for Unauthorized Changes in Service	N/A	N/A	900.00	608.00	67.56%

The PUCT's key performance measures are provided in Exhibit 2 below.

### Public Utility Commission Exhibit 2: Performance Measures – Fiscal Year 2020

<b>Key Performance Measures</b>	<b>Dataset Reference Number* (if applicable)</b>	<b>Calculation (if applicable)</b>	<b>FY 2020 Target</b>	<b>FY 2020 Actual Performance</b>	<b>FY 2020 % of Annual Target</b>
OUTCOME MEASURES					

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Key Performance Measures	Dataset Reference Number* (if applicable)	Calculation (if applicable)	FY 2020 Target	FY 2020 Actual Performance	FY 2020 % of Annual Target
GOAL A					
% Tx Cities Served by 3 or More Certificated Telecommunications Provider	N/A	N/A	75.00%	72.19%	96.25%
Average Price of Electricity Per kWh in Texas for Residential Customers from Competitive Suppliers as a Percentage of the National Residential Average	N/A	N/A	85.00%	97.39%	114.58%
Average Annual Residential Electric Bill from Competitive Suppliers as a Percentage of the National Average	N/A	N/A	115.00%	124.72%	108.45%
Average Price of Electricity per kWh for Residential Customers from Competitive Suppliers in Texas Offered on the Power-to-Choose Website as a Percentage of the National Average Cost of Electricity for the Same Class of Service	N/A	N/A	70.00%	87.70%	125.29%
Average Annual Residential Telephone Bill in Texas as a Percentage of the National Average	N/A	N/A	110%	132.85%	120.77%
GOAL B					
Percentage of Customer Complaints Resolved through Informal Complaint Resolution Process	N/A	N/A	99%	99.73%	100.74%
OUTPUT MEASURES					
A.1.1					
Number of Cases Completed Related to Competition Among Providers	N/A	N/A	350	219	62.57%
A.2.1					
Number of Rate Cases Completed for Regulated Electric Utilities	N/A	N/A	65	73	112.31%

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Key Performance Measures	Dataset Reference Number* (if applicable)	Calculation (if applicable)	FY 2020 Target	FY 2020 Actual Performance	FY 2020 % of Annual Target
Number of Rate Cases Completed for Regulated Telecommunications Providers	N/A	N/A	10	26	260.00%
Number of Water Utility Rate Reviews Performed	N/A	N/A	140	83	59.29%
Number of Water Certificate of Convenience Applications Processed	N/A	N/A	235	122	51.91%
A.3.1					
Number of Enforcement Investigations Conducted	N/A	N/A	406	214	52.71%
B.1.1					
Number of Information Requests to Which Responses Were Provided	N/A	N/A	70,000	34,350	49.07%
B.2.1					
Number of Customer Complaints Concluded	N/A	N/A	7,500	7,587	101.16%
EFFICIENCY MEASURES					
A.1.1					
Average Number of Days to Process an Application for a Certificate of Authority and Service Provider Certificate of Authority	N/A	N/A	50	94	188.00%
A.2.1					
Average Number of Days to Process a Major Rate Case for a Transmission and Distribution Utility	N/A	N/A	200	542	271.00%
B.1.1					
Percent of Customer Information Product Distributed Electronically	N/A	N/A	95%	99.32%	104.55%
B.2.1					
Average Number of Days to Conclude Customer Complaints	N/A	N/A	15	15.98	106.53%
EXPLANATORY MEASURES					
B.2.1					

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Key Performance Measures	Dataset Reference Number* (if applicable)	Calculation (if applicable)	FY 2020 Target	FY 2020 Actual Performance	FY 2020 % of Annual Target
Average Number of Days to Process a Major Rate Case for a Transmission and Distribution Utility	N/A	N/A	200	657	271.00%

- L. Please list all key datasets your agency maintains and briefly explain why the agency collects them and what the data is used for. Is the agency required by any other state or federal law to collect or maintain these datasets? Please note any “high-value data” the agency collects as defined by Texas Government Code, Section 2054.1265. In addition, please note whether your agency posts those high-value datasets on publicly available websites as required by statute, and in what format.**

The PUCT uses a number of applications to perform its various regulatory functions. Some of these are internal applications, which are not available to the public; others are available to the public. A list of both public and internal data applications used by the PUCT is included as Exhibit 3-PUCT in House Applications Mapped by Division.

## III. HISTORY AND MAJOR EVENTS

- 1975** The 64th Legislature enacted the Public Utility Regulatory Act (PURA) and created the Public Utility Commission of Texas (PUCT 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 PUCT was not given authority to regulate municipally owned utilities or political subdivisions such as municipal utility districts or public utility districts. However, the PUCT was given appellate jurisdiction over municipal decisions involving investor-owned electric utilities.
- 1979** The 66th Legislature amended the laws concerning water and sewer utilities to remove PUCT 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 PUCT 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 PUCT. 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

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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 PUCT; 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 PUCT.

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.<sup>7</sup>

- 1984** AT&T was required to divest itself of the Bell Operating Companies because of the Modification of Final Judgment (MFJ)<sup>8</sup> resolving an antitrust action by the United 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 the Texas Commission on Environmental Quality).
- 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 implementation of SB 444 led to the creation of 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 because of providing Tel-Assistance Service, and to reimburse the Texas Department of Human Services and the PUCT for certain implementation costs. 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.
- 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

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<sup>7</sup> Third Report and Order, *MTS and WATS Market Structure*, CC Docket No. 78-72, Phase I, 93 FCC 2d 241 (1983).

<sup>8</sup> 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).



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integrated resource planning process; 2) investments in conservation and 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 PUCT and continued the agency without changes, subject to further Sunset review in 1995

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

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. The bill also created the System Benefit Fund which provided funding for a discount on electric rates for low income customers.
- 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.

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.

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**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 electric competition in the Panhandle region until 2007.
- SB 5 provided for several clean air initiatives, including an energy efficiency grant program to be administered by the PUCT.
- HB 472, the Texas Telemarketing Disclosure and Privacy Act, authorizes the PUCT to create the Texas No-Call List.

The PUCT 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 of investor-owned utilities within the Electric Reliability Council of Texas (ERCOT) had a choice of retail electric providers.

**2003** The 78th Legislature enacted legislation for both telecommunications and electric industries:

- SB 2548 authorized the PUCT to order the construction of electric transmission capacity.
- SB 1829 authorized the PUCT 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 PUCT and continued the agency for six years, strengthening PUCT oversight of ERCOT, improving monitoring of the wholesale electric market, and increasing the maximum administrative penalty to \$25,000. This legislation also authorized the PUCT 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 PUCT to establish Competitive Renewable Energy Zones and provide for construction of transmission lines to

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facilitate delivering to electric customers, in a manner that is most beneficial and cost-effective, the electric output from renewable energy technologies.

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 PUCT's Sunset legislation enacted by the 79th Legislature, the PUCT 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 PUCT 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.

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

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

**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. System restoration costs for this storm were approximately \$675 million.

The PUCT 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.

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

The PUCT commissioned a cost-benefit analysis to identify cost efficient and effective practices and procedures to improve electric and telecommunications infrastructure 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 PUCT and ERCOT to provide free internet video of both entities' public hearings and meetings.
- SB 769 authorized the PUCT 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.

**2010** ERCOT implemented a major new wholesale market design, the Texas Nodal Market. The nodal market was implemented beginning December 1, 2010. The nodal market is designed to improve the management of transmission congestion, provide better information for the siting of new generation facilities and more reliable grid operations.

By November 2010, approximately 2.5 million advanced electric meters had been deployed in the service areas of the three largest transmission and distribution utilities in ERCOT. The deployment of advanced meters is intended to allow customers to receive faster, more flexible customer service that better accommodates their needs. Advanced meter deployment is discussed in more detail in Section VII. of this report

**2011** In February 2011, Texas experienced extreme cold weather throughout the state that resulted in record electricity demand and the failure of numerous electric generating facilities. In the summer of 2011, Texas experienced the driest year since modern recordkeeping began in 1895. Largely because of this drought, ERCOT experienced one of the hottest periods in history with over 90 days of triple digit temperatures in Austin, 71 days in Dallas and a record number of triple digit temperature days in Houston.

Among the bills enacted by the 82nd Legislature was:

HB 2133 required the Commission to adopt rules expanding the remedies available in wholesale market enforcement proceedings by authorizing the PUCT to identify and order disgorgement of excess revenues received by a market participant for violation of PURA, PUCT rules, or ERCOT protocols.

The 82nd Legislature conducted the agency's fourth sunset review. The Legislature continued the PUCT until 2013 and directed the Sunset Commission to assess the appropriateness of its recommendations to the 82nd Legislature and to make any recommendations in considered appropriate to the 83rd Legislature in 2013. As part of its recommendations in 2011, the Sunset Commission had recommended continuing the PUCT for 12 years.

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**2012** In an effort to incent the building of new electric generation, the Commission raised the system wide offer cap (the amount generators would be allowed to bid into the market) from \$3,000 to \$4,500/MWh effective August 1, 2012. After significant input from interested parties and stakeholders, the Commission in late 2012 also voted to increase the system wide offer cap to \$9,000/MWh by 2015 and raised the peaker net margin threshold to \$300,000. Peaker net margin is a measure of a standard peaking gas unit's cumulative profits over the course of an annual revenue cycle acting and acts as a guardrail to keep overall generator profits in check.

The Commission adopted amendments to its rules to implement distributed generation (DG) required by legislation adopted by the 82nd Legislature in 2011. Distribution generation refers to smaller power generation facilities that are at or close to the end users of power, such as roof top solar or back up diesel units.

In October 2012, the PUCT approved Entergy, Texas, Inc.'s application to join the Midcontinent Independent System Operator (MISO). The PUCT is a voting member of the Entergy Regional State Committee (E-RSC) which was founded in 2009 to provide collective state regulatory input into the operation of and upgrades to the Entergy transmission system.

**2013** The 83rd Legislature conducted its fifth Sunset review of the PUCT and continued the agency for 10 years. The Legislature transferred economic regulation of water and wastewater rates and services from the TCEQ to the PUCT effective on September 1, 2014, allowing the PUCT until September 1, 2015 to revise its rules to accommodate the differing regulatory needs and capacities of water and sewer utilities, and required the PUCT to prepare a comparative analysis of ratemaking provisions to assess any opportunities for rate standardization.

Additional legislation passed by the 83rd Legislature included:

- authorization for the PUCT to issue emergency cease and desist orders to related to electric industry market participant conduct threatening the reliability of the electric grid or creating an imminent danger to the public;
- requiring the PUCT to exercise additional oversight over ERCOT including review and approval of annual budgets for ERCOT;
- prior review and approval for debt financing by ERCOT; and
- annual review of PUCT-approved performance measures tracking ERCOT operations.

The System Benefit Fund (SBF) was originally established in 1999 to fund discounts to low-income customers, customer education activities, energy-efficiency and weatherization, and electric market oversight, through a nonbypassable surcharge on retail electric bills. In 2013, HB 7 set the fee that funds the SBF at zero and provided for the payout of the remaining balance of the fund by September 2016. By 2015 it was clear that there would still be a remaining balance in the fund after September 2016, so HB 1101 extended the program one more year. HB 1101 required that all remaining funds in the System Benefit Fund (SBF) be expended, that the fee that funded the program be set at zero, and that the SBF be sunset on September 1, 2017.

The PUCT, TCEQ and the Railroad Commission of Texas (RRC) jointly filed comments on the Environmental Protection Agency's proposed Clean Power Plan (CPP). The CPP was intended to enforce a seldom-used provision of the Clean Air Act, §111(d), to regulate and reduce carbon emissions from existing generating units. The PUCT,

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TCEQ and RRC raised a number of concerns, both practical and legal, in their comments including the stringency of the proposed emission reductions and EPA's aggressive timeline for implementation of the CPP which the agencies asserted would adversely affect electric reliability.

**2014** As part of its ongoing efforts to ensure generation resource adequacy within ERCOT, in June 2014 the PUCT implemented the Operating Reserves Demand Curve (ORDC). The ORDC improves wholesale price formation by allowing prices to more fully reflect the value of operating reserves. The ORDC assigns an economic value to operating reserves, or the amount of extra generating capacity online and available to maintain system reliability.

In April 2014, Energy Future Holdings (EFH), filed for Chapter 11 bankruptcy protection. EFH was created in 2007 when private equity funds acquired TXU Energy, the largest retail electric provider in ERCOT, Oncor Electric Delivery Company (Oncor), ERCOT's largest transmission and distribution company, and Luminant Energy, the largest generation owner in ERCOT, for \$42 billion in the largest leveraged buyout in U.S. history.

**2015** Legislation passed by the 84th Legislature included the following laws pertaining to the PUCT:

- HB 7 The bill removed the May through September restriction on the System Benefit Fund, allowing a year-round discount in Fiscal Year 2016 and removes the cap on the amount of the discount.
- HB 1101 The bill extended the System Benefit Fund by one year to end on September 1, 2017. The bill removed the cap on the amount of the discount. The bill allowed a discount in every month, rather than just May through September.
- SB 776 - The bill required municipally-owned utilities to obtain a CCN before building transmission outside their municipal boundaries.
- SB 1148 - The bill made several changes to the Water Code relating to the transfer of the water program from the TCEQ to the PUCT. The bill consolidated the PUCT's water emergency order provisions into Chapter 13 of the Water Code.

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**2017** Laws enacted by the 85th Legislature pertaining to the PUCT included:

- HB 294 This bill allowed for the appointment of a receiver for a utility that has violated a final judgement of a district court.
- SB 586 Replaced the funding mechanism for the Universal Service Fund for certain small and rural incumbent local exchange companies.
- SB 1003 - Allowed AT&T to opt out of the Lifeline program.
- SB 1476 - Allowed certain competitive phone companies, such as AMA TechTel, to continue receiving USF support until the end of 2023 in an exchange where the incumbent phone company, such as AT&T, was no longer receiving support.
- SB 1976 - Allowed REPs to continue to offer additional benefits to low-income customers using a list of eligible customers identified by the Health and Human Services Commission and the PUCT.

Hurricane Harvey, one of the costliest natural disasters in United States history, made landfall near Rockport, Texas on August 25, 2017, as a Category 4 storm. This storm caused widespread and severe flooding in southeast Texas, including Houston. Harvey resulted in 3,232,320 customer outages and caused \$700 million in damages to electric infrastructure. Four electric utilities requested recovery of storm costs through rate applications: AEP Texas, Entergy Texas, Texas New-Mexico Power Company, and CenterPoint. Under PURA §§36-401-.405, electric utilities are allowed to obtain timely recovery of storm reconstruction costs by use of securitization financing which lowers carrying costs related to conventional financing.

**2019** Laws enacted by the 86th Legislature pertaining to the PUCT included:

- SB 64 Required the Commission to create a program to coordinate cybersecurity monitoring of electric utilities, municipally owned utilities, electric cooperatives, and transmission distributions utilities. The bill also required ERCOT to conduct internal cybersecurity risk assessments and training as well as report annually to the Commission on their compliance with cybersecurity laws.
- SB 475 Established the Texas Electric Grid Security Council. Members include the chairman of the PUCT, the CEO of ERCOT, and the governor's designated representative. This council serves as an advisory board to facilitate the creation, coordination, and dissemination of the best security practices for the electric industry.
  - SB 700 Made significant changes to the water ratemaking program by:
    - Separating the B Classification of utilities into two groups;
    - Authorizing the commission to streamline ratemaking through a system improvement charge.
    - Extending temporary rates for troubled systems.
    - Increasing the cost of living adjustment for the smallest class of utilities.
  - The bill made other minor changes to public notice of new rates and clarifies the respective emergency authorities of the TCEQ and PUCT.

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- SB 936 Created a cybersecurity monitor program to manage a comprehensive cybersecurity outreach program for utilities.
- SB 1211 Raised the threshold for PUCT review of power generation mergers and acquisitions in PURA § 39.158 from 1% to 10% of the total installed generation capacity in ERCOT.
- SB 1497 Required the registration of electricity brokers similar to the existing registration for electricity aggregators.
- HB 1595 HB 853, and HB 986 Authorized SWEPCO, El Paso Electric, and SPS to recover in rates for the deployment of advanced metering infrastructure. The status of deployment of advanced meters for these companies is discussed in more detail in Section VII. of this report.
- HB 1397 Created a generation rider ratemaking mechanism for non-ERCOT utilities.
- HB 3542 Created a mechanism to determine the "fair market value" of a utility that is being acquired by a Class A utility. The bill incorporated this value into rate base of the acquiring utility. The bill also required increased reporting from water and sewer utilities that have violated certain final orders of the TCEQ.
- HB 4150 Required electric utilities, municipally owned utilities, and electric cooperatives to meet minimum clearance requirement for transmission or distribution lines over recreational lakes. The bill also required electric utilities, municipally owned utilities, and electric cooperatives to report to the PUCT on hazard recognition and safety code construction training. The bill also required electric utilities, municipally owned utilities, and electric cooperatives that own or operate overhead transmission lines to report to the PUCT regarding their inspections of their facilities, hazards identified, and injuries from overhead transmission lines.
- SB 619 Moved the date of the PUCT's next Sunset review from 2023 to 2025.

## 2020

In March 2020, Governor Abbott issued a proclamation certifying that COVID-19 posed an imminent threat of disaster in the state and declaring a state of disaster for all counties in Texas. The PUCT enacted several operational changes such as electronic filings, socially distant open meetings, and telecommuting procedures to facilitate operations during the pandemic. The PUCT's Customer Protection division call center switched to remote operations. The PUCT also suspended several rules and enacted the COVID-19 Electricity Relief Program to ensure customer protections and provide financial relief during this crisis. This program protected over 600,000 electric customers from electric service disconnection if they could document their eligibility for unemployment or low-income assistance from electric service disconnection. The PUCT's response to COVID-19 is outlined in more detail in its Biennial Agency Report to the 87th Legislature.

Hurricane Hanna made landfall in south Texas on July 25, 2020 as a Category 1 hurricane. Approximately 200,000 customer experienced outages because of this storm. Hurricane Laura made landfall in Louisiana on August 20 as a Category 4 hurricane. Peak outages in Texas were approximately 360,000 customers. On October 9, 2020, Hurricane Delta made landfall in east Texas and Louisiana as a



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Category 2 hurricane. This hurricane hit the same region affected six weeks earlier by Hurricane Laura. Peak outages for Hurricane Delta were 120,000 customers in Texas.

Recent changes to how some telecommunications providers calculate the portion of their revenues that are subject to the TUSF assessment have resulted in a marked decline in TUSF collections. The PUCT collects approximately \$100 million for the TUSF annually. However, in the last fiscal year, approximately \$198 million was distributed from the TUSF. Therefore, to maintain the solvency of the TUSF, the PUCT will have to either dramatically reduce TUSF support or increase the TUSF assessment rate to collect an additional \$100 million (for a total of \$200 million) annually. Over the last ten years, the TUSF has paid out more than \$2.7 billion to companies.

### 2021

The PUCT issued its Biennial Agency Report to the 87th Legislature. This report contained the statutorily-required Scope of Competition reports for the electric and telecommunications industries as well as a report on water and wastewater regulation. This report fulfilled the statutory reporting requirements of PURA §§ 12.203, 31.003 and 52.006. This report provided a summary of significant commission activities over the last two years related to the electric, telecom, and water and sewer industries.

Winter Storm Uri hit Texas in February 2021, resulting in widespread, extended disruptions in electricity and natural gas service throughout Texas. A more detailed discussion of the impacts of this storm is provided in Section VII. of this report.

In June, approximately 70% of Lubbock Power & Light customers were transitioned from the Southwest Power Pool into the ERCOT region.

The 87th Legislature enacted the following laws pertaining to the PUCT:

- HB 16 prohibited wholesale indexed retail electric plans for residential and small commercial customers and adds requirements for the end of retail contracts
- HB 837 Regarding expedited release from water CCNs, if the PUCT requires an award of compensation, the petitioner must file a report with the PUCT that the compensation has been paid to the decertified retail public utility.
- HB 1484 Utility Filed rate doctrine
- HB 1510 permitted securitization of storm recovery costs for non-ERCOT TDUs
- HB 1572 exempted mobile generators (e.g., at a construction site or oil well) from definitions of REP and utility
- HB 3717 Fair Market Value of a city's water system that is financially or technically unable to restore the system to compliance with applicable laws or regulations
- HB 2483 permitted TDUs to lease or own and operate temporary or long-lead time facilities to restore service and provide energy to distribution customers after a natural disaster
- HB 2586 required PUCT to have an independent audit made of ERCOT each year, to be published on PUCT website and submitted to the Legislature
- HB 3476 Water CCNs inside ETJs
- HB 3648 required PUCT and RRC to designate certain gas entities and facilities as critical during an energy emergency

## Self-Evaluation Report

- HB 3689 Water Rate appeals
- HB 3853 authorized electric utilities to own or operate facilities providing middle-mile broadband services and removes references to broadband over power lines in PURA and allowed rate recovery for middle-mile infrastructure.
- HB 4492 directed an investment from the Economic Stabilization Fund to cover ERCOT short pay amounts and repay that investment with interest; also provided a mechanism for financing reliability deployment price adder charges and high ancillary services charges.
- SB 2 changed ERCOT Board from segment membership to eight unaffiliated members selected by the selection committee appointed by the Governor, Lt. Governor, and Speaker of the House, required PUCT approval of ERCOT rules and enforcement measures
- SB 3 was an omnibus bill addressing market and reliability failures identified during Winter Storm Uri.
- SB 387 Water Rate appeals of certain municipal customers – allows for appeals when a municipality takes over an area and there is a rate change to the customers being taken over by the municipality
- SB 398 authorized distributed generation for grocery stores inside municipally owned utilities and electric cooperatives in ERCOT
- SB 415 clarified ownership or operation of energy storage by a Transmission and Distribution Utility allowing for contractual arrangements between a power generating company and a TDU.
- SB 713 Moves the PUCT Sunset review from 2025 to 2023
- SB 997 Raw water and contractual wholesale appeals
- SB 1202 clarified that EV charging stations can provide charging services to their customers without incurring the regulatory jurisdiction imposed on electric utilities and retail electric providers
- SB 1281 required a cost-benefit analysis of consumer benefits as a consideration for granting a CCN for a transmission line in ERCOT proposed for economic reasons, as well as a biennial grid reliability assessment from ERCOT.
- SB 1876 added “end stage renal disease facility” to the list of health facilities prioritized in system restoration
- SB 2154 Increased the number of PUCT Commissioners from three to five

A detailed account of Winter Storm Uri’s effects on the electricity and natural gas markets, partially funded by the PUCT, was released by the University of Texas Energy Institute.

The PUCT has begun implementing this legislation. The PUCT’s response to Uri-related legislation is discussed in more detail in the Wholesale Electric Market Oversight section of Section VII of this report.

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A detailed account of Winter Storm Uri's effects on the electricity and natural gas markets, partially funded by the PUCT, was released by the University of Texas Energy Institute.<sup>9</sup>

The PUCT has begun implementing this legislation. The PUCT's response to Uri-related legislation is discussed in more detail in the Wholesale Electric Market Oversight section of Section VII of this report.

## IV. POLICYMAKING STRUCTURE

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

**Public Utility Commission  
Exhibit 4: Policymaking Body**

<b>Member Name</b>	<b>Term / Appointment Dates / Appointed by (e.g., Governor, Lt. Governor, Speaker)</b>	<b>Qualification (e.g., public member, industry representative)</b>	<b>City</b>
<b>Peter Lake</b>	Appointed by Governor Greg Abbott as Chairman on April 12, 2021. Term expires September 1, 2023	PURA § 12.053 provides that commissioner appointees must be representatives of the general public.	Austin
<b>Will McAdams</b>	Appointed by Governor Greg Abbott April 1, 2021; term expires September 1, 2025	PURA § 12.053 provides that commissioner appointees must be representatives of the general public.	Cedar Park
<b>Lori Cobos</b>	Appointed by Governor Greg Abbott June 17, 2021; term expires September 1, 2021	PURA § 12.053 provides that commissioner appointees must be representatives of the general public.	Austin
<b>Jimmy Glotfelty</b>	Appointed by Governor Greg Abbott August 6, 2021; term expires September 1, 2025	PURA § 12.053 provides that commissioner appointees must be representatives of the general public.	Houston
<b>Vacant</b>			

Since its creation in 1975, the PUCT has been comprised of three commissioners who served staggered six year terms. In 2021, the 87th Legislature enacted SB 2154 to expand the Commission to five members who will serve staggered six year terms. As of the date of this report, there is currently one vacancy on the Commission.

<sup>9</sup> The UT Energy Institute's Report on Winter Storm Uri is available on the PUC's website at: [https://www.puc.texas.gov/agency/resources/reports/UTAustin\\_\(2021\)\\_EventsFebruary2021TexasBlackout\\_\(002\)FINAL\\_07\\_12\\_21.pdf](https://www.puc.texas.gov/agency/resources/reports/UTAustin_(2021)_EventsFebruary2021TexasBlackout_(002)FINAL_07_12_21.pdf) (July 12, 2021).

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

The PUCT's policymaking body is composed of five full-time, salaried commissioners serving staggered six year staggered terms. The commissioners are appointed by the Governor with the advice and consent of the Senate.<sup>10</sup> The commissioners' role is to implement legislation, primarily PURA, through the issuance of orders in contested cases and the 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.<sup>11</sup>

**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 PUCT. The PUCT has strict conflict of interest rules in Chapter 12 of PURA. Generally, these place restrictions on PUCT commissioners and employees regarding interactions with specific entities, regardless of whether the interaction would in fact create a conflict of interest. For example, even an employee who has no job duties that could impact regulation of electric utilities is prohibited from holding stock in a public utility.<sup>12</sup> Additionally, recent employment by a public utility or a spouse's employment in the management of an organization that is regulated by or receives funds from the PUCT disqualifies a person from serving as a commissioner.<sup>13</sup> Furthermore, PURA imposes on PUCT employees post-employment restrictions that are more stringent than those applying generally to state employees and officials, with an absolute bar to employment by certain entities for one year post employment for employees and two years after a commissioner's service ends.

PURA § 12.060, added by SB 2154, and effective May 30, 2021, prohibits a former commissioner from lobbying the commission for one year after ceasing to be a commissioner. This section has some overlap with PURA § 12.154, which prohibits a former commissioner from being employed by a public utility, within the definition in PURA § 11.004, for two years after ceasing to be a commissioner. (The Texas Attorney General has interpreted "employment" to encompass work for a utility as a lawyer or outside consultant, which would presumably include a lobbyist. See Texas Attorney General Opinion JM-280 (1984)). However, section 11.004 defines utilities fairly narrowly and section 12.154 does not address "employment" with all types of entities that appear before the commission, so section 12.154 would allow lobbying on behalf of certain entities, which is now prohibited under section 12.060.

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<sup>10</sup> PURA § 12.051.

<sup>11</sup> PURA §12.052.

<sup>12</sup> PURA § 12.154.

<sup>13</sup> PURA § 12.053(b) and 12.152(a)(2).

**E. In general, how often does your policymaking body meet? How many times did it meet in FY 2019? In FY 2020? Explain if the policymaking body met in-person or virtually during this time.**

Generally, the Commission convenes an Open Meeting approximately twice per month to consider contested cases, rulemakings, and other matters. The PUCT also holds workshops associated with rulemakings and oversight activities. When the Commissioners plan to attend the workshops are posted as open meetings. The Commission also holds regular work sessions to receive comment on and discuss important policy issues. Work sessions are posted as public meetings.

During FY 2020, the PUCT held approximately 21 open meetings. During FY 2019, the PUCT held 19 open meetings. The Commissioners also serve as presiding officers for contested case hearings involving significant policy issues. In FY 2019, 13 such hearings were held. In FY 2020 through August 31, 2021, three Commissioner-held hearings were conducted.

During the COVID-19 pandemic, the Commission continued to conduct open meetings with only key staff in attendance. Commission open meetings are broadcast online by Texas Admin Monitor. The public was also allowed to comment in open meetings via teleconference. The Commissioners have recently begun holding work sessions to discuss significant policy issues. Decisions are rarely made at these work sessions. Work sessions are posted and broadcast online as open meetings.

The Commission allowed the public to begin attending Open Meetings in person again on July 15, 2021.

**F. Please list or discuss all the training the members of the agency's policymaking body receive. How often do members receive this training?**

The PUCT 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

## Self-Evaluation Report

(9) Any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

The 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. PUCT 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 PUCT staff on legal and technical matters. The PUCT's Agency Counsel is available to respond to specific questions Commissioners may have about ethics issues. Commissioners may also attend professional and industry conferences and seminars.

### **G. What information is regularly presented to your policymaking body to keep them informed about the agency's operations and performance?**

The Commissioners serve full-time, and as such have daily access to all information resources that are available to agency employees. The PUCT uses a combination of the PUCT 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 PUCT staff meet with the Commissioners and their staff on an as needed basis to inform them of ongoing activities and events. Because the Commissioners serve fulltime, they are generally available for meetings. For example, when the PUCT 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. When the Legislature is in session, the Executive Director and Governmental Relations staff stay in close communication with the Commissioners. Throughout the year, the Commission's Office of Policy and Docket Management provides legal advice to the Commissioners on ongoing contested cases and rulemakings. Additionally, other divisions provide expertise and information to the Commissioners to help the Commissioners make key policy decisions.

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 PUCT's open meeting agendas always include postings that allow for discussion of matters under the PUCT's jurisdiction.<sup>14</sup>

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<sup>14</sup> Discussions associated with specific cases or rulemaking projects are posted separately.

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

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

**Contested Cases.** The PUCT allows the public to participate in contested cases in accordance with the Administrative Procedures Act (APA), Government Code Chapter 2001. The PUCT's Procedural Rules (16 TAC 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 PUCT bases its decisions in contested cases on the evidence in the record.

**Rulemakings.** The PUCT seeks comments from interested persons in accordance with the APA. Although it is not required for all rulemakings, the PUCT 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 PUCT 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 PUCT's website. The PUCT considers all comments submitted orally or in writing when adopting a rule.

**Customer Satisfaction Survey.** The PUCT 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). This survey is conducted online. 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 PUCT maintains a bilingual 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 PUCT. The call center number is listed in local telephone directories, on the PUCT's Website, and on many service providers' bills. The PUCT's Customer Protection Division responds to all complaints, investigates complaints against entities over which the PUCT has jurisdiction, and provides information in response to inquiries.

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

**Written Communications.** The PUCT receives written communications from the public by e-mail and regular mail. The agency Website provides information about contacting the PUCT. Where such written communications directly reference docketed proceedings or projects, the Commissioner's staff ensure that such communications are filed in the appropriate docket.

- I. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart. For advisory committees, please note the date of creation for the committee, as well as the abolishment date as required by Texas Government Code, Section 2110.008.**

N/A

## V. FUNDING

- A. Provide a brief description of your agency's funding, including information about the most recent five percent budget reduction and any funding related to disaster relief or COVID-19, if applicable.**

The tables below depict the major funding sources appropriated to the PUCT for the 2020-2021 biennia.

### FY 2020-2021 Appropriations

Method of Finance	Amount Appropriated	Percent of Total Funding
General Revenue Fund	\$27,642,417	79.4%
GR Dedicated - Water Resource Management Account No. 153	\$6,230,796	17.9%
Appropriated Receipts	\$950,000	2.7%
Total, Method of Financing	\$34,823,213	100%

PURA § 16.001 imposes a gross receipts assessment on each public utility, retail electric provider, and electric cooperative within the jurisdiction of the PUCT that serves the ultimate customer, 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 \$59.5 million in fiscal year 2020. However, the PUCT'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 PUCT's mandates.



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Finally, the Legislature in the General Appropriations Act appropriates approximately \$475,000 each fiscal year in the biennia to cover work on telecommunications issues.

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

The following riders contained in the 2020-2021 General Appropriations Act impact the PUCT's Budget:

**Capital Budget.** None of the funds appropriated above may be expended for capital budget items except as listed below. The amounts shown below must be expended only for the purposes shown and are not available 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.

	2020	2021
a. Acquisition of Information Resource Technologies		
(1) Desktop Computer Lease	\$ 98,000	\$ 98,000
b. Data Center Consolidation		
(1) Data Center Consolidation	\$ 310,027	\$ 328,138
Total, Capital Budget	<u>\$ 408,027</u>	<u>\$ 426,138</u>
Method of Financing (Capital Budget):		
General Revenue Fund	<u>\$ 408,027</u>	<u>\$ 426,138</u>
Total, Method of Financing	<u>\$ 408,027</u>	<u>\$ 426,138</u>

**Unexpended Balances Within the Biennium.** Any unexpended balances as of August 31, 2020 in appropriations made to the Public Utility Commission of Texas are hereby appropriated for the same purposes for the fiscal year beginning September 1, 2020.

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### C. Show your agency's expenditures by strategy.

#### Public Utility Commission of Texas

##### Exhibit 6: Expenditures by Strategy – Fiscal Year 2020 (Actual)

Goal / Strategy	Amount Spent	Percent of Total	Contract Expenditures Included in Total Amount
<b>Goal A. Ensure Competition, Choice, Just Rates, and Reliable Quality Service</b>	\$13,590,377		
Strategy A.1.1 Market Competition	\$4,182,954	25.6%	
Strategy A.2.1 Utility Regulation	\$7,006,626	42.8%	\$149,300
Strategy A.3.1 Investigation and Enforcement	\$2,400,797	14.7%	\$132,555
<b>Goal B. Education and Customer Assistance</b>	\$1,876,283		
Strategy B.1.1 Customer Education	\$992,724	6.1%	
Strategy B.2.1 Assist Customers	\$883,559	5.4%	
<b>Goal C. Indirect Administration</b>	\$920,731		
Strategy C.1.1 Central Administration	\$620,211	3.8%	
Strategy C.2.1 Information Resources	\$251,810	1.6%	
Strategy C.3.1 Other Support Services	\$48,710	0.0%	
GRAND TOTAL:	\$16,387,391	100%	\$281,500

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- D. 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 of Texas  
**Exhibit 7: Sources of Revenue – Fiscal Year 2020 (Actual)**

Source	Amount
General Revenue Fund	<b>\$12,731,771</b>
GR Dedicated – Water Fund Transfer No. 0153	<b>\$3,112,845</b>
Appropriated Receipts	<b>\$542,775</b>
<b>TOTAL</b>	<b>\$16,387,391</b>

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

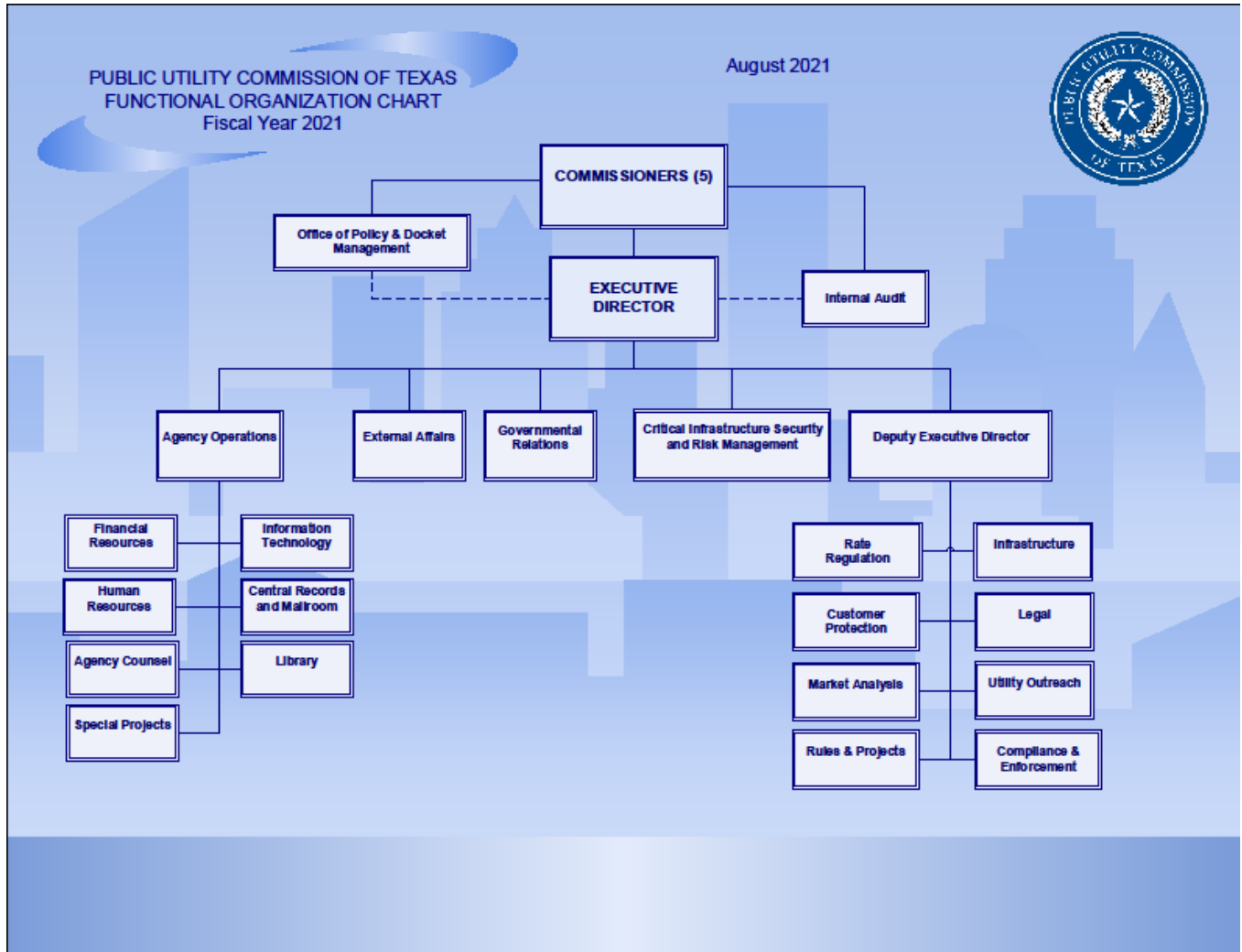
N/A

- F. If applicable, provide detailed information on fees collected by your agency. Please explain how much fee revenue is deposited/returned to the General Revenue Fund and why, if applicable.**

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. Detail should include, if possible, department heads with subordinates, and actual FTEs with budgeted FTEs in parenthesis.



- 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 2019-22?

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FISCAL YEAR	FTE CAP
2019	215
2020	209
2021	209
2022	234

**D. How many temporary or contract employees did your agency have in fiscal year 2020? Please provide a short summary of the purpose of each position, the amount of expenditures per contract employee, and the procurement method of each position.**

The commission had three contract employees in FY 2020. These contract employees worked as data entry clerks in the Central Records Division. They were paid a total of \$9,985.00.

In Fiscal Year 2020, the PUCT employed one full-time and one part-time temporary employee interns and both were no longer employed by the end of the fiscal year. The PUCT employs both paid and unpaid interns as law clerks and communication interns for either course credit or through programs that offer a stipend. In Fiscal Year 2020, the PUCT had two paid interns and five unpaid interns.

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

**Public Utility Commission**

**Exhibit 11: List of Program FTEs and Expenditures – Fiscal Year 2020**

Program	Actual FTEs FY 2020	Budgeted FTEs FY 2021	Actual Expenditures FY 2020	Budgeted Expenditures FY 2021
<b>Market Competition</b>	44.4	54.1	\$4,182,954	\$4,496,244
<b>Utility Regulation</b>	80.1	86.2	\$7,006,626	\$7,316,393
<b>Investigation and Enforcement</b>	26.2	30.1	\$2,400,797	\$2,580,825
<b>Information and Education</b>	10.7	15.3	\$992,724	\$1,074,593
<b>Assist Customers</b>	9.5	13.2	\$883,559	\$956,441
<b>Administration</b>	9.3	10.1	\$920,731	\$996,166
<b>TOTAL</b>	<b>180.2</b>	<b>209</b>	<b>\$16,387,391</b>	<b>\$17,420,662</b>

## VII. GUIDE TO AGENCY PROGRAMS

<b>Strategy 1-1-1:</b>	<b>Foster and monitor market competition by evaluating the relevant electric and telecommunications markets, and develop policies to enhance effectiveness of competition and benefits for</b>
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## Self-Evaluation Report

<b>customers, and register and license competitive service providers. Develop rules, conduct studies, resolve disputes among market participants and prepare reports responsive to changes in electric and telecom markets.</b>	
<b>Actual Expenditures, FY 2020</b>	<b>\$4,182,954</b>
<b>Number of FTEs as of August 31, 2020</b>	<b>44.4</b>

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

### **Wholesale Electric Market Oversight**

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

<b>Name of Program or Function:</b>	<b>Wholesale Electric Market Oversight</b>
<b>Location/Division:</b>	Market Analysis Division
<b>Contact Name and Division:</b>	Rebecca Zerwas, Director, Market Analysis
<b>Statutory Citation for Program:</b>	PURA §§ 39.151, 39.1515, 39.157

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

The objective of this function is to implement PURA § 39.151 which requires the PUCT 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; and

Ensure that electricity production and delivery are accurately accounted for among the generators and wholesale buyers and sellers in the region.

Texas is the only state served by all major electricity interconnections in the United States: the Eastern Interconnection, the Western Interconnection, and the Electric Reliability Council of Texas (ERCOT). The Texas Legislature has delegated to the PUCT the authority to oversee the vertically integrated electric utilities that are housed within the Eastern and Western Interconnections, but the delegation of authority to the PUCT to oversee the activities of ERCOT is unique in nature among the continental United States.

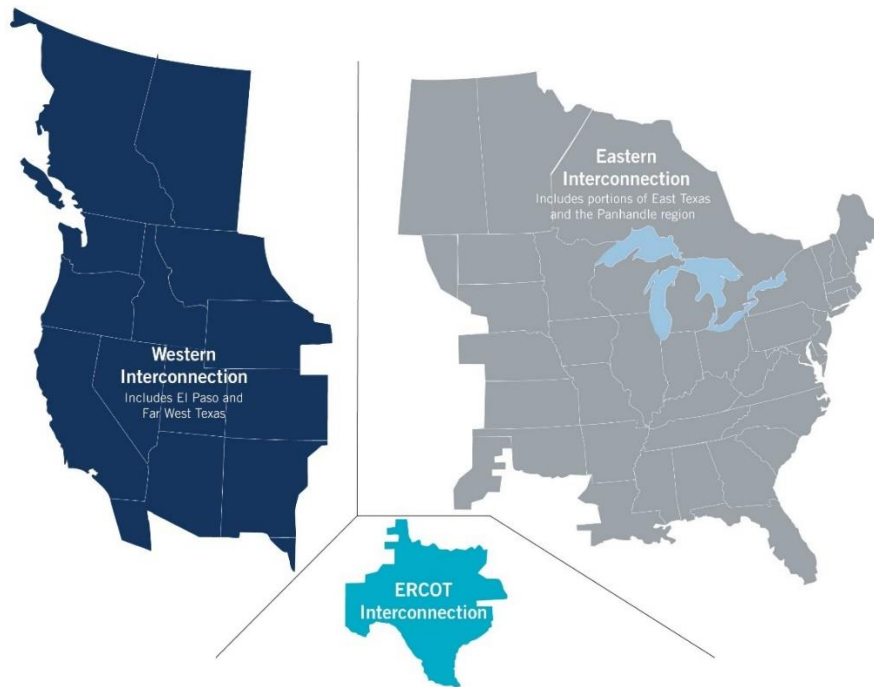


Figure 1. Interconnections in the United States

### Oversight of ERCOT

ERCOT, Inc. is the designated independent organization under PURA § 39.151 for over 90% of the electric load in Texas and over 26 million customers. As the independent organization, ERCOT is directly responsible and accountable to the PUCT. The PUCT's authority includes review and investigation of 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. The PUCT must approve all rules and protocols enacted by ERCOT.

A sizable portion of the PUCT's efforts and resources are directed toward the activities of ERCOT. ERCOT is both a regional transmission organization and independent system operator for the ERCOT region, which is fully contained within the state. ERCOT operates and settles a day-ahead and real-time market. The details of these operations are explained in ERCOT's own Self-Evaluation Report. As discussed earlier in this section, the PUCT's oversight of the ERCOT wholesale market is unique because the ERCOT market is fully contained within the state's borders, giving the State of Texas full authority and jurisdiction over ERCOT. In most states, electric utilities are members of independent system operators or regional transmission organizations that cross state borders, making all the wholesale activities that the electric utilities engage in as part of their membership subject to federal jurisdiction, in particular, the oversight of the FERC. The State of Texas has delegated to the PUCT oversight of the ERCOT wholesale market. The PUCT's jurisdiction over ERCOT is similar to FERC's jurisdiction over wholesale markets that cross state boundaries. As noted previously, ERCOT is also undergoing Sunset review in 2023 and will be submitting a Self-Evaluation Report

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(SER). For a more detailed discussion of ERCOT's responsibilities please see ERCOT's SER.

To effectuate its responsibilities, 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. These procedures include the protocols, operating guides, and other binding documents.

In response to Winter Storm Uri, the 87<sup>th</sup> Legislature adopted a number of laws which will significantly change the operation of both ERCOT and the PUCT. These new laws include changing the ERCOT board from a majority stakeholder board to a majority independent board, requiring all ERCOT rules (including protocols) to be approved by the PUCT before going into effect and expanding the PUCT from three to five commissioners. Legislation related to Winter Storm Uri will be discussed in more detail in Section C. below.

PURA § 39.157 mandates that the PUCT monitor market power associated with the generation, transmission, distribution, and retail sale of electricity in ERCOT and gives the PUCT the authority to require mitigation of market power. In addition, PURA § 39.155(a) gives the PUCT 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 PUCT's authority over the ERCOT wholesale market involves the following key functions:

- Complete authority over ERCOT as the independent organization under PURA § 39.151;<sup>15</sup>
- Approval of all ERCOT rules (including the protocols);
- Review and approval ERCOT's budget and setting the level of the ERCOT administrative fee which is charged to all wholesale buyers and sellers to cover ERCOT's operating costs.
- Oversight of the Independent Market Monitor authorized by PURA § 39.1515;
- Active engagement with the ERCOT stakeholder process and with ERCOT leadership to ensure reliability of the ERCOT power grid;
- 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.

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<sup>15</sup> This function is described as a separate program.



## **Oversight of Wholesale Markets Outside ERCOT**

The PUCT 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 PUCT may participate in FERC proceedings to represent the interests of Texas on wholesale market issues that develop in the independent system operators and regional transmission organizations of which the vertically integrated utilities are members.

The Southwestern Public Service Company (SPS) and Golden Spread Electric Cooperative (GSEC), which both serve the Panhandle of Texas, the Southwestern Electric Power Company (SWEPCO) in Northeast Texas are members of the Southwest Power Pool (SPP). GSEC is a generation and transmission cooperative with assets in both ERCOT and SPP, as such, the PUCT has original jurisdiction only over its wholesale transmission rates in ERCOT. As SPS and SWEPCO are vertically integrated, investor-owned utilities, the PUCT has full jurisdiction over their activities in Texas, and thus remains extensively engaged in their activities in SPP.

SPP is a regional transmission organization that covers 14 states, including portions of Texas, Arkansas, Iowa, Louisiana, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, South Dakota, and Wyoming, and all of Kansas and Oklahoma. SPP both coordinates the flow of electricity across the region and has a wholesale, real-time market. The PUCT has an assigned commissioner who votes on the SPP's Regional State Committee, which consists of the state regulatory agencies in the region. The RSC meets quarterly and is the decision-making authority at SPP on issues such as allocating costs for transmission upgrades, allocation of Financial Transmission Rights, and generation resource adequacy across the SPP region. The PUCT also has staff who regularly support the dedicated commissioner in these matters and follow the working groups to ensure that the interests of Texas customers are protected in these complex, multi-state processes. The assigned commissioner and support staff also monitor any ongoing proceedings from SPP that may be taken to the FERC for further consideration to ensure that Texas customers have representation before that governing body.

## Self-Evaluation Report

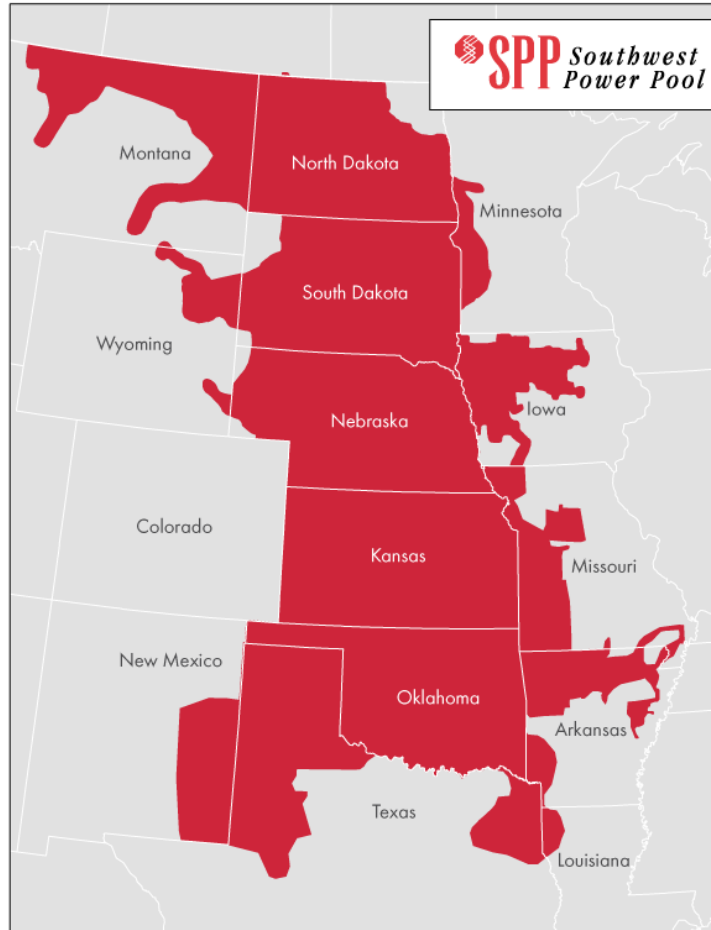


Figure 2. Southwest Power Pool Region

The vertically integrated investor-owned utility Entergy Texas, Inc., which serves Southeast Texas, joined the Midcontinent Independent System Operator (MISO) in 2013. MISO is a regional transmission organization and independent system operator that serves all or part of 15 states in the central United States and the Canadian province of Manitoba. The Organization of MISO States (OMS), represents the collective interests of state and local utility regulators on the MISO region. OMS coordinates regulatory oversight in the region and makes recommendations to MISO and FERC on developing and enhancing the wholesale MISO markets. One commissioner is designated to represent the PUCT on the OMS Board. PUCT staff provides subject matter expertise to the designated commissioner and closely monitor the working group and stakeholder meetings. This same commissioner also votes on the Entergy Regional State Committee, which was formed to coordinate activities related to enhancing the reliability of electric service in the four states in which Entergy, Inc. operates.

The electrical interconnection of MISO and SPP has resulted in the need to coordinate power flows between SPP and MISO, which affects transmission planning and subsequently cost sharing. These interconnection points are often referred to as “seams” between the two systems. State utility commissioners and SPP and MISO have

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recognized that these issues prevent efficient economic transmission planning, market and operational issues, and resource integration. In 2018, the OMS and SPP RSC jointly formed a Seams Liaison Committee to identify issues and solutions in coordinating seams policies. PUCT staff who are assigned to MISO and SPP closely follow issues related to the seams to ensure that Texas customers are represented in these discussions.



Figure 3. Midcontinent Independent System Operator Region

- C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

The effectiveness and efficiency of the program may be measured by the efficiency of the wholesale market. The Independent Market Monitor (IMM) provides regular reports on the state of the ERCOT wholesale market. As a result of Winter Storm Uri in February 2021, the 87<sup>th</sup> Legislature enacted several market reforms aimed

## Self-Evaluation Report

at improving the reliability of the ERCOT wholesale market. A summary of these reforms and the PUCT's schedule for implementing those reforms is discussed below.

ERCOT provides regular reports<sup>16</sup> that show the type 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 biannual reports 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 IMM's annual State of the Market reports 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 2021, ERCOT reported that ERCOT will have a 28% reserve margin in summer 2022, given projected demand for the summer based on economic growth assumptions and current generation anticipated to be available.
- The IMM's State of the Market Report for 2020, issued in May 2021, noted that the supply of generation in ERCOT continues to evolve. More than 7,000 MW of new wind and solar resources and approximately 400 MW of natural gas supply started commercial operations in 2020. Approximately 1,000 MW of fossil-fuel resources were retired in 2020.
- While the IMM's latest State of the Market Report focused on 2020, the IMM offered two preliminary conclusions regarding the impact of Winter Storm Uri on the ERCOT wholesale market, both of which have already been implemented.

The PUCT has directed ERCOT to acquire more reserve generation capacity with the objective of ensuring the reliability of the ERCOT grid. PUCT Chairman Peter Lake and ERCOT President and interim CEO Brad Jones held a joint press conference on July 22, 2021 to announce this and to answer questions from the press on the actions being taken by the PUCT and ERCOT to ensure the reliability of the grid, particularly for the peak summer season.

### Winter Storm Uri

In mid-February 2021, Winter Storm Uri hit Texas and much of the rest of the country. The storm resulted in widespread disruption of electricity and natural gas service in Texas, particularly in ERCOT from February 15-18. A detailed timeline of events and causes of the electricity and natural gas service disruptions is provided in

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<sup>16</sup> The various reports provided by ERCOT are described in more detail in ERCOT's SER.

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*The Timeline and Events of the February 2021 Texas Electric Grid Blackouts.* This report was prepared by the University of Texas Energy Law Institute and was funded in part by the PUCT. A copy of this report may be found on the PUCT's website.<sup>17</sup>

### **Texas Legislature Response to Winter Storm Uri**

Winter Storm Uri was a primary focus of the 87<sup>th</sup> Legislature. Several Texas House and Senate Committees held hearings on the affects and aftermath of Uri.

The Legislature passed several bills aimed at improving the reliability of the electricity and natural gas markets. SB 2 changes the ERCOT board from a majority stakeholder board to a majority independent board. Under SB 2, the Governor, Lt. Governor and Speaker of the House will each appoint a representative to the ERCOT Board selection committee. The three members of the selection committee will identify board candidates. The selection committee members are Arch "Beaver" Aplin, appointed by Governor Abbott, G Brint Ryan, appointed by Lt. Governor Patrick and Bill Jones, appointed by Speaker Phelan. The selection committee is required to retain an outside consulting to help identify and select Board members. The new ERCOT board will be composed of the chair of the PUCT, the presiding officer of OPUC, the ERCOT CEO and 8 unaffiliated members. All ERCOT board members must be residents of the State of Texas. As of the date of this report, new ERCOT Board members have not been selected.

SB 3 is a comprehensive bill that includes a number of provisions in response to Winter Storm Uri. The provisions of SB 3 include generator and TDU weatherization requirements, creation of a power outage alert system, mandating more coordination between electricity and natural gas providers, and the creation of a comprehensive map of Texas electricity supply chain facilities.

A list of the bills enacted by the 87<sup>th</sup> Legislature that affect the PUCT is included in Section VIII of this report.

### **PUCT Response to Winter Storm Uri**

The PUCT issued several emergency orders intended to mitigate the effects of Winter Storm Uri on customers. A brief explanation of the PUCT's emergency orders was posted on the PUCT's website soon after these orders were issued. This summary may be found on the Commission's website.<sup>18</sup>

During and immediately following Winter Storm Uri, the PUCT's External Affairs Division worked aggressively to inform the public by way of both legacy and social media. Efforts included nearly 20 TV interviews in both English and Spanish, more than 40 media queries and 84 social media posts (cross-posting content on Twitter, Facebook and Instagram.) and the issuance of 14 press releases. Details of these efforts are included as Attachment 30 to this Report. Additionally, the PUCT received

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<sup>17</sup>[https://www.puc.texas.gov/agency/resources/reports/UTAustin\\_\(2021\)\\_EventsFebruary2021TexasBlackout\\_\(002\)FINAL\\_07\\_12\\_21.pdf](https://www.puc.texas.gov/agency/resources/reports/UTAustin_(2021)_EventsFebruary2021TexasBlackout_(002)FINAL_07_12_21.pdf)

<sup>18</sup> <https://www.puc.texas.gov/consumer/facts/factsheets/electfacts/WinterStormPriceExplainer-FIN.pdf>

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121 Public Information Act (PIA) requests for information related to the winter storm; 66 have been completed and 55 remain pending

The PUCT is also moving quickly to implement the Uri-related legislation passed by the 87<sup>th</sup> Legislature. The PUCT's 87th Regular Legislative Session Implementation Schedule is attached this report as Attachment 31. Note that the attached implementation schedule addresses all PUCT-related legislation, not just Uri-related bills.

The PUCT commissioners and staff are in daily contact with ERCOT to ensure timely implementation of all ERCOT-related legislation. Winter Storm Uri legislation will also require increased coordination between the PUCT and the Railroad Commission of Texas (RRC), the agency that oversees natural gas production and transmission within Texas. The Texas Electricity Supply Chain Security and Mapping Committee, created as part of SB 3, is a prime example of the increased coordination that will be required between the electric and natural gas industries to ensure the reliability of the electric power grid in Texas. Members of this committee include the Executive Director of the PUCT (who is designated as the chair of this committee), the Executive Director of the RRC, the chief of the Texas Division of Emergency Management, and the president and CEO of ERCOT. The charge of this committee is to:

- (1) Map the state's electricity supply chain;
- (2) Identify critical infrastructure sources in the electricity supply chain;
- (3) Establish best practices to prepare facilities that provide electric service and natural gas service in the electricity supply chain to maintain service in an extreme weather event and recommend oversight and compliance standards for those facilities; and
- (4) Designate priority service needs to prepare for, respond to, and recover from an extreme weather event.

The committee met for the first time in early August 2021.

### **Other activities related to Winter Storm Uri**

On February 16, 2021, FERC and NERC announced that they would conduct a joint inquiry into the operation of the bulk power system during Winter Storm Uri. The primary focus of the FERC and NERC inquiry is to determine the root causes of the reliability events affecting the ERCOT, MISO, and SPP regions. FERC and NERC are working with other federal agencies, state regulatory commissions, regional entities, utilities, ERCOT, MISO, SPP and other stakeholders in each of these regions to identify problems experienced in these regions and will propose solutions to these issues. FERC/NERC have advised the PUCT and other stakeholders that they intend to issue their proposed findings and recommendations in September 2021 and to issue their final report in November 2021. The PUCT has been in regular contact with members of the FERC/NERC investigating staff and has offered to assist them in any way in their investigation.

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The U.S. House Subcommittee on the Environment, (which is under the House Committee on Oversight and Reform) is also investigating the effects of Winter Storm Uri. This Subcommittee has been in contact with ERCOT and has requested and received information from ERCOT. ERCOT has testified before this Subcommittee on one occasion. Though the Subcommittee has not yet contacted the PUCT regarding its investigation as of the time of publication, the PUCT remains available to support the investigation and provide any needed information.

**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. If the response to Section III of this report is sufficient, please leave this section blank.**

The intrastate wholesale electric market in Texas was opened to competition because of the amendments to PURA adopted by the Legislature in 1995.<sup>19</sup> These amendments allowed independent power producers (IPPs) to construct generation facilities. The 1995 amendments also mandated open, non-discriminatory access to the transmission system for all utilities, IPPs and power marketers to move power to wholesale customers. The PUC adopted rules to implement this legislation.

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). REPs provide retail electricity and energy services to end use residential, commercial and industrial customers in the ERCOT market. PGCs and REPs are both required to hold a certificate from the PUCT to operate but are competitive entities. TDUs remain regulated by the PUCT and are required to provide non-discriminatory access to the transmission and distribution grid at rates and terms prescribed by the PUCT.

Although the investor-owned transmission and distribution facilities remain regulated by the PUCT, the prices for the production and sale of electricity are now based on competitive offers rather than regulatory rate-setting procedures.

Over time, the Legislature and PUCT have modified the rules relating to independent organizations to strengthen ERCOT's accountability to the public. In 2003, the PUCT 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 PUCT. In 2005, the Texas Legislature adopted amendments to PURA § 39.151 that increased the number of independent directors and strengthened the PUCT's oversight authority. SB 408, enacted in 2005, provided for establishment of the IMM at ERCOT PURA § 39.151 gives the PUCT broad oversight authority over an independent organization and sets out requirements for the membership of its governing body.

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<sup>19</sup> Similar reforms were adopted in the interstate market through federal legislation that provided broad authorization for non-utility generators and FERC open-access rules.

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Additional ERCOT wholesale market reforms and refinements have been enacted by the commission over the last ten years. These reforms have focused on incentivizing investment in generation while also maintaining system reliability. The primary focus of the PUCT at this time is implementation of the legislation enacted by the 87<sup>th</sup> Legislature in response to Winter Storm Uri. SB 2, passed by the 87<sup>th</sup> Legislature, made significant changes to ERCOT governance. The current hybrid (independent and stakeholder) board, will be replaced by an all independent board. SB 2 requires the Governor, Speaker of the House and the Lt. Governor to appoint a selection committee to identify board candidates. The board will be composed of the PUCT chair, OPUC, the ERCOT CEO and eight unaffiliated members selected by the selection committee. This legislation also requires PUCT approval of all ERCOT rules and enforcement measures.

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. 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: industrial customers, small and large commercial customers, and residential customers. Additionally, this program also impacts municipally owned utilities and electric cooperatives that sell or buy generation in the ERCOT wholesale market that is regulated by the PUCT.

Entity Type	Number Registered in ERCOT
Power Generation Company	244
Power Marketers	196
Qualified Scheduling Entities (QSEs) <i>Not required to register with PUCT, but with ERCOT</i>	271
Retail Electric Providers (REPs)	149
Brokers	1,550
Aggregators	182

**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

As discussed above in Section C, the PUCT is currently working on proposing various rules to implement ERCOT market reform legislation adopted in 2021. The Commission's work on these rules is ongoing. A schedule of the Commission's work to implement 2021 legislation is available in Section C.



## ERCOT Oversight

The ERCOT protocols are a complex set of rules developed 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 PUCT. Changes to protocols may be initiated by stakeholders, ERCOT, or PUCT staff. The protocol approvals, including amendments, are conducted as contested cases under the APA, Government Code Chapter 2001. In 2021, the Texas Legislature enacted Senate Bill 2 (SB 2), which clarifies the PUCT's oversight over ERCOT and requires the PUCT to establish a process for approving all ERCOT rule and protocols before they are effective, and the PUCT has opened a project to implement this process.

### PUCT Rules Governing ERCOT Oversight.

PUCT rules 16 T.A.C §§ 25.361-25.367 address various aspects of the PUCT's oversight over ERCOT. 16 T.A.C. §§ 25.361 and 25.362 which set out the functions of the independent organization, standards for access to meetings and information, qualifications for board members, and reporting requirements. Section 25.363 establishes a process for the PUCT's review of ERCOT's budget and setting of the ERCOT administrative fee to fund ERCOT's operations.

The PUCT Commissioners and Executive Director are in frequent contact with ERCOT Board members and leadership, and PUCT staff regularly meet and actively engage with ERCOT subject matter experts to develop policy options for the Commissioners' consideration. ERCOT provides frequent presentations at PUCT open meetings at the request of the commissioners to brief and update the Commission on current issues and allow an opportunity for Commissioner discussion.

### Participating in market design and implementation activities

PUCT staff actively participates in ERCOT stakeholder meetings on a routine basis to contribute to the development of rules and protocols. ERCOT has several standing committees, subcommittees, working groups, and task forces that meet frequently to study and resolve market design issues. The PUCT staff regularly interact with ERCOT staff and the commissioners exercise their statutory authority to ensure that ERCOT is implementing the various market reforms mandated by the 87<sup>th</sup> Legislature and to ensure ERCOT and stakeholder compliance with all relevant PUCT rules and policies.

PURA § 39.154 limits the amount of the total installed generating capacity in ERCOT that may be owned by a single 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 PUCT 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

## Self-Evaluation Report

marketers, respectively, register with the PUCT. The PUCT 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 PUCT's website.

### **Enforcement of statutes, PUCT rules, ERCOT protocols, and PUCT orders**

Interactions with ERCOT staff, the IMM and market participants on market design issues may provide information that suggests areas for investigation and possible enforcement.

### **Oversight of SPP and MISO markets**

A commissioner and support staff regularly attend the meetings of key stakeholder groups and decision-making bodies for both MISO and SPP, and vote on issues that impact Texas customers, such as transmission cost allocation of transmission build-out across these multi-state regions.

- 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 PUCT's role in this program is funded with General Revenue.

- H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. 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**

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2020;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **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 the IMM. Currently, 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 copious amounts of market data. The IMM's work is enhanced by its subject matter experts, proprietary software, and secure data access to important ERCOT data.

The IMM provides reports to the PUCT on a daily and monthly basis, special reports as required by market events, and an annual report. The PUCT publishes the IMM's annual report on its website, and uses its daily reports in an interactive reporting section on the PUCT 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 PUCT rules and the ERCOT protocols governing the operation of the wholesale market 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 this contract is \$3.95 million for calendar year 2020, \$4.07 million for calendar year 2021, \$4.195 million for calendar year 2022, and \$4.32 million for calendar year 2022.<sup>20</sup>

**Outside Counsel for Federal Proceedings**

Under PURA §§ 39.408, 39.4525 and 39.504, the PUCT has a contract with Jennings, Strouss, & Salmon, PLC as outside counsel in FERC proceedings (or in court proceedings reviewing decisions of FERC) related to electric utilities outside of ERCOT

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<sup>20</sup> The contract payments are based on calendar years because ERCOT's fiscal year is the calendar year.

## Self-Evaluation Report

that are operating in Texas. The electric utilities covered by this contract are Entergy Texas, Inc., El Paso Electric Company, Southwestern Public Service Company, and Southwestern Electric Power Company. This current contract commenced on February 1, 2018 and terminates on December 31, 2022 unless terminated or extended by the parties. The costs of this contract may not exceed \$1.5 million per year for a total of \$18 million for the entire term of the contract.

### **Texas Reliability Entity**

The PUCT had a contract with the Texas Reliability Entity to assist the PUCT in enforcing ERCOT electric reliability standards. This contract was terminated in late 2020. This contract is discussed in more detail in the Enforcement Section of Section VII. of this report.

#### **L. Provide information on any grants awarded by the program.**

N/A

#### **M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

As discussed previously, given the extensive work and need for market enhancements and redesign in the wake of Winter Storm Uri, it has been a challenge for the agency to hire qualified staff who have the knowledge base and expertise sufficient to dialogue on complex, technical market issues with other stakeholders and ERCOT staff. To remedy this, consistent with other issues, the agency has relied on hiring staff with a relevant educational background and providing extensive training to those staff. The need for a comprehensive revision of the wholesale market has also made it difficult to ensure that staff are engaged as extensively in each protocol revision process and market change discussion while also balancing their other workload commitments.

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

Additional information about the ERCOT wholesale electric market is included in the PUCT's *Biennial Agency Report to the 87th Texas Legislature*. Additional information on the ERCOT wholesale market may also be found in the PUCT's *Scope of Competition in the Electric Market of Texas* for the years 1997-2019. The 2021 Biennial Agency Report may be accessed on the Commission's website at: <https://www.PUCT.texas.gov/industry/electric/reports/scope/Default.aspx>

Prior versions of the Electric Scope of Competition Reports can be accessed on the PUCT's website.<sup>21</sup>

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<sup>21</sup> <https://www.puc.texas.gov/industry/electric/reports/scope/Default.aspx>

**O. 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 maintain the reliability and financial integrity of the market, to consider the cost impacts on customers, to address market power abuses and to facilitate improvements in market design.

The PUCT's overall monitoring activities are explained above. When non-compliance is suspected, the PUCT performs both informal and formal investigations and pursues appropriate remedies. The PUCT's enforcement activities are described as a separate program.

Because of the nature of this program, the PUCT generally does not receive complaints from the public or customers about this area. Typically, formal 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. After Winter Storm Uri, the PUCT did receive some complaints from retail customers regarding retail rate plans that were indexed to the wholesale price of power. These complaints are more properly characterized as retail rather than wholesale complaints. The PUCT's authority under PURA over generators in ERCOT is limited. However, as discussed previously in this section, the Texas Legislature enacted legislation in 2021 that directed the PUCT to make several changes in the ERCOT market to ensure the reliability of the ERCOT grid and to protect customers. The PUCT is currently working on rules to implement this legislation.

**P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

See Informal Customer Complaint Resolution program description in section of Section VII. of this report.

## **Renewable Energy**

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

<b>Name of Program or Function:</b>	<b>Renewable Energy</b>
<b>Location/Division:</b>	Infrastructure Division
<b>Contact Name and Division:</b>	Keith Rogas, Director, Infrastructure Division
<b>Statutory Citation for Program:</b>	PURA § 39.904

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

The renewable energy program established under PURA § 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 PUCT to adopt a credit trading system for renewable energy credits (RECs). The PUCT has adopted detailed rules for the RPS and REC trading and oversees implementation of the rules. The PUCT 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 PUCT. In addition to adopting and periodically amending the program rules, the PUCT registers the companies and certifies the facilities that produce renewable energy. The PUCT also 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 PURA § 39.904 adopted in 2005 (SB 20) directed the PUCT to identify regions that are suitable for further development of renewable energy (Competitive Renewable Energy Zones, or CREZs). The PUCT identified such regions, adopted a transmission plan to permit energy from the CREZs to be transmitted to populous areas in ERCOT, and designated the utilities that built the transmission facilities for the CREZs. All transmission facilities for the CREZs were completed by 2013.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

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 5,880 MW of cumulative installed renewable capacity by January 2015; 10,000 MW installed renewable capacity by January 2025; and a target of 500 MW of new non-wind renewable capacity by 2015. Under 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

## Self-Evaluation Report

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 PUCT to submit a report on the impact of renewable resources on electricity prices. In that report, submitted in January 2009, the PUCT 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 for the years through 2008 as discussed in the PUCT's 2009 report. Additionally, the table also includes identical information for the years 2011, 2013 and 2015 since those are the target years listed in PURA § 39.904. (Some renewable resources are not registered in the program, and their capacity and energy are not reported by the program administrator.) The table below clearly illustrates that the renewable capacity goals established by the Legislature have been exceeded for every one of these years.

Year	Goal for Renewable Capacity (MW)	Actual Renewable Capacity (MW)	Goal For Non-Wind Renewable Capacity (MW)	Actual Non-wind Renewable Capacity (MWh)	Renewable Energy Reported by Program Administrator (MWh)
2015	5,880	19,568	500	639	46,602,680
2013	5,256	13,359	500	535	38,133,355
2011	4,264	11,288	500	327	31,708,018
2009	3,272	10,070	500	154	21,594,391
2007	2,280	4,600	500	108	10,132,645
2006	1,400	3,100	500	77	7,107,797
2004	850	1,190	0	45	3,685,014

Energy from certain renewable energy facilities has, in general, been more expensive than conventionally produced energy. The RECs, and tax benefits from the federal government make renewable energy more competitive with conventional resources. The cost of the RECs is borne initially by the 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. According to S&P, the costs of RECs in 2020 and 2021 were \$1.32 and \$1.34 per MWh respectively.

**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. If the response to Section III of this report is sufficient, please leave this section blank.**

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 PUCT 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 PUCT to establish CREZs and a transmission plan for the CREZs (Senate Bill 20). In December 2006, the PUCT 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. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. 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. Because of their support for renewable energy, some customers voluntarily purchase electricity that is backed by more RECs than the minimum. The electric utilities that construct and operate transmission facilities that are built to support the production of renewable energy are also affected. 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, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The renewable-energy program operates under PUCT rules and with PUCT 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. 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 can do 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 financial support for the renewable energy producers. The PUCT does not have regional offices to assist in administering the program, and all of its program activities are conducted from Austin.



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- 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.

- H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. 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**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2020;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

- L. Provide information on any grants awarded by the program.**

N/A

- M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified.

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

The PUCT estimates that more than one FTE is required for this program.

**O. 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 renewable energy credit trading program is essential to the meeting of the renewable energy requirements of PURA § 39.904. The program administrator audits MWh production data, conducts random site visits, and monitors the operational status of REC facilities to ensure the integrity of the REC trading program. The PUCT investigates all reports of non-compliance it receives from the program administrator. Assessment of administrative penalties and suspension from participating in the REC program are the ways the PUCT ensures compliance with the program.

**P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

See Informal Customer Complaint Resolution program description in section of Section VII. of this report.

## **Retail Electric Market Oversight**

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

<b>Name of Program or Function:</b>	<b>Retail Electric Market Oversight</b>
<b>Location/Division:</b>	Customer Protection Division Market Analysis Division
<b>Contact Name and Division:</b>	Chris Burch, Director, Customer Protection Division Rebecca Zerwas, Director, Market Analysis Division
<b>Statutory Citation for Program:</b>	PURA Chapters 17, 37, 38, and 39

**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;
- Registration of Brokers
- Development of retail market and customer-protection rules;
- Participation in development of ERCOT protocols and market 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? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

Texas has one of the few functioning retail electric markets in the country. As of July 2021, there are 128 active certified retail electric providers (REPs), 407 registered aggregators, and 1,538 registered brokers in Texas. REPs are encouraged, but not required to post their product descriptions and prices for residential offerings on the PUCT's Power To Choose Website; currently, 31 REPs have active product offers.

**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. If the response to Section III of this report is sufficient, please leave this section blank.**

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 have since been set by market forces. The retail electric market has evolved and changed over the last 15

years. Significant developments and changes in the retail electric market are discussed in the PUCT's prior Electric Scope of Competition reports.<sup>22</sup>

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

Certification of REPs and registration of Aggregators and Brokers affects REPs, aggregators, and brokers. Customers benefit from having qualified service providers that 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 and ERCOT 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, brokers, and the transmission and distribution utilities that interact with them in the market. Additionally, many non-opt in entities (NOIEs), which are not regulated directly by the PUCT, model their own customer protection standards on the retail market rules adopted by the PUCT.

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

There are approximately 7.9 million electric service identifiers (ESIIDs)<sup>23</sup> or individual meters in areas of the state open to competition.

**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

**Certification of REPs and Registration of Aggregators and Brokers.**

Companies wishing to become REPs must apply to the PUCT for certification. 16 TAC §§ 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 PUCT rules.

Companies wishing to be aggregators must register with the PUCT. 16 TAC § 25.111 sets out the requirements for registration as an aggregator. Aggregator registrations are reviewed by PUCT staff for compliance with applicable requirements but are not contested cases subject to intervention by affected parties or hearing.

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<sup>22</sup> Available on the PUCT's website at:

<https://www.puc.texas.gov/industry/electric/reports/scope/Default.aspx>

<sup>23</sup> An "ESIID" is unique numerical identifier for each electric point of service. It is not necessarily tied to a customer but may be. For example, a single residential customer may have one ESIID at their home, but a single customer with multiple buildings (and thus meters) and premises, such as an industrial customer, school district, or a university, may have many ESIIDs.

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Senate Bill 1497 was passed in the 86<sup>th</sup> Legislative Session to add PURA § 39.3555 persons providing advice or procurement services to or acting on behalf of a customer regarding the selection of a REP, or a product or service offered by a REP must register with the PUCT as a broker. The PUCT adopted rules codifying the legislation in May 2020 and setting out the requirements for registration as a broker. Broker registrations are reviewed by PUCT 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 either not functioning as intended or are producing unintended results; and
- Based on petitions for rulemaking filed by interested persons pursuant to Texas Government Code § 2001.021.

### **Development of ERCOT Protocols**

PUCT staff has been actively involved in the development of the ERCOT protocols.<sup>24</sup> The initial ERCOT protocols were approved by the PUCT 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-related market guides. Amendments to the protocols are approved by the ERCOT Board of Directors, subject to appeal to the PUCT. Under SB 2 of the 87<sup>th</sup> Legislative Session, the PUCT must review and approve all proposed ERCOT rules before they go into effect.

### **Market Oversight**

The PUCT 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 PUCT staff usually contacts the company in question to obtain more information. If the alleged illegal behavior is of sufficient concern due to harm to the market or customers, the DCE will pursue more formal action, including imposition of administrative penalties. Enforcement activities are described as a separate program in Section VII. of this report.

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<sup>24</sup> 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.

### **Designation and Oversight of Providers of Last Resort**

The PUCT is required to designate providers of last resort (POLR) to serve customers whose REP no longer provides service. The PUCT rules provide for a group of up to 15 REPs to be designated as POLRs for each customer class (residential, small non-residential, medium non-residential, and large non-residential) for each TDU service area. The designated REPs are the REPs with the greatest market share based upon retail sales in megawatt-hours, by customer class, for each TDU service area. Other eligible REPs may serve as volunteer POLRs. For the 2021-2022 POLR Term there are 28 designated REPs to provide POLR service and 3 REPs who have volunteered to provide POLR service. The designated POLRs may charge either a market-based price or a price based on a formula that includes the sum of nonbypassable charges incurred in serving customers (primarily delivery charges and ERCOT fees), an energy rate based on clearing prices in the balancing energy market, and a mark-up. Volunteer POLRs are required to charge a market-based price up to the number of ESI IDs for which they have agreed to provide POLR service.

**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. PUCT rules prescribe required functions for advanced metering systems and mechanisms for utilities to recover the costs of deploying advanced meters. These rules require PUCT 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, PUCT 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. Advanced meters have also enabled new product designs (time-of-use rates, prepaid rates), reduced certain discretionary costs for retail customers and facilitated same day/shorter timelines for customers to switch REPs. Staff also works with market participants on customer education. Deployment of advanced meters in the ERCOT region has been completed, with 7.89 million advanced meters in place.

In the non-ERCOT areas of the state, Entergy completed deployment of its advanced meters in March 2020, with 463,395 advanced meters deployed. El Paso Electric has a pending advanced meter deployment application, filed in April 2020, and has proposed to begin initial deployment in early 2023 with near-completion no later than 2025. SWEPCO filed an advanced meter application with the PUCT in August 2021. Advanced meters have not yet been deployed by Southwestern Public Service Company (SPS) and the PUCT is not advised on their plans for deployment.

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- 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.

- H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. 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**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2020;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

N/A

- L. Provide information on any grants awarded by the program.**

N/A

- M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified.

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

The retail electric market in ERCOT has evolved since its inception in 2002. The general trend has been an increasing number of competitive REPs entering the market and a growing of variety of pricing plans for retail customers. The PUCT has implemented necessary changes in its rules and processes over this period to address issues as they arise. Significant developments in the retail electric market over the last ten years are discussed in more detail in the Commission's Electric Scope of Competition reports and the 2021 Biennial Agency Report.<sup>25</sup>

Most recently, Winter Storm Uri in February 2021 had a significant impact on the ERCOT retail market. Most retail customers in ERCOT are served under fixed price contracts. During Winter Storm Uri, the wholesale price of power increased significantly. Customers who were on pricing plans indexed to the wholesale price of power saw significant increases in their bills for the week of February 14. The PUCT received many complaints from customers who were on wholesale indexed plans during Winter Storm Uri. The Commission opened investigations on certain providers offering these pricing plans to determine whether these plans violated any applicable Commission rules. These investigations are ongoing. At least one REP offering the wholesale indexed plans was forced to exit the market because of Winter Storm Uri. Soon after Winter Storm Uri, the Legislature enacted a law that prohibited REPs from offering wholesale indexed pricing plans.

Several other REPs were forced out of the ERCOT market because of Winter Storm Uri. Some of these REPs, including Griddy, filed for bankruptcy. Approximately a dozen REPs have since sold their book of customers to other REPs. As of August 2021, one REP has relinquished its certificate and three have had their certificates revoked by the Commission, all resulting in their exit from the ERCOT market. Under ERCOT protocols, certain costs left unpaid by REPs leaving the market are uplifted to the remaining retail customers in ERCOT. ERCOT estimates that as of July 2021, \$2.97 billion will be uplifted to the ERCOT retail customers because of companies' inability to pay for the real-time wholesale costs of electricity during Winter Storm Uri.

**O. 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;**

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<sup>25</sup> Available on the PUC's website at:

<https://www.puc.texas.gov/industry/electric/reports/scope/Default.aspx>



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- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

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

The PUCT requires REPs, transmission and distribution utilities, and ERCOT to file quarterly reports demonstrating compliance with market rules and protocols (16 TAC § 25.88). The PUCT also 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 TAC § 25.107).

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

While brokers are not required to file any reports at this time, broker registrations expire three years after assignment of a broker registration number by the PUCT or the year after the broker's most recent update to its registration. Brokers are subject to the registration protection requirements in 16 TAC 25.486.

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

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

- P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

See Informal Customer Complaint Resolution program description in section of Section VII. of this report.

## **Wholesale Telecommunications Market Oversight**

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

<b>Name of Program or Function:</b>	<b>Wholesale Telecommunications Market Oversight</b>
<b>Location/Division:</b>	Customer Protection Division Market Analysis Division
<b>Contact Name and Division:</b>	Rebecca Zerwas, Director, Market Analysis Division

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	Darryl Tietjen, Director, Rate Regulation Division
<b>Statutory Citation for Program:</b>	PURA Title 2, Subtitle C, Federal Telecommunications Act of 1996, 47 U.S.C. 151 <i>et seq.</i> :

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

The PUCT'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). Since 1996, the primary activity used to implement this program was arbitrations conducted under the FTA. Due to the maturity of the telecommunications industry, over the last ten years, arbitrations and other matters related to the FTA have decreased significantly. Traditionally, the PUCT's wholesale market oversight involved 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.
- 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.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

An indicator of the effectiveness of the PUCT'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. If the response to Section III of this report is sufficient, please leave this section blank.**

The provision of telephone and other telecommunications services has changed radically over a period of roughly 30 years. At the beginning of the 1980s, most telephone service in the United States was provided by companies that had a monopoly on local service in an area and 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 1990s. 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 79th Legislature in 2005, brought significant changes to the telecommunications market that required PUCT 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 several 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 customers<sup>26</sup>; and
- Authorized the PUCT 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 that provide customers telephone, Internet, and email service. Again, due to

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<sup>26</sup> SB 5 required resale telecommunications providers to provide Lifeline service to qualified customers and 16 TAC § 26.419 allows these providers to receive state support for Lifeline discounts provided to eligible customers.

the overall maturity of the market, the PUCT activities under this program are minimal at this point.

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

This program affects 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 because of competition. Currently, in Texas there are 61 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 289 CLECs licensed in Texas. Because the FCC, not the PUCT, licenses wireless providers, the current number of these providers in Texas is unknown.

**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

In the past, the PUCT administered this program primarily through the resolution of disputes by means of arbitration under the FTA, approval of interconnection agreements. The arbitration of disputes under the FTA were conducted under rules of procedure adopted by the PUCT. Such an arbitration proceeding is not considered a "contested case" under the APA. The number of arbitration requests received by the Commission has dropped dramatically in recent years. The PUCT has not had a contested FTA proceeding since 2008. The PUCT has continued to receive requests for approval of negotiated interconnection agreements. These dockets are generally uncontested and result in the issuance of an order approving the interconnection agreement.

Negotiated Interconnection Agreements. Many 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 were free to negotiate unique, individualized contracts, many have chosen to adopt the standardized interconnection agreements that have been approved by the PUCT. 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 PUCT 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 PUCT thereby eliminating the need for negotiation. Parties to interconnection agreements also

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routinely amend their agreements through negotiation to reflect changes in law mandated by the FCC or the PUCT. Table 1 shows the number of negotiated interconnection agreements and amendments that were processed by the PUCT in the last four years.

### Negotiated Interconnection Agreements and Amendments

Calendar Year	Agreements or Amendments Processed
2018	5
2019	17
2020	22
2021	14

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. The PUCT has not received a request for arbitration under the FTA since 2008.

- 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.

- H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. 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**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2020;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

N/A

- L. Provide information on any grants awarded by the program.**

N/A

- M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified.

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

The PUCT estimates that approximately 1 FTE is required for this program.

- O. 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

- P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

N/A

## **Broadband Services**

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

<b>Name of Program or Function:</b>	<b>Broadband Services</b>
<b>Location/Division:</b>	N/A
<b>Contact Name and Division:</b>	N/A
<b>Statutory Citation for Program:</b>	N/A

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

Broadband service is not regulated by the PUCT. The FCC has deliberated whether broadband service is considered a "telecommunications service" or an "information service" under federal telecommunications law. If broadband were classified as a telecommunications service, it would be subject to more stringent regulation by the FCC than if it were considered an information service. On January 4<sup>th</sup>, 2018, the FCC issued a Declaratory Ruling, Report and Order, and Order (FCC17-166) in WC Docket No. 17-108 in which they concluded that broadband should be classified as an information service. The FCC committed to bringing broadband to unserved high cost areas. The FCC held two auctions and several companies in Texas were awarded \$445 million to build out broadband infrastructure over 10 years. More recently, on July 9, 2021, the White House released an Executive Order on Promoting Competition in the American Economy. The Executive Order encourages the FCC to adopt rules and policies that will encourage development of broadband service requests the FCC to reclassify broadband as a telecommunications service.

Governor Abbott is also committed to bridging the information gap in unserved high cost areas in Texas. In 2019, the 86<sup>th</sup> Legislature formed the Governor's Broadband Development Council was formed by the 86<sup>th</sup> Legislature. In 2020 the Council issued its first annual report identifying findings and recommendations based on the Council's statutory duties.<sup>27</sup> Among other things, the Council recommended the creation of a state broadband office. During the 87<sup>th</sup> Legislative Session, the Legislature adopted HB 5 which establishes a Broadband Development Office under the authority of the Comptroller's office.

<sup>27</sup> 2020 Texas Report–Governor's Broadband Development Council.

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The 87<sup>th</sup> Legislature adopted HB 3853. This bill removes from PURA the references to an old FCC program, “broadband over power lines” (BPL) and authorized the deployment of “middle mile broadband service” to encourage development of broadband to unserved and underserved areas of Texas. HB 3853 allows, but does not require electric utilities to own, construct, or operate fiber facilities for the support of electric service and to lease excess fiber capacity for the provision of middle mile broadband service. The commission’s only obligation under the bill is to approve, modify or reject review an electric utility’s middle mile plan within 181 days after it is submitted to the commission. Finally, broadband may not be funded with money from the TUSF.

- C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

See Section B. above.

- 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. If the response to Section III of this report is sufficient, please leave this section blank.**

See Section B. above.

- E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

See Section B. above.

- F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

See Section B. above.

- 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).**

N/A



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

See Section B. above.

- 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.**

See Section B. above.

- 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.**

See Section B. above.

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

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2020;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

N/A

- L. Provide information on any grants awarded by the program.**

N/A

- M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified.

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

N/A

- O. 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

- P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

N/A

## **Uniform Compensation for Use of Municipal Rights-of-Way**

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

<b>Name of Program or Function:</b>	<b>Uniform Compensation for Use of Municipal Rights of Way</b>
<b>Location/Division:</b>	Rate Regulation Division
<b>Contact Name and Division:</b>	Darryl Tietjen, Director, Rate Regulation Division
<b>Statutory Citation for Program:</b>	Local Government Code Chapter 283

- 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, establishes 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 a key 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

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reduce barriers to entry by developing a franchise fee methodology that is competitively neutral and non-discriminatory.

Franchise fees are based on the PUCT-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 PUCT.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

The PUCT 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 PUCT has created password protected, Web-based tools that allow CTPs to report access line counts and for municipalities to obtain access line counts.

The PUCT'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. If the response to Section III of this report is sufficient, please leave this section blank.**

Historically, telecommunications companies paid franchise fees to cities for the use of public rights-of-way based upon individually negotiated franchise fee agreements. Most 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, adopted by the Legislature in 1999, required that the PUCT 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 1,140 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.

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- E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

This program affects approximately 1,140 incorporated municipalities and approximately 140 providers of telecommunications services.

- F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The PUCT adopted 16 TAC §§ 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 PUCT 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. This fee transaction takes place individually between the CTP and the city. The PUCT'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 is funded with General Revenue.

- H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. 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.**

See description of this program in Sections B. – G. above.

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

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2020;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

N/A

**L. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

For the time in which it was enacted, Chapter 283 and the resulting PUCT rules (16 TAC §§ 26.461 – 26.467) were sufficient for defining the three separate categories of access lines subject to the access line fee and the methodology by which these access lines were to be counted. The advancement of technology in the telecommunications industry over the last 20 years since the enactment of Chapter 283 has made it difficult for telecommunications providers to apply the applicable statute with respect to properly applying the access line fee for certain advanced services that have emerged in the last 20 years. While Chapter 283 standardized the way cities are compensated for access to their rights-of-way, and eliminated barriers to entry for new telecommunications providers, the advancement of technology in telecommunications has resulted in potential instances where the application of the access line fee has led to bills where the access line fee is larger than the fee for the service itself.

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

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

**O. 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;

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- 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 a critical component of a healthy competitive marketplace because it gives no provider an advantage over another regarding this cost.

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

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

- P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

N/A

### **Registration of IXC's, Prepaid Calling Card Companies and Other Nondominant Telecom Carriers**

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

<b>Name of Program or Function:</b>	<b>Registration of Interexchange Carriers, Prepaid Calling Services Companies, and Other Non-dominant Telecommunications Carriers</b>
<b>Location/Division:</b>	Customer Protection Division
<b>Contact Name and Division:</b>	Chris Burch , Director, Customer Protection Division
<b>Statutory Citation for Program:</b>	PURA Chapter 52

- 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 PUCT not later than the 30<sup>th</sup> day after the date the utility commences service to the public. "Telecommunications utility" is a defined term which includes the following:

- A public utility;

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- 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 PUCT tariffs or lists governing the terms of providing its service.

The PUCT'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? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

The PUCT has minimized the resources needed for this function by providing comprehensive information on the PUCT Website and through automation of the annual re-registration process. Tracking these companies helps the commission to ensure compliance with applicable requirements and assists customers by providing a search for providers within their area and updated information for company contacts. The PUCT 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. If the response to Section III of this report is sufficient, please leave this section blank.**

N/A

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. 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. There are currently 227 registered IXCs. Pre-paid calling card companies are required to register with the PUCT, but the PUCT has not received any such registrations in several years.

- F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The PUCT 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.

In 2000, the PUCT adopted 16 TAC § 26.34, which requires registration of prepaid calling services providers.

- 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.

- H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. 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**
- a short summary of the general purpose of those contracts overall;
  - the amount of those expenditures in fiscal year 2020;
  - the number of contracts accounting for those expenditures;
  - the method used to procure contracts;
  - top five contracts by dollar amount, including contractor and purpose;
  - the methods used to ensure accountability for funding and performance; and



- a short description of any current contracting problems.

N/A

**L. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified.

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

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

**O. 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.

This requirement was enacted in 1987.

The PUCT does not conduct audits or inspections of the entities subject to this requirement. The agency uses its informal complaint resolution process to assist customers who file complaints against telecommunications utilities.

**P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

See Informal Customer Complaint Resolution program description in section of Section VII. of this report.

## **State Issued Certificates of Franchise Authority**

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

<b>Name of Program or Function:</b>	<b>State-Issued Certificates of Franchise Authority (SICFA) for Cable and Video Service Providers</b>
<b>Location/Division:</b>	Customer Protection Division
<b>Contact Name and Division:</b>	Chris Burch , Director, Customer Protection Division
<b>Statutory Citation for Program:</b>	PURA §§ 66.001-66.004

**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? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

PURA § 66.003 requires that the PUCT issue a SICFA before the 17th business day after receipt of a completed application submitted by the applicant and signed affidavit by an officer or general partner. The PUCT 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. If the response to Section III of this report is sufficient, please leave this section blank.**

N/A

- E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

This program affects entities that wish to offer cable or video service. There are currently 86 certificated SICFA holders.

- F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The PUCT adopted 16 TAC § 28.6 to implement the provisions of PURA Chapter 66.001-66.004, 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.

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

Prior to the enactment of PURA Chapter 66, cable and video service providers entered into franchise agreements with municipalities. There may be some preexisting franchise agreements 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. The PUCT has no visibility into how many, if any, such franchise agreements remain in effect today. However, when the old municipal franchise agreements expire or are terminated, the PUCT 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**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2020;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

N/A

- L. Provide information on any grants awarded by the program.**

N/A

- M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

The PUCT 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.

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

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

- O. 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.

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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 PUCT 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 PUCT. A SICFA holder has a reasonable period to become capable of providing service throughout its franchise area and may satisfy that requirement using alternative technology that provides comparable content, service and functionality. The PUCT 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.

**P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency’s particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

The PUCT 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 PUCT forwards complaints to cable providers and maintains records of the contacts. In addition, as a convenience to the public, the PUCT has implemented an electronic database (directory) that allows customers to identify the SICFAs that operate within their city and county.

See Informal Customer Complaint Resolution program description in section of Section VII. of this report.

<b>Strategy 1-2-1:</b>	<b>Conduct rate cases for regulated telephone, electric and water and sewer 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 PUCT rules; register and license regulated service providers; evaluate utility infrastructure and quality of service.</b>
<b>Actual Expenditures, FY 2020</b>	<b>\$7,006,626</b>
<b>Number of FTEs as of August 31, 2020</b>	<b>80.1</b>

## **Regulation of Investor Owned Electric Utilities**

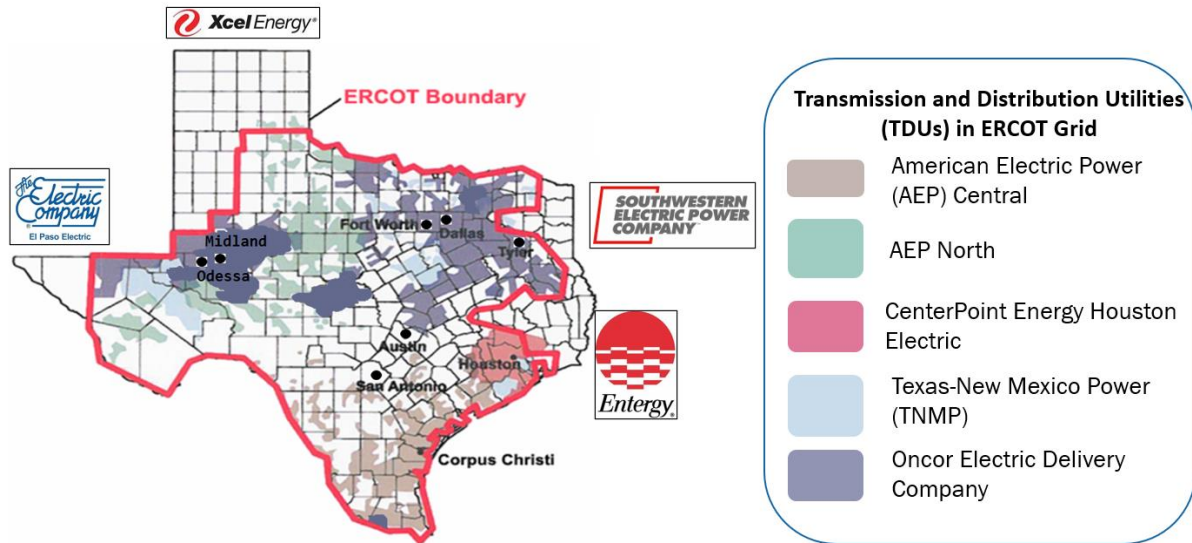
### **A. Provide the following information at the beginning of each program description.**

<b>Name of Program or Function:</b>	<b>Regulation of Investor-Owned Electric Utilities</b>
<b>Location/Division:</b>	Rate Regulation Division Infrastructure Division Legal Division Division of Compliance & Enforcement
<b>Contact Name and Division:</b>	Darryl Tietjen, Director, Rate Regulation Division Keith Rogas, Director, Infrastructure Division Rachelle Robles, Director, Legal Division Barksdale English, Director, Division of Compliance & Enforcement
<b>Statutory Citation for Program:</b>	PURA Subtitle B

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

As a result of the way the electric industry has evolved in Texas, including electric restructuring, electric service is provided to customers by several 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 covered by different electric grids and lists some of the electricity service providers operating within those grids.

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Inside ERCOT, which serves around 90% of the electric load in 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 that is still subject to traditional regulation is the transmission and distribution function. PUCT regulation of wholesale transmission service is described as a separate program beginning on p 47 of this report.

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 distribution, and retail service companies, and they are still subject to traditional cost-of-service regulation by the PUCT 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 soon after the PUCT was created in 1975. Since that time, the PUCT's key role in service area certification has been to consider requests for amendments and exceptions 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 of 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. The PUCT establishes a utility's rates based on the utility's cost of providing service, including the reasonable opportunity to earn a reasonable return on invested capital used and useful in

## Self-Evaluation Report

providing service. As part of 16 TAC § 25.247, adopted in 2018, each IOU in ERCOT is required to for a comprehensive rate review within 48 months of the order setting rates in its most recent comprehensive rate case. Since the introduction of retail customer choice in ERCOT in 2002, various T&D costs have been set and adjusted through periodic rate riders between comprehensive base rate cases. Examples of these types of riders include the transmission cost recovery factor (TCRF), the distribution cost recovery factor (DCRF), the generation cost recovery factor.

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 PUCT, and the PUCT has exclusive rate jurisdiction in areas outside municipalities and within municipalities that surrender their jurisdiction to the PUCT under PURA § 33.002. Virtually all municipal rate-setting decisions are appealed to the PUCT 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 in PURA § 38.001 that electric utilities furnish service, instrumentalities, and facilities that are safe, adequate, efficient, and reasonable. The PUCT adopted rules under PURA § 38.002 and § 38.005 establishing service quality standards for electric utilities, including power quality, reliability, and emergency operation. The rules require electric utilities to report on their compliance with certain standards. PURA §§ 38.004 and 38.102, enacted in 2019, require utilities to maintain minimum vertical clearance requirements for and report on overhead power line inspections and safety, and the PUCT adopted rules and forms for these requirements, 16 TAC § 25.97. If the standards and reporting requirements are not met, the PUCT may investigate, require improvements in service quality, and impose administrative penalties.

**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? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

The following performance measures highlight the work done in the Rate Regulation program.



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Performance Measures	FY 2020 Target	FY 2020 Actual
OC 1-2-1.07 Percentage of Electric Customers Served by TDUs Meeting Service Quality Standards	98%	96.91%
OP 1-2-1.01 Number of Rate Cases Completed for Regulated Electric Utilities	65	73
EF 1-2-1.01 Average Number of Days to Process a Major Rate Case for a TDU	200	657
EX 1-2-1.01 Number of Electric Utilities Regulated	14	14

**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. If the response to Section III of this report is sufficient, please leave this section blank.**

Since the PUCT's creation in 1975, regulation of electric utilities did not change substantially until the passage in 1999 of SB 7, which restructured the electric utility industry. Currently, inside ERCOT, traditional regulation applies only to investor-owned transmission and distribution companies. Outside ERCOT, rate regulation applies to fully integrated electric utilities in areas where customer choice has not been implemented.

The market structure for retail competition created by SB 7 includes regulated transmission and distribution companies as a key component. Unbundled monopoly electric utilities will exist outside of ERCOT until the PUCT, after consideration of market readiness in these areas, authorizes the implementation of customer choice. If areas outside ERCOT open to customer choice and the electric utilities in these areas separate into generation, transmission and distribution, and retail service companies, the PUCT will continue to regulate the transmission and distribution rates of these utilities.

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. 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.

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This regulation affects all persons living in Texas who are served directly or indirectly by investor-owned utilities.

There are four 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 nine utilities operating inside ERCOT that provide transmission and distribution service or transmission-only service. The transmission and distribution utilities are Oncor Electric Delivery Company, Center Point Energy Houston Electric, AEP Texas, and Texas-New Mexico Power Company. The transmission-only utilities are Electric Transmission Texas, Wind Energy Transmission Texas, Cross Texas Transmission, Lone Star Transmission, and Sharyland Utilities.

**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

**Service Area and Transmission Line Certification.** Almost all service area CCNs were granted to existing utilities soon after the PUCT was created in 1975. Since that time, the PUCT's key 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.

The provisions of 16 TAC § 25.101 cover 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 processed as contested cases in accordance with the Administrative Procedures Act (APA) 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 PUCT, or a municipality with original jurisdiction. 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 before the rates become effective by default, subject to an extension of two days for each day the actual hearing on the merits of the case exceeds 15 days.

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, 25.52, and 25.97. Companies are required to file annual reports and to report incidents of significant interruptions.

**Customer Service and Protection.** The provisions of 16 T.A.C. §§ 25.21 - 25.31 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 PUCT has an informal complaint resolution program to address individual customers' concerns. The PUCT also investigates utilities based on customer or market participant complaints or identification of problems by Commission staff. PUCT investigations may lead to 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 is funded with General Revenue.

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

Municipalities have original jurisdiction over electric utilities operating within their boundaries. Under the provisions of PURA § 33.002, municipalities may cede jurisdiction to the PUCT; 296 cities have done so.

With few exceptions, rate decisions of municipalities are appealed to the PUCT, 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 no potential for conflict because the PUCT exercises appellate jurisdiction over those areas, so PUCT orders supersede the actions of the city. Duplication is limited because cities generally do not conduct detailed reviews of requested rate changes before acting on the requests, but actively participate in the appeals of their actions to the PUCT. Because the PUCT exercises original jurisdiction over the electric utility's rates outside municipal 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 PUCT proceedings in which rates are set, participating in their capacities as a 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 PUCT 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 PUCT has not received a formal request for assistance from a municipality for many years, if ever, but the PUCT staff 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**

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2020;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

N/A

**L. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

In 2011 and 2020, respectively, the PUCT adopted rules that allow for interim recovery of capital costs related to distribution investment and, for non-ERCOT vertically integrated utility companies, generation investment. Each of these interim recovery mechanisms allows a utility company to file for an update to its rates once per year. Also, in 2013, the PUCT adopted a rule allowing non-ERCOT vertically integrated companies to apply for a recovery mechanism for purchased power capacity costs. To date, no company has requested this recovery mechanism.

**N. 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 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.

**O. 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 PUCT 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. 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 PUCT has found it unnecessary to proactively 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 service area changes from the PUCT. Companies that are not able to resolve disputes through agreements may file complaints with the PUCT and avail themselves of contested cases procedures. In addition, the PUCT's informal customer complaint resolution program, which is described as a separate program, allows customers to bring any difficulties they are having to the PUCT's attention.

Similarly, the PUCT is not aware of instances in which a utility has constructed transmission facilities without receiving necessary approvals. Because construction of

## Self-Evaluation Report

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 used as a surrogate for competitive forces to ensure reasonable prices and quality service.

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

**Service Quality Regulation.** Like rate regulation, service quality regulation is needed because public utilities are considered natural monopolies in the areas they serve.

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

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

**P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

See Informal Customer Complaint Resolution program description in section of Section VII. of this report.

## **Rate Regulation of Wholesale Transmission Service**

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

<b>Name of Program or Function:</b>	<b>Rate Regulation of Wholesale Transmission Service</b>
<b>Location/Division:</b>	Rate Regulation Division Infrastructure Division
<b>Contact Name and Division:</b>	Darryl Tietjen, Director, Rate Regulation Division Keith Rogas, Director, Infrastructure Division
<b>Statutory Citation for Program:</b>	PURA § 35.004

### **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) that is interconnected to other regions through only limited direct-current ties. In most states, electric utilities are synchronously interconnected with utilities in other states, and are therefore subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC) for regulation of wholesale transmission services. In ERCOT, however, the PUCT has jurisdiction to regulate wholesale transmission rates for all providers, including electric utilities, municipally owned utilities, and electric cooperatives. In areas of Texas outside ERCOT, the FERC has jurisdiction over the investor owned utilities and municipally owned utilities and electric cooperatives that participate in regional transmission organizations.

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

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

- Ensure that a 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? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

The Commission has established procedures, set out in 16 T.A.C. § 25.192, that are designed to facilitate and expedite necessary rate changes. The provisions of this rule allow a utility (transmission service provider; TSP) to update, up to two times per

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year 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 PUCT-allowed rate of return on such facilities as well as changes in loads. These updates of transmission rates are subject to reconciliation at the next complete review of the TSP's transmission cost of service, when the PUCT determines whether the costs of the transmission plant additions are reasonable and necessary. Any over-recovery of costs that has occurred because of the annual updates is subject to refund.

Although TSPs continue to file for complete cost-of-service rate reviews on an as-needed basis, virtually all the larger and several smaller TSPs have regularly availed themselves of the ability to file the interim capital-cost updates. Unlike a comprehensive rate case in which a TSP's overall cost of service is examined, these updates are generally noncontroversial and are therefore completed within a much shorter period (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. If the response to Section III of this report is sufficient, please leave this section blank.**

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.

In 2018, the Commission adopted a scheduling rule that requires an investor-owned TSP to file an application for a comprehensive rate proceeding within 48 months of the order setting rates in its most recent comprehensive rate proceeding or other proceeding in which the Commission approved a settlement agreement reflecting a rate modification that allowed the electric utility to avoid the filing of such a rate case. The rule also requires each non-investor-owned TSP to file an application for either a comprehensive rate proceeding or an interim update within 48 months or 96 months (depending on its wholesale transmission charges as a percentage of ERCOT's total wholesale transmission charges) of the order setting rates in its most recent comprehensive rate proceeding or other proceeding in which the Commission approved a settlement agreement reflecting a rate modification that allowed the electric utility to avoid the filing of such a rate case.



**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

This program affects utilities that provide wholesale transmission service in ERCOT.

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

**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The PUCT 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 that are approved by the PUCT 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, that 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 is funded with General Revenue.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. 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**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2020;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

- L. Provide information on any grants awarded by the program.**

N/A

- M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified.

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

N/A

- O. 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.

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

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

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

- P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

See Informal Customer Complaint Resolution program description in section of Section VII. of this report.

### **Energy Efficiency**

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

<b>Name of Program or Function:</b>	<b>Energy Efficiency</b>
<b>Location/Division:</b>	Infrastructure Division
<b>Contact Name and Division:</b>	Keith Rogas, Director, Infrastructure Division
<b>Statutory Citation for Program:</b>	PURA § 39.905, Goal for Energy Efficiency requires that electric utilities administer energy efficiency programs. Texas Health and Safety Code § 386.205, Evaluation of State Energy Efficiency Programs, requires the PUCT to annually provide the Texas Commission on Environmental Quality (TCEQ) a report that summarizes results of energy efficiency programs required under PURA § 39.905.

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

PURA § 39.905 requires that electric utilities administer energy efficiency programs in a market-neutral, nondiscriminatory manner. The energy efficiency programs are intended to improve electric customers' energy use through measures that reduce energy consumption, summer and winter peak demand, and energy costs.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

Each year, the investor-owned electric utilities subject to PURA §39.905 file reports detailing their performance in achieving the demand reduction and energy saving goals of the programs they administer. PURA §39.905 and 16 TAC §25.181, Energy Efficiency Goal, require that each investor-owned electric utility achieve a minimum demand goal. PUCT rule also requires that each utility achieve a minimum energy savings goal. PURA §39.905 and 16 TAC §25.181 encourage utilities to exceed their minimum savings goals.

The utilities have consistently exceeded their statutory demand reduction goals and the energy savings goals required by PUCT rule. The PUCT has internal performance measures by which it tracks the utilities' performance. In addition, in response to legislation (SB 1125) in 2011, which required the PUCT to develop an evaluation, measurement, and verification (EM&V) framework, the PUCT's EM&V contractor annually reviews the utilities claimed demand reduction and energy savings to independently verify the utilities' savings.

The utilities' demand and energy savings for 2015 - 2020 are shown in the table below.

<b>Electric Utility Demand and Energy Savings 2015 - 2020</b>				
<b>Year</b>	<b>Verified Demand and Energy Savings</b>		<b>Demand and Energy Goals</b>	
	Demand (MW)	Energy (MWh)	Demand (MW)	Energy (MWh)
<b>2015</b>	390.33	559,684.78	189.94	332,782.00
<b>2016</b>	407.70	595,115.08	193.28	338,880.00
<b>2017</b>	465.82	541,044.30	193.64	329,324.79
<b>2018</b>	475.33	577,783.96	194.43	340,650.00
<b>2019</b>	480.82	653,702.85	195.81	343,067.64
<b>2020</b>	502.02	691,435.12	196.55	344,364.32

**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. If the response to Section III of this report is sufficient, please leave this section blank.**

The utilities' energy efficiency programs were adopted as a part of comprehensive legislation enacted in 1999 to introduce retail competition in the Texas electric industry (Senate Bill 7). The 1999 legislation directed the PUCT to establish energy efficiency programs that would be carried out each electric utility to achieve demand savings equal to at least ten percent of the electric utility's annual growth in demand. Subsequent legislation was enacted in 2001 (SB 5), 2007 (HB 3693), and 2011 (SB 1125).

Legislation in 2001 (SB5), amended the Health and Safety Code to require quantification of energy savings and reporting of emission reductions resulting from the utilities' energy-efficiency programs.

The 2007 legislation (HB 3693) raised the utilities' energy efficiency goal from 10 percent of growth in demand to at least 15 percent growth in demand by January 2009, and to at least 20 percent growth in demand by January 2010. HB 3693 also established a cost recovery mechanism designed to expedite utilities' recovery of reasonable expenditures on their energy efficiency programs and permitted the PUCT to award performance bonuses for utilities that exceed the goal.

Legislation in 2011 (SB 1125) increased the demand goal, beginning with the 2013 program year, to 30 percent growth in demand. Once a utility's goal is equivalent to at least four-tenths of one percent of the utility's summer weather-adjusted peak demand, the utility must achieve this goal in subsequent years. The legislation also expanded the programs to reduce summer and winter peak demand. In addition, the legislation required the PUCT to develop an EM&V framework to verify the utilities' savings and to provide more insight into the program design issues.

PUCT rule 16 TAC § 25.181 governs the implementation of the utilities' energy efficiency program. When originally adopted in 2000, 16 TAC § 25.181 required the electric utilities to obtain savings equal to at least ten percent of their growth in demand.

The rule was amended in 2008, to require an energy savings goal and a demand goal equivalent to at least a 15 percent reduction of the electric utilities' growth in demand of residential and commercial customers for program year 2009. This goal increased to a 20 percent reduction for program years 2010 and 2011.

Further amendments to 16 TAC § 25.181, adopted in 2010, increased the electric utilities' savings goal to at least 25 percent of growth in demand for 2012 and 30 percent for subsequent program years.

In 2012, consistent with legislation, the commission adopted amendments to 16 TAC § 25.181 that maintained the 30 percent goal for 2013 but shifted the goal to four-tenths of one percent of summer weather-adjusted peak demand in subsequent years once the utility reaches that goal. Additional amendments adopted an EM&V

framework and outlined the roles and responsibilities of a statewide evaluator to be selected by the PUCT.

To improve the organization of the rule, rule language relevant to determining a utility's energy efficiency cost recovery factor was moved from 16 TAC § 25.181 to new 16 TAC § 25.182 in 2019. Other amendments to 16 TAC § 25.181 included new language to support staff approval of the Texas Technical Reference Manual used in program planning and reporting of energy efficiency programs.

16 TAC § 25.183 requires that the utilities report their program results to the PUCT.

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

The energy-efficiency programs affect the electric utilities implementing these programs and residential and commercial customers. Utilities are required to adopt energy efficiency programs that will reach all customers (except industrial customers, who are largely excluded from the program). The PUCT's 2008 rule 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 PURA § 39.905 applies in areas served by investor-owned utilities; municipal utilities and electric cooperatives are not subject to the program.

**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The utilities' energy-efficiency programs are carried out through standard-offer programs, utility self-delivered programs, and market-transformation programs that are funded by utilities but implemented by third parties that have the customer connections and expertise in energy-efficient technology. The utilities operate under the statute and rules adopted by the PUCT and, in turn, prescribe detailed program requirements for the third-party implementers that carry out the programs.

Program implementers report the energy and demand savings to the utility and are compensated, in accordance with program rules. The program implementers 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.

To ensure that the programs are evaluated, measured, and verified using a consistent process that promotes effective program design and consistent streamlined reporting as required by the legislation in 2011 and PUCT rule, the PUCT selected an entity beginning in 2013 to act as the PUCT's Evaluation Measurement and Verification

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(EM&V) contractor to review the utilities' energy efficiency programs. The objectives of the EM&V contractor are to:

- document the energy and demand savings of utilities' individual energy efficiency and load management portfolios;
- determine program cost-effectiveness;
- provide feedback to the PUCT, utilities, and other stakeholders on program portfolio performance; and
- prepare and maintain a statewide technical reference manual (TRM), the single common reference document for estimating demand and energy savings resulting from the implementation of energy efficiency measures promoted by the utilities' programs.

The PUCT's EM&V contractor independently verifies claimed savings across all programs through program tracking data that is received from the utilities. Additional EM&V activities may include engineering desk reviews, on-site measurement and verification, interval meter data analysis, consumption analysis, participant surveys, and in-depth interviews.

The utilities provide an annual energy efficiency plan and report to the PUCT that shows prior year programs, costs, and savings, and planned programs, budgets, and savings goals for the next year. The utilities also apply for energy efficiency cost recovery factors consistent with PURA § 39.905 and 16 TAC § 25.182 to recover the costs of the programs and, if eligible, for bonuses for meeting the program goals. Although the PUCT's EM&V contractor may travel to perform on-site measurement and verification, the PUCT does not have regional offices to assist in administering the program, and all program activities conducted by PUCT staff 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 PUCT's role in this program is funded by General Revenue. The PUCT's EM&V contractor is funded by the utilities subject to PURA § 39.905 in proportion to their energy efficiency program costs.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. 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**
- **a short summary of the general purpose of those contracts overall;**
  - **the amount of those expenditures in fiscal year 2020;**
  - **the number of contracts accounting for those expenditures;**
  - **the method used to procure contracts;**
  - **top five contracts by dollar amount, including contractor and purpose;**
  - **the methods used to ensure accountability for funding and performance; and**
  - **a short description of any current contracting problems.**

The PUCT's EM&V contractor is funded by the utilities subject to PURA § 39.905 in proportion to their energy efficiency program costs. In calendar year 2020, the utilities paid \$1,822,574.00, which is less than 1.5% of their total program expenses, to fund the PUCT's EM&V contractor.

The contract was bid in accordance with State of Texas procedures and was bid on best value. The contract has deliverables that are reviewed by the contract manager to ensure accountability of cost and performance.

- L. Provide information on any grants awarded by the program.**

N/A

- M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified.

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

The PUCT estimates that approximately two FTEs are required to perform the agency's role in this program.



- O. 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

- P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

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

## **Electric Cooperative Regulation and Oversight**

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

<b>Name of Program or Function:</b>	<b>Electric Cooperative Regulation and Oversight</b>
<b>Location/Division:</b>	Rate Regulation Division Market Analysis Division Infrastructure Division Customer Protection Division Division of Compliance & Enforcement
<b>Contact Name and Division:</b>	Darryl Tietjen, Director, Rate Regulation Division Rebecca Zerwas, Director, Market Analysis Division Keith Rogas, Director, Infrastructure Division Chris Burch, Director, Customer Protection Division Barksdale English, Director, Division of Compliance & Enforcement
<b>Statutory Citation for Program:</b>	PURA §§ 38.004, 38.102, 40.004 Utilities Code § 186.007

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

The PUCT has the following jurisdiction over electric cooperatives, which is set out in PURA § 41.004.

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- (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.
- (6) to evaluate and monitor the cybersecurity preparedness of an electric cooperative described by Section 39.1516(a)(3) or (4).

Pursuant to PURA § 41.060, the PUCT is also required to keep information submitted by customers and retail electric providers pertaining to the provision of electric service by electric cooperatives. The PUCT 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 PUCT of its response.

PURA §§ 38.004 and 38.102, enacted in 2019, require utilities maintain minimum vertical clearances for and to report on overhead power line inspections and safety, and the PUCT adopted rules and forms for these requirements, 16 T.A.C. § 25.97. If the standards and reporting requirements are not met, the PUCT may investigate, require improvements in service quality, and impose administrative penalties.

Finally, amendments to Texas Utilities Code § 186.007 effective in 2021 require the PUCT to analyze the emergency operations plans of electric cooperatives that own generation in Texas.

- C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

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. If the response to Section III of this report is sufficient, please leave this section blank.**

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 PUCT's jurisdiction over electric cooperatives was limited as set out in PURA § 41.004. As part of SB 7, cooperatives were allowed to choose whether they entered the competitive retail market. To date, only one electric cooperative, Nueces Electric Cooperative, has opted into retail choice. Cybersecurity preparedness was added in 2019 and the requirement to review the emergency operations plans of electric cooperatives that operate generation in Texas was added in 2021.

- E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. 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 66 electric cooperatives in Texas providing retail service in Texas, and eight generation and transmission cooperatives.

- F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

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

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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 PUCT was first established. Since that time, the PUCT's key role has been to consider requests for new transmission lines, request 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 PUCT 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 PUCT 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.

Cybersecurity. This function is explained in the Homeland Security program.

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. PURA § 38.102, enacted in 2019, requires utilities to report on overhead power line inspections and safety, and the PUCT adopted rules and forms for these requirements, 16 T.A.C. § 25.97.

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 is funded with General Revenue.

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

There are no similar programs.

## Self-Evaluation Report

- 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**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2020;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

N/A

- L. Provide information on any grants awarded by the program.**

N/A

- M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified.

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

The PUCT estimates approximately four FTEs are required for this program. Most work for this program has been related to CCNs. The new amendments to Texas Utilities Code § 186.007 that require the PUCT to analyze the emergency operations plans of electric cooperatives that own generation in Texas may significantly increase the work for this program.

- O. 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;

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- **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 PUCT'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. Electric cooperatives participate in the ERCOT wholesale market. Electric cooperatives are therefore subject to the same ERCOT rules and protocols as all other wholesale market participants. For cooperatives offering choice<sup>28</sup>, 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 PUCT does not conduct audits of electric cooperatives. If an alleged non-compliance relating to an activity over which the PUCT has jurisdiction were to be brought to the Commission's attention, an investigation would be performed to determine whether any action was appropriate.

The PUCT 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 PUCT has jurisdiction.

**P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

See Informal Customer Complaint Resolution program description in section of Section VII. of this report.

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<sup>28</sup> As noted previously in this section, to date only one electric cooperative, Nueces Electric Cooperative, has opted into retail choice.

## **Municipally Owned Utility Regulation and Oversight**

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

<b>Name of Program or Function:</b>	<b>Municipally Owned Utility Regulation and Oversight</b>
<b>Location/Division:</b>	Rate Regulation Division Market Analysis Division Infrastructure Division Division of Compliance & Enforcement
<b>Contact Name and Division:</b>	Darryl Tietjen, Director, Rate Regulation Division Rebecca Zerwas, Director, Market Analysis Division Keith Rogas, Director, Infrastructure Division Barksdale English, Director, Division of Compliance & Enforcement
<b>Statutory Citation for Program:</b>	PURA §§ 37.051, 38.004, 38.102, and 40.004

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

The PUCT has the following jurisdiction over municipally owned utilities, which is set out in PURA § 40.004.

(1) to regulate wholesale transmission rates and service, including terms of access, to the extent provided by Subchapter A, Chapter 35;

(2) to regulate certification of retail service areas to the extent provided by Chapter 37;

(3) to regulate rates on appeal under Subchapters D and E, Chapter 33, subject to Section 40.051(c);

(4) to establish a code of conduct as provided by Section 39.157(e) applicable to anticompetitive activities and to affiliate activities limited to structurally unbundled affiliates of municipally owned utilities, subject to Section 40.054;220

(5) to establish terms and conditions for open access to transmission and distribution facilities for municipally owned utilities providing customer choice, as provided by Section 39.203;

(6) to administer the renewable energy credits program under Section 39.904(b) and the natural gas energy credits program under Section 39.9044(b);

(7) to require reports of municipally owned utility operations only to the extent necessary to:

(A) enable the commission to determine the aggregate load and energy requirements of the state and the resources available to serve that load; or

(B) enable the commission to determine information relating to market power as provided by Section 39.155; and

(8) to evaluate and monitor the cybersecurity preparedness of a municipally owned utility described by Section 39.1516(a)(3) or (4).

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The PUCT also has jurisdiction over municipally owned utilities to regulate certification of certain transmission facilities, which is set out in PURA § 37.051.

PURA §§ 38.004 and 38.102, enacted in 2019, require utilities to maintain minimum vertical clearance requirements for and report on overhead power line inspections and safety, and the PUCT adopted rules and forms for these requirements, 16 T.A.C. § 25.97. If the standards and reporting requirements are not met, the PUCT may investigate, require improvements in service quality, and impose administrative penalties.

In addition, amendments to Texas Utilities Code § 186.007 effective in December 2021 require the PUCT to analyze the emergency operations plans of municipally owned utilities.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

The PUC administers the specific areas in which it has jurisdiction over municipally owned utilities 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. If the response to Section III of this report is sufficient, please leave this section blank.**

In 1999, as part of SB 7 electric restructuring, the PUCT's jurisdiction over municipally owned utilities was delineated in PURA § 41.004. Jurisdiction over certification of a municipally owned utility's new transmission line outside the boundaries of the municipality that owns the utility was added in 2015. Cybersecurity preparedness was added in 2019 and the requirement to review the emergency operations plans of municipally owned utilities that operate generation in Texas was added in 2021.

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

This program affects municipally owned utilities. The term "municipally owned utility" is defined at PURA § 11.003(11) as a utility owned, operated, and controlled by a municipality or by a nonprofit corporation the directors of which are appointed by one or more municipalities.



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There are 72 municipally owned utilities with certificates of convenience and necessity. No municipally owned utility has opted into retail electric choice.

**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

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

**Service Area and Transmission Line Certification.** A municipally owned utility may obtain a certificate of convenience and necessity (CCN) for the area it serves. Almost all service area CCNs were granted to existing utilities in 1976, soon after the PUCT was first established. Since that time, the PUCT's main role has been to consider requests for amendments to service area boundaries; to decide disputes over service areas; to resolve issues related to dually or triply certificated areas; and, since 2015, consider requests for new transmission lines outside the boundaries of the municipalities whose municipally owned utilities own the lines.

**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.

**Appellate Rate Regulation.** Customers of a municipally owned utility who reside outside the municipality may, if certain requirements are met, appeal to the PUCT an action of the governing body of the municipality affecting the MOU's rates.

**Code of Conduct.** The PUCT adopted 16 T.A.C. § 25.275 as a code of conduct for municipally owned utilities that opt into retail choice.

**Terms and conditions for open access to distribution facilities.** The PUCT adopted 16 T.A.C. § 25.215 to establish terms and conditions for open access to distribution facilities of municipally owned utilities that opt into retail choice.

**Cybersecurity.** This function is explained in the Homeland Security program.

**Reporting Requirements.** Municipally owned utilities are required to file reports relating to 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; and transmission costs and revenues pursuant to 16 T.A.C. § 25.73. PURA § 38.102, enacted in 2019, requires utilities to report on overhead power line inspections and safety, and the PUCT adopted rules and forms for these requirements, 16 T.A.C. § 25.97. The PUCT has initiated a rulemaking that will require municipally owned utilities to file emergency operations plans pursuant to Texas Utilities Code § 186.007, enacted in 2021.

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- 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.

- H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. 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**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2020;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

N/A

- L. Provide information on any grants awarded by the program.**

N/A

- M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified.

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

The PUCT estimates that approximately three FTEs are required for this program. Most work for this program has been related to CCNs. The new amendments to Texas Utilities Code § 186.007 that require the PUCT to analyze the emergency operations plans of municipally owned utilities that own generation in Texas may significantly increase the work for this program.

**O. 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 PUCT's limited jurisdiction over municipally owned utilities is necessary to ensure that the integrated electric grid operates in a reliable and safe manner, municipally owned utilities construct and route transmission facilities appropriately, customers who reside outside the municipality can appeal unreasonable rates, and power generation companies and power marketers have access to transmission services on reasonable terms and conditions. Municipally owned utilities participate in the ERCOT wholesale market. MOUs are therefore subject to the same ERCOT rules and protocols as all other wholesale market participants. For municipally owned utilities offering choice, the program would protect against anti-competitive practices and would ensure that retail electric providers have access to distribution systems owned by cooperatives on reasonable terms. As noted previously, no MOUs have opted into retail choice.

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

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- P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

See Informal Customer Complaint Resolution program description in section of Section VII. of this report.

### **Regulation of Electric Submetering, Central System Utilities, Non-Submetered Master Metered Utility Service and Metering in RV Parks**

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

<b>Name of Program or Function:</b>	<b>Regulation of Electric Submetering, Central System Utilities, Non-Submetered Master Metered Utility Service and Metering in RV Parks</b>
<b>Location/Division:</b>	Customer Protection Division
<b>Contact Name and Division:</b>	Chris Burch, Director, Customer Protection Division
<b>Statutory Citation for Program:</b>	Texas Utilities Code, Chapter 184

- 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 PUCT is required to have rules addressing standards for submetering including appropriate safeguards for tenants. The PUCT 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? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

Most of the PUCT's work in this area relates to customer complaints against submeterers. These complaints are handled through the informal or formal 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. If the response to Section III of this report is sufficient, please leave this section blank.**

- E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

N/A

- F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The PUCT adopted 16 T.A.C. § 25.141 and § 25.142 to implement the statutory requirements of the program. The PUCT's efforts include providing information about the requirements of the law, resolving informal and formal 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.

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

There are no similar programs.

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- 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**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2020;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

N/A

- L. Provide information on any grants awarded by the program.**

N/A

- M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

The law and Commission rules use the terms mobile home and RVs but neither recognizes that there are "manufactured homes". In PUCT Docket No. 48205, a complaint involving manufactured homes, the SOAH administrative law judge assigned to the case issued a proposal for decision concluding that the Commission lacked jurisdiction over manufactured homes. It does not appear that the PUCT ever issued a final order in this case.

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

N/A

- O. 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 PUCT'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 PUCT 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.

- P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

See Informal Customer Complaint Resolution program description in section of Section VII. of this report.

## **Emergency Management**

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

<b>Name of Program or Function:</b>	<b>Emergency Management</b>
<b>Location/Division:</b>	Critical Infrastructure Security and Risk Management
<b>Contact Name and Division:</b>	Shawn Hazard Emergency Management Coordinator
<b>Statutory Citation for Program:</b>	Texas Government Code, Section 418

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

The PUCT is a member of the Texas Emergency Management Council (TEMC) under the authority of Governor Perry's Executive Order RP-12.<sup>29</sup> Governor Abbott expanded the council with Executive Order GA-05.<sup>30</sup>

Emergency Management in the State of Texas is broken down into 15 "Emergency Support Function (ESF)" as designated in the Texas Emergency Management Plan. These essential functions were developed to align with the National Response Framework which was created by the Homeland Security Act of 2002 and Homeland Security Presidential Directive-5.

The PUCT has been identified by the Texas Division of Emergency Management (TDEM) as the lead agency for ESF 12 (Energy) in the Texas Emergency Management Plan managed by TDEM. In addition to the lead role in ESF 12, the PUCT also has a support role in the following essential functions:

- ESF 1 - Transportation
- ESF 2 - Communications
- ESF 5 - Emergency Management
- ESF 15 - Public Information

While the primary function of the PUCT's Emergency Management Coordinator is responding to activations, there are numerous trainings, planning meetings, and other functions which TDEM hosts which require PUCT involvement.

The State Operations Center (SOC) is activated by order of the Governor and may involve some, many, or all the TEMC member agencies depending on the event. When requested, the PUCT provides personnel to staff the SOC where they function as a liaison between the State and the utility industry (electric, telecom as well as water and sewer). Even if not requested to respond in-person to the SOC, the PUCT may participate in SOC operations remotely, especially during pre and post event operations PUCT staff working an activation interact with many entities including ERCOT, municipally owned utilities (MOUs), cooperatives both electric and telecom (Coops), electric transmission and distribution utilities (TDUs), and power generator.

The duration of the PUCT's involvement in an activation is up to the Governor or the TDEM Chief. The end of an activation does not necessarily end PUCT's involvement in a particular event. Since 2020, the PUCT has become more involved in the recovery process, participating in outreach, calls, and training related to the activities TDEM undertakes after a disaster.

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<sup>29</sup> <https://lrl.texas.gov/scanned/govdocs/Rick%20Perry/2002/RP12.pdf>

<sup>30</sup> <https://lrl.texas.gov/scanned/govdocs/Greg%20Abbott/2018/GA-05.pdf>



- C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

In the aftermath of Winter Storm Uri, many customers were left without utility services for significant periods of time. Throughout these outages, the PUCT's Emergency Management team was actively involved in assisting TDEM and the personnel at the SOC in responding to this emergency.

- 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. If the response to Section III of this report is sufficient, please leave this section blank.**

While the current TEMC structure was defined by Governor Abbott's order GA-05, the Council was created by Governor Perry's order RP-01 in 2001. While initially the PUCT's role was reporting outages during emergency events, the role has expanded significantly over the last few years as part of the agency's continuing effort to improve its response to emergency events.

- E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

This program affects all entities regulated by the PUCT.

- F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

Some examples of support the PUCT provides during an activation are as follows:

- Provide event specific information and updates from TDEM to the utilities. (Where possible, this usually begins a day/couple of days prior to the event as information becomes available and is presented during daily calls hosted by TDEM).
- Provide routine updates of electricity outage counts, locations, and restoration times when known which allows the SOC to better focus their response activities.
- Participation in TDEM's daily calls during an event, providing situational updates and outage reports to both state-wide and local officials attending the calls.
- Coordination with TXDoT on route clearing when crews discover downed power lines across travel routes which need to be cleared. Conversely, since utility

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repair crews may be the first folks back into an area (post-hurricane for example), they may have information on routes that is helpful to TXDoT which we are able to share with them.

- Assistance in planning routes for TDEM IRATs (Initial Reentry Assessment Teams) and coordinating with utilities to ensure access.
- Providing a direct link between local officials who reach out needing contact information for local utilities.
- Obtaining outage information for specific locations and facilities such as long-term care facilities, hospitals, water utilities, etc.
- Working with Health and Human Services (HHS) to provide information to support their requests for replacement Supplemental Nutrition Assistance Program (SNAP) benefits of the possible issuance of "D-SNAP" benefits. (SNAP benefits which may become available to a slightly larger population due to a disaster)
- Assisting utilities with the process for reporting damages which TDEM uses when requesting federal disaster declarations.
- Coordination with the Texas Commission on Environmental Quality (TCEQ) on potential enforcement discretion regarding air-quality standards for electric generating plants during a disaster.
- Providing utilities an access point to request resources through the SOC. Generally this applies to MOUs and Coops due to their governmental or non-profit nature, however the SOC can also be utilized to help private companies source or acquire resources at the company's expense.

**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).**

Program is funded through General Revenue.

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

This program is not duplicated because the PUCT's role in the regulation of these electric and telecom utilities 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 PUCT'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 both other Emergency Management Council Members as well as federal partners such as FEMA, CISA, and the Department of Energy (DOE).

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

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2020;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

There are no contracted expenditures.

**L. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified.

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

N/A

**O. 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.

This is a non-regulatory program.

- P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

N/A

## **Homeland Security**

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

<b>Name of Program or Function:</b>	<b>Homeland Security</b>
<b>Location/Division:</b>	Critical Infrastructure Security and Risk Management (CISRM)
<b>Contact Name and Division:</b>	Chuck Bondurant, Director, CISRM
<b>Statutory Citation for Program:</b>	PURA § 39.1516 Homeland Security Chapter 421, Subchapter B. § 421.021 (a)(4)

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

The CISRM organizes and assists the state of Texas and its utilities in establishing security posture and recovery. Through tools and unilateral communication, the CISRM provides support to utilities and our state during weather emergencies and cyber-attacks. The mission of this division is to increase the preparedness of the state through outreach and assisting in recovery in the event of a disaster for utility companies across the state. This is done by connecting utilities to information and resources to help better prepare for events and by directly assisting in coordination during an emergency. CISRM also provides coordination and oversight of the Cyber Monitor (CM) program and serves as the advisor to the chair of the Texas Grid Security Council established by SB 475 that was adopted by the 86<sup>th</sup> Legislature.

- C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures**

See response to Section B. above.

**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. If the response to Section III of this report is sufficient, please leave this section blank.**

Attacks against our nation's critical infrastructure has continued to increase yearly. The PUCT maintains an understanding of the importance of not only dedicating personnel to stay abreast of the ongoing threats, but also helps utilities that lack the cyber expertise to mitigate and/or respond to an incident. This has been largely done through participating and hosting cyber training events in addition to offering training opportunities for Texas electric, and water/sewer utilities.

In 2020 the CISRM division conducted:

- Four Grid Security Council Meetings covering situational awareness briefings and assessments to council members highlighting Texas utilities impacted by cyber events.
- Three cybersecurity best practice training events in coordination with the Division of Utility Outreach (DUO).
- Three Quarterly Security Meetings with electric utilities to discuss emerging threats and mitigation strategies.
- Monthly Critical Infrastructure Protection Workgroup (CIPWG) meetings with electric utilities and ERCOT to address Critical Infrastructure Protection (CIP) requirements and coordination efforts with federal partners.
- Planning for the first biennial Table-Top Exercise (TTX) developed to assist utilities in developing and implementing their Incident Response Plans. (TTX successfully completed June 28, 2021).

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

N/A

**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The CM program was established by SB 936 that was adopted by the 86<sup>th</sup> Legislature. SB 936 required the PUCT to establish a program to:

- manage a comprehensive cybersecurity outreach program for monitored utilities
- meet regularly with monitored utilities to discuss emerging threats, best business practices, and training opportunities
- review self-assessments voluntarily disclosed by monitored utilities of cybersecurity efforts

## Self-Evaluation Report

- research and develop best business practices regarding cybersecurity
- report to the commission on monitored utility cybersecurity preparedness

**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.

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

The PUCT's cybersecurity role with monitored utilities 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 PUCT regularly interacts with Texas Division of Emergency Management (TDEM) regional directors as well as Cybersecurity & Infrastructure Security Agency (CISA), Department of Energy (DOE) and the Federal Energy Regulatory Commission (FERC) to ensure coordination efforts and information is being disseminated as widely as possible to our monitored utilities.

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

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2020;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

In May 2020, the PUCT adopted new rule 16 TAC § 25.367, implementing the provisions of SB 936 passed by the 86th Legislature. The rule established a cybersecurity coordination program to monitor cybersecurity efforts among electric

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utilities, cooperatives, and municipally owned utilities in the state and established a cybersecurity monitor, a cybersecurity monitor program, and a cybersecurity monitor funding approach. The PUCT selected Securitas Critical Infrastructure Security (SCIS) in February 2020 to act as the Texas Cybersecurity Monitor (TXCSM) on a four (4) year contract.

The TXCSM has identified four tasks to achieve these goals:

Task 1: Analyze baseline data of each monitored utility's cybersecurity maturity level through self-assessments, comparing it to industry standards and then developing plan of actions and milestones (POAMs) for those utilities below baseline.

Task 2: Host Quarterly Security Meetings with monitored utilities to share information on relevant security trends.

Task 3: Provide training on cybersecurity best-practices and tools to assist in risk mitigation planning and implementation.

Task 4: Conduct biennial Tabletop Exercises to validate utility incident response plans and coordinate strategic communications in the event of an incident

This is a fixed price contract. The total compensation under the contract is \$2,285,355 for the term March 2020-January 2024.

**L. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified.

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

N/A

**O. 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

- P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

N/A

## **Regulation and Oversight of Local Telephone Service**

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

<b>Name of Program or Function:</b>	<b>Regulation and Oversight of Local Telephone Service</b>
<b>Location/Division:</b>	Rate Regulation Division Infrastructure Division Customer Protection Division
<b>Contact Name and Division:</b>	Darryl Tietjen, Director, Rate Regulation Division Keith Rogas, Director, Infrastructure Division Chris Burch, Director, Customer Protection Division
<b>Statutory Citation for Program:</b>	PURA, Subtitle C

- 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 (ILECs) and competitive local exchange companies (CLECs). 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 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 PUCT 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.



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PURA Chapter 65, which was enacted in 2005 as part of Senate Bill 5, provided for deregulation of certain ILEC markets. Currently, AT&T Texas and Frontier Communications are fully deregulated while CenturyLink is Transitioning company.

A total of 544 markets have been deregulated since Senate Bill 5 was enacted: 36 in markets with a population greater than 100,000, and 508 in markets with a population of less than 100,000.

**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.** For the purposes of rate regulation, ILECs fall into the following four categories:

- Deregulated companies: ILECs for which all the company's markets have been deregulated;
- 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 PUCT.

**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.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

The deregulation of AT&T and Frontier Communications (formerly known as Verizon Southwest), the two largest telecommunications providers in Texas, has led to an overall increase in the average residential telephone bill in Texas when compared

## Self-Evaluation Report

to the national average. Last year, the average residential telephone bill for local telephone service in Texas was \$26.27 (weighted average of the ten largest ILECs in Texas), compared to the national average of \$19.77. Prior to the deregulation of AT&T and Frontier Communications, Texas was consistently below the national average although Texas has a large rural area compared to other states, where providing service is relatively expensive. The deregulation of the two largest providers in Texas has led to rates being more reflective of market forces rather than regulatory mandates. The Universal Service Fund, which has provided support to companies that incur higher costs to provide telephone service, has helped to keep rates lower than they would be otherwise.

**Public Utility Commission**  
**Exhibit 12: Program Statistics and Performance Measures – Fiscal Year 2020**

<b>Program Statistics or Performance Measures</b>	<b>Dataset Reference Number* (if applicable)</b>	<b>Calculation (if applicable)</b>	<b>FY 2020 Target</b>	<b>FY 2020 Actual Performance</b>	<b>FY 2020 % of Annual Target</b>
% of National Average Residential Phone Bill	N/A	N/A	110.00%	132.85%	120.77%

**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. If the response to Section III of this report is sufficient, please leave this section blank.**

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. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

This program affects 59 CCN holders and 15 COA and 274 SPCOA holders.

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

**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The PUCT 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 PUCT 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 PUCT. 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 PUCT. 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 because 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

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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 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 most 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 PUCT 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 PUCT. A proposed change is subject to PUCT 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 PUCT. 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.<sup>31</sup>

**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 PUCT has an informal complaint resolution program to address individual customers' concerns. The PUCT also investigates individual companies based on customer complaints and may pursue administrative penalties.

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<sup>31</sup> PURA § 65.152(b).

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- 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 Texas Universal Service Fund.

- H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. 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**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2020;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

N/A

- L. Provide information on any grants awarded by the program.**

N/A

- M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified.

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

N/A

**O. 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 PUCT has adopted reporting requirements that provide information needed by the agency to determine whether companies are complying with applicable service quality requirements. The agency also obtains information about possible noncompliance from complaints filed by individual customers.

The PUCT's Telecom enforcement activities for fiscal year 2020 consisted of 3 certificate revocations.

**P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

See Informal Customer Complaint Resolution program description in section of Section VII. of this report.

## **Area Code Oversight**

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

<b>Name of Program or Function:</b>	<b>Area Code Oversight</b>
<b>Location/Division:</b>	Infrastructure Division
<b>Contact Name and Division:</b>	Keith Rogas, Director, Infrastructure Division
<b>Statutory Citation for Program:</b>	Federal Communications Commission (FCC) under 47 Code of Federal Regulations (C.F.R.) § 52.19 and PURA §§52.001-52.002

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

The 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 PUCT.

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? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

The PUCT 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 PUCT devotes resources to this program 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. If the response to Section III of this report is sufficient, please leave this section blank.**

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. A new area code is created as the available numbers in an area code approach the limit. There are currently 28 area codes in Texas. Most recently, the PUCT approved the use of a new area code, 945, for the Dallas area. This new area code, which began use in January 2021, overlays existing area codes in the area.

- E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. 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, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

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

After NANPA has notified the PUCT of its determination that a new area code is needed, NANPA holds a series of meetings with representatives 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 options and comments, and then forward a recommendation to the PUCT. The PUCT considers the recommendation and may accept, reject, or modify the recommendation.

In addition to NANPA's activities, the PUCT may conduct 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 PUCT. In recent years, there has been little opposition to recommendations to create new area codes, which have recommended the overlay of new area codes on existing area codes rather than a split of an existing area code into two area codes.

After NANPA receives the PUCT decision on how a new area code will be added, NANPA determines the new area code and informs the PUCT, 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.



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

The PUCT is the only entity that makes area code decisions for 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 considered when making area code decisions.

- **K. If contracted expenditures are made through this program please provide**
- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2020;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

N/A

**L. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified. The PUCT's role in this program is established by federal law.

**N. 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.

- O. 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

- P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

The PUCT does not separately track complaints about area codes.

## **Extended Area Service and Expanded Local Calling Service**

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

<b>Name of Program or Function:</b>	<b>Extended Area Service and Expanded Local Calling Service</b>
<b>Location/Division:</b>	Infrastructure and Reliability Division
<b>Contact Name and Division:</b>	Keith Rogas, Director, Infrastructure and Reliability Division
<b>Statutory Citation for Program:</b>	PURA Chapter 55, Subchapter B (EAS) and PURA Chapter 55, Subchapter C (ELCS)

- 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 PUCT 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 PUCT 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 PUCT is authorized to expand a toll-free calling area into an exchange that is not in a metropolitan

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exchange but is in a calling area that is contiguous to a metropolitan exchange based on a community of interest finding. 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.

In its 2009 Scope of Competition in Telecommunications Markets Report, the PUCT 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.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

As noted in Subsection D. below, the PUCT has not performed any work in this program since 2009.

**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. If the response to Section III of this report is sufficient, please leave this section blank.**

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 petitions filed in the 2007-2008 period and only one petition filed in 2009.

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. 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

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providers because 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, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The PUCT adopted 16 TAC § 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 TAC § 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.

- H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. 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**
- a short summary of the general purpose of those contracts overall;
  - the amount of those expenditures in fiscal year 2020;
  - the number of contracts accounting for those expenditures;

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- the method used to procure contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

N/A

**L. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

As noted above in Section B, EAS is obsolete due to changes in the telecommunications industry and should be eliminated.

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

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

N/A

**O. 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

**P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

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

## **Regulation of Automatic Dial Announcing Devices**

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

<b>Name of Program or Function:</b>	<b>Regulation of Automatic Dial Announcing Services</b>
<b>Location/Division:</b>	Customer Protection Division
<b>Contact Name and Division:</b>	
<b>Statutory Citation for Program:</b>	PURA § 55.129

### **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 1, 2021, there were 674 ADAD permit holders which are based in Texas, other states, or other countries.

For many customers, receiving calls from ADADs can be an unwelcome intrusion. Requirements for the use of ADADs provide protection for customers 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 PUCT 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 PUCT. PURA § 55.131 authorizes the PUCT to charge a registration fee not to exceed \$500. Over the past 3 years (2018-2020), an average of 22 ADAD permits have been issued every 12 months. The original ADAD permit fee of \$500, and renewal fee of \$100, remained unchanged until July 2002, when the Commission amended 16 TAC § 26.125 to reduce the permit fee to \$50 and renewal fee to \$15. The PUCT reduced the fee 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? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

The PUCT has minimized the resources needed for this function by providing comprehensive information on the PUCT website, and through automation of the registration process. The PUCT 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. If the response to Section III of this report is sufficient, please leave this section blank.**

Issues surrounding the use of ADADs have been to a substantial extent reduced by the existence of no-call lists that allow customers 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 customers who choose not to be on the no-call lists nevertheless should be protected from unreasonable ADAD practices.

- E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

This program affects ADAD users who must comply with PURA and the PUCT's rules, as well as customers who benefit from the protections contained in the law.

As of July 2021 there are 674 ADAD permit holders. In FY year 2019 there were 646 permit holders and in FY 2020 there were 663.

- F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The PUCT 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.

- H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. 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**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2020;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

N/A

- L. Provide information on any grants awarded by the program.**

N/A

- M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified.

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

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

- O. 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;



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- **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 customers 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 PUCT 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 PUCT 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 PUCT assists individual customers through the informal complaint resolution process.

- P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

See Informal Customer Complaint Resolution program description in section of Section VII. of this report.

### **Regulation of Pay Telephones**

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

<b>Name of Program or Function:</b>	<b>Regulation of Pay Telephones</b>
<b>Location/Division:</b>	Customer Protection Division
<b>Contact Name and Division:</b>	
<b>Statutory Citation for Program:</b>	PURA § 55.173

- 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 PUCT began to register and certify pay telephone service

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(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 PUCT. 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 customers 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. Most active payphones today are in jails and prisons.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

The PUCT has minimized the resources needed for this function by providing comprehensive information on the PUCT website, and through automation of the registration process and record-keeping associated with pay phone registration. The PUCT 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. If the response to Section III of this report is sufficient, please leave this section blank.**

The need for and use of pay telephones has been greatly affected by use of cellular phones by many customers. The trend toward less use of pay phones is apparent in the number of providers registered and the number of complaints received.

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

As of December 31, 2020, the Commission has registered 906 PTS providers. This includes new and re-registered providers and does not include those whose re-registration is incomplete.

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### Pay Telephone Providers Registered in Texas

Year	Number of Providers
2020	906
2019	891
2018	873

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. The registration numbers above are the cumulative number of PTS providers registered with the PUCT. These are not all necessary active, however, as providers frequently do not notify the PUCT when they are no longer doing business. Most active payphones today are in jails and prisons.

- F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The PUCT adopted 16 TAC § 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.

- H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. 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**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2020;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

N/A

- L. Provide information on any grants awarded by the program.**

N/A

- M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified.

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

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

- O. 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 customers 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.

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

If non-compliance is detected, the PUCT has authority to 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.

- P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description**

See Informal Customer Complaint Resolution program description in section of Section VII. of this report.

### **HUB and Workforce Diversity Plan Reporting**

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

<b>Name of Program or Function:</b>	<b>Historically Underutilized Businesses, Workforce Diversity, and Small Business Reporting</b>
<b>Location/Division:</b>	Infrastructure Division
<b>Contact Name and Division:</b>	Keith Rogas, Director, Infrastructure Division
<b>Statutory Citation for Program:</b>	PURA §§ 12.251-12.255; PURA 39.909 and 52.256

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

PURA requires certain utilities under the PUCT's regulatory authority to submit information concerning historically underutilized businesses (HUBs), workforce diversity, and small businesses.

PURA §§ 12.251-12.255 were enacted in 1995 to encourage utilities to contract with HUBs. PURA § 12.253 provides that the PUCT must 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 PUCT, after notice and hearing, to require a utility to try to increase its use of HUBs.

PURA §§ 39.909 and 52.256, which were enacted in 1999, require electric utilities and telecommunications utilities to submit information concerning HUB, workforce diversity, and small businesses.

PURA § 39.909(b) required an electric utility to develop and submit to the PUCT 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

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historically underutilized businesses. PURA § 39.909(c) requires each electric utility to submit an annual report to the PUCT and the legislature relating to its efforts to improve workforce diversity and contracting opportunities for small and historically underutilized businesses. PURA §§ 39.402(a), 39.452(d)(1), 39.502(b), and 39.552(b) exempt from PURA § 39.909 the four electric utilities that do not have retail competition, which are all outside of ERCOT.

PURA § 52.256 is identical to § 39.909 except that it applies to regulated telecommunications utilities. PURA § 52.154 prohibits the commission by a rule or regulatory practice from imposing a greater regulatory burden on a nondominant telecommunications utility than what is imposed on a deregulated company. Because certain utilities became deregulated telecommunications utilities, nondominant telecommunications utilities are no longer required to file a report, because the deregulated telecommunications utilities are not required to do so.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

This is a reporting program, and the PUCT is not required to compile or analyze the information received, so the number 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. If the response to Section III of this report is sufficient, please leave this section blank.**

N/A

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. 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 in PURA § 31.002(6) and includes investor-owned utilities and river authorities (LCRA Transmission Service Corporation) but not electric cooperatives and municipally owned utilities, but as explained above in subsection B, four electric utilities are exempt from PURA § 39.909. The term “telecommunications utility” is defined in PURA § 51.002(11). All telecommunications utilities doing business in the state of Texas initially were required to submit HUB and workforce reports. However, as noted above, this requirement no longer applies to a nondominant telecommunications utility,

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There are 14 electric utilities and 59 dominant certificated telecommunications utilities currently subject to all or parts of these reporting requirements.

- F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The PUCT 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 online.

- 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.

- H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. 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**
- a short summary of the general purpose of those contracts overall;
  - the amount of those expenditures in fiscal year 2020;
  - the number of contracts accounting for those expenditures;
  - the method used to procure contracts;
  - top five contracts by dollar amount, including contractor and purpose;

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- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

N/A

**L. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? 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 PUCT 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 was essentially the same as the definition in § 481.101. However, Government Code § 481.191 was repealed after that rule change. PURA §§ 39.909 and 52.256, which also contain reporting requirements related to HUBs, incorporate the definition in Government Code § 481.191 as it existed on January 1, 2015. Amendment of PURA § 12.251 to incorporate a current definition of historically underutilized business, as was in effect done in PURA §§ 39.909 and 52.256, would clarify the reporting requirement in this provision.

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

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

**O. 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 resource constraints, the agency has been unable to ensure full compliance with these filing requirements. If full compliance is to occur, the PUCT would need to expend considerable resources identifying all companies that have not timely filed complete reports, contacting them to encourage the filing of complete reports, and pursuing enforcement actions against those who do not comply. Historically, funding has not supported that level of effort. As referenced above in



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subsection B, the PUCT notified nondominant telecommunications utilities in 2019 that because of PURA § 52.154 and certain companies becoming deregulated telecommunications companies, PURA no longer required them to file the reports, meaning that the number of utilities required to file the reports has declined to less than 100.

- P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

N/A

### **Regulation of Water and Sewer Utilities**

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

<b>Name of Program or Function:</b>	<b>Regulation of Water and Sewer Retail Public Utilities</b>
<b>Location/Division:</b>	Infrastructure Division Rate Regulation Division Legal Division Division of Utility Outreach
<b>Contact Name and Division:</b>	Keith Rogas, Director, Infrastructure Division Darryl Tietjen, Director, Rate Regulation Division Rachelle Robles, Director, Legal Division Tammy Benter, Director, Division of Utility Outreach
<b>Statutory Citation for Program:</b>	Texas Water Code §13.011

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

The PUCT has jurisdiction over the service areas, rates, and financial and managerial review of water and sewer retail public utilities. The PUCT has original jurisdiction over investor-owned water and sewer utilities (IOUs). It also has some appellate jurisdiction over rates, service areas, and financial activities of political subdivisions (municipalities, water districts and counties), water supply and sewer service corporations (WSCs), and entities that submeter or allocate water and wastewater bills to customers. These programs assure that customers receive continuous and adequate water and sewer services at just and reasonable rates.

The PUCT reviews water and sewer retail public utility applications for:

- Certificates of Convenience and Necessity (CCNs), which delineate water and sewer service areas, including applications to amend or obtain a water or sewer

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CCN, for the Sale/Transfer/Merger (STM) of water and sewer utilities, decertification, and requests from landowners to be released from the service area of a CCN holder; and

- Certain water and sewer utility rate changes.

The PUCT also:

- Administers a program to help water and sewer retail public utilities maintain financial, managerial, and technical capability;
- Collaborates with other State and Federal government agencies and technical assistance providers to promote an efficient process for affordable, sustainable and innovative funding strategies for water and sewer infrastructure project as a member of the Texas Water Infrastructure Coordination Committee (TWICC);
- Hosts and maintains the FaucetFacts.org website to provide information to retail public water and sewer utilities;
- Created the Division of Utility Outreach (DUO) to provide outreach to the regulated community, with an emphasis on small, medium and distressed retail public water and sewer utility providers;
- Coordinates with the Texas Commission on Environmental Quality (TCEQ) on receiverships and temporary management of troubled water and sewer utilities;
- Has jurisdiction to place a retail water or sewer utility under supervision by a temporary manager; and
- Receives and resolves customer complaints about water service and rates.

- C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

### PUCT Financial & Managerial Assistance Contract - Fiscal Years 2019 & 2020

Fiscal Year	Number of Contractor Assignments	Amount
2019	33	\$60,600
2020	23	\$49,700

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**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. If the response to Section III of this report is sufficient, please leave this section blank.**

- 1986 Jurisdiction of water and sewer utility regulation was with the PUCT from 1975 to 1986. In 1986 the water program was transferred from the PUCT to the then-Texas Water Commission (which later became the Texas Natural Resource Conservation Commission and subsequently in 2002, the TCEQ).
- 1997 The 75<sup>th</sup> Texas Legislature enacted Senate Bill (SB) 1 to amend the Water Code to require every water and sewer retail public utility that applies for a Certificate of Convenience and Necessity (CCN) to possess the financial, managerial, and technical capability to provide continuous and adequate service. SB 1 also gave the Texas Natural Resource Conservation Commission (predecessor agency to the TCEQ) the authority to require financial assurance for certain systems.
- 2005 The Texas Legislature enacted House Bill (HB) 2876, which expanded the criteria for granting water and sewer CCNs to include impact on landowners and added a process for certain landowners to be released from CCN service areas. This bill also required applicants for CCNs to provide detailed mapping information and expanded notice requirements to certain landowners.
- 2007 The 80<sup>th</sup> Legislature passed HB 149, which provided a streamlined process for a retail public utility under receivership, supervision, or a temporary manager to obtain a temporary rate to recover the reasonable costs incurred for interconnection or other costs incurred in making services available.
- 2013 The Texas Legislature transferred the economic regulation of water and sewer utilities from the TCEQ to the PUCT. The transfer was required by the PUCT's Sunset legislation (House Bill 1600 and Senate Bill 567, 83<sup>rd</sup> Legislature) enacted in 2013. In addition, HB 1600 and SB 567 created a process whereby a receiver or temporary manager of a water or sewer utility can apply to the PUCT for a temporary rate increase if the increase is necessary to ensure the provision of continuous and adequate service to the utility's customers.
- 2014 The PUCT adopted new forms and rules to implement the transfer of the economic regulation of water and sewer utilities. These new

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forms and rules implemented the classifications for water and sewer utilities as required by HB 1600 and SB 567, 83<sup>rd</sup> Legislature.

The PUCT and TCEQ entered a Memorandum of Understanding (MOU), effective September 1, 2014, regarding the powers, duties, functions, programs, and activities to be transferred. The transfer involved the programs related to the regulation of water and sewer rates and services, certification of service areas, and ownership of water and sewer retail public utilities. Safe drinking water, surface water rights and availability, water quality in rivers, lakes and estuaries, wastewater and stormwater permitting, and regulation of groundwater and wells remain at TCEQ.

2015 The passage of HB 1600, 83<sup>rd</sup> Legislature, enacted the contingency rider in Article IX, Section 18.15 of the Appropriations Act. This rider required TCEQ to transfer approximately \$1.43 million from the Water Resource Management Account #153 in Fiscal Year (FY) 2015 to support the activities associated with the employees transferred to the PUCT, as well as operational costs. Additionally, the transfer included \$184,000 in Water Resource Management Account #153 funds to cover the cost of the contract with the State Office of Administrative Hearings for water and sewer utility case hearings. In implementing the rider, the TCEQ authorized a cash transfer in fiscal year 2015 of approximately \$1.63 million to the PUCT in two payments.

2019 The 86<sup>th</sup> Legislature enacted SB 700, which made additional amendments to the classifications for water and sewer utilities and allowed for alternative ratemaking methodologies to include the introduction of new customer classes, the cash needs method, phased and multi-step rate changes, and system improvement charges. In addition, SB 700 allowed for a temporary rate to remain in effect for a nonfunctioning utility for a period of time after acquisition by a water or sewer utility.

HB 3542 was enacted by the 86<sup>th</sup> Legislature to provide for fair market valuation as an alternate method for determining the appropriate value of a retail public water or sewer utility at the time of acquisition by a class A or B utility.

2020 The PUCT adopted amendments relating to classifications for water and sewer utilities as required by SB 700. The PUCT also reduced the complexity of the ratemaking process for smaller utilities. In addition, the PUCT adopted rules to implement the fair market valuation process as required by HB 3542, enacted in 2019, and solicited for valuation experts to be appointed by the PUCT to

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determine fair market value of utilities purchased by class A and B utilities. Effective January 8, 2020, the PUCT and TCEQ amended the MOU between the agencies.

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

The PUCT's programs regarding the economic regulation of water and sewer retail public utilities affects those entities that provide water and sewer utility services and their retail customers.

Retail Public Utilities in Texas				
Retail Public Utility Type	Utilities	Water Customers	Water CCNs	Sewer CCNs
Affected Counties	12	10,095	7	5
Counties	3	561	1	519
Cities	1,482	7,949,300	623	526
Districts	1,062	1,489,770	203	113
Water Supply Corporations	816	654,968	750	62
Investor-Owned Utilities	891	269,247	439	138
Total	4,266	10,373,941	2,023	1,363

**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The PUCT regulates the retail rates of water and sewer utilities in Texas and has limited appellate jurisdiction over the wholesale and retail water and sewer rates of certain other entities. It also regulates certificates of convenience and necessity (CCNs) for water and sewer service providers.

For water and sewer service in Texas, the PUCT regulates business and economic standards, while the Texas Commission on Environmental Quality (TCEQ) regulates health and safety standards. The PUCT regulates a total of 4,251 providers holding CCNs. These CCNs encompass 10,246,008 water connections to residences and businesses as of July 2021. The PUCT's water and sewer CCN viewer on its website shows the CCN service areas. Many providers of retail water and sewer services, such as municipalities and districts, are not required to hold a CCN, but many do. Much of Texas is served by large and medium sized retail public utilities including municipalities, districts, authorities, and water supply and sewer service corporations. The remainder of the population is served by small retail public utilities, typically

serving 2,300 or fewer connections. When the Texas Legislature reassigned oversight for the business and economic regulation of water and sewer retail public utilities to the PUCT effective September 1, 2014, several TCEQ employees were transferred along with the program. The water and sewer program functioned for five years as a distinct division within PUCT, handling functions like rate regulation and infrastructure development, even though those functions already existed at the PUCT in separate divisions. In 2019, the water and sewer utility responsibilities were distributed to their corresponding PUCT divisions to reduce duplication and enhance collaboration.

At the same time, the Division of Utility Outreach (DUO) was created to educate small to mid-sized water utilities on the applicable regulations to help them attain compliance and to help them avoid becoming nonfunctioning utilities. The DUO program is described in more detail in the Utility Outreach program section of this report.

**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 passage of HB 1600, 83<sup>rd</sup> Legislature, enacted the contingency rider in Article IX, Section 18.15 of the Appropriations Act. This rider required TCEQ to transfer approximately \$1.43 million from the Water Resource Management Account #153 in Fiscal Year (FY) 2015 to support the activities associated with the employees transferred to the PUCT, as well as operational costs. Additionally, the transfer included \$184,000 in Water Resource Management Account #153 funds to cover the cost of the contract with the State Office of Administrative Hearings for water and utility case hearings. In implementing the rider, the TCEQ authorized a cash transfer in FY '15 of approximately \$1.63 million to the PUCT in two payments.

The funding source for FY 2020 was General Revenue Dedicated-Water Fund Transfer No. 0153 in the amount of \$3,112,845.

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

**Temporary Manager Appointments.** The TCEQ and PUCT both have the authority under TWC §13.4132 to appoint a temporary manager to manage and operate a nonfunctioning water or sewer utility. Both agencies agree that a temporary manager appointed by either agency has the powers and duties necessary to ensure continuous and adequate services to customers, as specified by TWC §13.4132(c).

The TCEQ has jurisdiction over the health and safety aspects of the utility. This includes water quality and quantity issues, including pressure issues and outages. The PUCT has jurisdiction over the financial, managerial, billing and service area matters.

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This includes issues with ownership, billing, tariffs, rates, temporary rate requests, financial issues, and service area issues.

The TCEQ and PUCT have a difference interpretation of the statute that authorize the appointment of a temporary manager over a utility. While both agencies agree that Texas Water Code Subchapter K-1 allows for the appointment of a temporary manager over a utility through an emergency order, the agencies have a difference of opinion regarding the term of the appointment of a temporary manager in TWC §13.455. The TCEQ believes the statute specifies the term of an emergency order to appoint a temporary manager may not exceed 180 days and can be renewed once for a period not to exceed 180 days. The PUCT believes that although this is the extent of an emergency order, nothing in the law prohibits the PUCT from issuing a new emergency order or appointing a temporary manager. Moreover, the PUCT also believes that a temporary manager may be appointed under a regular Commission order. This difference of opinion has led the PUCT to be the lead on all temporary manager appointments that last beyond a one-year period.

### ***Financial, Managerial, and Technical (FMT) Capability Reviews & Contracts.***

Both the TCEQ and PUCT have the responsibility to conduct FMT reviews of business plans and financial information submitted by retail public utilities to ensure that they have the capability to provide continuous and adequate service. TCEQ reviews applications for public water and sewer systems that request approval to build or amend a system's design or distribution infrastructure. The PUCT conducts FMT reviews for public water and sewer systems that are seeking approval to obtain or amend a water or sewer CCN or to acquire a utility.

### **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 PUCT and TCEQ are required as part of the legislation transferring economic regulation to the PUCT, to enter into a Memorandum of Understanding (MOU). TCEQ and the PUCT executed the initial MOU to be effective on September 1, 2014 and executed an amendment to the MOU to be effective on January 8, 2020 to help each other facilitate the temporary manager and receivership programs. Each agency agreed to:

- Notify the other agency once they anticipated issuing an order appointing or reappointing a temporary manager pursuant to TWC §13.4132.
- Provide a copy of any order appointing or reappointing a temporary manager to the other agency within one business day after issuance of the order.
- Provide notice of the TCEQ's Commission Agenda or PUCT's Open Meetings Agenda to the other agency once an item is scheduled to be heard involving the appointment or reappointment of a temporary manager, so the agencies are

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present, when necessary, for actions regarding a temporary manager appointment or reappointment.

- Inform the other agency of any hearings or mediation processes related to a temporary manager or receivership of a retail water or sewer utility.
- Notify the other agency on the referral of a water or sewer utility to the Office of the Attorney General (OAG) for the appointment of a receiver.

Staff of the PUCT and TCEQ meet once each month, at a minimum, to coordinate on each receivership and temporary manager appointment and to discuss how both agencies can work together to bring the utility into compliance or to find another entity to acquire the utility. The agencies also identify a lead agency, either the TCEQ or PUCT, for each temporary manager or receivership appointment and work together to resolve issues for the temporary manager or receiver. If TCEQ is the lead agency, the TCEQ will refer the temporary manager or receiver to the PUCT for help with obtaining a temporary rate, if needed, and on ownership and service area issues. If the PUCT is the lead agency, the PUCT will refer the temporary manager or receiver to the TCEQ to address health and safety issues with the utility's system.

**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 Division of Utility Outreach (DUO) at the PUCT does work with other entities on water-related matters. The DUO program is described in more detail in the Utility Outreach program section of this report.

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

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2020;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

The PUCT hired the Texas Rural Water Association (TRWA) under a contract from 2014 to 2020. The purpose of the contract was for TRWA to provide financial and managerial hands-on assistance to retail public utilities. The assistance related to service area matters, rate studies, tariffs, customer service matters, forming a water supply or sewer service corporation, consolidation or regionalization, and other regulatory matters. In FY 2020, a total of 23 assignments were made and \$49,700 was spent providing financial and managerial assistance to retail public water and sewer utilities.



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The PUCT's contract with TRWA expired in 2020 and a new solicitation was issued to accept bids for a new contract. Superior Water Management of Texas, LLC was awarded the new contract for FY 2021.

Prior to the COVID-19 pandemic, the assignment meetings were all held in person. Due to the pandemic, many of the assignment meetings were held virtually. Effective June 2021, the retail public utility requesting the assistance has the option of selecting from either a virtual or an in-person assistance visit with the contractor.

**L. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

The PUCT's response to this question is in the Section IX. Major Issues section of this report.

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

N/A

**O. 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.**

**Water and Sewer Certificates of Convenience and Necessity (CCNs).** When the PUCT issues a CCN, the holder acquires an obligation to provide retail water or sewer service within the specified CCN service area. A public utility that has received a request to provide service to an area not already receiving service must amend its CCN to lawfully provide service to the area. As part of this process, the PUCT ensures that the applicant has met the mapping and notice requirements appropriate for the type of CCN application filed and any overlaps of the requested area with existing CCN holders, cities and districts are resolved. The applicant must demonstrate a need for service in the requested area and additionally the ability to serve the requested area. The PUCT ensures that the applicant has the financial, managerial, and technical capabilities to provide service to the requested area. If the requested service area will require the construction of a new water or sewer system, the applicant must also obtain TCEQ approval to construct the needed facilities. Once the PUCT determines that the

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applicant has met the mapping, financial, managerial, and technical requirements of the application, a final map of the amended CCN service area and a corresponding certificate are approved by the Commission.

The owner of a tract of land of at least 50 acres can petition the PUCT for the expedited release of all or a portion of that tract from a CCN service area so that it may receive service from another retail public utility. Such a petition may be initiated by the landowner if the CCN holder is either not providing service or if the cost of service is so prohibitively expensive as to constitute denial of service. Petitions for expedited release must identify an alternate service provider that is can provide service in the manner requested by the landowner. The CCN holder has the option to oppose the expedited release and refute any information submitted by the petitioner. The landowner requesting expedited release must provide adequate and just compensation to the CCN holder for release. Expedited release can occur statewide, except within large cities or platted subdivisions.

The owner of a tract of land of at least 25 acres that is not receiving water or sewer service may petition for a streamlined expedited release from the current CCN holder. The landowner must provide adequate and just compensation to the CCN holder for release. Streamlined expedited release is only available in thirty-three counties based on the population requirements in statute.

When a complaint or information is received that a CCN holder is either serving outside its CCN service area, unlawfully serving inside someone else's CCN service area, or is refusing to provide service to someone inside their CCN service area, Staff of the PUCT's DUO sends out requests for information to gather more information and to determine if an investigation is warranted. If information is found that the CCN holder is not in compliance, then DUO works with the CCN holder to understand how to get into compliance and to see if contractor assistance would be beneficial in helping the CCN holder become compliant.

**Water and Sewer Utility Acquisitions.** The sale or acquisition of a water or sewer system that is owned by a holder of a CCN requires approval of the PUCT. The transaction may also require the transfer of the CCN to the purchaser. The transfer and related sale of facilities is commonly known as a sale, transfer, or merger, or STM. The acquiring entity may be either an existing or new utility. Like the process for granting the CCN, the PUCT ensures that the acquiring entity has the financial, managerial, and technical capabilities to provide continuous and adequate service to the requested area and ensures the mapping and notice requirements are met. The applicant's financial health, compliance history with TCEQ's health and safety standards, and customer complaints, if any, are also considered. To obtain PUCT approval, the applicant must also demonstrate that the proposed STM is in the public interest. When a CCN holder sells or acquires a facility without filing an STM, the PUCT's DUO sends out requests for information to gather more information and to determine if an investigation is warranted. If information is found that the sale or acquisition of a system occurred without the proper STM application, then DUO works with the CCN holder to

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understand how to get into compliance and to see if contractor assistance would be beneficial in helping the CCN holder become compliant.

**Water and Sewer Utility Submetering and Allocation.** The owners of certain businesses may purchase water and sewer services from a retail public utility and provide and bill for those service to its tenants. This action is allowed by owners of apartment houses, condominiums, and manufactured home rental communities, as well as some commercial or industrial parks, office complexes, and marinas. These owners may bill their tenants on a submetered or allocated basis. The owner is responsible for correctly passing through the charges from the retail public utility. The owner must ensure that meters are working correctly and, if allocating charges, equitably allocate the utility charges among the tenants.

The PUCT enforces the rules regarding allocation and billing of tenants. Owners that submeter or allocate utility charges must register with the PUCT. There are currently 9,446 entities registered to submeter or allocate water or sewer utility service to tenants. The sheer number of entities submetering and allocating service presents challenges for ensuring customers are properly informed and properly billed. Many owners are unaware of the legal requirements for submetering or allocating utility charges. There are frequent changes in ownership and owners change billing procedures without obtaining PUCT approval. Customers tend to file complaints when a new owner buys a facility and changes the method for allocated billing. Complaints involving submetered and allocated billings have generally increased since 2014. Typically, these complaints involve disputes about billing or allocation methods and lack of communication from the owner. These customers get little advance notice of billing changes, which are often made with no alteration to the lease agreement. In many cases, the property owners are not following the methodologies required by PUCT rules. The property owners in some instances do not remove charges for shared areas, add extra fees, or combine methodologies in customer bills. Some owners charge for services other than for water and sewer utilities such as storm water drainage fees, or other fees required by municipal ordinances. Many of the underlying issues of noncompliance appear to stem from ignorance of the rules, rather than malfeasance. The PUCT's DUO strives to host roundtable discussions with trade associations for apartments, RV parks, and manufactured home rental communities, to provide education and information on submetering and allocated billing.

- P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

See Informal Customer Complaint Resolution program description in section of Section VII. of this report.

## **Regulation of Water Utility Submetering**

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

<b>Name of Program or Function:</b>	<b>Utility Outreach</b>
<b>Location/Division:</b>	Division of Utility Outreach (DUO)
<b>Contact Name and Division:</b>	Tammy Benter, Director, Division of Utility Outreach
<b>Statutory Citation for Program:</b>	Water Code § 13.041

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

The objective of this function is to promote compliance with statutes, rules, and orders applicable to entities under the jurisdiction of the Commission. DUO's primary focus is on assisting small and mid-sized water and sewer utilities.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

The DUO program was created in 2019. Its activities to date, outlined in Section F below, demonstrate the effectiveness and efficiency of this 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. If the response to Section III of this report is sufficient, please leave this section blank.**

As explained below in Section F, this program was created in 2019 and currently has four employees. There is no additional history relevant to this program.

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

As explained below in Section F, the Utility Outreach program at this time is focused primarily on small and mid-size water and sewer utilities to assist them in compliance with relevant statutory and rule requirements.

**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

DUO was created in 2019 to educate small to mid-sized water utilities on the applicable regulations to help them attain compliance and to help them avoid becoming nonfunctioning utilities. DUO also works with distressed utilities to find ownership solutions to better serve the customers of those utilities. DUO works with trade associations and other agencies to provide training and to help educate utilities to meet existing or upcoming compliance requirements. In addition, DUO manages a professional services contract with Superior Water Management of Texas, LLC and makes assignments for contractors to provide hands-on assistance to help retail public water and sewer retail utilities complete various tasks including rate studies, rate applications, CCN related applications, business plans, forming a water supply or sewer service corporation, finding funding sources, consolidations, and regionalization. In 2019, DUO held one in-person workshop to train approximately 70 individuals on retail rate setting, CCNs, handling customer complaints and cybersecurity. In 2020, DOU held two virtual workshops and launched training videos to help provide additional training opportunities to water and sewer retail public utilities and to also educate customers about the process involved with protesting or intervening in a rate case proceeding. DUO also launched FaucetFacts.org, a digital hub for PUCT's water and sewer utility outreach efforts. The website helps users find information on applicable rules, regulations, and upcoming training events. To reach an even broader audience, DUO launched its own social media presence on Facebook and Instagram.

**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 is funded primarily with GR Dedicated - Water Resource Management Account No. 153.

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

None identified.

**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.**

Because TCEQ also has jurisdiction over water and sewer matters, TCEQ also advises water and sewer utilities on regulatory issues. However, because TCEQ and the PUCT oversee different aspect of water and sewer regulation, the PUCT sees little possibility of conflict or duplication of DUO's activities with TCEQ's activities.

**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.**

DUO represents the PUCT and works with other state, local, and federal government agencies and technical assistance providers as a member of the Texas Water Infrastructure Coordinating Committee (TWICC). TWICC is a collaborative effort and one-stop shop for information on funding eligibility and technical assistance for water systems facing infrastructure or compliance issues and strives to promote an efficient process for affordable, sustainable, and innovative funding strategies. Members of the TWICC include the PUCT, United States Environmental Protection Agency (US EPA), Texas Department of Agriculture, TCEQ, Communities Unlimited, Texas Rural Water Association (TRWA) United States Department of Agriculture (USDA), Texas Water Development Board (TWDB), Texas American Water Works Association (Texas AWWA), North American Development Bank (NAD Bank), Border Environment Cooperation Commission (BECC), and the United States Department of the Interior Bureau of Reclamation.

TWICC's goals, through coordination with its members, are to:

- Provide Texas communities with funding and other assistance to develop, improve, and maintain compliant and sustainable water and wastewater systems.
- Maintain a forum for funding agencies, assistance providers, and regulators to coordinate priorities and funding.
- Coordinate joint funding to promote a streamlined process and develop sustainable projects.
- Adapt to changing priorities and resources.

TWICC's objectives are to:

- Develop and promote the use of standardized guidance documents between funding agencies.
- Coordinate and review project profile forms to recommend which agency programs may be eligible to assist applicants with financial, managerial, and technical capabilities, regionalization, or funding.

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- Identify concerns and hold quarterly workshops around the state to address targeted issues and assist in outreach efforts.
- Develop and update outreach materials including a Resource Page, Contact Page, and Workshop Page on the website.
- Share agency information and training about water issues to target solutions for water quality and quantity issues.
- Receive project profile forms from projects and provide feedback through letters and meetings to communicate funding sources and technical assistance available.

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

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2020;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

The PUCT hired the Texas Rural Water Association (TRWA) under a contract from 2014 to 2020. The purpose of the contract was for TRWA to provide financial and managerial hands-on assistance to retail public utilities. The assistance related to service area matters, rate studies, tariffs, customer service matters, forming a water supply or sewer service corporation, consolidation or regionalization, and other regulatory matters. In FY 2020, a total of 23 assignments were made and \$49,700 was spent providing financial and managerial assistance to retail public water and sewer utilities.

The PUCT's contract with TRWA expired in 2020 and a new solicitation was issued to accept bids for a new contract. Superior Water Management of Texas, LLC was awarded the new contract for FY 2021.

Prior to the COVID-19 pandemic, the assignment meetings were all held in person. Due to the pandemic, many of the assignment meetings were held virtually. Effective June 2021, the retail public utility requesting the assistance has the option of selecting from either a virtual or an in-person assistance visit with the contractor. The Division of Utility Outreach is the PUCT's administrator for this contract.

**L. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified.

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

N/A

- O. 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

- P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

See Informal Customer Complaint Resolution program description in section of Section VII. of this report.



## Investigations and Enforcement

<b>Strategy 1-3-1: Conduct investigations and initiate enforcement actions to ensure compliance with relevant law, PUCT rules, and orders.</b>	
<b>Actual Expenditures, FY 2020</b>	<b>\$2,400,797</b>
<b>Number of FTEs as of August 31, 2020</b>	<b>26.2</b>

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

<b>Name of Program or Function:</b>	<b>Compliance and Enforcement</b>
<b>Location/Division:</b>	Division of Compliance and Enforcement (DCE)
<b>Contact Name and Division:</b>	Barksdale English Director, Division of Compliance and Enforcement
<b>Statutory Citation for Program:</b>	PURA §§ 14.002 and 15.023; Texas Water Code §§ 13.041 and 13.4151

**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 Texas Water Code, the Commission's Substantive Rules and ERCOT protocols.

The DCE is integral to the agency's mission to protect customers through fostering competitive markets and maintaining the high-quality infrastructure of Texas. DCE's main function is to investigate possible violations of PURA, the Texas Water Code, the Commission's Substantive Rules, ERCOT protocols, and other applicable orders and statutes by entities subject to the Commission's jurisdiction and to apply appropriate remedies as warranted. The division's efforts help preserve the public interest by identifying potential violations that may need detailed investigation and subsequent remediation.

The major activities performed by the DCE are reviews, audits, investigations, and enforcement proceedings, including, but not limited to, Notices of Violation (NOV) with administrative penalties. The DCE meets this objective by working in tandem with subject matter experts from other PUCT divisions during the investigative phase. Staff experts analyze a regulated entity's activities compared to relevant laws and rules and make recommendations about whether a violation may exist. Then, DCE staff determine whether a negotiated settlement would be in the public interest or if formal prosecution should be recommended to agency executives.

The DCE's primary areas of focus are:

- Wholesale electric issues

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- Retail electric issues
- ERCOT protocol violations
- Market manipulation
- Retail telecommunications issues
- Service quality
- Water billing issues

D&CE may determine that the public interest is best served through a compliance action rather than an enforcement action. In some of these instances, DCE can refer a series of complaints to the Division of Utility Outreach (DUO)<sup>32</sup>, part of whose mission is to work with noncompliant regulated entities, usually with access to fewer technical resources, to help achieve compliance with the law. In other cases, DCE staff may determine that a violation is best processed as an individual formal complaint case through the Legal Division. Typically, these cases involve a single customer whose experience is unique from other similarly situated customers. The remaining cases are investigated further to arrive at staff recommendation of whether to close the case or pursue further action.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

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 or improvement plans from the violating entity. A high, ongoing degree of coordination has been established with ERCOT and the Independent Market Monitor (IMM) 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.

As part of its 2010 report on the PUCT, the Sunset Advisory Commission adopted a management action recommending that the Commission publish, on a regular basis, more complaint and enforcement data on its website. The Sunset Commission also recommended that the public be allowed to comment on this information. The PUCT publishes a summary of customer complaints and enforcement activities annually. The Commission posts this information on its website and invites the public to comment on this report. The latest such report was posted in December 2020 and includes information for FY 2020. Following are the key enforcement statistics from the PUCT's 2020 report:

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<sup>32</sup> The activities and responsibilities of DUO are discussed in more detail in the Utility Outreach section of this report.

## Self-Evaluation Report

Following is a summary of certain key statistics for fiscal year 2020:

Investigations opened:	152
Investigations closed:	110
Administrative penalties assessed:	\$2,244,100

For fiscal year 2020, the breakdown of docketed enforcement cases was 29% electric retail, 11% electric wholesale, 23% electric service quality, 11% telecom, and 26% water. The percentages of total administrative penalties assessed in fiscal year 2020 was 46% electric retail, 28% electric wholesale, 24% electric service quality, 2% telecom, and 0% water, and 9% for apartments.

**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. If the response to Section III of this report is sufficient, please leave this section blank.**

Before the restructuring of the retail electric market in ERCOT in 1999 and the passage of the Federal Telecommunications Act of 1996, much of the PUCT's enforcement efforts were accomplished during utility rate reviews, in which a comprehensive review of a company and all its activities could be performed. Because the PUCT's rate jurisdiction in both the telecom and electric markets has changed over the years, it became necessary to view enforcement as a stand-alone activity. The PUCT 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 PUCT'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 focused solely on enforcement and compliance issues.

In early 2020, the Legislature called for all state agencies to reduce their current budgets by 5%. As part of its effort to comply with the 5% reduction request, in August 2020 the PUCT shifted its enforcement program into the Legal Division. Enforcement is a discretionary activity and the PUCT concluded that moving personnel from the Oversight and Enforcement Division into the Legal Division would be a more efficient use of its scarce resource.

As part of its Legislative Appropriation Request (LAR) for fiscal years 2022-2023, the PUCT requested that its 5% budget cut be restored. In the 87<sup>th</sup> Legislative session, the PUCT also requested additional resources to accomplish its statutory responsibilities. The 87<sup>th</sup> Legislature restored the PUCT's 5% budget cut. As a result

of the restoration of the PUC's 5% budget cut, the PUCT created the DCE in August 2021. While this new division will promote and enforce compliance all applicable statutes, rules and orders of the Commission, there will be an increased focus on electric wholesale market enforcement issues.

From 2010 until December 2020, the Commission had a contract with the Texas Reliability Entity (Texas RE) to aid the PUCT on enforcement of ERCOT reliability rules which are included in the ERCOT protocols. The Texas RE is also authorized by NERC to develop, monitor, assess, and enforce compliance with NERC reliability standards within the ERCOT region. The PUCT's contract with the Texas RE was funded by ERCOT.<sup>33</sup> The annual cost of the Texas RE contract was approximately \$1 million over four years. The PUCT conducted a review of the Texas RE contract in 2020. The Commission had become concerned that the quality and level of service provided by the Texas RE was not the best use of these funds and that the PUCT was not receiving sufficient value from this contract. After discussions with Texas RE during the fall of 2020, the Texas RE ultimately requested voluntary termination of the contract. The Texas RE contract was terminated effective January 1, 2020.

The PUCT is exploring other options for assistance in the enforcement of ERCOT reliability standards, including assistance from ERCOT staff.

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

This program affects public utilities, pay telephone service providers, retail public utilities, affiliates, and "persons". The terms "public utility," "affiliate," and "person" are defined in PURA §§ 11.003 and 11.004 with respect to electric and telecommunications utilities. For the water and sewer industry, the function affects retail public utilities and utilities. The terms "affiliate," "person," and "retail public utility" are defined in Texas Water Code § 13.002 with respect to water or sewer utilities. 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)

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<sup>33</sup> ERCOT's budget is reviewed and approved by the PUC. Under PURA §39.151(e), after approving ERCOT's budget the Commission approves an administrative fee on wholesale buyers and sellers. The cost of the Texas RE contract was paid for by ERCOT as part of its budget approved by the PUC.

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- 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
  - h. Brokers
  - i. Power marketers
  - j. Aggregators
3. Retail Water and sewer industry
- a. Investor-owned utilities
  - b. Water and sewer supply corporations
  - c. Municipally owned utilities that hold a CCN
  - d. Districts that hold a CCN (special utility districts, municipal utility districts, etc.)
  - e. Apartment complexes that submeter or allocate water and sewer utility bills

**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The DCE opens and pursues enforcement initiatives based on information obtained from multiple sources, and each investigation is tailored to the specific information and circumstances at issue. An investigation may either conclude with a recommendation for action, if needed, or no further action if it is determined that no violation occurred. In addition to pursuing individual enforcement initiatives, DCE also proactively implements and oversees programs to monitor and promote compliance of entities under PUCT jurisdiction.

**Opening an Investigation.** The DCE coordinates with other PUCT divisions, regarding information on potential violations, and reviews or audits formal reports submitted to the PUCT. For electric matters, DCE also coordinates with ERCOT, and the Independent Market Monitor. Once DCE 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.

**Conducting an Investigation.** If appropriate, DCE may contact the regulated entity regarding a potential violation and provide options for compliance. Some instances trigger the commencement of a license revocation proceeding. Another option that the DCE may pursue is a recommendation to impose an administrative penalty, detailed further below, if a violation is found through an investigation. If a

## Self-Evaluation Report

violation is found, the provider may be sent a warning letter for a minor violation. Otherwise, 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 PUCT 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. If a settlement agreement is reached, settlement documents are filed with the PUCT for the Commission's consideration.

PURA provides for a three-level classification system for violations which includes a range of administrative penalties. The classification system requires the agency to consider 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, including appropriate remediation actions and a recommended 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 PUCT Commissioners to determine whether a violation has occurred and, if so, what remedies should be imposed.

**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.

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

PURA § 15.028 and Texas Water Code § 13.414 provide 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 PUCT, the PUCT is confident that the Attorney General would inform the PUCT.

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Additionally, Texas RE has been authorized by NERC to develop, monitor, assess, and enforce compliance with NERC reliability standards within the ERCOT region.

There is potential for overlap with functions of the Office of the Attorney General (OAG), NERC, and the Texas RE. However, the PUCT's monitoring of its regulated utilities includes a mindfulness of avoiding unnecessary redundancies. Moreover, the PUCT communicates regularly with its liaisons at the OAG to ensure mutual awareness of activities, and the PUCT monitors NERC developments of new reliability standards applicable in Texas. Finally, 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.**

The PUCT has an MOU with OAG regarding enforcement of the Texas No Call list. Every month, the PUCT sends the OAG a list of No-Call complaints received by the Texas PUCT. The Texas No Call statute gives enforcement authority to both the PUCT and the OAG.

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.**

- PURA § 15.028 and Texas Water Code § 13.414 provide that the Attorney General may file a suit for civil penalties on the Attorney General's own initiative or at the request of the PUCT.
- FERC is an independent agency that regulates the interstate transmission and interstate, wholesale sales of electricity, natural gas, and oil.
- NERC has been granted authority from FERC to enforce reliability standards with all U.S. users, owners, and operators of bulk power systems.
- ERCOT operates the electric grid and manages the deregulated market for approximately 90 percent of the state's electric load.
- Texas RE has been authorized by NERC to develop, monitor, assess, and enforce compliance with NERC reliability standards within the ERCOT region.
- The IMM is an independent contractor funded through ERCOT that reports to the PUCT. 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**

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2020;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

Under PURA § 39.1515, ERCOT is required to “contract with an entity selected by the commission to act as the commission’s wholesale electric market monitor to detect and prevent market manipulation strategies and recommend measures to enhance the efficiency of the whole market.” ERCOT and the PUCT have a contract with Potomac Economics to serve as the independent market monitor (IMM) for the ERCOT market. A copy of this contract, which includes a detailed statement of work, may be found on the Commission’s public website at: <http://puc.texas.gov/agency/resources/reports/Contracts.aspx>.

The term of the contract is from January 1, 2020-December 31, 2023. The cost of this contract is approximately \$1 million per year.

**L. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program’s performance, including any outdated or ineffective state laws? Explain.**

**Make investigation records of the PUCT and the Independent Market Monitor confidential as a matter of law.**

The PUCT 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 PUCT believes this statutory change would enhance the PUCT’s enforcement abilities and enhance confidence in both the telecommunications and electric markets.



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

The DCE is staffed with five employees. Additional legal support is provided by the Legal Division.

**O. 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.

**P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

See Informal Customer Complaint Resolution program description in section of Section VII. of this report.

**Customer Education and Outreach**

<b>Strategy 2-1-1:</b>	<b>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.</b>
<b>Actual Expenditures, FY 2020</b>	<b>\$992,724</b>
<b>Number of FTEs as of August 31, 2020</b>	<b>10.7</b>

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

<b>Name of Program or Function:</b>	<b>Information and Education</b>
<b>Location/Division:</b>	Customer Protection Division
<b>Contact Name and Division:</b>	Chris Burch , Director, Customer Protection Division
<b>Statutory Citation for Program:</b>	PURA §§ 39.902

**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 one strategy. The PUCT conducts customer education and outreach under Strategy 2-1-1. This strategy applies to both the electric, telecommunications and water/sewer industries.

The PUCT makes a wide variety of information available on the agency Website. In addition to the agency's main Website, the PUCT 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.

The following education materials are produced by PUCT staff:

- Fact Sheets - 52 Fact Sheets about a variety of information are available on the agency Website. The Fact Sheets are also mailed or emailed to people who file complaints and inquiries.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

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The following performance measures relate to this program:

	FY 2019 projected	FY 2019 actual	FY 2020 projected	FY 2020 actual
OP 2-2-1.03 Number of Customer Information Products Distributed	1,250,000	1,039,489	1,250,000	929,760
EF 2-1-1.01 Percent Customer Information Products Distributed Electronically	95%	96.84%	95%	99.32%
OP 2-2-1.01 Number of Website Hits to Customer Protection Home Page	190,000	182,486	390,000	230,761

- 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. If the response to Section III of this report is sufficient, please leave this section blank.**

N/A

- E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

This program benefits electric, telecommunications, water, and sewer 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, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The PUCT's Customer Protection Division manages the Texas Electric Choice campaign.

- 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).**

N/A

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

The Division of Utility Outreach (DUO) within the commission, which was created in 2019 provides information and outreach to customers. The DUO program is described in more detail in the DUO section of Section VII of this report.

**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**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2020;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

N/A

**L. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified.

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

The PUCT estimates that more than one FTE is required for this program.

- O. 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 Texas Electric Choice Customer Education Program is essential to the meeting of the requirements of PURA § 39.902.

- P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

N/A

### **Assist customers in resolving disputes**

<b>Strategy 2-2-1: Assist customers in resolving disputes concerning electric and telecommunications services consistent with statutes and rules.</b>	
<b>Actual Expenditures, FY 2020</b>	<b>\$883,559</b>
<b>Number of FTEs as of August 31, 2020</b>	<b>9.5</b>

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

<b>Name of Program or Function:</b>	<b>Informal Customer Complaint Resolution</b>
<b>Location/Division:</b>	Customer Protection Division
<b>Contact Name and Division:</b>	Chris Burch, Director, Customer Protection Division
<b>Statutory Citation for Program:</b>	PURA Chapters 15 and 17, TWC Chapter 13

- 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 problems they are experiencing with their electric, telecommunications, and water and sewer services. The PUCT has dedicated staff resources to informal customer complaint

## Self-Evaluation Report

resolution since the agency's inception. In the mid-1990s, the number of complaints received began to increase dramatically, primarily because 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. Since that time, the introduction of the retail electric market effective 2002 and the acquisition in 2014 of the financial regulation of entities providing water and sewer services has resulted in varying levels of complaints from year to year. For example, since 2014, the total number of complaints received has varied from a low of approximately 5,500 in 2016 to a high of approximately 10,600 in 2019. The total number of complaints received so far in 2021 are up, most likely due to Winter Storm Uri in February.

Each month, the PUCT's Customer Protection Division (CPD) receives approximately 960 complaints and 12 inquiries. These complaints and information requests are received by telephone, letter, fax, email, online submission and from walk-in customers.

PURA § 15.051 provides that persons may complain to the PUCT about their telecom and electric utility services, and requires the PUCT to keep records of the following information:

- the date the complaint was received,
- the name of the complainant,
- the subject matter of the complaint,
- a record of each person contacted in relation to the complaint; and
- a summary of the results of the review or investigation of the complaint and, if the PUCT took no action on the complaint, an explanation of the reason the complaint was closed without action.

TWC § 13.041 provides that the PUCT shall adopt and enforce rules reasonably required in the exercise of powers and jurisdiction of each agency, including rules governing practice and procedure before the PUCT. To facilitate the enforcement of rules, the PUCT adopted the same process used to investigate informal complaints involving telecom and electric utility services. However, water and sewer utilities are required to provide responses to informal complaints in 15 days whereas telecom and electric utilities are required to provide responses in 21 days.

The PUCT is required to provide to the complainant and to each entity complained about information concerning the PUCT's policies and procedures on complaint investigation and resolution. The PUCT is required to notify the complainant about the status of its complaint at least quarterly until final disposition.

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- C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

The PUCT has six performance measures relating to this program.

### Public Utility Commission

**Exhibit 12: Program Statistics and Performance Measures – Fiscal Years 2019 - 2020**

<b>Program Statistics or Performance Measures</b>	<b>Dataset Reference Number* (if applicable)</b>	<b>Calculation (if applicable)</b>	<b>FY 2019 Target</b>	<b>FY 2019 Actual Performance</b>	<b>FY 2019 % of Annual Target</b>	<b>FY 2020 Target</b>	<b>FY 2020 Actual Performance</b>	<b>FY 2020 % of Annual Target</b>
OC 2-2.01 Percentage of customer complaints resolved through informal complaint resolution process	N/A	N/A	99	99.62	100.63	99	99.73	100.74
OP 2-2-1.01 Number of customer complaints concluded	N/A	N/A	7500	5982	79.76	7500	7587	101.16
EF 2-2-1.01 Average number of days to conclude customer complaints	N/A	N/A	15	17	113.33	15	16	106.53
OC 2-2.02 Credits and refunds obtained for customers through complaint resolution	N/A	N/A	900,000	343,308.08	38.15	300,000	381,333.62	127.11
EX 2-2-1.01 Number of complaints received for unauthorized changes in service	N/A	N/A	1,400	679	48.50	900	608	67.56
OP 2-1-1.01 Number of information requests to which responses were provided	N/A	N/A	70,000	40,346	57.64	70,000	34,350	49.07

**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. If the response to Section III of this report is sufficient, please leave this section blank.**

While the purpose of this program has not changed, a significant level of resources continues to be devoted to ensuring timely resolution of customer disputes. Resources also continue to be developed to address complaints received from customers disputing water and sewer services, which transferred from the TCEQ to the PUCT in 2014. The PUCT relies on customer complaint statistics and trends observed by CPD staff for gauging company behavior, compliance with PUCT 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 PUCT Staff to the need for possible enforcement actions.

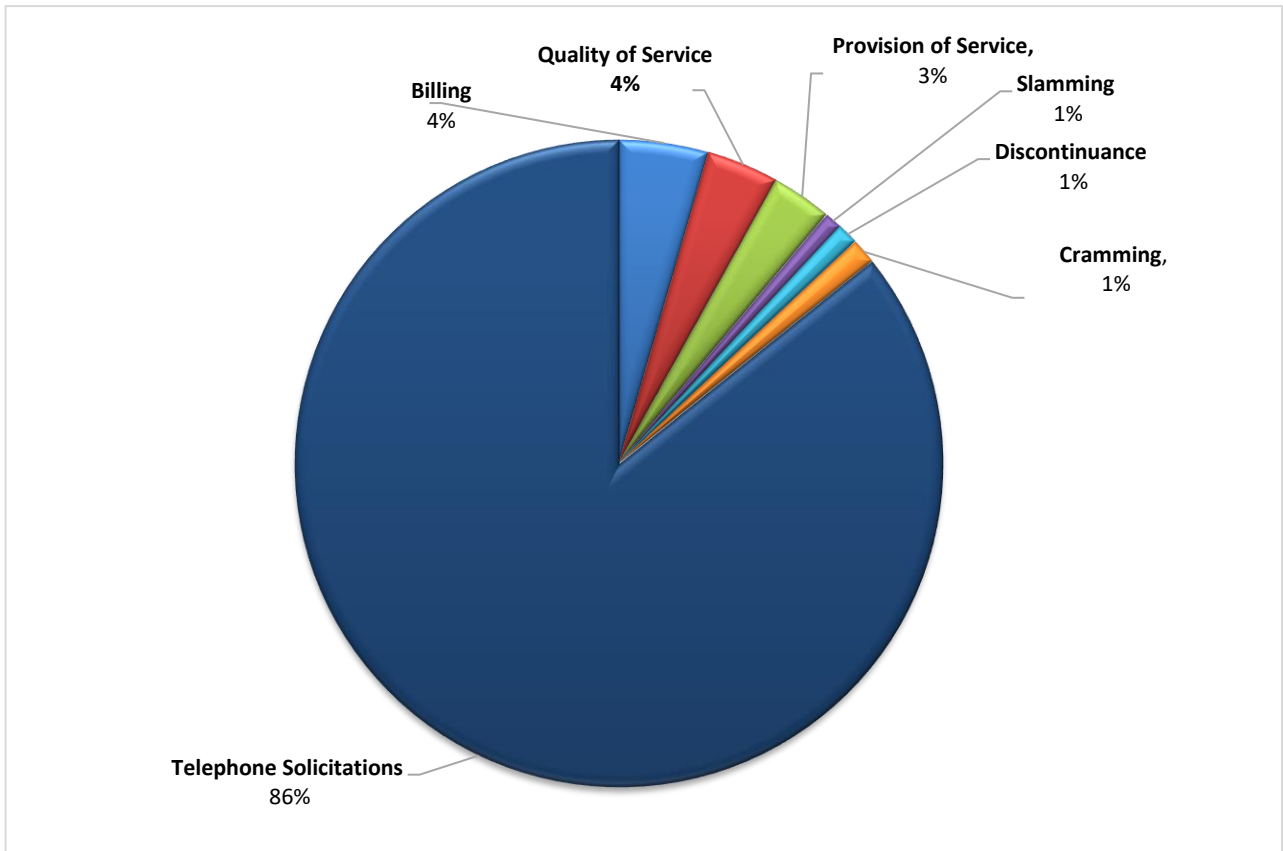
**Telecom Complaints.** Aside from the substantial percentage of complaints related to the telephone solicitation and the Texas No Call List, the other telecommunications complaints received include Slamming at 1 percent, Billing at 4%, Cramming at 1%, Discontinuance at 1%, Quality of Service at 4 percent, and Provision of Service at 3%. 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 can be attributed to the continued advancement of mobile wireless and Voice over Internet Protocol (VoIP) services. With the number of wireless and VoIP 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 VoIP services must be referred to the FCC. Additionally, the deregulation of AT&T and Frontier Utilities removed the PUCT's regulation of provisions of service and quality of service for land-line service provided by these two large telecoms. CPD is therefore not able investigate complaints for provision of service and quality of service issues for customers of telecommunications companies that have been deregulated as the PUCT does not have jurisdiction.



## Self-Evaluation Report

### Telephone Complaints Received September 2018 - August 2020

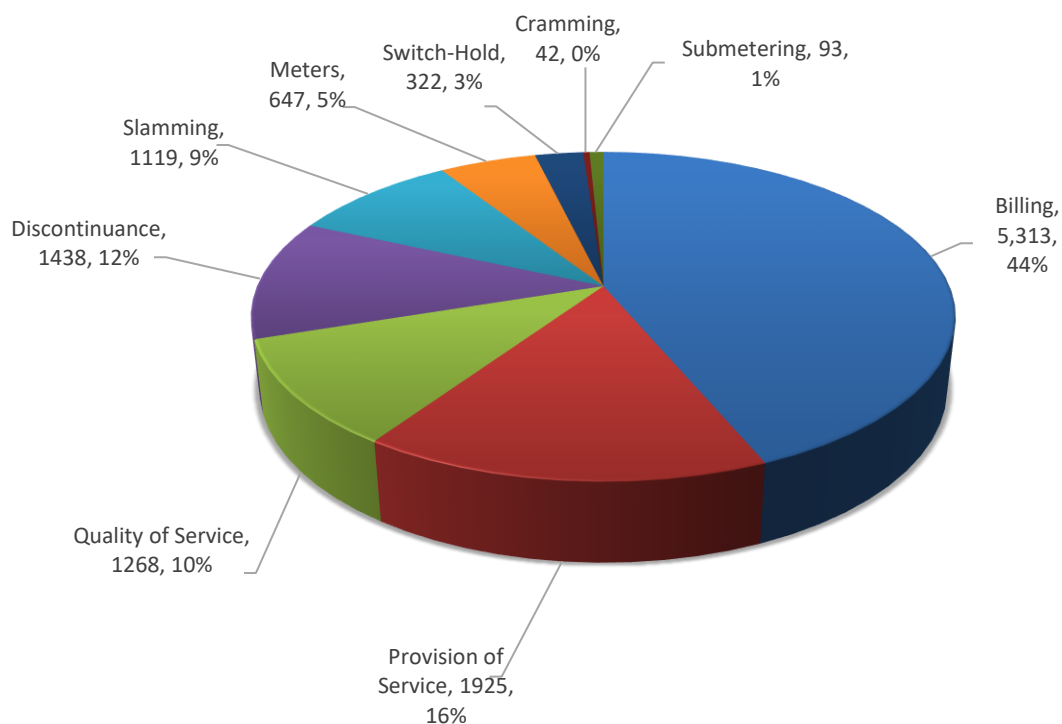


## Self-Evaluation Report

**Electric Complaints.** The overall number of electric complaints increased in FY 2019 and 2020. With the maturity of the retail electric market, electric complaint totals have become cyclical with new market participants, new product offerings, and emerging events such as the pandemic.

Electric complaints represent much of the number of complaints received from customers.

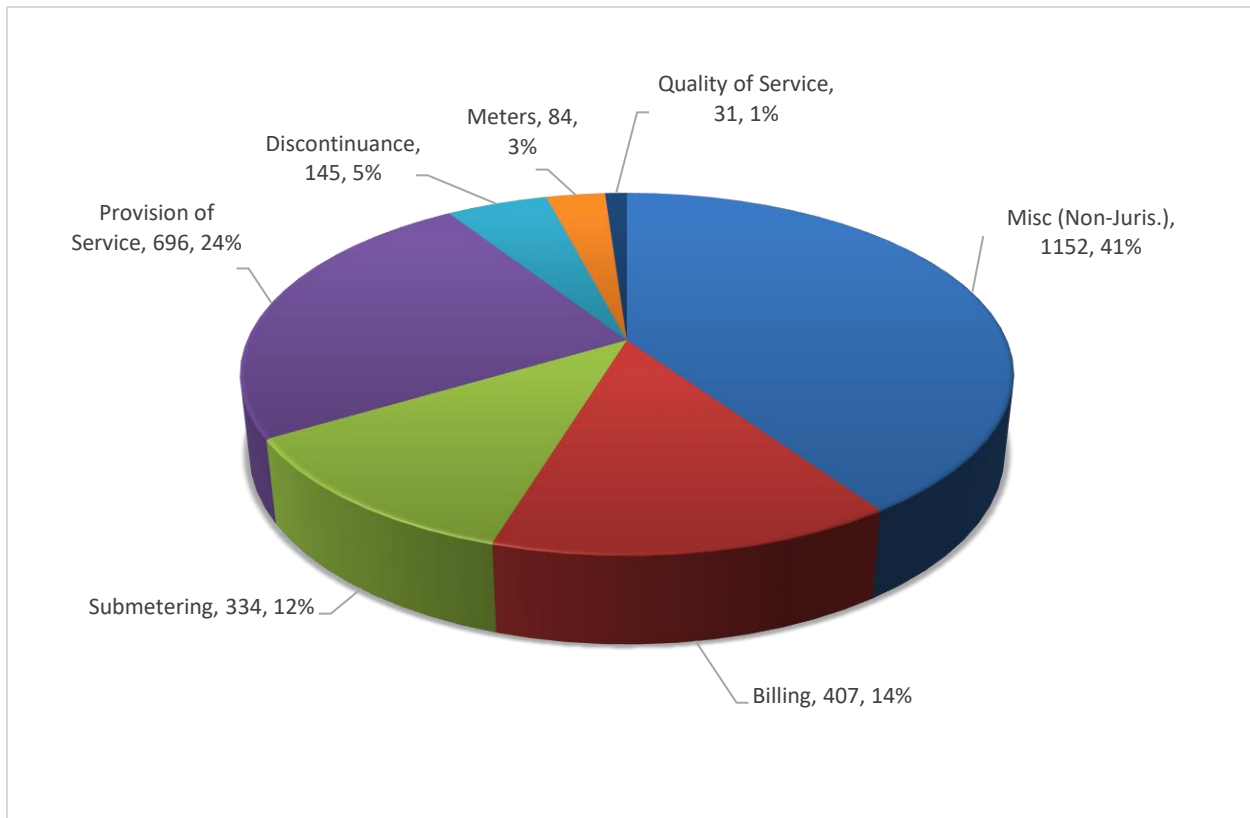
**Electric Complaints Received  
September 2018 - August 2020**



**Water and Sewer Complaints.** Complaints involving water and sewer services have increased since certain aspects of water and sewer regulation were transferred to the PUCT from the Texas Commission on Environmental Quality effective September 1, 2014. Aside from non-jurisdictional complaints received, Provision of Service complaints represent the largest percentage of complaints received by the PUCT at 24 percent. Complaints relating to Billing represent the second largest percentage at 14% and Submetering is third at 12%. Beginning in 2017, water and sewer complaints have consistently surpassed the number of telecom complaints received by the PUCT while remaining below the number of electric complaints received. The increase is attributed to customers' overall awareness of the PUCT's rate regulation of water and sewer services in the state.

**Water and Sewer Complaints Received  
September 2018 - August 2020**

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**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

Any person who purchases electric, telecommunications, water and sewer services in Texas may file a complaint with the PUCT concerning the service. Complaints may be filed against any entity under the jurisdiction of the PUCT. Customers who file complaints concerning entities that are not under the PUCT's jurisdiction receive a letter informing them that the PUCT lacks jurisdiction and suggesting other agencies that may be able to help.

**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The PUCT uses a database-type work management system to maintain records and process the complaints. The PUCT maintains a call center staffed by seven employees who answer questions and receive complaints by telephone, letter, fax, email, online submission and from walk-in customers. The PUCT also has a staff of eight 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

## Self-Evaluation Report

provider for a response. A complaint investigator reviews the service provider's response and sends a letter to the complainant and the entity describing the informal resolution of the complaint. A complaint investigator serves as the point of contact after the complaint is filed and following its resolution, addressing additional questions or information received for the complaint as needed.

For non-jurisdictional, ADAD, and No Call list complaints, the PUCT provides the customer information regarding the Commission's jurisdiction and information that a possible violation of the No Call list has been recorded when applicable. The PUCT utilizes the data recorded in the No Call list complaints to develop enforcement actions against the possible violators of the No Call list. PUCT staff also compiles and sends to the Attorney General a list of No Call complaints received by the PUCT. The PUCT sends this list to the Attorney General every month. The Attorney General's office has joint authority to investigate violations of the No Call list per the Texas Business and Commerce Code § 44.102.

**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.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. 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.**

The PUCT has an MOU with the Attorney General regarding the handling of No Call complaints. A copy of this MOU is included as Attachment 18 to this SER. The AG and PUCT have agreed to coordinate their enforcement efforts regarding prosecution of fraudulent, misleading, deceptive, and anti-competitive business practices and the MOU outlines how each agency will cooperate with the other in this endeavor. The PUCT provides a monthly No Call Complaint Report to the Attorney General, refers any cases the PUCT concludes would be appropriate for civil enforcement, especially those outside the Commission's jurisdiction, provide the Attorney General copies of all PUCT investigative reports or files related to cases referred to the Attorney General for civil

## Self-Evaluation Report

enforcement and agrees to cooperate with and assist the Attorney General in their No Call investigations.

- 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**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2020;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

N/A

- L. Provide information on any grants awarded by the program.**

N/A

- M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified.

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

N/A

- O. 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

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- P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

**Public Utility Commission  
Informal Complaint Resolution  
Exhibit 13: Information on Complaints Against Regulated Persons or Entities  
Fiscal Years 2019 and 2020**

	<b>Fiscal Year 2019</b>	<b>Fiscal Year 2020</b>
Total number of complaints received from the public	12,289	10,747
Total number of complaints needing additional information	349	481
Number of complaints pending from prior years	0	0
Number of complaints found to be non-jurisdictional	1,017	1,139
Number of jurisdictional complaints	6,433	7,918
Number of complaints relating to electric utilities operating outside ERCOT	335	347
Number of complaints relating to transmission and distribution utilities operating in ERCOT	1,039	1,271
Number of complaints relating to retail electric providers	3,838	4,896
Number of complaints relating to electric cooperatives	126	213
Number of complaints relating to electric submetering	44	48
Number of complaints relating to local telephone service	752	736
Number of complaints relating to pay telephones	NA	NA
Number of complaints relating to ADADs and telephone solicitation	794	278
Number of complaints relating to No-Call List	3,860	1,094
Number of complaints relating to water and sewer service	1,149	1,547
Number of complaints relating to water submetering	150	183
Number of jurisdictional complaints found to be without merit	4,661	5,498
Number of complaints resolved	5,892	7,587
Average number of days for complaint resolution	17	16

## **Universal Service Fund Programs**

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

<b>Name of Program or Function:</b>	<b>Texas Universal Service Fund</b>
<b>Location/Division:</b>	Financial Resources Division
<b>Contact Name and Division:</b>	Jay Stone, Program Administrator
<b>Statutory Citation for Program:</b>	PURA Chapter §56

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) (described as a separate program);
- Provide support for the 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;
- Finance an audio newspaper assistance program (described as a separate program); and
- Reimburse the Commission and DAR's for costs incurred in implementing this chapter 56 and 57.

A disputed application for recognition under the universal services program is an APA contested case. The number of ETC applications has also dropped steadily in recent years. The PUCT received only two ETP applications in calendar year 2020 and has not received any in 2021 as of the time of publication of this report.

The PUCT oversees the ongoing administration of the TUSF and delegated the ministerial functions to Solix through a contractual arrangement. In addition, the PUCT 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 2016. The disbursements have remained relatively flat over the last three years

## Self-Evaluation Report

although there has been a downward trend in the disbursements in recent years. The fund's disbursement total in fiscal year 2020 was approximately \$210 million.

As of fiscal year 2020, disbursements from the Large Company Area High-Cost Program, (THCUSP), accounted for approximately 41 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 39 percent of the fund's total. The remaining programs and administration costs account for the remaining 20 percent of the fund's disbursements. The cost to administer the TUSF in fiscal year 2020 was approximately \$788,000, or about 0.38 percent of the total fund.

### Texas Universal Service Fund Disbursements, 2016-2020

TUSF Program Disbursements	FY 2016 (Actual)	FY 2017 (Actual)	FY 2018 (Actual)	FY 2019 (Actual)	FY 2020 (Actual)	Percent of Total USF (FY 2020)
Texas High Cost Universal Service Plan (THCUSP)	118,156,517	99,854,141	85,434,858	83,915,599	86,395,290	41.23%
Small and Rural ILEC Universal Service Plan (High Cost)	92,013,823	88,606,051	83,925,116	80,806,675	82,467,710	39.35%
Texas Relay Service	2,442,439	2,225,014	2,050,062	2,034,248	1,511,335	0.72%
Lifeline	6,996,099	5,185,293	3,935,310	9,523,281	7,814,510	3.73%
Specialized Telecommunications Assistance Program	11,227,152	11,907,454	9,933,685	12,541,079	16,506,097	7.88%
* Implementation of PURA § 56.025 A	1,947,730	1,942,610	2,128,249	2,319,012	2,319,012	1.11%
* Implementation of PURA § 56.025 C	1,734,311	1,485,247	4,113,491	5,890,873	1,226,992	0.59%
USF Reimbursement for Certain IntraLATA Services	566,916	443,172	351,085	282,774	219,997	0.10%
Additional Financial Assistance (AFA)	-	-	-	-	-	0.00%
Service to Uncertificated Areas	165,578	169,998	205,057	207,604	202,965	0.10%
Audio Newspaper Program	447,954	448,650	477,227	469,238	468,275	0.22%
Tel-Assistance	4,206	3,779	2,697	2,173	1,520	0.00%
DARS	1,244,071	1,147,524	1,104,902	1,018,548	1,135,592	0.54%
PUCT	360,294	456,698	595,813	619,268	707,175	0.34%
Other	54,000	54,000	42,000	39,000	39,000	0.02%
Low Income Discount Administrator (LIDA)	3,785,531	8,264,470	8,188,865	8,240,178	7,751,983	3.70%
* TUSF Administrator	884,910	949,012	973,542	877,191	788,301	0.38%
TOTAL USF	242,031,531	223,143,113	203,461,959	208,786,741	209,555,754	100%

\* Includes DARS contract with Solix to process STAP payments



**Recent Developments Affecting the TUSF.** The TUSF is funded by a statewide uniform charge, or “assessment,” payable by each telecommunications provider that has access to the customer base. The TUSF assessment is based on an estimate of telecommunications providers customers’ intrastate telecommunications service usage. The TUSF surcharge is only assessed on the estimated intrastate voice service portion of telecommunications providers taxable receipts. Accordingly, it is only collected by telecommunications providers on the estimated intrastate voice portion of their customers’ bills. In fiscal year 2019, wireless service providers (including Texas ILECs) reevaluated their service packages to determine how much of the package was devoted to voice service compared to data services. When those studies were completed, the companies determined that a much smaller part of their packages were devoted to providing voice service than they had been estimating. Since the change in accounting for voice and data services by these companies, a smaller portion of taxable receipts is eligible for TUSF surcharge assessment. This has created an unanticipated, marked shortfall of TUSF revenues.

The PUCT collects approximately \$100 million for the TUSF annually. In fiscal year 2020, approximately \$198 million was disbursed from the TUSF. Therefore, to maintain the solvency of the TUSF, the PUCT would have to either dramatically reduce TUSF support or collect an additional \$100 million (for a total of \$200 million) annually.

In June 2020, the PUCT considered whether to raise the assessment rate to maintain support for all TUSF programs. Increasing the assessment fee from 3.3% to 6.4% (as was proposed by staff of the PUCT) would not sustain funding for all the programs in the long run, however, and would have required further increases as revenue continued to decline. As a result, the PUCT elected not to increase the TUSF assessment rate during a pandemic and economic crisis, particularly since the increase would not have guaranteed long-term solvency.

As a result of the TUSF revenue shortfall, the PUCT amended its contract with the Solix (the TUSF administrator) to provide Solix with payment priorities for the various TUSF programs. The current TUSF payment priority is as follows:

- **a.** Each month, the following “first priority” disbursements must be made before all other disbursements: Lifeline Service Program (including Tel-assistance), Specialized Telecommunications Assistance Program, Telecommunications Relay Service (Relay Texas), Audio Newspaper Assistance Program, administrative costs of the TUSF fund, administrative costs of the Low Income Discount Administrator, Universal Service Fund Reimbursement for IntraLATA Service, audit of the TUSF administrator reimbursement to HHSC for expenses incurred in administering the STAP program, and reimbursement to PUCT for expenses incurred working on telephone issues.
- **b.** If there is money in the TUSF after paying the priority disbursements for the month, the TUSF Administrator must disburse support awarded under Public Utility Regulatory Act §56.025(a).

## Self-Evaluation Report

- **c.** If there is money in the TUSF after paying §56.025(a) support for the month, the TUSF Administrator must disburse support awarded under Public Utility Regulatory Act §56.025(c).
- **d.** If there is money in the TUSF after paying §56.025(c) support for the month, the TUSF Administrator must ensure the fund maintains a minimum balance of \$4,000,000.00.
- **e.** If there is more than \$4,000,000.00 in the fund after the first priority disbursements, and §56.025(a)&(c) support are paid, any amount over \$4,000,000.00 must be used towards the Texas High Cost Universal Service Plan monthly support payments, Texas High Cost Universal Service Plan for Uncertificated Areas monthly support payments, and Small and Local Rural Incumbent Local Exchange Company Universal Service Plan monthly support payments. The TUSF Administrator must make whatever percentage of the support payments the fund will support, up to 100%, while maintaining a minimum \$4,000,000.00 fund balance. If the payments will be less than 100% of the amount which the ETPs are eligible, the TUSF Administrator must pay the each ETP the same percentage of the amount to which that ETP is eligible. For example, if the fund will support making 75% of the total eligible monthly support payments for the Texas High Cost Universal Service Plan, Texas High Cost Universal Service Plan for Uncertificated Areas, and the Small and Local Rural Incumbent Local Exchange Company Universal Service Plan, each ETP eligible for one of these programs will receive 75% of the support to which they would be eligible.

Funding for the Texas High Cost Universal Service Plan (THCUSP) and the Small and Rural ILEC Universal Service Plan have been significantly reduced. These two programs are discussed in more detail below in the separate section on High Cost Universal Service Plans.

The PUCT discussed the status of the TUSF in its 2021 *Biennial Agency Report* to the Legislature that was filed in January 2021. The 87<sup>th</sup> Legislature passed HB 2667 which would have required Voice over Internet Protocol (VOIP) providers to pay the USF assessment and would have defined the meaning of high cost rural area. The Governor vetoed this bill.

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

These will be discussed in the individual programs described in following sections.

- C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

The cost to administer the TUSF in fiscal year 2020 was approximately \$788,000, or about 0.38 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. If the response to Section III of this report is sufficient, please leave this section blank.**

These will be discussed in the individual programs described in following sections.

- E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

These will be discussed in the individual programs described in following sections.

- F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The PUCT adopted 16 T.A.C. §§ 26.401 – 26.410 and §§ 26.417 – 26.423 to implement the TUSF high-cost assistance programs. Pursuant to the procedures set out in the rules, the PUCT:

- 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.

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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 PUCT'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," payable by each telecommunications provider that has access to the customer base pursuant to PURA § 56.021(2) and (4). The current assessment rate is 3.3% of intrastate taxable revenues.

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

The Federal Communications Commission (FCC) offers some similar programs but the reimbursement to the telecommunications companies is for the interstate portion of these programs while the state reimbursement is for the intrastate portion.

The lifeline discount the FCC offers works in conjunction with the state lifeline discount. The FCC offers a discount of \$9.25 which includes broadband for the lifeline discount and companies that are eligible telecommunication providers (ETP) receive the state discount of \$3.50 for voice service only.

The FCC cost reimbursement is for the interstate high cost program while the state reimburses for the intrastate high cost program.

As part of the schools and libraries program, the FCC supports broadband while the state program supports the use of T1 lines. This is 20 year technology and as schools and libraries have moved to broadband service, the reimbursements for T1 lines has decreased. State reimbursements have decreased by almost 40% from FY 2016 to FY 2020.

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- 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.**

These will be discussed in the individual programs described in following sections.

- 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**

- **a short summary of the general purpose of those contracts overall;**
  - **the amount of those expenditures in fiscal year 2020;**
  - **the number of contracts accounting for those expenditures;**
  - **the method used to procure contracts;**
  - **top five contracts by dollar amount, including contractor and purpose;**
  - **the methods used to ensure accountability for funding and performance; and**
  - **a short description of any current contracting problems.**
- All contracts under the Texas Universal Service Fund were bid in accordance with State of Texas procedures and were bid on best value. Each contract has deliverables that are reviewed by the contract manager to ensure accountability of cost and performance.
  - Contracts for Relay Texas, Lifeline and the Audio Newspaper programs are addressed in separate sections relating to those programs.
  - The Texas Universal Fund has a contract for a statement on standards for attestation engagements (SSAE) audit of the Contractor and fund with Hurlbert, CPA. The contract was a four-year contract in a total amount of \$159,000. The cost for FY 2020 was \$39,000. The commission is currently in the RFP process to contract for the next four years. The contractor will not start work until January 2022. The contract has deliverables that are reviewed by the contract manager to ensure accountability of cost and performance.
  - The Texas Universal Service Fund has a contract pursuant to PURA § 56.023(d) to administer the Texas Universal Service Fund. The contractor is Solix, Inc with the contract commencing on September 1, 2019. The four-year cost for the contract is \$2,694,688. The FY 2020 cost was approximately \$788,000. The contract has deliverables that are reviewed by the contract manager to ensure accountability of cost and performance.

**L. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

As discussed in more detail above in Section A and in the Commission's 2021 Biennial Agency Report to the Legislature, the current funding for the TUSF is inadequate to fully reimburse all ETP's as requested by the ETP. The reduction of cost of basic service (Voice) in telecommunication companies' offerings to the public has severely affected revenues into the fund and thus the commission can no longer fully fund requested reimbursements. The funding mechanism for the TUSF must be reviewed and updated to meet the requirements placed upon it.

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

N/A

**O. 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

**P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

N/A

## **High Cost Assistance Programs**

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

<b>Name of Program or Function:</b>	<b>Universal Service Fund - High Cost Assistance</b>
<b>Location/Division:</b>	Financial Resources Division
<b>Contact Name and Division:</b>	Jay Stone, Program Administrator
<b>Statutory Citation for Program:</b>	PURA §56.023

**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 (SRILEC USP) which help subsidize rates for basic local telephone service (BLTS) in high-cost, rural areas.

The THCUSP program supports BLTS provided by an eligible carrier in a high cost rural area that is carried over all 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. 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 PUCT recognized that state and federal statutes place small and rural carriers on a different competitive footing than other carriers, and therefore established the SRILEC USP, a separate mechanism for the small and rural carriers. In 2011, the 82<sup>nd</sup> Legislature passed HB 2603 which changed the per-line support to a fixed monthly support amount for small companies that met the established criteria.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

N/A

**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. If the response to Section III of this report is sufficient, please leave this section blank.**

The PUCT 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 was accomplishing its purposes and to deliver a report to the Legislature on the results of the evaluation. In 2005, the Legislature also enacted PURA

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§ 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) that receive support from the THCUSP, the largest of the programs within the TUSF.<sup>34</sup> 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 the reductions were fully implemented. This amount equates to approximately a 36.5 percent reduction in then-current THCUSP disbursements and approximately a 25 percent reduction in disbursements for the entire TUSF. These reductions did result in a lower TUSF surcharge on customers' bills.

In establishing these reduced support amounts, the agreement also addressed the adequacy of basic local rates to support universal service, as required by PURA § 56.031. The agreement provided that basic rates within a range of \$15.50 to \$17 per month were adequate to support universal service, and the agreement coordinated the reduction of THCUSP support against potential gradual increases to basic local rates to levels within this range.<sup>35</sup> To offset this reduced THCUSP support, affected ILECs were allowed to request the Commission to modify basic rates consistent with the prescribed range, in subsequent proceedings. The agreement, however, did not require ILECs to change their rates. Finally, the agreement reduced the number of eligible lines that were entitled to receive THCUSP support and provided for several rulemaking proceedings including one to increase the state Lifeline discount amount.

In an Order issued on April 25, 2008 the PUCT adopted the agreement in its entirety and in July 2008, the PUCT 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.

In 2011, the 82<sup>nd</sup> Legislature passed HB 2603 which froze small company funding at set in docket 18516 then applied annual consumer price index (CPI) increases for each year through 2013. This legislation expired on September 1, 2013.

In 2012, AT&T Texas and Verizon/Frontier started the process of opting to forego TUSF by no later than January 1, 2017.

In 2013, the 83<sup>rd</sup> Legislature passed SB 583 which required carriers with over 31,000 customers to reduce their THCUSP support unless they demonstrated a financial need, which they did. This bill also continued the monthly flat rate amount

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<sup>34</sup> *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.

<sup>35</sup> These reductions were only a portion of the total THCUSP support reductions included in the Agreement.



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with the CPI adjustment for the small companies that was established in HB 2603 through September 1, 2017. SB 583 also required that if an ILEC was no longer eligible for TUSF high cost support, the ETPs approved in that ILEC service area, would continue to receive high cost support at the same rate the ILEC was receiving in each wire center.

In 2015, the 84<sup>th</sup> Legislature passed SB804 which allowed CLECs ETPs receiving support in a deregulated wire center to continue to receive support for 24 months or through December 2017.

In 2017, the 85<sup>th</sup> legislature passed SB 586 which allowed small companies with fewer than 31,000 access lines and which were not an electing company under PURA chapter 58 or 59, to request the PUCT to determine if their rate of return is within a reasonable range. The reasonable range is defined as “an intrastate rate of return within two percentage points above or three percentage points below the FCC rate of return.” Small companies support was frozen at the rate they were receiving September 1, 2017, unless they opted into the ROR adjustment procedure described above.

Finally, SB 1476, adopted by the 85<sup>th</sup> Legislature allowed CLEC ETPs receiving support in a deregulated wire center to continue to receive that support through December 2023.

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

All high cost recipients must have an eligible telecommunications provider (ETP) designation from the PUCT.

**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The PUCT adopted 16 T.A.C. §§ 26.401 – 26.410 and §§ 26.417 – 26.423 to implement the TUSF high-cost assistance programs. Pursuant to the procedures set out in the rules, the PUCT:

- Determines the amount of support to be provided under the THCUSP and the SRILEC USP;
- Designates telecommunications providers as eligible telecommunications providers (ETPs) to receive TUSF support 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 and

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- 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 the telecommunications provider seeking the designation.

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.

**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. Currently the assessment rate is 3.3% of intrastate taxable telecommunications receipts.

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

The Federal Communications Commission (FCC) offers some similar programs, but the reimbursement to the ETC's is for the supported services voice telephone and broadband while the TUSF high cost programs provide support for basic local telephone 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**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2020;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts;
- top five contracts by dollar amount, including contractor and purpose;

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- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

The high cost program is part of the contract with Solix to administer the Texas universal fund. This contract costs are explained in the Texas universal service fund section.

**L. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

Lack of funding to fully fund this program is causing challenges. These challenges are discussed above in the Universal Service Fund program section. This challenge is also discussed in the PUCT's 2021 *Biennial Agency Report* to the Legislature.

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

N/A

**O. 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

**P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

N/A

## **Lifeline and Link Up**

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

<b>Name of Program or Function:</b>	<b>Lifeline and Link up Programs</b>
<b>Location/Division:</b>	Financial Resources Division
<b>Contact Name and Division:</b>	Jay Stone, Program Administrator
<b>Statutory Citation for Program:</b>	PURA §56.021(5)

### **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 \$12.75 on basic monthly telephone rates of which the state portion is up to \$3.50. The FCC provides the additional \$9.25 discount. These discounts work together and are not in direct conflict of each other. In conjunction with the \$3.50, the State is giving an additional discount to lifeline customers because of a settlement agreement in Docket 34723.<sup>36</sup> The additional discount is a direct correlation to the basic service level increases allowed and will vary from year to year. PURA § 56.021(5) provides for reimbursement to telephone providers from the Texas Universal Service Fund.

### **C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

PURA § 17.004 and § 55.015 require the PUCT 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. Approximately 93% of the program participants are automatically enrolled based on participation in other assistance programs.

The PUCT makes information about the program available on its Website and has developed a Consumer Fact Sheet.

<sup>36</sup> *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*, PUC Docket No. 34723.

**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. If the response to Section III of this report is sufficient, please leave this section blank.**

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.

PURA § 17.007 and § 55.015 require the PUCT 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 along with providing a list of customers of Retail Electric Provider's (REP) who are eligible for a program that the REP is providing. The listing for REPs is in effect as long as one or more REPs request the list.

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. 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 27% of residential telephone customers are Lifeline eligible.

**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The PUCT adopted 16 T.A.C. § 26.412 to implement the Lifeline and Link Up programs.

The basic program elements are as follows:

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- The Texas Health and Human Services Commission (HHSC) provides the PUCT 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.

**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. The current assessment rate set by the PUCT is 3.3%.

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

The PUCT is not aware of any similar programs.

Link Up is a federal program which provides up to \$100 discount on local telephone service installation on tribal lands. The PUCT oversees a contractor that determines the customers who are eligible for Lifeline and Link Up.

Customers living on tribal lands may receive a federal discount on local telephone service up to \$34.25.

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- 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 PUCT 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**

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2020;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

The program is managed through a contractor, Solix. The contract was bid in accordance with State of Texas procedures and was bid on best value. The contract has deliverables that are reviewed by the contract manager to ensure accountability of cost and performance. The current contract term is four years and was effective January 1, 2020.

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,
- 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.

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Solix provides reports monthly as determined by the contract deliverable's section along with any ad hoc reports requested by the PUCT.

Solix was paid \$7,448,500 in FY 2020 for its services related to the Lifeline program. The total four-year contract is \$29,554,000.

**L. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified.

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

N/A

**O. 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

**P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

Complaints about and requests for assistance with the Lifeline program that are received by the PUCT 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 PUCT 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.



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<b>Public Utility Commission Lifeline Program Information on Contacts from the Public Fiscal Years 2019 and 2020</b>		
	<b>FY 2019</b>	<b>FY 2020</b>
<b>Total number of program participants</b>	1,515,957	1,246,254
<b>Average number of program participants per month</b>	126,329	103,854
<b>Total number of complaints or inquiries received from the public</b>	94	53

### **Telecommunications Relay Service**

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

<b>Name of Program or Function:</b>	<b>Telecommunications Relay Service</b>
<b>Location/Division:</b>	Financial Resources Division
<b>Contact Name and Division:</b>	Jay Stone, Program Administrator
<b>Statutory Citation for Program:</b>	PURA § 56.021

**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 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? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

The current monthly average number of calls handled is approximately 21,943, equating to approximately 57,665 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 2020 was 4.67 seconds; 94.1% of calls were answered within 10 seconds. The ASA for FY 2020 was affected by the COVID-19 pandemic. Sprint had to shut call centers down due to cleaning of the centers, thus rerouting calls with fewer agents to handle the calls. The commission was notified when centers were shut down for one to two days because of issues related to the COVID-19 pandemic. In FY19, the ASA was 1.7 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. If the response to Section III of this report is sufficient, please leave this section blank.**

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. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. 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.

- F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

Pursuant to PURA §§ 56.021(2) and 56.108, TRS is provided by a designated carrier and funded through the Texas Universal Service Fund (TUSF). Using a competitive bidding process, the PUCT selects a vendor based on such key criteria as price, service quality, and availability over a five-year term. The PUCT awarded competitively bids this contract previously every five years but has gone to four-year periods the last 2 contract periods. The contract had been awarded to Sprint Communications, LP since 1990. Currently there are only two companies that provide relay services in the United States.

- 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 to the target population. Describe the similarities and differences.**

There are no similar programs in Texas. PURA § 56.108 requires the PUCT 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**
- a short summary of the general purpose of those contracts overall;
  - the amount of those expenditures in fiscal year 2020;

## Self-Evaluation Report

- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

In FY 2020, Relay Texas expenditures totaled \$1,599,161.

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. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified.

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

N/A

**O. 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

- P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

N/A

### **Specialized Telecommunications Assistance Program**

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

<b>Name of Program or Function:</b>	<b>Specialized Telecommunications Assistance Program</b>
<b>Location/Division:</b>	Financial Resources Division
<b>Contact Name and Division:</b>	Jay Stone, Program Administrator
<b>Statutory Citation for Program:</b>	PURA § 56.021

- 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.

During the 83<sup>rd</sup> Legislative session, SB 512 transferred full administration of the STAP program to the Department of Assistive and Rehabilitative Services (DARS). The Texas Universal Service Fund (TUSF) is responsible for the funding portion of the STAP program pursuant to PURA § 56.021(3)(4). DARS is responsible for the program's functions, including developing applications, approving equipment, and issuing vouchers and approving payments to vendors. 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. In FY 20 the STAP program processed 15,740 vouchers worth \$16,506,097.

- C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

The STAP program is administered by DARS.

- 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. If the response to Section III of this report is sufficient, please leave this section blank.**

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 to provide additional forms of telecommunication access for those newly qualifying applicants through the provision of equipment tailored to meet their specific needs.

During the 83<sup>rd</sup> Legislative session, SB 512 transferred all STAP program management to DARS but left the funding of the vouchers and DARS administrative costs the same. In FY 20, DARS administrative costs totaled \$1,086,365.

- E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

This program affects all people having trouble 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, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The PUCT adopted substantive rule §26.415 to administer the STAP program.

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 impairs the individual'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.

## Self-Evaluation Report

- 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 to the target population. 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**
- **a short summary of the general purpose of those contracts overall;**
  - **the amount of those expenditures in fiscal year 2020;**
  - **the number of contracts accounting for those expenditures;**
  - **the method used to procure contracts;**
  - **top five contracts by dollar amount, including contractor and purpose;**
  - **the methods used to ensure accountability for funding and performance; and**
  - **a short description of any current contracting problems.**

DARS has a contract with Solix, Inc. (Solix) to reimburse STAP vendors for processed vouchers. DARS 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 TUSF paid Solix \$182,130 for FY 20.

## Self-Evaluation Report

**L. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified.

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

N/A

**O. 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

**P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

N/A

### **Audio Newspaper**

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

<b>Name of Program or Function:</b>	<b>Audio Newspaper</b>
<b>Location/Division:</b>	Fiscal and Information Services Division
<b>Contact Name and Division:</b>	Mary Beck, Director, Financial Resources
<b>Statutory Citation for Program:</b>	PURA § 56.301



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

PURA § 56.301, adopted in 2005, requires the PUCT 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? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

In August 2020, there were 5,379 registered users and 95,827 minutes of use for the month. There are currently fourteen periodicals available along with several magazines along with other non-periodical classified readings.

**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. If the response to Section III of this report is sufficient, please leave this section blank.**

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. 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, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The PUCT entered a contract in 2018 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 TUSF.

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

The PUCT is not aware of any similar programs; however, recent technological innovations that are privately available provide text-to-voice service, such as applications available on mobile devices or software that integrates with web browsers. These services may be more broadly available and are not limited to the selection of periodicals available on the audio newspaper program. However, the agency has not conducted research into whether other private call-in services are available that may not require the use of a computer or mobile device.

**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**

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2020;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

The FY 2020 expenditure for the contract with the National Federation of the Blind of Texas (NFBT) was \$465,775.

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. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None identified.

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

N/A

**O. 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

**P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.**

N/A

## **VIII. STATUTORY AUTHORITY AND RECENT LEGISLATION**

**A. Fill in the following charts, 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 2015-2020, or earlier significant Attorney General opinions, that affect your agency's operations.**

## Self-Evaluation Report

<b>Public Utility Commission</b> <b>Exhibit 14: Statutes</b>	
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.
Water Code, Title 1 (General Provisions), Title 2 (Water Administration), Title 4 (General Law Districts)	Contains laws regarding regulation of water and sewer utilities
Texas Local Government Code, Title 7 (Regulations of Land Use, Structures, Businesses and Related Activities) and Title 13 (Water and Utilities)	Contains laws pertaining to city and county regulation of subdivisions and property as well as regulation of municipal drainage utility systems
Special District Local Laws Code, Title 6	Contains laws pertaining to water special utility districts and municipal utility districts
Texas Business and Commerce Code, Chapter 304, §§ 304.051-304.062	Provides authority to administer Texas No-Call List.
Utilities Code, Title 2, Public Utility Regulatory Act	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, 42 USC, Chapter 149	Authorizes federal electric reliability standards for the continental United States.
Federal Power Act, 16 USC § 791a et seq.	Establishes federal regulation of interstate sales of power at wholesale, thereby limiting PUCT's authority over the wholesale market in some areas of Texas.

## Self-Evaluation Report

<b>Public Utility Commission</b> <b>Exhibit 14: Statutes</b>	
Statutes	
Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. § 2601 et seq.	Requires state commissions to implement federal laws relating to purchases from and sales to qualifying facilities.
Federal Telecommunications Act of 1996	47 U.S.C. 151 et seq.:  § 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
Code of Federal Regulations, 47 C.F.R. Part 54, Subpart E	Requires telephone Lifeline program.
Internal Revenue Code, 26 USC § 45.	Provides for tax credit for energy produced from renewable resources, which supports state goal of increasing output from renewable resources.

## Self-Evaluation Report

Table 14 Exhibit 14 Statutes

### Attorney General Opinions

Attorney General Opinion No.	Impact on Agency
Opinion No. KP-0363	PUCT has complete authority to issue emergency orders requiring ERCOT to correct prices for wholesale electricity and ancillary services during a specific timeframe
Opinion No. OR2021-13431	Outlines categories of ERCOT information that be disclosed by the PUCT under the Public Information Act.

- B. Provide a summary of significant legislation regarding your agency by filling in the charts below or attaching information already available in an agency-developed format. Briefly summarize the key provisions. For bills that did not pass but were significant, 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). Place an asterisk next to bills that could have a major impact on the agency.**

### Public Utility Commission

#### Exhibit 15: 87th Legislative Session

#### Legislation Enacted

Bill No.	Industry	PUCT-Related Bills Passed by the 87 <sup>th</sup> Legislature	
		Description	
HB 16	Electric	<ul style="list-style-type: none"> <li>Prohibits wholesale indexed retail electric plans for residential and small commercial customers</li> <li>Adds requirements for the end of retail contracts</li> </ul>	
HB 1510	Electric	<ul style="list-style-type: none"> <li>Securitization of storm recovery costs for non-ERCOT TDUs</li> </ul>	
HB 1572	Electric	<ul style="list-style-type: none"> <li>Exempts mobile generators (e.g., at a construction site or oil well) from definitions of REP and utility</li> </ul>	
HB 2483	Electric	<ul style="list-style-type: none"> <li>Permits TDUs to lease or own and operate temporary or long-lead time facilities to restore service and provide energy to distribution customers after a natural disaster</li> </ul>	
HB 2586	Electric	<ul style="list-style-type: none"> <li>Requires PUCT to have an independent audit made of ERCOT each year, to be published on PUCT website and submitted to the Legislature</li> </ul>	
HB 3648	Electric	<ul style="list-style-type: none"> <li>Requires PUCT and RRC to designate certain gas entities and facilities as critical during an energy emergency</li> </ul>	
HB 4492	Electric	<ul style="list-style-type: none"> <li>Directs an investment from the Economic Stabilization Fund to cover ERCOT short pay amounts and repay that investment with interest.</li> <li>Provides a mechanism for financing reliability deployment price adder charges and high ancillary services charges.</li> </ul>	
SB 1580		<ul style="list-style-type: none"> <li>Allows electric cooperatives to securitize their share of charges related to weather related extraordinary costs and expenses.</li> </ul>	

## Self-Evaluation Report

PUCT-Related Bills Passed by the 87 <sup>th</sup> Legislature		
Bill No.	Industry	Description
SB 2	Electric	<ul style="list-style-type: none"> <li>Requires Governor and legislative officials to appoint a selection committee to identify board candidates</li> <li>Changes ERCOT Board from segment membership to 8 unaffiliated members selected by the selection committee</li> <li>Requires PUCT approval of ERCOT rules and enforcement measures</li> </ul>
SB 3: Section 3	Electric	<ul style="list-style-type: none"> <li>Creates Texas Energy Reliability Council</li> <li>Requires PUCT to conduct rulemaking on weather preparation measures for providers of electric generation in ERCOT</li> </ul>
SB 3: Section 1	Electric	<ul style="list-style-type: none"> <li>Power Outage Alert system administered by TDEM with guidance from PUCT</li> </ul>
SB 3: Sections 4, 16	Electric	<ul style="list-style-type: none"> <li>Critical Natural Gas Facilities</li> </ul>
SB 3: Section 7	Electric	<ul style="list-style-type: none"> <li>Increases PUCT penalty authority to \$1 million a day for failing to weatherize</li> </ul>
SB 3: Section 8	Electric	<ul style="list-style-type: none"> <li>Defines “critical care residential customer” and “critical load industrial customer”</li> </ul>
SB 3: Section 13	Electric	<ul style="list-style-type: none"> <li>Weatherization of generators in ERCOT</li> </ul>
SB 3: Section 14	Electric	<ul style="list-style-type: none"> <li>Review of ERCOT Ancillary services</li> </ul>
SB 3: Section 16	Electric	<ul style="list-style-type: none"> <li>Weatherization of TDSPs and load shedding procedures</li> </ul>
SB 3: Section 17	Electric	<ul style="list-style-type: none"> <li>Texas Electricity Supply Chain Security and Mapping Committee</li> </ul>
SB 3: Section 18	Electric	<ul style="list-style-type: none"> <li>Ensure sufficient dispatchable generation</li> <li>Review of wholesale pricing procedures</li> </ul>
SB 3: Section 19	Electric	<ul style="list-style-type: none"> <li>Non-residential DG has to register with ERCOT and the TDSP</li> </ul>
SB 3: Section 24	Electric	<ul style="list-style-type: none"> <li>Annual Extreme Weather and Emergency Preparedness Report</li> </ul>
SB 3: Section 34	Electric	<ul style="list-style-type: none"> <li>Annual review of conflict of interest provisions for PUCT Commissioners and ERCOT Board Members</li> </ul>
SB 398	Electric	<ul style="list-style-type: none"> <li>Use of DG for grocery stores inside municipally owned utilities and electric cooperatives in ERCOT</li> </ul>
SB 415	Electric	<ul style="list-style-type: none"> <li>Clarifies ownership or operation of energy storage by a Transmission and Distribution Utility allowing for contractual arrangements between a power generating company and a TDU.</li> </ul>
SB 1202	Electric	<ul style="list-style-type: none"> <li>Makes clear that EV charging stations can provide charging services to their customers without incurring the regulatory jurisdiction imposed on electric utilities and retail electric providers</li> </ul>
SB 1281	Electric	<ul style="list-style-type: none"> <li>Requires a cost-benefit analysis of consumer benefits as a consideration for granting a CCN for a transmission line in ERCOT proposed for economic reasons</li> <li>Requires biennial grid reliability assessment from ERCOT.</li> </ul>

## Self-Evaluation Report

PUCT-Related Bills Passed by the 87 <sup>th</sup> Legislature		
Bill No.	Industry	Description
SB 1876	Electric	<ul style="list-style-type: none"> <li>Adds “end stage renal disease facility” to the list of health facilities prioritized in system restoration.</li> </ul>
HB 2667	Telecom	<ul style="list-style-type: none"> <li>Adds VOIP to TUSF revenues, reserves TUSF support to small providers</li> </ul>
HB 3853	Telecom	<ul style="list-style-type: none"> <li>Allows electric utilities to own or operate facilities providing middle-mile broadband services and removes references to broadband over power lines in PURA. Allows rate recovery for middle-mile infrastructure.</li> </ul>
HB 837	Water	Regarding expedited release from water CCNs, if the PUCT requires an award of compensation, the petitioner must file a report with the PUCT that the compensation has been paid to the decertified retail public utility.
HB 1484	Water	Water Utility Filed rate doctrine
HB 3717	Water	Fair Market Value of a city’s water system that is financially or technically unable to restore the system to compliance with applicable laws or regulations
HB 3476	Water	Water CCNs inside ETJs
HB 3689	Water	Water Rate appeals
SB 3 Sections 26-32	Water	Water utilities, no late fees and disconnections for nonpayment during and extreme weather event
SB 387	Water	Water Rate appeals of certain municipal customers - allows for appeals when a municipality takes over an area and there is a rate change to the customers being taken over by the municipality
SB 997	Water	Raw water and contractual wholesale appeals
SB 713	Admin	<ul style="list-style-type: none"> <li>Moves the PUCT Sunset review from 2025 to 2023</li> </ul>
SB 2154	Admin	<ul style="list-style-type: none"> <li>Increases the number of PUCT Commissioners from three to five commissioners</li> </ul>



## Self-Evaluation Report

### Legislation Not Passed<sup>37</sup>

Bill No.	Industry	Summary of Key Provisions / Reason Bill Did Not Pass
HB 2667	Telecom	Added to Voice-over-Internet-Providers (VoIP) to the list of entities required to pay the surcharge to help fund USF. This bill was passed by the Legislature but was vetoed by Governor Abbott.
HB 11	Electric	This bill would have required each provider of generation in the ERCOT power region to implement measures to ensure adequate electric generation during extreme weather emergencies and make all reasonable efforts to prevent service interruptions during these extreme weather events. Similar weatherization requirements were instead passed under SB 3.
HB 10	Electric	These bills provided various alternative proposals for changing the makeup of ERCOT's Board. Ultimately, however, the Board changes set forth in SB 2 were adopted.
HB 2467	Electric	
HB 2529	Electric	
HB 2544	Electric	
HB 3468	Electric	
SB 1624	Electric	
HB 3062	Electric	
HB 13	Electric	This bill would have created the Texas Energy Disaster Reliability Council to prevent extended natural gas supply failures and/or power outages during disasters; coordinate the delivery of natural gas in a disaster; and study and report to the Legislature on the reliability of the Texas electric supply chain. The council would have included the ERCOT President and CEO as one of its members. The bill passed the House but was left pending in the Senate Committee on Jurisprudence after a hearing.
HB 14	Electric	This bill would have created the Texas Electricity Supply Chain Mapping Committee tasked with mapping Texas's electricity supply chain and natural gas delivery system; identifying critical infrastructure sources in those systems; and establishing practices to prepare electric and natural gas providers for extreme weather events. The committee would have included the ERCOT President and CEO as one of its members, and would have further required ERCOT to provide staffing as necessary to carry out the committee's duties. The bill passed the House but was left pending in the Senate Committee on Jurisprudence after a hearing.
HB 1607	Electric	This bill would have modified the criteria used by the ERCOT and PUCT in the transmission planning and approval process. The bill passed the House but was never referred to committee in the Senate.

<sup>37</sup> The list and description of electric industry bills in this table was compiled by ERCOT staff.

## Self-Evaluation Report

Bill No.	Industry	Summary of Key Provisions / Reason Bill Did Not Pass
HB 1731	Electric	This bill would have required ERCOT to consider electromagnetic field levels when determining the public need for a transmission line. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.
HB 1951	Electric	This bill would have required ERCOT to adopt protocols and procedures to eliminate, or compensate for, any distortion in electricity pricing caused by a federal tax credit under 26 U.S.C. 45. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.
HB 1965	Electric	This bill would have required ERCOT to contract with power generation companies for a defined amount of emergency reserve power generation capacity to prevent load shedding. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.
HB 2470	Electric	Similar to the above, this bill would have required ERCOT to adopt procedures and enter into contracts as necessary to ensure the availability of a defined amount of emergency reserve power generation capacity to prevent load shedding. The bill was also referred to the House Committee on State Affairs, but never received a committee hearing.
HB 2050	Electric	This bill would have changed the threshold for each level of ERCOT Energy Emergency Alert. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.
HB 2562	Electric	This bill would have decertified ERCOT as the Independent System Operator, and certified the Texas Railroad Commission as the ISO for the ERCOT region. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.
HB 2686	Electric	This bill would have required ERCOT to interconnect with transmission facilities outside the state for the express purpose of allowing federal regulation of transmission services and sale of wholesale power in the ERCOT region. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.
HB 2687	Electric	This bill sets forth alternative weatherization requirements than those contained in SB 3, and would have required ERCOT to contract with various qualified loads, electric storage companies, and power generation companies for a defined amount of emergency response capacity to avoid load shedding. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.

## Self-Evaluation Report

Bill No.	Industry	Summary of Key Provisions / Reason Bill Did Not Pass
HB 2785	Electric	This bill would have made ERCOT a “governmental body” subject to the Texas Public Information Act. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.
HB 2816	Electric	This bill would have required ERCOT to determine the amount of reserve capacity needed to maintain a 1 in 10 reliability standard in the ERCOT region. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.
HB 2820	Electric	This bill would have required ERCOT to submit a biennial analysis of potential demand response opportunity and penetration in the ERCOT region. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.
HB 2991	Electric	This bill would have required electric providers to exclude certain circuits from ERCOT-ordered load shedding, and prevented these providers from shedding load in an area for more than 12 hours in a 24-hour period. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.
HB 3166	Electric	This bill would have limited the wholesale market cap during a state of disaster to an amount not to exceed 200 percent of the average daily peak price of wholesale energy sold in the previous 90 days. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.
HB 3177	Electric	This bill would have authorized TDSPs, MOUs and electric co-ops to construct any facilities necessary to access transmission services and purchase wholesale power outside of the ERCOT region. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.
HB 3179	Electric	This bill would have prohibited ERCOT from purchasing an amount of electricity from a generation facility that exceeds the facility’s base generation capacity. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.
HB 3184	Electric	This bill would have required ERCOT to use adaptive model data analytics software in generation forecasting in order to maintain ISO certification. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.
HB 3371	Electric	This bill would have required ERCOT to annually develop a comprehensive emergency operations and weatherization plan satisfying certain enumerated criteria. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.

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Bill No.	Industry	Summary of Key Provisions / Reason Bill Did Not Pass
HB 3470	Electric	As it directly impacts ERCOT, this bill would have changed the process by which ERCOT drafts and approves new protocols and would have required that ERCOT establish a new advisory committee to oversee this process. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.
HB 3700	Electric	This bill would have required every TDSP, MOU, and electric co-op to submit an annual report identifying the entity's peak load for the summer and winter seasons and required ERCOT to use this information to make annual determinations of load shed percentages. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.
HB 4236	Electric	This bill would have mandated a target reserve margin of not less than 15 percent. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.
HB 4323	Electric	This bill would have required the PUCT to develop a plan to re-regulate the electric market in Texas. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.
HB 4466	Electric	This bill would have required ERCOT to assign ancillary service costs arising from reliability issues of intermittent resources directly to those intermittent resources. The bill received a hearing in the House Committee on State Affairs, but was not voted out of committee.
HB 4502	Electric	This bill would have required ERCOT to assign any capital costs incurred to interconnect with transmission system generation resources and electric energy storage resources directly to the generation resource or electric energy storage resource receiving interconnection service. The bill received a hearing in the House Committee on State Affairs, but was not voted out of committee.
HB 4512	Electric	This bill would have prohibited the PUCT from raising wholesale energy prices during a state of disaster in response to an extreme weather event. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.
HB 4542	Electric	This bill would have allowed MOUs to make requests, obtain approvals, enter into contracts, or construct facilities as necessary to access transmission and purchase wholesale power outside the ERCOT region. The bill was referred to the House Committee on State Affairs, but never received a committee hearing.

## Self-Evaluation Report

Bill No.	Industry	Summary of Key Provisions / Reason Bill Did Not Pass
SB 2142	Electric	This bill would have required the PUCT to order ERCOT to correct the prices of wholesale power and ancillary services sold in the ERCOT market during the February 2021 extreme winter weather event. The bill passed the Senate and was referred to the House Committee on State Affairs; it did not receive a hearing in State Affairs.
SB 2238	Electric	This bill would have changed the wholesale market cap from \$9,000 per MWh to \$3,000 per MWh. The bill was referred to the Senate Committee on Jurisprudence, but never received a committee hearing.
SB 28 (87(1))	Electric	This bill would have formed the Texas Grid Security Commission, upon which an ERCOT member would have served, to determine threats to and vulnerabilities of the electric grid. ERCOT would have been required to store and maintain all confidential information for the Commission. The bill was filed, but no further action was taken.
HB 161 (87(1))	Electric	This bill would have required the PUCT to identify transmission facilities in the ERCOT region that may be interconnected with transmission facilities outside the ERCOT region for the purposes of allowing federal regulation of transmission service and wholesale power sales in ERCOT. The bill was filed, but no further action was taken.
HB 277 (87(1))	Electric	This bill would have authorized transmission and distribution utilities, municipally owned utilities, and electric cooperatives to construct and operate facilities as necessary to access transmission. The bill was filed, but no further action was taken.
HB 63 (87(1))	Electric	This bill would have required ERCOT to submit a report to the PUCT if and when it ever determines that power supply is, or may be, inadequate to meet demand. The bill was filed, but no further action was taken.
HB 142 (87(1))	Electric	This bill would have further modified the ERCOT Board selection process and required that the ERCOT Board Selection Committee ensure that ERCOT's Board include members representing the various geographic regions of the State. The bill was filed, but no further action was taken.

## IX. MAJOR ISSUES

The purpose of this section is to briefly describe any potential issues raised by your agency, the Legislature, or stakeholders that Sunset could help address through changes in statute to improve your agency's operations and service delivery. Inclusion of an issue does not indicate support, or opposition, for the issue by the agency's board or staff. Instead, this section is intended to give the Sunset Commission a basic understanding of the issues so staff can collect more information during our detailed research on your agency. Some questions to ask in preparing this section may include: (1) How can your agency do a better job in meeting the needs of customers or in achieving agency goals? (2) What barriers exist that limit your agency's ability to get the job done?

Emphasis should be given to issues appropriate for resolution through changes in state law. Issues related to funding or actions by other governmental entities (federal, local, quasi-governmental, etc.) may be included, but the Sunset Commission has no authority in the appropriations process or with other units of government. If these types of issues are included, the focus should be on solutions that can be enacted in state law.

For river authorities, Texas Government Code, Section 325.025 limits the scope of Sunset reviews to each authority's governance, management, operating structure, and compliance with legislative requirements. However, river authorities may provide information about major issues facing the authority even if they are outside this limited scope. Previously, this type of information has provided valuable context for understanding the authority's current situation and operations.

This section contains the following three components.

A. Brief Description of Issue

B. Discussion

**Background.** Include enough information to give context for the issue. Information helpful in building context includes:

- What specific problems or concerns are involved in this issue?
- Who does this issue affect?
- What is the agency's role related to the issue?
- Any previous legislative action related to the issue?

### **C. Possible Solutions and Impact**

**Provide potential recommendations to solve the problem. Feel free to add a more detailed discussion of each proposed solution, including:**

- **How will the proposed solution fix the problem or issue?**
- **How will the proposed change impact any entities or interest groups?**
- **How will your agency's performance be impacted by the proposed change?**
- **What are the benefits of the recommended change?**
- **What are the possible drawbacks of the recommended change?**
- **What is the fiscal impact of the proposed change?**

**Complete this section for each issue. Copy and paste components A through C as many times as needed to discuss each issue. See *Major Issue Example*.**

#### **Administrative**

Under PURA§ 39.151(g-1), as amended by SB 2 adopted by the 87<sup>th</sup> Legislature, only the chairman of the PUCT is an ex officio member of the ERCOT Board. The remaining four commissioners are not members of the ERCOT Board. The Commission recommends that § 39.151(g-1) be amended to include all commissioners of the PUC as ex officio members of the ERCOT board. This change is intended to allow all commissioners to have an active role in fulfilling the PUC's statutory responsibilities over ERCOT. The PUC also wants to ensure that all commissioners be allowed to attend closed sessions of the ERCOT board.

#### **TUSF**

The financial challenges of the Texas Universal Service (TUSF) Program were discussed in Section VII of this Report. TUSF issues were also addressed in the PUCT's 2021 Biennial Agency Report to the 87<sup>th</sup> Legislature. The concerns raised by the Commission in these reports regarding the financial health of the TUSF remain. Unless action is taken to address these issues, the financial health of the TUSF will continue to decline.

Another TSUF issue is PURA § 56.025, which requires the PUCT to use TUSF funds to make companies whole for reductions in federal USF support. PURA § 56.025 provides in part:

"(c) [t]he commission shall implement a mechanism to replace the reasonably projected change in revenue caused by a Federal Communications Commission order, rule or policy that changes:

- (1) The federal universal service fund revenue of a local exchange company; or
- (2) Costs or revenue assigned to the intrastate jurisdiction."

## Self-Evaluation Report

PURA § 56.025(c) exacerbates the precarious financial condition of the TUSF. The TUSF does not have sufficient revenue to fund fully all the current state TUSF programs. The PUCT therefore recommends that §56.025(c) be repealed.

### Water Issues

**Notice for Hearings.** TWC §13.1871(n) requires that a utility mail notice of a hearing to each ratepayer before the hearing. Many customers often now prefer notice by email or text. The PUCT recommends amending the law to allow for electronic communication if it is the customer's preference and the utility has the capability to do so.

**STM process.** The regulated community often comments that the STM process in TWC §13.301 is lengthy and often impedes investment in repairing or upgrading a nonfunctioning water or sewer utility. Nonfunctioning utilities are those that are in temporary management, receivership, supervision, or that have been referred to for the appointment of a temporary manager, supervisor, or receiver. The PUCT recommends a streamlined STM process in only those instances where the selling utility is a nonfunctioning utility. Specifically, if the temporary manager appointed to manage a water or sewer utility applies to acquire the nonfunctioning utility, a streamlined STM process for the acquisition of the nonfunctioning utility would expedite getting the system into better financial, managerial, and technical capability. Once a change in ownership of a nonfunctioning system has occurred, the new owner could begin investing in the utility to bring it into compliance.

**Temporary Managers and Receivers.** The shared responsibilities and authorities of the receivership and temporary manager programs of the TCEQ and PUCT make for a cumbersome process when seeking the appointment of a temporary manager or receiver. Coordination between both agencies to address problems with nonfunctioning utilities is essential. TCEQ must address health and safety problems with public water systems and sewer systems. Concurrently, it is essential for PUCT to address problems service area matters, managerial matters and financial issues with water and sewer utilities. SB 700 of the 85<sup>th</sup> Legislature transferred economic regulation of water and sewer utility matters to the PUCT, except for the receivership and temporary management programs. Although a utility may have multiple public water or sewer systems, only the utility can be placed into receivership or temporary management under TWC Chapter 13. Specifically, only investor-owned utilities can be placed into temporary management or receivership under TWC Chapter 13. Regardless of whether TCEQ or PUCT is the lead agency on a temporary manager or receivership appointment, the matter will eventually be before the PUCT for a sale/transfer/merger or rate related matter. Therefore, the PUCT recommends that the PUCT alone be given the authority over temporary managers and receiverships. If the PUCT were to gain sole responsibility of the temporary manager and receivership program, the PUCT would need to transfer four full-time employees along with budget money to cover the added responsibilities. As an alternative, the PUCT recommends amending the statute to give clarity regarding the length of the term for the appointment of a temporary manager so that both the TCEQ and PUCT will have the



same interpretation. This issue was discussed above in the Water Regulation section of Section VII of this report. In short, the PUC interprets the Water Code to allow more than one 180 day term for the appointment of a temporary manager. TCEQ believes a temporary manager may only be appointed for one term of 180 days.

**Regulatory Assessment Fee for Water Programs.** TWC § 5.701(n) requires each provider of potable water or sewer utility service to collect a regulatory assessment fee (RAF) from each retail customer. Investor-owned utilities (IOUs) are required to remit one percent of the charge for retail water or sewer service. Water Supply Corporations (WSCs) and districts are required to remit one-half of one percent of the charge for retail water or sewer service. TWC §5.701(n)(3) specifies that the RAF collected under this subsection may be appropriated by a rider to the General Appropriations Act to an agency with duties related to water and sewer utility regulation to pay for costs and expenses incurred by the agency in the regulation of districts, water supply or sewer service corporations and public utilities under TWC Chapter 13. Currently, the RAF collected from IOUs and WSCs are remitted appropriated by a rider to the General Appropriations Act to the PUCT. The RAF collected from districts remains with the TCEQ as does the administration of the fee.

The PUCT believes that it should be appropriated more funds from the RAF to help Districts. The RAF collected by TCEQ from Districts is not currently shared with PUCT. It solely remains with the TCEQ. The PUCT processes district rate appeals, wholesale rate appeals, and service area applications. In addition, the PUCT provides onsite technical assistance to districts as part of its contract with Superior Water Management of Texas, LLC. The PUCT also assists Districts with regulatory compliance regarding the provision of retail water and sewer utility service. While the TCEQ has statutory authority to create and supervise districts as well as administration of the districts bond review program, TWC §5.701(e) gives the TCEQ the authority to charge a one-time nonrefundable application fee for district creation applications. In addition, TWC § 5.701(f) requires a person who files a district bond issue application to pay an application fee. If the bonds are approved by the TCEQ, the seller of the bonds pays a percentage of the bond proceeds to the TCEQ. Because the TCEQ has an alternate source of funds for its districts program, the PUCT strongly believes the Districts portion of the RAF should be transferred or shared with the PUCT.

Based on its experience with the water and sewer program, the PUCT recommends that the following additional changes be made to the Water Code:

### **1. Allow Consolidation of Multiple Systems Under One Tariff**

Eliminate the substantial similarity determination allow a utility to charge one rate to customers across all its water systems or sewer systems. This would eliminate confusion customers have when determining which part of a tariff applies to them. It would also treat water more like electric rate setting and encourage regionalization and consolidation. In addition, it would eliminate staff processing time required to produce multiple rates for one utility with several systems and would, in turn, eliminate testimony and rate case expenses born by a Class A utility or additional information

and potential testimony required by a Class B, C or D utility seeking a consolidated tariff. (Repeal TWC §13.145)

## **2. Staff Assisted Temporary Rate Case for A Nonfunctioning Utility**

Authorize PUCT staff to work with a temporary manager or receiver to determine an adequate temporary rate to maintain and operate the utility. PUCT Staff would then file the temporary rate request on behalf of the temporary manager or receiver. This should accelerate the influx of cash to utilities in situations where the temporary manager or receiver does not have experience with setting rates. (Amend TWC §13.046)

## **3. Simplified Sale, Transfer or Merger Process for Non-functioning Utilities**

Establish a streamlined sale, transfer, or merger process for non-functioning utilities. Under this process, a temporary manager or receiver can demonstrate financial, managerial, and technical capability to acquire the nonfunctioning utility through its monthly reports and duties. This would allow for faster acquisitions of nonfunctioning utilities and for the purchaser to immediately begin making capital improvements. (Modify TWC §13.301)

## **4. Staff Assisted Rate Case for Class C and Class D Utilities**

Authorize designated PUCT staff to assist a Class C or D utility with preparing and filing a rate filing package. Notice of the increase would be required and customers can still request to intervene. This process would require PUCT staff to work independently and directly with the utility attempting to increase its rates and to provide testimony when needed.

## **5. Modifying STM Process for Void Sales**

Clarify that any sale of water or sewer utility that does not get approval from the PUCT “may” be void. The purpose of saying “may” is that it would give the PUCT discretion when a utility has closed a sale on paper without completing the STM process in advance. If the parties have documentation that the transaction did indeed occur and the “new” owner has been operating the utility for some time, then that can be used as evidence that the transaction did indeed occur. (Amend TWC §13.301)

## **6. Clean up issues for Water and Sewer Regulation**

- Incorrect reference in the Health and Safety Code: Clean up incorrect reference in Health & Safety Code §341.0359(g) to correctly reference that the PUCT and not the TCEQ may amend a tariff and rate schedule as needed to permit an IOU to comply with a municipal ordinance that requires the IOU to maintain a minimum sufficient water flow and pressure to fire hydrants in a residential area located in a municipality.

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- Pass Through Adjustments for Credit Card Payment Charges: Amend Business and Commerce Code, Title 12 §604A.002(b) to allow utilities to recover costs incurred to enable alternative payment methods (such as credit cards to pay the water and sewer bills).
- Allow for allocation of administrative penalties into a fund for use by TMs to support distressed utilities: Amend TWC §13.4151 and Health & Safety Code §341.0359(g) to allow administrative penalties to be directed to the Water Utility Improvement Account consistent with TWC §13.418 instead of sending it to state general revenue fund.
- Drainage Fees: Repeal "drainage" fee in TWC §13.043(b). This would eliminate the PUCT's appellate jurisdiction over drainage fees. There is no definition in the Water Code, PUCT's rules, TCEQ's rules or TWDB's rules for drainage fees and its applicability.

## X. OTHER CONTACTS

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

Public Utility Commission  
Exhibit 16: Contacts

<b>INTEREST GROUPS</b> (groups affected by agency actions or that represent others served by or affected by agency actions)			
<b>Group or Association Name/ Contact Person</b>	<b>Address</b>	<b>Telephone</b>	<b>E-mail Address</b>
The Electric Reliability Council of Texas (ERCOT)/Kristi Hobbs	7620 Metro Center Drive Austin, Texas 78744	(512) 248-6730	<a href="mailto:khobbs@ercot.com">khobbs@ercot.com</a>
Association of Electric Companies of Texas/JP Urban	1005 Congress, Suite 1000, Austin, TX 78701	512-474-6725	<a href="mailto:jurban@aect.net">jurban@aect.net</a>
Alliance for Retail Markets (ARM)Carrie Collier-Brown	600 Congress Ave., Ste. 2200	512-305-4732	<a href="mailto:Carrie.CollierBrown@lockelord.com">Carrie.CollierBrown@lockelord.com</a>

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### INTEREST GROUPS

(groups affected by agency actions or that represent others served by or affected by agency actions)

Gulf Coast Power Association (GCPA)/Kim Casey	2800 W. Whitestone Blvd. Ste 120 PMB 222, Cedar Park, TX 78613	281-306-1008	gcpa@gulfcoastpower.org
Public Citizen / Adrian Shelley	309 E 11 <sup>th</sup> Street, Ste 2, Austin, TX 78701	512-477-1155	ashelley@citizen.org
Texas Energy Association for Marketers (TEAM)/Catherine Webking	303 Colorado Street, Suite 2400 Austin, TX 78701	512-495-6300	<a href="mailto:cwebking@scottdoug.com">cwebking@scottdoug.com</a>
Texas Competitive Power Advocates/Michele Richmond		512-653-7447	Michele@competitivepower.org
Texas Electric Cooperatives, Inc. (TEC)/Julia Harvey	1122 Colorado, 24 <sup>th</sup> Floor, Austin, TX 78701	512-454-0311	jharvey@texas-ec.org
Texas Industrial Energy Consumers (TIEC)/Katie Coleman	500 W 2nd Street, Suite 1900 Austin, TX 78701	737-261-8600	kcoleman@omm.com
Texas Public Power Association (TPPA)/Bob Kahn	PO Box 82768 Austin, TX 78708	(512) 472-5965	bkahn@tppa.com
Texas Renewables Energy Industries Association/Russel Smith	P.O. Box 16469, Austin, TX 78761	512-345-5446	<a href="mailto:rsmith@treia.org">rsmith@treia.org</a>
Texas Solar Power Association (TSPA)/Charlie Hemmeline	PO Box 1485 Austin, TX 78767	(512) 593-2015	charlie@txsolarpower.org

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### INTEREST GROUPS

(groups affected by agency actions or that represent others served by or affected by agency actions)

Advanced Power Alliance (APA)/Jeff Clark	P.O. Box 28112 Austin, TX 78755	512-651-0291	Jeff@poweralliance.org
Texas Advanced Energy Business Association (TAEBA)/Suzanne Bertin	P.O. Box 301151 Austin, TX 78703	(512) 739-4678	suzanne.bertin@texasadvancedenergy.org
Texas Telephone Association (TTA)/Mark Seale	208 West 14th Street Austin, Texas 78701	(512) 472-1183	
Texas Statewide Telephone Cooperative, Inc. (TSTCI)/ Weldon R. Gray	3112 Windsor Road, Suite A #338 Austin, TX 78703	(512) 343-2587	weldon@tstci.org
Texas Rural Water Association (TRWA)/Lara Zent	1616 Rio Grande Austin, TX 78701	(512) 472-8591	Lara.Zent@trwa.org
Texas Water Conservation Association (TWCA) Stacey Steinbach	3755 S. Capital of TX Hwy, Ste. 105 Austin, TX 78704	(512) 472-7216	ssteinbach@twca.org
National Association of Water Companies-Texas (NAWC-Texas)/Jim Grace	6608 Wesleyan St., Houston, TX 77005	(713) 306-5419	jim@gracewan.com
Communities Unlimited, Inc./Harold Hunter	P.O. Box 1341 Richmond, TX 77406-1341	(903) 261-9161	Harold.Hunter@communitiesu.org
Association of Water Board Directors (AWBD)/Trey Lary	1700 Katy Freeway, Suite 450 Houston, TX 77079	(512) 518-2422	tlary@abhr.com

## Self-Evaluation Report

### INTEREST GROUPS

(groups affected by agency actions or that represent others served by or affected by agency actions)

American Water Works Association (AWWA - Texas) /Elston Johnson		(512) 809-7552	elston@ejohnsonconsulting.com
Independent Water and Sewer Companies of Texas (IWSCOT)/Geoffrey Kirschbaum	810 West 10 <sup>th</sup> St Austin, TX 78701	(512) 474-9100	gkirschbaum@terrillwaldrop.com

### INTERAGENCY, STATE, OR NATIONAL ASSOCIATIONS

(that serve as an information clearinghouse or regularly interact with your agency)

OAG Attorney John Hulme	300 W 15 <sup>th</sup> Street Austin, TX 78701	512-475-4229	John.hulme@oag.texas.gov
OAG Attorney Kellie Billings-Ray	300 W 15 <sup>th</sup> Street Austin, TX 78701	512-475-4014	Kellie.billings-ray@oag.texas.gov
SOAH Judge Elizabeth Drews	300 W 15 <sup>th</sup> Street Austin, TX 78701	512 936 0725	Elizabeth.drews@soah.texas.gov
Federal Energy Regulatory Commission (FERC)/Sarah Venuto, Director of External Affairs	888 First Street, NE Washington, D.C. 20426	(202) 502-8004	customer@ferc.gov
North American Electric Reliability Corporation (NERC)/James B. Robb, President and CEO	1325 G Street, NW Suite 600, Washington, DC 20005	202-400-3000	<a href="http://www.nerc.com">www.nerc.com</a>
National Association of Regulatory Utility Commissioners (NARUC)/Greg R. White, Executive Director	1101 Vermont Avenue, NW Suite 200 Washington, DC 20005	(202) 898.2200	gwhite@naruc.org

## XI. ADDITIONAL INFORMATION

- A. Texas Government Code, Section 325.0075 requires agencies under review to submit a report about their reporting requirements to Sunset with the same due date as the SER. Include a list of each agency-specific report that the agency is required by statute to prepare and an evaluation of the need for each report based on whether factors or conditions have changed since the statutory requirement was put in place. Please do not include general reporting requirements applicable to all agencies, reports that have an expiration date, routine notifications or notices, posting requirements, federally mandated reports, or reports required by G.A.A. rider. If the list is longer than one page, please include it as an attachment.**

This list is longer than one page and is included as Exhibit 17.

- B. Does the agency's statute use "person-first respectful language" as required by Texas Government Code, Section 325.0123? Please explain and include any statutory provisions that prohibit these changes.**

The PUCT is not a "health and human services agency," so this statute does not apply to the PUCT. However, a search of the Public Utility Regulatory Act, Title II, Texas Utilities Code, finds no instances of the phrase "mental retardation," which is targeted by Texas Government Code, Section 325.0123.

- C. Please describe how your agency receives and investigates complaints about the agency and its operations.**

The PUCT 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 PUCT does not keep records of the complaints other than to maintain any correspondence received in accordance with our records management policy.

- D. Fill in the following charts detailing your agency's Historically Underutilized Business (HUB) purchases. Sunset is required by law to review and report this information to the Legislature.**

Public Utility Commission  
Exhibit 19: Purchases from HUBs

Fiscal Year 2018

### Self-Evaluation Report

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal*	Statewide Goal
Heavy Construction					11.2%
Building Construction					21.1%
Special Trade					32.9%
Professional Services					23.7%
Other Services	\$795,441	\$55,394	6.96%	26%	26.0%
Commodities	\$457,216	\$217,871	47.65%	21.1%	21.1%
<b>TOTAL</b>	\$1,260,158	\$273,265	21.69%		

#### Fiscal Year 2019

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal*	Statewide Goal
Heavy Construction	(number)	(number)	(number)	(number)	11.2%
Building Construction	(number)	(number)	(number)	(number)	21.1%
Special Trade	(number)	(number)	(number)	(number)	32.9%
Professional Services	\$315	(number)	(number)	(number)	23.7%
Other Services	\$470,929	\$62,554	13.28%	26%	26.0%
Commodities	\$542,569	\$204,012	37.60%	21.1	21.1%
<b>TOTAL</b>	\$1,013,813	\$266,567	26.29%		

#### Fiscal Year 2020

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal*	Statewide Goal
Heavy Construction	(number)	(number)	(number)	(number)	11.2%
Building Construction	(number)	(number)	(number)	(number)	21.1%
Special Trade	(number)	(number)	(number)	(number)	32.9%
Professional Services	(number)	(number)	(number)	(number)	23.7%
Other Services	\$557,013	\$75,702	13.59%	26%	26.0%
Commodities	\$573,936	\$98,896	17.23%	21.1%	21.1%
<b>TOTAL</b>	\$1,130,950	\$174,599	15.44%		

**E. Does your agency have a HUB policy? How does your agency address performance shortfalls related to the policy? (Texas Government Code, Section 2161.003; TAC Title 34, Part 1, Rule 20.286c)**

The PUCT has an extensive process to maximize HUB utilization for contracted services. The PUCT's purchaser reviews each individual requisition to determine



## Self-Evaluation Report

whether a HUB opportunity exists. If a HUB opportunity does exist and the procurement method through a HUB vendor will result in the best value for the agency and the State, Purchasing will plan to process the purchase through such means. The PUCT HUB Coordinator actively participates in Good Faith Efforts by attending HUB events, networking with other agencies and HUB business owners to share strategies on promoting and to increase the usage of HUBs. PUCT hosts internal forums to allow HUB vendors to market their services and products to the agency, allowing them to gain insight on the agency's needs, get positive criticism on promoting their business and to establish a connection with the agency. The Commission also encourages HUBs to register as vendors with the Texas Comptroller of Public Accounts (CPA). The PUCT's website provides links to the CPA website to make it easier for HUBs to register and become certified. The PUCT's website also provides information on the agency's HUB program and other purchasing related information.

**F. 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, Section 2161.252; TAC Title 34, Part 1, Rule 20.285)**

Yes, the PUCT promotes the usage of HUBS when soliciting for contracts at \$100,000 or more with required HSPs per RFP requirements.

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

**1. Do you have a HUB coordinator? If yes, provide name and contact information. (Texas Government Code, Section 2161.062; TAC Title 34, Part 1, Rule 20.296)**

Pablo Almaraz, HUB Coordinator, Purchaser VI CTCM, 512.936.7069, [pablo.almaraz@puc.texas.gov](mailto:pablo.almaraz@puc.texas.gov)

**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, Section 2161.066; TAC Title 34, Part 1, Rule 20.297)**

The PUCT'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 PUCT's HUB business forums; 2) collaborating with other agencies on HUB business forums; 3) informing HUBs about potential contract opportunities; 4) and preparing the annual report. The PUCT sponsors forums in the agency's offices but may also sponsor forums in concert with other agencies in other

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agreed locations. When possible, the agency may attend regional and statewide HUB forums.

**3. Has your agency developed a mentor-protégé 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, Section 2161.065; TAC Title 34, Part 1, Rule 20.298)**

Yes. The PUCT has a mentor-protégé program. The PUCT HUB Coordinator is responsible for the administration, outreach, education, program evaluation, compliance, and reporting of the program.

**H. Fill in the charts below detailing your agency's Equal Employment Opportunity (EEO) statistics. Sunset is required by law to review and report this information to the Legislature. Please use only the categories provided below. For example, some agencies use the classification "paraprofessionals," which is not tracked by the state civilian workforce. Please reclassify all employees within the appropriate categories below.**

**Public Utility Commission**

**Exhibit 20: Equal Employment Opportunity Statistics**

**1. Officials / Administration**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2018	15	0%	8.1%	13.33%	22.4%	40.0%	38.8%
2019	14	0%	8.1%	14.29%	22.4%	35.71%	38.8%
2020	16	6.25%	8.1%	6.25%	22.4%	31.25%	38.8%

**2. Professional**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2018	121	8.26%	10.9%	20.66%	20.3%	45.45%	54.5%
2019	119	10.92%	10.9%	21.01%	20.3%	44.54%	54.5%
2020	109	9.17%	10.9%	22.02%	20.3%	47.71%	54.5%

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### 3. Technical

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2018	9	0%	14.4%	22.22%	29.2%	22.22%	55.2%
2019	9	0%	14.4%	22.22%	29.2%	33.33%	55.2%
2020	8	0%	14.4%	25.0%	29.2%	37.50%	55.2%

### 4. Administrative Support

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2018	42	14.28%	14.3%	54.76%	36.4%	83.33%	71.6%
2019	46	13.0%	14.3%	45.7%	36.4%	78.3%	71.6%
2020	42	11.9%	14.3%	47.61%	36.4%	83.33%	71.6%

### 5. Service / Maintenance

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2018	0	0%	13.2%	0%	52.4%	0%	52.0%
2019	0	0%	13.2%	0%	52.4%	0%	52.0%
2020	0	0%	13.2%	0%	52.4%	0%	52.0%

### 6. Skilled Craft

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2018	0	0%	10.2%	0%	51.5%	0%	12.0%
2019	0	0%	10.2%	0%	51.5%	0%	12.0%
2020	0	0%	10.2%	0%	51.5%	0%	12.0%

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

The PUCT has an equal employment opportunity (EEO) policy in its employee handbook. Employees receive EEO training as part of the New Employee Orientation

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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 attached as Attachment 10.

Our agency has and enforces an equal employment opportunity policy. We investigate any allegations of discrimination, retaliation, or harassment that would violate the policy and take disciplinary action when necessary to address violations.

The PUCT developed a Recruitment and Workforce Diversity Equal Employment Opportunity Plan to delineate our commitment to the principle and practice of equal employment opportunity and affirmative action in all aspects of employment. The Plan is designed to assure the implementation of personnel policies and practices to promote equal employment opportunities.

The PUCT analyzes its workforce to determine whether the percentages of African-American, Hispanic American and females in individual job classifications are substantially like the percentages of those groups available in the relevant job market. The comparison is made to the Statewide Civilian Workforce Composition by job category as listed in the EEO and Minority Hiring Practices Report prepared by the Texas Workforce Commission Civil Rights Division. The analysis of EEO categories determine where minorities and females are underrepresented. Accomplishments and shortcomings are noted and reported in the quarterly analysis.

## XII. AGENCY COMMENTS

**Provide any additional information needed to gain a preliminary understanding of your agency.**

## ATTACHMENTS

### Attachments Relating to Key Functions, Powers, and Duties

#### **1. If the agency publishes a version of its enabling statute and/or rules, please include an electronic copy.**

- Utilities Code, Title II (Public Utility Regulatory Act)
- Utilities Code, Title IV
- Local Government Code Chapter 283
- Business & Commerce Code §§ 304.051 - 304.062
- Water Code provisions applicable to the PUCT

**2. Annual reports published by the agency from FY 2018-20.**

- Scope of Competition Reports for Electric and Telecommunications Markets in Texas for 2019 and 2017
- 2021 Biennial Agency Report to the 87<sup>th</sup> Legislature
- Enforcement Activity Reports for 2018-2020

**3. Internal or external newsletters published by the agency in FY 20.**

- PUCT Consumer Fact Sheets
- Press releases

**4. List of studies that the agency is required to do by legislation or riders.**

- See Exhibit 17.

**5. List of legislative or interagency studies relating to the agency that are being performed during the current interim.**

- The PUCT is required under the General Appropriations Act of 2022-2023 to study the effects of load shed protocols in ERCOT, as that term is defined by PURA § 31.002 and issue a report on the conclusions of the study to the legislature not later than September 1, 2022.
- The PUCT is also required under the General Appropriations Act of 2022-2023, as part of the PUCT Biennial Report required under PURA § 12.203, to conduct a study regarding whether ERCOT interconnection to Eastern and/or Western Interconnects and/or Mexico would protect and further the interest of the public. The study must include the benefits and costs associated with interconnecting ERCOT to other grids, including Eastern and Western Interconnects, and Mexico. Other issues that must be addressed are whether reliability could be increased; the impact on customers' energy costs; the potential for economic development benefits to the state from exporting energy to other interconnects; and if ERCOT could remain independent of federal regulation if and when larger direct current ties are established than those that currently exist.
- The Commission is required to prepare a Weather Emergency Preparedness Report under Texas Government Code § 418.310. The report must address the reliability and stability of the electricity supply chain. It is due on November 1 of even-numbered years. This is a new requirement created as part of SB3 passed by the 87<sup>th</sup> Legislature.
- The PUCT is required to prepare a mapping report under PURA § 38.204. The report will provide an overview of the Texas Electricity Supply Chain Security and Mapping Committee progress on its mapping of the electricity supply chain and to make communication system recommendations for all agencies involved or affected by this effort. This committee was created as part of SB 3 passed in the 87<sup>th</sup> Legislature. Members of the Committee are the Executive Director of the PUCT, the Executive Director of the Railroad Commission of Texas, the president and CEO of ERCOT and the chief of the Texas Division of Emergency

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Management. The mapping report is due on January 1, 2022. This is a new requirement created as part of SB3 passed by the 87<sup>th</sup> Legislature.

- The PUCT is required under Texas Government Code §186.007 to prepare a report on the emergency operations plans filed with the PUCT by various electric industry market participants, to analysis the ability of the electric grid to withstand extreme weather events, and make recommendations for improving emergency operations plans. This is a new requirement created as part of SB3 passed by the 87<sup>th</sup> Legislature.
- The Commission is required to prepare a report on the effects of statutes, rules, ERCOT protocols and bylaws related to conflicts of interest and the ability of the PUCT and ERCOT to fulfill their duties. The report is due annually. This is a new requirement created as part of SB3 passed by the 87<sup>th</sup> Legislature.

### **6. 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. Provide links if available.**

- FERC/NERC Joint Investigation of February 2021 Winter Storm Uri–Findings & Recommendations expected to be issued in September 2021; Final Report expected to be issued in November 2021

### **7. If applicable, a list describing the type of personal information of license holders the agency publishes on its website. Please also explain if and how license holders can opt out of this publication.**

- The PUCT does not publish personal information of its licensees on its website

## **Attachments Relating to Policymaking Structure**

### **8. Biographical information (e.g., education, employment, affiliations, and honors) or resumes of all policymaking body members.**

- Biographical information on the PUCT commissioners may be found on the PUCT's public website.

### **9. Board training manuals and copies of any policies related to the board's duties and responsibilities.**

- Commissioner training materials

### **10. Employee manuals and copies of any policies related to staff's duties and responsibilities.**

- Employee Handbook

### **11. Copies of any other significant policies adopted by the board.**

- N/A

## Attachments Relating to Funding

### **12. Agency's Legislative Appropriations Request for FY 2022-23.**

- LAR 2022-2023
- Two exceptional items requested by the PUCT and approved by Legislature:
- Restoration of the PUCT's 5% budget cut totaling \$1,693,661
- Additional funding for enhanced ERCOT oversight and external communications totaling \$1,691,000

### **13. Annual financial reports from FY 2018-20**

### **14. Operating budgets from FY 2018-20.**

### **15. If applicable, a list of all contracts above \$1 million. Please include a brief explanation of the contract, as well as the amount and term of the contract. Do not include purchase orders in this list.**

## Attachments Relating to Organization

### **16. If applicable, a map to illustrate the regional boundaries, headquarters location, and field or regional office locations.**

- N/A

### **17. Any flowcharts showing the operations of the agency, such as complaint resolution processes, disciplinary or enforcement procedures, etc.**

- N/A

### **18. If applicable, a list and brief explanation of all active memorandums of understanding and information sharing agreements the agency has entered into. Indicate whether these are required by statute, rule, or something else.**

## Attachments Relating to Agency Performance Evaluation

### **19. Quarterly performance reports completed by the agency in FY 2019-20.**

### **20. Performance reports presented to the agency's board of directors in FY 2018-20, if different from the reports in Attachment 16.**

- The PUCT has no additional reports other than those referenced in Attachment 19.

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**21. Performance reports submitted to the Legislative Budget Board from FY 2018-20.**

**22. Any recent studies on the agency or any of its functions conducted by outside management consultants or academic institutions.**

- N/A

**23. Agency's current internal audit plan.**

**24. Agency's current strategic plan.**

- 2019-2023 Strategic Plan

**25. List of internal audit reports from FY 2016-20 completed by or in progress at the agency.**

**26. List of State Auditor reports from FY 2016-20 that relate to the agency or any of its functions.**

- Report 16-033, An Audit Report on Financial Processes at the Public Utility Commission of Texas
- Report 17-023, A Report on the Delegation of Authority to State Entities to Contract for External Audit Services
- Report 18-023, A Report on Activities Related to State Agencies' and Higher Education Institutions' Delegated Audit Authority
- Report 19-034, An Audit Report on Complaint Processing at the Public Utility Commission of Texas
- Report 19-027, A Report on the Implementation Status of Prior State Auditor's Office Recommendations

**27. Any customer service surveys conducted by or for your agency in FY 2019-20.**

- N/A



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**28. Any reports created under Texas Government Code, Section 2110.007 regarding the usefulness and costs of the agency's advisory committees.**

- N/A

**29. A description of the agency's review of existing rules as required by Texas Government Code, Section 2001.039, and for the last eight years, a brief description of the rules reviewed by date and the result the review.**

**30. List of PUCT communications regarding Winter Storm Uri.**

**31. PUCT implementation schedule for Winter Storm Uri-related legislation enacted by the 83<sup>rd</sup> Legislature**

### Exhibits Required for SER

**1. Exhibit 3–Key Datasets**

**2. Exhibit 17.–Evaluation of Agency Reporting Requirements**

- All other required Exhibits are included in the body of the PUCT's SER.