



# A Legislative Summary Document Regarding Public Utility Commission of Texas

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## State Auditor's Observations

The Public Utility Commission of Texas (Commission) has implemented key legislation, improved its oversight of the Texas Universal Service Fund, and improved its reporting of performance measures.

The Commission's appropriation structure and mission have changed significantly during the past two biennia because of deregulation in the telephone and electric industries. There have been significant, but well-explained, differences between the Commission's budgeted and actual financial activity and performance.

Commission appropriations have increased from approximately \$12 million in fiscal year 2000 to more than \$162 million in fiscal year 2003, primarily because of the creation of the System Benefit Fund (SBF), a trust fund within the State Treasury that funds a program to provide discounts on electric bills to low-income customers. Although there are uncertainties associated with the deregulation of electricity, the Commission's projections for the SBF appear reasonable. Commission programs funded by the SBF include the following:

- Energy assistance (low-income discount)
- Compensation to school districts for declining property values
- Consumer education

The Commission also contracts for the administration of the Texas Universal Service Fund (TUSF) for telecommunications. The main purpose of the TUSF is to provide basic telephone service at affordable rates in the high-cost, rural parts of the state.

Prepared for the 78th Legislature  
by the State Auditor's Office

January 2003

SAO No. 03-377

*This is not an audit report and, with the exception of any audit report summaries, the material in this document has not been subjected to all of the tests and confirmations performed in an audit.*

# Public Utility Commission of Texas

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## Financial Profile

The scope of the Public Utility Commission of Texas's (Commission) financial activity has increased significantly in recent years because of the deregulation of the telephone and electric markets. In particular, the Commission is charged with administering two large funds.

### About the System Benefit Fund

A number of uncertainties remain in making revenue projections for the low-income utility discount program. These include the price of electricity, the number of municipal utilities or co-ops opting into competition, and the amount of electricity consumed. The Commission has no control over the number of eligible participants, but it sets the assessment rate and the discount rate.

At the close of appropriation year 2002, the System Benefit Fund (SBF) had collected \$116.67 million and spent \$74.86 million, leaving a balance of \$41.8 million. Effective fiscal year 2002, the SBF became a dedicated fund; thus, unspent funds will carry forward. The Commission believes that the SBF balance not appropriated elsewhere should be appropriated to the Commission, including interest earned on the balance. At the current cap of \$0.65 per megawatt hour, the Commission may not be able to generate enough of the SBF revenue cited in its Legislative Appropriations Request (LAR) for a significant increase in program participants. However, if the number of low-income participants stabilizes at around 650,000, as is currently believed will happen, the Commission may need to either lower the assessment rate or increase the amount of the discount. Otherwise, the fund balance may grow to an unreasonable amount. The Commission increased the discount from 10 percent to 17 percent effective in June 2002.

### About the Texas Universal Service Fund

The Commission sets the rate for the Texas Universal Service Fund (TUSF), which experienced a 23 percent decline in revenue for fiscal year 2002. This fund provides for basic telephone service at affordable rates in the high-cost rural parts of the state. It also supports services to low-income and hearing-impaired Texans. The TUSF had revenues of \$613 million for fiscal year 2001 and \$474 million for fiscal year 2002. The Commission attributes the decline in revenues to the cellular companies' lower revenues.

The Commission contracts for the administration of the TUSF, and this fund is not within the State Treasury. Therefore, other than a small amount used for administration (\$271,098 in fiscal year 2001 and an estimated \$171,693 for fiscal year 2002), it does not appear in the Commission's LAR. *A Report on Selected Controls at the Public Utility Commission of Texas* (Report No. 01-029, May 2001) noted concerns about the size and location of the fund balance and the adequacy of public disclosure on the TUSF's activities. In fiscal year 2001, the TUSF had an ending fund balance of approximately \$120 million. In fiscal year 2002, the balance was an estimated \$112 million.

### About Agency Operations

Appropriations for Commission operations, not including pass-throughs or contracts associated with the SBF, have increased only slightly—from \$12 million in 2000 to \$12.23 million in 2003. The Commission monitors and reconciles the revenues for which it is responsible. In most cases, it also sets the rate at which the tax or fee is assessed.

The table below shows the Commission's expenditures by Comptroller of Public Accounts (Comptroller) category as reported by the Commission in USAS for appropriation years 2000, 2001, and 2002. This data has not been audited. It is provided for informational purposes to show how the Commission has spent its funds. We obtained explanations from the Commission for fluctuations across years that appeared unusual.

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Expenditures by Comptroller USAS Category Code			
Comptroller USAS Category Group	Appropriation Year 2000	Appropriation Year 2001	Appropriation Year 2002
Interfund Transfers/Other (Note A)	\$ 891,354	\$ 66,776,075	\$ 35,472,506
Public Assistance Payments (Note B)	0	0	28,793,111
Salaries and Wages <sup>a</sup>	10,454,940	10,369,407	11,152,008
Professional Services and Fees (Note C)	1,218,623	12,907,751	10,879,989
Employee Benefits	2,040,830	2,065,023	2,398,661
Rentals and Leases	377,798	393,136	382,955
Other Expenditures	278,341	361,555	372,548
Supplies and Materials	182,696	204,043	263,976
Capital Outlay	90,955	287,504	125,692
Travel	86,226	91,265	89,283
Communications and Utilities	23,223	57,643	62,140
Repairs and Maintenance	59,964	58,920	48,459
Printing and Reproduction	13,747	11,138	35,707
Interest/Prompt Payment Penalties	36	113	87
<b>Total Expenditures by Comptroller Category</b>	<b>\$ 15,718,733</b>	<b>\$ 93,583,573</b>	<b>\$ 90,077,122</b>

<sup>a</sup> The amounts shown here for Salaries and Wages will not agree with the Salary Expenditures in the Workforce Summary Document prepared by the State Classification Office (SCO) because the USAS Salaries and Wages category does not include certain object codes that SCO considers employee compensation. These include performance awards and employee recognition awards.

Source: USAS - All funds including appropriated, unappropriated, and non-appropriated as of November 30, 2002.

Note A – Includes various transactions, including transfers and adjustments made by the Comptroller. The significant increase in 2001 resulted from transfers from the System Benefit Fund to the Permanent School Fund.

Note B – For appropriation year 2002, public assistance payments increased primarily because of the creation of the System Benefit Fund, a trust fund within the State Treasury that funds a program to provide discounts on electric bills to low-income customers.

Note C – For appropriation year 2001, professional services and fees were higher because of a consumer education contract related to the creation of the System Benefit Fund.

## Key Findings from Previous Audits and Reviews

January 1, 2001–December 31, 2002

### ***Ongoing Audit of 10 Agencies' Compliance with Historically Underutilized Business Requirements***

The State Auditor's Office will release a report in February 2003 on compliance with Historically Underutilized Business requirements at the Public Utility Commission of Texas.

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## ***A Review of Selected Controls at the Public Utility Commission***

(Report No. 01-029, May 2001)

The Public Utility Commission of Texas (Commission) has implemented key legislation, improved its oversight of the Texas Universal Service Fund, and improved its reporting of performance measures. Under deregulation and increased competition in the electric and telecommunications industries, the Commission's role is shifting from rate-setting to customer protection. Because our review focused primarily on the Commission's current administrative operations, we cannot provide assurances regarding the future of those industries.

Key facts and findings are as follows:

- The Commission has adopted rules to implement the following bills from the 76th Legislature: Senate Bill 7 (electric deregulation), Senate Bill 86 (customer protection), and Senate Bill 560 (telecommunications deregulation).
- The Commission has improved its financial management practices, including cash management, since our initial visit in 1999.
- The Commission has improved its reporting on key performance measures since our certification audit focusing on fiscal year 1997 information.

## **Performance Management**

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### ***Performance Indicators Used by Management***

The Public Utility Commission of Texas (Commission) currently uses the performance standards provided by the Legislative Budget Board (LBB). However, with the implementation of electric deregulation in 2002, the Commission has negotiated new measures that will become effective in 2004.

Through the third quarter of fiscal year 2002, the Commission had met or exceeded 5 of 11 (45 percent) key performance targets, and it provided reasonable explanations for the unmet targets. Of interest is the "Average number of days to conclude customer complaints," for which the target is 55 days. However, the Commission reported an average of 225 days. The Commission has submitted an exceptional item request to hire 17 additional staff members in an effort to reduce the target to ten days. The Commission reports that it has eliminated a backlog of unresolved complaints.

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### ***Estimating Performance Targets***

The Commission has a reliable system for projecting key performance targets in its Legislative Appropriations Request (LAR). Executive management reviews the Commission's past performance measures against current performance measures to determine how the Commission is performing and to project the level at which it should be performing. Prior to the performance measure quarterly reports being submitted to executive management and the Commissioners, the measures are reviewed by the performance measure analysts, audit department, performance measure coordinator, and the director of administration.

Division management is responsible for creating benchmarks. Each division evaluates its own performance and develops benchmarks based on what it believes it can achieve. Although tracking and monitoring are done quarterly, the Commission has an audit department that is responsible for ensuring that the performance measures are calculated accurately. The Commission also has analysts who are responsible for ensuring that performance measures are properly defined and that calculation methods are appropriate.

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## Most Recent Performance Measure Certification

Fiscal Year 1998–Fiscal Year 2003

The results of *An Audit Report on Performance Measures at 36 State Entities–Phase 12 of the Performance Measures Reviews* (Report No. 98-040, May 1998) for this entity are summarized below.

Period	Measure	Certification Results
1997	Number of Docketed Non-Rate and Non-CCN Cases Completed	Inaccurate
1997	Number of Consumer Complaints Concluded	Certified with Qualification
1997	Average Number of Days to Conclude Consumer Complaints	Certified with Qualification
1997	Number of Rules Adopted or Amended Relating to Competition Issues	Inaccurate
Total Measures Certified Without Qualification <sup>a</sup>		0/4 (0%)
Data Reliability Percentage (Certified and Certified with Qualification)		2/4 (50%)

<sup>a</sup> The percentage of unqualified certifications is presented because it is used in determining an entity's eligibility for performance rewards as established in the General Appropriations Act [77th Legislature, Article IX, Sec. 6.31(d)(2)].

Category	Definition
Certified	Reported performance is accurate within +/-5 percent, and controls appear adequate to ensure accurate collection and reporting of performance data.
Certified with Qualification	Reported performance is within +/-5 percent, but the controls over data collection and reporting are not adequate to ensure the continued accuracy of performance data.
Factors Prevented Certification	Actual performance cannot be determined because of inadequate controls and insufficient documentation.
Inaccurate	Reported performance is not within +/-5 percent of actual performance, or there is an error rate of at least 5 percent in the supporting documentation.
Not Applicable	A justifiable reason exists for not reporting performance.

## Disaster Preparedness

We gathered information from the Public Utility Commission of Texas (Commission) on plans in place to provide continued operations and services in the event of a disaster. Standard audit criteria for disaster preparedness have not been established; therefore, we are not evaluating the Commission's plans. Our objective was only to provide the information reported by the Commission.

The Commission's Business Continuity Management Team is drafting a Business Continuity Plan (BCP) that will serve as the Commission's overall disaster recovery plan and that will be supplemented by the Disaster Recovery Plan for Information Technology. The team expected to complete the BCP shortly after August 1, 2002. The Disaster Recovery Plan for Information Technology serves as an integral part of the BCP by addressing the actions required to restore communication services and critical information to the Commission in the event of a disaster. The Commission anticipates that it will test the BCP on an annual basis.

The Commission has regulatory authority over public utility companies, and it requires each of them to file a general description of their emergency operations plans and a description of any changes at least 30 days before changes are implemented. The Commission does not maintain all details of the plans due to security reasons.

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The Commission has limited regulatory authority over the Electric Reliability Council of Texas (ERCOT), but it requires ERCOT to maintain the reliability and security of the electrical network within the ERCOT region. ERCOT operates under the reliability and safety standards set by the North American Electric Reliability Council (NERC). NERC recently transformed its once-voluntary system of reliability management to a mandatory system by establishing a Compliance Enforcement Program developed to monitor and enforce compliance with NERC standards. Serving as the Electric Sector Coordinator for the Critical Infrastructure Protection Advisory Group, NERC works with federal, private, and public entities to protect the interconnected power systems of North America from cyber and physical attacks.

The Commission also places specific requirements pertaining to emergency operations on each dominant, certified telecommunications service providers.

## Information System Vulnerability Assessments

The State Auditor's Office (SAO) and/or the Department of Information Resources performed one or more information system vulnerability assessments at the Public Utility Commission of Texas between January 2000 and November 2002. Detailed results of this work are confidential under Texas Government Code, Section 2054.077(c). The SAO's Legislative Summary Document titled "Information System Vulnerability Assessments" provides general information about the results of information system vulnerability assessments.

## Travel Expenditures

Travel Expenditures by Appropriation Year (unaudited)			
	2000	2001	2002
In-State Travel	\$ 35,828	\$ 40,332	\$ 44,531
Out-of-State Travel	48,526	50,455	44,753
Foreign Travel	673	0	0
Other Travel Costs	1,199	478	0
<b>Total Travel Expenditures</b>	<b>\$ 86,226</b>	<b>\$ 91,265</b>	<b>\$ 89,283</b>
Limit on Travel Expenditures (Cap)	126,495	126,495	49,199 <sup>a</sup>
<b>Expenditures in Excess of Cap</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>

<sup>a</sup> Caps apply to total travel in appropriation years 2000 and 2001, but caps apply only to out-of-state travel and foreign travel in appropriation year 2002. Caps, calculated by the Comptroller of Public Accounts, have been adjusted for any increases requested by the Commission and approved by the Legislative Budget Board in accordance with the General Appropriations Act.

Source: Uniform Statewide Accounting System (USAS) as of November 30, 2002. Amounts are subject to change as agencies continue to record additional expenditures or adjustments.