

# INDEPENDENT WATER AND SEWER COMPANIES OF TEXAS

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Sunset Advisory Commission  
PO Box 13066  
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via email to: [sunset@sunset.state.tx.us](mailto:sunset@sunset.state.tx.us)

Re: Sunset Staff Report on the Texas Commission on Environmental Quality

Members of the Commission:

The Independent Water and Sewer Companies of Texas (IWSCOT) is the trade association of investor-owned water and sewer utilities (IOUs). IWSCOT was formed in the late 1970's for the primary purpose of moving the rate and certification jurisdiction of IOUs from the Public Utility Commission (PUC) to the Texas Water Commission (now the Texas Commission on Environmental Quality or TCEQ). This jurisdiction transfer was deemed necessary for a number of reasons:

1. An unworkable division of regulatory authority was occurring when one agency could order an IOU to make major investments in capital plant and operating expenses while a separate agency determined whether the IOU could recover those expenditures in a timely manner.
2. All rate cases at the PUC went through one or more legal hearings, thereby generating high rate case expenses which had to be passed on to consumers. The cost of filing and prosecuting a rate case bankrupted more than one small IOU.
3. Water and sewer cases were the training ground for new PUC employees. This meant the least experienced technical staff was assigned to regulate this utility industry segment. Since the prestige and potentially lucrative post-government employment opportunities were in the electric and telephone industries, many PUC staff members attempted to earn their "reputations" by being excessively hard on water and sewer companies. A caste system among PUC staff members arose which led to most of the water

and sewer technical staff being assigned to the Engineering Division away from their co-workers with the same professional background. When the Office of Public Utility Counsel (OPUC) was created, the discrimination against the water and sewer industries spread to that agency. OPUC resources were used for more publicized electric and telephone cases, not water or sewer cases.

4. Although there are tremendous differences in the economies of scale between water and sewer utilities and electric and telephone utilities, the PUC tried to regulate both sets of utilities under a single statute and set of rules. Often the PUC could not address the unique needs of a water or sewer utility because to do so would create a legal precedent that would make regulating electric or telephone utilities more difficult.

I know that these situations existed when the PUC regulated water and sewer utilities because I was employed by the PUC as a hearings examiner and staff attorney from 1978 to 1984.

Now the Sunset Commission staff proposes to return the IOU industry to the "Bad Old Days" of PUC regulation. A PUC staff that knows nothing about the water and sewer industries is being asked to assume their economic regulation. If it is true that the TCEQ staff lacks the sophistication and training to adequately regulate IOUs, the solution is to better train the TCEQ staff, not start all over again with an inexperienced PUC staff. If the PUC has underutilized resources (which IWSCOT doubts), transfer those resources to the TCEQ. Imposing PUC economic regulation and the OPUC involvement in IOU rate cases will increase the cost of regulation to the state and consumers.

Please reject those portions of your staff report that recommend transferring part of IOU regulation back to the PUC and extending OPUC involvement into IOU rate cases.

Sincerely yours,



Mark H. Zeppa  
Executive Director