

Office of Public Utility Counsel Annual Report for Fiscal Year 2018



Prepared for

Senate Business and Commerce Committee

Senate Agriculture, Water & Rural Affairs Committee

Senate Finance Committee

House Appropriations Committee

House Natural Resources Committee

House State Affairs Committee

Sunset Advisory Commission



OFFICE OF PUBLIC UTILITY COUNSEL

January 9, 2019

Honorable Members:

The Office of Public Utility Counsel (OPUC) is pleased to submit our *Fiscal Year 2018 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) 2018. Below is a snapshot of our activities this past year:

- attained over \$260 million in current year bill savings through consumer representation in 41 contested cases and five appeals; and
- participated on behalf of residential and small commercial consumers in 29 projects and rulemakings.

If you have any questions about this report, please contact me at (512) 936-7534.

Sincerely,

Cassandra Quinn
Interim Public Counsel

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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 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, 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 Public Utility 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. In FY 2018, OPUC participated in 41 contested cases and five appeals and helped consumers realize over \$260 million in current year bill savings. Of these 46 proceedings, five were appeals of PUC orders. In FY 2018, one of these appeals did not have a disposition, and four had a positive disposition.

Likewise, in rulemakings and projects, OPUC provides legal representation and technical expertise to benefit and promote consumer interests. In FY 2018, OPUC participated in 29 projects including rulemakings, workshops, and stakeholder working groups on a variety of substantive and procedural issues.

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) Board of Directors. 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.

Along with representing residential and small commercial consumers in regulatory matters, OPUC also works with individual consumers and with the PUC and market participants to resolve consumer concerns. In FY 2018, OPUC staff handled 280 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 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 fifteen 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 2018 consisted of electric, telecommunications, water and wastewater cases, projects, and appeals. In FY 2018, OPUC staff spent 9,637 hours litigating cases with an additional 356 hours spent on appeals. In addition, OPUC staff spent 5,551 hours developing comments, reply comments, and attending workshops in various projects. Overall in FY 2018, OPUC staff spent 15,544 hours advocating on behalf of residential and small commercial consumers.

SECTION 3: CONTESTED CASES AND APPEALS

In FY 2018, OPUC participated in 41 contested cases and five appeals. These contested cases included comprehensive base rate cases, sale/transfer/merger cases, certificate of convenience and necessity cases, access to advanced meter electric information, deployment of wind resources, and cases implementing the federal Tax Cuts and Jobs Act of 2017. For more information, see Attachment A, *OPUC List of FY 2018 Cases and Projects*.

A major 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 \$260 million in current year bill savings.

SECTION 4: PROJECTS AND RULEMAKINGS

In FY 2018, OPUC actively participated and advocated for consumers in 29 projects and rulemakings. OPUC analyzed issues, made recommendations, filed comments and reply comments, and participated in workshops, public hearings, and meetings with the PUC and industry stakeholders. The scope of these projects and rulemakings encompassed issues such as establishment of a filing schedule for ERCOT utilities, revisions to the sale/transfer/merger application form for water and sewer utilities, the administration of the system benefit fund, deposit requirements, improvements to the Power to Choose website, and changes to the Universal Service Fund for small and rural telephone companies.

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.

SECTION 6: LOOK AHEAD

Looking ahead to FY 19, OPUC is dedicated to continuing to represent residential and small commercial consumers in the ever changing energy market. In FY 19, we anticipate that new and emerging technologies, including battery storage, will be addressed, distributed generation and renewable energy will continue to evolve, and that market and regulatory measures to ensure adequate energy supplies will be evaluated.

ATTACHMENTS

Attachment A
OPUC List of FY 2018 Cases, Projects and Appeals

<u>Cases</u>		
●	44361	Sharyland Utilities, L.P. Application for Approval of an Advanced Metering System Deployment Plan, Surcharge, and Non-Standard Metering Service Fees
●	45414	Sharyland Utility Company Review of the Rates
●	45592	Compliance Docket for Refunds from Docket No. 42862 (Appeal of Water & Sewer Rates Charged by the Town of Woodloch CCN Nos. 12312 & 20141)
●	45979	Review of the Rate Case Expenses Incurred in Docket No. 45414 (Sharyland)
●	46216	Monarch Utilities I, L.P. Request for Rate Case Expenses Pertaining to Docket No. 45570
●	46238	Oncor Electric Delivery Company LLC and NextEra Energy, Inc. Joint Report and Application for Regulatory Approvals Pursuant to PURA §§ 14.101, 39.262 and 39.915
●	46256	Liberty Utilities (Woodmark Sewer) Corp. & Liberty Utilities (Tall Timbers) Corp. Application to Change Rates for Sewer Service in Smith County, Texas
●	46328	SPS & Municipalities Review of Rate Case Expenses Incurred in Docket No. 45524
●	46368	AEP Texas North Company Application for Regulatory Approvals Related to the Installation of Utility-Scale Battery Facilities
●	46449	Southwestern Electric Power Company (SWEPCO) Application for Authority to Change Rates
●	46674	Suburban Utility Company, Inc. Application for Authority to Change Rates
●	46831	El Paso Electric Company Application to Change Rates
●	46884	Remand of Docket No. 35717 (Oncor Electric Delivery Company, LLC Application for Authority to Change Rates)
●	46901	Southwestern Public Service (SPS) & Southwest Power Pool (SPP) Joint Petition for a Declaratory Order
●	46936	Southwestern Public Service Company (SPS) Application for Approval of Transactions with ESI Energy, LLC & Invenergy Wind Development North America LLC, to Amend a Certificate of Convenience & Necessity for Wind Generation Projects & Associated Facilities in Hale County, Texas and Roosevelt County, New Mexico & for Related Approvals

●	46957	Oncor Electric Delivery Company LLC Application for Authority to Change Rates
●	47228	El Paso Electric Company & Municipalities Review of Rate Case Expenses Incurred in Docket No. 46831
●	47396	Undine Texas, LLC & Suburban Utility Company Application for Sale, Transfer, or Merger of Facilities & Certificate Rights in Harris County, Texas
●	47416	Entergy Texas, Inc. (ETI) Application for Approval of Advanced Metering System (AMS) Deployment Plan, AMS Surcharge, and Non-Standard Metering Service Fees
●	47453	Texas Transmission Holdings Corporation & NextEra Energy, Inc. Joint Report & Application for Regulatory Approvals Pursuant to PURA §§ 14.101, 39.262, & 39.915
●	47461	Southwestern Electric Power Company (SWEPCO) Application for Certificate of Convenience & Necessity (CCN) Authorization & Related Relief for the Wind Catcher Energy Connection Project
●	47469	Sharyland Utilities, L.P., Sharyland Distribution & Transmission Services, L.L.C. & Oncor Electric Delivery Company LLC Joint Report & Application for Transfer of Facilities, Transfer of Rights Under & Amendment of Certificates of Convenience & Necessity, & for Other Regulatory Approvals
●	47472	Commission Staff's Petition to Determine Requirements for Smart Meter Texas
●	47527	Southwestern Public Service Company (SPS) Application for Authority to Change Rates
●	47576	City of Lubbock Power & Light Application for Authority to Connect a Portion of Its System with the Electric Reliability Council of Texas (ERCOT)
●	47675	Oncor Electric Delivery Company LLC & Sempra Energy Joint Report & Application for Regulatory Approvals Pursuant to PURA §§ 14.101, 39.262, and 39.915
●	47736	SWWC Utilities, Inc. DBA Water Services, Inc. Application for Authority to Change Rates
●	47976	Liberty Utilities (Silverleaf Water) LLC Application for Authority to Change Water and Sewer Rates
●	48065	CenterPoint Energy Houston Electric, LLC Application for Interim Update of Wholesale Transmission Rates
●	48101	Lone Star Transmission, LLC Application for a Wholesale Transmission Service Tax Rate Change Rider
●	48115	Electric Transmission Texas, LLC Application for Update of Wholesale Transmission Rates
●	48122	AEP Texas Inc. Application for Update of Wholesale Transmission Rates
●	48222	AEP Texas Inc. Application to Amend Its Distribution Cost Recovery Factor

●	48226	CenterPoint Energy Houston Electric, LLC Application for Approval to Amend Its Distribution Cost Recovery Factor
●	48231	Oncor Electric Delivery Company LLC Application for a Distribution Cost Recovery Factor
●	48233	Southwestern Electric Power Company (SWEPCO) Application to Implement Base Rate Decrease in Compliance with Docket No. 46449
●	48297	Commission Staff’s Petition for a Declaratory Order Interpreting 16 Texas Administrative Code § 25.181
●	48325	Oncor Electric Delivery Company Application for Authority to Decrease Rates Based on the Tax Cuts and Jobs Act of 2017
●	48371	Entergy Texas, Inc.’s Statement of Intent & Application for Authority to Change Rates
●	48401	TNMP Application for Authority to Change Rates
●	48440	Dispute Between the U.S. Department of Energy & Southwestern Public Service Company (SPS) Concerning the Pantex Facility & Pantex Wind Farm (Severed from D-47527)

<u>Projects</u>		
●	36234-P	Joint TDUs AMS Low-Income Programs Project
●	44592-P	PUC Project Regarding Sharyland Utility Complaints
●	45117-P	Certificate of Convenience & Necessity Application Form – Water & Sewer Utilities
●	45118-P	Sale/Transfer/Merger Form – Water & Sewer Utilities
●	45572-P	Review of the Parameters of the Operating Reserve Demand Curve
●	45730-P	Project to Evaluate the Power to Choose Website
●	45757-P	Simplified Class B Water and Sewer Rate Filing Package Form, Notice and Instructions for Class C and Smaller Class B Utilities
●	45758-P	Revisions to the Class B Water and Sewer Rate Filing Package
●	45780-P	Rulemaking Proceeding Related to the Recovery of Federal Income Tax Expense
●	46393-P	Rulemaking Proceeding to Amend 16 TAC § 25.192, Relating to Transmission Service Rates
●	46394-P	Rulemaking Proceeding to Amend 16 TAC § 25.239, Relating to Transmission Cost Recovery Factor for Certain Electric Utilities
●	47303-P	Amendments to 16 TAC Section § 24.21 to Allow a Utility to Establish Reduced Water Utility Rates Funded by Donations for Elderly Customers Pursuant to TWC Sections §§ 13.182 & 13.189
●	47334-P	Amendments to 16 TAC Section 24.34, Alternative Rate Methods
●	47343-P	Rulemaking to Amend Chapter 25 Substantive Rules Relating to the Elimination of the System Benefit Fund

●	47545-P	Rulemaking Proceeding to Establish Filing Schedules for Investor-Owned Electric Utilities Operating Solely Inside ERCOT
●	47674-P	Petition of Texas Legal Services Center, Et Al for Emergency Rulemaking to Provide Customer Protection Rules for Continuing Support of Victims of Hurricane Harvey
●	47669-P	Rulemaking to Revise 16 Tex. Admin. Code 26.404 Small and Rural Incumbent Local Exchange Company Universal Service Plan Pursuant to S.B. 586
●	47810-P	Project to Revise General Instructions for PUC Electric-Utility Earnings Reports
●	48251-P	Rulemaking Regarding the Review and Approval of Substations
●	48377-P	Rulemaking Proceeding to Amend 16 TAC § 25.247 to Establish a Filing Schedule for Non-Investor-Owned Transmission Service Providers Operating Within ERCOT
●	48540-P	Review of Real-Time Co-Optimization in the ERCOT Market
●	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
●	OPUC 18-01	Inquiry regarding AEP Texas Merger Savings Credits Pursuant to Order in Docket No. 46050

<u>Appeals</u>		
●	39896	Application of Entergy Texas, Inc. for Authority to Change Rates, Reconcile fuel Costs, and Obtain Deferred Accounting Treatment [D-1-GN-13-000179-OPUC] [CONSOLIDATED: D-1-GN-13-000121-ETI] [D-1-GN-12-003721-ETI] [D-1-GV-13-000045-Cities] [D-1-GN-13-000221-State Agencies] [03-14-00735-CV] [16-0385]

●	40443	Application of southwestern Electric Power Company For Authority to Change Rates and Reconcile Fuel Costs [D-1-GV-14-000612-OPUC] [CONSOLIDATED: D-1-GV-14-000536-State Agencies] [D-1-GN-14-001378-TIEC] [D-1-GN-14-001373-CARD] [03-17-00490-CV]
●	43695	Application of Southwestern Public Service Company for Authority to Change Rates [D-1-GN-16-001675] [07-17-00146-CV]
●	45084	Entergy Texas, Inc. (ETI) Application for Approval of a Transmission Cost Recovery Factor [D-1-GN-16-006058]
●	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]