

City Council Special Called Meeting Transcript – 8/14/2014

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>> And if that's not a question I should ask in open session -- >> well. >> Tovo: I'll ask it in executive session. >> I'll go out on a limb and say that the amount of money that we're talking about relative to our \$1.4 billion in cost operations is not a huge significant amount, but I understand it relative to the \$42 million that we're asking to retrieve from our customers based on the power supply adjustment and the \$30 million to reserves. And it's really kind of a policy discussion. And what we're saying is we can't get the cart before the horse. If we're going to change our policies around to use our rate stabilization fund in some kind of way, I think we need to go through the discussion, as councilmember morrison was talking about, we really needed to sit down and look at our policy overall to do that. And my suggestion is let's do that after we do this year's budget and get this reserve taken care of because we're forecasting \$44 million for next year. And I have no idea where the power supply adjustment charge is going to go for next year. It may go up, it may go down. And so that's a discussion for another date. >> Tovo: I take your point. I also area hear the argument if we're trying to collect \$42 million for that power supply, it becomes 27 million if we use \$15 million of our reserves. To bring that cost down. And if the concern is really that we're going to trigger a rate case I want to be realistic about what that is. It wouldn't seem that change we make has the effect of passing on less of a rate increase that we're really going to get the kind of [indiscernible] from our out of city customers to mount a campaign about that. >> The whole concept about the pass-through rate is you do recover your cost over a 12 month period. That's your goal. So by changing the tariff to create revenue from another source it's a non-traditional way of

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designing a tariff and it might not even be qualified as a pass-through tariff anymore. And there's a lot of negative -- negativity that comes from that if you were looking at it from a rating agent or annualist of any type because the adjustable rate keep the utility whole. And you couldn't sustain moving the

revenue in there. In fact, you would just move it to customers in subsequent years because the way a pass through works is even if you don't pass it through this year, you would have to pass it through the next year. If we had another increase next year it would just be higher by the portion that you deferred from this year. So the concept doesn't really allow for that social security we go through the -- unless we go through the policy change and the tariff and make sure that we do something that follows best practices for rate-making. >> Tovo: Okay. Because it says in place a tariff change for the future. Not a one -- >> right. I think anne described that well. The power supply adjustment, like the regulatory charge, any of the pass-throughs that we do are viewed very positively by our rating agencies because we are passing them on through. There isn't -- you're done with them. And so -- >> Tovo: Okay. And then our policies, we've also had discussion about being out of compliance with our policies, but just to be clear we've been out of compliance with our policies for some time in terms of our reserve level. >> Correct. >> Tovo: We're making progress. I would assume from a rating agency's perspective, wherever the money is the outlook -- I shouldn't use that word because it has a particular definition. The overall picture is brighter. >> I'm sure it's been impressed upon you in the previous discussion on your bonds that we're a aa minus and aa with

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standard and poor's, and if we could get this utility to aaa when we go out to borrow that saves our consumers millions and millions of dollars down the road. It's almost uncalifornia if you're doing any large project. That's the goal that a person of my job has is to try to get our credit as congress as we can, keep our customers at low rates, as low as we can to keep them stable. Thank overall that's dined of the position we're in as a utility right now is trying to get ourselves to a point of stability. We went through the rates, we went through everything else. Let's try to stabilize where we are as much as we can. >> Tovo: I guess I'm just trying to get a balance between what we're talking about with regard to reserves and bonding agencies. And it would seem to me that if the overall picture is brighter, we're not putting in jeopardy our bond rating by not transferring all that. >> I may can explain that. We're operating at five years in a row in a deficit. We only got one year of a positive and that was 2013. 2014 if you look at the quarterly report we're still showing a loss. We were hoping that the summer months would turn that around and we're still hoping for that. But just one year of good performance over a six-year period doesn't prove that things have turned around. So I don't think you could say that we're out of the woods. >> Mayor Leffingwell: Okay. Juanita cooper. You have harold biserk here? You have up to six minutes. >> I probably won't take that long. I know y'all are busy. My name is [inaudible - no mic] >> my name is lynette cooper, here on behalf of texas legal service center. In dealing with the transfer I know that

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councilmember morrison has already brought up the issue of the level of reserves, but there was a second issue and a corollary issue that deals with cash on hand. And that is the debt equity ratio. In the last rate case, there was a decision made because of the low cost of debt that we weren't going to try to maintain a 50/50 debt equity ratio. In other words, we were going to let the equity as the percentage of

our total capitalization be less than 50 percent. If you look at the ratings here and you look at the peer companies that they've shown you for cash on hand, and let's look at Jacksonville. Jacksonville has a 20% equity ratio. If we had a 20% equity ratio, all things being equal, we would have a whole lot more cash on hand. And our equity ratio, at least under this Fitch one, is 52%, which is substantially higher than the less than 50% that we had given. So when you're looking at deciding about your financial worth and making a decision now before the fiscal year 2015 contract expires, then you should take this into consideration about how we have a very high level of equity. In fact, of the peer companies we have the highest level of equity as a percentage of capitalization of all the other peer companies. San Antonio has a 37.7 and I think I remember in the last rate case their equity ratio was actually a little bit higher. So since the last rate case their equity ratio has actually gone down. And so we are asking you, and we're going to put a twist on it. We do thank Austin Energy for giving us a rate break on the regulatory charge, but I do want to challenge the assertion that the tariff has within it a reconciliation provision in the regulatory charge. There is a reconciliation position

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in the power supply, but it's not in the regulatory charge. I just looked at it. It took me forever to find it, but I found it and it's not in there. Now, we did last year look at underrecoveries. We raised the energy efficiency rate by four million dollars to recover an under recovery from fiscal year 2013. So the regulatory charge and the energy efficiency charge and I don't know what it's called, the cap program does not have a reconciliation within the words of the tariff. You all did do it and adopt it as part of this unwritten policy when you went ahead and approved a budget that did it, but it's not in the tariff itself. So I'm asking you all not to take the \$19 million and gunny sack it for a future rate increase for residential customers. I think that would be inappropriate. I don't think the tariff calls for it. And all it's doing is causing a potential future rate increase for residential ratepayers. And I've handed out some things for you to show you that we already are using reserves to pay for rates for the special contract customers. And there's two sections here. One has got a cover page that is the Austin Energy answers from last year's rate case, fiscal year 2013. And it shows how they set the rates. They set the rates assuming that transmission customers, especially contract customers, they would recover \$6.291 million. Now, I do know that some of that money is being recovered under other tariffs, but nothing like the 6.291. And I guarantee you sitting here they are not gunny sacking that money to go forward to increase the industrial and large commercial customers on special contract rates. And the reason why I gave you this is because this is the law why they

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can't charge that rate to other ratepayers. When you have a discount rate tariff then that cost that should have been allocated to them and recovered with their rates is supposed to be picked up by the utilities, which in this case is the operating balance. So we have already been using the operating balance to pay for large and industrial customers discounted rates, to pay their costs. So it's only fair that we law this year to have that \$19 million not considered a cost to spring forward to future years. It's fundamentally unfair. We brought that surplus in. I also wanted to point out another concern I have

about going ahead and making decisions for transferring that 30 million forward is because in fiscal year 2013 when I did get the audited data we did find out that in fact they only had a two-million-dollar under recovery. Yet we set a rate based on four million dollars. That means we have a two-million-dollar reserve if the budget flows as how you set the rate. So that two million should be staying in the energy efficiency, but we already know they are not intending to raise the energy efficiency rate. So that's another example of a little inconsistency in the standard when it comes to residential ratepayers versus industrial and large commercial customers. So we're asking you to not make the decision to transfer this money now. They've already told you it's not going to effect our cash on hand. You're going to still have your cash on hand. That's not affecting your financial integrity. I guess that's the six minutes. Thank you so much. >> Mayor Leffingwell: Thank you. Councilmember morrison. >> Morrison: Just one

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question. Does it make any difference to your argument, which I didn't completely follow because I couldn't find all the pages as quickly as you went through them. Does it make any difference -- you're talking about revenue that we brought in you and based on the rates we're paying. Did it make any difference to your argument to consider that the reason that this \$30 million is available is not because of revenue, but because we restructured debt? >> That's why it's saying we made a cost efficiency measure in o&m and we couldn't use that savings to reduce other operating costs in the budget. >> Morrison: I understand you can say that, but I thought you were talking about sort of a compact with the ratepayers based on what we asked them for. And so that makes it -- that makes it different. >> There's another \$14 million because when they gave you your budget a couple of weeks ago or last week, they said they actually had \$44 million in extra reserves. And the reason why I want you to -- >> that's the forecast for next year. The reason why I want you to wait until next year is I want you to wait until the fiscal year 2014's books are closed. If you actually know how much revenues you have sob able to transfer, I think it's a prudent decision to make, to wait until you actually know what your actual ending balance really is. >> Morrison: Although, I guess just to go back to anne's point and that is that this chunk of change is here not because of anything to do with the revenues. Thank you. >> Well, it is. Because it's an expense. It's a debt service expense and they-- what they did is they made a decision to become more efficient in debt service. Just like if they decided they weren't buying in bulk on a product and they decided to buy in bulk and now they have a greater efficiency, it's the same thing in my

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opinion. >> Morrison: Thank you. >> Mayor Leffingwell: You have a question? >> Tovo: Ms. Cooper, you were starting -- as you wrapped up you were starting to say why you believe we shouldn't make this decision at this point, but you didn't -- I would like to hear you concisely say what those reasons were. I think I just heard one that austin energy should close the books on 2014 so that we can all see where the numbers landed. Were there other reasons why you feel like we should wait on this? >> I don't think we should be setting efficiency in the regulatory charges after the books are closed also. I pointed out that you don't estimate true-ups. I don't understand why we did that. We don't understand the true-up in the power supply adjustment clause. We use actual historical data and compare it with what we get.

And last year we guessed what our actual data would be so we could compare it to our budgeted data. It doesn't make sense. We should change setting our energy efficiency and the other regulatory charge rates until after the fiscal year books close so you can do a true true-up if you're going to do an over arrest under recovery. It would be consistent with what we do with the power supply adjustment because we use real data to compare with budgeted. I'd like to know if -- like right now, if the budget fiscal year 2014 budget continues, we're going to have a two-million-dollar surplus in our energy efficiency program. And where is that? Why aren't we agoing those rates? Not only did we not adjust those rates down, we actually decreased the austin energy efficiency program budget by another two or three million dollars. And if we continue the current rate and we assume next year's usage pattern will be similar then we'll continue to overrecover. So I would like to see the books closed and see

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how we actually perform compared to our budget before we try to set a new rate on those items. >> Tovo: Can you help me understand the 19 million that you were talking about that we should not gunny sack? I'm not sure I understand, the 19 or the gunny sacking. >> Gunny sacking I guess is northeast texas. Keeping it there and giving it to the residential ratepayers later on. >> Tovo: But why is it 19 and not 30. What is the 19? >> It was my understanding that the first proposal y'all sought for the regulatory rate was to increase the rates by \$25 million. Then they came up with a change and said that we are reducing that 25 million by 19. Then when councilmember spelman started asking questions, it came apparent that the intent was to keep that \$19 million as a debt to the ratepayers going forward in the regulatory charge. So let's say next year they could raise the rate the way they need to recover the next cost, but then recover their underrecovery from this year. So it would have the effect of increasing rates over and beyond what they would need for future increases. It's an historical cost that they want to bring forward to increase rates. I don't know if I'm clear. I apologize if I'm not. >> I'm mostly following you. Thank you. You. >> Mayor Leffingwell: Motion to approve the ordinance by councilmember spelman. Is there a second? I'll second. Is there any further discuss? Councilmember morrison. >> Morrison: I think I want to make a substitute motion and that is that we gunny sack the money and-- [laughter]. >> Mayor Leffingwell: You don't have to spell that out. >> Morrison: And that we address the -- there's no doubt we need

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more reserves, but that we address the move within the context of our broader discussion that we will have hopefully this fall after the budget about reserves because as I understand it, we wouldn't do anything with it anyways, but at least right now besides just hold it. So that's my motion. >> Mayor Leffingwell: Your motion is to deny, to not approve? >> Morrison: With direction. >> Mayor Leffingwell: With direction to bring it back after we've been able to settle out those policies. >> Mayor Leffingwell: Is there a second to that motion? >> Cole: I'll second it. >> Mayor Leffingwell: Seconded by the mayor pro tem. Councilmember tovo. >> Tovo: Can I ask a clarification? Can you actually -- is your motion to postpone this discussion -- >> Morrison: No. It is essentially. >> Tovo: I thought I heard postpone and then -- >> Mayor Leffingwell: It's a rejection with a request to bring it back t. >> Morrison: It's a rejection

with a proposal to bring it back. >> Cole: I have a comment. >> Morrison: Bring back the discussion of moving \$30 million after we pass it. >> Tovo: Thank you. >> Mayor Leffingwell: Mayor pro tem. >> Cole: I want to say that I remembered the discussions we had during the rate case about the need to maintain reserves and I appreciate your comments about being concerned about the rating agencies. And I also understand the desire to try to give the ratepayers a break even on a pass-through charge. So I think that the whole issue deserves a more comprehensive discussion in terms of all of our reserve funds. >> Morrison: Motion to gunny sack. [Laughter] >> Mayor Leffingwell: Councilmember Martinez. >> Martinez: I think you mentioned last week in one of the presentations that you all plan to go for another bond rating here next week, this week? >> No. That will be probably next year sometime. If we just have a monitoring call is all right now. >> Martinez: So today's motion, if it is adopted to deny, it doesn't affect our current credit rating. >> Well, the only thing that concerns me is we're kind of hanging everything out here.

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And as long as we get to some closure on this, I think I'm pretty comfortable with it. >> Martinez: It would remain in operating cash on hand for now. >> Right. I think basically the way this \$19 million you need to understand is that we had a large jump-up this year to the costs from ERCOT. We don't expect those to stay there. What we expect is for those costs to go away. And that is just -- basically we're absorbing that, if you will, for this coming year. And we'll see where we come out at the end of 14. And our debt equity ratio is rising. We're getting to the point where we'll be borrowing a lot more money. >> Mayor Leffingwell: Just to clarify, I think the implication is don't need to worry about it because you're not going to go. But fact is they're continually -- the process of valuation is kind of continuous. You could suffer a down grade at any time. >> Or get a lot of questions about what we're doing. >> Mayor Leffingwell: I mean, that's something we don't want to do. Once you suffer a down grade it becomes more difficult to bring it back. >> Martinez: And I appreciate that point, mayor, but I think if -- I hardly believe they'll downgrade us because of the conversation we're having and how we want a better policy for our reserves. >> In my professional judgment, no, there's not going to be a downgrade, but the reality of it is that we need to get our house in order and have good policy and follow the policy, okay? So we're bringing this to you because we're following the policy. And now we're having a discussion about changing the policy. So the sooner we get to that the better off that we are, okay? And I don't think it needs to be -- we can't prolong it until we do get to market and then there will be some serious questions. >> Morrison: Mayor, if I may, I want to add that the timing of this

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motion will help us -- help you all be motivated to make sure we have that -- that discussion promptly. And I certainly am willing to be part of that. >> Spelman: Mayor? If I may. I'm going to vote against this motion, not because I think it really matters much, but because as simple of an issue as kind of the only thing we're talking about here. We're not going to give the \$30 million away, we're going to keep it in the bank. It will be the same bank. But because we have a policy and you're asking us to follow the policy and it seems to me we ought to follow the policy until we change the policy. I don't think it really

matters much from an operational or practical point of view, but I'm more comfortable following the policy we have on books and changing it later than not following and thinking that we might change it later. >> Mayor Leffingwell: I'm going to vote against the substitute motion also for essentially the same reasons, but I have to say I'm somewhat confused that this was brought as a very important matter and now apparently it's not so important that we do anything right away. So that's a confusing message, but I do believe it's important that we follow our policy continuously, not just for evaluating every six months or a year or so. Councilmember morrison. >> Morrison: I just want to remind everyone that when we adopted the rates, the ordinance that we adopted the rates with ex-police police sitly said we will evaluate our reserve policy and it was the intent or at least contemplated at that time that that would be by october 2014. So I think that this is completely in line with what we intended. >> Mayor Leffingwell: Intended. Mayor those in favor of the substitute motion anyway aye. Opposed say no. That passes on a vote of four-three with I believe it's myself, councilmember spelman, councilmember riley voting no. So the item is

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disapprove with direction to come back. So that completes our agenda on the special called council meeting. Without objection the council meeting is adjourned at 4:25 p.M. And I'll call back to order -- just hold on. I'll call back to order this austin energy committee meeting. And what I was going to say is that we do have five speakers signed up to speak. That's approximately 15 minutes. And I don't know when we're going to start to lose our quorum, but I would suggest that we postpone until the next meeting items five, six, seven and eight. Is there any objection to that? Hearing none, those items are postponed -- councilmember tovo. >> Tovo: I have a question about that. If our speakers are here to speak about one of those items -- >> Mayor Leffingwell: They will be allowed to speak. >> Tovo: Because they're under citizens communication. >> Mayor Leffingwell: Correct. Paul robbins. Set the time for three minutes. >> I apologize. I didn't understand the choreography today. >> Mayor Leffingwell: It's complex. >> Council, I'm asking you to create an accounting mechanism for low income programs run by austin energy in next year's budget. The new accounting would collect all assistance to the poor in the customer assistance program charge, also known as cap. Currently there is a cap charge that funds bill assistance and some free weatherization assistance. It is also funded through austin energy's energy efficiency charge. Free weatherization saves little energy, stops very little pollution, related to energy, and is very expensive because many of these homes need structural repairs.

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It's more of a social program, not an energy program. Clean energy is quite popular in austin today, but during the late 1980s and early '90's, these programs were under attack by fiscal conservatives. Environmentalists successfully defended them because we were able to convince the public that the programs saved them money by stopping new expensive power plants. Low income weatherization loses 70 cents for every dollar invested. However, 19 of the 20 austin energy programs besides free weatherization save ratepayers money. There are now requests by low income advocates to raise funding by extraordinary amounts. Since 43% of austin's discretionary community benefits charges to

the residential sector in 2014 already go to the poor, I can't justify this to ratepayers. I can't tell them they're investing money to save more money. I am worried that clean energy programs will lose support because of this. The best thing that can be done is to place all the money for free weatherization in the discrete customer assistance program fund for social programs. And if you think you can defend them, if you think you can defend the rate increases, then you can. In closing, I think the best thing you can do to help low income people citywide is to create mandatory minimum standards for energy efficiency in rental units, and I'll be glad to explain the nuances of this strategy on another occasion. I'm skeptical that free weatherization is really the best approach to help the majority of low

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income people, the majority of low income ratepayers in this city. Thank you. >> Mayor Leffingwell: Tom van de stat. >> He left. >> Mayor Leffingwell: Lynettea cooper. She's gone. Tim hart. Carol biderke. We'll come back to you. I got it now. >> Good afternoon. My name is carol bizderke. I'm the executive director of texas rose, which stands for rate powers organization to save energy. And I actually came here today. I want to talk about ecad. And I have received a request from someone just in an email that I don't know how to answer. Someone wrote to me and said that they moved into this apartment and they were looking actually at the texas rose website where we have information about ecad and that they were given none of the information that cads are supposed to be given for the rating -- the energy utilization index, like as a property. And that their electric bill was like three times as much as they expected it to be. I don't know the name of this property I'm investigating, but their question was who do we go to and who do we -- how do we -- how do we get this fixed? How do we complain? And I don't know. And so I'm here for some guidance as to whether or not we have an enforcement procedure for those provisions, and if we don't, then that's a serious deficiency in the program and something needs to be done about it. And that's my remark unless somebody can tell me what I should tell this person to do.

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Nobody knows. Okay. I'll figure something out. You will be hearing from me again. >> Did you try through the open meetings act process? >> I haven't done anything yet because I actually asked this individual to -- I e-mailed them back this morning right before I came here and I asked if I could please -- if they would please tell me the name of the property and to get a little more information and then I figured that I would work from there. But my recollection of all the rules and regulations that are in effect on ecad, I don't remember anything being in there about where a citizen can go or what will happen if someone reports that somebody is not in compliance with the ordinance. >> We are happy to work with that if you will send the information to shelby. >> Thank you very much. >> Mayor Leffingwell: Tim hart. >> You don't get to the item. >> Mayor Leffingwell: Councilmember tovo. >> Tovo: Can I ask ms. Kimberly if she might have anything to add to that? It liked she might have some information that would help. >> I would be glad to follow up on that request. All we need to do is get information from the concerned consumer to be able to provide that. We do plan to schedule a presentation today and making a presentation next week to the rmc and -- mayor, you got me started, carol b. Serves on that -- >> Mayor Leffingwell: Bidzerke. [Laughter] >> we're not at 100%. We've seen a significant improvement

in compliance on the part of our multi-family properties. And in particular we're

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also seeing an improvement in the energy usage. We're making progress. It's much slower than a patient person like myself would prefer, but I think on that particular sector we're moving in the right direction. So carol, I would be happy to help out if you just refer that customer to me, we'll take care of it. >> Our other customers out there who also want to get in touch, can you just remind us what division of austin energy they should be in touch with. >> You can call the austin energy efficient services group. And denise keen is the director of that group and can help with that. >> Mayor Leffingwell: That completes our agenda. Without objection we stand adjourned at 4:35 p.M.