

## TEXAS ★ IMPACT

people of faith working for justice

# LIGHT AND LIFE

Using the Public Utility Commission of Texas Sunset Review

to Safeguard Texans' Health and Wellbeing

February 2022

Sponsored by:



\*Serving Humanity to Honor God

# EXECUTIVE SUMMARY

The upcoming 2022-2023 Sunset review of the Public Utility Commission of Texas (PUCT), offers a unique opportunity for Texas lawmakers to advance public health in the Lone Star State. By adopting a “Health in All Policies” approach, we can build a safe, reliable, and fair utility system that can improve individual health outcomes; enhance Texans’ well-being; bring savings and efficiency to hospital systems; and reduce health disparities across Texas communities.

Health in All Policies (HiAP) is a paradigm that centers the health of individuals, families, and communities. HiAP affirms that decisions about any area of public policy can impact human health, and that policies frequently have interactions that potentiate their benefit or harm to human health. According to the World Health Organization:

*“HiAP is an approach to public policies across sectors that systematically takes into account the health implications of decisions, seeks synergies, and avoids harmful health impacts in order to improve population health and health equity. As a concept, HiAP reflects the principles of: legitimacy, accountability, transparency and access to information, participation, sustainability, and collaboration across sectors and levels of government.*

*Health and health equity are values in their own right, and are also important prerequisites for achieving many other societal goals. Many of the determinants of health and health inequities in populations have social, environmental, and economic origins that extend beyond the direct influence of the health sector and health policies. Thus, public policies in all sectors and at different levels of governance can have a significant impact on population health and health equity.”*



A practical way to apply the HiAP lens is through the use of Health Impact Assessments (HIAs.) The conceptual framework for HIAs flows from the older framework of Environmental Impact Assessments (EIA) that have been part of US environmental regulatory policy since 1970.<sup>1</sup> According to the US Environmental Protection Agency (EPA), “ A Health Impact Assessment (HIA) is a systematic process for identifying the potential health effects of a new proposed action. The steps in an HIA can identify health disparities, which are a prime indicator of the existence of a disproportionate impact to minority, tribal or low-income communities.”<sup>2</sup> Recently, the Pew Charitable Trusts, in collaboration with the Robert Wood Johnson Foundation, has established the Health Impact Project to encourage local, state, and national organizations to include HIA in their policymaking processes. The Health Impact Project focuses on resourcing state and local governments with little or no prior experience to undertake HIAs, including providing guidance on good public participation practices.<sup>3</sup>

## Health in Utility Policy

When Texans think about health and health equity, they may think about healthcare providers like doctors and hospitals; they may think about health insurance; or they may think about personal choices like healthy eating or exercise. But particularly after 2021's Winter Storm Uri, Texans have seen that advancing health also requires attention to the state's electric, water, and broadband systems.

Typically, public utility policy has been the province of regulators; providers; businesses; and ratepayers. That framework has not included more than passing concern for the public health importance of public utilities. According to its mission statement, the PUCT's mission is to "protect customers, foster competition, and promote high quality infrastructure." While these are important objectives for utility regulation, they do not directly take into account the impact public utilities have on Texans' health.

For many Texans, the devastation of Winter Storm Uri in 2021 was their first introduction to the PUCT and the Electric Reliability Council of Texas (ERCOT). The failings of the electric industry and the actions of these entities in a time of extraordinary need pulled them out of regulatory obscurity, making them household names and easily identifiable targets for consumers, advocates, and the Texas Legislature.



Winter Storm Uri brought the kind of winter weather most Texans wistfully associate with cozy holidays and winter sports. But instead of cocoa and sledding, Uri ushered in massive power outages, broken pipes, dangerous road conditions, and a near-collapse of the Texas electric grid—escaped by four minutes—that traumatized the state for several days. Record low temperatures tested Texas’ utility infrastructure, which ultimately failed to safeguard its residents leaving nearly 14 million Texans with water disruptions<sup>4</sup> and 69% of the state without electricity.<sup>5</sup> These extreme conditions threatened entire communities, especially the elderly, individuals with medical conditions, and healthcare systems. Many Texans waited in long grocery store lines outdoors in freezing temperatures<sup>6</sup> to secure food and water; others struggled to find necessary medications; and hundreds across the state were injured. The failure of the PUCT and ERCOT to secure a safe and reliable utility system caused thousands of Texans to suffer and some to die. The Texas Department of State Health Services has recorded a death total of 246 from the winter storm, citing extreme cold exposure, exacerbation of pre-existing illness, motor vehicle accidents, and more as causes of death.<sup>7</sup>

Rather than castigating utility regulators for past failings, the legislature should use the opportunity of the Texas’ Sunset Advisory Commission review process to examine the alignment of the state’s utility regulatory structure with Texas’ high-level policy goals. In particular, as a key element of the Commission’s review, the Commission should consider the impact that public utility regulation has on human health, both in catastrophes and on a daily basis, and make recommendations that ensure protecting public health is a key strategy of the PUCT and ERCOT going forward.

Numerous studies reveal public utilities negatively impact human health.

For example:

- Pollution<sup>8</sup> caused by thermal power generation worsens the quality of life for individuals with preexisting conditions, especially asthma.<sup>9</sup> In Central Texas, 1 out of every 16 children live with asthma, with approximately 13.7 annual asthma-related hospitalizations per 10,000 kids.<sup>10</sup>
- More than 2 million Americans lack running water and basic indoor plumbing.<sup>11</sup> Lack of public water systems leads to high household costs for low-income Texans in areas throughout the state, including colonias.
- A study in the American Journal of Public Health found measurable reduction in food consumption for both adults and children in poor households when those households faced increased energy costs from extreme cold.<sup>12</sup>





## **Sunset Review**

Like most Texas state agencies, the PUCT is subject to Texas' "sunset" agency oversight and reauthorization process. Through this process, the Texas Sunset Commission and the legislature examine the mission and operations of an agency and reflect on the agency's strengths and challenges. While ERCOT is not a state agency in the normal sense, it is statutorily required to undergo sunset review, given its key function in the overall mission of PUCT. Both PUCT and ERCOT are under sunset review in the 2022-2023, which should include an examination of their failures to safeguard Texans' health and wellbeing both in 2021 and the past decade.

Winter Storm Uri got the public's attention with respect to electricity, but the Texas public utility system also includes two other utilities within PUCT's purview: water and broadband. While consumers became aware of the PUCT and ERCOT because of power outages, the PUCT also plays a critical role in water utility regulation, where it interacts with the Texas Water Development Board and the Texas Commission on Environmental Quality, both of which also are undergoing sunset review in 2022-2023. Historically, the PUCT has had relatively limited oversight of broadband in Texas, but legislation enacted in 2021 expanded this area of responsibility—and, as millions of families with school-aged children learned during the COVID pandemic—broadband access has become as integral to many activities of modern life as electricity and running water.



## RECOMMENDATIONS

Safe, reliable, and fair utility systems are vital to the health of individuals and communities. In 2023, Texas lawmakers have the opportunity to refocus the PUCT and ERCOT on advancing the health and wellbeing of the ratepayers and taxpayers they are established to serve. The following recommendations would help ensure that the PUCT and ERCOT—and the markets they regulate—put the public at the center of public utility policy.

- Include specific reference to public health in the PUCT mission statement, aligning with the approach of integrating human health, wellbeing, and equity in public policies across sectors.<sup>13</sup>
- Ensure Texas' utility regulatory regime supports the state's public health goals, from the point of generation to the point of individual consumption.
- Direct the PUCT to implement low-income and/or multifamily residential demand response pilot projects to identify opportunities for more residential participation in maintaining reliability through the competitive market.
- Establish a PUCT consumer advisory council, as some other states have done, with dedicated seats for experts who can assist the agency in serving the people of Texas:
  - A dedicated seat for a public health professional to assist the agency in achieving the public health portions of its mission.
  - A dedicated seat for an independent consumer advocate specifically to represent residential and small commercial (<50kW) customers, to assist the agency in achieving the consumer protection portions of its mission.