



**Sunset Advisory Commission**  
**PUC, ERCOT, OPUC Briefing**

Texas Water Conservation Association

March 1, 2023

# Sunset Commission Members

## 2021-2023 Review Cycle

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Angela Paxton

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Craig Goldman

Jeff Austin III, Public Member

Brian Francis, Acting Director

# Sunset Review Timeline

## **April 2022 – November 2022**

- Staff conducted review and published report online

## **December 2022 – January 2023**

- Sunset Commission held public hearing and decision meetings
  - Public Hearing: **December 7**
  - Decision Meeting: **January 11**

## **January – June 2023**

- Legislature considers Sunset bills for each agency under review.
- March 10: Bill filing deadline

# Sunset Clauses

## Subject to abolishment (PUC and OPUC)

Sec. 12.005. APPLICATION OF SUNSET ACT. **The Public Utility Commission of Texas** is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter or by Chapter 39, the commission is abolished and this title expires September 1, 2023.

Sec. 13.002. APPLICATION OF SUNSET ACT. **The Office of Public Utility Counsel** is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished and this chapter expires September 1, 2023.

## Subject to review, but not abolishment (ERCOT)

Sec. 39.151(n). **An independent organization certified by the commission under this section is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The independent organization shall be reviewed during the periods in which the Public Utility Commission of Texas is reviewed.**

# Background and Staff Report Summary

## ■ PUC vs. ERCOT vs. OPUC

- PUC: state agency that oversees certain electric, water and wastewater, and telecommunications utilities in Texas
- ERCOT: nonprofit organization that operates and manages the electric grid that delivers about 90% of electricity consumed in Texas
- OPUC: state agency that represents the interests of residential and small commercial consumers, as a class, in rate cases and other proceedings that are heard at PUC

## ■ 6 Issues → 27 Staff Recommendations

- 5 issues on PUC, 2 of which include recommendations for ERCOT
- 1 issue on OPUC

## ■ Sunset adopted all staff recommendations (as is or with modification) + 3 new recommendations

## ■ Focus on PUC's operational needs and setting agency up for uncertain future

## ■ No recommendations on technical items, such as market design or ratemaking

# ISSUE I: DECISION MAKING

## Key Findings

- PUC lacks the capabilities to independently analyze electric industry data
- State would benefit from a more clearly defined, transparent process for making decisions about the electric industry
- PUC has no state definition for reliability

## Key Recommendations

- Suggest the Legislature consider appropriating funds for a data analytics team and engineering expertise
- Require PUC to establish a clear processes for giving direction to ERCOT that allows for adequate stakeholder input. Directives from PUC to ERCOT must be in writing except in emergency situations.
- Authorize ERCOT to restrict commissioners' presence at executive session
- Direct PUC to develop a state reliability definition by May 1, 2023 (management action)

# ISSUE 2: PUBLIC COMMUNICATIONS

## Key Findings

- PUC needs a more proactive approach to public communications to help restore public trust

## Key Recommendations

- Require PUC to develop a strategic communications plan
- Make other improvements to PUC's methods for interacting with and informing the public
  - Allow public testimony on all agenda items except contested cases
  - Improve website (management action)
- Direct PUC and ERCOT to better coordinate public communications (management action)

# ISSUE 3: WATER

## Key Findings

- PUC lacks the resources to regulate water and wastewater utilities' rates and services efficiently
- PUC needs to improve its data management and regulatory processes to best serve water and wastewater utilities

## Key Recommendations

- Suggest the Legislature consider appropriating funds to fully support PUC's water and wastewater functions
- Direct PUC to review its water and wastewater rules, processes, and guidance documents (management action)

# ISSUES 4 AND 5: DATA PRACTICES, CONTINUE, AND STANDARD ELEMENTS

## Key Findings

- PUC cannot adequately track or use case data to drive decision making
- PUC's lack of policies, procedures, and guidance documents does not align with best practices and leaves the agency vulnerable to turnover
- More time is needed to fully evaluate whether recent legislative and agency changes have been successful

## Key Recommendations

- Direct PUC to develop a plan to prioritize improving its case data collection and analysis (management action)
- Direct PUC to create and maintain a precedent manual (management action)
- Continue the agency for 6 years

# ISSUES 6: OPUC

## Key Findings

- The state benefits from having an advocate to represent and protect the interests of residential and small commercial utility consumers
- OPUC could benefit from more formalizing contracting processes for legal expert witnesses

## Key Recommendations

- Continue the agency for 6 years
- Direct OPUC to document certain contracting processes, such as conducting a formal analysis for outsourcing legal expert witnesses (management action)

# NEW SUNSET COMMISSION RECOMMENDATIONS

- **Add an additional commissioner as a nonvoting member of the ERCOT board.** Each commissioner will serve on a rotating basis beginning in the order they were first appointed to the commission.
- **Modify the topics ERCOT can discuss in executive session.** Specify ERCOT may enter executive session closed to the public only to address contracts, competitively sensitive information, information related to the security of the regional electrical network, or any matter authorized under the Open Meetings Act that also applies to PUC.
- **Direct ERCOT to include appropriate funding in its budget for qualified economic planning staff** to conduct robust economic analyses for transmission planning and other market or planning studies requiring economic analysis. (Management action — nonstatutory)

## Learn More About Sunset

[www.sunset.texas.gov](http://www.sunset.texas.gov)

- *Sunset in Texas*: downloadable PDF with the Texas Sunset Act, 12-year review schedule, review criteria, and more.
- Separate web pages with reports and staff contact for each agency under review.
- Sunset Commission members, staff, and meeting agendas.
- Past Sunset reviews, reports, and results.
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Questions?