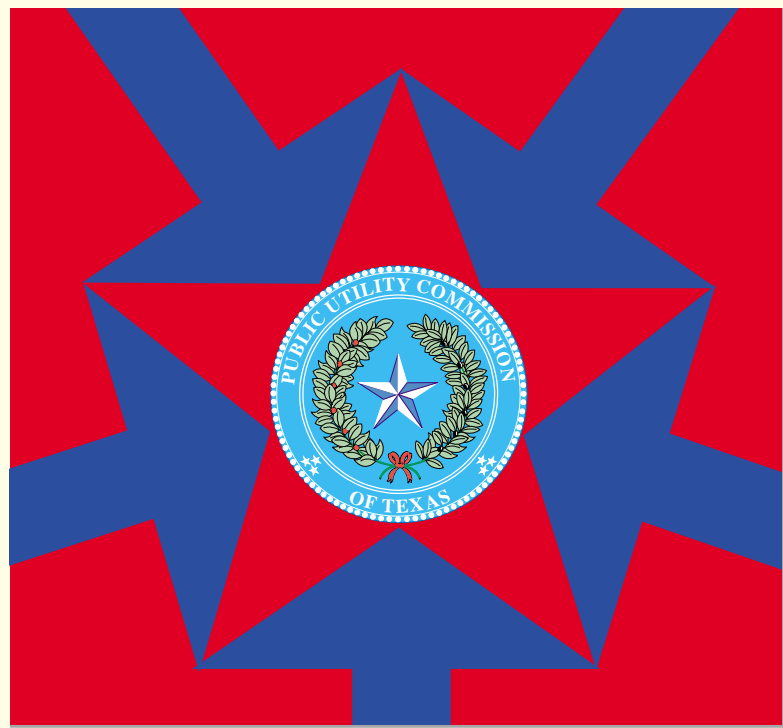


# Annual Report

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FISCAL YEAR ENDED AUGUST 31, 2000

Public Utility Commission

**Max Yzaguirre**  
Chairman

**Brett A. Perlman**  
Commissioner

**Rebecca Klein**  
Commissioner

**W. Lane Lanford**  
Executive Director



## *Public Utility Commission of Texas*

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August 30, 2001

Dear Governor Perry:

I am pleased to present the Public Utility Commission's Fiscal Year 2000 Annual Report. This report details the efforts we have made in meeting the challenges of encouraging competition and growth in the electric and telecommunications industries while ensuring that customer interests are protected.

The PUC took great strides during Fiscal Year 2000 to encourage competition in these key industries. In preparation for Texas' entry into retail electric competition in January 2002, the PUC approved many rules and established policies to carry out the mandates set forth by the Texas Legislature. I am also pleased to report that strong customer protection legislation passed by the Texas Legislature to prevent "slamming" and "cramming" has been implemented and we are using these measures to provide relief to customers harmed by these deceptive practices.

I am proud of the efforts my fellow Commissioners, past and present, and the staff of the PUC have made to meet these challenges. On their behalf, I present this report on our efforts.

Sincerely,

A handwritten signature in black ink, appearing to read "Max Yzaguirre".

Max Yzaguirre  
Chairman

## PREPARING FOR COMPETITION

Fiscal year 2000 saw the culmination of much preparation by the Public Utility Commission (PUC) for the future of competition in Texas. The PUC made a final declaration to the Federal Communications Commission (FCC) in support of Southwestern Bell's (SWB) bid to enter the long-distance market. The PUC also approved rules and established policies to carry out the Texas electric restructuring law signed by Gov. George W. Bush in 1999.

The PUC continued to conduct rulemakings for the implementation of legislation passed by the Texas Legislature in 1999.

## ELECTRIC

In 1999, the Texas Legislature enacted Senate Bill 7 (SB 7), which opens the retail electric market to competition beginning January 1, 2002, with pilot projects slated to start June 1, 2001. Customers of investor-owned utilities, which serve approximately 70 percent of Texans, had their electric rates frozen on September 1, 1999, when SB 7 took effect. Residential customers will enjoy a six percent base rate cut on January 1, 2002. Municipally owned utilities and electric cooperatives may keep their monopoly status, or they have the option of entering the competitive retail market on their own schedule.

### **Implementation of Retail Electric Competition**

SB 7 included a significant level of detail about how retail competition will be conducted, but it also left additional details to be developed. Since SB 7's enactment, the PUC and interested persons worked to develop those additional details. The PUC has completed the rulemaking proceedings for which SB 7 provided a statutory deadline and a number of additional major rulemaking proceedings that will define how the retail market in Texas will operate.

The rules that the PUC adopted will define the operating rules for utilities, power generation companies, and Retail Electric Providers (REPs) in Texas. The following is an explanation of the rules adopted by the commission.

*Utility Business Separation Plans* SB 7 requires all investor owned utilities to divide into three different entities by 2002: a power generation company, a REP, and a transmission and distribution utility (TDU). The TDUs will deliver power to customers, and the PUC will continue to regulate the rates and services of TDUs. SB 7 also requires **the PUC to** determine whether the business separation plans are consistent with law. Finally, SB7 requires utilities to discontinue offering competitive energy services on or before September 1, 2000. These competitive energy services may be provided by a competitive affiliate of a utility, but they may not be provided by the utility itself.

The PUC adopted rules in December 1999 to define how competitive activities are segregated from regulated activities and how investor owned utilities would be required to unbundle their costs and their operations.



**Unbundling cost of service cases** Utilities filed their proposed tariffs for the TDUs' delivery of service in 2002 on March 31, 2000. The PUC adopted procedures to consider a number of generic issues in Commission-conducted hearings and referred the rate cases for the delivery service to the State Office of Administrative Hearings (SOAH) for trial-type hearings on the issues. The transmission and distribution charges will include the costs of delivering electricity, a system benefit fee, and, for utilities that own nuclear generation facilities, a decommissioning fee. All customers in a utility's service area will pay these "non-bypassable" charges no matter what REP they choose to buy electricity from when competition begins.

**Code of Conduct** The PUC adopted a Code of Conduct rule in December 1999 that establishes safeguards between utilities and their competitive affiliates to avoid unfair practices that would put other competitors at a disadvantage.

This code is effective during the transition to competition in the electric industry, and after retail competition begins on January 1, 2002. The overall goal of the rule is to assure that utility-affiliated energy market competitors receive no advantage over their competitors because of their relationship with the utility. The rules ensure non-discriminatory treatment of all retail competitors by the regulated utilities.

The code defines what information, facilities, employees or other resources a utility and its competitive affiliates can share and what must remain separate. It also specifies how products, services, or assets can be bought, sold or transferred between a utility and its affiliates.

The code of conduct rules required utilities to file detailed procedures for PUC approval on how utilities will implement the statutory code of conduct and the PUC's rules. The review of the utilities' procedures to implement the code of conduct is pending before the State Office of Administrative Hearings (SOAH).

**Open Access to Wires** The PUC proposed rules in August 2000 to ensure that REPs have open access to electric transmission and distribution services when retail electric competition begins in Texas.

Transmission and distribution, commonly referred to as "wires," will remain regulated under SB 7. The PUC is charged with establishing the terms and conditions under which utilities must grant access to their wires so new competitors can serve retail customers.

To promote the entry of REPs into the Texas market and to lower the costs of doing business in the state, the terms and conditions of wires service will be standardized for all investor-owned utilities (IOUs) in Texas. The PUC used the Coalition for Uniform Business Rates (CUBR) standards in developing the proposed rules, which include a standardized, pro-forma tariff to be used by all IOUs in Texas.

The standard terms include:

- terms and process for service connection and disconnection,

- line extension,
- outage reporting,
- metering and data exchange,
- security deposits,
- billing and payment terms,
- default remedies, and
- a dispute resolution process.

An electric utility must apply these same terms and conditions to its affiliates and the affiliates' customers as well as to other REPs selling electricity in its service area and their customers.

#### **Certification and Registration of new market participants**

SB 7 requires all REPs to be certified by the PUC. All Power Generation Companies (PGCs), Power Marketers, and Aggregators must register with the PUC. Applications for certification and registration began on September 1, 2000.

***Retail Electric Providers (REPs)*** REPs will sell electricity to residential and commercial retail customers. They will purchase electricity at a wholesale price from a power generation company and pay a regulated fee to the Transmission and Distribution Utility (TDU) to deliver the electricity over the wires and into their retail customers' homes and businesses.

The PUC established certification standards in July 2000 for retailers of electricity to operate in the competitive electric market that begins in 2002. The standards will ensure that these REPs are capable of providing reliable electric service in the competitive market.

The PUC adopted new rules that define the conditions REPs must meet before they may provide retail service to customers. Under these rules, only a company that has the technical, managerial, and financial capability to operate reliably in a competitive market will be granted a certificate as a REP.

***Power Generation Companies (PGCs)*** A power generation company generates electricity and sells it for a wholesale price to REPs. These companies do not own transmission or distribution facilities or have a certificated service area. This includes Qualifying Facilities (QFs), Exempt Wholesale Generators (EWGs), Independent Power Producers (IPPs) and other self-generators.

The PUC adopted new rules in May 2000 that require all power generation companies to register with the commission. Power generation companies are required to supply specific information including the capacity rating for all their generating facilities in Texas. Registrations are subject to suspension, revocation and penalties. Companies that were previously registered under the old PUC Substantive Rule 25.105 were required to re-register before January 1, 2001.



**Power Marketers** Power marketers sell electricity in the wholesale market. They do not own generation, transmission, or distribution facilities and do not have a certificated area. They are the "middle man" that sells electricity for a PGC to a REP at a wholesale price. Power marketers must also be registered with the Federal Regulatory Energy Commission (FERC).

The PUC adopted new rules in May 2000 that require all power marketers to register with the Commission. Companies that were previously registered under the old PUC Substantive Rule 25.105 were required to re-register before January 1, 2001.

**Aggregators** Aggregators join two or more retail customers together to negotiate an agreement with a REP to buy electricity for the aggregated group. This is a "Sam's Club" approach, with the idea that customers that join together in a buying group can negotiate lower rates for electricity. This does not include consultants that only "advise" a customer or group of customers on purchasing electricity, but do not contact REPs on those customers' behalf. Consultants are not required to register as an aggregator. Aggregators do not bill customers for electricity--they only negotiate with the REP on their customers' behalf.

Membership-based organizations such as trade associations and interest groups may register as aggregators to negotiate electricity purchases from retail providers for the electricity needs of members. Similarly, local governments may register as aggregators to either pool their public facility electricity purchases with other local governments or to arrange for their citizens to buy electricity as a voluntary group. Additionally, entrepreneurs may register as aggregators to join customers into a single purchasing unit and negotiate on their behalf for the purchase of electricity.

The PUC adopted new rules in May 2000 that require all power marketers to register with the Commission. Aggregators must provide significant disclosure information and meet certain financial requirements to protect customers from the loss of deposits or advance payments. These rules also include provisions to suspend and revoke aggregator registrations and to impose administrative penalties for violations.

**Provider of Last Resort**

SB 7 requires the Commission to designate REPs to serve as providers of last resort (POLRs) in areas of the state in which customer choice is in effect.

The PUC approved the POLR rule in October 2000. The rule establishes the terms and conditions under which a POLR is to provide a standard retail service package to customers no longer served by their REP of choice, or to customers requesting service. The rule also describes the procedure for the PUC designation of POLRs, which includes a competitive bidding process.

The POLR service areas correspond to the service territories of existing utilities for five utilities: West Texas Utilities, Southwest Electric Power, Texas New Mexico Power, Entergy Gulf States, and Southwestern Public Service. The territories of the remaining three utilities were divided into smaller POLR sub-areas.

**Pilot Project**

SB 7 allows the PUC to use pilot projects to evaluate the ability of investor-owned utilities and power regions to provide customer choice before the full rollout of retail competition on January 1, 2002. Through a negotiated rulemaking, the PUC developed rules detailing the operation of the pilot project and approved it in August 2000.

Participation in pilot projects will be voluntary, but restricted to customers comprising five percent of the combined load for the utility. Scheduled to begin on June 1, 2001, customers participating in a pilot project may buy electricity from the retailer of their choice. Residential customers will retain the right to return to their utility's pre-pilot electric rates and services at any time.

In addition, 20 percent of the electricity designated for customer choice must be set aside for "aggregated" customers such as those organized by trade associations, local governments, or businesses with more than one location.

**Customer Protections**

The PUC proposed customer protection rules in August 2000 for the competitive retail market. The rules:

- prohibit billing for services not authorized;
- prohibit switching a customer's electric service without approval;
- provide protection against discrimination;
- preserve the privacy of customer account information; and
- give customers the right to have information in English and Spanish concerning rates and terms and conditions of service.

A "Do Not Call" list of customers who don't want telemarketing calls from REPs will be maintained under PUC direction. Customers can be listed by mailing a letter, making a phone call, or sending a fax or E-mail. REPs must provide information about the "Do Not Call" list as part of a customer rights disclosure. Customers will remain on the list for five years unless they ask to be removed earlier.

All REPs must give customers standardized information on an Electricity Facts label, similar to the familiar Nutrition Facts label on food products. The Electricity Facts label would include the price for electricity, the length of the contract and any early termination fees, a breakdown of the fuel mix used to generate the REPs electricity, and air emissions created to generate the electricity.

**Energy Efficiency**

The PUC adopted rules that allow Texas electric customers to get more choices for energy-savers such as home weatherization, energy-saving appliances and the use of waste heat. These energy efficiency rules require electric utilities to expand the variety of incentives offered through independent energy efficiency providers.

The rules direct utilities to develop energy efficiency programs to offset 10 percent or more of a utility's annual growth in energy demand to all customer groups. Utilities will develop

standard-offer programs to install energy efficiency measures and services. Independent service providers will deliver these services to customers.

**Renewable Energy**

SB 7 requires that 2,000 additional megawatts of renewable generating capacity be installed in Texas by 2009. In December 1999, the PUC adopted rules to encourage the construction and operation of renewable energy projects in Texas, reduce air pollution from fossil fuel generation, respond to Texans' willingness to pay more for clean energy, and achieve these goals at a modest cost to Texans. The rules require REPs to generate renewable energy or purchase renewable energy credits to meet the requirement.

The PUC is currently working on rules to administer the Renewable Energy Credits Trading Program and develop procedures for registration and certification of renewable energy facilities.

**Reduce Pollution**

The PUC adopted rules in August 2000 that will improve Texas air quality. Utilities will be allowed to recover some of the cost for reducing emission levels at electric generation plants. The PUC's action is designed to ensure significant reductions in air pollution while maintaining electric reliability and promoting retail electric competition.

SB 7 requires utilities to reduce emissions of nitrogen oxides, a major component of urban smog, by at least 50 percent from 1997 levels. It also requires coal-fired facilities to reduce sulfur dioxide emissions by 25 percent from 1997 levels no later than May 2003. These reductions can be made either by shutting down old and inefficient power plants, or by installing pollution controls on those plants. These reduction requirements refer only to "grandfathered facilities," those power plants not required to have air quality permits. Permitted facilities will be subject to regulations established by the Texas Natural Resource Conservation Commission (TNRCC).

The law allows the reasonable costs of significant pollution reductions to be included as part of each utility's "stranded costs." The costs are limited to those from Jan. 1999 through April 2003.

The PUC will evaluate all utility emission reduction plans for cost and reliability. The utility must show that its plan is more cost-effective on a plant-specific basis than closing the plant. The cost-effectiveness test will incorporate the costs of additional pollution reductions that may be required between now and 2010.

After the environmental improvements, or retrofits, are installed, the utility must prove to the PUC in 2004 that its actual costs were reasonable before they can be recovered from ratepayers as stranded costs.

**Stranded Costs**

SB 7, in introducing retail competition in the sale of electricity, recognized that utilities have costs that are likely to be stranded. Stranded investment is defined as "the historic financial

obligations of utilities incurred in the regulated market that become unrecoverable in a competitive market”. The degree to which utility investments are ultimately stranded will depend upon changes in the market price of electricity, the speed with which markets become effectively competitive, tax implications of potential restructuring options, mitigation efforts by the utilities, and the actions of utilities, the Legislature, and the PUC regarding electric industry restructuring.

SB 7 permits the initial transmission and distribution rates to include the recovery of an estimate of a utility’s potentially strandable costs. This initial estimate of stranded costs is based on an administrative determination, using the model that the commission developed in preparing its 1998 report on stranded costs. Because only *bona fide* market-based valuations of utility generation property provide a valid final determination of actual stranded costs, SB 7 provides for a true-up of stranded costs in 2004, using one or more of four alternative market-based methods to establish an actual market valuation of most stranded investments.

SB 7 required utilities to file estimates of stranded costs, using the PUC’s model, with their applications for transmission and distribution rates. Five companies filed estimates for stranded costs as part of their unbundling filings—TXU Electric (TXU), Reliant Energy (REI), Central Power and Light Company (CPL), Texas-New Mexico Power Company (TNP), and Entergy Gulf States (EGS).

To determine the amount of stranded costs, each utility calculates estimates of debt for past capital investments such as nuclear plants, the cost of plant operations, the future buying power of the dollar, and future natural gas prices. Under this structure, increases in gas prices will reduce the amount of stranded costs that electric customers must pay to their utility. Higher gas prices make less efficient generators, such as nuclear plants, relatively more competitive.

Due to increases in the price of natural gas, utilities were required to refile their stranded cost estimates in October 2000. Updated estimates show that stranded costs have been reduced from earlier estimates. These cases are currently pending before the PUC, with final decisions for all cases scheduled to be completed by August 2001.

**Securitization of Stranded Costs**

SB7 permits utilities to securitize stranded costs and regulatory assets. Central Power & Light, TXU Electric and Reliant Energy HL&P filed applications to securitize their regulatory assets and the PUC issued orders to approve their requests.

Securitization is a transaction that permits a utility to receive a lump sum payment for stranded costs from investors in lieu of collecting such costs through its regulated cost-of-service. The lump sum payment is financed through the issuance of debt securities to third party investors. From the investors’ point of view, these debt securities exhibit less risk than the utility’s common stock, and therefore carry a lower interest rate than the utility’s overall rate of return, which includes a return on common equity. The utility’s customers pay the principal and interest on the securitized debt by a charge in their electric rates, but the stranded costs are paid at a lower rate of return and without a federal income tax expense.

**Customer Education Campaign**

SB 7 requires the PUC to conduct a customer education program to educate the public on the implementation of retail competition. The commission hired High Point/Franklin, a marketing communications firm specializing in electric utility restructuring, to design a customer education plan, with input from an advisory group of representatives from utilities, prospective REPs, and consumer advocates, among others.

The Customer Education Plan, approved by the PUC on July 18, 2000, provides the structure, framework, key messages, objectives and recommended strategies needed for an education program in connection with both the pilot program and statewide competition. High Point/Franklin conducted research on demographics and customer safeguards, a summary of best practices from states that had adopted retail competition ahead of Texas, and the design of a system to evaluate the effectiveness of the education campaign. In July 2000, the PUC issued a Request for Proposals for the implementation of the Customer Education Plan. The commission selected Burson Marsteller in September 2000 to implement the Plan.

**System Benefit Fund**

SB 7 established a system benefit fund (SBF) to provide revenues for four different programs:

- To compensate the state and school districts for losses in property taxes resulting from lower values of the utilities' assets directly caused by electric industry restructuring.
- To provide electric rate reductions for low-income customers.
- To fund targeted low-income weatherization program administered by the Texas Department of Housing and Community Affairs; and
- To fund the PUC customer-education program, and support the PUC and Office of Public Utility Counsel (OPUC) in connection with the costs of implementing SB 7.

The source of revenues for the fund is a fee charged to customers based on the kilowatt-hours of electric energy used. The PUC sets the level of the fee on an annual basis, up to fifty cents per megawatt hour (MWh). Under SB 7, during the first five years after the introduction of customer choice, the PUC may set the fee up to sixty-five cents per MWh if necessary to fund at least a 10 percent rate reduction for low-income customers.

In FY 2000, the PUC set the fee at \$0.005/MWh and collected \$1,116,695.00. For FY 2001, the fee was set at \$0.06/Mwh to collect \$13,213,720.00. These funding levels are roughly one-one hundredth and one tenth, respectively, of the levels authorized in SB 7.

**ERCOT**

The PUC certified the Electric Reliability Council of Texas, Inc. Independent Service Operator (ERCOT ISO) on March 24, 2000 to be the independent organization for most of Texas retail electric market. ERCOT is one of 10 Regional Reliability Councils in the North American Electric Reliability Council (NERC) organization. ERCOT is contained completely within Texas and serves about 85 percent of the state's electrical load covering most of the state except for Southeast Texas.

ERCOT ISO will carry out key business and reliability operations when retail choice begins in January 2002:

- ensuring the reliability of the network,
- ensuring equal access to the transmission network,
- settling accounts in the wholesale market, and
- managing a registration system, so that customers can switch suppliers easily and efficiently.

The ERCOT ISO established a working group to begin discussing issues related to improving the operation of the wholesale market, even before SB7 was adopted. When the legislature passed an electric restructuring bill, these discussions focused on the design of a wholesale market that would facilitate retail competition. Hundreds of persons representing dozens of stakeholders participated in the discussions of the ERCOT working group.

The PUC has been involved in the development of the market rules for ERCOT in several ways. ERCOT has filed periodic reports on its progress in developing the market rules, and the PUC has periodically solicited comments on the rules and provided feedback to ERCOT and the working group. The PUC Chairman serves as an *ex officio* member of the board of directors of ERCOT and participates in discussions of market design issues by the board. Finally, the PUC has periodically held workshops concerning market design or specific design issues.

The market rules developed for ERCOT rely on bilateral contracts between buyers and sellers of electricity as the principal mechanism by which power will be traded. This is in contrast to retail markets like California, in which there is a central power exchange (PX), and some of the buyers and sellers are required to sell into the PX or buy from the PX. A bilateral market gives buyers and sellers broad flexibility concerning the terms for the sale or purchase of power. The longer-term trades available in a bilateral market provide greater opportunities for buyers to insulate themselves against price volatility in the power market.

### **Transmission congestion**

The ERCOT working group has also confronted other issues in market design. One of the more contentious issues has been managing transmission congestion. In any electrical system there will be times when the pattern of generation that is the optimal mix of resources to serve customers cannot be used, because transmission lines would be overloaded. When this happens, some of the generation that is in the optimal mix cannot be used, and less economical resources must be used instead. This condition is called transmission congestion. With the introduction of competition, increased customer demand, and addition of significant levels of new generation in ERCOT, the transmission system is likely to be congested more frequently.

The ERCOT board adopted a compromise approach to congestion management, in which initially all users would be charged the congestion costs. If these costs reach a prescribed threshold, the ISO would implement a system of assessing congestion charges to the users of the congested pathways and selling rights to use them.



**Independent Organizations in Non-ERCOT Areas of Texas**

Portions of East Texas, the Panhandle and the El Paso area are not in ERCOT. SB7 provides that retail competition will not begin in the El Paso Electric Company service area until 2005. In East Texas, two separate efforts have been underway to develop organizations to fulfill the functions of an independent organization. In Southeast Texas, Entergy Gulf States, Inc. (Entergy) is the only investor-owned utility providing service. Entergy is affiliated with electric utilities in Arkansas, Louisiana, and Mississippi, and it planned to create an independent transmission company (Transco) that would perform the reliability and transmission access functions of an independent organization. Creating such a Transco would require approval by the FERC and the PUC's approval for the Transco to perform functions of an independent organization.

The Southwest Power Pool (SPP) is the reliability organization equivalent for Northeast Texas, Oklahoma, and portions of Kansas, Louisiana, Missouri and New Mexico. Historically, its functions were limited to reliability, but it has begun providing a transmission access function. Shortly after the enactment of restructuring legislation in Arkansas and Texas, the SPP began to develop the capabilities necessary to operate as a regional transmission organization in this region and serve as the independent organization for the Northeast Texas region.

In the Panhandle, the only investor-owned utility is Southwestern Public Service Company (SPS). SPS merged with Public Service Company of Colorado in 1999, and the resulting company, New Century Energies, merged with Northern States Power Company in 2000. In connection with the Northern States Power merger, SPS agreed to begin offering wholesale transmission service under the SPP regional transmission tariff. SPS has been a member of the SPP for many years, but it did not join the SPP regional tariff when it was first proposed. SPS began offering service under the regional tariff in July 2000. Northern States Power has joined the Midwest Independent System Operator, a regional transmission organization that the FERC has approved and that operates in Kentucky, Illinois, Indiana, Iowa, Ohio, Michigan, Minnesota, Missouri, North and South Dakota, and Wisconsin. SPS has said that its long-term plan is to join the Midwest ISO.

**Reliability**

The latest information compiled by the PUC shows that new energy sources are appearing throughout the state to keep pace with the state's robust economic growth. This growth is increasing the state's appetite for electricity as much as five percent a year. Since open transmission access and wholesale electric competition began in 1995, construction has started on 37 generation projects, 11 of which have been completed.

Since September 1995, 14 new power plants totaling 3,056 MW have started operating in Texas. Another eight plants totaling 4,779 MW began operating this summer, enough to serve the electricity needs of more than a million Texas homes on a hot summer day.

Another 15 power plants totaling 9,105 MW are under construction in the state, and will be running by 2002. Another 33 projects have been announced. All these plants will help the state reach a comfortable reserve margin over expected demand to allow for unforeseen shortages such as weather-related emergencies or unexpected plant shutdowns. The ERCOT

Independent System Operator is projecting reserve margins for 2001 to 2003 in the 25 to 30 percent range, well above the 15 percent margin that utilities have traditionally relied on. In 1999, Texas' peak electricity demand hit 66,066 MW. Total generation capacity was 70,112 MW. PUC projections for summer 2000 placed demand at 68,577 MW and capacity at 75,464 MW.

Electric system reliability and quality of electric services have been key concerns for the PUC since its creation in 1975. The enactment of amendments to the Public Utility Regulatory Act (PURA), to allow wholesale and retail competition in Texas, in 1995 and 1999, respectively, has not diminished the importance of reliability and quality of service. System reliability and quality of service have been high, and there was a concern that service providers might compromise quality to reduce their costs in order to become more competitive. In order to be sure that there will be a reliable system and adequate capacity to meet growing demand for electricity in Texas, the PUC has closely monitored reserve margins.

**Extreme Weather Emergency**

During a heat spell, utilities cannot disconnect customers for non-payment. PUC rules prohibit an electric utility from disconnecting service to any customer for at least two days after the National Weather Service has issued a heat advisory for any county in the utility's area.

Because of the extremely hot weather experienced in Texas in the summer of 2000, the state received \$14.3 million in Low Income Home Energy Assistance Program (LIHEAP) federal emergency funds in August 2000. The funds could be used to pay cooling bills, buy air conditioners, or provide other means of assistance to help low-income families and individuals. The LIHEAP funds were distributed through community-based organizations and local provider networks.

In August 2000, the PUC adopted an emergency rule that prohibited utilities from disconnecting service to residential customers for non-payment through the end of September 2000, if the customer agreed to a deferred payment plan for past due amounts. The rule required electric utilities to contact delinquent customers and offer them deferred payment plans. Customers who chose not to enter into a deferred plan were subject to disconnection. The rule did not apply to municipal utilities and electric cooperatives, which are not subject to PUC regulation.

**TELECOMMUNICATIONS**

**Southwestern Bell**

In January 2000, the PUC spelled out its unanimous support for Southwestern Bell's (SWB) bid to enter the long distance phone market in the state by filing a letter of recommendation with the Federal Communication Commission.

The federal Telecommunications Act of 1996 (FTA '96) requires each regional Bell telephone company to prove competition in local telephone service exists in its home state before it can offer long distance services to its home-state customers. According to the FTA '96, state regulators must assess SWB's performance in meeting a federal 14-point checklist for local phone competition.

The PUC found that SWB satisfied the 14-point checklist and that more than a million Texas phone lines have switched from SWB to competitive local service providers. The Commission also determined local phone competition exists within SWB's service area.

In addition to the PUC's letter of support, the Commission submitted a 111-page evaluation to the FCC that detailed the open local phone market in Texas.

In February 2000, Southwestern Bell withdrew its application to enter the long distance market after unfavorable comments from the Department of Justice. The PUC filed an evaluation with the FCC supporting SWB and focusing on several areas in which it was determined that SWB had opened its market to competition.

***Texas access rates drop*** Senate Bill 560 (SB 560) required SWB to reduce access rates by two cents per minute no later than July 1, 2000 or when the company was allowed into the Texas long distance market. In June 2000, SWB received the go-ahead from the FCC and access rates in the state dropped by two cents per minute. Long distance companies pay access charges to local telephone companies for the use of local lines and equipment needed to connect long distance calls.

The three largest long distance providers in Texas, AT&T, Sprint and MCI Worldcom were required to pass along the access rate reductions to residential customers, subject to the PUC's verification.

The final step gave Texas phone customers a total rate cut of six cents per minute in intrastate long distance rates from reductions in access charges since September 1999. In 1999, the PUC ordered a decrease in long distance access charges to offset fees for the Texas Universal Service Fund (TUSF), which supports service in rural high-cost areas.

After lawmakers gave the PUC authority order long distance companies to pass along lower access fees to customers, local phone companies now use payments from the TUSF in place of high cost access charges to keep local phone service affordable for all Texans.

***Performance Measures*** In July, the PUC adopted revised performance measures for Southwestern Bell. Southwestern Bell and competitive companies must work closely behind the scenes to encourage a smooth transition. This cooperative effort required that many specific actions be completed successfully by both SWB and the new provider. To verify this, the PUC established a set of ongoing requirements and performance benchmarks, called "performance measures" to monitor and evaluate the effectiveness of SWB's ongoing performance.

Every six months, the PUC will review the performance measures agreed to by SWB and its competitors. During each review, the PUC determines if any changes are needed in the performance measures. As an incentive to competition, SWB is required to pay penalties if it does not achieve its performance measures.

**Valor Telecom**

Local telephone services for more than a quarter-million Texas phone customers, most of whom live in rural or small communities, will be upgraded under an order signed in June 2000 by the PUC.

Valor Telecommunications of Texas, L.P. agreed to buy 318,000 phone lines in 197 local exchanges scattered throughout west Texas, east Texas and the Texarkana area, from GTE Southwest. Valor agreed to pay GTE \$942 million, slightly more than \$3,000 per access line.

In addition to maintaining at least the current level of service for customers, Valor plans to introduce the following improvements to its system:

- Upgrade the central office facilities to provide Customer Local Area Signaling Services (CLASS) such as Caller I.D., call waiting, three-way calling, call forwarding, call return, call blocker and automatic redial.
- Provide CLASS to all exchanges within 18 months.
- Introduce high-speed Internet access and Digital Subscriber Line (DSL) service to at least 10 exchanges within 18 months.
- Deploy DSL within 15 months to any exchange with at least 75 DSL requests from Valor subscribers requesting it.
- Guarantee Internet service to every local exchange within 18 months

Valor will also continue the current discount rate for providing broadband services to schools, libraries and hospitals.

**Customer Protections**

*New Customer Protection Rules* Texans can save money on phone rates due to competition and be protected from deceptive tactics like “cramming” and “slamming” thanks to strong customer protection legislation the PUC implemented throughout the last year.

Senate Bill 86 (SB 86), sponsored by Senator Jane Nelson and Representative Debra Danburg, gave the PUC the authority to fight future scams by outlawing fraudulent, unfair, deceptive and misleading practices. The bill also strengthened the PUC’s enforcement powers by allowing the PUC to fine violators \$5,000 per violation per day.

SB 86 required that companies provide clear, uniform and understandable information about rates, terms and conditions, and that bills must be presented in a clear readable format and easy-to-understand language. The following are some of the specific customer protection rules implemented by the PUC the year 2000.

**New “Cramming” Rules:** Telephone customers have more protection against unauthorized charges on their phone bills, or “cramming” now that these regulations are in effect. The PUC adopted rules in December 1999 that implement part of SB 86 passed by the Texas Legislature and signed into law by Governor George W. Bush.

The rules, which went into effect in November 1999, specify four basic requirements before a telephone provider can charge for any product or service on a customer’s phone bill.

Companies must:

- inform the customer about the product and all associated charges;
- get the customer’s consent to any charge and include a record of verification;
- provide contact information with customer access to a toll-free information line; and
- obtain consent from a billing utility if it is a different company from the service provider.

Telephone companies are required to make a refund or credit to customers who have paid unauthorized charges. Violations of cramming rules are subject to enforcement actions, including administrative penalties of up to \$5,000 per day per violation.

Under the new rules, records of a customer’s consent to charges must include written documentation, toll-free electronic authorization, voice recording or independent third-party verification. The records of disputed charges must be kept for at least two years, including the affected phone number, the date the customer requested removal of unauthorized charges, the date the charge was removed from the bill and the date a refund or credit was given to the customer. All telecommunications utilities in Texas must also provide a cramming bill of rights to customers.

**New “Slamming” Rules** In June 2000, the PUC adopted rules that offer customers more protection against “slamming,” or the unauthorized switching of phone service.

Customer benefits in the new rules include:

- refunds to customers of any charges paid during the first 30 days after a slam, plus any amount more than what would have been paid to the original phone company after the first 30 days;
- strong verification requirements to ensure the customer’s consent to the switching of their phone service provider; and
- requirements that companies provide “freeze” information to customers on how to avoid being slammed, including a customer notice along with a prohibition on charges to impose or lift a freeze. A freeze prevents a change in a customer’s preferred long distance phone company unless the customer gives his consent.

The new rules are based on provisions included in SB 86 and SB 560. Violators of the slamming rule can be penalized up to \$5,000 a day per violation.

***Phone Disconnections Limited*** Texas residential local phone customers cannot be disconnected for nonpayment of long distance charges under rules adopted by the PUC in December 1999. Other benefits for Texas customers include:

- requiring that full or partial payment for residential service first be applied to basic local service;
- requiring local phone companies to offer toll blocking to limit long distance charges after long distance nonpayment;
- capping rates that local providers can charge long distance providers for toll blocking; and
- requiring that residential deposits be based on local service only.

The rules stipulate that any disconnection notice must state the exact amount owed for local telephone services. If phone services are bundled as one charge, the amount that must be paid to avoid disconnection is determined by the basic local service rate. The rules protect companies by allowing the disconnection of phone service if a customer attempts fraud, and by allowing toll blocking for failure to pay for long distance service. If a toll blocking is done at the request of a long distance carrier, then the maximum customer charge is \$10 for installation and \$1.50 per month. The rules went into effect in March 2000.

***Prepaid Phone Card Disclosures Strengthened*** In July 2000 the PUC strengthened provisions that protect customers who use prepaid calling cards.

Prepaid calling cards are wallet-sized cards that give the holder a specified number of minutes for long distance calls. Although the cards are marketed and sold by a variety of providers, they all use the services of a few underlying long distance carriers. Prepaid calling cards are typically sold at convenience, grocery or discount department stores, post offices and vending machines. The cards are targeted to frequent travelers, college students, military personnel and low-income customers who are without home phone service.

PUC rules now require companies offering prepaid calling services to register with the PUC and delineate customer protection requirements.

Customer protections included in the rules require a company to:

- provide billing information on the card, such as additional fees and surcharges;
- provide information on the card such as toll-free customer service numbers and maximum rates in a legible and minimum type size;
- notify the customer before each call of the time or value remaining on the account;
- notify the customer at least one minute before depleting the account and issue refunds or credits to customers for unused time if the company fails to provide services at stated rates or requirements.

The PUC has enforcement authority under the rules that could result in penalties up to \$5,000 per day per violation by a prepaid calling card company.

**Enforcement Actions** The Public Utility Commission levied several fines in the last year against companies for violating customer protection rules or impeding the competitive market process.

In September 1999, the PUC ordered SWB to pay competitors Rhythms Links Inc. \$583,120 and Covad Communications \$262,680 in legal costs. The penalty resulted from PUC sanctions against Southwestern Bell for failure to provide information during an arbitration.

Also in September 1999, a \$35,000 settlement was approved against Dallas long-distance company, Excel Telecommunications Inc., for their alleged violations of the PUC's slamming rules.

The PUC pursued enforcement action against Excel for repeated complaints against the company since March 1998 for unauthorized switches of customers' long distance service. In addition to the penalty, Excel made several improvements, including establishing a toll-free slamming awareness hotline and implementing a third-party verification of all Excel residential switches in Texas, subject to the PUC's input.

In October 1999, AT&T paid \$5,000 to settle complaints that alleged customers were not put on the company's "Do Not Call" list, even after customers requested that the company do so. The rule requires a telephone solicitor to make every effort not to call a customer who asks not to be called again. The settlement against AT&T involves separate cases in which customers complained to the PUC.

In addition to the settlement, AT&T agreed to several performance standards, including notifying all of its employees that those who do not follow the "Do Not Call" provisions are subject to disciplinary action including termination.

In December 1999, MCI Worldcom Communications paid \$460,000 for violating the Texas slamming law. The PUC verified 92 slamming complaints against MCI from March 1998 through May 1999. In addition to the penalty, MCI agreed to establish a toll-free slamming complaint service for Texas customers staffed by MCI representatives Monday through Friday from 8 a.m. to 5 p.m. and to continue the use of third-party verification systems to confirm that a customer has chosen MCI as their long distance service provider. Additionally, MCI will participate in quarterly conferences with PUC officials to discuss steps MCI is taking to reduce slamming complaints.

### **Area Codes**

Area code changes in 2000 included:

- 10-digit dialing for North Texas. In October the North Texas region, which includes Fort Worth, Arlington, Weatherford and Granbury, received an overlay for area code 817. With this overlay, all calls require 10-digit dialing but no one was required to change their phone number.

- Area code 682, North Texas region. In October, the new North Texas area code 682 was added as an overlay that stretches across the entire 817 geographic area, including most of Tarrant, Johnson, Parker and Hood counties and portions of Wise and Denton counties.
- Thousand-block number pooling in Austin. In May, the PUC approved a thousand-block number pooling plan which will help stave off the need for a new area code or the use of 10-digit dialing in Austin.
- Area codes 979 and 936 in the Southeast Texas region. In June, these area codes went into effect in the Southeast Texas region. The 979 area code serves the western portion of the region, which includes Bryan-College Station and Freeport. Area code 936 serves the central portion of the region, which includes Conroe and Nacogdoches.

### **Standards Set for Phone Franchise Fees**

Texas telecommunications companies will be able to enter cities more easily and city franchise fees collected from those companies will be stabilized under rules adopted in July 1999 by the PUC.

House Bill 1777 (HB 1777) established a uniform way of compensating cities for use of municipal rights-of-way by telephone companies. The bill directed the PUC to establish a compensation method that encourages competition in the telecommunications industry and standardizes compensation to cities.

These rules ensure cities retain the authority to manage a right-of-way and obtain fair compensation for that use and reduce legal squabbles between cities and telecommunications companies regarding municipal franchise fees. A municipal right of way refers to the space on, above or below a public street, sidewalk, waterway or utility easement where telecommunications, electricity and cable companies run their lines. Telecommunications companies need right-of-way access to establish and improve their communications systems.

Under the new rule, franchise fees are based in most cases on the number of phone lines within a city. To give cities flexibility within the fee structure, the PUC established three categories of telephone access lines: residential, non-residential and point-to-point lines. Point-to-point lines refer to direct channels that typically are high-speed and used for commercial purposes. Point-to-point lines that deliver burglar or security alarm services to homes are included in the residential category.

The PUC sent forms to all cities to get payment information and helped cities complete these forms. The PUC then approved agreements for more than 1,100 Texas communities in April 2000.

While most Texas communities maintained or reduced municipal phone service fees consistent with the new law, several Texas cities have set fees at higher levels. The PUC had asked a number of cities to consider reducing their rates closer to statewide averages. Most cities did, but a few others filed affidavits stating they would keep their original rates.

**Gross Assessment Revenues**

Fiscal Year	Revenue *1	PUC General Revenue Appropriations	OPUC General Revenue Appropriations	Net Revenue to General Revenue
1976	\$5,568,334	\$1,244,000		\$4,324,334
1977	\$9,112,044	\$1,625,213		\$7,486,831
1978	\$10,848,950	\$3,855,395		\$6,993,555
1979	\$12,777,009	\$3,060,385		\$9,716,624
1980	\$14,250,812	\$3,014,952		\$11,235,860
1981	\$16,289,534	\$3,134,469		\$13,155,065
1982	\$20,433,083	\$3,660,301		\$16,772,782
1983	\$36,390,453	\$3,870,558		\$32,519,895
1984	\$27,509,639	\$7,948,876	\$659,676	\$18,901,087
1985	\$25,858,681	\$8,240,575	\$639,505	\$16,978,601
1986	\$27,809,520	\$7,960,867	\$656,028	\$19,192,625
1987	\$24,660,460	\$6,661,564	\$614,748	\$17,384,148
1988	\$26,471,864	\$7,771,665	\$978,120	\$17,722,079
1989	\$27,107,484	\$7,726,003	\$855,869	\$18,525,612
1990	\$28,249,520	\$8,596,854	\$1,304,173	\$18,348,493
1991	\$29,262,393	\$11,486,271	\$1,307,018	\$16,469,104
1992	\$28,098,691	\$10,072,424	\$1,331,846	\$16,694,421
1993	\$40,399,771	\$9,253,256	\$1,332,346	\$29,814,169
1994	\$51,594,372	\$10,147,751	\$1,376,076	\$40,070,545
1995	\$34,413,394	\$9,892,974	\$1,352,046	\$23,168,374
1996	\$23,697,141	\$9,982,484	\$1,347,251	\$12,367,406
1997	\$46,421,933	\$9,060,681	\$1,263,623	\$36,097,629
1998	\$16,310,739	\$11,380,784	\$1,685,734	\$3,244,221
1999	\$41,423,247	\$11,491,347	\$1,685,734	\$28,246,166
2000	\$38,233,600 *2	\$11,492,372	\$1,653,915	\$25,087,313

\*1 Gross Receipts assessment is imposed on each telecommunications utility and each commercial mobile service provider doing business in this state. The assessment is imposed at the rate of 1.25 percent of the taxable telecommunications receipts of the telecommunications utility or commercial mobile service provider as set out in PURA Chapter 57, Section 57.048, Assessments and Collections.

\*2 estimated

**YEAR IN REVIEW****September 1999**

- Southwestern Bell Telephone (SWB) was ordered to pay competitors Rhythms Links, Inc. \$583,120 and Covad Communications Company \$262,680 for failure to provide relevant information during arbitration. The arbitration was to resolve interconnection issues between the two companies and SWB.
- Excel Telecom was ordered to pay \$35,000 as part of an agreement involving alleged violations of the PUC's slamming rule. The PUC pursued enforcement action against the company for complaints against the company since March 1998 for unauthorized switches of customers' long distance service, also known as slamming.

**October 1999**

- AT&T paid \$5,000 for violating the Commission's "Do Not Call" rule. The rule requires a telephone solicitor to make every effort to not call a customer who asks not to be called again.
- Texas customers of Southwestern Electric Power Company (SWEPCO) received a one-time refund from an adjustment of fuel costs approved by the PUC. The adjustment resulted from SWEPCO collecting too much money to cover estimated fuel costs from January 1997 through June 1999. After the actual fuel costs were compared to those collected from customers for that period, the PUC ordered a total refund of \$7,545,435 for SWEPCO customers in Texas.

**November 1999**

- The PUC approved the merger of Central and Southwest Corporation (CSW) and American Power Company, Inc. (AEP). Customers were expected to see savings resulting from lower rates and improved service.

**December 1999**

- MCI Worldcom was ordered to pay \$460,000 for violating the Texas slamming law. Slamming occurs when a customer's phone service is switched without proper authorization. The PUC verified 92 slamming complaints against MCI from March 1998 through May 1999.

**January 2000**

- The PUC filed a letter with the Federal Communications Commission (FCC) in support of SWB's bid to enter the long distance phone market in Texas. The PUC found that SWB satisfied the 14-point checklist and that more than a million Texas phone lines have switched from SWB to competitive local service providers.

## **February 2000**

- The PUC approved the transfer of control of the holding company for Texas-New Mexico Power Company (TNMP) by a private investor group, ST Acquisition Corp. The transaction was valued at approximately \$1 billion. Shareholders of the holding company approved the acquisition, which will convert TNP Enterprises, Inc. from a public company to a private one. TNMP will remain a stand-alone utility. The acquisition as approved by the PUC includes an agreement that acquisition costs will not flow through to customers, and that service, reliability and safety levels will not be reduced.

## **March 2000**

- The PUC approved a financing order for Central Power and Light Company (CPL) which will save at least \$90 million on a present-value basis for retail electric customers in south Texas. The order allowed CPL to securitize \$763.7 million of regulatory assets plus \$33.6 million in transaction costs.
- Sprint Corporation was selected by the PUC as the provider of service for the Relay Texas program until Aug. 31, 2005. Relay Texas is a round-the-clock telephone interpreting service between customers who can hear and the more than 1.8 million Texans who are deaf, hard-of-hearing, deaf-blind or speech-disabled.

## **May 2000**

- The PUC approved a financing order for Reliant HL&P that allows the company to securitize \$740 million of regulatory assets plus actual transaction costs of at least \$10.7 million. Reliant customers will save at least \$350 million over the next 12 years.
- American Nortel Communications, Inc., an Arizona-based long distance phone company paid \$5,000 in penalties to settle cramming complaints as ordered by the PUC. Cramming occurs when charges for unauthorized services or products appear on a customer's telephone bill.

## **June 2000**

- The Interstate Renewable Energy Council (IREC) honored the PUC with a "2000 Renewable Energy Recognition Award" for developing new rules as part of the state's electric restructuring legislation. The award was presented at the American Solar Energy Society conference in Madison, Wisconsin. In December 1999, the PUC adopted rules to encourage the use of renewable energy in the state.

## **July 2000**

- The PUC approved a multi-million dollar customer education plan to prepare Texans for the start of retail electric competition in 2001. High Point/Franklin, a marketing firm specializing in electric restructuring issues, designed the Customer Education Plan with extensive input from the PUC, utilities, retail electric providers and consumer groups. The plan includes recommendations based on successful strategies used in other states undergoing electric restructuring plus extensive research conducted throughout Texas.

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