

*Introduction to the Public Utility
Commission of Texas and
The California Public Utilities
Commission*

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Briefing for the NARUC/INE Partnership

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- Section 1 – Overview of the Commissions
- Section 2 – Overview of the Texas Electric Sector and CA Energy Action Plan

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Section 1 – Overview of the Commissions

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Who Serves Texas on the PUC?

- The Public Utility Commission is composed of three commissioners appointed by the governor with the advice and consent of the senate.
- The commissioners serve staggered, six year terms.
- To be eligible for appointment, a commissioner must be:
 - a qualified voter;
 - a citizen of the United States; and
 - a representative of the general public.

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Who Serves Texas on the PUC?

- A person is not eligible for appointment as a commissioner if the person at any time during the two years preceding appointment:
 - personally served as an officer, director, owner, employee, partner, or legal representative of a public utility, affiliate, or direct competitor of a public utility; or
 - owned or controlled, directly or indirectly, stocks or bonds of any class with a value of \$10,000 or more in a public utility, affiliate, or direct competitor of a public utility.

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Rules of Conduct

- Rules of Conduct are meant to help assure the integrity of the Commissioners
 - Pre-service conflict of interest laws
 - Standards for conduct while in office e.g. ex parte communications
 - Yearly financial disclosure requirements
 - Post-Employment restrictions

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Enabling Statute

- Public Utility Commission governed by Public Utility Regulatory Act
 - 11.002 – “...establish a comprehensive and adequate regulatory system for public utilities to assure rates, operations and services that are just and reasonable *to the consumers and to the utilities.*”
 - Statute goes 421 pages. PUCT rules implementing statute goes to 1200+ pages.
 - 14.001 – “general power to regulate and supervise the business of each public utility...and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction.”

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Agency Authority and Autonomy

- Quasi-legislative duties
 - Non-competitive areas
 - rates and operations under purview
 - establishes the rate base, allowing for possibility of a predetermined rate of return for utilities where appropriate.
 - Competitive areas
 - guarantees and maintains a competitive and level playing field
 - Customer protection obligations
- Quasi-judicial duties
 - Hears and decides complaints and cases
 - Issues written orders
- Autonomy
 - Commissioners cannot be removed without specific cause
 - 6 year staggered appointments assure continuity and exceed gubernatorial terms
 - Ex parte communications insulates Commissioners from much political pressure, because all communications on a contested case is public and allowed a response

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The Mission of the Texas PUC

- The mission of the PUC is to protect customers, foster competition, and promote high-quality utility infrastructure.

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Mission Statement of the CPUC

The CPUC serves the public interest by:

- Protecting consumers and ensuring the provision of safe, reliable utility service and infrastructure at reasonable rates,
- Ensuring a strong commitment to environmental enhancement and a healthy California economy.
- We regulate utility services, stimulate innovation, and promote competitive markets, where possible, in the communications, energy, transportation and water industries.

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CPUC Commissioners

- Established by Article XII, CA Constitution
- The Commissioners
 - Five gubernatorial appointees, confirmed by State Senate
 - Six-year staggered terms
 - No conflict of interest or financial interests in regulated entities
 - President is appointed by the Governor (Sec. 305 of the Pub. Util. Code)
 - Direct grant of powers by Constitution, as well as plenary powers established by Legislature
 - Subject to statute and due process, Commission may establish its own procedures
 - Commission may fix rates, establish rules, issue subpoenas, administer oaths, take testimony, and punish for contempt

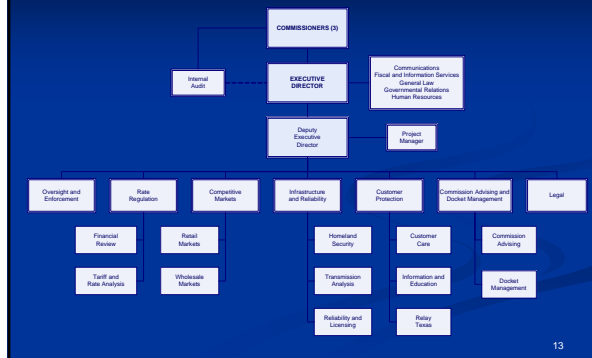
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Texas Agency Staffing

- 185 authorized FTEs for FY 2007-2008
- Authorized FTEs in FY 2003 were 244
- Current staffing is approximately 185 FTEs, a reduction of 34 FTEs from actual FY 2003 beginning levels
- Budget
 - \$12.5 million dollars administrative (collected from Tax on regulated entities, tax generally raises 4 to 5 times amount necessary for agency operations, balance to general fund)
 - IMM
 - Customer education funding

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Agency Organization

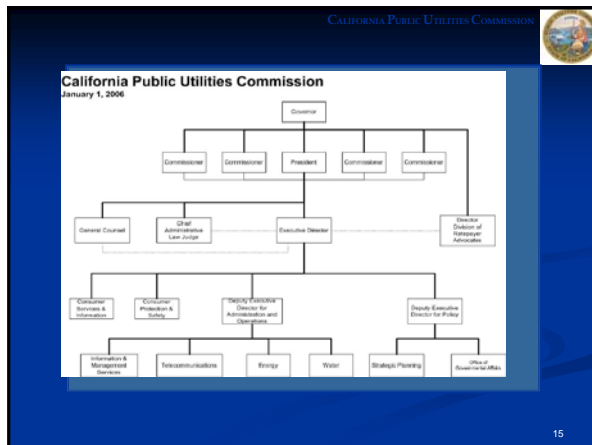


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CPUC Organization

- Management and Staff
- Engineers, accountants, economists, lawyers, public policy analysts, administrative law judges, investigators, paralegals, support staff
- Division of Ratepayer Advocates director appointed by Governor
- DRA has its own budget and is directed by law to be independent
- Approximately 1000 talented staff work at the CPUC
- Operational budget for FY 2007-08 is \$151 million
- Majority of budget is derived from user fees (not the General Fund)

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Texas: Over the Last 9 or so Years, Shifts in Regulation...

- State and FERC initiate competition in the wholesale electric markets
- “Incentive” regulation and unbundling of certain telecom monopolies in 1995 (HB 2128) and Telecom Act passed federally in 1996
- State initiated competition in retail electric markets, passing legislation in 1999 (SB 7)

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CA: The Changing Regulatory Environment

- Increased emphasis on telecommunications consumer protection & enhanced enforcement activities.
- More and evolving complex markets, including electric hybrid market.
- Complicated utility corporate relationships.
- Aging infrastructure, reduced maintenance incentives.
- More opportunities for consumer fraud.
- New technologies in energy and telecommunications.
- Increased emphasis on safety and security.
- Policies addressing critical issues such as climate change, renewable energy, energy efficiency, water efficiency, & water quality.

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For both PUCs, a Fundamental Shift...

- Rulemaker
 - Promulgate rules to govern the competitive marketplace
 - Arrange the playing field to allow fair and efficient competition
- Policeman
 - Proactively police the newly competitive marketplace
 - People may not play nice unless someone forces them to do so
 - Market Oversight Division working to prevent market power abuses and gaming
- Judge
 - PUC has always had a quasi-judicial function in setting rates and solving disputes
 - Function will increase in connection with adjudicating enforcement actions related to policing the competitive marketplace
- Customer Protection
 - PUC's focus on protecting consumers will continue to guide its policies
 - discourage anti-competitive conduct
 - monitor and enforce customer protection rules
- Maintain other core responsibilities for those areas without this change

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Types of PUC Proceedings

- Contested Cases – single or multi-party
- Rulemakings – generally multi-party
 - Any rule changes require opportunity for public comment and response to that comment
- Arbitrations
- Informal Complaint Resolution
- Organizational structure and procedures designed to be responsive to the public and to safeguard and allow input from a broad spectrum of stakeholders
- Regulatory Business conducted in Open Meetings
 - Public schedule published and issues discussed in public forums
 - Public comment is a part of all proceedings – both rulemakings, contested cases

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CPUC Formal Process

- Decision-making is record-based
- Decision-making is timely
- Decision-making is inclusive
- Notice and opportunity to be heard are key
- Sunshine, sunshine, sunshine!

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Record-based Decisionmaking

- By law, the Presiding Officer assesses the record developed in the proceeding and independently recommends outcomes based on the record for the Commission's consideration.
- Outcomes must be supported by adequate findings of fact and conclusions of law
- All Proposed Decisions (PDs) are subject to 30-day comment and review period, with limited exceptions.
- Alternate decisions also subject to 30-day comment and review period, and a digest must accompany the alternate.
- Commission acts on PDs by voting on the matters at its formal Commission meetings, held at least once a month, and meetings must comply with Open Meeting Act requirements
- Decision does not become binding on parties until Commission issues the final decision

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Proceeding Categories Established by Legislature

- Quasi-legislative: Policy-setting rulemakings establishing rules or procedures for an industry; ex parte contacts allowed
- Ratesetting: Applications to establish rates for a particular entity or rulemakings setting rate elements for industries; ex parte contacts permitted but subject to complicated rules
- Adjudicatory: Investigations issued by Commission to enforce laws, policies, and rules, or complaints filed by consumers; ex parte contacts banned

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Alternative Dispute Resolution

- Formal settlements and stipulations
- Mediation
- Early Neutral Evaluation
- Settlement Judge
- ADR offered at any stage in the proceeding, including prior to formal filing
- ADR aids timeliness and inclusiveness; positive results often achieved with greater party satisfaction
- Emphasis on training judges and staff

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PUCT Rulings Subject to Judicial Review

- Parties can (and do) appeal certain PUCT decisions to district, court of appeals, and occasionally the Texas Supreme Court
- Currently (in my official capacity) there are around 100 appeals of various PUCT rules and orders

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CA Judicial Review

- CPUC decisions are first appealed to CPUC itself through application for rehearing
- Appellate matters reviewed de novo
- Commissioners consider appealed matters in closed session
- Parties may then appeal decisions to appellate court system
- CA Supreme Court will hear some matters

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Section 2 – Overview of the Texas Electric Sector and CA Energy Action Plans

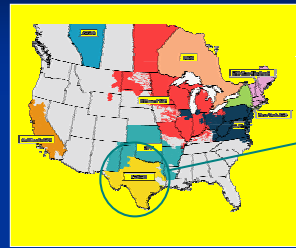
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National Statistics

- Nationally, the utility industry remains highly fragmented, approximately 3,500 separate electric systems.
- The largest 200 utility systems serve approximately 80% of the retail customer load and hold approximately 90% of U.S. electric generating capacity.
- National Summer Peak Demand – Approx. 790,000 megawatts (total capacity Approx. 906,000 megawatts)
- Net Generation – A bit over 4,065 million megawatt-hours
- Nationally – Coal, Natural Gas, Nuclear account for consistently 84-88.6% of megawatt hours generated.

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North American Interconnected Grids

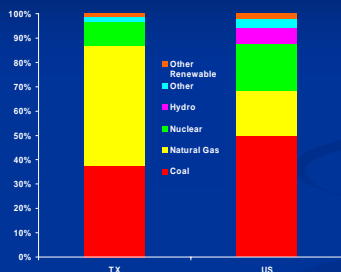


ERCOT connections to other grids are limited to direct current (DC) ties

- The ERCOT grid:
 - Covers 75% of Texas land
 - Serves 85% of Texas load
 - 38,000 miles of transmission lines
 - >550 generation units
 - Peak demand roughly 64,000 megawatts
 - Uniquely, gives the Texas Legislature and PUCT control over both wholesale and retail markets
 - Also four vertically integrated areas that fall outside of ERCOT in W, N, NE, and SE

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U.S. -- Energy Consumption CY 2006, Comparison with Texas

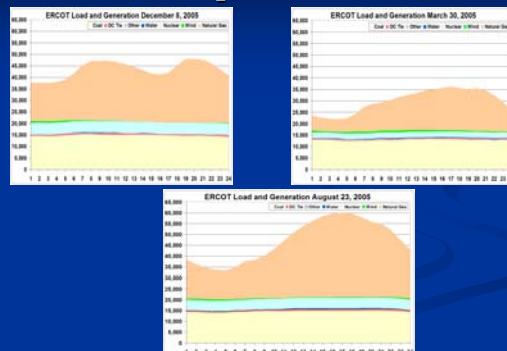


- Texas utilizes relatively less coal, hydro and nuclear -- more natural gas
- Texas also highest consuming state in the US (primarily due to industrial segment)
- Texas has taken the national lead in installed wind at about 3300 MW

Source: EIA -- Energy Consumption and Electricity 2006 Statistics

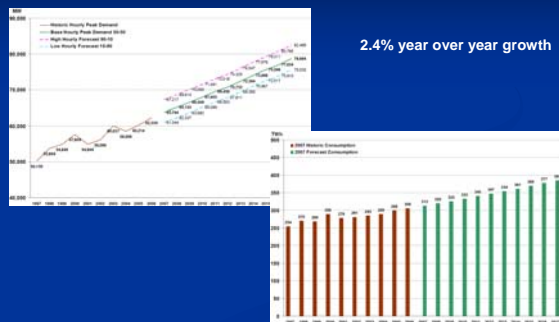
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Winter, Spring, and Summer Day Load Shapes with Fuel Mix



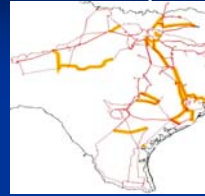
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Texas Forecasts Tremendous Growth - Peak Demand (MW) and Consumption (TWh)



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A Sustained Commitment to Infrastructure Also Helps Drive Generation Investment



Summary of Completed Improvements 2004-2006

- Over \$1.3 billion
- 345 kV 800 circuit miles
- 138 kV 2,100 circuit miles

- Texas population expected to grow 5 million b/t now and 2020



Summary of Planned Improvements 2007-2011

- Over \$3.1 billion
- Estimates that over 3295 circuit miles of transmission lines will have to be added or improved

- Current estimates to 2016 - \$6.1 billion

*Does not include incremental investment from CREZ or Entergy integration

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Although Legislative Policy Favors Markets in Generation Development...

- SB 7 (1999) and SB 20 (2005) – Renewable Portfolio Standards
 - 5880 MW renewable generation by 2015, 10,000 MW by 2020 (goal of 500 MW Non-wind)
 - CREZ - methodology to build transmission ahead of wind generation to ensure we can move wind from west - east
- SB 5 (2005) – Advanced metering and Smart-Grid
- HB 3693 (2007) – Energy Efficiency
 - Mandate, currently reducing demand growth by 10%. Must achieve growth in demand decrease to 20% in two years
 - Study to review feasibility of reducing growth in demand by 50%
 - Current subsidy through rates 78 million, will grow over next two years
- HB 1386 – Nuclear Decommissioning
- HB 1090 – Biomass incentives

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An Open Retail Market also Provides Party/Counterparty Opportunity for New Generation

Transmission and Distribution Utility	Number REPs Serving Residential Customers	Number of Residential Products	A-REP Price Range (¢/kWh)	C-REP Price Range (¢/kWh)	Final Regulated Rate (¢/kWh)
TXU ED	25	91	9.7 - 13.5	9.4 - 14.3	9.7
CenterPoint	25	90	11.6 - 14.6	10 - 14.6	10.4
AEP TCC	25	91	15.5 - 17.2	10.4 - 15.2	9.6
TNMP	23	80	14.1 - 14.3	10.2 - 14.5	10.6
AEP TNC	24	76	15.5 - 17.9	10.6 - 16.9	10.0
Texas Bundled Utilities			Price (\$/kWh)		
Entergy Gulf States	1	5*	11.6/13.0**	n/a	
SPS	1	2*	9.0	n/a	
SWEP	1	2*	8.8	n/a	
El Paso Electric	1	1	12.3	n/a	

SOURCE: www.entergy.com, September 2007 and FERC
 *Bundled utilities may offer alternative rates (e.g. equipment, controllable load, low income)
 **ERCs recent petition for a rate change, which if approved as filed would result in the 13.0¢/kWh rate.

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Load and Generation Forecast Shows Deficit Absent Sufficient Investment

	2008	2009	2010	2011	2012	2013
Firm Load Forecast (MW)	64,010	66,383	66,830	68,331	69,608	71,035
Resources (MW)	72,416	73,308	76,201	75,996	76,885	76,885
Reserve Margin	13.1%	11.1%	13.0%	11.2%	10.3%	8.2%

•Worth noting that we were at these numbers prior to some recent groundbreaking

8.3% 6.7% 5.9%

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To Meet These Needs, I Believe a Portfolio Approach of Cleaner Coal, New Nuclear, Renewables, NG, New Technology and Demand Response are all required

Fuel Type	Public Projects	Confidential (Non-Public)	Total Capacity Under Review (MW)	%
Natural gas	3,185	14,205	17,390	23%
Nuclear	5,986	6,400	12,386	17%
Coal	4,761	5,188	9,949	13%
Wind	8,214	26,350	34,564	46%
Other	0	425	425	1%
Totals	22,146	52,568	74,714	100%

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(As of September, 2007)

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Key Challenges

- Infrastructure investment
- Emissions
- Commodity volatility and Price Increases
- Integrating renewable resources
- Developing workable energy efficiency and demand side management

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California's Regulated Infrastructure

- Electricity
 - 11.1 Million Customers
 - \$19 Billion Revenue
 - 25,600 Miles of Transmission Lines
 - 215,100 Miles of Distribution Lines
 - More than 200 Generating Units
- Natural Gas
 - 10.6 Million Customers
 - \$9.4 Billion Revenue
 - 9,365 Miles of Transmission Lines
 - 92,452 Miles of Distribution Lines

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Implementing The Energy Action Plan

- Adopted by 3 California Energy Agencies in May 2003
 - EAP I identified a preferred "loading order" and 6 broad policy goals:
 - Optimize Energy Conservation and Resource Efficiency
 - Accelerate the State's Goal for Renewable Generation
 - Ensure Reliable, Affordable Electricity Generation
 - Upgrade and Expand the Electricity Transmission and Distribution Infrastructure
 - Promote Customer and Utility Owned Distributed Generation
 - Ensure Reliable Supply of Reasonably Priced Natural Gas
- EAP II, adopted September 2005, is a roadmap for specific action items to implement EAP I, emphasizes interagency collaboration, research & development of pilot programs and adds transportation fuels as a priority in achieving climate change goals

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Regulating Electricity Markets: Implementing The Energy Action Plan

- EAP II: Specific Action Areas:
 - Energy efficiency
 - Public education and outreach; new building and appliance standards; next funding cycle (2006-08) of IOU programs; focus on peak demand savings
 - Demand response
 - Consideration of advanced meter rollout for all IOU customers; consideration of new tariffs; integration with energy efficiency efforts
 - Renewable Energy
 - RPS acceleration and application to all LSEs; new transmission to access new projects
 - California Solar Initiative
 - Provides \$2.9 billion in incentives between 2007 and 2017
 - Electricity market structure
 - CAISO market redesign; transparent IOU procurement; resource adequacy and capacity markets

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Regulating Electricity Markets: Implementing The Energy Action Plan

- EAP II: Specific Action Areas (continued)
 - Electricity infrastructure
 - New generation; planning reserve margin for resource adequacy; streamlined transmission planning and expedited permitting; development of transmission corridors; continued distribution investment
 - Natural gas
 - Ensure sufficient capacity; add storage; facilitate LNG; emphasize conservation to reduce consumption
 - Transportation fuels
 - Reduce use and dependence; increase efficiency of state fleets; consider new infrastructure for conventional and future fuels
 - Climate change
 - Implement programs to meet the Governor's greenhouse gas emissions reduction goals
 - CPUC adopted a policy on Greenhouse Gas Performance Standards
 - GHG Emissions Cap/Performance Standard subject of current CPUC proceeding

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Questions?

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