

Office of Public Utility Counsel Annual Report for Fiscal Year 2016



Prepared for

Senate Business and Commerce Committee

Senate Natural Resources and Economic Development Committee

Senate Finance Committee

House Appropriations Committee

House Natural Resources Committee

House State Affairs Committee

Sunset Advisory Commission



OFFICE OF PUBLIC UTILITY COUNSEL
PUBLIC COUNSEL, TONYA BAER

January 3, 2017

Honorable Members:

The Office of Public Utility Counsel (OPUC) is pleased to submit our *Fiscal Year 2016 Annual Report* as required by the Public Utility Regulatory Act, Section 13.063. This report provides a look at our agency's representation of residential and small commercial utility consumers during Fiscal Year (FY) 2016. Below is a snapshot of our activities this past year:

- attained over \$117.6 million in current year bill savings through consumer representation in 45 contested cases and appeals; and
- participated on behalf of residential and small commercial consumers in 29 projects and rulemakings, including continued participation in the procedural and substantive rulemakings regarding the regulation of water and wastewater utilities

If you have any questions about this report, please contact me at (512) 936-7549.

Sincerely,

Tonya Baer
Public Counsel

SECTION 1: OVERVIEW

The Office of Public Utility Counsel (OPUC) was created in 1983 as part of the 68th Legislature's Sunset Review of the Public Utility Commission (PUC). The Legislature created OPUC to specifically represent the interests of residential and small commercial utility consumers. While OPUC's responsibilities have varied over the years, OPUC is currently charged with representing residential and small commercial consumers, as a class, in electric, telecommunications, and water and wastewater matters.

Section 13.063 of the Public Utility Regulatory Act (PURA) requires OPUC to provide an annual report on the agency's activities during the preceding year and to submit the report to the standing legislative committees that have jurisdiction over OPUC and to the Sunset Advisory Commission. The report must include:

- The types of activities conducted by OPUC and time spent by OPUC on each activity;
- The number of hours billed by OPUC representing residential or small commercial consumers in proceedings;
- The number of staff positions and type of work performed by each position; and
- OPUC's rate of success in representing residential and small commercial consumers in appealing Commission decisions.

OPUC participates in various activities each year, such as contested cases, appeals, rulemakings, projects, and various Electric Reliability Council of Texas (ERCOT) and Texas Reliability Entity (Texas RE) related events.

In contested cases and appeals, OPUC provides legal representation and technical expertise. OPUC staff develops testimony that benefits and promotes the interests of residential and small commercial consumers, as a class. In FY 2016, OPUC participated in 45 contested proceedings and appeals and helped consumers realize over \$117.6 million in current year bill savings. Of these 45 proceedings, seven were appeals of PUC orders. In FY 2016, four of these appeals did not have a disposition, two had a positive disposition and one had a negative disposition.

Likewise, in rulemakings and projects, OPUC also provides legal representation and technical expertise to benefit and promote consumer interests. In FY 2016, OPUC participated in 29 projects including rulemakings, workshops, and stakeholder working groups on a variety of substantive and procedural issues regarding the regulation of utilities, practice before the PUC, development of the competitive market, and customer protections.

Along with representing consumer interests in cases and appeals, OPUC is also an active participant at ERCOT, which is the Independent System Operator (ISO) for 90 percent of the Texas electric grid. The Public Counsel is an ex officio voting member of the ERCOT Board of

Directors and is Vice Chair of the Human Resources and Governance Committee. OPUC staff also participates at the technical committee level.

In addition to serving on the ERCOT Board, the Public Counsel is also an ex officio member of the Texas Reliability Entity (Texas RE). Texas RE is responsible for ensuring compliance with the North American Electric Reliability Corporation (NERC) reliability standards within the geographic boundaries of the ERCOT region.

In addition to representing residential and small commercial consumers in regulatory matters, OPUC also works with various community organizations, state and local agencies, stakeholders, and individual consumers on issues that impact consumers. Further, OPUC works with individual consumers and with the PUC, TCEQ, and market participants to resolve consumer concerns. In FY 2016 alone, OPUC staff handled 278 consumer complaints.

SECTION 2: OPUC ORGANIZATION

OPUC Staff Positions and Type of Work Performed

OPUC is headed by the Public Counsel, who is appointed by the Governor and confirmed by the Senate for a two-year term. The Public Counsel must be licensed to practice law in the state of Texas and must be a Texas resident. The ninth and current Public Counsel is Tonya Baer, appointed by Governor Rick Perry on October 10, 2013 and reappointed by Governor Greg Abbott on February 4, 2015, and subsequently confirmed by the Texas Senate.

The Public Counsel supervises the overall operations of the agency and establishes agency policy. Specifically, the Public Counsel is responsible for the agency budget, staffing, selection of cases in which to intervene, and the selection of projects and rulemakings in which to participate.

OPUC currently has sixteen employees including attorneys, technical experts in the fields of finance and economics, and administrative staff. OPUC staff represents residential and small commercial consumers in both litigated and non-litigated matters before state and federal regulatory agencies, courts, ERCOT, and the Texas RE.

OPUC Hours Billed

OPUC's workload during FY 2016 consisted of electric, telecommunications, and water and wastewater cases, projects, and appeals. In FY 2016, OPUC staff spent 12,108 hours litigating cases with an additional 435.5 hours spent on appeals. In addition, OPUC staff spent 5,890 hours developing comments, reply comments, and attending workshops in various projects. Overall in FY 2016, OPUC staff spent 18,433.5 hours advocating on behalf on residential and small commercial consumers.

SECTION 3: CONTESTED CASES AND APPEALS

In FY 2016, OPUC participated in thirty-eight contested cases and seven appeals. These contested cases included rate cases, fuel reconciliation, energy efficiency, sale/transfer/merger, advanced metering deployment, and universal service proceedings. The seven appeals included four rate cases, one rate case expense case, one case involving approval of a competitive generation service tariff, and one case involving the change in control and restructuring of an electric utility. For more information, see Attachment A, *OPUC List of FY 2016 Cases and Projects*.

A significant portion of the agency's resources were devoted to determining reasonable rates for utilities in regulated areas. Most of the agency's employees are involved in negotiating and litigating these rate cases. Issues in these proceedings typically include a company's return on equity, cost of service, taxes, affiliate transactions, cost allocation, and rate design. Each issue may involve expert testimony from accountants, engineers, economists, or other industry experts. OPUC's efforts in negotiating and litigating these rate cases have resulted in lowering costs to residential and small commercial consumers by over \$117.6 million in current year bill savings.

SECTION 4: PROJECTS AND RULEMAKINGS

In FY 2016, OPUC actively participated and advocated for consumers in 29 projects and rulemakings. OPUC analyzed issues, made recommendations, filed comments and reply comments, participated in workshops, public hearings, and meetings with industry stakeholders. The scope of these projects and rulemakings encompassed issues such as substantive and procedural changes for the regulation of water and wastewater utilities, rate filing information required for electric utilities, demand response, distributed generation, alternative ratemaking, changes in procedural rules, and consumer protection requirements during in-person solicitations.

SECTION 5: ERCOT AND TEXAS RE PARTICIPATION

As noted in Section 1 of the Report, OPUC is an active participant at both ERCOT and the Texas RE. The Public Counsel is an ex officio, voting member of the ERCOT Board of Directors, and an ex officio, non-voting member of the Texas RE Board of Directors. In both capacities, the Public Counsel represents the interests of residential and small commercial consumers.

In addition to the Public Counsel's participation on the ERCOT Board of Directors, OPUC also represents residential consumers on ERCOT's Technical Advisory Committee (TAC) and TAC subcommittees. OPUC's involvement at ERCOT ensures that residential consumers are represented throughout the stakeholder process.

ATTACHMENTS

Attachment A
OPUC List of FY 2016 Cases, Projects and Appeals

Cases

- 42730 Entergy Texas, Inc. Application to Implement an Interim Fuel Refund Net of Bandwidth Calculation Payments
- 43695 Southwestern Public Service Company Application for Authority to Change Rates
- 44361 Sharyland Utilities, L.P. Application for Approval of an Advanced Metering System Deployment Plan, Surcharge, and Non-Standard Metering Service Fees
- 44498 Review of Rate Case Expenses Incurred By Southwestern Public Service Co and Municipalities in Docket 43695
- 44620 Sharyland Utilities, L.P. Application to Revise its TCRF Class Allocation Factors and Request For Good Cause Exception From PUC Subst. R. §25.193(c)
- 44681 Compliance Docket Related to Refunds From Docket No. 42859
- 44698 Southwestern Public Service Company Application to Adjust Its Energy Efficiency Cost Recovery Factor
- 44746 Wind Energy Transmission Texas, LLC Application for Authority to Changes Rates and Tariffs
- 44785 Sharyland Utilities, L.P. Petition for Approval of Transmission Cost Recovery Factor Update
- 44809 Quadvest, LP Application for a Rate/Tariff Change
- 44941 El Paso Electric Company Application to Change Rates
- 45083 Entergy Texas, Inc. Application for Approval to Amend Its Distribution Cost Recovery Factor
- 45084 Entergy Texas, Inc. Application for Approval of a Transmission Cost Recovery Factor
- 45141 Southwestern Public Service Company Application for Authority to Implement a Net Refund for Over-Collected Fuel Costs
- 45188 Oncor Electric Delivery Company, LLC, Ovation Acquisition I, LLC, Ovation Acquisition II, LLC, & Shary Holdings, LLC Joint Report & Application for Regulatory Approvals Pursuant to PURA §§14.101, 37.154, 39.262(I)-(m), & 39.915
- 45378 Central Telephone Company of Texas D/B/A CenturyLink Application to Revise Tariff Pages Pursuant to 16 Tex. Admin Code §26.208
- 45379 United Telephone Company of Texas, Inc. D/B/A CenturyLink Application to Revise Tariff Pages Pursuant to 16 Tex. Admin Code §26.208
- 45394 GTE Southwest Incorporated DBA Verizon Southwest TXG & TXC Application to Revise Tariff Pages Pursuant to 16 Tex. Admin Code §26.208
- 45414 Sharyland Utility Company Review of the Rates
- 45475 El Paso Electric Company & Municipalities Review of Rate Case Expenses Incurred in Docket No. 44941

- 45524 Southwestern Public Service Company Application for Authority to Change Rates
- 45525 Southwestern Public Service Company Application for Authority to Revise Its Fuel Factors Using the Formulae Approved in Docket No. 40133
- 45560 Southwestern Public Service Company Application for Authority to Refund Remaining Gain-On-Sale Amounts Associated with Docket Nos. 41430 & 44671
- 45570 Monarch Utilities I, L.P. Application to Change Rates for Water and Sewer Service
- 45592 Compliance Docket for Refunds from Docket No. 42862 (Appeal of Water & Sewer Rates Charged by the Town of Woodloch CCN Nos. 12312 & 20141)
- 45691 SWEPCO Application for Approval to Amend Transmission Cost Recovery Factor
- 45747 CenterPoint Energy Houston Electric, LLC Application to Amend Its Distribution Cost Recovery Factor and to Reconcile Docket No. 44572 Revenues
- 45787 AEP Texas Central Company Application for Approval of a Distribution Cost Recovery Factor
- 45788 AEP Texas North Company Application for Approval of a Distribution Cost Recovery Factor
- 45815 Ovation Acquisition I, LLC, Ovation Acquisition II, LLC, & Shary Holdings, LLC Application for Approval of Initial Leases & Rates of Oncor AssetCo, LLC
- 45888 Entergy Texas, Inc. Application to Implement an Interim Fuel Refund
- 45916 Southwestern Public Service Company Application for Authority to Adjust Its Energy Efficiency Cost Recovery Factor
- 46024 Sharyland Utilities, L.P. Application to Adjust the Energy Efficiency Cost Recovery Factor (EECRF) and for Related Relief
- 46025 Southwestern Public Service Company Application for Authority to Reconcile Fuel and Purchased Power Costs
- 46050 AEP Texas Central Company, AEP Texas North Company, & AEP Utilities, Inc. Application for Approval of Merger
- 46076 Entergy Texas, Inc. Application for Authority to Reconcile Fuel and Purchased Power Costs
- 46216 Monarch Utilities I, L.P. Request for Rate Case Expenses Pertaining to Docket No. 45570
- 46306 Southwestern Public Service Company Application for Authority to Revise Its Fuel Factors Using the Formulae Approved in Docket No. 40133

Projects

- 36234-P Joint TDUs AMS Low-Income Programs Project
- 39547-P Project to Revise Rate Filing Package for Vertically Integrated Utilities
- 39548-P Project to Revise Rate Filing Package for Investor Owned Transmission & Distribution Utilities

- 41061-P Rulemaking Regarding Demand Response in the Electric Reliability Council of Texas (ERCOT) Market
- 42786-P Review of Advance Metering System Web Portals
- 43876-P PUC Form Revisions for Phase II of the Implementation of HB 1600 Regarding the Economic Regulation of Water & Sewer Utilities
- 43967-P PUC Form Revisions for Phase II of the Implementation of the Economic Regulation of Water & Sewer Utilities (Rate Filing Package Pursuant to TWC §13.1871)
- 44462-P PUC Forms Revisions for Phase II of the Implementation of the Economic Regulation of Water and Sewer Utilities (Rate Filing Package Pursuant to TWC 13.1872)
- 44592-P PUC Project Regarding Sharyland Utility Complaints
- 45078-P Rulemaking Related to Distributed Generation Interconnection Agreements
- 45111-P PUC Rulemaking Proceeding to Amend Chapter 24 for Non-Rate Related Water/Sewer Rules
- 45113-P PUC Rulemaking Proceeding to Amend Chapter 24 for Water/Sewer Rules for Rate Appeals
- 45115-P Project to Amend Chapters 22 & 24 – Implementation of Senate Bill 1148 (Various Regulations Modifications)
- 45116-P Project to Amend Chapters 22 Procedural Rules – Phase II – Water/Sewer Utilities
- 45124-P Rulemaking Regarding DC Ties Pursuant to SB 933, Municipally-Owned Utilities, Pursuant to SB 776, and Non-ERCOT Utilities Pursuant to HB 1535 of the 84th Legislature (R.S.); Competitive Renewable Energy Zones; and Transmission Service Rates
- 45131-P Rulemaking Proceeding to Implement House Bill No. 1535, Relating to Cost Recovery & Rate Adjustment Standards & Procedures for Certain Non-ERCOT Utilities
- 45189-P Rulemaking Amending PUC Substantive Rules to Implement HB 1101, 84th Legislative Session, Related to the Elimination of the System Benefit Fund Balance
- 45572-P Review of the Parameters of the Operating Reserve Demand Curve
- 45625-P Rulemaking Relating to the Use of Hand-Held Devices for Retail Electric Customer Enrollment
- 45730-P Project to Evaluate the Power to Choose Website
- 45780-P Rulemaking Proceeding Related to the Recovery of Federal Income Tax Expense
- 46046-P Report on Alternative Ratemaking Mechanisms (PURA § 36.210(h-l))
- OPUC 02-2 ERCOT Activities
- OPUC 07-1 OPUC's Project Number for Customer Complaints
- OPUC 09-3 Customer & External Communications Activities
- OPUC 10-5 Texas Reliability Entity (Texas RE) Activities
- OPUC 11-3 OPUC's Project Number for Military Communications & Assistance
- OPUC 14-2 EFH Bankruptcy

- OPUC 15-1 OPUC Response to Sharyland Utilities, L.P. Issues

Appeals

- 35717 Application of Oncor Electric Delivery Company LLC for Authority to Change Rates
[D-1-GN-10-000448]
[(03-11-00072-CV)
[15-0005]
- 38951 Application of Entergy Texas, Inc. for Approval of Competitive Generation Service Tariff (Issues Severed from Docket No. 37744)
[D-1-GN-13-003434]
[03-14-00709-CV]
- 39896 Application of Entergy Texas, Inc. for Authority To Change Rates, Reconcile Fuel Costs, and Obtain Deferred Accounting Treatment
[D-1-GN-13-000179]
[D-1-GN-13-000121]
[D-1-GN-12-003721]
[D-1-GV-13-000045]
[D-1-GN-13-000221]
[03-14-00735-CV]
- 40295 Application of Entergy Texas, Inc. for Rate Case Expenses Pertaining to PUC Docket No. 39896
[D-1-GN-13-002623]
[03-14-00706-CV]
- 40443 Application of Southwestern Electric Power Company For Authority to Change Rates and Reconcile Fuel Costs
[D-1-GV-14-000612]
[D-1-GV-14-000536]
[D-1-GN-14-001378]
[D-1-GN-14-001373]
- 43695 Application of Southwestern Public Service Company for Authority to Change Rates
[D-1-GN-16-001675]
- 45188 Oncor Electric Delivery Company, LLC, Ovation Acquisition I, LLC, Ovation Acquisition II, LLC, & Shary Holdings, LLC Joint Report & Application for Regulatory Approvals Pursuant to PURA §§14.101, 37.154, 39.262(I)-(m), & 39.915
[D-1-GN-16-002619]