

# Public Utility Commission of Texas

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H.B. 1600 Cook (Nichols)

Staff Contact: Karl Spock

The Public Utility Commission (PUC) is the most reviewed agency in Sunset history. The importance of electric and telephone services and the evolution of electric and telephone industries from monopoly to restructured markets promoting competition underlie the legislative scrutiny PUC receives.

This cycle's review of PUC fits this historic pattern. The agency underwent Sunset review in 2011, but the Sunset bill failed to pass. The Legislature directed the Sunset Commission to immediately review PUC again for the 2013 legislative session, focusing on an assessment of the continuing relevance of Sunset Commission recommendations from the preceding review. This biennium's Sunset review of PUC resulted in the enactment of House Bill 1600, which includes most of the Sunset Commission recommendations from last biennium.

House Bill 1600 features the transfer of rate-related regulation of water and sewer utilities from the Texas Commission on Environmental Quality (TCEQ) to PUC, allowing TCEQ to concentrate on its core environmental mission while taking advantage of PUC's historic ratemaking expertise. The bill also revises water and sewer utility ratemaking from its current one-size-fits-all design to better accommodate differences in size and capacity available in the state's water and sewer utilities and improves services to consumers. The legislation gives the Office of Public Utility Counsel (OPUC) broad authority to advocate for residential and small commercial customers in this revised regulatory system.

The bill also gives PUC more tools to help ensure efficient and accountable operation of the state's electric grid and better protect electric customers. Of particular importance, House Bill 1600 adds provisions to strengthen PUC's oversight of the Electric Reliability Council of Texas (ERCOT). House Bill 1600 also includes provisions to improve PUC's governance. The bill requires commissioners to have specific types of relevant experience to help ensure that agency leadership is qualified to address complicated and critical utility issues.

The following material summarizes results of the Sunset review of PUC. For additional information see the *Public Utility Commission of Texas Sunset Final Report with Legislative Action* available on the Sunset Commission website at [www.sunset.state.tx.us](http://www.sunset.state.tx.us).

## Water and Sewer Utility Economic Regulation

- Transfers responsibility for regulating water and wastewater rates and services from TCEQ to PUC on September 1, 2014.
- Revises water and sewer utility ratemaking to accommodate the differing regulatory needs and capacities of water and sewer utilities, with rules adopted by September 1, 2015.
- Provides for OPUC to represent residential and small commercial interests relating to water and wastewater utilities, beginning September 1, 2013.
- Requires PUC to make a comparative analysis of statutory ratemaking provisions under its authority to determine opportunities for standardization.

- Requires PUC and OPUC to analyze their staffing requirements and report potential changes in staffing needs to the Legislative Budget Board and the Governor’s budget office.
- By rider in Senate Bill 1 (General Appropriations Act), transfers funding and personnel from TCEQ to PUC and appropriates new funding and personnel for OPUC to carry out the agencies’ new responsibilities related to the economic regulation of water and sewer utilities. (See the Fiscal Implication section for more detail.)

### **Regulation and Oversight**

- Authorizes PUC to issue emergency cease-and-desist orders to electric industry participants in circumstances such as those that threaten reliable electric service or create an immediate danger to public safety.
- Adds prohibitions related to the use of data from an advanced metering system.
- Requires PUC to provide for the renewal of certificates for Competitive Local Exchange Carriers.
- Requires PUC to exercise additional oversight authority over ERCOT through:
  - review and approval of annual budgets for ERCOT on a timeframe determined by PUC;
  - prior review and approval of all debt financing, except as negotiated by PUC and ERCOT; and
  - annual review of PUC-approved performance measures tracking ERCOT’s operations.
- Requires ERCOT’s System Administration Fee to vary when needed to match revenues to the budget approved by PUC.

### **Reports**

- Abolishes PUC’s report relating to customer awareness for telecommunications markets and the System Benefit Fund report to the now abolished Electric Utility Restructuring Legislative Oversight Committee.

### **Governance and Continuation**

- Prohibits PUC Commissioners from being employed by ERCOT for two years after leaving PUC, and makes other changes related to Commissioner or executive director conflicts of interest.
- Adds qualifications to help ensure the competence of PUC Commissioners.
- Continues PUC for 10 years.

### **Fiscal Implication**

Fiscal implications of the Sunset review result from provisions of House Bill 1600 and related legislation. Senate Bill 1 makes the following rider transfers and expenditures from the Water Resource Management Account:

- transfers from TCEQ to PUC \$1,429,818 and 20 FTEs on September 1, 2014, for costs associated with the current level of TCEQ’s regulatory activity;

- transfers from TCEQ to PUC \$184,000 on September 1, 2014 to fund water and utility case hearings at the State Office of Administrative Hearings; and
- appropriates to OPUC an additional \$499,680 annually, beginning September 1, 2013 for five additional employees. This funding is a result of Senate Bill 567, a non-Sunset bill that also expands OPUC’s duties related to water and sewer utilities. Although these provisions were also added to House Bill 1600, in a “belts and suspenders” approach to better ensure passage, the costs are attributed to Senate Bill 567 and not the Sunset bill.

