

COLORADO DEPARTMENT OF REGULATORY AGENCIES
OFFICE OF POLICY AND RESEARCH

PUBLIC UTILITIES COMMISSION

2002 SUNSET REVIEW



STATE OF COLORADO

DEPARTMENT OF REGULATORY AGENCIES
Office of the Executive Director
M. Michael Cooke, Executive Director

1560 Broadway
Suite 1550
Denver, Colorado 80202
V/TDD (303) 894-7880
(303) 894-7855



Bill Owens
Governor

October 15, 2002

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The Colorado Department of Regulatory Agencies has completed the evaluation of the Public Utilities Commission. I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 2003 legislative committee of reference. The report is submitted pursuant to section 24-34-104(8)(a), of the Colorado Revised Statutes (C.R.S.), which states in part:

The department of regulatory agencies shall conduct an analysis of the performance of each division, board or agency or each function scheduled for termination under this section...

The department of regulatory agencies shall submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination....

The report discusses the question of whether there is a need for the regulation provided under Articles 1 to 7 of Title 40, C.R.S. The report also discusses the effectiveness of the Public Utilities Commission and its staff in carrying out the intent of the statutes and makes recommendations for statutory and administrative changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

A handwritten signature in cursive script that reads "M. Michael Cooke".

M. Michael Cooke
Executive Director

Table of Contents

Background	1
<i>The Sunset Process</i>	1
<i>Methodology</i>	1
<i>History of Regulation</i>	1
Legal Framework.....	6
Program Description and Administration	23
Analysis and Recommendations	35
Appendix A - Sunset Statutory Evaluation Criteria	48
Appendix B – Public Utilities Commission - Organizational Chart and Staffing Plan	49

Background

The Sunset Process

The regulation of public utilities is subject to sunset review as provided for in section 24-34-104, Colorado Revised Statutes (C.R.S.). More specifically, section 40-2-101, C.R.S., provides for the repeal of the Public Utilities Commission (PUC or Commission) effective July 1, 2003. Prior to such repeal, the PUC must be reviewed by the Department of Regulatory Agencies (DORA).

The purpose of this review is to determine whether the Public Utilities Commission should be continued for the protection of the public and to evaluate the performance of the Commission and its staff. During this review, the PUC must demonstrate that there is still a need for the regulation of public utilities and that this regulation is the least restrictive consistent with the public interest. DORA's findings and recommendations are submitted via this report to the Colorado General Assembly. Statutory criteria used in sunset reviews may be found in Appendix A on page 48.

Methodology

As part of this review, DORA staff interviewed PUC staff and commissioners, reviewed literature and Internet sites, contacted professional associations and other states, reviewed Colorado statutes and rules, and conducted a mail survey of major stakeholders.

History of Regulation

The following timeline provides a brief history of significant dates of public utilities regulation in Colorado:

- 1885 Railway Commission established with the power to investigate railroad rates and charges and to recommend, but not enforce, reasonable and just rates.
- 1893 Statute creating the Railroad Commission repealed.
- 1910 Three member Railroad Commission created.

-
- 1913 The Public Utility Act passed creating a three-member Public Utilities Commission and abolishing the State Railroad Commission.
 - 1915 The public utilities statutes amended to specify that motor vehicle common carriers providing services similar to those provided by railroads were subject to PUC regulation as public utilities.
 - 1927 The PUC given full and complete jurisdiction over all motor vehicle common carriers.
 - 1954 A constitutional amendment established the PUC and authorized regulation of all non municipally owned public utilities within home rule cities.
 - 1955 The PUC authorized to regulate motor vehicle commercial carriers.
 - 1961 All suppliers of electricity including cooperative and nonprofit electric associations declared to be public utilities and therefore subject to PUC regulation.
 - 1969 Ash and trash motor vehicle carriers placed within PUC jurisdiction.
 - 1971 Towing carriers placed within PUC jurisdiction.
 - 1980 Ash and trash motor vehicle carriers removed from PUC regulation.
 - 1983 Cooperative electric associations allowed to exempt themselves from PUC regulation by majority vote of members and consumers.
 - 1984 Carriers of household goods declared to fall within the scope of public interest and subject to regulation (safety and insurance requirements), but not to be public utilities. Providers of intrastate telecommunications service declared to be a public utility subject to regulation.

1985 Charter/scenic bus, courier, luxury limousine, and off-road scenic charter motor vehicle carriers exempted from regulation as public utilities but required to register and have adequate insurance and comply with PUC safety requirements.

Consumers owning pay telephone equipment and reselling local exchange and toll service using the tariff services and facilities of regulated telephone utilities and cellular radio systems exempted from regulation as public utilities.

1986 Transportation of hazardous materials by motor vehicle placed within PUC jurisdiction.

1987 Repeal and reenactment of Article 15 of Title 40, C.R.S., 1984, concerning the regulation of intrastate telecommunications service, products, and providers. Subject to regulation are basic emergency service, public coin telephone service, white page directory listing, local exchange listed telephone number service, new products and services necessary for provision of basic local exchange service, and dual tone multi-frequency signaling. Services, products, and providers exempt from regulation: television cable services, cellular telecommunications services, mobile radio services, radio paging services, new products and services other than those necessary to provide basic local exchange service, centron and centron-like services, operator services, and special access.

1992 Public Utilities Commission given power to implement and fund telecommunications relay services for disabled telephone users, conforming with the Federal "Americans With Disabilities Act of 1990."

Public Utilities Commission given power to flexibly regulate electric, natural gas, or steam service public utilities by approving or denying applications for special-rate contracts. Utilities prohibited from subsidizing such contracts by raising the rates of other regulated utility operations.

The Federal Energy Policy Act of 1992 (Act) requires open access of investor-owned electric transmission networks. Because the act prohibits the Federal Energy Regulatory Commission (FERC) from regulating retail wheeling, many believe it authorizes states to permit it. Retail wheeling occurs when customers negotiate the purchase of electricity at a lower cost from a supplier other than their local utility.

FERC Order 636 resulted in major changes in the way interstate pipelines purchase gas. The Order finalized a decade-long process of requiring interstate pipelines to provide gas suppliers non-discriminatory open access to their pipelines.

- 1994 Senate Bill 94-113 relaxed the market entry requirement for taxicab companies in Colorado's 11 largest counties. As a result, instead of having a regulated monopoly, taxicab companies in these counties have regulated competition. This means that permit applicants no longer have to prove that existing service is substantially inadequate. Instead, they must only show the need for service and their fitness to provide the service and that destructive competition will not result.
- 1995 Federal regulation preempted state regulation of transportation utilities that carry property within state boundaries (intrastate). The PUC no longer regulates routes, rates, or services of intrastate property carriers.

Colorado House Bill 95-1335 changed local telephone exchanges from regulated monopolies to regulated competition and shifted the regulatory role from rate regulation to quality-of-service enforcement. New providers file an application to provide service and come under state regulation for the first time, resulting in an increased oversight role for the state. The Telecommunications Act of 1996 requires that states conduct formal arbitration of any interconnection disputes between incumbent telephone companies and new entrants.

-
- 1998 Senate Bill 152 was enacted. It created a 21-member body, known as the Colorado Electricity Advisory Panel, to assess whether retail competition would benefit the state's consumers. In November of 1999 the Colorado Electricity Advisory Panel issued its final report. A majority (17 of 29 members) voted against restructuring Colorado's electricity industry because it found that it would not be in the best interest of the state and its consumers. The Legislature required a 2/3 majority vote for a formal recommendation, which was not met. A minority report supporting restructuring was also issued, as well as a "middle ground" report.
- 1999 Public Utilities Commission adopted rules which would require IOU's to itemize the fuel sources used for generated and purchased electricity. The unbundling of costs is intended to educate consumers on the costs and sources of generation and the separate costs of power generation and delivery. Customers began receiving unbundled billing in October 1999.

Legal Framework

Public utility regulation is vested with a national interest and is a rich area of legislation. Significant laws at the federal level include the Telecommunications Acts of 1934 and 1996, the Natural Gas Policy Act of 1978, the Public Utility Holding Company Act of 1935, the Public Utility Regulatory Policies Act of 1978, the Energy Policy Act of 1992, the Airport Improvement Act of 1994, and the Motor Carrier Safety Improvement Act of 1999.

Public Utilities Commissions, or their equivalents, exist in every state. Although these agencies have different jurisdictional boundaries, they all regulate energy and telecommunications with some having the added responsibility of regulating certain areas of state commerce. While degrees of jurisdiction may vary, all commissions are run by boards of commissioners varying in range from three to seven members, which are either appointed or elected. Each commission has a staff of professional and support employees that provide guidance to the commissioners and assist in enforcement of statutes and regulations

Title 40 of the Colorado Revised Statutes (C.R.S.) encompasses most of the legislation concerning the Public Utilities Commission (PUC or Commission). Title 40 of the Colorado Revised Statutes sets out the powers and duties of the PUC as well as the responsibilities of public utilities. This portion of the sunset review outlines each article under Title 40 of the C.R.S., and describes the various types of utilities regulated in Colorado.

Definitions--Article 1, Sections 40-1-101 to 40-1-104, C.R.S.

This article defines public utilities and establishes the jurisdiction of the PUC. The term "public utility", when used in the Public Utilities Law, includes every common carrier, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, person, or municipality operating for the purpose of supplying the public for domestic, mechanical, or public uses and every corporation, or person declared by law to be affected with a public interest, and each of the preceding is considered to be a public utility and subject to the jurisdiction, control, and regulation of the Commission.

People Service Transportation, Article 1.1, Sections 40-1.1-101 to 40-1.1-106, C.R.S.

This article enumerates the policy of the state to remove barriers to volunteer transportation (such as church groups) and low-cost people service transportation. To this end, transportation systems meeting the criteria prescribed in this article are not classified as public utilities, or as any form of carrier subject to regulation by the Commission. These transportation systems are, however, subject to safety and insurance regulation.

Public Utilities Commission, Article 2, Sections 40-2-101 to 40-2-122, C.R.S.

Article 2 creates the Public Utilities Commission of the State of Colorado consisting of three members appointed by the Governor with the consent of the Senate. The commissioners must devote their entire time to the duties of their office to the exclusion of any other employment and receive compensation as prescribed by law. The provisions of section 24-34-104, C.R.S., concerning the termination schedule for regulatory bodies of the state are applicable to the Public Utilities Commission. The effective date of repeal is July 1, 2003.

This article also establishes the qualifications and duties of the commissioners and the director of the PUC. The Commission must promulgate such rules as are necessary for the proper administration and enforcement of this title and must furnish, without charge, copies of the appropriate rules to each public utility under its jurisdiction and, upon request, to any public officer, agency, political subdivision, association of officers, agencies, or political subdivisions, and to any representative of twenty-five or more consumers. Article 2 authorizes the PUC to establish reasonable requirements to promote the safety of operations for motor carriers. It requires that the PUC furnish a list of public utilities subject to its jurisdiction, supervision, and regulation to the Executive Director of the Department of Revenue. It sets forth annual identification fees for motor carriers.

Regulation of Rates and Charges, Article 3, Sections 40-3-101 to 40-3-114, C.R.S.

Article 3 authorizes the Commission to regulate rates and charges, correct abuses, and prevent unjust discrimination. This article ensures that the PUC sets rates which protect both the right of the public utility company and its investors to earn a return reasonably sufficient to maintain the utility's financial integrity, as well as the right of consumers to pay a rate that accurately reflects the cost of service rendered. If after a hearing the Commission finds that utility rates violate any provision of law, the just, reasonable, or sufficient rate can be ordered by the Commission. In doing so the Commission may consider current, future, or past test periods in addition to any other factors which may affect the sufficiency or insufficiency of such rates. The Commission may also consider any factors which influence an adequate supply of energy, encourage energy conservation, or encourage renewable energy development.

Under such rules and regulations as the Commission may prescribe, every public utility must file with the Commission, and keep open for public inspection, schedules showing all rates, tolls, rentals, charges, and classifications collected or enforced, as well as all rules, regulations, contracts, privileges, and facilities that affect the foregoing in any manner. No change can be made by any public utility concerning its rates unless thirty days' notice is given to the Commission and the public. Every public utility must furnish to the Commission at such time and in such form as the Commission may require a report in which the utility specifically answers all questions put to it by the Commission.

Every telephone and telegraph public utility operating in this state must receive, transmit, and deliver, without discrimination or delay, the conversations and messages of every other telephone or telegraph public utility with whose line a physical connection may have been made. Subdividing costs by distance per call is also prohibited.

Air Quality Improvement Costs, Article 3.2, Sections 40-3.2-101 to 40-3.2-102, C.R.S.

Section 40-3.2-101, C.R.S., is the legislative declaration in which the general assembly finds that providing a funding mechanism to encourage Colorado's public utilities to reduce emissions or air pollutants is a matter of statewide concern. In addition, it is declared that the public interest is served by providing such funding mechanism resulting in an improvement in the quality of life and health of Colorado citizens and as a place to live and conduct business.

Section 40-3.2-102, C.R.S., concerns the recovery of air quality improvement costs by public utilities from their retail customers as a result of voluntary agreements entered into after July 1, 1998, except those partial costs that the Public Utilities Commission determines may be recovered from a public utility's wholesale customers. "Air quality improvement costs" means the incremental life-cycle costs including capital, operating, maintenance, fuel, and financing costs incurred or to be incurred by a public utility at electric generating facilities located in Colorado. To account for the timing differences between various costs and revenue recovery, life-cycle costs must be calculated using net present value analysis. Additional criteria for recovery are set out in this section, including aggregate sums and time limitations.

Emergency Telephone Access, Article 3.4, Sections 40-3.4-101 to 40-3.4-111, C.R.S.

This article is known as the Emergency Telephone Access Act. Section 40-3.4-102, C.R.S., is the legislative declaration in which the general assembly finds that the absence of basic local exchange telecommunications services, especially during time of emergency, presents a potential hazard and an unnecessary danger to human health and safety. Consequently, it is of vital importance to the public health, safety, and welfare that low-income individuals receive assistance that is adequate to insure access to basic telecommunications services.

Section 40-3.4-105, C.R.S., sets out low-income telephone assistance eligibility. Individuals eligible for low-income telephone assistance are those persons certified by the Department of Human Services to receive financial assistance payments under programs for old age pension, aid to the blind, aid to the needy disabled, or low-income disabled persons who qualify to receive supplemental security income under the federal Social Security Act, as amended. The Department of Human Services must periodically recertify an individual's eligibility to receive low-income telephone assistance.

The Public Utilities Commission is empowered to determine and impose a uniform charge on each business and residential access line in an amount sufficient to reimburse each provider of basic local exchange telecommunications services for its provision of low-income telephone assistance and the department of human services for administrative expenses.

Regulation of Rates and Charges by Municipal Utilities, Article 3.5, Sections 40-3.5-101 to 40-3.5-107, C.R.S.

Article 3.5 grants the governing body of municipal utilities the authority to adopt all necessary rates, charges, and regulations to govern and regulate all rates, charges, and tariffs of its municipal utility within its authorized electric and natural gas service areas that lie outside the jurisdictional limits of the municipality.

Municipal utilities must print and keep open for public inspection schedules showing all rates and charges collected or enforced, together with all rules, regulations, contracts, privileges, and facilities which in any manner affect or relate to rates and service within the authorized electric and natural gas service areas. No change can be made by any municipal utility in any rate or charge, or in any rule, regulation, or contract relating to or affecting any base rate, charge, or service, or in any privilege or facility, except after thirty days' notice to the public.

Service and Equipment, Article 4, Sections 40-4-101 to 40-4-114, C.R.S.

This article gives jurisdiction to the Public Utilities Commission over adequacy, installation, and extension of power services and facilities necessary to supply, extend, or connect such services and facilities. The Commission has the authority to designate location and relocation of transportation facilities. The Commission is empowered to establish rules and regulations for the termination of gas and electric service to residential customers, including reasonable notice requirements and an opportunity to be heard.

The Commission may order the joint use of equipment and facilities of different public utilities and prescribe reasonable compensation and reasonable terms and conditions for their joint use. The Commission is also empowered to set standards for electricity, gas, and water, including ascertaining and fixing adequate and serviceable standards for the measurement of quantity, quality, pressure, initial voltage, or other conditions.

The Public Utilities Commission is empowered by this article to establish a system of accounts to be kept by all public utilities, and to classify public utilities and establish a system of accounts for each class, and to prescribe the manner in which such accounts are to be kept. In addition, at its discretion, it may prescribe the forms of accounts, records, and memoranda to be kept by such public utilities provided they are not inconsistent corporations subject to the provisions of the Federal Interstate Commerce Act, Part I, 49 U.S.C., sec. 1, et seq.

New Construction and Extensions, Article 5, Sections 40-5-101 to 40-5-106, C.R.S.

No public utility may begin the construction of a new facility, plant, or system or any extension without first having obtained from the Commission a certificate that the present or future public convenience and necessity require or will require such construction. Whenever the Commission finds that there is or will be a duplication of service by public utilities in any area, the Commission at its discretion may issue a certificate of public convenience and necessity assigning specific territories to one or to each of said utilities.

Under this section, the utility must show that there is a need for additional construction, thereby demonstrating that the existing sources are not adequate. This article establishes the certificate of public convenience and necessity that creates the right to service customers in a particular region.

Hearings and Investigations, Article 6, Sections 40-6-101 to 40-6-124, C.R.S.

All of the provisions of Article 4 of Title 24, C.R.S., (State Administrative Procedure Act) apply to the work, business, proceedings, and functions of the Commission and any individual commissioner and administrative law judge. All hearings, every vote, and every official act by the Commission, an individual commissioner, and administrative law judge must be public. Every case submitted to the Commission for adjudication must be heard by an administrative law judge in the first instance, unless the Commission assigns the case to itself, or to an individual commissioner for hearing, and provided it does not concern those functions vested solely in the Commission as a whole.

The Commission, each commissioner, administrative law judge, and the director of the Commission are empowered to issue notices, orders to satisfy or answer summonses, subpoenas, and commissions to take the deposition of any witness whose testimony is required in any proceeding pending before the Commission in like manner and to the same extent as courts of record. A party to the record may be examined as if under cross-examination and counter testimony may be taken. In addition, the Commission and any person employed by it has the authority to inspect the records and documents of any public utility.

The Commission on its own motion, or upon complaint, may initiate a hearing to determine the propriety of any change in public utility rates and charges, and similar matters within its jurisdiction. After the conclusion of any hearing or proceeding, the Commission must issue a written decision and serve it on all parties. In general, whenever an application of any kind is filed with the Commission, its decision must be issued within two hundred and ten days. The Commission, at any time upon notice to the public utility affected, and after opportunity to be heard as provided in the case of complaints, may rescind, alter, or amend any decision made by it.

Within thirty days after a final decision by the Commission in any proceeding, any party to the proceeding before the Commission may apply to the district court for a writ of certiorari or review for the purpose of having the lawfulness of the final decision inquired into and determined. In addition, any court may stay or suspend, in whole or in part, the operation of any Commission decision under section 40-6-116, C.R.S., even though the Commission had not been previously requested to suspend or stay such decision.

Enforcement and Penalties, Article 7, Sections 40-7-101 to 40-7-117, C.R.S.

It is the duty of the Public Utilities Commission to see that the provisions of the constitution and statutes of this state affecting public utilities, the enforcement of which is not specifically vested in some other officer or tribunal, are enforced and obeyed and that violations are promptly prosecuted and penalties due the state are recovered and collected, and to this end, may sue in the name of the people of the State of Colorado.

Article 7 provides penalties and enforcement mechanisms for violation of the provisions of this statute. Any public utility that fails to comply with any provision of Articles 1-7 is subject to a penalty of not more than \$2,000 for each offense through the district court. Any person who operates a motor carrier (i.e., taxis, tow trucks, carriers of household goods, etc.) is subject to civil monetary penalties.

Civil Remedies Available to Utilities, Article 7.5, Sections 40-7.5-101 to 40-7.5-104, C.R.S.

A utility may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts any of the following acts resulting in damages to the utility: Bypassing, tampering, or unauthorized metering. In addition, a utility may bring a civil action for damages pursuant to this section against any person who knowingly receives utility service through means of bypassing, tampering, or unauthorized metering. An action brought pursuant to this article must be commenced within three years after the cause of action accrues.

Unclaimed Funds for Overcharges, Article 8, Sections 40-8-101 to Sections 40-8- 105, C.R.S.

For gas, electric, and steam utilities, the Public Utilities Commission may order that all, or part of the undistributed balance of a refund be paid by the utility in an equitable manner to the general body of utility customers. In addition, the Public Utilities Commission may order a gas or electric utility to pay up to 90 percent of the undistributed balance of a refund into the fund established by the Legislative Commission on Low-Income Energy Assistance pursuant to section 40-8.5-104, C.R.S.

Unclaimed Utility Deposits, Article 8.5, Sections 40-8.5-101 to 40-8.5-107, C.R.S.

Article 8.5 establishes the Legislative Commission on Low-Income Energy Assistance, its disbursement of moneys, and eligibility for the fund.

Carriers, Generally, Article 9, Sections 40-9-101 to 40-9-109, C.R.S.

The provisions of Article 9 apply to common carriers engaged in the transportation of passengers or property by railroad from one point within the state to any other point in the state. "Common carriers" also includes express companies, private freight car lines, and pipe lines. Every common carrier receiving property for transportation between points within the state must issue a receipt or a bill of lading, and are held liable to the lawful holder of the property for all loss, damage, or injury to such property caused by it, or by any common carrier to which such property may be delivered, or over whose lines such property may pass. Injured parties may sue for recovery in any court of competent jurisdiction in the district in which the plaintiff resides.

Cooperative Electric Associations, Article 9.5, Sections 40-9.5-101 to 40-9.5-117, C.R.S. and Sections 40-9.5-201 to 40-9.5-207, C.R.S.

Article 9.5 addresses Cooperative Electric Associations that are owned by the member-consumers they serve. These associations are regulated by the member-consumers themselves acting through an elected governing body. Part 1 of the act contains an “exemption” from the Public Utilities Law for these entities unless otherwise provided for in statute, and enumerates the duties of the associations, regulations concerning consumer complaints, and elections of the board of directors.

Part 2 deals with the service rights and facilities of cooperative electric associations. The policy of the State of Colorado is to establish exclusive service territories for cooperative electric associations. Part 2 applies to all cooperative electric associations which have electric distribution facilities, franchises, certificates of public convenience and necessity, rights-of-way, or appurtenances to facilities which are included in the boundaries of a municipality, which after May 27, 1986 commences operation of its own electric utility, or are included in an area annexed by a municipality which owns and operates an electric utility.

Motor Vehicle Carriers, Article 10, Sections 40-10-101 to 40-10-120, C.R.S.

Motor vehicles are defined as any automobile, truck, motor bus, or other self-propelled vehicle, excluding vehicles operated on fixed rails and excluding amusement rides. The Commission has authority over both contract and common carriers. The fundamental distinction between a common and contract carrier is that the contract carrier enters into a contract with each of his customers and assumes no obligation to carry for any other, while the common carrier undertakes to carry for all persons indifferently. No motor vehicle carrier may operate any motor vehicle for the transportation of persons on public highways in intrastate commerce without first having obtained from the Commission a certificate declaring that present or future public convenience and necessity requires or will require such operation. Hearses, ambulances, and other emergency vehicles are exempt.

The Commission has the authority and duty to adopt rules which are in the public interest to regulate matters of safety, insurance, and service quality for taxicab service in the state. The Commission may revoke certificates or impose civil penalties. Every motor vehicle carrier must file with the Commission a liability insurance policy, or a surety bond in an amount deemed necessary to adequately safeguard the public interest. The Commission has the power to administer and enforce all provisions of this article including the right to inspect the books and documents of the motor vehicle carriers and operators involved.

Contract Motor Carriers, Article 11, Sections 40-11-101 to 40-11-117, C.R.S.

Contract motor carriers include any corporation, person, firm, association of persons, lessees, or trustees who own, control, operate, or manage any motor vehicle that is in the business of transporting persons or property for public hire and by special contract within the State of Colorado. It is unlawful for any contract carrier by motor vehicle to engage in or transact the business of transporting passengers over the public highways of the State of Colorado in intrastate commerce without first obtaining a permit from the Public Utilities Commission. No permit nor any extension or enlargement of an existing permit may be granted by the Commission if in its judgment the proposed operation of any contract carrier will impair the efficient public service of any authorized motor vehicle common carrier then adequately serving the same territory over the same general highway route. The Commission must give written notice of any application to all persons interested in or affected by the issuance of such permit, or any extension, or enlargement pursuant to section 40-6-108 (2), C.R.S.

The Commission is empowered to prescribe such reasonable rules and regulations covering the operations of motor vehicle contract carriers as may be necessary for the effective administration of this article. Every contract carrier is forbidden, by discrimination or unfair competition, to destroy or impair the service or business of any motor vehicle common carrier.

Contract carriers must file schedules of rates, charges, routes, and collections with the Commission. The Commission has the authority to levy civil penalties against any carrier violating provisions of the article.

Independent Contractors - Motor Carriers, Article 11.5, Sections 40-11.5-101 to 40-11.5-102, C.R.S.

Motor vehicle carriers and contract motor carriers may utilize independent contractors. Article 11.5 sets forth the provisions regarding lease agreements between carriers and the independent contractors.

Towing Carriers – Motor Vehicles, Article 13, Sections 40-13-101 to 40-13-112, C.R.S.

In order to operate a towing vehicle in Colorado, carriers must obtain a permit from the PUC and file a liability insurance policy. "Towing carrier" means a person whose primary function or one of whose primary functions consists of commercially offering services on the public ways of the state whereby motor vehicles are towed or otherwise moved by use of a truck or other vehicle designed for or adapted to that purpose. Towing vehicles owned by the United States or this state, or any agency or political subdivision of either, are not subject to the requirements of this article. Towing vehicles operated in interstate commerce are not subject to the requirements of this article if the operation of such vehicles is subject to regulation under the laws of the United States.

The Commission is empowered to promulgate rules and regulations for towing carriers that address 1) public identification of towing vehicles, 2) responsibilities of the carrier regarding the towed vehicle, and 3) circumstances under which a carrier may tow a vehicle without consent of the owner. The Commission may prescribe minimum and maximum rates and charges to be collected by the towing carrier.

Intrastate Telecommunications Services, Article 15, Sections 40-15-101 to 40-15-510, C.R.S.

Article 15 promotes a competitive telecommunications marketplace while protecting and maintaining the wide availability of high-quality telecommunications services. Part 1 of Article 15 contains the general provisions including definitions, nondiscriminatory access charges, cost methodologies, and assurance of interconnections. Part 2 contains the provisions for the regulation of basic local exchange service, basic emergency service, public coin telephone service, white page directory listing, local exchange listed telephone number service, and new

products and services necessary to provide basic local exchange service. Part 3 deals with the regulation of emerging competitive telecommunications service. Part 4 addresses those services, products and providers that are exempt from regulation. Part 5 directs the Commission to encourage competition in the local telephone marketplace and ensure that all consumers benefit from such increased competition.

Motor Vehicle Carriers Exempt From Regulation as Public Utilities, Article 16, Sections 40-16-101 to 40-16-110, C.R.S.

Motor vehicle carriers exempt from regulation as a public utility include persons who offer services as couriers or offer services using charter or scenic buses, luxury limousines, off-road scenic charters, and children's activity buses. Article 16 provides for some regulation that includes registration requirements, insurance requirements, safety requirements, and penalties and enforcement.

Telecommunications Relay Services for Disabled Telephone Users, Article 17, Sections 40-17-101 to 40-17-104, C.R.S.

The Telecommunications Relay Services for Disabled Telephone Users was established in 1992 to provide access to telecommunications for disabled Colorado telephone users. Article 17 creates a fund and directs the source of funding and the use of appropriations.

Rail Fixed Guideway System Safety Oversight, Article 18, Sections 40-18-101 to 40-18-105, C.R.S.

The Commission is empowered to promulgate and implement rules for a safety program for each rail fixed guideway system operating in Colorado. "Rail fixed guideway system" means any light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, or automated guideway used to transport passengers that is not regulated by the Federal Railroad Administration. The term "rail fixed guideway system" does not include funiculars that are passenger tramways as defined in section 25-5-702 (4) (c), C.R.S., and are subject to the jurisdiction of the Colorado Passenger Tramway Safety Board created in section 25-5-703, C.R.S.

Organization and Government, Article 20, Sections 40-20-101 to 40-20-206, C.R.S.

Any number of persons, but not less than five, may associate to form a company for the purpose of constructing and operating a railroad. Every such corporation, in addition to the powers conferred in Articles 101 to 117 of Title 7, C.R.S., is authorized to lay out its road, not exceeding 200 feet in width, and for the purpose of cuttings and embankments to take as much more land as may be necessary for the proper construction and security of the railway. In addition, a railway may cross, intersect, or connect its railway with any other railway and connect at the state line with railroads of other states and territories. Railways may erect and maintain all buildings and stations, fixtures, and machinery and regulate the time and manner in which passengers and property are transported and the compensation to be paid.

General Offices, Article 21, Sections 40-21-101 to 40-21-103, C.R.S.

Every railroad company chartered by this state must keep and maintain permanently its general offices within the State of Colorado at the place named in its charter for the location of its general offices. Each chartered railroad company that violates any of the provisions of this article must forfeit to the State of Colorado the charter or right by which it operates its railroad, and be subject to a penalty of not less than \$500 and no more than \$5,000 for each and every day in which it violates any of the provisions of this article, to be recovered by suit.

Consolidation, Article 22, Sections 40-22-101 to 40-22-107, C.R.S.

Railway companies may consolidate their operations provided that the laws of another state allow inter-state consolidation, and parallel or competing lines of railroad are not consolidated. Upon making and perfecting the agreement and act of consolidation and filing the same or a copy with the Secretary of State, the several corporations which are parties are deemed to be one corporation by the name provided in said agreement, possessing within this state all the rights, privileges, and franchises, and subject to all the restrictions, disabilities, and duties of each of such corporations so consolidated.

Reorganization, Article 23, Sections 40-23-101 and 40-23-102, C.R.S.

Whenever the railroads, telegraph lines, property, and franchises of any railroad company, organized and existing under the laws of this state, are sold and conveyed under or by virtue of any power contained in any trust deed or mortgage or pursuant to the judgment or decree of any court of competent jurisdiction, it is lawful to organize a railroad company under the laws of this state for the purpose of purchasing, maintaining, operating, extending, or completing the railroads and telegraph lines so sold and conveyed.

Electric and Street Railroads, Article 24, Sections 40-24-101 to 40-24-111, C.R.S.

Construction of any street railway or other railroad within the limits of a city or town by any corporation or person without the consent of the local authorities of the relevant municipality is not permitted.

Any person, company, corporation, or association desiring in good faith to construct, maintain, and operate an electric railroad over, along, or across any county road within any county of this state may petition the board of county commissioners of such county for a franchise and right-of-way for the construction, maintenance, and operation of an electric railroad. The board of county commissioners may grant said right-of-way and franchise for a period not exceeding twenty years.

Killing Stock - Fencing, Article 27, Sections 40-27-101 to 40-27-115, C.R.S.

Every railway company whose lines or roads are open for use, except at the crossings of public roads and highways within the limits of incorporated towns and cities or the yard limits of established stations, must construct and maintain at all public road crossings good and sufficient cattle guards. In addition, railways must erect and maintain fences on the sides of their roads adjoining enclosed or cultivated fields with latched gates so that they may be opened and shut at all necessary farm crossings of the road, for the use of the proprietors or owners of the land adjoining the railroad.

Any railroad company running or operating its roads that fails to fence on both sides against livestock running at large at all points of its track is absolutely liable to the owners of any such livestock killed or injured.

Safety Appliances, Article 29, Sections 40-29-101 to 40-29-115, C.R.S.

Any railroad or railway company owning or operating within this state any line or branch of railroad connecting with any main line of railroad by means of a switch shall provide such switch with a reflector signal or with a suitable light such as is commonly used for such purposes and, if a light is provided, shall keep the same lighted from sunset on each and every calendar day of the year until sunrise on the following day. Except for switch engines employed at railway yards, all locomotive engines must have adequate headlights.

Fire Guards, Article 30, Sections 40-30-101 to 40-30-103, C.R.S.

Every railroad corporation operating its lines of road within the state, between July 15 and November 1 of each and every year, upon each side of its line of road, must plow as a fire guard a continuous strip of not less than six feet in width, which must run parallel with the railroad and be plowed in such a good and workmanlike manner as to effectually destroy and cover up the vegetation and be sufficient to prevent the spread of fire.

Overcharges, Article 31, Sections 40-31-101 and 40-31-102, C.R.S.

Every railroad doing business in the state must keep an agent or other person who is fully authorized to adjust and settle all claims for overcharge collected within this state and for all loss or damage.

Employees, Article 32, Sections 40-32-101 to 40-32-113, C.R.S.

A class I railroad corporation may employ a railroad peace officer to protect and investigate offenses against the corporation. A "railroad peace officer" means any person who is employed by a class I railroad corporation operating within the State of Colorado to protect and investigate offenses against the railroad corporation. Such railroad peace officer, while engaged in the conduct of his or her employment, may possess and exercise all the powers vested in a Peace Officer, level II, of this state, pursuant to section 18-1-901 (3) (I) (III), C.R.S.

When any passenger is guilty of disorderly conduct, or uses any obscene language to the annoyance and vexation of passengers and refuses to desist when requested by the conductor, the conductor is authorized to stop the train at any station and eject such passenger from the train, using only such force as may be necessary.

Damages to Employees, Article 33, Sections 40-33-101 to 40-33-109, C.R.S.

Every common carrier by railroad in the State of Colorado shall be liable in damages to any person suffering injury while he is employed by such carrier in or about the transporting or handling of any freight, property, passengers, engine, locomotive, or other vehicle upon the tracks of such carrier, or in case of the death of such employee, to his personal representative for the benefit of the surviving widow, or husband, children, parents, or dependents of such employee, for such injury or death resulting in whole or in part from the negligence of any of the officers, agents, or employees of such employer, or by reason of any defect or insufficiency due to the employer's negligence.

Geothermal Heat Suppliers, Article 40, Sections 40-40-101 to 40-40-106, C.R.S.

Article 40 is the Geothermal Heat Suppliers Act. Pursuant to this article, the Commission may establish a system of operating permits for geothermal heat suppliers. In addition, the Commission has authority over geothermal heat suppliers to enforce the provisions of Article 40 and ensure that the suppliers adhere to the conditions of their operating permit.

Program Description and Administration

The mission of the Public Utilities Commission (PUC or Commission) is to achieve a flexible regulatory environment that provides safe, reliable and quality services to utility customers on just and reasonable terms, while managing the transition to effective competition when appropriate. State law gives the PUC the authority to regulate the rates and services of public utilities within the state. By law, public utilities are defined as electrical, common carrier, pipeline, gas, telephone, telegraph and water corporations which supply their services to the public. In fulfilling its mission, the PUC affects approximately 3.4 million Colorado citizens. The PUC oversees about \$3.3 billion in annual revenue of the regulated fixed utilities. In Fiscal Year 01-02, full-time equivalent (FTE) authorization stood at 92.7.

The PUC is entirely cash-funded. The two major sources of funds are the Fixed Utility Fund (Section 40-2-110(1), C.R.S.) and the Motor Carrier Fund (Section 40-2-110(2), C.R.S.). The Fixed Utility Fund consists of fees collected from regulated fixed utilities, such as telecommunications and energy companies. The amount of each utility's fee is computed by multiplying its gross intrastate utility operating revenues for the preceding year by no more than 1/5 of 1 percent (Section 40-2-113, C.R.S.). Three percent of the amount collected goes to the state's general fund and 97 percent goes to the fixed utility fund. The amount in the fund can be used only to defray the administrative costs of supervising and regulating utilities that contribute to the fund and for the financing of the Office of Consumer Counsel. The Motor Carrier Fund consists primarily of an annual identification fee of \$5 collected from each common and contract motor carrier and each interstate carrier.

As depicted in the organization chart on page 49 the PUC is headed by three full-time salaried commissioners who are appointed by the Governor with the advice and consent of the Senate. The commissioners serve staggered four-year terms and the chairman of the PUC is designated by the Governor. To be eligible for appointment as a commissioner, a person must be a qualified voter and a resident of Colorado. A person is not eligible for appointment as a commissioner if he/she is employed or has any official relation with any corporation or person that is regulated by the Commission, or owns or controls stocks or bonds in a public utility or affiliated interest.

The PUC is organized into eight functional sections to achieve its mission:

The *Administrative Services Section* is one of eight functional sections of the PUC as depicted in the organization chart (third and fourth rows) on page 49. This section provides internal administrative support to the agency, such as accounting services, human resources, purchasing, and general clerical support. It is responsible for preparing the annual agency budget request, and for monitoring and contracting expenditures throughout the year to ensure that the annual funding authorization is not exceeded. Included in this section is the Information Center where the public can research a pending case, or a past case the Commission has handled. In addition, the section administers the \$3.6 million a year contract for the Telecommunications Relay Program that enables individuals with hearing or speech disabilities to communicate with other telephone users.

The *Administrative Hearings Section* consists of administrative law judges, court reporters and an administrative assistant. The administrative law judges are responsible for hearing cases. When an administrative law judge issues a decision in a case, it is considered a recommended decision. This decision becomes a final Commission decision unless a party to the case files written exceptions. In that case, the exceptions are reviewed by the Commission. The Commission may affirm the recommended decision, may reverse the decision and enter its own decision, or remand the case to the judge for additional hearing. The court reporters transcribe verbatim all formal evidentiary administrative hearings.

Within the *Executive Office*, the Director and the three PUC commissioners work closely to coordinate the overall operations of the PUC. The Director manages the PUC's staff and resources, and coordinates special projects and programs. The primary role of the three-member Commission is to function as the chief policy makers and ultimate decision makers with respect to utility regulation cases. In issues before the Commission, the trio serves either in a quasi-judicial or quasi-legislative capacity depending on the type of proceeding. In addition to issuing final orders, commissioners adopt agency rules, develop long-range agency goals and plans, and set regulatory policy.

The *External Affairs Section* administers four programs. First, the consumer assistance program resolves consumer problems with utilities and enforces utility compliance with PUC quality-of-service laws and rules. Second, the public information and education program informs the public about PUC decisions and ratepayer issues through publications, community outreach, and by assisting the news media. Third, the case management program controls the timing and disposition of all cases and legal filings before the PUC ensuring that all statutory deadlines are met. Finally, the advisory program, as the name suggests, assists the commissioners in making sound policy decisions that are in the broad public interest.

The *Gas Pipeline Section* is responsible for enforcing the PUC pipeline safety rules. The staff inspects the safety records and procedures of operators. It conducts field audits of gas systems that are being constructed or repaired. In addition, the section provides small gas system operators and utility employees with informal training and current information concerning safety code updates.

The *Railroad Section* enforces railroad and light rail safety, including the location, design, construction and maintenance of railroad and light rail/highway crossings. The section administers the Highway Crossing Protection Fund, which provides partial funding for approved public rail-highway crossing projects. The section establishes system safety and security standards for rail fixed guideway transit systems not under the jurisdiction of the Federal Railroad Administration.

The *Transportation Section* is responsible for the regulation of motor carriers transporting passengers and/or property for hire and for the permitting of hazardous materials carriers. This section is comprised of the Safety and Compliance Unit, the Operating Rights Unit, the Rates and Authorities Unit, and the Chief of Transportation plus a program assistant.

The Safety and Compliance Unit regulates motor carrier safety, consumer complaints, and carrier complaints. It accomplishes this task by performing motor vehicle inspections, auditing the carriers' records for compliance with Commission rules, and investigating complaints. The Operating Rights Unit processes permit applications for towing, property, hazardous material, luxury limousine, charter bus, and off-road scenic charter. Permits are issued based on compliance with insurance and safety standards.

The Rates and Authorities Unit is responsible for regulating the affordability and availability of motor carriers transporting passengers that are subject to rate regulation by the Commission. These include common carriers and contract carriers providing service by taxicab, call and demand limousine, scheduled shuttle, and certain charter operations. The unit performs financial reviews to determine fair and cost-based carrier rates and performs audits to determine that the user is charged the proper rate. Certain members of this unit also serve as a resource to the commissioners during deliberations and in drafting recommendations for the commissioners.

The *Fixed Utilities Section* is the largest section of the Commission and includes several organizational units. There is a financial unit, an engineering unit, an economics unit and an administrative unit. The Fixed Utilities Section analyzes utility filings and makes recommendations at the Commission's weekly meeting, or in adjudicated proceedings. Depending on the type of filing, the analysis balances two main policy considerations. The first consideration is to maintain low utility rates for residential and business customers consistent with economic viability, environmental factors, and minimal standards of service and safety. This must be done while ensuring that the unit's second responsibility is met. This responsibility is to ensure that utilities earn a rate of return sufficient for their long-term economic viability and their capacity to update their physical plants and equipment to provide reliable state-of-the-art services necessary to statewide economic development. The section is also responsible for determining whether public utility entities will be allowed to operate in the state. By monitoring and auditing utility companies, this section ensures that utilities provide Colorado consumers with reliable, timely, and responsive utility services.

In addition, the Fixed Utilities Section administers direct service programs such as the Colorado High Cost Support Mechanism, the Low-Income Telephone Assistance Program and the Colorado No Call Program.

Tables 1 and 2 depict by major industry type the actual number of fixed utility companies regulated by the PUC.

**Table 1
Number of Energy Utilities by Type**

Energy	FY 97-98	FY 98-99	FY 99-00	FY 00-01
Electric:				
Investor-Owned	2	2	2	2
Municipal	12	12	12	12
REA Regulated	2	2	2	2
REA Deregulated	24	24	24	24
Construction Only	1	1	1	1
Gas:				
Investor Owned	10	10	9	11
Municipal	4	4	4	4
Municipal with Electric & Gas	2	2	2	2
Steam	1	1	1	1
Water	4	4	4	3
TOTAL	62	62	61	62

Note: REA stands for Rural Electric Association

**Table 2
Number of Telecommunications Utilities by Type**

Telecom	FY 97-98	FY 98-99	FY 99-00	FY 00-01
Incumbent Local	33	33	33	34
Competitive Local	17	20	60	98
Part 3 Providers*	115	115	150	180
Toll Resellers	N/A	266	369	415
TOTAL	165	434	612	727

* Emerging competitive services.

Performance Measures by Major Activity

Rulemakings and final decisions by the PUC's Administrative Law Judges (ALJ) and its three commissioners constitute the major work activity of this agency. Table 3 below depicts the average time it takes for the PUC to render an initial decision by type of docket. It is important to note that the table depicts the timeframe from when the application is filed through the initial decision date, rather than measuring the timeframe from when the application is deemed complete through the decision date. Consequently, Table 3 summarizes a relatively long measure of the PUC's actual decision-making time because the utility may not have provided all the information required for the Commission to render its decision associated with the application. Generally, the more complex the issues involved with the filing, the longer the timeframe allowed to process, provide notice, analyze, and decide the issues associated with the filing. Table 3 covers the period from August 7, 2000 through June 30, 2001.

Table 3
PUC Average Time to Decision by Docket Category

Type of Docket	Quantity	Average Time to Decision (Days From Application to Initial Decision)
Electric Applications	15	162.60
Electric Formal Complaints	1	48.00
Electric Less-than-Statutory Notice Filings	5	24.40
Electric Master Meter Operator Applications	4	52.00
Franchise Applications	4	32.75
Electric & Gas Formal Complaints	3	81.67
Gas Applications	8	126.25
Gas Formal Complaints	3	161.00
Gas Less-than-Statutory Notice Filings	27	18.74
Gas Master Meter Operator Applications	14	46.50
Securities Applications	4	18.25
Gas Suspension Dockets	5	164.20
Pipeline Applications	2	50.00
Gas Rulemaking	1	0.00
Railroad Applications	15	173.67
Railroad Formal Complaints	2	124.00
Steam Applications	1	23.00
Steam Less-than-Statutory Notice Filings	2	10.50
Telecommunications Applications	111	55.15
Telecom Petitions for Arbitration	1	384
Telecom Formal Complaints	9	72.22
Telecom Less-than-Statutory Notice Filings	2	5.50
Telecom Letter of Registration Filings	5	15.6
Notice of Intent to Exercise Operating Authority	7	26.71
Telecom Rulemaking	6	168.33
Telecom Suspension Docket	1	151
Telecom Interconnection Agreements	43	39.49
Transportation Applications	101	79.34
Transportation Emergency/Temporary Authority	12	12
Transportation Temporary Authority	33	29.73
Transportation Formal Complaints	1	282
Transportation Less-than-Statutory Notice Filings	9	12.67
Transportation Rulemaking	1	152
Transportation Suspension Dockets	2	82
Water Less-than-Statutory Notice Filings	2	24

To comply with the statutory timeframes, the clock begins when the application is deemed complete, not at the filing of the application. The Commission is required to provide notice to customers (generally 30 days) and that a hearing cannot be conducted, or a decision rendered, until the notice period has expired.

One of the objectives of the PUC is to reduce the time required to resolve controversies within its jurisdiction. For example, the Transportation Section has established a routine process to expedite decisions relating to insurance violations by motor vehicle carriers. These carriers are required to carry insurance and may have their operating rights revoked if they do not carry the proper insurance. On average, the Transportation Section revokes the operating right of about 150 carriers per month that either do not provide proof of insurance, or let their insurance lapse. To increase efficiency, the Commission has developed a standardized process that allows it to routinely reach an initial decision in no more than 18 days.

Table 4 below depicts ALJ and commissioner orders for the past four fiscal years. Some ALJ and commissioner orders may concern the same case, and therefore may be duplicated in Table 4. Nevertheless, these categories and numbers represent sufficiently distinct performance measures, especially for comparative purposes across years.

**Table 4
PUC Decisions**

Category	FY 97-98	FY 98-99	FY 99-00	FY 00-01
ALJ Orders	560	500	610	635
Commission Orders	775	875	875	880
Total Orders	1,335	1,375	1,485	1,415

Another major activity of the PUC is rulemaking. In 1995, the General Assembly passed legislation that mandated a transition toward a competitive telecommunications market in Colorado. As a result, the PUC worked to identify and develop new rules, regulations, and procedures for implementing these statutory changes. It initiated investigations, workshops, and ultimately rulemaking proceedings to implement a new regulatory framework. In addition, the U.S. Congress passed the Telecommunications Act of 1996 (Act). This Act radically changed the national telecommunication regulatory framework and required the 50 state Commissions to assume new roles. Table 5 below depicts the rulemaking activities of the PUC for the last four fiscal years.

**Table 5
Rulemakings**

Category	FY 97-98	FY 98-99	FY 99-00	FY 00-01
Gas	1	1	1	1
Electric	0	2	0	0
Water	0	1	0	0
Telecom	8	12	6	3
Transportation	2	3	2	1
Electric/Gas	1	1	0	0
Railroad	2	1	0	0
Total	14	21	9	5

Recently, the changing regulatory framework of the telecommunications industry has in large part driven the year-to-year variability in the number of rulemakings depicted in Table 5. For example, Fiscal Years 97-98 and 98-99 include a number of telecommunication rulemakings directly or indirectly arising from the change in statutory requirements at both the state and national levels. Consequently, these years are not typical. During the remaining fiscal years, the quantity of telecommunication rulemakings decreased to a more typical level, as reflected in the total number of PUC rulemakings in Table 5.

Since July 2001, 16 new rulemakings have been initiated before the Commission. Seven of these are directly related to the PUC's efforts to streamline and clarify its regulations including a comprehensive, extensive, and highly litigated review of the PUC's rules concerning integrated resource planning for electric utilities. Seven additional rulemakings are a direct result of state statutory changes in the way telecommunications, energy, and water utilities are regulated, or are an indirect result of federal telecommunication policy changes that, in turn, impact how the Commission operates. Examples of state policy changes include the "No-Call" legislation, the siting bill giving the PUC the responsibility to hear appeals on local land-use siting issues, and the statutory requirement to simplify the regulation for small water companies. The federal policy changes include changes to the Federal High Cost Fund for rural telecommunication utilities and changes in 911 dialing requirements. In addition, during the 2001-2002 fiscal year, the Commission initiated an emergency rulemaking to identify methods to offset gas price volatility for Colorado consumers.

Another fundamental PUC performance measure is the number of consumer complaints that it handles. Table 6 below summarizes utilities consumer complaints for four fiscal years. The “money saved” category in Table 6 refers to money recovered on behalf of consumers (these monies are not reflected in the PUC budget in any way). A typical consumer complaint might include telephone double billing.

**Table 6
Utilities Consumer Complaints**

Category	FY 97-98	FY 98-99	FY 99-00	FY 00-01
Closed Complaints	5,306	8,154	9,313	7,758
Money Saved	\$111,275	\$173,395	\$361,305	\$382,997
Calls Taken	n/a	n/a	n/a	18,631

The Fixed Utilities Section also processes utility applications. Applications are the means by which companies seek a Certificate of Public Convenience and Necessity (CPCN) or Letter of Registration (LOR) to become a utility; merge or transfer assets, including the CPCN or LOR; make tariff changes on less than statutory notice, issue securities (energy only); ratify franchise agreements (energy only); seek exemption from rate regulation as a master meter operator (energy only); abandon services or authority; submit gas purchase plans; seek arbitration of interconnection agreements; make territory changes; and submit interconnection agreements for approval. Table 7 below depicts the number of applications processed by category for four fiscal years.

**Table 7
Number and Type of Fixed Utility Applications**

Category	FY 97-98	FY 98-99	FY 99-00	FY 00-01
Electric	21	21	21	26
Electric/Gas	18	25	18	8
Gas	45	41	54	61
Steam	4	3	4	3
Telecom	192	178	205	205
Water	1	0	2	2
TOTAL	281	268	304	305

The Transportation Section of the PUC maintains its own complaint and application procedures. Table 8 below is a combined presentation of complaint handling, and other performance measures. The number of passenger carriers in FY 00-01 was 582, while the number of property and towing carriers stood at 5,830 for the same period.

Table 8
Complaints, Investigations, and Major Functions

Category	FY 97-98	FY 98-99	FY 99-00	FY 00-01
Permits & ID Stamps	27,552	29,695	30,695	42,286
Insurance Filings	25,812	25,905	29,993	29,873
Rate Changes	75	78	76	110
Insurance Investigations	806	1,398	1,213	1,767
Annual Report Investigations	63	30	40	31
Passenger Carrier Applications	201	242	212	195
Passenger Vehicle Inspections	2,590	2,278	2,727	2,581
Passenger Carrier Safety Audits	322	222	296	297
Complaints	793	721	670	810
Civil Penalty Assessment Notices	11	46	64	60

Transportation complaints can generally be categorized into four types: (1) *Complaints concerning safety*. These complaints may encompass either the safety of the vehicle, or whether the operator of the vehicle is operating the vehicle in a safe manner. Customers generally file these complaints; (2) *Complaints concerning service*. Typical service issues include failure by a taxi company to provide timely service, or refusal by a cab company to provide service. Customers generally file these complaints; (3) *Complaints concerning overcharging for nonconsensual tows*. Customers generally file these complaints concerning towing, or storage charges in excess of the amounts permitted by PUC rule; and (4) *Complaints concerning authority to operate*. These complaints may include allegations that a company is operating without the proper authority, or include allegations that a company is operating outside the scope of its authority. Competitor companies usually file these complaints.

After taking the complaint from either a customer or a competitor, personnel in the Transportation Section contact the carrier and perform additional investigation, if necessary. Depending upon the outcome of the investigation, a warning or a civil penalty may be assessed.

Analysis and Recommendations

Recommendation 1 - Continue the Colorado Public Utilities Commission and establish subsequent sunset reviews by industry or function.

Title 40 of the Colorado Revised Statutes requires the Public Utilities Commission (PUC or Commission) to give paramount consideration to the public interest. In practical terms this means striking the appropriate balance between the needs of customers throughout the state for safe and reliable utility services at reasonable rates in conjunction with the needs of utility service providers to receive sufficient financial incentives, including the opportunity to earn a reasonable profit and to sustain a reliable utility infrastructure. The PUC's stated mission is to achieve a flexible regulatory environment that provides safe, reliable and quality services to utility customers on just and reasonable terms while managing the transition to effective competition where appropriate.

The PUC accomplishes its mission by maintaining utility rates as low as possible for residential and business consumers consistent with minimum standards for service, safety, economic viability, and the environment. It also helps to provide customers with reliable, responsive and timely utility services. Another important function of the PUC is to minimize the potential for accidents at rail-highway crossings and to reduce possible hazards to consumers related to regulated utilities. What is more, the PUC balances these considerations with ensuring that public utility providers earn a rate of return sufficient for their long-term economic viability and their capacity to update their physical plants and equipment, which are essential to statewide economic development. The amount of money generated for the Colorado economy from public utilities is approximately \$5.9 billion annually.

The Public Utilities Commission works closely with a number of state agencies, local governments, and federal agencies. State agencies include the Departments of Transportation, Revenue, Public Safety, Natural Resources, Health Care Policy and Financing, Local Affairs, Public Health and Environment. The PUC also works closely with the Federal Energy Regulatory Commission, Federal Communications Commission, and the U. S. Department of Transportation, and the Federal Railroad Administration. In addition, the PUC often has matters pending before state and federal courts. Most importantly, however, the PUC impacts the lives of virtually every Colorado resident in one

way or another. In the absence of federal regulation, the Colorado Public Utilities Commission is the state agency that ensures the smooth functioning of this important sector of Colorado's economy and at the same time acts to protect public health and safety.

It has also become apparent as a result of this sunset review that the PUC is too large and complex for performance evaluation purposes to review effectively under current guidelines and requirements. Therefore a review schedule that accommodates the complexity of the Commission's functions would lead to better targeted and effective regulatory reforms. To effect this recommendation the following PUC functions should be subject to sunset review according to the following schedule:

**Table 9
Proposed Sunset Dates by Function**

	2006	2008	2010	2012
Telephone	✓			
Gas, Gas Pipeline, and Water	✓			
Electricity			✓	
Railroads				✓
Transportation				✓
PUC Administrative Hearings		✓		
PUC External Affairs		✓		
PUC Administrative Services			✓	

Recommendation 2 - Grant the Public Utilities Commission authority to directly fine telecommunications companies up to \$2,000 per day per violation.

The current enforcement tools of the PUC are inadequate as they relate to the telecommunications industry, especially when it comes to the PUC's authority to levy fines. Due to the implementation of price caps in the Colorado Telecommunications Act of 1996 and relaxed regulation of the industry, the PUC's role in determining rates has decreased. Consequently, controlling rates and earnings is no longer the deterrent force that it was under a monopolistic regime. Moreover, levying fines through the district court has never been employed by PUC due to the length of time that it takes to prosecute a case. In the emerging competitive environment that

now exists, quicker action is required to ensure equity for all parties. Without the ability to deter inappropriate behavior, the PUC is faced with the difficult task of ensuring compliance with legislative directives without appropriate tools. A substantial portion of the incumbent's business could be unlawfully taken by a new company that does not follow the rules. In other circumstances, new entrants may be forced out of business due to delays by the incumbent in providing statutorily required access. In the end, the consumer is hurt most through continued poor service or service by a new company that is not adequate.

One stakeholder we contacted expressed this problem as follows:

“...no penalty currently under consideration by the commission adequately restores the competitor to the position it would have been in had the incumbent simply complied with its legal and contractual obligations...Competitors [should] have the opportunity to bring declaratory judgment actions for impending or potential breach of interconnection agreement claims on an expedited basis to the commission for resolution.”

Granting direct fining authority to the PUC would be in keeping with other enforcement practices of the state, including those of the PUC in other aspects of its jurisdiction. The PUC has fining authority in other competitive markets. Motor carriers under section 40-7-113, C.R.S., can be fined for a number of violations. Under the gas pipeline safety rules, companies may be fined as much as \$10,000 per violation and a negotiated amount may be recovered by the PUC in a civil action before any court of competent jurisdiction (Section 40-7-117, C.R.S.).

In addition other Colorado state agencies that regulate competitive industries give their commissioners fining authority without going through district court. Below are a few examples of these authorities:

- The Division of Insurance may fine insurers up to \$10,000 for every act or violation, not to exceed \$150,000 in a six-month period, for not following the rules and regulations regarding financial and market conduct issues if the company should have known that it was in violation of any rule, law, or order of the Commissioner (Section 10-1-205(3)(d), C.R.S.).

-
- The Motor Vehicle Dealer Board may fine a licensee up to \$10,000 for each separate offense of the motor vehicle dealer statute (Section 12-6-104(3)(m)(I), C.R.S.).
 - Under section 11-2-117, C.R.S., the banking statutes, the Banking Board may assess and collect a civil penalty from a state bank of up to \$1,000 per day for each violation. Additionally, under section 11-25-107, C.R.S., a bank or financial institution may be fined \$2,500 per day for failure to file financial reports to the Colorado State Financial Services Board or Colorado State Banking Board.

Recommendation 3 - Establish bond or other financial requirements for telecommunication companies. Enact a new section 40-15-503.5, C.R.S., as follows:

(1) THE COMMISSION SHALL REQUIRE REGULATED TELECOMMUNICATION SERVICE PROVIDERS TO POST A BOND OR PROVIDE OTHER SECURITY AS A CONDITION OF OBTAINING AND MAINTAINING A CERTIFICATE, REGISTRATION, OR OPERATING AUTHORITY, WHICH EVER INSTRUMENT OR INSTRUMENTS APPLY. IN SETTING THE AMOUNT OF THE BOND OR SECURITY, THE COMMISSION SHALL CONSIDER THE FOLLOWING:

(A) THE FINANCIAL VIABILITY OF THE SERVICE PROVIDER AS EVIDENCED BY ITS AUDITED FINANCIAL STATEMENTS AND ITS GENERAL CREDIT HISTORY;

(B) THE AMOUNT OF TOTAL DEPOSITS MADE BY CUSTOMERS TO THE PROVIDER TO OBTAIN SERVICE AND THE AGGREGATE AMOUNT OF PREPAYMENTS MADE BY CUSTOMERS FOR MONTHLY REGULATED SERVICE; AND

(C) THE HISTORY OF THE PROVIDER'S STATUTORY PAYMENT OBLIGATIONS INCLUDING THOSE TO THE COLORADO HIGH COST SUPPORT MECHANISM, THE COLORADO TELEPHONE LOW INCOME ASSISTANCE PROGRAM, THE COLORADO TELEPHONE RELAY SYSTEM, AND THE COLORADO FIXED UTILITY FUND.

(2) THE COMMISSION SHALL PROMULGATE RULES TO IMPLEMENT THIS SECTION AND MAY IMPOSE ADDITIONAL CRITERIA CONSISTENT WITH THIS SECTION.

In the Summer of 2002 a major telecommunications company became insolvent. Around the same time, the incumbent telephone company's stock lost substantial value and the company experienced major financial and management problems. The PUC is concerned that under such market conditions, if a market exit occurs, transitioning customers to alternative phone providers would be very difficult, especially if it involved companies with their own infrastructure. Without a bond or other financial instrument provision, there is a real risk that customers might be left without basic phone service should phone companies become bankrupt.

Consequently, the Commission should be granted the authority to require of telecommunication companies doing business in Colorado a bond or similar financial instrument. Should there be an unanticipated market exit, this requirement is designed to assure that a company has sufficient cash on hand to refund the pay-in-advance dollars that customers pay when they first obtain basic phone service.

Recommendation 4 - Establish non-consensual towing rates based on industry and market conditions. The following new subsection (3) should be enacted in section 40-13-107, C.R.S., as follows:

(A) THE COMMISSION SHALL SET RATES AND CHARGES FOR TOWING CARRIERS THAT PERFORM NON-CONSENSUAL TOWS UP TO BUT NO MORE THAN TWICE THE RATE THAT EACH TOWING CARRIER CHARGES FOR ITS CONSENSUAL TOWS PROVIDED THAT A GIVEN TOWING CARRIER FURNISHES BOTH CONSENSUAL AND NON-CONSENSUAL TOWING SERVICES TO CONSUMERS. THE COMMISSION SHALL SET RATES AND CHARGES FOR TOWING CARRIERS THAT EXCLUSIVELY PROVIDE NON-CONSENSUAL TOWS UP TO BUT NO MORE THAN TWICE THE CONSENSUAL TOWING RATES AND CHARGES OF OTHER TOWING CARRIERS IN A GIVEN REGION OR MARKET. THE COMMISSION SHALL PERIODICALLY DETERMINE THE PREVAILING MARKET RATE FOR CONSENSUAL TOWS IN A GIVEN REGION OR MARKET BY CANVASSING A VARIETY OF SOURCES, INCLUDING, BUT NOT LIMITED TO, INSURANCE COMPANIES, AUTOMOBILE CLUBS, AND TOWING COMPANIES.

(B) IN SETTING THE RATES AND CHARGES OF THIS SUBSECTION (3), THE COMMISSION MAY REQUIRE REGULATED TOWING CARRIERS TO SUBMIT FINANCIAL STATEMENTS AND OTHER FINANCIAL INFORMATION AS PRESCRIBED BY REASONABLE RULES AND REGULATIONS.

Currently, the PUC only regulates the rates for non-consensual tows because the state has been pre-empted by federal law from regulating rates, routes, and service for towing companies that provide consensual tows. The state can regulate the rates for non-consensual tows because the consumer is given no choice in such a tow. A common consumer complaint concerns overcharging for non-consensual tows and storage charges in excess of the amounts permitted by PUC rule.

To protect consumers, the PUC sets non-consensual rates based on the best available information. Due to the limited jurisdiction of the PUC, however, towing companies are reluctant to provide full financial disclosure. This results in rates that are not based on a complete financial analysis. At the same time, customers are vulnerable to excessive charges.

In conclusion, this recommendation limits non-consensual towing rates to twice the market rate for consensual tows.

Recommendation 5 - Increase permit fees for towing carriers from \$10 to \$150. Amend section 40-13-104(1), C.R.S., as follows:

Application for a permit under this article shall be made to the commission in such form and with such information, including rates and charges, as the commission may require, accompanied by a fee of ~~ten dollars~~ ONE HUNDRED AND FIFTY and by satisfactory evidence of insurance or bond as required by section 40-13-105.

Currently towing carriers are required to pay a permit fee, which is set at \$10 by means of section 40-13-104(1), C.R.S. This section references other statutory requirements, namely, the liability insurance policy provision of section 40-13-105, C.R.S. Towing carrier permits are often revoked by the PUC because permit holder fail to maintain the required insurance policy. Under current provisions, it is inexpensive and simple for carriers

to simply get another permit rather than maintain continuous insurance coverage. Therefore, raising the permit fee to \$150 would provide an added incentive for towing carriers to maintain the appropriate insurance coverage.

Recommendation 6 – Reform the process for establishing annual compensation levels for members of the Public Utilities Commission by amending section 24-9-102, C.R.S., as follows:

(1) (d) Effective July 1, 1996 2003, public utilities commission, each commissioner, an amount as set pursuant to subparagraph (II) of this paragraph (d) BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES based on a one-time occupational classification and salary survey which the state auditor shall conduct or cause to be conducted on or before July 1, 1996. The salary survey shall include, but not limited to, a fair sample of public and private employments with similar qualifications, experience, and workload from areas throughout the state THE MOST RECENT AVAILABLE FIGURES CONTAINED IN THE ANNUAL TOTAL COMPENSATION SURVEY CONDUCTED BY THE STATE PERSONNEL DIRECTOR PURSUANT TO SECTION 24-50-104 (4) (a) AND SUBJECT TO REVIEW BY THE STATE AUDITOR AND THE GENERAL ASSEMBLY PURSUANT TO SECTION 24-50-104 (4) (b) and (4) (c). EACH COMMISSIONER’S SALARY SHALL BE SET WITHIN THE RANGE IDENTIFIED IN THE SURVEY FOR THE CATEGORY OF SENIOR EXECUTIVE SERVICE.

There are three PUC commissioners who are appointed by the Governor. The position of a commissioner is a full-time position consisting of 40 hours or more per week. Commissioners are not allowed to have outside employment. The duties of PUC commissioners include:

- Deciding matters concerning regulated telecommunications, gas, electric, and transportation utilities. Hearings and decisions are made in a public forum subject to the sunshine laws of the state.

-
- Decisions are quasi-judicial, for example when a formal consumer complaint is being resolved, or quasi-legislative when rules are promulgated, or rate cases are heard.
 - Establish state policy for exercising regulatory oversight of public utilities.

This recommendation would modify the methodology for setting the annual salaries for members of the Public Utilities Commission. Currently, statutes give the State Auditor responsibility for periodically conducting reviews to determine whether commissioners' salaries need adjustment. If an adjustment is warranted the State Auditor recommends a change to the Legislative Audit Committee, which must then confirm the change before it is implemented. This recommendation would institute a new, more systematic approach for adjusting commissioners' salaries. The new approach would:

- Move responsibility for adjusting commissioners' salaries to the Executive Branch. Specifically, the proposal would give the Executive Director of the Department of Regulatory Agencies the authority to set commissioners' salaries within the salary range that currently exists for state senior executive service positions.
- Maintain the State Auditors' authority to conduct reviews of any adjustments made to the commissioners' salaries via an existing statutory performance audit process. Section 24-50-104(4)(b), C.R.S., currently requires periodic performance audits of the total compensation survey process. These audits are conducted every other year by a contract firm. The next audit report is due in June 2003.

According to a report submitted to the State Auditor by *Fox Lawson & Associates* “based on our analysis of comparable positions in the public and private sector, and an understanding of the responsibility and authority of the Commissioner position, we recommend that the compensation level of the Public Utilities Commissioners in the State of Colorado be raised, within statutory guidelines of CRS 24-9-102, to \$77,000 for Commissioners effective July 1, 1996.”¹ This report led to the proposed salary increase by way of SB 96-143. This bill also authorized the State Auditor to propose future salary adjustments.

Setting the appropriate salary for PUC commissioners is not only an equity issue for individual commissioners, who should be fairly compensated in comparison to their peers and prevailing market conditions, but it is also a public policy issue in so far as that it is important to attract and keep qualified commissioners.

In conclusion, changing the existing process as proposed in this recommendation would result in a more objective process while still providing for legislative oversight through a periodic performance audit process. In addition, this recommendation would resolve concerns about the separation of powers by restoring the role of the State Auditor in this process to one of traditional legislative oversight rather than formulation of compensation policy for the Executive Branch.

Recommendation 7 - Increase funds paid into the Highway Crossing Protection Fund.

Railroads are defined as public utilities. The PUC jurisdiction over railroad safety and service is found at section 40-4-106, C.R.S. This section gives the PUC broad jurisdiction over all aspects of railroad safety and service, limited only by federal preemption. The PUC must approve any and all changes to public rail-highway crossings (city, county, state highway) including opening, closing, separating and determination of funding.

¹ PUC Commissioners: Salary Survey Final Report, 1996, pp. 1-5.

The PUC oversees the railroad crossing safety program through funds from the Crossing Protection Fund (the Fund) and monetary assessments to the railroads and the roadway authorities. The Fund was created in 1965 to supplement federal funding, of which Colorado receives \$2.3 million per year, for grade crossing warning devices. The need for crossing upgrades is more often than not perceived to be a railroad company problem rather than a public safety problem.

Initially, the Fund received \$10,000 per month from the top of the Highway User Tax Fund. Additionally, the PUC, by statute, had the authority to assess the railroads a minimum of 10 percent of the cost of the railroad warning devices, based on the benefit to the railroad. The remainder of the cost of railroad safety crossing devices (switch lights, warning sound signals, guardrails) is divided between the roadway authority and the PUC fund. The average cost of grade crossing signals in 1966 was approximately \$11,550. In 1978, the Fund received an increase to \$20,000 per month and the railroads' assessment was a minimum of 20 percent of the cost of the warning devices because the average cost of grade crossing signals increased to approximately \$50,250. The Fund has not received an increase in funds since 1978.

The Federal Railroad Administration (FRA) has recently issued regulations concerning crossing signal maintenance and on-track worker protection affecting railroad clearances. The new edition of the Manual of Uniform Traffic Control Devices has more restrictive requirements concerning crossing standards. In addition, the American Association of State Highway Transportation Officials is preparing recommended standards for rail-highway crossings.

The amount of transportation funds which are paid into the highway crossing protection fund each year pursuant to 43-4-205 (2), C.R.S., has not been increased for over twenty years. The PUC only receives \$240,000 per year for the Highway Crossing Protection Program. It is not enough to cover all of the needed crossing projects. More specifically, the Town of Fruita, Weld County, and the City of Brighton have recently approached the PUC to discuss funding for railroad crossing projects. The Fruita project is estimated at \$245,000, the Brighton project at \$404,500, and the Weld County project at \$175,000 for a total of \$824,500. The PUC normally employs a cost sharing formula

whereby it absorbs 70 percent of the cost of such projects, the remaining costs being the responsibility of railroad companies and roadway authorities. If these projects were to be funded on a cost sharing basis in a single fiscal year, the shortfall would be \$337,150 (70% of \$824,500 minus the available \$240,000). Consequently, the only practical option for the PUC is to spread out the funding for these projects over several years, compromising public safety as a result.

In conclusion, this recommendation seeks to close an existing funding shortfall that directly impacts public safety as it relates to railroad crossings.

Recommendation 8 - Increase civil penalties for transportation related violations. Amend paragraph (a) of section 40-7-113 (1), C.R.S., as follows:

Any person who fails to carry the insurance required by law may be assessed a civil penalty of not more than ~~four hundred~~ ELEVEN THOUSAND DOLLARS.

This recommendation is modeled in part on federal regulations. More specifically, it is based on the civil penalties enumerated in 49 CFR 386, Subpart G. It is also important to note at the outset that the proposed amount of \$11,000 represents a ceiling. Actual civil penalties may be smaller according to the nature, gravity of the violation and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require.

This recommendation also conforms with Senate Bill 02-011, Concerning the Regulation of Motor Carrier Safety, which was signed into law empowering the Colorado State Patrol to issue civil penalties to motor carriers for safety violations. The PUC and the State Patrol have a working arrangement for safety enforcement. Consequently, civil penalties for transportation related safety violations need to be standardized across state agencies for equity and enforcement purposes. Hence PUC safety violation penalties should be increased to be consistent with the State Patrol and federal guidelines.

In summary, this recommendation enhances public safety by providing the PUC additional civil penalty authority.

Recommendation 9 - Increase civil penalties for transportation related violations. Amend paragraphs (b), (c), (d), (f), and (g) of section 40-7-113 (1), C.R.S.

The justification for this recommendation is similar to that enumerated in Recommendation 10. PUC civil penalties should be increased for those carriers who operate without registering with the commission, or for carriers that do not have proper insurance coverage. Motor carriers at times choose not to register with the PUC because they cannot afford the insurance. These carriers nevertheless operate without insurance or tend to be underinsured, as a result, they undermine public safety.

In addition, the four hundred dollar penalties provided for in paragraphs (b), (c), (d), (f), and (g) of section 40-7-113 (1), C.R.S., should be replaced by the amount of **“one thousand one hundred”** dollars.

Two further housekeeping changes are necessary as follows:

- add **“a children’s activity bus as defined in 40-16-101 (1.5)”** to paragraph (f) of section 40-7-113 (1) and
- add to paragraph (g) **“Any person who violates any safety rule promulgated by the commission shall be subject to the civil penalties authorized pursuant to 49 CFR, Part 386, Subpart G, as such subpart existed on October 1, 2001.”**

[Other law to be made conforming as needed].

In conclusion, this recommendation enhances public safety by providing the PUC additional civil penalty authority.

Recommendation 10 - Amend sections 40-5-106 and 40-6-103, C.R.S. and make conforming amendments to replace all outdated references to a “ secretary” of the Commission by replacing that term with the title of “director.”

Subsection 1 of section 40-6-103, C.R.S. holds in part that “the commission, each commissioner, the secretary, and any administrative law judge as to matters referred to him have power to administer oaths....” Similarly, subsection 1 of section 40-5-106, C.R.S. refers to a “ secretary of the commission.” The term “secretary” was changed to “director” as reflected in Sections 40-2-103 and 40-2-104, C.R.S. Consequently, the term “director” should be substituted for the outdated “secretary” wherever it occurs in the Public Utilities Law.

Recommendation 11 – Eliminate unnecessary restriction on Commissioners' outside employment. Amend section 40-2-101 (2), C.R.S., as follows:

Each commissioner shall be a qualified elector of this state. The Governor shall designate one member of the commission as chairman of the commission. The commissioners shall devote their entire time to the duties of their office to the exclusion of any other employment THAT REPRESENTS A CONFLICT OF INTEREST and shall receive such compensation as is designated by law.

It is unduly restrictive to prevent commissioners from being employed in a capacity that does not directly interfere with their duties to the State. The last sentence as proposed above addresses this shortcoming. Furthermore, it is consistent with other state law. For example, paragraph (c) of section 12-47.1-203 (1), C.R.S., addresses the qualifications of the Director of the Division of Gaming requiring him or her not to be “engaged in any other profession or occupation that could present a conflict of interest to the director's duties as director of the division.”

Appendix A - Sunset Statutory Evaluation Criteria

- (I) Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- (II) If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;
- (III) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;
- (IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- (V) Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- (VI) The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
- (VII) Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- (VIII) Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action; and
- (IX) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

Appendix B – Public Utilities Commission - Organizational Chart and Staffing Plan

DEPARTMENT OF REGULATORY AGENCIES
PUBLIC UTILITIES COMMISSION
Organizational Chart and Staffing Plan
(FY 01-02)

FTE AUTHORIZATION FY01/02
92.7

