



1616 Rio Grande Street, Austin, Texas 78701-1122
(512) 472-8591 www.trwa.org

December 12, 2022

Sunset Advisory Commission,
PO Box 13066,
Austin, Texas 78711

Re: Texas Rural Water Association's Comments on the Sunset Advisory Commission's Staff Report on the Public Utility Commission (PUC).

Dear Chairman and Committee Members,

The Texas Rural Water Association (TRWA) submits these comments on the Sunset Advisory Commission's Staff Report on the PUC (Report). TRWA appreciates this opportunity to provide input on the Report, describe our members' experience at the PUC and share our recommendations on how the PUC's regulation of water and wastewater utilities could be improved.

TRWA is a statewide trade association with over 880 rural water and wastewater utility members. Our membership includes non-profit water supply corporations, non-taxing water districts, small cities, and small investor-owned utilities. Our members provide water and wastewater services to over 3 million Texans.

TRWA commends, and agrees with, the Sunset Advisory Commission staff's recommendations that the PUC develop detailed guidance, create a more efficient and effective system, and receive increased funding. In addition, TRWA recommends that the PUC simplify their processes for small water and sewer utilities by 1) using administrative, rather than litigated, procedures to resolve uncontested matters and customer complaints; and 2) implementing a simplified rate appeals process for small utilities.

The PUC currently requires an administrative law judge's (ALJ) approval of uncontested, settled and agreed matters such as (1) uncontested CCN amendments, 2) uncontested sale, transfer, & merger applications, 3) agreements between utilities to adjust their service areas, and 4) uncontested or settled rate cases. These matters often take months, to over a year, to resolve and result in costly legal and expert fees. On a per-capita basis, small water and wastewater utilities cannot afford the exorbitant legal and professional fees they are paying to litigate these matters. Instead, these matters could be processed administratively at the PUC, thereby greatly reducing costs. Customer complaints are also referred to an ALJ for lengthy and costly hearings. PUC staff could facilitate informal resolutions of conflicts between a utility and its' customers.

Texans would be better served by utilities spending their resources on upgrading facilities, fixing leaky lines, and providing clean water instead of on unnecessary legal fees. Therefore, TRWA would like the following applications and procedures to be changed from a litigated process to an administrative, staff delegated, process at the PUC: 1) customer complaints, 2) uncontested CCN amendments; 3) uncontested sale, transfer, & merger applications, 4) Texas Water Code Section 13.248 agreements between utilities to adjust service areas, and 5) uncontested or settled rate cases.

Small utility rate appeal cases also need to be simplified. The PUC rate review process is geared toward large and sophisticated electric and telecommunications companies. TRWA members are small rural utilities which, on average, have less than 2000 connections. Water and sewer rate appeal cases can become so time consuming, and complex, that a utility ends up having to charge its customers higher rates, or surcharges, to recover its rate case expenses. The TRWA knows of at least three recent cases where rate appeals cost customers more to go through the proceedings than the amount sought to be refunded to customers in the rate appeal.¹

Our members' rates and fees are their sole source of funding. Small rural utilities need to charge rates sufficient to cover their operational expenses, repairs, and upgrades. A utility's rate must also fund reserve emergency accounts, enable compliance with required regulatory provisions, and qualify the utility for governmental funding programs to pay for critical new capital projects. TRWA requests that the rate approval process, both for original jurisdiction and appeals cases, be modified for small utilities by having a simpler set of rules, a shortened duration, and limited discovery. Reforms like these would support needed rate increases that maintain system sustainability.

Rural Texas utility customers lose when small water and wastewater systems incur disproportionately high legal fees to conduct business. Communities need these funds invested in maintaining regulatory compliance with potable water standards and replacing aging infrastructure instead.

Thank you for your consideration.

Sincerely,



Mary Alice McKaughan
Assistant General Counsel
Texas Rural Water Association

¹ *Bear Creek SUD*, Docket No. 49351. (2.5 years to resolve, customer refund: \$121,367.12; customer cost (surcharge): \$409,654.58.); *Windermere Oaks WSC*, Docket No. 50788. (Over 2 years and still pending, amount in controversy: \$171,337.00; cost to customers: over \$345,227.03); *South Central Calhoun WCID No. 1*, Docket No. 47912. (2 years to resolve, customer refund: \$0; total cost to customers: \$40,617.66)