

**AGENCY STRATEGIC PLAN**

**For the Fiscal Years 2009-2013 Period**

**by**

**OFFICE OF PUBLIC UTILITY COUNSEL**

**July 11, 2008**

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**OFFICE OF PUBLIC UTILITY COUNSEL**

**Don Ballard**

**January 3, 2008 through present**

**Austin, TX**

**July 11, 2008**

Signed:

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Don Ballard  
Public Counsel

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# Securing Our Future

## STATEWIDE VISION

*Assuring open access to an educational system that not only guarantees the basic core knowledge necessary for productive citizens but also emphasizes excellence and accountability in all academic and intellectual undertakings;*

*Creating and retaining job opportunities and building a stronger economy to secure Texas' global competitiveness, leading our people and a stable source of funding for core priorities;*

*Protecting and preserving the health, safety, and well-being of our citizens by ensuring healthcare is accessible and affordable and by safeguarding our neighborhoods and communities from those who intend us harm; and*

*Providing disciplined, principled government that invests public funds wisely and efficiently.*

## THE MISSION OF TEXAS STATE GOVERNMENT

Texas state government must be limited, efficient, and completely accountable. It should foster opportunity and economic prosperity, focus on critical priorities, and support the creation of strong family environments for our children. The stewards of the public trust must be men and women who administer state government in a fair, just, and responsible manner. To honor the public trust, state officials must seek new and innovative ways to meet state government priorities in a fiscally responsible manner.

Aim high . . .we are not here to achieve inconsequential things!

## THE PHILOSOPHY OF TEXAS STATE GOVERNMENT

The task before all state public servants is to govern in a manner worthy of this great state. We are a great enterprise, and as an enterprise, we will promote the following core principles:

- First and foremost, Texas matters most. This is the overarching, guiding principle by which we will make decisions. Our state, and its future, is more important than party, politics, or individual recognition.
- Government should be limited in size and mission, but it must be highly effective in performing the tasks it undertakes.
- Decisions affecting individual Texans, in most instances, are best made by those individuals, their families, and the local government closest to their communities.

- Competition is the greatest incentive for achievement and excellence. It inspires ingenuity and requires individuals to set their sights high. Just as competition inspires excellence, a sense of personal responsibility drives individual citizens to do more for their future and the future of those they love.
- Public administration must be open and honest, pursuing the high road rather than the expedient course. We must be accountable to taxpayers for our actions.
- State government has a responsibility to safeguard taxpayer dollars by eliminating waste and abuse and providing efficient and honest government.
- Finally, state government should be humble, recognizing that all its power and authority is granted to it by the people of Texas, and those who make decisions wielding the power of the state should exercise their authority cautiously and fairly.

## **RELEVANT STATEWIDE GOALS AND BENCHMARKS**

### **Priority Goal**

To ensure Texans are effectively and efficiently served by high-quality professionals and businesses by:

- Implementing clear standards;
- Ensuring compliance;
- Establishing market-based solutions; and
- Reducing the regulatory burden on people and business.

### **Benchmarks**

- Ratio of supply of electricity generation capacity to demand.

## **OFFICE OF PUBLIC UTILITY COUNSEL MISSION STATEMENT**

The mission of the Office of Public Utility Counsel is to provide quality representation to Texas residential and small business telephone and electric utility consumers in proceedings and matters that come before the Public Utility Commission, the Electric Reliability Council of Texas, the Federal Energy Regulatory Commission, the Federal Communications Commission, and in state and federal courts to ensure that just and reasonable rates and reliable and capable services are available to them in an increasingly competitive environment.

## **OFFICE OF PUBLIC UTILITY COUNSEL PHILOSOPHY**

The staff of the Office of Public Utility Counsel believes that a healthy economic climate is achieved when companies are allowed to make a fair profit by charging consumers reasonable and affordable prices for telecommunications and electric service. We also believe that consumer protection to prevent anti-competitive behavior that results in higher prices, unclear or limited service offerings, or violates regulatory compliance is necessary. The Office of Public Utility Counsel is committed to providing the highest quality legal, professional, and technical representation to residential and small business ratepayers to ensure fair solutions in telecommunications and electric rates so that services are plentiful, affordable, and reliable for all Texans and that competitive markets are developed that benefit customers.

## **EXTERNAL/INTERNAL ASSESSMENT**

### **I. OVERVIEW OF AGENCY SCOPE AND FUNCTIONS**

#### **A. Statutory Basis and Affected Populations.**

The Office of Public Utility Counsel was created in 1983 in response to legislative and consumer group concerns that the residential and small business ratepayers were not being adequately represented in the utility proceedings that ultimately affected them. Utility companies and large consumers had plentiful resources to aggressively present their positions. However, residential and small business ratepayers generally did not have entities that represented their interests before the PUC and other agencies because they were individually unable to afford the cost of presenting full legal cases.

The Legislature determined that this inequity resulted in an imbalance in the regulatory process. OPUC was created in an attempt to provide balance to the process. The Public Utility Regulatory Act (PURA), Tex. Util. Code Ann. §§ 13.001 *et seq.* charges OPUC with representing residential and small business consumers in proceedings affecting electric and telecommunications rates and services. OPUC represents these consumers at the PUC, as well as in both state and federal courts, at the Federal Communications Commission (FCC) and at the Federal Energy Regulatory Commission (FERC). Additionally, OPUC is an active participant in the Electric Reliability Council of Texas (ERCOT) which is the Independent System Operator for 75% of the Texas electric grid. Decisions made at these regulatory agencies and at ERCOT directly impact the price, offering, and reliability of utility services. OPUC represents the interests of residential and small business consumers when those decisions are being formed and made. In rulemakings, projects, contested cases, appeals, and at market-driven forums, such as ERCOT committees and working-groups, OPUC provides legal and technical comments, testimony, and proposals that benefit residential and small commercial customers and promote their interests.

## **B. Historical Perspective.**

Regulation of electric and telephone utilities became an issue shortly after the turn of the last century. Until 1975, municipalities were charged with the duty of regulating electric and telephone utilities. This role was relatively uncontroversial until the early 1970's when increasing energy costs and growing concern about the practices of the Bell telephone system galvanized public opinion. Legislative committees in the early part of that decade concluded that municipal regulation had become ineffective due both to the lack of a comprehensive system of regulation and the cities' inability to muster enough resources to defend their rate decisions in the lengthy court battles that always followed utility rate applications.

- Accordingly, in 1975, the Public Utility Commission of Texas (PUC) was created to oversee state-wide regulation of electric and telecommunications utilities.
- As noted above, OPUC was created later in 1983 to provide specific representation of residential and small business consumers in the regulatory process.
- In 1995 the Texas Legislature enacted legislation allowing competition in the electric wholesale market.
- In 1996, Congress passed the Federal Telecommunications Act of 1996 allowing for competition in local retail telecommunications markets.
- Shortly thereafter, in 1999, the Texas Legislature provided restructuring for the Texas electric market and enhancing customer safeguards.
- From 1999 to the present, OPUC and all market participants have been working together to advance the restructured vision of electric customer choice and the market paradigm envisioned in the 1999 legislation.

## **C. Who Are We In The Public's Perception?**

OPUC's presence in both regulated and market proceedings before the aforementioned jurisdictions and entities brings value and a consumer perspective to all of these processes. Because OPUC is tasked specifically with representing residential and small business interests, in contrast with the PUC's broader representation of the "public interest", it brings a focus on their behalf that no other market participant is able to represent.

## **II. ORGANIZATIONAL ASPECTS**

### **A. Size and Composition of Workforce.**

As of July 1, 2008, OPUC had a total of 16.5 filled full-time positions. OPUC's workforce is 24% Hispanic, 6% African American, and 73% female. The staff is comprised of 12 professional positions requiring an advanced degree and most requiring extensive experience in utility regulation.

Although OPUC maintains a small staff of regulatory analysts, these analysts are sometimes unable to address certain technical issues due to workload constraints or lack of a needed expertise. When necessary, OPUC utilizes and contracts with outside expert witnesses to address these issues. These outside expert witnesses are experienced professionals such as engineers, economists, accountants, or telecommunications analysts who have particular knowledge or expertise with specific issues in a pending proceeding.

### **B. Organizational Structure and Process.**

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 seventh and current Public Counsel is Don Ballard, first appointed by Governor Rick Perry on January 3, 2008.

The Public Counsel supervises the overall operations of the agency and establishes agency policy. Specifically, the Public Counsel is responsible for the agency budget, staff hiring and termination, agency policy and administration, and the selection of cases in which to intervene.

OPUC is comprised of two divisions, the Litigation Division and the Market Representation and Communications Division.

- The Litigation Division is responsible for representing the interests of residential and small business consumers in litigated matters before the Texas PUC and other jurisdictional entities as necessary (State and District Court, the FERC, the FCC, etc.). In addition to the Director, who is an attorney, the Division also employs two additional attorneys and two regulatory analysts.
- The Market Representation and Communications Division is responsible for representing the interests of residential and small business consumers in non-litigated matters, focusing on consumer market policy representation before the Texas PUC, and ERCOT, in rulemakings and communications outreach to consumers. In addition to the Director, the Division also employs three attorneys and one government affairs and communications specialist.

- OPUC’s Business Manager and 4.5 administrative support staff complete the 16.5 filled full-time positions. The Business Manager manages the budget and business activities, while the administrative support staff provides professional legal and clerical support for all groups.
- The OPUC staff is comprised of 12 professional positions requiring an advanced degree and extensive experience in utility regulatory and market issues.

**C. Geographical Location of Agency**

The Office of Public Utility Counsel is located in the William B. Travis Building at 1701 North Congress Avenue, Suite 9-180 in Austin, Texas.

**D. Agency Use of Historically Underutilized Businesses**

The Office of Public Utility Counsel will continue to make a good faith effort to include historically underutilized businesses (HUBs) in its delegated purchases and contracts awarded annually. The agency attained or exceeded two, or 100%, of the applicable statewide HUB Goals in FYs 2005 and 2006. The agency attained or exceeded one of two, or 50%, of the applicable statewide HUB goals in FY2007.

OPUC will adopt the guidelines recommended by the Texas Comptroller of Public Accounts Office as its internal goals for future HUB utilization. We will continue to broaden our internal list of HUB vendors by category of service or commodities and will continue to make every effort to find and utilize competitive HUB vendors whenever possible.

**E. Key Organizational Events, Areas of Change, and Impact on Organization.**

Prior to 1995, the traditional telephone and electric utility regulatory paradigm in Texas focused on rate and rate-related litigious proceedings consistent with the types of regulation inherent with the fully regulated, bundled utility construct. The advent of wholesale electric competition legislation in 1995, the dawn of local retail telecommunications competition promulgated by the 1996 Federal Telecommunications Act, and the initiation of restructuring and Texas electric choice in 1999 has shifted the traditional regulatory paradigm so that it now has added multiple market-based, competitive issues that need to be addressed along with the many rate and rate-related proceedings that continue to be filed. Accordingly, and as noted above, OPUC has structured its organization in such a way as to bring value on behalf of residential and small business customers to both the traditional regulated issues and to the great variety of market-based, competitive issues that continue to influence the current regulatory paradigm. The current OPUC structure allows OPUC to not only intervene as an active “litigant” in docketed proceedings, but also bring active policy participation as a “market participant” in all regulatory venues (PUC, ERCOT, etc.) in rulemakings, projects, market-driven committees, subcommittees, workshops, and community forums.

### **III. FISCAL ASPECTS**

OPUC was appropriated a total of \$3,435,962 for the 2008-09 biennium from the General Revenue Fund.

PURA authorizes the Texas Comptroller of Public Accounts to assess and collect one-sixth of 1% of the Public Utility Gross Receipts Tax on utility bills to pay for utility regulation in Texas. The gross receipts tax collected approximately \$59 million in 2007 of which \$1,717,981 was used to fund OPUC.

### **IV. SERVICE POPULATION DEMOGRAPHICS**

Electric and telephone service is nearly universal in Texas. Therefore almost the entire population in Texas, over 25.5 million people, is affected by the prices of electric and telecommunication products and services. The ability for all residential and small business consumers to have access to affordable utility services constitutes a continuing challenge for policy makers. The agency is tasked to represent the interests of residential and small commercial consumers in this environment. Furthermore, the agency must carry out its statutory mandate given that the Legislature has found that the production and sale of electricity and telecommunications are increasingly competitive activities. Creating, enhancing, and promoting competition through appropriate market structures will be continuously important to ensure customers benefit from competition.

Retail electric competition was introduced in January 2002 to major market areas in Texas including Dallas, Houston, and South Texas. Texas is now often deemed the finest openly competitive electric market in the United States, if not the world, despite some challenges that have and will continue to be met and overcome. Challenges include a transition from the current Zonal market to a Nodal market, the incorporation of renewable energy into the Texas portfolio of resources, and the implementation of advanced metering and energy efficiency programs. There continue to be major market areas not included in competition including San Antonio, Austin, El Paso, the Panhandle and Southeast Texas. Full regulation of transmission and distribution facilities continues throughout all portions of Texas.

The Public Utility Commission of Texas has noted that the telecommunications industry in Texas, as well as in the nation, is undergoing rapid change. As the telecommunications industry is changed by technology and regulation, the industry players respond by changing themselves from a corporate perspective. New players enter the marketplace, others leave, and yet others merge or break up to meet the new challenges (and challengers). All parties adjust their product lines to compete. The result of this activity is the introduction of products (and retirement or disuse of others) that change the very face of the industry. In addition to technology-driven regulatory changes, public policy objectives also have been changing, resulting in an evolution in telecommunications regulations.

Competition in local telecommunication markets has changed to a different set of entities and increasingly has become intermodal – competition is between companies owning their own facilities rather than obtaining them from the incumbent local exchange carriers (ILECs). The new telecommunications arena primarily features competition among the ILECs, cable companies, mobile wireless companies, and non-facilities based companies such as providers of voice over internet protocol (VOIP).

## **V. TECHNOLOGICAL DEVELOPMENTS**

Access to the Internet, has continued to be a vital business tool for our agency. Many valuable resources are now available on-line and access to the Internet allows our agency real-time access to that information. For example, our agency downloads financial information on utilities, including FERC and SEC financial forms as well as annual reports. Both federal and state government agencies are also trending toward the elimination of paper by creating electronic alternatives. For example, the Texas Register is currently available on-line. The PUC requires filings to be made electronically as well as by hard copy. A majority of filings made at the FCC and FERC are filed only electronically. Creation of home pages by governmental agencies also allows quick and easy access to important public notices, requests for comments, and other useful information. E-mail addresses, including mobile devices, enable our employees to be more productive by allowing communication at any time of the day or night and for transmission of documents.

## **VI. ECONOMIC VARIABLES**

### **A. Key Economic Variables Affecting Utility Rates and Service**

The public utility industry is affected by a complex set of economic variables. The inability of the industry to accurately predict the impact of changes in key economic variables can result in severe adverse rate impacts and regulatory controversies. Excess plant capacity, growth in the economy, utility service curtailments, rising fuel and construction costs, market structure, and loss of customers to alternative technologies are typical of the kinds of severe operating and financial impacts resulting from forecasting failures. Several of these key variables, as well as their effect on service populations are discussed below

Dramatic changes in the price of natural gas has been a key factor affecting the electric industry in Texas in the recent past, because natural gas is an important input in the production of electricity in the competitive wholesale market in Texas. For instance, prices for natural gas escalated sharply in 2005 and early 2006 and fell gradually in the latter part of 2006. The increase can be, at least partially, attributed to hurricanes Katrina and Rita that caused significant damage to natural gas-production facilities in the Gulf of Mexico and onshore processing and pipeline infrastructure, resulting in dramatic increases in natural gas prices. An increase in electricity prices predictably followed.

Subsequent to a decline in natural gas prices in the latter part of 2006 prices proceeded to increase and have reached historically high levels in 2008. Prices have exceeded \$13/MMBtu, more than double the natural gas price in 2007. It is not clear whether those prices, almost as high as those seen in 2005, are sustainable long term. But as a result of price increases, the price of electricity for many residential and small commercial customers has increased.

Wholesale market structure can have a profound affect on the ultimate prices customers pay for electricity. Currently the ERCOT portion of the Texas electric market (which accounts for 85% of the electric load in Texas) is undergoing a transition from a Zonal market structure to a Nodal market. In September 2003, as part of Project 26376, the Public Utility Commission of Texas (PUCT) ordered ERCOT to develop a nodal wholesale market design. The Texas Nodal Program exists to facilitate the transition from a zonal to a nodal market and affects many business processes and systems including: a day-ahead market (DAM), reliability unit commitment (RUC), real-time or security constrained economic dispatch (SCED), and congestion revenue rights (CRRs).

The redesigned grid will consist of more than 4000 nodes and will replace the current congestion management zones (CMZs). The implementation of the nodal market design is expected to deliver the following benefits: (1) Improved price signals, (2) Improved dispatch efficiencies, and (3) Direct assignment of local congestion costs. ERCOT has spent over \$315M to date to institute the Nodal market and it is expected to be in operation on or about April 2009. A cost-benefit study by Charles Rivers Associates KEMA Consulting, Inc. purported to demonstrate customer benefits compared to remaining with the Zonal Market design. The delay in implementation of Nodal, originally scheduled for December 2008, will surely be reflected in increased costs associated with the new design and increased risks for all market participants

Since January 2007 ERCOT's retail market, excluding Municipals and Electric Cooperatives, has been completely deregulated. At this time affiliate retail electric providers (REPs) were permitted to compete on price in the foot print of its former transmission and distribution utility affiliate. As possibly the premier retail market in the country Texas boasts numerous retail electric providers and an array of different service offerings. Key issues confronting policy makers include a review of rulemakings addressing REP certification, REP customer disclosure, provider of last resort, and the deployment of advanced electric meters.

With respect to telephone revenues, toll, custom calling features and other discretionary services are more sensitive to the overall level of economic activity than basic local service. Due to rapid changes in electronic and telecommunication technologies, the telephone industry has experienced declining costs. Real costs of providing local telephone service is declining primarily because mechanical devices have been replaced with electronic equipment, thus reducing the labor costs required to operate and maintain telephone facilities.

Each of the economic factors described above affects the cost of providing utility service in Texas. Because the availability of electric and telephone service is a necessity of modern life, virtually all businesses and households in Texas are affected by those factors.

The response of the general population to technological developments may dictate whether the effect of particular technological changes will be significant or not. In the electric industry, continued advances in energy efficiency measures, advanced metering, and demand-side management requires adoption and acceptance of those programs by consumers.

In the telecommunications industry, technology permits telephone companies and their competitors to offer a plethora of new services, as well as offer existing services at lower prices. Consumer savings are obtained through the packaging of services, the choices of various service providers, and competitive pricing. Such technology developments also increase the importance of informed customer choice.

## **B. Agency Response to Economic Conditions**

OPUC continues to conclude that anticipated future conditions call for intensified, rather than diminished, consumer representation. These changing conditions will require even more sophisticated representation as both industries' products and services become more complex. Moreover, the numerous policy issues which remain to be addressed regarding the future structures of both industries provide an opportunity to advocate competitive structures which are beneficial to all ratepayers.

Although the implementation of competition has not changed the focus of the agency, it has changed the way that those goals are realized. Obtaining affordable, reliable service and products, encouraging innovation and modifying market structures that enhance competitive benefits still remain the focus of the agency. For services that are still regulated, the role of the office is to recommend and present proposals to the regulator that review costs, recommend adjustments, and advocate rate designs beneficial to residential and small business consumers. In competitive markets, the role of the office is to advocate for market structures, mitigation measures, and market monitoring that protects consumers, enhances choices, and results in attractive pricing and products. Customer protection will continue to be a high priority for the office and especially heightened for competitive services which have less regulatory oversight. In addition the agency must continue to support the maintenance of an adequate reserve margin for capacity in ERCOT. A balance of supply and demand and an adequate reserve margin are essential for customer protection and consistent with statewide benchmarks.

For the foreseeable future, increased agency resources will be required to adequately advocate regarding the expanding range and complexity of issues. Moreover, the agency must obtain staff with adequate specialization and expertise in new technologies to provide effective representation.

OPUC anticipates that continued assistance from both in-house experts and legal counsel, as well as outside consultants, will be necessary in the future in order to analyze consumer protection and competition issues arising from the changing market structure and technological conditions.

## **VII. IMPACT OF FEDERAL STATUTES AND REGULATIONS ON OPUC**

### **1. Electric Industry**

#### **A. Historical Role of Federal Involvement**

The Federal Energy Regulatory Commission (FERC) is the primary federal agency with oversight and regulatory authority over the interstate transmission of electricity. FERC's legal authority to regulate wholesale electricity transactions and transmission activities of Investor-Owned Utilities (IOUs) comes from the Federal Power Act (FPA), and major amendments made to it by the U.S. Congress. Generally, IOUs that do not have direct interconnections with utilities in other states are excepted from FERC regulation.

The Electric Reliability Council of Texas (ERCOT), created in 1970, is generally not subject to FERC jurisdiction because its operations are not integrated with other electric systems outside of Texas (i.e., there is not interstate electric transmission). ERCOT is the only market in the U.S. in which regulatory oversight of the wholesale and retail markets is performed by the same governmental entity, the Public Utility Commission of Texas (PUCT). The PUCT has jurisdiction over retail market issues and certain transmission issues.

#### **B. Current Federal Activities**

In August 2005, Congress passed the Energy Policy Act of 2005 (EPAct 2005), which amended the core statutes governing the electric power industry, including amending FPA, reforming the Public Utility Regulatory Policies Act (PURPA) and repealing the Public Utility Holding Company Act (PUHCA) of 1935. EPAct 2005 encouraged energy conservation and efficiency by promoting residential efficiency, increasing the efficiency of appliance and commercial products, diversifying U.S. energy supplies with renewable sources and supporting new generation of energy-efficiency vehicles. FERC held a major role in implementing EPAct 2005. Federal regulations relating to FERC and its relevant statutes are located in Title 18 Code of Federal Regulations (CFR) Parts 1-399.

Though FERC is not the primary regulatory authority for ERCOT, FERC does oversee wholesale markets in the non-ERCOT portions of Texas, and pursuant to EPAct 2005, FERC now assumes reliability oversight over the entire state. Pursuant to that legislation, FERC encouraged the use of independent system operators (ISOs) or regional transmission operators (RTOs) in all areas of the country. ERCOT acts as its own ISO for its region and is the only ISO not created by FERC. The EPAct 2005 also required FERC to designate a privately and independently owned electric reliability organization (ERO) to implement and enforce market rules. In 2006, the North American Electric Reliability Corporation (NERC) was designated as the ERO, and regional entities for the various regions of Texas were designated in 2007. In addition to serving as a reliability council and an ISO, ERCOT has an independent division that acts as the Regional Entity under ERO, the Texas Regional Entity (TRE). Under the 2005 federal legislation, all of the Regional Entities are subject to FERC, and all of the RTOs, other

than ERCOT, are subject to FERC for wholesale market issues. The first federal reliability standards took effect in June 2007 and represent the first significant FERC regulation within the ERCOT market.

In December 2007, Congress approved the Energy Independence and Security Act of 2007. Goals of the legislation include moving the U.S. toward greater energy independence and security, expanding the production of renewable fuels, protecting consumers, improving the energy performance of the federal government, and combating global climate change. The bill also contains energy-efficiency, smart grid and carbon dioxide provisions, along with incentives for hybrid electric vehicles. The law set Corporate Average Fuel Economy (CAFE) targets for cars and trucks by model year 2012 and adopted new standards for energy efficiency equipment, like lighting for residential and commercial appliance equipment including refrigerators, freezers, combinations, lamps and walk-in coolers and freezers.

### **C. Anticipated Impact on Customers**

Congress, FERC, ERCOT and PUCT continuously evaluate viable renewable energy sources, energy efficiency, cleaner fuels, smart grid technologies, advanced metering, and other issues impacting the U.S. OPUC will review each of these issues and more to determine the best way to represent the interests of Texas residential and small commercial electric customers to ensure that utility services and technologies available to these ratepayers are just and reasonable in a competitive environment. OPUC continues to serve on the boards of both ERCOT and the TRE representing residential and small business consumers.

## **2. Telecommunications Industry**

### **A. Historical Role of Federal Involvement**

The Federal Communications Commission (FCC) is the primary federal agency charged with regulating interstate telecommunications and international communications with jurisdiction over all fifty states, the District of Columbia and U.S. territories. FCC's legal authority to regulate the telecommunications industry comes from the Communications Act of 1934.

The Federal Telecommunications Act (FTA) of 1996 was the first major overhaul of telecommunications law in over sixty years. The legislation encouraged competition in local telephone service by requiring Incumbent Local Exchange Carriers (ILECs) to provide access to their facilities to Competitive Local Exchange Carriers (CLECs). The FTA established standards for interconnection of telecommunications networks, resale of ILEC services by new providers, and functional unbundling of the network elements. It also allowed local carriers to enter long distance markets and sets new policies relating to the provision of universal service. Congress identified explicit goals for federal universal service in the FTA and provided direction for state universal service programs (USF) programs. The FTA directed the FCC to rewrite its federal rules applicable to telecommunications carriers. Federal regulations relating to FCC and its relevant statutes are located in Title 18 Code of Federal Regulations (CFR) Parts 1-399.

## **B. Current Federal Activities**

There have been no major federal legislative reforms to telecommunications since the FTA of 1996. In January 2007, federal legislation was proposed relating to telecommunications ownership diversification and tax incentives promoting such diversification. The bill, the Telecommunications Ownership Diversification Act of 2007, was referred to committee and, to date, there have been no further discussions of this legislation.

In April 2007, legislation was introduced to reform the universal service provisions of the Communications Act of 1934. The bill, the Universal Service Reform Act of 2007, was referred to committee and no further action has been taken. Through federal court decisions and federal rules, the FCC facilitates and regulates telecommunications competition.

## **C. Anticipated Impact on Customers**

One of the main goals of telecommunications regulation is ensuring universal and affordable service to all customers throughout the U.S. If Congress makes substantive changes to the federal USF, it could impact Texas customers benefiting from Texas Universal Service Fund (TUSF) programs, that assist telecommunications providers in obtaining basic local telecommunications service at reasonable rates in high cost rural areas. Though the federal statutes have not changed, OPUC will continue to monitor any proposed modifications to statutes or rules that may affect residential and small commercial telecommunications customers.

# **VIII. OTHER LEGAL ISSUES**

## **A. Recent Developments**

The electric and telecommunications industries are dynamic and evolving industries due to technological innovation and the forces of competition. As such, the Public Utility Regulatory Act (PURA) is often amended during legislative sessions. These new laws are then subject to numerous rulemakings and docketed proceedings at the Public Utility Commission to implement them. The agency has been and will be continued to be involved in several significant issues that have been the subject of recent legislation.

For example, the Legislature amended PURA in 2005 to encourage the deployment of advanced metering.<sup>1</sup> Advance metering is a new technology that has the potential for significant customer and system benefits by allowing customer access to real time energy usage information. This access to real-time energy consumption information and pricing signals allows customers to proactively manage their overall electricity usage as well as defer some activities to less costly periods of the day. Reducing overall demand and shifting load to off-peak hours diminishes the need for new capacity which in turn reduces generating and transmission costs. Advance metering is also a significant first step in the establishment of a smart grid which can increase the operational efficiency of the utility, lowering operational costs.

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<sup>1</sup> Public Utility Regulatory Act (PURA), as amended by HB 2129, 79<sup>th</sup> Legislature, Regular Session (2005), codified at PURA §39.107(h) and (i).

As a result of this legislation, the PUC amended its rules to address the requirements for the deployment of advance metering.<sup>2</sup> In May of 2008, the first applications for the deployment of advanced meters were filed at the Public Utility Commission.<sup>3</sup> OPUC has been and will continue to be active in these proceedings and future proceedings representing the interests of customers advocating for the most cost-effective and beneficial deployment of this new technology.

Energy efficiency is another area that has seen significant legislative and PUC activity. In 1999, the legislature established goals for energy efficiency and mandated that at least 10% of a utility's annual growth be met through energy efficiency programs.<sup>4</sup> The law was amended in 2005<sup>5</sup> and 2007,<sup>6</sup> *inter alia*, to fund low-income weatherization programs, to establish market transformation programs for schools and homeowners, to require all electric providers to participate in energy efficiency programs, to add new incentives, to update building codes, to create a sales-tax holiday for Energy Star qualified products and to increase the overall goals for energy efficiency.

This legislation prompted a number of proceedings at the PUC to implement these legislative requirements.<sup>7</sup> OPUC has been involved in these significant policy rulemakings and docketed cases at the PUC to ensure that residential and small business customers have access to appropriate energy efficiency programs, including low-income weatherization programs. Considering the significant and on-going legislative interest in energy efficiency programs and goals, OPUC anticipates that energy efficiency will continue to be an important area for consumer representation in the 2009-2013 Fiscal Year periods.

Finally, renewable energy issues have also generated a significant amount of legislative and PUC activity. As part of the restructuring legislation, the legislation added PURA § 39.904 which set goals for renewable electricity.<sup>8</sup> The Legislature amended the renewable energy

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<sup>2</sup> PUC Sub. R. §25.130 (2007).

<sup>3</sup> PUC Docket No 35620, *Application of Centerpoint Energy Houston Electric, LLC for Approval to Implement Advanced Meter Information Network pursuant to PURA §39.107(i)*; Docket No. 35639, *Application of Centerpoint Energy Houston Electric, LLC for Approval of Deployment Plan and Request for Surcharge for an Advanced Metering System*; and Docket No. 35718, *Oncor Electric Delivery Company, LLC's Request for Approval of Advanced Metering System (AMS) Deployment Plan and Request for Advanced Metering System (AMS) Surcharge*.

<sup>4</sup> Public Utility Regulatory Act (PURA), as amended by SB 7, 76<sup>th</sup> Legislature, Regular Session (1999), codified at PURA §§17.004(a)(11)-(b); 31.002(4); 39.101(b)(3); and 39.905.

<sup>5</sup> Public Utility Regulatory Act (PURA), as amended by SB 712, 79<sup>th</sup> Legislature, Regular Session (2005), codified at PURA §§ 39.903(e)(3) and 39.905.

<sup>6</sup> Public Utility Regulatory Act (PURA), as amended by HB 3693, 80<sup>th</sup> Legislature, Regular Session (2007), codified at PURA §§39.101(c); 39.9025; 39.905; 40.005(11); and 41.005(11).

<sup>7</sup> See *e.g.*, PUC Sub. R. §§25.181 (2008); 25.183 (2003); 25.184 (2005); 25.185 (2004); PUC Project No. 33487, *Rulemaking Regarding Amendments to Energy Efficiency Rules & Templates* (2008); Docket No. 32103, *Commission Staff's Application to Implement Targeted Low-Income Energy Efficiency Programs* (2005); and Docket No. 34620, *Petition of Texas Legal Services Center and Texas Ratepayers' Organization to Save Energy to Modify the Commission's Final Order in Docket No. 32103 and to Reform the Agreement to Implement Weatherization Programs* (2008).

<sup>8</sup> Public Utility Regulatory Act (PURA), as amended by SB 7, 76<sup>th</sup> Legislature, Regular Session (1999), codified at PURA §39.904.

provisions in 2005<sup>9</sup> and again in 2007<sup>10</sup>. The most recent amendment to PURA required the creation of Competitive Renewable Energy Zones (CREZ). The PUC was required to identify CREZ areas suitable for the development of renewable generating capacity and to develop a plan to construct sufficient transmission to deliver renewable energy to the grid in a manner that is the most cost-effective and beneficial to consumers.<sup>11</sup>

The CREZ legislative requirements have resulted in numerous projects and contested cases at the PUC.<sup>12</sup> OPUC has been active in the most contested of these proceedings, PUC Docket No. 33672, *Commission Staff's Petition for Designation of Competitive Renewable Energy Zones* ("CREZ Docket"). The PUC opened that docket in December of 2006, has resulted in two separate contested hearings, and is still pending before the PUC. OPUC anticipates that renewable energy proceedings will continue to require substantial OPUC resources well into the 2009-1013 Fiscal Year periods.

## **B. Appeals**

PUC decisions are often appealed to Texas courts for resolution on appeal. OPUC participates in a number of these appeals to ensure that beneficial decisions by the PUC are sustained on appeal and to make sure that errors of law are corrected. The appeals process is a lengthy one and cases slowly work their way over many years through the various court levels. Judicial review can result in cases being remanded to the PUC for further disposition according to the specific instructions of the Court. For the current fiscal year, OPUC estimates that it will participate in 13 appeals.

## **IX. SELF EVALUATION AND OPPORTUNITIES FOR IMPROVEMENT**

In Fiscal Year 2007, the agency attained or exceeded 62.5% of its key targets. OPUC participated in a total of 82 proceedings. With both the electric and telecommunications industries in a state of transition to more competitive environments, it is vital to maintain a staff of experienced, well-qualified professional and support staff at competitive salaries and benefits. Recruiting and attracting qualified and highly-skilled individuals remains an ongoing focus for the agency.

OPUC views the Strategic Planning process as an opportunity to examine the role we play in Texas on a broad scale, taking into consideration the far-reaching vision and goals as set

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<sup>9</sup> Public Utility Regulatory Act (PURA), as amended by SB 20, 79<sup>th</sup> Legislature, 1<sup>st</sup> C.S. (2005), codified at PURA §39.904.

<sup>10</sup> Public Utility Regulatory Act (PURA), as amended by HB 1090, 80<sup>th</sup> Legislature, Regular Session (2007), codified at PURA §39.904.

<sup>11</sup> PURA §39.104(g).

<sup>12</sup> See, e.g., PUC. Sub. R. 25.174 (2006), Project No. 31852, *Rulemaking Related to Renewable Energy Amendments* (2006), Docket No. 33672, *Commission Staff's Petition for Designation of Competitive Renewable Energy Zones*; Docket No. 35665 *Commission Staff's Petition for Selection of Entities Responsible for Transmission Improvements Necessary to Delivery Renewable Energy from Competitive Renewable Energy Zones*; Project No. 34108, *Commission Staff's Request for Qualifications Pursuant to PUC Sub. R. §25.174(c)*.

out in “Securing Our Future.” Through our strategic planning process, we seek to administer our role for telecommunications and electric customers in a fair, just and responsible manner. The agency currently considers several relevant consumer, market, and fiscal factors before participation in proceedings: Is there a demonstrable consumer interest at stake; What consumer benefits can be achieved; Does OPUC have a reasonable chance of success; What are the goals for participation; What time and costs will be necessary for the matter; What prior law or precedent is relevant to the matter. It is OPUC’s goal to assist in providing clear regulatory standards, ensure compliance and provide solutions for consumers in the market.

OPUC continues to reach out to Texas consumers to formulate the goals, priorities and functions for the office. The agency will again hold an annual Consumer Meeting to hear directly from consumers as well as attend consumer and other stakeholder meetings.

## **OBJECTIVES/OUTCOMES/STRATEGIES/OUTPUTS**

**GOAL:** To represent residential and small business consumers aggressively in electric utility matters to ensure that residential and small commercial customers benefit from competition and are protected during the transition to a more competitive market.

**OBJECTIVE:** To Promote Electric Customer Choices and Consumer Protection Policies and Achieve Reasonable Electric Bills.

### **Outcome Measures:**

- Percentage of OPUC Electric Proceedings that are Competition Related
- Percentage of OPUC Electric Proceedings that are Related to Resource Planning and Acquisition
- Current Year Bill Savings for Residential and Small Commercial Electric Customers. (In Millions)
- Future Bill Savings for Residential and Small Commercial Electric Customers (in Millions)

**STRATEGY:** Participate in Electric Proceedings Involving Competitive/Customer Protection Issues or Impacting Consumers' Bills.

### **Output Measures:**

- Number of Electric Cases in Which OPUC Participates
- Number of Electric Projects in Which OPUC Participates
- Number of Electric Court Cases in Which OPUC Participates

### **Efficiency Measure:**

- Average Cost Per Electric Proceeding in Which OPUC Participates

**Explanatory Measures:**

- The average monthly price of electricity per kilowatt hour (kWh) for residential customers from regulated suppliers in Texas as a percentage of the national average cost of electricity for the same class of service

**GOAL:** To represent residential and small business consumers aggressively by providing comprehensive telecommunications analysis and representation at the Public Utility Commission, the FCC, and in state and federal courts to ensure that residential and small commercial consumers benefit from competition and are protected during the transition to a more competitive market.

**OBJECTIVE:** To promote fair state and federal rulings, customer choice in telecommunications providers and services, access to new or advanced technologies, and consumer protection policies such that fifty percent of the OPUC's telecommunications involvement relates to competition during each year of the biennium.

**Outcome Measures:**

- Percentage of OPUC Telecommunications Proceedings that are Competition Related
- Percentage of Proceedings in Which OPUC Participates that are State-Related

**STRATEGY:** Participate in telecommunications proceedings involving competitive issues/consumer safeguards or new and/or advanced technologies and services. Review and analyze information, present testimony, and submit legal pleadings in proceedings affecting residential and small business telecommunications customers.

**Output Measures:**

- Number of Telecommunications Cases In Which OPUC Participates
- Number of Telecommunications Projects in Which OPUC Participates
- Number of Telecommunications Court Cases in Which OPUC Participates

**Efficiency Measure:**

- Average Cost per Telecommunications Proceeding in Which OPUC Participates

**Explanatory Measures:**

- Average Annual Residential Telephone Bill in Texas as a Percentage of the National Average
- Average Annual Business Telephone Bill in Texas as a Percentage of the National Average

**GOAL:** We will establish and carry out policies governing purchasing that foster meaningful and substantive inclusion of historically underutilized businesses.

**OBJECTIVE:** We will include historically underutilized businesses in at least the percentages designated by the General Services Commission in its Annual Procurement Utilization Goals of the dollar value of all delegated purchases and contracts awarded annually by Fiscal Year 2001.

**Outcome Measure:**

- Percent of Total Dollar Value of all categories of delegated purchases and contracts awarded annually to HUBs.

**STRATEGY:** We will continue to expand and maintain a list of all certified HUB vendors and contractors by collecting updated information from the General Services Commission.

**Output Measures:**

- Number of HUBs Contractors Contacted for Bid Proposals
- Number of HUB Contracts Awarded
- Dollar Value of HUB Contracts Awarded

## **TECHNOLOGY INITIATIVE ALIGNMENT**

The Office of Public Utility Counsel utilizes DIR Texan and capital complex telecommunications services which includes voice mail for all employees. Employees use desktop computers that are connected by local area network. Laptop computers are used by staff attending hearings and ERCOT meetings. The agency also has a facsimile machine for sending and receiving information.

The agency has internet service provided by DIR, internal email system, and a website. Through these means, the agency is able to effectively communicate with consumers, FCC, PUC, ERCOT and other state agencies. The agency continues to use its website as a way to communicate with consumers providing electric and telecommunication information.

It is crucial for the agency to continually enhance its computer system as technology changes. Emerging technology issues will affect the achievement of the agency's goals. In FY2007, the agency entered into a DIR Seat Management contract to provide maintenance for the agency's network, email and website, and to keep up with technology advances that can improve the efficiency and effectiveness of the agency. This has greatly improved the agency's capabilities in the area of automated security tools, including patch management, risk assessment, and incident reporting. In FY2008 the agency leveraged DIR's resources to improve security of the agency's network and applications. DIR performed a penetration test on the agency's network and applications. The test resulted in only a few minor issues that the agency addressed.

The agency plans to redesign its website to improve navigation, appearance, and accessibility to users with disabilities. This will improve customer satisfaction and make the agency's operations and information more transparent to the public.

# **Appendix A**

## ***Brief Description of Agency Planning Process***

## **Appendix A**

### **Brief Description of Agency Planning Process**

The Office of Public Utility Counsel received Strategic Planning Instructions from the Legislative Budget Board (LBB) and the Governor's Office. These instructions were then distributed and reviewed by the Public Counsel, the Director of Litigation, Director of Market Representation, the Business Manager and staff to determine if the agency's previous Strategic Plan continued to reflect projected work levels and goals.

It was determined that modifications would be made to make sure current issues were accurately reflected. The Public Counsel elicited input from staff members in order to update the Strategic Plan. After research and review, the final draft was completed. OPUC submitted its complete revised Strategic Plan in July 2008.

# **Appendix B**

## ***Organizational Chart***



# **Appendix C**

*Projected Outcomes for 2009-2013*

**PUBLIC UTILITY COUNSEL**

**OUTCOMES**

**2009 – 2013**

# **Appendix D**

## *List of Measure Definitions*

**APPENDIX D**  
**List of Measure Definitions**

**Strategy: Participation in Electric Proceedings**

Outcome Measure:	Percentage of OPUC Electric Proceedings that are Competition Related.
Short Definition:	The term “competition proceedings” includes OPUC workload which addresses issues such as customer choice in electric providers and services, headroom issues, market power, and consumer protection policies.
Purpose/Importance:	The electric industry is moving toward a competitive retail industry. As such, the agency workload will be best measured by the percentage of total proceedings that are competition related.
Source/Collection of Data:	OPUC records.
Method of Calculation:	OPUC determines the number of total electric proceedings in which it participates. OPUC divides this number into the number of electric competition proceedings in which OPUC actually participates.
Calculation Type:	Non-cumulative.
New Measure:	No.
Desired Performance:	Higher than target.

Outcome Measure:	Percentage of OPUC Electric Proceedings that are Related to Resource Planning and Acquisition.
Short Definition:	The term “Resource Planning and Acquisition proceedings” includes OPUC workload which addresses issues such as renewable energy requirements, energy efficiency goals, energy portfolio issues and transmission planning.
Purpose/Importance:	SB7 instituted certain statewide goals and mandates related to resource planning and acquisition. The agency will actively pursue these requirements through the most cost-effective means possible.
Source/Collection of Data:	OPUC records.
Method of Calculation:	OPUC determines the number of total electric proceedings in which it participates. OPUC divides this number into the number of electric resource planning and acquisition proceedings in which OPUC actually participates.
Calculation Type:	Non-cumulative.
New Measure:	No.
Desired Performance:	Higher than target.

Outcome Measure:	Current Year Bill Savings for Residential and Small Commercial Electric Customers (in Millions).
Short Definition:	Bill savings measure the impact on residential and small commercial customer's bills. Different types of proceedings result in rate adjustments on customers' bills such as rate increases/decreases, surcharges, refunds, incentives, mark-ups, transition charges, and fuel charges.
Purpose/Importance:	OPUC will participate in proceedings to ensure the maximum bill savings on residential and small commercial customers' bills. This measure will quantify the impact in the current year for participation in the current year's proceedings on a state-wide basis.
Source/Collection of Data:	OPUC records.
Method of Calculation:	<p>OPUC calculates the bill savings as the difference between a requested amount for a rate adjustment and the amount actually approved, for the current fiscal year. Bill savings should include only residential and small commercial, Industrial and transportation customers will be removed using information from the U.S. Department of Energy.</p> <p>Impact on industrial and transportation customers will be separated out using the most recently available information from the U.S. Department of Energy. The calculation is based on using one of the following: national retail sales of kilowatt hours, state retail sales of kilowatt hours, or state retail revenue earned by all electric companies that sell electricity in Texas. In addition, information from the U.S. Department of Energy should be used to calculate a three year average moving for residential and small commercial market sector to minimize the fluctuation in the market.</p>
Calculation Type:	Cumulative.
New Measure:	No.
Desired Performance:	Higher than target.

Outcome Measure:	Future Bill Savings for Residential and Small Commercial Electric Customers (in Millions).
Short Definition:	Future bill savings measure the impact on residential and small commercial customers' bills. Different types of proceedings result in rate adjustments on customers' bills such as rate increases/decreases, surcharges, refunds, incentives, mark-ups, transition charges, and fuel charges.
Purpose/Importance:	OPUC will participate in proceedings to ensure the maximum bill savings on residential and small commercial customers' bills. This measure will quantify the impact in future years for participation in the current year's proceedings on a state-wide basis.
Source/Collection of Data:	OPUC records.
Method of Calculation:	<p>OPUC calculates the bill savings as the difference between a requested amount for a rate adjustment and the amount actually approved, for bill savings from Stranded Cost Cases. Future year's savings calculation should not include any savings to consumers in the current year.</p> <p>Bills savings should only include residential and small commercial, Industrial and transportation customers will be removed using information from the U.S. Department of Energy.</p> <p>Impact on industrial and transportation customers will be separated out using the most recently available information from the U.S. Department of Energy. The calculation is based on using one of the following: national retail sales of kilowatt hours, state retail sales of kilowatt hours, or state retail revenue earned by all electric companies that sell electricity in Texas. In addition, information from the U.S. Department of Energy should be used to calculate a three year average moving for residential and small commercial market sector to minimize the fluctuation in the market.</p>
Calculation Type:	Cumulative.
New Measure:	No.
Desired Performance:	Higher than target.

Output Measure:	Number of Electric Cases in Which OPUC Participates.
Short Definition:	OPUC intervenes in electric cases which have the most significant impact on residential and small commercial electric customers in Texas. “Cases” include tariffs and docketed proceedings.
Purpose/Importance:	This measure quantifies the number of electric cases in which OPUC participates. Many significant issues are presented as tariffs or docketed proceedings. OPUC actively participates in these cases on behalf of residential and small commercial ratepayers.
Source/Collection of Data:	OPUC records.
Method of Calculation:	OPUC uses a manual count of all electric cases in which OPUC actually participates.
Calculation Type:	Non-cumulative.
New Measure:	No.
Desired Performance:	Higher than target.

Output Measure:	Number of Electric Projects in Which OPUC Participates.
Short Definition:	OPUC participates in electric projects which have the most significant impact for residential and small commercial electric customers in Texas. "Projects" include rulemaking proceedings and generic projects.
Purpose/Importance:	Many significant issues are decided through projects at the PUC. Currently, the entire electric market is being restructured in large part through these projects. OPUC participates in these projects on behalf of residential and small commercial customers.
Source/Collection of Data:	OPUC records.
Method of Calculation:	OPUC uses a manual count of all electric projects in which OPUC actually participates.
Calculation Type:	Non-cumulative.
New Measure:	No.
Desired Performance:	Higher than target.

Output Measure:	Number of Electric Court Cases in Which OPUC Participates.
Short Definition:	OPUC participates in court cases in which electric matters are litigated. OPUC can participate in court either as the petitioning party, as an intervenor, or as an <i>amicus curiae</i> . In many instances, OPUC performs two roles in the same case.
Purpose/Importance:	This measure quantifies the number of electric court cases in which OPUC participates. Many significant issues are litigated in the court system. OPUC actively participates in these cases on behalf of residential and small commercial ratepayers.
Source/Collection of Data:	OPUC records.
Method of Calculation:	OPUC uses a manual count of electric court cases in which OPUC actually participates.
Calculation Type:	Non-cumulative.
New Measure:	No.
Desired Performance:	Higher than target.

Efficiency Measure:	Average Cost Per Electric Proceeding in Which OPUC Participates.
Short Definition:	Average cost per electric proceeding.
Purpose/Importance:	This measure provides a guide as to the average cost per proceeding. The amount determined will be higher if longer or more complex proceedings are more common. It will be lower if shorter or less complex proceedings are more common.
Source/Collection of Data:	OPUC records.
Method of Calculation:	OPUC calculates the hourly rate for each attorney and technical staff and multiplies that hourly rate by the individual time spent on each case. The sum of all attorney and technical time is then divided by the total number of electric proceedings in which OPUC participates. Outside expert witness contracts are included in this calculation.
Calculation Type:	Non-cumulative.
New Measure:	No.
Desired Performance:	Lower than target.

Explanatory Measure:	Avg Price of Elec/kWh in TX for Residential Customers from Regulated Suppliers as a % of the National Avg.
Short Definition:	This measure represents the average monthly price of electricity per kilowatt hour (kWh) for residential customers from regulated suppliers in Texas as a percentage of the national average cost of electricity for the same class of service.
Purpose/Importance:	The purpose of this measure is to show whether Texas residential electricity prices per kWh are higher or lower than the national electricity prices per kWh for residential service. This measure is important because it tracks the Public Utility Commission's progress in meeting our objective of regulating electric service providers such that by the end of fiscal year 2005, the average price of electricity per kWh for any class of service will not exceed the national average in any year.
Source/Collection of Data:	Public Utility Commission of Texas.
Method of Calculation:	Detailed procedures for calculating this measure are maintained by the Public Utility Commission of Texas.
Calculation Type:	Non-cumulative.
New Measure:	No.
Desired Performance:	Performance that is at or below target is desirable.

## **Strategy: Telecommunications Proceedings**

Outcome Measure:	Percentage of OPUC telecommunications proceedings that are competition related.
Short Definition:	The term competition "proceedings" includes OPUC workload which addresses customer choice in telecommunications providers and services, access to new and advanced technologies, and consumer protection policies.
Purpose/Importance:	The telecommunications industry is regulated in a competitive framework. As such, OPUC workload is best measured by the percentage of total proceedings that are competition related.
Source/Collection of Data:	OPUC records.
Method of Calculation:	OPUC determines the number of total telecommunications proceedings in which it participates. OPUC divides this number into the number of telecommunications competition proceedings in which OPUC participates.
Calculation Type:	Non-cumulative.
New Measure:	No.
Desired Performance:	Higher than target.

Outcome Measure:	Percentage of proceedings in which OPUC participates that are state-related.
Short Definition:	This calculation will yield the percentage of OPUC's telecommunications workload which is state in nature.
Purpose/Importance:	As the federal government takes on a more active role in the telecommunications industry, more of the agency workload will involve federal proceedings. This measure quantifies the amount of workload that is state-related.
Source/Collection of Data:	OPUC records.
Method of Calculation:	OPUC will divide the number of state-related telecommunications proceedings in which OPUC participates by the number of all telecommunications proceedings in which OPUC participates.
Calculation Type:	Non-cumulative.
New Measure:	No.
Desired Performance:	Higher than target.

Output Measure:	Number of Telecommunications Cases in Which OPUC Participates.
Short Definition:	OPUC intervenes in telecommunications cases which have the most significant impact for residential and small commercial telephone customers in Texas. "Cases" include tariffs and docketed proceedings.
Purpose/Importance:	This measure quantifies the number of telecommunications cases in which OPUC participates. Many significant issues are presented as tariffs or docketed proceedings. OPUC actively participates in these cases on behalf of residential and small commercial ratepayers.
Source/Collection of Data:	OPUC records.
Method of Calculation:	OPUC uses a manual count of all telecommunications cases in which OPUC actually participates.
Calculation Type:	Non-cumulative.
New Measure:	No.
Desired Performance:	Higher than target.

Output Measure:	Number of Telecommunications Projects in Which OPUC Participates.
Short Definition:	OPUC participates in telecommunications Projects which have the most significant impact for residential and small commercial telephone customers in Texas. "Projects" include rulemaking proceedings and generic projects.
Purpose/Importance:	Many significant issues are decided through projects at the PUC. OPUC participates in these projects on behalf of residential and small commercial customers.
Source/Collection of Data:	OPUC records.
Method of Calculation:	OPUC uses a manual count of all telecommunications Projects in which OPUC actually participates.
Calculation Type:	Non-cumulative.
New Measure:	No.
Desired Performance:	Higher than target.

Output Measure:	Number of Telecommunications court cases in which OPUC participates.
Short Definition:	OPUC participates in court cases in which telecommunications matters are litigated. OPUC can participate in court either as the petitioning party, an intervenor, or as an <i>amicus curiae</i> . In many instances, OPUC performs two roles in the same case.
Purpose/Importance:	This measure quantifies the number of telephone court cases in which OPUC participates. Many significant issues are litigated in the court system. OPUC actively participates in these cases on behalf of residential and small commercial ratepayers.
Source/Collection of Data:	OPUC records.
Method of Calculation:	OPUC uses a manual count of all telecommunications court cases in which OPUC actually participates.
Calculation Type:	Non-cumulative.
New Measure:	No.
Desired Performance:	Higher than target.

Efficiency Measure:	Average Cost per Telecommunications Proceeding in which OPUC participates.
Short Definition:	Average cost per telecommunications proceeding.
Purpose/Importance:	This measure provides a guide as to the average cost per proceeding. The amount determined will be higher if longer or more complex proceedings are more common. It will be lower if shorter or less complex proceedings are more common.
Source/Collection of Data:	OPUC records.
Method of Calculation:	OPUC calculates the hourly rate for each attorney and expert witness and multiplies that hourly rate by the individual time spent on each case. The sum of all attorney and technical time is then divided by the total number of telecommunications proceedings in which OPUC participates. Outside expert witness rates and expenses are included in this calculation.
Calculation Type:	Non-cumulative.
New Measure:	No.
Desired Performance:	Lower than target.

Explanatory Measure:	Average Annual Residential Telephone Bill in Texas as a Percentage of the National Average.
Short Definition:	This measure reports the average annual residential telephone bill in Texas as a percentage of the national average residential telephone bill. The term “bill” is defined as the weighted average monthly rate for single-line residential telephone service.
Purpose/Importance:	The purpose of this measure is to show whether Texas residential telephone bills are increasing or decreasing in comparison to the national average telephone bill.
Source/Collection of Data:	Public Utility Commission of Texas.
Method of Calculation:	Detailed procedures for calculating this measure are maintained by Public Utility Commission of Texas.
Calculation Type:	Non-cumulative.
New Measure:	No.
Desired Performance:	A performance percentage that is at or below the target is desirable.

Explanatory Measure:	Average Annual Business Telephone Bill in Texas as a Percentage of the National Average.
Short Definition:	This measure reports the average annual business telephone bill in Texas as a percentage of the national average telephone bill. The term “bill” is defined as the weighted average monthly rate for single-line business telephone service.
Purpose/Importance:	The purpose of this measure is to indicate whether business telephone bills in Texas are increasing or decreasing in comparison to the national average business telephone bill.
Source/Collection of Data:	Public Utility Commission of Texas.
Method of Calculation:	Detailed procedures for calculating this measure are maintained by the Public Utility Commission of Texas.
Calculation Type:	Non-cumulative.
New Measure:	No.
Desired Performance:	A performance percentage that is at or below the target is desirable.

# **Appendix E**

## ***Implementing the Texas Transformation***

## Implementing the Texas Transformation

**1. Has the agency considered use of managed services in order to focus more on its business needs?**

Yes. The agency currently has a DIR Seat Management contract to provide managed services to our agency. The agency regularly uses DIR contracted vendors for its purchasing needs.

**2. Does the agency leverage and obtain additional value from the Information and Communications Technology (ICT) Cooperative Contracts program?**

Yes. The agency did leverage and obtain additional value from the information and communications technology (ICT) Cooperative Contract program by further negotiating.

**3. Describe the agency's strategies to align with the State Enterprise Security Plan (<http://www.dir.state.tx.us/pubs/securityplan2007/index.htm>).**

The agency has in place Symantec Endpoint Protection with Endpoint Protection Manager (antivirus). In addition to giving antivirus protection, Symantec Endpoint also gives anti-spyware, firewall, intrusion prevention, and application and device control. The agency also has mail security for MS Exchange which provides protection on the agency's mail from viruses, spam, and security threats. As part of our network management to keep our computers and operating system protected, up-to-date patches are installed every week. DIR performed a penetration test on our network and e-mail server and found minor issues which the agency addressed.

**4. Describe the agency's policies, practices and programs, implemented or planned, that comply with relevant statutes and administrative rules to ensure the privacy of confidential data.**

The agency's internal network is protected by an Adaptive Security Appliance firewall. The file server data is not accessible from the internet. Any security and privacy issues were addressed during the DIR penetration test and the agency has implemented all recommendations made. The agency will continue to review security of any confidential data.

**5. What current practices or plans are in place to improve usability and search ability of the agency's Web content? (2007 SSP, Strategy 4-1)**

The agency plans to redesign and update its website. The redesign will improve navigation, appearance, and accessibility to users with disabilities. The agency has published an accessibility policy, privacy and security policy, and a link to the Governor's Committee on People with Disabilities website.

**6. What current practices or plans are in place to improve life cycle management of agency data and information? (2007 SSP, Strategy 4-1)**

The agency will be reviewing its management of data information to ensure compliance with agency retention and storage policy.

**7. Describe agency methods and standards, implemented or planned, intended to enhance data sharing with other entities. (2007 SSP, Strategy 4-2)**

The agency's mission does not require data sharing.

**8. Does the agency have any plans to simplify or reduce the number of existing software platforms? If no, is the agency fully leveraging its technology to support both its current and future business environment?**

The agency uses a straight-single level operating system and office suite.

The agency is fully leveraging its technology to support both its current and future business environment.

**9. Describe any current or planned activities targeted at reducing the environmental resource consumption of technology equipment.**

The agency does not have any current or future plans to purchase technology equipment. If the agency needed to purchase equipment it would be energy efficient.

# **Appendix F**

## ***OPUC's Workforce Plan***

## **Office of Public Utility Counsel's Workforce Plan**

The mission of the Office of Public Utility Counsel is to provide quality representation to Texas residential and small business telephone and electric utility consumers in proceedings and matters that come before the Public Utility Commission, the Electric Reliability Council of Texas, the Federal Energy Regulatory Commission, the Federal Communications Commission, and in state and federal courts to ensure that just and reasonable rates and reliable and capable services are available to them in an increasingly competitive environment.

The agency will continue to need a gender/age/racially mixed workforce comprised of attorneys, technical experts, and support and administrative staff. We anticipate that we will need the same structure that we have now. In an increasingly competitive environment, recruiting and retaining adequate talent will be a challenge given current resources and benefits.

Our current workforce profile is as follows:

### *Position, Age, Gender, Race, Tenure, Projected Turnover in Next 5 Years*

#### 2 Administrative Positions:

Age Range: 40 – 56 years old  
Gender: Female (1)  
Race: White (2)  
Tenure: 13 – 37 years  
Retirement: 0 are eligible for retirement in the next 5 years  
Projected Turnover in Next 5 Years: 0

#### 10 Professionals

Age Range: 32 – 59 years old  
Gender: Female (6) Male (4)  
Race: White (10)  
Tenure: 1 – 25 years  
Retirement: 3 are eligible for retirement in the next 5 years  
Projected Turnover in Next 5 Years: Yes -- 3

#### 4.5 Administrative/Support Staff

Age Range: 37 – 52 years old  
Gender: Female (5)  
Race: White (0) Hispanic (4) African-American (1)  
Tenure: 3 – 24 years  
Retirement: 1 is eligible for retirement in the next 5 years  
Projected Turnover in Next 5 Years: Yes -- 1

Each employee currently has workforce skills critical to the mission and goals of the agency.

Workforce Planning Goals:

- Continue to issue merit raises where appropriate
- Continue to offer flexible work schedules whenever possible and requested
- Continue to offer additional training when possible
- Continue to encourage formal and informal communication among all employees on all aspects of the agency's functions
- Continue to use outside sources for recruitment when necessary