



**OFFICE OF PUBLIC UTILITY COUNSEL**  
CHRIS EKOI, INTERIM CHIEF EXECUTIVE AND PUBLIC COUNSEL

November 30, 2022

Ms. Jennifer Jones  
Executive Director  
Sunset Advisory Commission  
1501 N. Congress, 6<sup>th</sup> Floor, REJ Bldg.  
Austin, TX 78701

**Re: OPUC's Response to Sunset Staff's Final Report**

Dear Ms. Jones:

The Office of Public Utility Counsel (OPUC) is pleased to provide a response to Sunset Staff's Final Report issued on November 16, 2022. OPUC is firmly committed to ensuring that the State of Texas' residential and small commercial consumers continue to receive a robust and vibrant representation in utility cases and projects. OPUC commends the professional manner of review provided by the Sunset Staff and appreciates the opportunity to provide feedback regarding the Sunset Staff report.

**Sunset Staff Report, Page 92**

**Fiscal Implication**

Continuing OPUC would require an annual appropriation from the Legislature, which was \$2.1 million in fiscal year 2021. The recommendations would not result in any additional fiscal impact to the state. While the contracting recommendations would require staff time, they relate to basic administrative responsibilities OPUC could implement within existing resources.



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### **OPUC is requesting the following addition to this paragraph on Page 92 of Sunset Staff Final Report:**

It is imperative that OPUC be granted Unexpended Budget (UB) authority to enable the agency to carry forward its unexpended budgeted funds. This authority will provide the agency with necessary flexibility to strategically manage and allocate its existing budgetary resources to fulfill its statutory mission of representing residential and small commercial consumers, as a class, in the state's complex electric, water, wastewater, and telecommunications utility industries. OPUC's need for additional budgetary flexibility is primarily based on the agency's lack of control over the filing, timing and schedule of major electric and water utility cases and the associated need for internal staff resources and outside legal testifying expert witnesses to litigate these complex cases. These complex cases and projects often cross fiscal years and therefore, it is imperative that OPUC be granted UB authority to ensure continuity of representation for residential and small commercial consumers.

### **Sunset Staff Report, Pages 89 – 90**

#### **Sunset Staff Recommendation #1:**

No formal analysis for using outside experts, Page 89.

#### **OPUC's Response:**

#### **Sunset Staff Recommendation #6.2 (1<sup>st</sup> Bullet):**

##### **Conduct a Formal Analysis of Outsourcing**

OPUC has started an analysis for using legal testifying outside expert witnesses by sending a questionnaire to OPUC's currently contracted legal testifying outside expert witnesses. OPUC has requested a response date of December 16, 2022. Once questionnaires are returned, OPUC will finalize the analysis by February 17, 2023.



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### **Sunset Staff Recommendation #6.2 (2<sup>nd</sup> Bullet):**

**Informal contract solicitation process.**

#### **OPUC's Response:**

OPUC will conduct a Request for Qualifications via the State of Texas Electronic State Business Daily system to be concluded no later than June 30, 2023. OPUC will evaluate if this procurement method provides benefit to the contracting of legal testifying outside expert witnesses upon completion of this initial RFQ process.

### **Sunset Staff Recommendation #6.2 (3<sup>rd</sup> Bullet):**

**Require Signed Conflict of Interest Statements From Experts.**

#### **OPUC's Response:**

OPUC will implement a conflict-of-interest disclosure for contracts issued with the legal testifying outside expert witnesses that will go into effect with contracts issued on or after December 1, 2022.



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**Sunset Staff Recommendation #6.2 (4<sup>th</sup> Bullet):**

**Document Expert Witness Performance.**

**OPUC's Response:**

OPUC has implemented a formal evaluation of contracted legal testifying outside expert witnesses that will be conducted during the contract closeout phase and will become a part of the contract procurement file.

Sincerely,

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Chris Ekoi  
Interim Chief Executive & Public Counsel