

December 7, 2022

Sunset Advisory Commission
PO Box 13066
Austin, Texas 78711

Via hand delivery and online submission to <https://www.sunset.texas.gov/>.

CC: Sen. Nathan Johnson, Sen. Angela Paxton, Sen. Charles Perry, Sen. Drew Springer Jr., James Lee, Vice Chairman Justin Holland, Rep. Keith Bell, Rep. Terry Canales, Rep. Tarvis Clardy, Rep. Craig Goldman, Jeff Austin III

Re: PUC/ERCOT/OPUC Sunset Review Comments

Dear Chairman Schwertner and Commission Members:

Public Citizen appreciates the opportunity to provide comments to the Sunset Advisory Commission on the Sunset review of the Public Utility Commission of Texas (PUC), the Electric Reliability Council of Texas (ERCOT), and the Office of Public Utility Counsel (OPUC). We believe that these agencies should turn their focus to their customers: in robust public participation, in demand-side strategies, and in the public's interest in clean, reliable, affordable electricity.

We agree with the six recommendations in the Sunset Report and we agree with their analysis in comments submitted by the Sierra Club. We see a common theme throughout the report's recommendations: these agencies are not public-facing and have not been given the resources they need to truly serve the public interest. We believe the two general recommendations below address this theme.

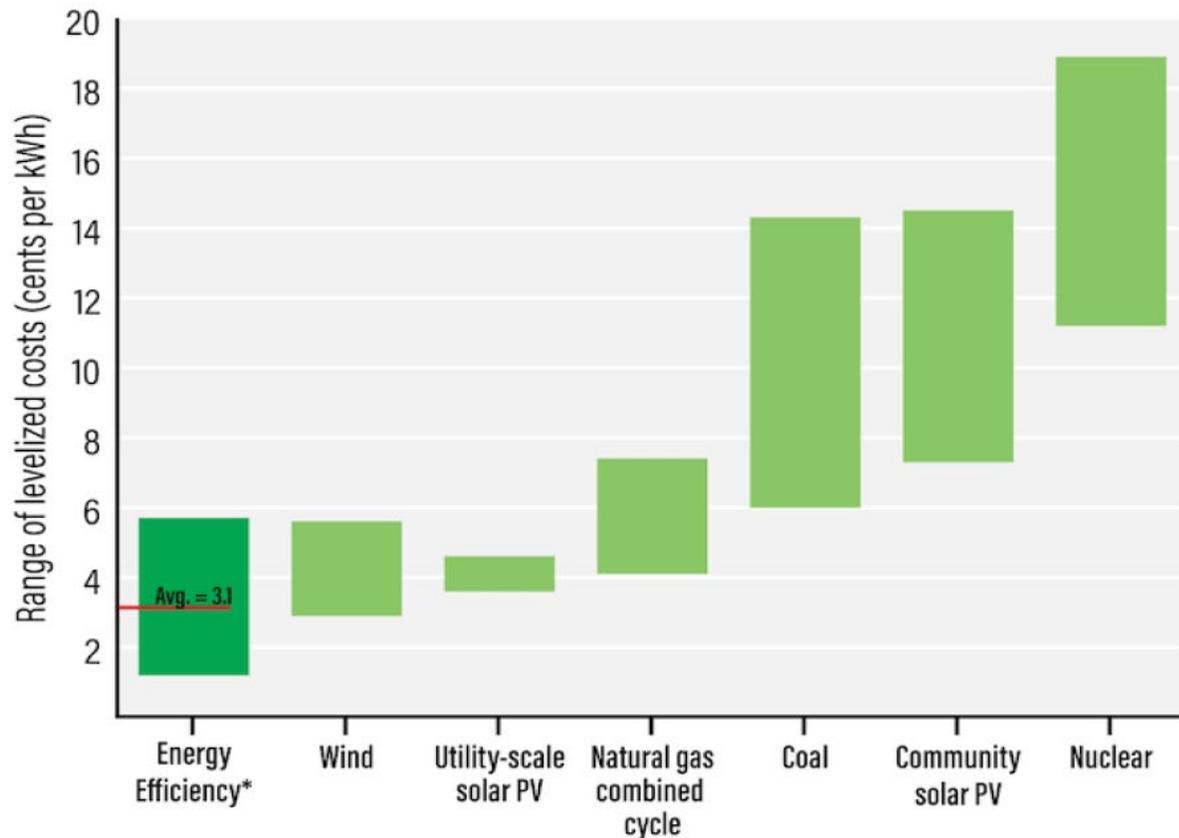
Demand side strategies—especially energy efficiency—can fix our grid and provide considerable public benefits.

The review of Texas' electricity market design and the Sunset review of PUC/ERCOT/OPUC are distinct but related undertakings. Both actions are suffering from the same lack of attention paid to the customer. Our leading recommendation in the market redesign process—to focus on demand-side solutions, especially energy efficiency—is therefor relevant to the Sunset review process.

There was a time when Texas led on energy efficiency. We were the first state with an energy efficiency resource standard (EERS). Today, among the twenty-seven states that have an EERS, we achieve the lowest annual savings, about 0.2% a year.¹ It is time for Texas to update its EERS. We agree with the Sierra Club's recommendation to create an Office of Energy Efficiency and Demand Response.

¹ See Hebert, Christine, "SPEER Review of the Texas IOU Energy Efficiency Programs" (Feb. 2019) at p. 4.
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Energy efficiency is the cheapest form of energy, as this levelized cost comparison illustrates:²



*Notes: Energy efficiency program portfolio data from Molina and Relf 2018. Represents costs to utilities or program administrators only, including shareholder performance incentives if applicable. All other data from Lazard 2018 Unsubsidized Levelized Cost of Energy Comparison.

According to a recent report by the American Council for an Energy-Efficient Economy,³ Texas could spend \$4.9 billion over five years on demand side strategies to achieve:

- 11,400 MW of winter peak load reduction,
- 7,650 MW of summer peak load reduction, and
- 9 million households worth of energy efficiency and demand response upgrades.

Once this investment is made, it will save customers money and provide benefits to our grid for 10-20 years.

² *Id.* at p. 5.

³ "Energy Efficiency and Demand Response: Tools to Address Texas's Reliability Challenges" American Council for an Energy-Efficient Economy (Oct. 2021) available at https://www.aceee.org/sites/default/files/pdfs/energy_efficiency_and_demand_response_for_texas_10-13-21_final_0.pdf.

Texas' energy market is an equation, with supply on one side balancing demand on the other. If the goal is simply to balance that equation, there is no difference between a strategy that adds energy supply and one that reduces energy demand. None of the supply-side proposals that have come out of the PUC market redesign process have offered supply as cheaply as these demand-side proposals, which would cost an average of 5.6 cents/kWh over their lifetimes.⁴

The fact that the demand side of the equation has been completely ignored is a symptom of a broken system. It is a failure of leadership at the PUC, the legislature, and the highest ranks of Texas government.

This oversight is all the more concerning when the benefits to utility customers are considered. These residential strategies identified in the ACEEE report will provide myriad benefits to everyday Texans:

- Program to replace electric furnaces with ENERGY STAR® heat pumps
- Attic insulation and sealing incentive program
- Smart thermostat incentive program
- Heat pump water heaters incentive program
- Central air conditioner demand response program with smart thermostat control
- Water heater demand response program
- Electric vehicle managed charging program⁵

These are strategies that will lower residential energy use, reduce bills for customers, and help keep homes cooler in the summer and warmer in the winter. Texas must get serious about these people-centered strategies now. This brings us to our second point:

The PUC must serve the public interest and involve the public in decision-making.

During the electricity market redesign that occurred in the late 1990s, eight Texas utilities participated in a weekend of “deliberative polling” of everyday Texans.⁶ Randomly selected ratepayers were paid to participate in a weekend long public input opportunity. The result was a finding of “strong support for renewable sources and for improving energy efficiencies and conservation, weak support for prioritizing the use of fossil fuels.”⁷ What followed was the largest investment in clean energy in United States history.

More than twenty years later, Texans still support clean energy, energy efficiency, and a transition away from fossil fuels. But the public's voice has been left out of the present market redesign. The PUC is

⁴ This cost estimate by ACEEE is slightly higher than the older cost comparison found in the SPEER report above.

⁵ *Id.* at p. vi.

⁶ See McGrath, Mike “Deliberative Polling and the Rise of Wind Power in Texas” National Civic League (Spring 2020: Vol. 109, No.1) available at <https://www.nationalcivicleague.org/ncr-article/deliberative-polling-and-the-rise-of-wind-power-in-texas/>.

⁷ *Id.*

conducting its business without public input. Publicly released materials rely on technical language and jargon that is incomprehensible to an interested outsider. Opportunities for public input are narrow and underused. Specific recommendations for improved public participation are included in comments by the Sierra Club. Briefly, they include:

- Expanding the PUC's mission to include protection of public health.
- Making PUC meetings more accessible by holding them around the state, allowing online comments, and allowing comment on agenda items.
- Opening PUC workshops to include public input and offering basic information in plain language.
- Expanding language access by providing writer materials in additional languages.
- Quarterly public reporting in plain language.
- Including stakeholders in ERCOT who represent demand-side interests.
- Treating residential customers as market participants.

The PUC has taken a first step in the recent creation of the Office of Public Engagement. In developing this office, we recommend the agency take inspiration from the U.S. Federal Energy Regulatory Commission's newly created Office of Public Participation.⁸ The functions of the FERC OPP include direct public outreach and education, technical assistance, and funding to intervenors in FERC proceedings.

We appreciate this opportunity to provide these comments. If you wish to discuss these comments further, I can be reached at ashelley@citizen.org, 713-702-8063.

Respectfully,

Adrian Shelley
Texas Director
Public Citizen

⁸ See <https://www.ferc.gov/OPP>.