

Donna L. Nelson
Chairman

Kenneth W. Anderson, Jr.
Commissioner

Brandy Marty Marquez
Commissioner

Brian H. Lloyd
Executive Director



Greg Abbott
Governor

Public Utility Commission of Texas

May 19, 2016

Mr. Ken Levine
Director, Sunset Advisory Commission
PO Box 13066
Austin, Texas 78711

RE: Sunset Staff Report on Railroad Commission of Texas

Dear Mr. Levine:

Enclosed are the comments of the Public Utility Commission of Texas to the Sunset Advisory Commission Staff Report on the Railroad Commission of Texas dated April 2016. The PUC's comments focus on two recommendations discussed in Issue 2 of the report, specifically the use of the State Office of Administrative Hearings for all contested gas utility cases and the recommended transfer of the responsibility for gas utility regulation from the Railroad Commission to the PUC beginning on September 1, 2018. The PUC appreciates the opportunity to comment on the findings and recommendations contained in this report. Please contact Executive Director Brian Lloyd if you have any questions concerning these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Donna L. Nelson", with a long horizontal line extending to the right.

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Chairman



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Director, Sunset Advisory Commission
PO Box 13066
Austin, Texas 78711

RE: Sunset Staff Report on Railroad Commission of Texas

Dear Mr. Levine:

The Public Utility Commission of Texas (PUC) appreciates this opportunity to respond to the Sunset Advisory Commission Staff Report on the Railroad Commission of Texas dated April 2016. The PUC also appreciates the thorough and professional review performed by Sunset Staff, particularly relating to Recommendations 2.1 and 2.3, both of which relate to the transfer of the economic regulation of gas utilities from the Railroad Commission of Texas to the PUC. The PUC has the following general comments on Recommendations 2.1 and 2.3.

The PUC appreciates the Sunset Commission Staff's confidence in the PUC's ability to take on additional duties and is prepared to implement the recommendations in the report, should they ultimately be adopted by the Legislature. The PUC does not take a position on whether the economic regulation of natural gas utilities should transfer to the PUC, as that is a Legislative decision. However, the PUC offers several comments for consideration related to a transfer based on our experience with the transfer of water utility regulation to the PUC.

The PUC offers the following comments on Recommendation 2.1, *Require the Use of the State Office of Administrative Hearings for Contested Gas Cases*.

Comment 1: If Recommendation 2.3 is adopted by the Sunset Commission and Legislature, the PUC supports Recommendation 2.1, but suggests that it be amended to conform to current law applicable to PUC contested case hearings. Government Code §2003.049 provides for the State Office of Administrative Hearings (SOAH) to conduct PUC contested case hearings, but also allows PUC commissioners to hold contested case hearings. If the commissioners decide not to hear a case, that case is then referred to SOAH for hearing. Typically, commissioners only conduct hearings when important policy questions or issues of first impression are involved. Therefore, the PUC does not anticipate that the commissioners would conduct many



gas utility rate hearings. However, the ability to conduct hearings when appropriate would provide useful flexibility.

Comment 2: If Recommendation 2.3 is adopted, the PUC also supports the recommendation for SOAH to be funded directly from general revenue for work related to gas utility hearings referred by PUC, as this is consistent with the method used to fund SOAH's activities related to electric and telecommunications cases referred by the PUC. In contrast, SOAH's activities related to water utility matters referred by the PUC is funded through an interagency contract, and our experience is that this mechanism creates additional administrative work and fiscal uncertainty for both agencies.

If Recommendation 2.3 is not adopted, the PUC takes no position on Recommendation 2.1 or the proper method of financing natural gas utility hearings.

The PUC offers the following comments on Recommendation 2.3, Transfer Gas Utility Regulation from the Railroad Commission to the Public Utility Commission.

Comment 1: If Recommendation 2.3 is adopted, the PUC agrees with Sunset Commission Staff's fiscal implication, which states that approximately \$2.0 million and 30.4 FTEs each year would be transferred to the PUC. The PUC believes it critical that adequate resources are transferred along with the function to ensure that the PUC is able to perform high quality and efficient regulation of the gas utility industry, without compromising our ability to continue proper oversight of the electricity, telecommunications, and water utility industries.

Comment 2: If Recommendation 2.3 is adopted, the PUC agrees that each agency should establish a transition team to plan and coordinate all aspects of the transition, and develop a memorandum-of-understanding to implement the transition. The transition team would be particularly important for the Sunset Staff recommendation that office space in the William B. Travis State Office Building (Travis Building) transfer from the Railroad Commission to the PUC.

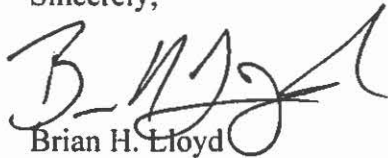
In September of 2014, the PUC assumed responsibility for the economic regulation of water and wastewater utilities from the Texas Commission on Environmental Quality (TCEQ). The PUC received 36.0 FTEs as part of this transfer, and we were able to incorporate these FTEs within our existing office space. As a result, however, the PUC does not currently have any materially unused office space to accommodate an additional 30.4 FTEs. Additionally, the incorporation of TCEQ's water utility-related documents into the PUC's records has resulted in the PUC incurring increased costs for offsite storage because we have exceeded the capacity of our onsite records facility.

The PUC currently occupies all of the 7th floor in the Travis Building and shares the 8th floor of the Travis Building with the Railroad Commission. Transfer of the existing (or equivalent) office space in the building currently dedicated to the gas utility regulatory program is logical and necessary to avoid substantial costs of a transfer and would create the potential for the PUC to reduce costs through consolidation of our onsite and offsite records facilities.

Comment 3: If Recommendation 2.3 is adopted, the PUC agrees that a comparative analysis of its own authority and any new authority transferred the PUC, including any recommendations regarding funding or staffing needs, would be beneficial to the Governor's Office and the Legislature. The PUC developed a similar report following the transfer of the economic regulation of water and wastewater utilities from TCEQ to the PUC.

I would like to thank you and the team led by Amy Trost for carefully studying the impacts associated with recommending the transfer of gas utility regulation to the PUC. We look forward to continuing to work with you as the Sunset process continues.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Lloyd", with a stylized flourish at the end.

Brian H. Lloyd
Executive Director