



## Office of Public Utility Counsel

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### Update for the Senate Committee on Business and Commerce October 15, 2013

#### Electric & Telecommunications Proceedings

The Office of Public Utility Counsel (OPUC) provided legal representation for its clients, residential and small business electric and telephone customers, through the filing of motions, initiating and responding to discovery requests, attending hearings, filing expert testimony, cross-examining witnesses, advocating orally, and filing briefs, exceptions, and replies. The following are some of the more significant proceedings in 2013:

- Southwestern Electric Power Company (SWEPCO) Rate Case (*Docket No. 40443*). OPUC participated in the February hearing on the merits, filed March post-hearing briefs and reply briefs, and filed exceptions and replies to exceptions to the Proposal for Decision (PFD) in June. The PFD was discussed by the Public Utility Commission (PUC) Commissioners at Open Meetings in July and August. The PUC is expected to finalize its decision in September.
- Homeowners United Appeal of City of Austin (Austin Energy) Rate Ordinance (*Docket No. 40627*). OPUC filed direct and cross-rebuttal testimony in February. A stipulation memorializing the settlement of the issues in the case was filed in March, and the PUC issued a Final Order in April.
- Southwestern Public Service Company (SPS) Rate Case (*Docket No. 40824*). OPUC collaborated with the parties in the discovery process and negotiated a settlement resolving the issues. The settlement was filed in April, and the PUC issued a Final Order in June.
- PUC Staff's Petition to Establish a Reasonable Rate for Basic Local Telecommunications Service (*Docket No. 41097*). OPUC collaborated with the parties in the discovery process and settlement discussions. The July settlement and August Final Order resolved all issues in the proceeding, including the support amount provided to each eligible telecommunications provider from the Small and Rural Incumbent Local Exchange Carrier Universal Service Plan.
- Entergy Texas, Inc. (ETI), ITC Holdings Corp., Midsouth Transco LLC, Transmission Company of Texas LLC, and ITC Midsouth LLC Application for Approval of Change of Ownership & Control of Transmission Business, Transfer of Certification Rights, Certain Cost Recovery Approvals, and Related Relief (*Docket No. 41223*). OPUC filed direct testimony in April and a statement of position in May. The agency participated in the May hearing on the merits and filed post-hearing briefs and reply briefs in June. OPUC also filed replies to the exceptions of the PFD in July. The PUC Commissioners discussed the PFD at an Open Meeting in August. The Commission granted the applicants' motion to dismiss the case with an opportunity to refile the application at a later date.

- Energy Efficiency Cost Recovery Factor (EECRF) Cases for SWEPCO (*Docket No. 41439*), ETI (*Docket No. 41444*), and SPS (*Docket No. 41446*). The referenced proceedings were all filed in May. OPUC has actively participated in the discovery and settlement discussion processes. Stipulations have been filed in all of the cases, with some cases remanded for additional information on rate case expenses. It is anticipated that the PUC will enter Final Orders in early fall.

#### Electric & Telecommunications Projects/Rulemakings

OPUC represented its clients in the following projects and rulemakings by analyzing issues, making recommendations, filing comments and reply comments, and by attending workshops and public hearings. Following are highlighted 2013 projects/rulemakings:

- Lifeline and Link-Up Rulemaking (*Project No. 41024*). OPUC participated in an initial workshop in June regarding this rulemaking project to amend the PUC rules to conform to the 2012 FCC Lifeline and Link-Up Reform Order. The PUC filed its Proposal for Publication in August. Comments on the proposed rulemaking are due in September with Final Rule approval anticipated for late October.
- Rulemaking Regarding Demand Response in the Electric Reliability Council of Texas (ERCOT) Market (*Project No. 41061*). OPUC filed comments in February regarding the role of demand response as it pertains to the holistic resource adequacy issue (*Project No. 40000, Commission Proceeding to Ensure Resource Adequacy in Texas*). Action related to issues in this project is expected to be reflected in decisions the PUC makes in the resource adequacy project.
- Rulemaking to Amend §25.214 and Pro-Forma Retail Delivery Tariff (*Project No. 41121*). OPUC anticipates participating in this rulemaking which will focus on clarifying changes related to the terms and conditions that govern the interactions between transmission distribution utilities and retail electric providers. Rulemaking activity is expected to begin in early fall.
- Rulemaking to Amend Substantive Rules Related to Telecommunications to Conform to 2013 Legislation (*Project No. 41609*). This rulemaking implements telecommunications legislation enacted during the 83<sup>rd</sup> Regular Legislative Session and revises the PUC rules to conform the appropriate tariff filing requirements to the legislation. The PUC has filed questions, and responses are due from interested parties in October. OPUC anticipates filing responses to the PUC questions.
- Rulemaking to Implement SB 981 (*Project No. 41613*). SB 981, as passed during the 83<sup>rd</sup> Regular Legislative Session, establishes a Burned Veterans Assistance Program to be provided by retail electric providers. The PUC is expected to approve a proposed rule to implement the legislation in September with comments on the proposed rule due in October. OPUC anticipates filing comments on the proposed rule.
- Rulemaking to Amend §25.272, Code of Conduct (*Project No. 41616*). This rulemaking amends the PUC rules that safeguard the interactions between electric utilities and their affiliates. The PUC has filed questions and responses are due from interested parties in September. OPUC intends to file responses, or replies to responses, to the PUC questions.
- Rulemaking Regarding New §25.245, Rate Case Expenses (*Project No. 41622*). This rulemaking will designate the appropriate methodology for reviewing and recovering the expenses associated with utility rate case proceedings. OPUC filed responses to Staff's

request for comments in September. The PUC has also scheduled a September workshop which OPUC intends to attend.

### House Bill 1600 and Senate Bill 567

The passage of House Bill (HB) 1600 and Senate Bill (SB) 567 during the 83<sup>rd</sup> Regular Legislative Session (2013) transfers water rate regulation from the Texas Commission on Environmental Quality (TCEQ) to the Texas Public Utility Commission (PUC). The new law also authorizes the Office of Public Utility Counsel (OPUC) to represent the residential and small business customer classes in water and sewer utility proceedings. Although the full transfer will not be completed until September 2015, OPUC's authority to begin its representation in water utility proceedings began September 1, 2013. Accordingly, the agency has been collaborating with the PUC, TCEQ, and other stakeholders reviewing recently filed rate applications, as well as evaluating its resources and priorities to most beneficially represent its constituents.

### Other OPUC Activities

OPUC continues to collaborate with the PUC, ERCOT, Texas Reliability Entity Inc. (Texas RE), other state agencies, the military community, legislative offices, and pertinent stakeholders to examine issues related to resource adequacy, energy efficiency, advanced meters, and federal regulations impacting Texas utility consumers. Following are 2013 activities of interest:

- OPUC continued its informational meetings in five different community venues to communicate pertinent electric and telecommunications information with its constituents.
- OPUC issued its Spring and Summer Newsletters in March and June 2013 respectively. See <http://www.opuc.texas.gov/opucnews.html>
- OPUC facilitated meetings in March and June 2013 with representatives from ERCOT and other state agencies (PUC, State Energy Conservation Office, Texas Department of Housing and Community Affairs, Railroad Commission, TCEQ, General Land Office) to continue the collaboration OPUC began in December 2010 to dialogue regarding energy efficiency news and issues.
- OPUC continues its partnership with military communities around the state to provide information to service members and their families. Pursuant to passage of SB 1892 and SB 1200 during the 83<sup>rd</sup> Regular Legislative Session, OPUC is working with the Texas Military Preparedness Commission to provide information to the Commander's Council and military community, and has participated as a new member of the Texas Coordinating Council for Veterans Services, located at the Texas Veterans Commission, in July and anticipates participating at the council's quarterly meetings and work groups. Additionally, in coordination with the Federal Trade Commission and other state agencies, OPUC provided a in-person presentation and materials to the Fort Hood community in September.