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Late Backup

STATEMENT OF

LANETTA COOPER

ON BEHALF OF

TEXAS LEGAL SERVICES CENTER, GRAY PANTHERS OF TEXAS AND TEXAS RATEPAYERS TO SAVE ENERGY

TO MEMBERS OF THE CITY COUNCIL:

My name is Lanetta Cooper and I am here before you on behalf of Texas Legal Services Center, Texas ROSE and the Gray Panthers of Texas.

We will be talking about three things tonight: 1. The fact that the General Fund Transfer is not a substitute for franchise fees but is a profit for which the city as owners of a public utility is entitled; 2. The need to retain the current fuel factor adjustment for all customers and not just for the special contract customers to ensure that industrial customers will not be further subsidized; and 3. The need to take a step back from AE's rate request and look at more recent

test year data that reflects expense savings and increased usage that would help diminish revenue requirement needs.

The General Fund Transfer is not a replacement for city franchise fees or for city ad valorem taxes. A General Fund Transfer is a profit for which the city as the owner of a public utility is entitled to receive. This right is recognized in both case law and in PUC decisions as a valid cost that is to be recovered in rates from all ratepayers. And, unlike private investor owned utilities where profits flow to out-of-town or even out of the country shareholders, a public utility's profits are invested in public goods. For instance,the General Fund Transfer helps to build and maintain city streets used by both inside and outside city ratepayers. In short, the General Fund Transfer is used to promote the welfare of its citizens and of all who come within the city to do business, to visit, to work and to play. As the owner of a utility, Austin's general fund transfer, that is, its profit, compensates

the City for providing the financial and operating management of a public utility and for assuming the risk of operating a public utility. Whether the general fund transfer is excessive is an appropriate rate issue; however, whether Austin has a right to realize a profit from all of its ratepayers is not. We urge the council to ignore AE's latest proposal to shift costs away from residential ratepayers residing outside the city based on characterizing the GFT as a substitute for franchise fees. The GFT is not a substitute for franchise fees or for ad valorem taxes. A franchise fee's purpose is not to compensate a city for the risks and managerial costs of running a public utility. That is the purpose of a utility's profit which is what a General Fund Transfer does. AE's proposal is wrong from a regulatory ratemaking point of view and it is simply bad public policy. We urge you all to stop any further discussion on this issue except to note that a GFT is a profit recoverable as a reasonable and necessary cost of a utility.

Unless the current formula for recovering fuel costs remains the same for all customers, we are concerned that industrial and large commercial customers on special contracts will be further subsidized. You have before you an exhibit we prepared that are copies of the current formula called the fuel adjustment clause that is page three of the exhibit that is to continue for industrial and large commercial customers and at pps 1 & 2 are the two new rates AE wants to substitute for the current formula for all customers not on special contracts. You will notice that ERCOT fees have been unbundled from the fuel adjustment clause and placed in a regulatory charge rider and to be separately charged and increased as ERCOT costs increase to residential customers and all other customers without a special contract/ But as residential customer's regulatory charge increases, special contract customer fuel rates won't necessarily increase because the increased ERCOT cost will probably not cause the fuel costs to rise

enough under the fuel adjustment clause to trigger a fuel surcharge. And, as AE receives increased fuel revenues from the residential ratepayers' increased regulatory charge, the fuel adjustment clause's trigger moves farther away, delaying any increases to the special contract customers' fuel rates even further. Comparing the formulas in the current fuel adjustment clause and the new Fuel Adjustment Rider, one sees that the formulas are different and neither the council nor the public have any way of knowing whether these two different formulas will trigger fuel rate increases or decreases at the same time. We believe it is unlikely. In addition, note the yellow highlighted sentence in the new Fuel Adjustment Rider. This sentence shows that AE intends to adjust residential fuel rates whenever it wants to and not only when the trigger that is established in the formula is met. Because AE is intending to continue to use the fuel adjustment clause as to its industrial and large commercial customers on special

contracts and because there is a strong probability that fuel rates under the two new fuel, cost-related riders will increase for residential customers and not for the special contract customers, we urge the council to reject the two new fuel, cost-related riders and adopt the current fuel adjustment clause for all customers with one addition. We recommend, that the fuel adjustment clause be amended to direct AE to provide the EUC and the council with the underlying calculations, that is, its work papers, for each change in the fuel adjustment clause. This past December, AE increased fuel rates for residential ratepayers by a little over a half of a cent. This came to a five dollar bill increase for customers using 1000 kWh a month. You were informed of this change with a memo that did not quantify the amount of unrecovered fuel revenues. This is significant because the money AE receives from this ½ cent surcharge goes to operating funds providing AE with more operating funds and therefore more money to offset any supposed shortfall

in revenue requirement than the 2009 test year or even the most recent 2011 AE financial report shows. Our best guess estimate is that the amount being recovered this year is about $35 to 50 million; but then we do not know. AE has not provided this information even though these revenues could help you all determine the level and the timing of any temporary or permanent rate increase.

Lastly, we encourage you all to take a step back and get a more recent and comprehensive review of AE's costs and current revenues. AE has spent a significant amount of time marketing what it wants out of this rate case as can be seen in the bill inserts we customers have been receiving monthly. But significantly less time has been spent on proving up its need for increased rates and changed rate designs. Given the two years AE has had in presenting this rate case, it is perplexing that its presentation is so flawed.

AE markets its wants as needs but fails to justify those needs. Such AS: It asks for more CAP money without any current plan to spend it; it obfuscates its data hiding base rates and costs among fuel costs and rates; it fails to make known and measureable reductions in expenses such as reduced plant maintenance contract expenses even though it made "known and measureable" increases in expenses for salaries and benefits; and it makes no attempt to ensure that with new fuel cost-related surcharges, residential customers will not be subsidizing the fuel costs of special contract customers. AE is asking the council to make a decision based on little information and in a short time period involving substantial changes to how much revenue is needed, how ratepayers are charged, and whether new ways of recovering fuel costs—which comprise at least fifty percent of a ratepayer's bill—will be fair to all ratepayers. AE's request for a decision from you is based more on marketing than on facts. We ask you to ignore the

marketing and get to the facts of this case. We ask you to abate this rate case and direct AE to address the issues I and others have raised in this hearing to rely upon a more recent test year, and to have its revised rate case reviewed by a Citizen's Panel comprised of members (especially including residential and low income representatives), with actual rate making regulatory experience before the PUC or some other similar state rate setting jurisdiction.