

AGENDA



Thursday, March 10, 2011

**Austin Energy
RECOMMENDATION FOR COUNCIL ACTION**
Item No. 3

Subject: Approve a resolution determining matters to be deemed competitive under Texas Government Code Sections 522.133 and 551.086 and thereby exempt from public disclosure for certain periods of time and directing the City Manager regarding efforts at transparency and public reporting.

Amount and Source of Funding: No funding is required.

Fiscal Note: There is no unanticipated financial impact. A fiscal note is not required.

For More Information: Andy Perny, Assistant City Attorney, 322-6277.

Boards and Commission Action: Recommended by the Electric Utility Commission.

Prior Council Action: December 1, 2005 - Approved Resolution 20051201-002, identifying areas of competitive matters for Austin Energy.

The proposed resolution will replace the Council's current resolution regarding the confidentiality of Austin Energy-related "competitive matters," which are exempt from disclosure under the Texas Public Information and Open Meetings Acts. These Acts allow Council to determine in good faith what matters are deemed "competitive" in nature; that is, would give advantage to competitors or prospective competitors if publically disclosed. This exception to disclosure exists to allow municipal utilities to operate on a level playing field and protect their financial integrity when they operate in the electric market. The Council first adopted its competitive matters resolution in 2000 and renewed it, with slight modification, on December 1, 2005.

The currently proposed resolution is a wholesale reworking of the existing document. It results from a months-long process between Austin Energy staff, a self appointed stakeholder group (the Transparency Working Group, or "TWG"), and the City Electric Utility Commission ("EUC"). The TWG membership comprised large industrial and commercial customer representatives, low-income customer advocates, the environmental community, and renewable energy and energy efficiency advocates. Regular meetings were held with the TWG from August to October and public hearings and briefings were conducted before the EUC in June, August, November and December of 2010.

The work among AE staff, the TWG, and the EUC has resulted in agreement on many suggestions that address the public's need for information without jeopardizing the utility's financial integrity. Fundamental to these changes was the presumption that information is presumed public unless specifically exempted and that Austin Energy would make available anything a competitor would make available in the ERCOT market. The revised resolution should ensure the utility remains as transparent as possible while maintaining the ability to compete for goods and services and participate in the ERCOT wholesale electrical market. The improvements include:

- Reducing the amount of information identified as competitive. Information will only be considered competitive in order to establish a level playing field with competitors in the electric wholesale market.
- Greatly expanding the AE Annual Report to enable easy access to basic utility operating information.
- Providing data links on AE website to sites where AE reports raw data (i.e. ERCOT, TCEQ, EPA, EIA).

- Communicating on future resource additions through a generation additions template to assist customers in future planning and provide greater transparency of decision making.
- Establishment of a position within Austin Energy dedicated to improve web accessible data and information and serve customers as a point of contact for AE information inquiries.
- Non-confidential information reported to regulatory bodies such as ERCOT or PUC will be public and confidential information will be available when it ceases to be confidential (e.g. 12 months).
- A two year Sunset review of the resolution.