



Purpose: Aligning PUC Mandates with a Clean Energy Future

PUC Modernization
Issue Brief Series: Purpose,
People, and Process



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About Us



About RMI

RMI is an independent nonprofit founded in 1982 that transforms global energy systems through market-driven solutions to align with a 1.5°C future and secure a clean, prosperous, zero-carbon future for all. We work in the world's most critical geographies and engage businesses, policymakers, communities, and NGOs to identify and scale energy system interventions that will cut greenhouse gas emissions at least 50 percent by 2030. RMI has offices in Basalt and Boulder, Colorado; New York City; Oakland, California; Washington, D.C.; and Beijing.

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Introduction

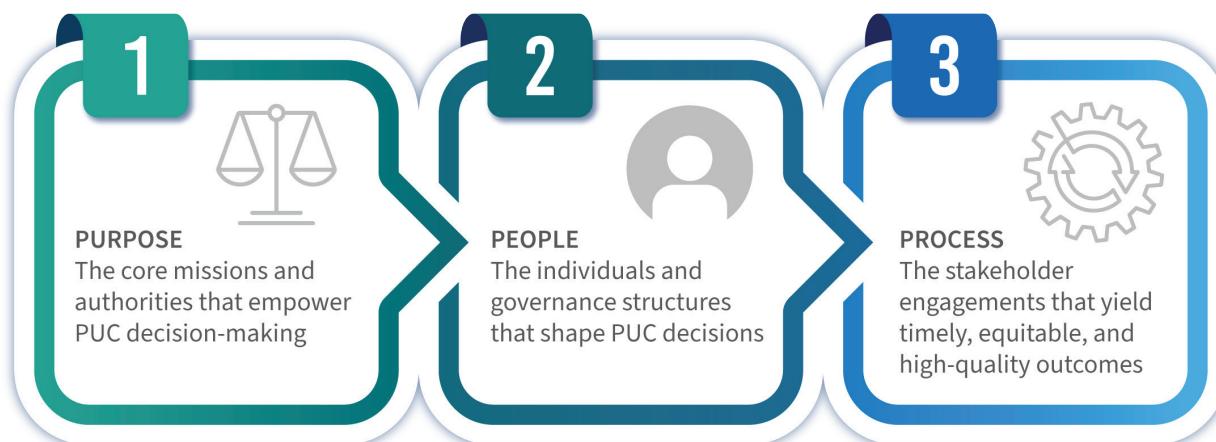
With decision-making authority over utilities serving roughly 72% of US electricity customers, state public utilities commissions (PUCs) are uniquely positioned to orchestrate the transition to a zero-carbon grid.¹ Across the United States, however, PUC modernization has not kept pace with the transition to a decarbonized, more distributed, and flexible grid.¹

Policymakers and the public are increasingly asking PUCs to consider a broader range of objectives than safety, affordability, and reliability in their decision-making, including greenhouse gas (GHG) emissions reductions, resilience, and equity (Exhibit 2). Yet organizational challenges pose barriers to innovation and informed regulatory decision-making. These challenges include outdated mandates; staff constraints; gaps in technical expertise; information asymmetry between stakeholders; procedure-heavy, quasi-judicial processes that require PUCs to consider evidence presented in specific ways; and a culture of risk aversion. Barriers such as these risk delaying or impeding decisions needed for achieving state objectives.

In response to these considerations, states like Colorado, Oregon, New York, and New Mexico have launched efforts to ensure regulatory decision-making remains transparent, independent, and/or consistent with state policy.² Although state budget, governance structures, and political dynamics are unique, these efforts reflect a window of opportunity for transforming PUCs into the regulatory institutions we need.

To assist policymakers, advocates, and regulators in their zero-carbon efforts, this series of RMI issue briefs focuses on PUC modernization in the context of GHG emissions reductions. Each brief in the series draws from independent RMI analysis and more than a dozen interviews with industry experts.

The series explores three dimensions of PUC modernization:



This first brief, focusing on the purpose dimension, explores the need for updating the role of PUCs in the face of an increasingly complex energy system. We argue that the directives and strategy of most state regulatory commissions are misaligned with the emergent needs of today's energy system, and that PUCs require modern mandates, directions, and an updated interpretation of the public interest to make informed decisions.

¹ States use different terms to refer to state regulatory commissions: Public Service Commission (PSC), Department of Public Utilities (DPU), and State Corporation Commission, to name just a few. For consistency, where not referring to a specific state, the authors use the generic term "PUC" throughout this series.

State policymakers can set PUCs up for success by updating PUC statutory mandates to reflect current state energy priorities, encouraging PUCs to articulate a vision and strategy for achieving those priorities, and providing updated guidance regarding the public interest. We summarize priority actions that regulators, legislators, and other key actors can take to modernize PUCs for each focus area in Exhibit 1.

Exhibit 1

Priority Actions to Align PUC Mandates with a Clean Energy Future

FOCUS AREAS AND PRIORITY ACTIONS	VENUE(S)
Update PUC Statutory Authority	
Update PUC’s core missions, as reflected in statute, to be consistent with new policy expectations. Remove doubt about the commission’s authority to take necessary action to meet these expectations.	Legislature
Guide commission implementation of clean energy policies by (a) establishing climate roadmaps and (b) requiring subsequent utility planning and regulatory actions to comply with those roadmaps.	Legislature, Governor
Refocus Regulatory Visions	
Articulate a vision for future state energy regulation, including by reviewing existing mission statements and strategy documents to ensure they accurately reflect emergent state energy policy and regulatory priorities.	Commissions
Proactively carry out PUC vision via policy statements, straw proposals, or other guidance documents to (a) clarify what the PUC is looking for in utility proposals or filings and (b) steer utility filings toward desired outcomes.	Commissions
Redefine the Public Interest	
Articulate an updated definition of public interest—inclusive of the need for 1.5°C climate alignment and equitable energy decisions—to guide regulatory decision-making.	Commissions, Legislature

Update PUC Statutory Authority

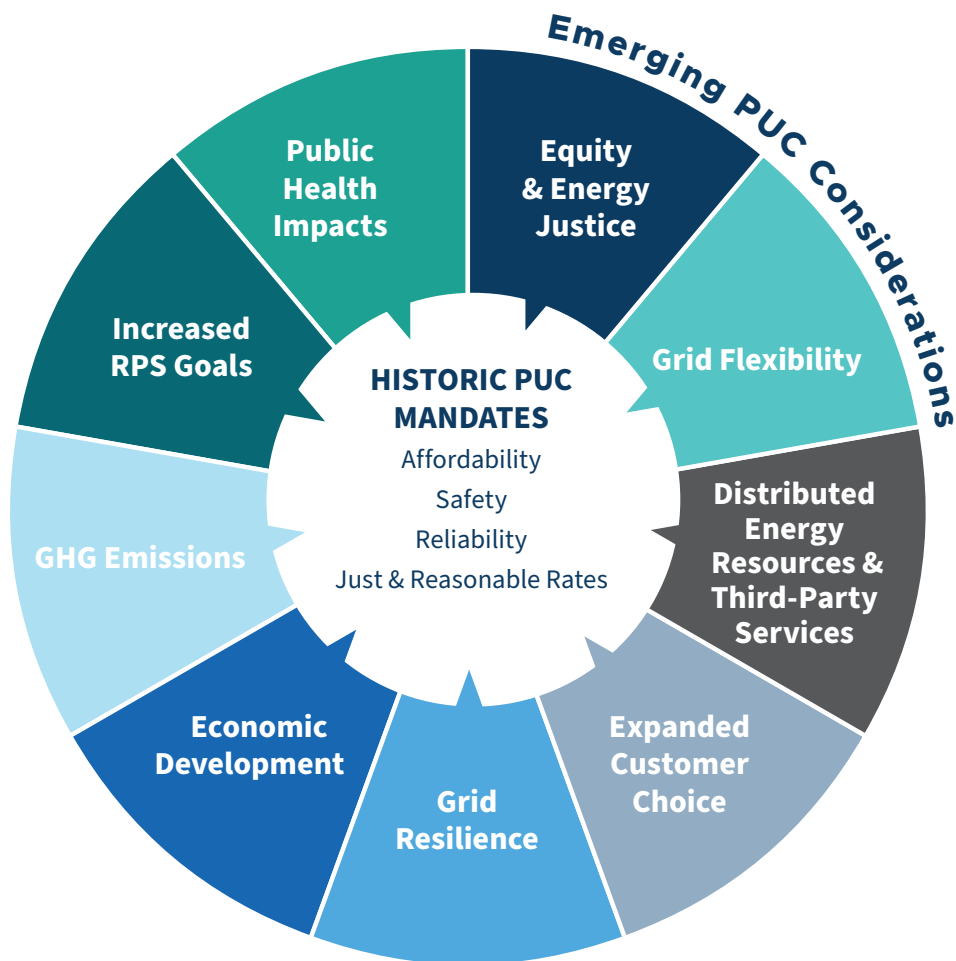
State legislatures created PUCs in the early 20th century in response to the rise of the modern utility. To safeguard against the natural monopoly conditions utilities enjoy and to emulate competition in the absence of competitive markets, states empowered PUCs to oversee a “regulatory compact” in which utilities are obligated to provide reliable and safe electricity service at just and reasonable rates to customers. In exchange, utilities are allowed to recover the costs of providing service from customers and have the opportunity to earn a PUC-authorized rate of return. As a result, commission statutory authorities have traditionally focused on objectives like safety, reliability, and affordability.

Today, PUCs must increasingly address a broader range of outcomes than they have in the past. They remain accountable to traditional regulatory objectives, but must also account for resilience, energy justice, climate, and other factors in their deliberations (Exhibit 2). However, these outcomes are often not well integrated into the statutes that empower commissions with the authority to regulate.

All PUCs have a common obligation to ensure the provision of just and reasonable rates for all customers and to determine that electricity services are safe, reliable, affordable, and in the public interest. But enabling PUC statutes often leave room for regulators to determine how best to align their decisions with policy objectives.ⁱⁱ

Exhibit 2

Historical and Emerging Regulatory Considerations



For example, Michigan empowers its PSC with broad jurisdiction that includes “all rates, fares, fees, charges, services, rules, conditions of service, and all other matters pertaining to the formation, operation, or direction of public utilities.” By contrast, Kansas’s narrower mandate simply requires “all electric public utilities ... to establish and maintain just and reasonable rates.”³

Other state enabling statutes are more prescriptive. Nevada, for instance, directs its PUC to ensure that its electric regulations meet five conditions: protect the public interest, provide rate stability, provide “effective protection” for customers, encourage the development and use of renewable energy, and require electricity providers to engage in sound decision-making.⁴ More broadly, North Carolina grants the North Carolina Utilities Commission authority to “regulate public utilities generally, their rates, services and operations, and their expansion in relation to long-term energy conservation and management policies and statewide development requirements.”⁵

ⁱⁱ A PUC’s statutory authority can be derived from laws passed by the legislature, or it can be explicitly set out in a state’s constitution.

Absent sufficient direction, PUCs often take a narrow interpretation of their authority—which directly impacts the organization’s decisions and the activities it spends time on.⁶ Similarly, many PUCs view themselves as purely economic regulators, even when this no longer reflects the reality of the decisions they are being asked to make. Exhibit 2 shows just some of the emerging considerations for PUCs that must be factored into their decision-making.

Modernized PUC statutory mandates that are aligned with emergent state energy goals can serve multiple purposes. They give commissioners and their staff the legal directive to act on the basis of climate and other desired societal outcomes—positioning them clearly as more than just economic regulators.ⁱⁱⁱ In Washington, D.C., for example, landmark legislation charging the PSC and state consumer advocate’s office to include “effects on global climate change and the District’s public climate commitments” has already begun influencing discussions around utility performance in multiple proceedings. In Massachusetts, the legislature recently elevated equity and greenhouse gas emissions reductions as priority outcomes for the DPU as part of its core mission to regulate utility performance.

Many states are exploring these issues. The examples below highlight recent approaches that Washington, D.C., Massachusetts, and Connecticut have taken to empower their PUCs with updated statutory authorities.

PUCs in Practice 1: Washington, D.C., Expands PSC Statutory Mandate

In Washington, D.C., the DC Clean Energy Omnibus Amendment Act of 2018 expanded the mandate of the PSC and the Office of People’s Council (the state consumer advocate) from “preservation of environmental quality” to “preservation of environmental quality, including effects on global climate change and the District’s public climate commitments.”⁷

While still nascent, this change has directly impacted PSC decision-making in recent regulatory proceedings. For example, it appears in PEPCO’s multiyear rate plan proceeding (Docket FC1156). In that docket, the PSC adopted 10 principles for evaluating utility alternative ratemaking proposals after holding a two-day technical conference and offering an opportunity for written comment. The framework echoed the new mandate, instructing that proposals advance “the preservation of environmental quality, including effects on global climate change and the District’s public climate commitments,” alongside other priority goals. The PSC’s order also cites the new mandate more broadly as grounds for adoption of the framework, asserting in its ruling that:

The Commission’s mission is to ensure that public utilities provide safe and reliable services to customers at just and reasonable rates. Pursuant to D.C. Code § 34-808.02, in supervising and regulating utility or energy companies, the Commission “shall consider the public safety, the economy of the District, the conservation of natural resources, and the preservation of environmental quality, including effects on global climate change and the District’s public climate commitments.” This Order is a further step in the Commission fulfilling its statutory mission.⁸

This change in the PSC’s mandate, and the PSC’s subsequent rulemaking to heed that change, illustrate how impactful modernized statutory mandates are to ensure regulatory decision-making is aligned with emergent energy issues. The PSC’s collaborative approach—for example, allowing nonparties to provide input during the technical conference on establishment of the framework—also demonstrates how rich stakeholder engagement supports bold commission decision-making.

ⁱⁱⁱ Commissioners (the decision-makers) and staff (who advise the commissioners and/or advocate on the record in regulatory dockets) may receive direction from different state statutes regarding their roles. Given staff’s significant ability to impact or constrain commissioner decisions, effective statutory changes to commission authority should address both the responsibilities of the commission as a whole and of staff.

PUCs in Practice 2: Massachusetts Elevates GHG Emissions among DPU Priorities

In Massachusetts, the legislature's comprehensive climate change law, An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy (2021), codifies the state's commitment to achieve net-zero statewide greenhouse gas emissions by 2050 and establishes interim targets for emissions reductions. The law also establishes building-sector energy efficiency standards, codifies definitions of environmental protections into state law, and establishes protections for vulnerable energy communities.⁹

Additionally, the law changes the enabling authority of the Department of Public Utilities (DPU). It broadens the DPU's mandate (adding the bolded priorities) to:

“prioritize safety, security, reliability of service, affordability, equity and reductions in greenhouse gas emissions to meet statewide greenhouse gas emission limits and sublimits [established in the act].”¹⁰

This change both gives the DPU the authority to elevate equity and emissions reductions as regulatory priorities and gives stakeholders legal recourse to require the DPU to prioritize equity and emissions reductions in court if they are not doing so through regulatory decisions. Senator Michael Barrett, one of the main drivers of the law since its inception, stated that the six priorities the DPU is now tasked with balancing should be co-optimized. Though it will be “real work,” Barrett has said, the DPU needs to start regulating with these co-optimizations in mind if the state hopes to meet its climate goals.¹¹

PUCs in Practice 3: Connecticut Links IRP to Climate Target Achievement

In 2018, Connecticut approved a comprehensive climate bill requiring that the state's Comprehensive Energy Strategy and integrated resource plan (IRP) focus on how Connecticut will achieve the binding climate targets in its Global Warming Solutions Act.¹² The statute requires the Public Utilities Regulatory Agency (PURA) to consider whether a utility IRP “maximizes consumer benefits consistent with the state's environmental goals and standards, including, but not limited to, the state's greenhouse gas reduction goals.”¹³

The law also directs that when PURA prepares the state's Comprehensive Energy Strategy, it provides the necessary analysis and recommendations to guide the state's energy policy to meet GHG emissions reductions requirements. In this manner, the legislature has effectively linked PURA's oversight of state energy planning with state climate goals, with prioritization given to climate factors.

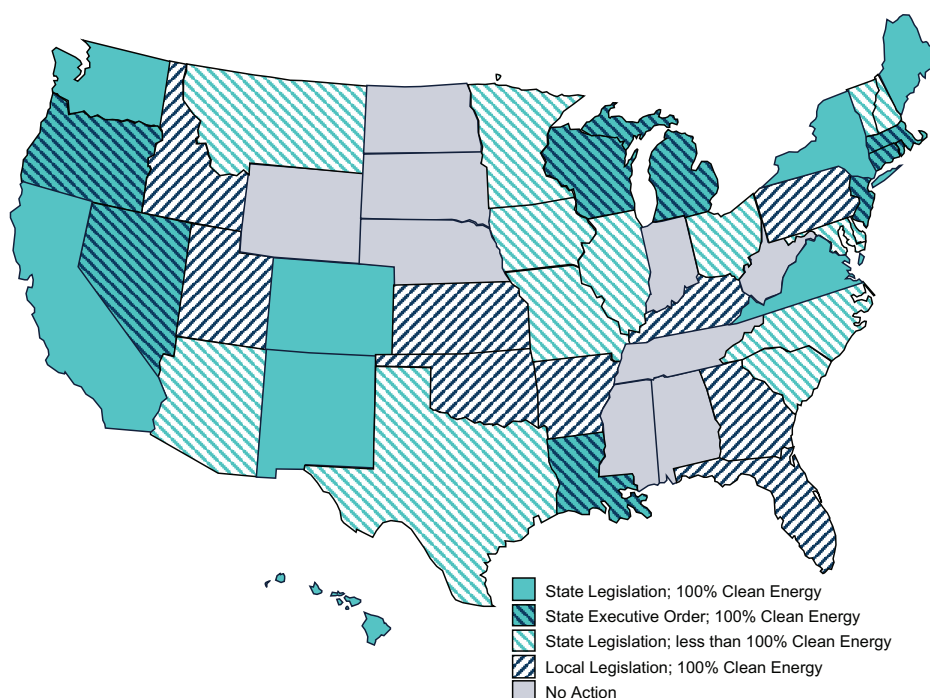
Although this is a more indirect approach than the examples provided from Washington, D.C., and Massachusetts, incorporating climate considerations into existing PUC planning authorities represents one practical avenue to align PUC responsibilities with state energy goals—particularly when political circumstances make reforming commission mandates less feasible.

Each of the above legislative efforts provides more explicit directives to PUCs regarding their core mission and authorities. In Washington, D.C., lawmakers significantly expanded the PSC’s core mandate to include “effects on global climate change.” The Massachusetts law creates a powerful statutory requirement for the DPU to review utility investment plans and ratemaking through a climate lens. In both cases, the mandates provide intervenors with a stronger foundation to appeal PUC decisions on grounds that climate change and greenhouse gas emissions have not been sufficiently considered in commission activities and decisions. The Connecticut approach, though less direct than the others, could be particularly effective in states with less political momentum around climate change planning and mitigation. It provides an avenue within the PURA’s current roles for commissioners to consider GHG emissions reductions in their decisions without reforming its statutory mandate.

Updating a PUC’s statutory authority or core mission is not a panacea; it tends to work best when accompanied by strong policy goals. To date, 15 US jurisdictions have taken the critical legislative or executive action to establish zero-carbon electricity by 2050 or earlier. Each of these states should provide authority to their commissions to ensure successful implementation. Intentionally harmonizing regulatory authorities with state goals is imperative to ensuring that PUCs—which are uniquely positioned to orchestrate state clean energy transitions—are making policy-aligned decisions to accelerate toward zero-carbon electricity. Without this alignment, PUCs could unintentionally hinder state progress by making decisions based on outdated interpretations of their authority.

Exhibit 3

Clean Energy Legislation and Executive Action as of May 2021



Priority Actions:

- Policymakers should update PUCs’ statutory authorities to harmonize regulatory decision-making with policy expectations in all rulemakings and regulations. Resilience, equity, environmental justice, and climate impacts should be incorporated throughout a commission’s rules and activities (e.g., planning, rulemaking, and investigatory and ratemaking proceedings). Lawmakers should leave no doubt about the commission’s authority to take necessary action to meet these expectations—including, for example, via the use of alternative regulation, low-income discounts, or other tools.

- Lawmakers should address the statutory authorities and directives for both the Commission and staff who advocate on behalf of consumers or the public interest in regulatory dockets. This is particularly important in states where such “advocacy” staff operate independently from the Commission. For example, in North Carolina, Public Staff that act as the state’s statutory consumer advocate are funded and governed independently from the North Carolina Utilities Commission.
- Statutory updates should be coupled with ambitious clean energy policy that provides direction around expected utility performance. Policymakers can guide commission implementation of clean energy policies by (a) setting clear economy-wide and utility-sector goals for decarbonization, (b) creating climate roadmaps that outline how the state will achieve its climate goals, and (c) requiring that utility planning and regulatory actions are consistent with needed infrastructure investments.
- Policymakers can also encourage implementation by directing utilities to prepare long-term climate change impact studies and ensure those studies guide planning decisions. Similar regulatory efforts in states like New York—where the PSC in 2015 approved Con Edison to prepare a long-term climate vulnerability study as part of its post-Hurricane Sandy multistakeholder collaborative effort—may offer a helpful template for other states and utilities.¹⁴

Refocus Regulatory Visions

PUC purpose is reflected not only in statute but in a commission’s strategy and approach to regulation. Although not binding like statutory authority, these items collectively constitute a PUC’s vision. Commissions express visions in formal strategic documents to the legislature and via general or issue-specific guidance to stakeholders in regulatory proceedings. These documents help define PUC priorities and clarify the commission’s interpretation of its role. This in turn can shape how commissioners and staff view their roles, the outcomes that commissioners and staff prioritize, and the way that external stakeholders engage with the commission in key proceedings.

Yet most PUC visions today fall short of encapsulating modern needs. Meaningful mention of climate change or equity and environmental justice are often omitted from important guidance documents or commission strategic plans, for example. Similarly, many PUCs maintain a reactive or passive posture across proceedings, rather than actively pursuing their articulated vision via guidance to the utility and other stakeholders regarding desired changes to utility performance.

To realign PUC priorities and focus, policymakers must ensure that their commission’s vision matches the state policy goals—and that it is carried through to individual proceedings. Just as with updates to statutory authority, self-articulated commission direction can also help stakeholders anticipate regulatory priorities and enable stakeholders to align around key issues. Commissioner actions that are anchored to a clear vision can also provide utilities with greater certainty about how their activities will be evaluated. Given the system-wide need to decarbonize, commission visions should also include attention to the role and activities of other agencies.

PUCs in Practice 4: The Aloha State Sets Regulatory Priorities

A defining moment in Hawaii’s energy journey came in April 2014, in the form of the “Commission’s Inclinations on the Future of Hawaii’s Electric Utilities: Aligning the Utility Business Model with Customer Interests and Public Policy Goals.” The “Inclinations” was attached to the PUC’s rejection of the HECO Companies’ proposed IRP—which noted that the HECO Companies’ improvements to its IRP did not sufficiently evolve to encompass the PUC’s revised framework and stated priorities. The Inclinations’ influence has far eclipsed just that docket, however.

The Inclinations represented a turning point in Hawaii, not just for how the PUC expected the HECO Companies to operate, but also for how the PUC expected the electricity system’s trajectory to evolve writ large. The Inclinations provided a holistic vision of the PUC’s desired future and outlined a path that would enable the HECO Companies to take a leadership role in advancing the state’s energy goals through a new paradigm of grid planning that aligns utility and customer interests.

As part of the PUC’s rejection of the HECO Companies’ IRP and in addition to the Inclinations, the PUC issued four orders encompassing grid operations and resource planning. In aggregate, those orders required that the Companies aggressively pursue energy cost reductions, address challenges with renewable energy integration and customer-sited interconnection, and embrace demand response.

Ultimately, the actions that the PUC took to redirect the HECO Companies at a critical point in the state’s electricity system trajectory have spurred substantial regulatory overhaul in the state as the PUC pursues comprehensive performance-based regulation, hosts highly collaborative stakeholder working groups, and pursues aggressive statewide decarbonization plans led by the HECO Companies.

PUCs in Practice 5: Oregon PUC Greenhouse Gas Emissions Goals Work Plan

In 2020, Oregon Governor Kate Brown’s Executive Order 20-04 directed the PUC to develop a series of work plans. The plans are intended to “identify and manage” activities the PUC will undertake to help reduce greenhouse gas emissions consistent with a 45% GHG reduction from 1990 levels by 2035, and at least an 80% GHG reduction from 1990 levels by 2050.¹⁵

In response to EO 20-04, the Oregon PUC published a report—based on internal agency discussions and external stakeholder outreach—on proposed actions that it will take in the coming years to help reduce GHG emissions commensurate with the goals set forth in the executive order.¹⁶ The report describes the PUC’s initial thinking on how it will accomplish emissions reductions and help vulnerable populations and impacted communities. The report identified three main themes: GHG reductions, impacted communities, and wildfire planning and collaboration.

Ultimately, the PUC developed five separate work plans to address these themes. Plans address objectives and short-term activities for work streams related to utility planning, utility services and activities, transportation electrification, impacted communities, and wildfire prevention and mitigation.¹⁷ Importantly, the PUC assigned specific staff members to manage and support each work stream.¹⁸

PUCs in Practice 6: Michigan Develops MI Healthy Climate Plan

In 2020, Michigan Governor Gretchen Whitmer signed several significant climate-focused executive actions. Among other things,^{iv} the orders established a statewide goal of “economy-wide carbon neutrality” by 2050 and an interim goal of reducing greenhouse gas emissions 28% below 1990 levels by 2025.¹⁹

Importantly, the orders also directed the state’s Department of Environment, Great Lakes, and Energy (EGLE) to develop a “MI Healthy Climate Plan” to provide recommended strategies for achieving progress toward these goals. The plan is due December 31, 2021, with a public first draft due September 1, 2021. EGLE is required to file annual reports on the state's progress.

The orders also create a Council on Climate Solutions to advise the governor and state agencies on implementation of the plan.²⁰ The chair of the PSC sits on the council.²¹

Already, the effort to develop a statewide strategy has encouraged the PSC to integrate the carbon-neutrality goals into its ongoing proceedings—including the MI PowerGrid initiative.

The following examples identify PUCs with refocused strategies that have contributed to regulatory decisions aligned with broader state or emergent energy goals.

The examples above highlight effective steps that state regulators and governors can take to realign PUC priorities and focus with new needs. Governor Brown’s executive order in Oregon illustrates how executive action can move the regulatory needle in the absence of legislative leadership on climate. By encouraging the PUC to self-identify ways of meeting state energy goals and creating a foundation for interagency coordination, the order created a framework for accountability while allowing agencies some flexibility in determining a course of action. Like Governor Brown, Governor Whitmer has also pursued an interagency strategy anchored to midcentury and interim greenhouse gas goals.

Although these examples provide useful starting points for aligning PUC missions and focus, there is further opportunity to make commissions’ strategy and decision-making compatible with the long-term greenhouse gas mitigation strategies of their respective states. As a growing number of states (including New Jersey and Colorado) conduct clean energy or climate “roadmap” studies to understand economy-wide infrastructure requirements over the next 20–30 years, it is important for regulatory decision-making to follow suit and evaluate investments for how well they adhere to identified needs. Commissions can do this of their own accord by considering generation and infrastructure proposals in the context of their compatibility with long-term planning scenarios. Alternately, this coordination can be strengthened through legislative requirements to align grid investment decisions and ratemaking with identified pathways.

^{iv} For example, the orders also set 2040 carbon goals for state buildings; required the Department on Environment, Great Lakes, and Energy to “expand its environmental advisory opinion” in utility integrated resource plan (IRP) processes, including by evaluating if proposed IRPs are consistent with the established GHG emissions reduction goals and considering environmental justice and health impacts; and established the “Energy Transition Impact Project” to identify communities impacted by changes to energy production in the state and minimize impacts and dislocation (including loss of employment, property tax revenues, and related community services).

Priority Actions:

- Commissioners should proactively review internal strategy and guidance documents to ensure that they reflect current regulatory authorities, capture the needs of a changing energy sector, and allow space for innovation.
- Where applicable, policymakers should request that PUCs submit a periodic strategic plan that sets specific goals, objectives, and planned actions to advance state energy goals or emerging energy system needs in coordination with sister state and local agencies. Commissioners should ensure this plan is reviewed internally to improve organizational alignment and coordination around regulatory visions. It should also be available externally so intervenors have a more transparent understanding of near- and long-term regulatory priorities. PUCs should avoid developing their strategic plan in a vacuum; coordination with energy, air, and transportation agencies or others may be integral to achieving an economy-wide strategy.
- Commissions should find opportunities to express clear expectations or guidance to utilities and other stakeholders on the direction of future resource plans, regulatory reforms, or other anticipated utility proposals. Proactive, commission-issued guidance in the form of policy statements or straw proposals can serve to focus stakeholders for a more constructive and time-efficient process.
- In states that conduct sunset reviews (e.g., Texas and Colorado), sunset committees can use the review to assess the PUC's directional alignment with legislative intent, achievement of performance targets and goals, and harmonization of regulatory priorities with emergent challenges facing the energy sector. They can then use the results of this review to suggest changes to the PUC mission, vision, and strategy to improve regulatory functions.

Redefine Public Interest

The public interest has changed since PUCs were established a century ago. The emergence of the Public Utility Regulatory Policies Act (PURPA) and growth of restructuring during the late 20th century created the need for an expanded view of the public interest that included promoting competition and potential competitive services. More recently, states have begun amending definitions of public interest in establishing PUC statutes to expand them further—explicitly referencing topics like climate, emissions reductions, and social justice.

Most PUCs' enabling statutes mandate that regulators protect the public interest. The term public interest is intentionally ambiguous, however, to allow its meaning to evolve over time with changing circumstances.²² This ambiguity works both ways: on one hand, it provides commissions flexibility in applying the public interest standard on an issue-by-issue basis. On the other hand, the lack of a prescriptive definition may contribute to regulatory decisions that are overly risk-averse, as novel interpretations of the public interest may result in court challenges or attempts to limit regulatory authority through legislation.

Because of this aversion to commission-led, broadened regulatory interpretation of public interest, expanding the definition of public interest through legislation may be particularly important to ensure informed regulatory decision-making. In the absence of an updated definition, utilities and other intervenors can contest expansive PUC interpretations of the public interest by arguing that the PUC has overstepped its authority. Courts will often defer to the expertise of regulators, except in cases where they find that regulators have “exceeded their statutory authority, misinterpreted the law, or conducted an unfair process.”²³

Below are examples of states with modernized definitions of public interest that influence PUC decision-making, or times when PUCs successfully cited a modernized interpretation of the public interest to make a mission-aligned regulatory decision.

PUCs in Practice 7: Washington Updates Its Public Interest Definition

In Washington State, the legislature enacted the Clean Energy Transition Act in 2019 to lead the transition to a clean energy economy by transforming the state's energy supply, modernizing its electricity system, and ensuring that the benefits of the transition are broadly shared. The Act also set a 2045 zero-carbon goal for the state.²⁴

In the Act, the legislature notes the significant role that utilities and regulators will play in achieving the state's energy goals, and notes that both bodies must still be compliant with their public interest objectives. In doing so, the legislature explicitly established the following as items that the public interest “includes, but is not limited to”:

- consideration and implementation of performance- and incentive-based regulation, multiyear rate plans, and other flexible regulatory mechanisms where appropriate to achieve fair, just, reasonable, and sufficient rates;
- the equitable distribution of energy benefits and reduction of burdens to vulnerable populations and highly impacted communities;
- long-term and short-term public health, economic, and environmental benefits;
- the reduction of costs and risks;
- and the retirement of fossil fuels.

With these additional items included in the public interest, the Washington Utilities and Transportation Commission is empowered to make regulatory decisions on the basis of climate, equity, and public health, and do so using alternative ratemaking tools. Further, stakeholders can leverage the updated definition to ensure the PUC is regulating in the public interest, and the PUC has protection from legal challenges borne from claims that they overstepped their authority.

PUCs in Practice 8: New Natural Gas Is Not in the New Mexico Public Interest

In December 2020, the New Mexico Public Regulation Commission (PRC) denied utility El Paso Electric Co.'s (EPE's) request for approval of a 228 MW planned natural gas plant, Newman 6. The PRC's basis for the decision was that the plant is not in the public interest because it fails to comply with New Mexico's Energy Transition Act (ETA)—the state's zero-carbon resource standard.

In its decision, the PRC argued that “it is clearly against the public interest to issue a CCN [certificate of convenience and necessity] based on a record indicating an intent not to reach [the renewable portfolio standard] and including assumptions disregarding the law as well as assumptions inaccurately disfavoring renewable resources.” The PRC also found that the utility's use of a 40-year expected life for the plant was incongruent with the ETA's requirement that the utility have a fully decarbonized fuel mix by 2045. It further emphasized that if approved, the plant would result in stranded costs and highlighted that EPE's proposal “overstates the unreliability of renewable resources.”

In other words, by denying the proposal, the PRC telegraphed that utility proposals may not circumvent state climate policy and reiterated its role as the arbiter of utility investment to achieve those goals.

PUCs in Practice 9: Emissions Reductions Are in the Public Interest in Colorado

In 2019, the Colorado legislature passed Senate Bill 19-236, which, among other things, adjusted how the state's PUC evaluates a utility's Clean Energy Plan—which utilities file as part of their electric resource planning process. SB 19-236 required qualifying utilities to reduce emissions associated with electricity sales by 80% below 2005 levels by 2030 and achieve 100% clean energy generation by 2050.²⁵

The legislature instructed the PUC to approve utilities' Clean Energy Plans only if the commission found them to be in the public interest. It also authorized the PUC to modify the plan if necessary to ensure the plan is in the public interest. The legislature directs the commission, when evaluating whether a plan is in the public interest, to consider factors including, but not limited to:

- whether the Clean Energy Plan will achieve reductions in carbon dioxide and other emissions,
- whether those emissions reductions will bring associated environmental and health benefits, and
- the Clean Energy Plan's impact on the reliability and resilience of Colorado's electric system.

This emphasis of emissions reductions as part of the public interest is impactful because it does not place additional regulatory burden on the PUC. Rather, it utilizes an existing method of PUC intervention—the required utility Clean Energy Plan—and further clarifies how commissioners should appraise it in their regulatory decision-making.

As lawmakers and policymakers consider the merits of broadening the definition of public interest to guide regulatory decision-making, they should take care not to be overly prescriptive. Just as the public interest today is not the same as it was last century, what is needed in 2121 may differ significantly than what the public needs today. Thus, if a state does choose to include additional factors in its definition of public interest, it should provide room for dynamic interpretation as the public interest inevitably shifts. Defining the public interest should take a long-term view and account for the regulatory benefits to ratepayers not just today or in five years, but for decades into the future.

Priority Actions:

- Lawmakers and governors should empower commissions to make regulatory decisions on the basis of an expanded public interest definition. As an agency acting to ensure the public receives quality service from regulated utilities, it is the PUC's duty to ensure that service prioritizes what will best serve utility customers—which means working to decarbonize the energy sector, mitigating the impacts of climate change, improving public health, and aligning with state energy goals.
- Policymakers should consider updating the definition of public interest through statute to be inclusive of modern public needs. They should couple this with PUC establishing authorities to ensure that PUC duties are explicitly linked with a modern interpretation of public interest. Governors can use their convening power to facilitate collaborative discussions around how the public interest is changing and what that means for utility regulation.
- As with other statutory changes for PUCs, policymakers should consider if separate changes are needed to the commission staff's definition of the public interest. This may be particularly important where the staff are a separate entity directed to pursue the public interest, or where they have an equivalent mandate.

Conclusion

As the energy sector transforms, so too must PUCs' purpose. Some of the main ways that state policymakers can position their PUCs for success include updated PUC statutory mandates that reflect state energy priorities and clarify commission authorities, modern regulatory visions for achieving those priorities, and public interest framing that incorporates climate and equity and environmental justice outcomes.

Modernizing PUC purpose is one important approach to align PUC regulatory practices with climate and equity-related objectives. However, it is not a panacea that ensures a successful clean energy transition. Holistic PUC reform must also tackle organizational changes that include attention to PUC staff roles and responsibilities and updated regulatory processes to yield strong outcomes.

The next brief in this series explores the need for modernizing internal PUC structures to meet evolving industry needs. Drawing on expert interviews and RMI research, we identify challenges that PUC commissioners and staff face in effectively regulating a rapidly changing energy system, including those related to commission leadership, the need for new skill sets (e.g., analytical methods and soft skills for stakeholder engagement), and PUC organizational structures.

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