

November 30th, 2022

Ms. Jennifer Jones  
Executive Director  
Texas Sunset Advisory Commission  
P.O. Box 13066  
Austin, TX 78711

***RE: Public Utility Commission of Texas Sunset Report***

Dear Ms. Jones:

Thank you for the opportunity to offer comments on the Sunset Commission staff report on the Public Utility Commission of Texas (PUC). Between the transfer of water and wastewater utility regulation from the Texas Commission on Environmental Quality in 2013 to the reforms included in Senate Bill 3 from the 87th Regular Session, PUC's jurisdiction has significantly expanded over the past decade. Just as the agency's jurisdiction has grown, the industries within its jurisdiction are complex and technical in nature, necessitating significant levels of expertise and sophistication on the part of PUC staff.

Issues 1 and 3 in the Sunset staff report rightly point to the need for more agency staff and appropriated resources in order for PUC to keep pace with its growing regulatory – and critically important – workload. Accordingly, recommendations 1.1 and 3.1 in the report seek to increase appropriations in support of PUC's staff capacity to effectively regulate the electric industry and water utilities. Texas 2036 supports these recommendations. That said, Texas 2036 suggests that both recommendations be modified to include the development of performance measures for inclusion within the General Appropriations Act (GAA) that assess and track PUC's efforts in utilizing these extra appropriations if approved by the 88th Legislature.

Performance measures equate with government accountability. If properly developed, performance measures instruct both legislators and the public of the return on investment of taxpayers' dollars by state agencies. Moreover, performance measures provide budget writers on the House Appropriations and Senate Finance committees with longitudinal data for tracking agencies' success towards meeting certain policy objectives. These data



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points are essential, business-like metrics that meaningfully inform legislators of the value the state and taxpayers' receive from appropriations decisions.

If the Sunset Commission does vote to approve the recommended changes in appropriation in the staff report, Texas 2036 recommends that these expressions of the Commission's will include the development of correlative performance measures in order to ensure greater accountability and articulate an expected return on investment for Texas' taxpayers.

The suggested modifications to recommendations 1.1 and 3.1 are described in greater detail below. In addition to these two modifications, a separate suggestion is presented relating to management action recommendation 3.3.

**Modification to Change in Appropriation Recommendation 1.1. Require that PUC, in consultation with Sunset Commission and Legislative Budget Board (LBB) staff, develop performance measures to track agency achievement in using the funds appropriated by the exceptional item requests identified in Recommendation 1.1.**

Sunset staff recommendation 1.1 would express the will of the Sunset Commission that the Legislature fund exceptional item requests #4 and #7 within PUC's Legislative Appropriations Request (LAR). Exceptional item #4 seeks \$2.28 million for the FY 2024/25 biennium for expanding PUC's engineering and technical expertise. The other exceptional item, #7, seeks \$955,000 to establish a specialized data analytics team within the Market Analysis division. Both exceptional item requests in PUC's LAR have merit, and are justified by the findings discussed within Issue 1 of the Sunset staff report.

This modification would require that the PUC coordinate with Sunset Commission and LBB staff in developing performance measures for inclusion in the GAA for each exceptional item. As an example, possible performance measures for exceptional item #4 could include the percentage of the state's electric service areas subject to enhanced mapping, the proportion of water utility files and maps that are digitized and made available for public inspection, or the number of weatherization reviews performed for electric generation and transmission entities. Performance measures for exceptional item #7, which seeks to establish a specialized data analytics team, could identify the number of rulemakings or other Commission or agency actions informed by the team's data or analytic reports, cost savings from ending external service and IT contracts, or the timeliness of data migration and establishment of a data warehouse. The recommended



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performance measures should describe and measure both the effectiveness and return on investment to taxpayers through the funding of each exceptional item request.

As part of this modification, the recommended performance measures should be submitted to House Appropriations and Senate Finance committees and members of the Sunset Commission no later than February 15th, 2023.

**Modification to Change in Appropriation Recommendation 3.1. Require that PUC, in consultation with Sunset Commission and Legislative Budget Board staff, develop performance measures to track the agency's efficiency in regulating water utilities.**

Issue 3 in the Sunset staff report discusses PUC's challenges regulating water and wastewater utilities (hereafter referred to as water utilities). Two issues are readily apparent in the report's discussion. First, PUC lacks the staff capacity to process water utility cases and applications timely. And second, PUC lacks the data to assess its performance in processing water utility-related matters. Sunset staff recommendation 3.1 is for the Commission to support increased appropriations in order to ensure adequate staffing for PUC's water utility-related regulatory duties.

This modification to recommendation 3.1 would require that PUC collaborate with Sunset and LBB staff in developing performance measures for inclusion in the GAA that track the agency's efficiency in processing water utility-related matters. The agency's current performance measures (see Attachment 1) for water utilities only track the aggregate number of water rate reviews performed or certificate of convenience and necessity (CCN) applications processed. This modification would require the development of new performance measures that assess PUC's efficiency in performing these or other tasks. For example, one performance measure could assess the percentage of water rate cases completed within a designated time period (e.g. 180 days), or the proportion of CCN applications approved within a set amount of time. The purpose of these performance measures should be to define and develop data that track taxpayers' return on investment associated with the recommended increase in appropriations for the PUC's water utility oversight.

As part of this modification, the recommended performance measures should be submitted to House Appropriations and Senate Finance committees and members of the Sunset Commission no later than February 15th, 2023.



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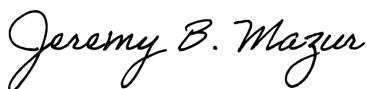
**Modification to Management Action Recommendation 3.3. Require that PUC's review of water and wastewater rules, processes, and guidance documents include the assessment of rules or procedural requirements that may serve as an impediment to the regionalization of water and wastewater service delivery, or that may be amended to encourage regional solutions.**

There are currently over 10,000 public water systems and wastewater operators in Texas. This excessive fragmentation sometimes comes at the cost of economies of scale in the areas of source water utilization, rate efficiency, service delivery, and workforce utilization among others. While the Legislature has expressed its policy preference for regionalization throughout the Texas Water Code, the problem of too many water and wastewater systems remains.

Recommendation 3.3 would direct PUC to engage in a stakeholder-driven review of its water and wastewater rules, procedures, and guidance documents to identify areas for improvement. This modification to recommendation 3.3 expands the scope of PUC's comprehensive review to include the evaluation of rules and other administrative procedures that may impede or discourage the development of regional solutions and to identify options to address them. The review should also identify changes in agency rules or processes that could work to encourage or better facilitate the development of regional solutions.

Thank you for your time and attention to these comments. We welcome the opportunity to discuss these recommendations with your staff in further detail.

Sincerely,



Jeremy B. Mazur  
Senior Policy Advisor

Emily Brizzolara-Dove  
Policy Advisor



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