

## Austin Energy Utility Oversight Committee Meeting Transcript – 1/25/2016

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[9:08:21 AM]

>> Gallo: Good morning. We now have six members present and a quorum so I would like to call to order -- is the mic up enough? The Austin energy utility oversight committee meeting for January 25th. Many of you -- well, obviously those of you who are here realize we did move it from Thursday's meeting, Thursday's meeting looks like a very lengthy council meeting so to give the Austin energy oversight committee full attention to the agenda items we did move the meeting to today. I would like to call the meeting to order. The first order of business is the approval of minutes from the Austin energy oversight committee meeting of December 3rd, 2015. Do I have a motion to approve? Councilmember Garza seconds, councilmember Houston. All in favor? Any opposed? Passed by mayor pro tem tovo, Houston, Zimmerman, pool, Garza, kitchen and Gallo on the dais at this point. Do we have any citizens communication? We do. Okay, I might mention that we do have citizens communication posted. None of our agenda items are posted for action. They are all briefings. And on briefings we do not allow citizen communication on those. So we have the first five speakers who signed up, two minutes each, and it looks like Scott Johnson is the first -- hold on a second. Let me look at this list. Tina? Can you come up here just a second? Sorry. Sometimes our sign-up sheet isn't perfectly clear. Get a clarification on this. Just a minute, please.

>> Councilmember Gallo, could I wait until --

[9:10:43 AM]

>> Gallo: Okay. We've got it clarified. David Hirsch is the first speaker. All the speakers have two minutes to speak. So after David will be Roger Borghow. And those will be the five speakers.

>> Thank you. I heard three minutes. I'll try to be quick. As owner of a small business a bit of research addressing Austin energy needs for sustainable environmental next generation energy manufacturing is a mission statement for [inaudible]. Economies of scale may be grappled with strategic alliances for developments as well as forming academic advisory panels to serve the state and state legislature. Attaining resources as attorneys, accounts, insurance agents to coordinate for developments with the department of energy forecast for cellular phone -- for cellular phone I'm address will. To address pollution and energy manufacturing and pollution and dark money Texas policy and information age addressing cop 21, the U.N. Framework on climate change. Five months after the ammonia nitrate explosion that killed people in west Texas, attorney general Greg Abbott received [inaudible] To his political campaigns, the head of Koch industries. News 8 Dallas was the first to report the Texas ag's ruling blocking public release of lists and to MSNBC story Koch hides dangers, Wayne Slater, senior political writer for the Dallas morning news, talks with Rachel madow allowing chemical

plants to keep their  
[inaudible] Secret a move that benefits Koch industries.

[9:12:46 AM]

The tier 2 reporting program has moved to the Texas commission on environmental quality and I just attended a Texas emission reduction program meeting in January 2016. Antitrust is an issue of concern and public utility competitive markets for energy manufacturing as well as healthy stewardship of environment for future generations of texans. The [inaudible] Was born on a hill top in southeastern Texas --

[buzzer sounding]

-- And Beaumont, Texas a little over 100 years ago in 1900. Leadership of next generation clean energy manufacturing from the heart of Texas. Thank you for oversight polluted policy on state and [inaudible] With interest of corporate entities and delays and barriers of small businesses of innovative research development from the healthy heart of Texas. Thank you.

>> Gallo: Thank you. Are there any questions? Next speaker.

>> Good morning, councilmembers. Roger Borgelt representing homeowners united for rate fairness. We are the ratepayers who do not reside in the city of Austin and today I am also here on behalf of all of the customers who have so far signed up to be involved in the next Austin energy rate proceeding. We are all signatories to a letter dated January 20 that you all received and I'm going to very briefly just outline our two primary concerns about this process. One, the process outlined by Austin energy is entirely too short to really have the type of rate proceeding that we need to have to ensure that a really good process results and that we get a really good rate decided. Even your independent hearings examiner just last night has written a letter basically saying that you are only allowing us about half the time that is normally allowed for this type of a rate process so we encourage you to instruct Austin energy, the city staff to lengthen that process.

[9:14:59 AM]

I think those of us who are on board believe we can actually get a good process and have you a rate in place by late summer as opposed to the June 30th deadline that's currently been established. But that assumes that your -- your residential rate advocate, your consumer advocate is in place and your consumer advocate is not in place. If you actually want to have your consumer rate advocate fully involved in this process. The other major issue is that the procedural rules as established by Austin energy do not allow us to have access under a protective order to confidential information. That's a standard practice in rate proceedings and we need to figure out some way to do that so that we can actually have access to confidential information. If we can't, then we can't even really do a true rate case. So I would just --

[buzzer sounding]

-- Encourage you to address those two issues. Thank you.

>> Hang on.

>> Gallo: Councilmember Zimmerman.

>> Zimmerman: Thank you. Thanks for coming here. I think I heard a clear direction. It would be good for us to double the time period for the rate review. That would be your recommendation?

>> I would say yes, give us until late August, September, and then, of course, the other issue is you need to get your consumer advocate on board soon or they won't really have any ability to affect the process.

>> Zimmerman: So kind of the irony of that though is I think the public perception is that it's great to have Austin energy as a municipal monopoly because the government takes care of consumers. So why

would we need to hire a consumer rate advocate if we have a so-called city-owned utility that's supposed to be looking out for constituents?

>> I'm not really here to address that but that was your decision is as council.

>> Zimmerman: Final question quickly. If you want to comment on it.

[9:17:00 AM]

There's been some talk about how these billion dollar Austin energy projects, whether they be a gas plant or long-term solar contracts or even a biomass plant in east Texas, would have been a good idea to put these in front of the voters. Where in your opinion are we kind of politically on how we should bring these billion dollar contracts in front of voters?

>> I think that would be a good idea. I also think if we have a longer process and more expensive process we'll have the opportunity to address those kinds of things under the process currently being proposed.

>> Zimmerman: Thank you very much.

>> Gallo: Thank you. The next speaker is Kay white. And following her, Richard Halpin has given his time to Debbie Russell.

>> Courtroom. Thank you for the opportunity to speak. I want to talk about the methodology that was used in the and a half significant report that you are going to get a briefing on today. Fundamentally this report is comparing apples to Oranges because unfortunately instead of comparing the energy output from the different scenarios, wind, solar, natural gas or a combination, the report instead has compared 500 megawatts of gas to 500 megawatts of solar to 500 megawatts of winds and then there is a combination package as well. And what this does -- and navigant does address this in one line of their report and it says that if the energy output had been compared instead, there would have needed to be a higher number of megawatts in capacity of wind or solar and therefore you wouldn't have needed the market purchases to backfill as they did in in report. Because they used 500 megawatts of solar, for example, that does not produce as much energy as a 500-megawatt gas plant running at 75% capacity.

[9:19:06 AM]

So what they did is backfilled that with market purchases. The problem is is the study shows that market purchases are, a, the most costly option, and B, the most polluting option. So all the summary tables that you are going to see today, you are going to see inflated price Numbers for wind and solar and then you are going to see inflated pollution Numbers for wind and solar. So fundamentally I think that if we're going to address this issue, that you need to go back to the drawing board and redo those Numbers. Because we're just not getting the basic information that we need here. There are other problems with the report that I would love to talk with you all about, but that is the most fundamental. The other fundamental problem is that a council goal that has been passed --

[buzzer sounding]

-- Has been ignored and that is to have zero carbon emitting resources from Austin energy by 2030.

Council passed that goal. It has not been repealed. And it is absolutely inappropriate to ignore it. Thank you.

>> Gallo: Thank you.

[Applause]

>> Chair Gallo?

>> Tovo: May I ask that last speaker a question? Ms. White, we're about to have the presentation so I think your points will make better sense afterward, but could you just please go over a little more clearly the -- why you think the methodology was flawed?

>> Yes. So -- and fundamentally ERCOT operates as an energy market not a capacity market. So all of our

expenses and earnings or the majority of them are coming from selling and buying kilowatt hours. But the basic premise of this report starts off with how much capacity of different options are you going to buy. So 500 megawatts of wind or 500 megawatts of solar because it's not always sunny and not always windy, are not going to produce the same as a natural gas plant when you've assumed it's going to run 75% of the time.

[9:21:18 AM]

So I think our solar contracts are somewhere around 30% capacity factor, wind varies quite a lot. It can be up into the 60s for coastal wind, but in any case it's not 75%. So that's where you get the problem and then this study instead of just comparing the value of the kilowatt hours that are produced actually compares those kilowatt hours plus market purchases.

>> Tovo: Okay. Thank you.

>> Thanks.

>> Gallo: Are there any other questions? Next speaker, please, Debbie Russell.

>> Good morning. Debbie Russell, trustee for del valle ISD. I'm not speaking on behalf of the board but bringing you many concerns from many fellow board members as well as all constituents I have spoken with. We are concerned about further polluting gas plants in del valle and near del valle. And a very wise person once told me, he's not here today, that clean energy involves three steps. Clean to produce, clean to burn, clean to dispose of. And I'm afraid that federal gas fails on two of those.

-- Natural gas fails on two of those. The production of it with the fracking and using the water is actually not clean. Aen the burning of it also contributes to carbon dioxide in our system. We have a lot of problems in del valle. We are actually -- have respiratory problems that are twice the rate of the rest of central Texas. We already have many factors against us in del valle, and to add anything more to that is going to put our children in jeopardy. And I just urge you, urge you to stick to our 2030 plan and as you look at this report -- we were waiting actually as a board, we have weighed in on the -- we passed a resolution to support the 600 megawatts but we were waiting as a board to weigh in on gas plant for this study.

[9:23:33 AM]

And I'm afraid that this study leaves way too many questions unanswered and the fact that it's not truly independent, it was started off with a lot of assumptions by ae. We may not be able to make a really educated recommendation to you guys. So we'll see how that goes. Thank you.

>> Gallo: Thank you.

[Applause] The next speaker is Scott Johnson.

>> Good morning, mayor and councilmembers. My name is Scott Johnson. I spoke to you last year at this time regarding the utility bill funds which are something that any individual or any company, corporation can donate to. Please forgive the busyness of this, but it starts some time period before 2015 as well. When we're looking at the fund to the very right that has the most robust Numbers is the customer assistance program. That's the opportunity for folks to donate money to help pay for bills that others can't afford whether it be a layoff or a medical issue. And that one trends higher, but it could be higher still. And so part of my speech today is about raising the awareness for these funds. The one in the center is the energy assistance fund for aid that was put forth in 2013. The one to the far left is the parks and libraries fund that pays for camp scholarships and other things related to parks needs. What I want to highlight is that when I talked to Austin energy staff and gathered these Numbers recently, I found out -- which wasn't totally surprising, that companies, firms in Austin can contribute to these funds, particularly the cap or the parks and library fund have not. There's no historical data that

suggestion any of the companies in Austin can contribute to these funds.

[9:25:35 AM]

And maybe they are not aware that they can. This is an opportunity that I raised last year when you all are talking to businesses and they are new to Austin, they are asking you for things related to zoning, related to

[inaudible] For cost to move here, et cetera, you can put this into the cache of things to ask them for that here's an opportunity that Austin energy does fund to a robust amount meaning they put in more than 80 or \$90,000 a year for the customer assistance program, but still the more money we have, the more money potentially we can help people on a one-time basis get through those financial hardships. You can certainly ask them to contribute to the parks and libraries fund which goes to camp scholarships as well as to library needs related to digital materials.

[Buzzer sounding] Questions?

>> Gallo: Are there any questions, councilmembers? Councilmember pool.

>> Pool: Mr. Johnson, thanks for being here this morning. I'm interested in what you were saying about Austin energy and businesses contributing to the community benefit that would go to parks and libraries. Has that been raised with previous councils before or is this a new concept?

>> I believe it's a new concept. And obviously these companies give within their own parameters within the community. I'm not suggesting that, but it is something that we can gain some ground with an additional \$50, \$100 per month from dozens and dozens of companies because the parks and libraries fund, for example, when it was the tree planting fund, it was trending in the 22 to \$24,000 per year range. Now with the marketing through the power plus newsletter and some out reach to the park conservancys we're trending to -- it could be much greater.

>> Pool: That was the plus one dollar that was on the bills in the past and that was removed?

>> What it was is that in -- starting before 2013 I was the advocate that brought the issue forward and then we repurposed the funds.

[9:27:41 AM]

So right now the \$39,000 is split into three pots. One is for the tree planting program fund, planning for the future. Another third goes to the parks fund which is for scholarships for at-risk youth at carver and targeted places in east Austin which we got a grant last year to apf and then a third goes to the libraries for digital materials because their budget is not able to support the rapid growth of digital material requests. So we're doing something, but we're not doing as much as we could, particularly as businesses knew about this and contributed on some level.

>> Pool: Thank you.

>> You're welcome.

>> Gallo: Any other questions? Thank you very much.

>> You're welcome.

>> Gallo: We're going to move to agenda item number 3 and before we do that, I just want to apologize to the three speakers that signed up that they are after the first five atmosphere. Our agenda says very specifically in citizens communication that the first five speakers signed up will be allowed to speak. So I appreciate the other three of you coming down to be with us, but we -- we post that so that the public understands and when there are not action items on the agenda that means also that there's no opportunity for you to speak at our meeting. Now, all of us are happy to take phone calls and emails and have conversations with you in our offices. But once again just apologizes for the time you spent to come here with the idea to speak but we do post that on the agenda. We have a really busy agenda. We

now have all the councilmembers present. We have a really busy agenda that we're going to try to get through before 12:00. We have two of our councilmembers that are leaving for a capital metro meeting, but if we need to continue past that to complete the agenda, we will. But we will call item number 3.

[9:29:48 AM]

And mark, if you could lay out kind of your idea for the presentation to the councilmembers will understand the process for agenda item 3.

>> Good morning. Mark, cfo and interim general manager of Austin energy. The purpose of today's briefing is to continue the established process of reviewing our retail energy base rates. Our adopted policies requires review the rates every five years. Our last rate review utilized 2009 test year. This rate review utilizes 2014. That keeps us in compliance with our city policy. During the last rate review we had several recommendations that came out from the rate process expressed by both public and council and we have incorporated those and included in a rate ordinance. That is first to adhere to state laws in the city policy. Utilize an independent hearing examiner, conduct an impartial process before the public to analyze the facts of the rate recommendation. Allow and encourage maximum participation by all stakeholders and retention of a consumer advocate to represent the interest of our residential and small commercial customers. And to submit a recommendation to city council that will allow robust debate on policy which will lead to a well-informed decision by council. I believe that the city of Austin's electric rate review process surpasses any other municipality in terms of transparency and inclusiveness. I think the city has structured a balanced process and incorporates wherever possible the procedures of the public utility commission of Texas while maintaining autonomy of the city council and establishing rates as granted by our city charter. Our objective today is to inform you of Austin energy's recommendation on retail based rates that will be vetted by an independent hearings examiner, and more specifically what policies issues will need your consideration and judgment prior to approval. To that end we would appreciate the city council's guidance on how to structure your review of the hearing examiner recommendation report which according to our proposed schedule is may and June.

[9:31:56 AM]

You'll also be hearing from the independent hearings examiner, Mr. Herrera, regarding his role, procedures for conducting hearings and approach to maintaining partial at. As a separate matter we hope to discuss obtaining a well qualified -- in a manner. Vice president of regulatory affairs, Mr. Mark Dreyfuss.

>> Good morning. Good morning, councilmembers. Madame chair. Given the issues that have been raised with respect to the rates review process, please let me first address the process and schedule before moving on to Austin energy's specific rates recommendations. As Mr. Dumb browse ski said we are joined by Mr. Alfred Herrera, the hearings examiner approved by the council in the fall to oversee the process who is available to address your questions. Let me begin by reviewing why we proposed this type of process. In its adoption of the 2012 rate ordinance at the conclusion of the last rate review, council passed an amendment giving direction that rates be considered no less than every five years, that a consumer advocate be engaged to represent the interests of residential and small commercial businesses, and that an impartial hearings examiner be engaged as well. It is our impression that the reason council gave this guidance was that after several years of investigation and dozens of council briefings, work sessions and public hearings, the conclusion of everyone involved was next time let's have a cleaner process. The discussion that day revealed that the purpose of the independent hearings examiner is conduct the heavy lifting.

[9:33:59 AM]

In other words, to sort through the data and facts allowing the council to focus on policy issues. The process that we have developed does just that, allowing the hearings examiner to conduct the fact-finding portion of the proceeding and then tee up the issues with real public policy content for the council to consider, taking advantage of the foundation laid by the impartial hearings examiner. That is the type of process that we brought you in a briefing in June and have been preparing for since that time. In working with Mr. Herrera initially, we discussed the parameters of his engagement. In this engagement, he is to be guided by state and local policies adopted by the council. For example, the council's financial policies, the resource and generation plan of 2025 approved by council, and the affordability goals adopted by council for Austin energy. We also discussed with him his challenge. At the end of the day, he must organize the information presented to him in such a fashion as to foster your policy deliberations. That is critical to the success of this effort. You have heard a lot about the rules developed for this process. Mr. Borgelt spoke to them in citizens communications today. Of course there have to be rules of some sort to foster civil discourse. In developing the rules, we looked initially to the rules of civil procedure followed by the state public utility commission setting rates. As Austin energy is a department of the city, we recognize that the rules and process must be adapted for the needs of the city and our community. We believe we've simplified the rules so first you don't need to be a fancy attorney to participate. Our process will accommodate participation by anyone who is interested.

[9:36:00 AM]

And second, we recognize that the council has a different role than the public utility commission in a rate proceeding. After all, this community owns and you oversee a \$1.4 billion enterprise, the success of which is critical to the long-term financial health of the city. You have an obligation to act in the best interests of the city. We the city staff share that obligation. The parties challenging the process have other obligations to their private clients and their particular constituencies. At the end of the day the process and the rules have to reflect the best interests of the entire community that you represent. We believe that we have developed a process and rules that are fair and transparent and in the best interests of the city. Mr. Herrera, all participants and the Austin energy staff will all be bound to operate under these rules. We posted the draft rules on Austin energy's website last month. We accepted public comment, scheduled pre-hearing conference with Mr. Herrera to review the rules and incorporated many suggestions of the parties. Let's not forget that this is all volunteer. You the council and we the staff acting under the direction of the city manager have voluntarily invited members from the community to participate. To have a greater voice in setting electric rates and policies. That is, after all, the value of public power and the value of public participation that comes with living and operating a business in the city of Austin. As an alternative, we could have done what many public utilities do, hold a public hearing or two during the city's budget process and just be done with it. We, of course, welcome the council's review will rules.

[9:38:00 AM]

I think you will find them quite reasonable. The letter that you received last week from the attorney representing two industrial consumers and the comments today from Mr. Borgelt raised several questions about the process. The first called upon you to direct the impartial hearings examiner set the rules and schedule for the proceeding. We know it's not uncommon in Austin that we establish alternative decision-making processes for some key decisions. We have charettes and budgets in a box,

but I am not aware that the council has ever ceded its authority to a third party to establish the digs-making process that the council and the community will follow. How is that in the best interest of the city? The next issue raised in the letter is access to confidential information. This is strictly a legal issue that you may wish to discuss with the city legal staff. The basic issue is that under the public information act confidential information is not subject to the same protections as in a proceeding before the state public utility commission. The letter also raised the issue of communications between the Austin energy staff and the council during this proceeding suggesting that staff be precluded from discussions with council. This would be standard procedure in a proceeding before the public utility commission. No one may have ex parte communications with the decision makers. We the staff see the situation as different for the reason that I mentioned earlier, that you oversee the operation of a \$1.4 billion enterprise, the operation of which is linked to the success of the city. I would just note, however, that if the staff -- if it is your wish that the staff is unable to participate in ex parte communications with the council, that restriction should apply equally to everyone with an interest in this issue, not just the city staff as proposed in the letter. The final issue that's been raised is the schedule. Staff has proposed what we believe to be a reasonable schedule, though certainly there is lots to do in six months.

[9:40:07 AM]

Working backwards, and I do have the -- kind of a high level schedule on the board and in your packet. Working backwards the schedule proposes that the council decision process will preclude at the end of June. Certainly the schedule will be extended, but that would impinge on the usual council recess in July and then on your August budget deliberations. Under the proposed schedule, Mr. Herrera will forward his report on May 6th. We have recommended that you have three council work sessions in May followed by two public hearings. We made that recommendation because we believe that you will be able to build upon the foundation provided by Mr. Herrera's report to organize your deliberations and focus on the key public policy issues that emerge from the proceeding. The staff, however, is happy to accommodate any schedule that assists you in your successful deliberations. In sum, council, we believe that we have followed your direction to develop a robust, reasonable and fair process to assist you in setting electric rates. This process is tailored to the unique circumstances of the city and at the end of the day is intended to empower you with the information you need to set rates and to grapple with these issues of real public policy consequence. So our request of you at this time is to allow us all to move on past these questions quickly and really begin to explore the data and policy issues in collaboration with the interested members of the community. So unless you have any immediate questions for the staff, I'd like to introduce Alfred Herrera who is available for your questions.

>> Gallo: Let me just ask the council, I believe Mr. Herrera has to leave at 10:10 we might want to hear his presentation first and then we can come back and ask additional questions.

[9:42:11 AM]

Is that okay with everyone? Okay. Thank you.

>> Good morning, council. My name is Alfred Herrera. Most folks in town the practice I'm known as Freddie Herrera. I have not met actually any of you personally or in campaigns or on the street or anything like that so I would like to just very briefly go over my background so you have an idea of where I've come from and the experience that I have. I am licensed in Texas, have been for 32 years. Got my JD degree from the University of Texas and my undergraduate degree from George Washington University. I am steeped in public utility regulatory law. I started my career at the public utility commission in 1983, worked there for about five years and then actually worked for the city of Austin in the city attorney's office representing matters dealing with what was then called the electric utility



department before branding of Austin energy handling its rate matters, regulatory matters, providing support on the legislative side and reviewing fuel contracts and then some other miscellaneous issues that came with the job. After leaving the city of Austin, I joined MCI, was in the telecom industry for about 15 years and then Mr. Boyle, Jim Boyle and I formed Herrera and Boyle in February 2006. And that's what I've been doing since that time. Most of my clients across the state are municipalities. We represent municipalities in their role as a regulatory authority. As you may know, cities in Texas have original jurisdiction with regard to an investor on the other hand utility and rate services operations and we assist those cities in performing those functions.

[9:44:15 AM]

Then the matter goes to the public utility commission and there we serve in representing the cities as well as the ratepayers within those cities. I am board certified in administrative law, have been since 1989, and I serve on the committee that administers the exam for folks that want to become board certified. So that is -- that is in a nutshell my 32 years of experience. I was engaged as the impartial hearings examiner in late 2015 right toward the end of the year and I wanted to describe for you my view of what the impartial hearing examiner's role would be in this proceeding. And it is my goal to administer whatever the rules the council adopts. And administer those as fairly as possible, provide for as much transparency as is "Loud under the public information act, given that this is a municipally owned utility and not an investor owned utility. I think you have to keep that in mind. The goal at the end of the day from my perspective would be to provide you a summary of the positions taken by the various ratepayer groups or individuals in the proceeding before the city, provide you my idea of what those proposals are and make a recommendation for you so that your decision, whether it be June, July, whatever you decide that decision is going to be made, you can go through that. And at that point you can either accept it, reject it, modify it. It is clearly entirely up to the council what it does with those recommendations. You are the overseer for Austin energy, again, a municipally owned utility. I would like to address briefly the major issues that have been brought up by the ratepayers with regard to the procedural rules and with regard to the procedural schedule.

[9:46:22 AM]

And let me start with the procedural rules first. I don't have within the scope of my authority the ability to change the rules. I can interpret what those rules are and I can resolve disputes as to what their meaning are, but I do not have the ability to modify those rules. And that is not any different than, for example, an administrative law judge at the state office of administrative hearings that is administering a hearing that the public utility commission transferred over to that particular state agency. An alj cannot change the rules. It takes the rules as the public utility commission as adopted them or even as may be found in soa's own procedural rules. But the aljs may not and cannot come up with new rules. They can interpret those rules and that's how I see my role with regard to the procedural rules. The parties have also raised the concern with the length of the schedule. Again, the length of the schedule is entirely up to you, to this council. Under a rate case filed at the public utility commission, the public utility commission has that's statutory. Having said that, frequently in rate cases the parties will get together with the utilities and the utility will agree to extend its proposed effective date which has the effective moving the deadline forward in time to allow the parties a bit more time to review the utilities rate filing package. Absent that, the commission -- the public utility commission has to make its decision within 195 days. If that's the case and the utility has not agreed to an extension of its proposed effective date, what that means is that the hearing is usually held on about the 100th day.

[9:48:26 AM]

It may not be precise lie the 100th day, there could be a holiday, a weekend, so it may be the 98th day, 94th day, somewhere in that neighborhood the procedural schedule that we have today, if we were following the public utility commission's rules and had the 185 days, a hearing would start on may 4th, thereabouts, if this was a P.U.C. Proceeding. Under the proposed schedule that we have here, a hearing is scheduled to start around the end of March, March 28th I believe is a Monday and it would run through April 1st, that Friday. So you can see it's a little bit more truncated. At a P.U.C. Proceeding, the administrative law judge would issue what is called a proposal for decision, which is similar to what I have in mind providing the council a proposal for decision with my recommendations on what I think you should do. And again, you can reject those, modify those or accept them. A proposal for decision in a P.U.C. Proceeding would come out probably in the middle of June 2016. Under Austin energy's proposed schedule, it is about may 4th, may 6th, 2016. Under a P.U.C. Proceeding, the commission would issue its decision on about July 28th. That would be the 185th day if we assume a rate filing package is filed on January 25th, which is today. Under Austin energy's proposal, that date is June 30th. So what we're talking about is a difference of about 35 to 38 days in the schedule. And that is what has the parties concerned. With regard to the scope of issues, I know that some parts at the pre-hearing conference that I convened on January 14th expressed concern that Austin energy was attempting to limit the scope of issues that could be addressed in the proceeding. But it was made clear by Austin energy, and I agree, that Austin energy can lay out the issues it wishes to address and the ratepayers' side may lay out the issues they wish to address.

[9:50:35 AM]

So the scope of issues would be broad. Very much like in a -- in a proceeding before the public utility commission. What I expressed to the parties, they could not communicate with me on any substantive matter involving Austin energy's rates. They could communicate with me with regard to procedure matters. When did you say that particular filing is due? When do you expect to issue a ruling on a particular motion that I have? Those types of issues I think are fair game. I believe that's also the law under the administrative procedure act. Most of the aljs will not talk to you about anything. If you have a procedural question, call their clerk. I am fine receiving questions regarding procedural matters. I don't think that addresses a substantive concern. With regard to exparte communications with you, that's a different challenge. Mr. Perney and Ms. Andrea rose with the city attorney's office are your attorneys. The city manager -- the manager for Austin energy reports to the city manager to reports to you. And you run a business. The folks behind me here also have an interest in communicating with you and presenting to you their views as a matter of fact, as a matter of policy, as a matter of law in which direction Austin energy should take. After all, it's it's a municipally owned utility. We own this utility. I find it a bit unworkable to enforce exparte prohibitions with respect to what Mr. Pirney or Austin energy management commune skates with you. Or for that matter with a citizen that walks in your door arrest calls one of your staff members.

[9:52:40 AM]

So I am not suggesting that you immaterial proceeds ex-parte pro pigs on -- prohibitions on you. Ms. Dunkerley suggested that in the past when she was on the council often councilmembers would on their own say I don't want to speak with you about that particular issue, it's being dealt with at a particular different level and leave it at that. But strictly voluntary up to you. With regard to the issue of confidential data, that is a difficult question for you. At the public utility commission what typically

happens is that the administrative law judge will issue what is called on protective order. Anyone who wants to review confidential data has to sign the protective order and agree to be bound by it and there are serious consequences for violation of that protective order. Parties have suggested we use a similar mechanism in the proceeding before the city. It would be a difficult thing to enforce. I don't have an answer for how we address the issue that the ratepayers have if there is confidential data in the tariff package they will receive or may have already received from Austin energy that is critical to a particular cost of service point. Something dealing with how the actual rates are going to be calculated. There will be a bit on -- at a disadvantage in not being able to see that data. On the other hand the city attorney's office has a valid concern saying this is a policy that applies citywide, not just Austin energy. In the end, Austin energy is but a department of the city of Austin. It has been branded Austin energy, but it doesn't have its own corporate existence. It is the city of Austin and it is a public entity that has to be concerned with how public information that it has is dealt with. So what Austin energy has proposed is that if a person wishes to view confidential data, it must seek an opinion from the attorney general's office.

[9:54:48 AM]

There is a serious tension between the speed with which this proceeding will go and the speed with which an attorney general issues an opinion on whether something is or is not confidential. I am hopeful that we can find some medium ground amongst the ratepayers and Austin energy to resolve that matter, but that is probably the more difficult question that we are going to have to grapple with in the proceeding. That is my overview of how I see the impartial hearing examiner proceedings going forth and what my role in that proceeding are and how I anticipate the parties presenting their evidence. I would expect them to present evidence very much like at a P.U.C. Proceeding. This is not a proceeding subject to the administrative procedure act. The assistive procedure act does not apply to municipalities. It is similar to what the P.U.C. Does, but it is not a 100% mirror proceeding of what goes on at the P.U.C. Or before soa. Those on my comments. I would be glad to try to answer any questions that you may have.

>> Gallo: Thank you. Questions? Councilmember Zimmerman.

>> Zimmerman: Thank you for that presentation. I'm very impressed with your background and I think as far as professionalism goes you are about as impartial as it could get, but I still object to the word impartial because I just don't think it's possible to have an impartial examiner, but I think you go as far as we could. But I've got a question for you regarding I guess process and public perception because when I ran for office in the summer of 2014 I ran on the platform of abolishing Austin energy and opening it up to a competitive market such as we might have in Houston or Dallas. So I guess I've got a problem coming into this is how can I be impartial, I'm not impartial, I'm not claiming to be impartial.

[9:56:52 AM]

How do I impact this process from a viewpoint that I would like Austin energy to go away?

>> First let me address your issue of there is no full impartial time sensitivity. I agree. Based on our work experience, where we grew up, how we grew up, what our view is on how business should operate or shouldn't operate. And I can't eliminate those biases in myself. I have taken an oath as an attorney and in particular in this case to be as impartial as I possibly can. With regard to your ability to influence the proceedings, I think it fundamentally comes down to your ability to influence ten other members of your council. That is the bottom line. Your view is that Austin energy should join what is already narcon but the redid he go rated market in terms of generation, become a wires only company. Your ability to do that would be to persuade folks on the dais, from my view, with all due respect.

>> Gallo: Are there any other questions? Councilmember pool.

>> Pool: Thanks, chair. Mr. Herrera, thanks for being here and welcome.

>> And let me say one thing. I am really hard of hearing in my right ear so if you could speak up just a little bit, I would appreciate it.

>> Pool: We might also be able to turn up the speakers too. Can you hear me okay?

>> I can hear you okay.

>> Pool: Okay. Regarding exparte communications, how did your office determine in advance -- what systems does your office have in place in order to ensure that communications that might not be considered allowable do not past your purview?

[9:58:59 AM]

Do you have a section in your office that goes through them and only allows -- a gate keep their only allows through the procedural questions or are you the one who allows them after having read them?

>> Actually it's very practical. In my office we have a number. I do not receive calls directly into my office. All calls go through our receptionist. My receptionist typically says so and so is on the line, they want to discuss the Austin energy rate case. My response will be, well, I can't discuss that with them. If they have something procedural in nature that they want to communicate, they may send me an email with regard to what the procedural question is and that would be it. It is not anything more formal than that. But in the end it is -- I decide which calls to take and which calls not to take and my practice will be not to accept calls that say I want to talk to you about what the rates are. If someone says I want to talk to you about when you said our report to you was due, what date did you say, did you say it was January 25th or January 26th, that's within the purview of what I can discuss with them and I would not consider that to be out -- prohibited by the exparte prohibitions.

>> Pool: But an email could come across your desk with substance in it that would be considered in violation, but you would have read it so that you would then determine that it was in violation. Would you be able to set up a system in your office that would make sure that none of those emails come to you so that you are in fact protected from any potential violations of exparte communications?

>> 2 short answer is yes. Again, I have set up a specific email for this proceeding.

[10:01:01 AM]

The emails go to my office manager. She sees them first before I receive them. I can't access them on my computer. She has to tell me there is an email there and I can ask her what is the gist of the email. Does it ask about the residential customer charge should be \$3 instead of \$30, whatever it may be, so I don't see the email.

>> Pool: Thank you.

>> Gallo: Councilmembers, any other questions? Okay.

>> Thank you.

>> Gallo: Thank you very much for being with us.

>> So members, I have a full presentation on our rates recommendations. I welcome your comments and discussion on the process issues that have already been raised. Unless you would just like us to move forward in which case we'll move forward under the rules and procedures that are already in place.

>> Gallo: I think there may have been some questions that we delayed so I want to give the councilmembers an opportunity to ask those. I think mayor pro tem tovo had a question.

>> Tovo: A couple questions. I want to talk first about the schedule because I -- I have some concerns about the tightness of it as do, as you know, some of the community members. So I just want to be really clear. The time line is being -- is being driven, as I understand your previous discussion, the time

line is really being driven on trying to get this into the city manager's hand in time for the recommended budget that comes -- that's released at the end of July.

>> That's correct. As well we are unfortunately somewhat limited by your July recess so we tried to hit the final deadline prior to your July recess.

[10:03:02 AM]

At the end of that recess you go into the budget process and I understand council is setting up additional budget hearings so we're trying to work within that schedule.

>> Tovo: I understand it's challenging. There are a lot of things to schedule around. The last time the rates were adopted they were adopted this the fall, as I recall.

>> The final adoption was June 7, 2012.

>> Tovo: When did they become effective?

>> I believe October 1st.

>> Tovo: Is there any reason, though, if we were still doing our work that they couldn't be adopted in the fall and implemented at some appropriate point after?

>> The rates could be adopted at any date and we would work to implement them as quickly as we could, given the time we need to program the system and make quality checks.

>> Tovo: And that takes threeish months to program the system once the council has adopted rates?

>> Depending on the scope of the changes, it could take as much as three months, yes.

>> Tovo: But anyway, I just think it's important as we move forward, this is a pretty tight timetable.

There are a lot of -- this is, one, a brand new process. We've never had an administrative hearing process at the city of Austin, as far as I'm aware, and there are -- it's a pretty complicated bunch of issues for us to sort through as a council. So I think that this is a very -- I appreciate the staff's interest in trying to get us moving through as quickly as possible, but it seems to me that we might need to really be aware of what our other options are, one of which is to take the time we need to do it well and right and have those rates go into effect sometime after our official budget adoption since that's a mechanism we have here at the city.

>> I would just add one other point and you'll see that as I make my presentation, in the 2012 rate proceeding, the city had not considered rates in 17 and by the end of 18 years so we looked at every aspect of utility.

[10:05:15 AM]

We redesigned programs and rates. Our proposal this time around is much more narrow. You'll see we -- there are many, many policies that are already in place and we have accepted that those policies are in place. For example, the design and funding of the customer assistance program. We are recommending no changes to the design and funding of the customer assistance program. That issue took a lot of time when we examined the rates in 2012. We had at least one full working session on the customer assistance program and then many other conversations. So just our whole proposal, at least our proposal, and there are issues that the community will want to discuss, but our proposal is much more narrow in what we considered before. And just from the staff's perspective, we believe there's a dozen or two really gripping policy issues for the council to consider, but if -- if litigators want to go back and reconsider every single decision that the utilities made or the city has made to fund this, then we'll need a lot of extra time. But if your focus is on the key policy decisions that drive Austin energy's outcomes, then I think that's a much tighter discussion.

>> Tovo: I agree with you. I'm not interested necessarily -- I'm certainly not interested in relooking at the rates -- at the inverted block and all of the other many, many considerations that were present and

necessary during 2012. But again, I just think it's likely that we're going to need a little bit more time than has been budgeted so I want to be really clear that there's no real problem if this council decides that it needs to take a little bit more time on that. And Mr. Dreyfuss, I know you and I have had an opportunity to talk or you've had an opportunity to talk with my staff about the possibility of doing a couple work sessions.

[10:07:22 AM]

Last time the council had, I don't know, 12 or so, I have a list I'll distribute later, of all the work sessions they did last time. I don't believe that's necessary this time, but I do think a couple extra work sessions on some of the policy matters that will be relevant later as background for the later discussion, the later decisions. Do you have any concerns about that approach?

>> We're happy to accommodate and assist you in planning and organizing any -- any sessions that you see appropriate. I guess my one caution would be we're having this fact-finding process and so the -- the work sessions that we have I would hope would be educational in nature and policy in nature and allow the fact-finding, the heavy lifting process as it were, to occur in front of the impartial hearings examiner so that we're not having a duplicate process. Because if we are going to do the fact finding here, then there's really no need for the process.

>> Tovo: I completely agree and I'll at the appropriate time pass out the draft resolution and offer some sense of what I see those couple work sessions, I'm thinking maybe three to four on very particular topics and they would be just, as you said, really as background policy discussion, not as an opportunity to really hash out that issue with the public.

>> And we're happy to help you organize those and if necessary bring in outside experts or trainers or anyone.

>> Tovo: That would be great.

>> That would facilitate that discussion.

>> Tovo: Super, thanks.

>> Gallo: I think we have questions from councilmember Garza and Houston and pool.

>> Garza: You referred to -- I'm assuming you were referring to the consumer advocate when you said you had never heard of council giving up authority to third party.

>> I was referring to the request in the letter last week that the process be given to the impartial hearings examiner for Mr. Herrera to set what the process is in the schedule.

[10:09:34 AM]

>> Garza: Okay.

>> And that would be taking the council's authority to establish its process and schedule and giving it to a third party. I'm not aware that the council has done that though. We have a variety of different types of decision processes.

>> Garza: And when you were -- you also said in your opening comments -- I just lost my train of thought. About -- were you referring to the consumer advocate when you were saying that Austin energy indeed advocates on behalf of the consumer so it wouldn't be necessary to delay the process to get the consumer advocate in place?

>> No, I think the -- the council has directed us to bring in a consumer advocate. We fully support that. As you know, there's been this complicating issue with the proposal that we brought you some weeks ago. I know that item is scheduled for discussion today and under your direction we would like to move as quickly as possible to bring someone in to fill that role.

>> Garza: So what -- would you have concerns about delaying the process to get that consumer

advocate in place?

>> I think that it's not that consumers will not be represented. Certainly in just did pre-hearing conference that we had, there were a number of representatives of consumers and low-income customers. My concern about the consumer advocates is that the consumer advocates were always broader. The consumer advocate is to represent all -- that is a complicated job. There are members of the community who are representing some of those groups. We expect full participation in this proceeding, but there's no one with such a broad view. We would like to bring them on as quickly as possible.

>> Garza: Thanks.

>> Gallo: Councilmember Houston.

>> Houston: Thank you. And I have a segue to councilmember Garza's questions. Do you have any information for us today about how we find a consumer advocate at this point and how long that process will take?

[10:11:43 AM]

>> Gallo: If I could just mention something, that's actually scheduled as an agenda item, that discussion. So I don't know if it's more appropriate to discuss that now or if we want to wait until we have the full presentation of where we are with that process.

>> Houston: Well, I think it's critical to the time line that's laid out here. If you want to talk about it later, that's fine, but I know we've had a hiccup and I want to know where we're going to settle so we can see if this is a realistic time frame or not.

>> I think we have a couple of options in mind for that, but I think you need to have a discussion with the purchasing office first before we discuss that about where we are today. And that's item 5 on your agenda, I believe.

>> Gallo: Did you have any other question? Okay. Councilmember pool.

>> Pool: Thanks, yeah, I am interested in hearing about the time line that would include the consumer advocate. I think our concerns about the one organization that did respond back in December was that they didn't have experience or hadn't expressed experience in that role so that was a bit of an obstacle for some of us on the dais. So I'll look forward to that longer conversation when we get to that agenda item. But Mr. Dreyfuss, you mentioned a pre-hearing conference. Did you send us a list of all of the people and the organizations that participated.

>> We can certainly do that.

>> Pool: I would like to see what the broad spectrum is of advocates. It's been my experience lately that we talk about advocates coming and making -- or stakeholders coming and giving input, but then when I look at who is in the room, it turns out it's weighted on one side more than the other and especially in these matters with long-term policy decisions for if city we really need to make sure voices are balanced when they come and give input.

[10:13:43 AM]

>> And that is the real challenge and I would say this prehearing conference was early before we kicked off our formal process or have released our recommendations. And so it was only really people who are already in the know. So we had representation from the largest industrial and commercial consumers, we had representation from low-income and citizen organizations, but not much in the middle. And as I'll explain in my presentation later, there's a lot of issues here about mid-sized commercial customers. And mid-sized commercial customers are not always engaged in these types of processes. So it is really important that we reach out to the middle of our commercial space and have them come in along with

the industrial customers and the low-income advocates and the citizens advocates. We've been doing a lot of outreach in the last week or two. We were at the born meeting Friday and the chair was there. We're doing a lot of outreach in the next week or two to civic organizations to really encourage that middle business community to participate in our proceeding, to have good balance.

>> Pool: That is really good news. I think the Austin independent business alliance would probably be a good group to engage.

>> We have a meeting with them tomorrow.

>> Pool: That's terrific. Thank you.

>> Gallo: And that abor is Austin board of realtors and it really was good presentation and well received. I think that getting into the community to share that message I think is really important so thong you for doing that. Any other questions? Councilmember Houston.

>> Houston: Thank you, chair Gallo. I noticed on your slide you talked about how customers may participate, just regular citizens. If you would work with my office, we'll see if we can't get you some real citizens because a lot of our citizens don't use any of the ways you suggested on here so we would be happy to help you get out to some real people that are not either advocates or middle income business commercial businesses but they are just regular people that have to pay the bills.

[10:16:00 AM]

>> Okay. Thank you. We'll be in touch.

>> Gallo: Are there any other questions? Councilmember Zimmerman.

>> Zimmerman: A really quick question. I think one of the elephants in the room are the huge transfers. \$100 million plus. And I just read an article here, I was looking back and in 2012, the last rate hearing, someone said they thought the increase in the transfers was responsible for about 12% of the bill increase, you know, across the board. So where are we on the rate transfers and is part of this hearing going to examine what would happen if we were to eliminate the transfers? To the general fund and just have Austin energy talk about energy and take that part out, ist that part of the conversation?

>> As you know, we have a general fund transfer that is 12% of nonfuel revenue and then there are other transfers to the city that pay for city services. And I -- we are not making any recommendations to change the level of those transfers, but I have no doubt that other interested participants will raise that issue in this proceeding and that will then come to you as a public policy issue for discussion.

>> Gallo: Any other questions -- oh, did you have a question? I'm sorry, I have a tendency to ignore to side because I'm looking this way.

>> Casar: I don't yet have a preference on whether or not we need to extend the time we work on this or not. I think there are good questions about -- since we don't quite know the scope of how much we'll be deciding it's kind of hard to know. I hear the mayor pro tem's point that there isn't some procedural obstacle for us to change from the time line away from fitting into budget, but I also assume that Austin energy had very good reason for wanting it to sync up with budget. Could you expound on that point a little more because right now I'm hearing that it's convenient, but could you help us understand why it's convenient or what the other benefits might be so when we're making the decision on time line I can understand and we can understand better why your initial recommendation was it for sync with the budget.

[10:18:17 AM]

>> I think that's primarily resource and a financial management issue. For example, every year in the budget we -- we change lots of different rates, different departments in the city, Austin energy staff manages the entire bill for the entire city so we go through a process to update the billing and lots of



people are involved inside Austin energy, sometimes consultants are involved. It takes several months to do that. So if we do all of that at once instead of several times over the year, that's a big efficiency gain for us. And I think the same for your budget and deliberation process.

>> Gallo: Councilmember troxclair.

>> Troxclair: I just wanted to follow up on the comment councilmember Zimmerman made about the transfers. I have talked to chair Gallo about getting it on for the February Austin energy agenda so I'm happy -- so I do hope that this committee will look into the issue of transfers and how that's affecting ratepayers across the city and take the time before this next budget cycle to have a hard discussion about whether or not levels are appropriate or if there's a better way to make sure that our customers are getting a return on their investment.

>> I think this -- this process is a good forum to have community discussion about that and then bring to you in may the outcome of that community discussion for your deliberation.

>> Gallo: Any other questions? I have just a question on -- it's my remembering the budget process that all of the other utility rates were adopted during the budget process. So if we were to formulate a plan that extended this process, the rates were not ready to be adopted during the budget process, have we ever done that in the past where all the rates, all the utility rates were adopted during the process?

[10:20:31 AM]

>> Typically every department adopts its rates during the budget. I think that's pretty common in the city, but Austin energy has set its rates outside of the budget process before just because of the limitations in the process available to us.

>> Gallo: Thank you for that clarification. So I want to make a comment before you start on your presentation because many of us last year were concerned that -- because irrelevant getting ready to put graphics up on the screen. We were concerned our hearing impaired community was not able to see the closed captioning when the graphics were put up. And the first thing I noticed is we now have those close captioned. I want to thank the ctm department for getting that accomplished and I think the hearing impaired community will really appreciate that. But I did notice that and wanted to say thank you before you started your presentation.

>> Okay, I -- yes.

>> Gallo: I'm sorry?

>> Tovo: Is it all right if I just make a comment related to the resolution I distributed before we move on to the presentation of the rate recommendations?

>> Gallo: Yes.

>> Tovo: I had hoped we would be posted for possible action on this item today and we are not. So I've gist distributed as a draft, I think my office has been in touch with some other offices, we'll need to bring it directly to council since it's not receiving committee consideration today, but this is the idea I talked good that we would schedule I would say three to four extremely short policy work sessions. I brought along the schedule from last time just as a reference, but it was very extensive and I think there were 10 to 12 work sessions, they were in the nature of three hours or more, but I think that was appropriate to the big overhaul of the rate structure happening in 2012. As Mr. Dreyfuss said, this is a much more refined process, but I think it would benefit us to have a few extra work sessions on a couple topics. The topics that come to mind as appropriate would, in my mind and, of course, I would love to hear from council, financial policies and reserves, cost of service methodology and maybe one other general catch-all after we see what kinds of things are going to be relevant in terms of the rate recommendations that the staff have proposed.

[10:22:55 AM]

If anybody is interested, I've got a copy of last time's work schedule just as a point of reference. You can see the extent of the topics, but again I would suggest and when I bring this forward on next week's council agenda I'll suggest, say, three to four work sessions on the topics that it sounds like will be relevant for next time. This is kind of like the policy deep dives that we did in that it's just sort of background. I envision them as being useful as kind of background information prior to the assistive hearing recommendations coming back to us and that kind of community feedback on those rate proposals. So I would look forward, I hope I'm able to secure the three sponsors I need to have this be placed on next week's agenda. I think it would be a really useful discussion for us.

>> Gallo: Thank you. Do you have the -- I see it references attachment a.

>> Tovo: That is an example of last time's schedule. There is no attachment a. Attachment a will consist of some proposed dates if we're able to get that worked on and it will also list some general topic ideas. And I just listed those, what I believe would be useful. Financial policies and reserve funds, cost of service methodology, those are the two I think are really critical, and then a third more general one that I think will be more apparent what that topic will be after we finish today's presentation.

>> Gallo: And do you envision this affecting the time line to lengthen the time line or would this work within the time line that's being proposed.

>> Tovo: I think the time line is really aggressive and I'm glad we were able to determine today there's not a policy reason why we have to keep to it, but this would work within the time line that the staff have proposed. I would suggest we do them real quickly at the end of February, early March so that we're on track. We've had those work sessions before the administrative hearing recommendations come to us as proposed I guess in April and market purchases.

[10:25:00 AM]

>> Gallo: Okay. Thank you for the clarification. Mayor?

>> Mayor Adler: Just real quick, if we were not to do the rates as part of the budget process and we pushed it back, when would we do the rates? As a practical matter would they still be done -- when would they be done at that point? What would be the most logical place to have them done if they were not done in June?

>> Mayor, if we had to push them out, I would hope that we could push the process out and take advantage of some of your budget time to do the final rate setting. You would have the recess period to review the material that's been provided by the impartial hearings examiner and any other review that - and dialogue that you have had after receiving his report. I don't know about using any of that time in July, but then I would think we would accelerate the discussions in August to -- to be done in one continuous process without having some kind of gap and moving into the fall.

>> Mayor Adler: So if we pushed it back so that the report didn't come -- the question is what's been proposed or requested in that letter is to not have the recommendation come back in June. If we didn't have it come back in June, would it come back on August 1st? July, we would have that -- is that how we would be pushing it back so the people could participate in the process longer? My understanding the issue was increase the five-week period of time that's in the middle for people to be able to respond. If we were to do that, what does it do --

>> So we could -- and Mr. Bumbrowski could way in on that but we could push Mr. Herrera's report from may 6 to the beginning of June.

[10:27:08 AM]

The council would have the beginning -- would have the month of June for work sessions and

deliberations and then go away in July and take that up again at the beginning of August and try to conclude early in August.

>> I just want to add that it's not just the rates that would be passing. Those rates are revenue requirements that go into the budget and some of those spill over into our expenses that you adopt during the budget. And some of those expenses may even cross over to other departments where we have shared services. And so it's sort of a cascading effect when we push this out into the future. In order to avoid you deliberating on a budget that wouldn't be effective, wouldn't be adopted, those rates. So I would encourage you to try to marry this up so that the rates are adopted in the Normal budgeting process.

>> Mayor Adler: And that goes to the question I have because I don't know enough to know what that cascading looks like so I don't know what the impact is and maybe it's not a fair question for you, but if you had married the decision to not have the report come back first week of June but the first week of June this is what the rest of the budget process would then look like. Would be helpful information. I just don't know the practical impact of pushing it back.

>> We can get back to you. We sort of need a final decision or approval of those rates by the end of June and that way -- it takes about 30 days to assemble the city budget and we do that during the month of July.

>> Mayor Adler: So if we pushed it back to may and you've got the report in June and we were deliberating at that point -- I understand what you are saying, that we can't practically speaking do the five weeks because if we do the five weeks we're not going to be able to deliver the budget on time.

>> That's correct.

>> Mayor Adler: What I'm asking for and if we did that when would the budget be delivered when would the budget then be deliver?

[10:29:20 AM]

Not on time. How does that work?

>> I have to figure out a time line.

>> Mayor Adler: That would be helpful. So I have something to compare one to the other.

>> Sure.

>> It sounded like one of the comments made as an answer to the mayor's question was that a third option would be to really condense the rate in August so that while we were doing budget we were doing that at the same time to have those completed. Did I hear that correctly? It would be a layering of the budget process.

>> That's correct. Thinking through the mayor's question. Another option for us would be to move Mr. Herrera's report from the beginning of may to the beginning of June. We, together, take the month of June and set aside some time for the schedule. We set aside your deliberation 7 to 8 weeks. We can do the same thing in four week IFS you could take the time to focus on the issues and hold the appropriate sessions that you think is necessary to do that -- the rate deliberations.

>> Mayor Adler: Setting up the options would be helpful.

>> This is good and helpful and I understand trying to lay out a timeline, but we still do not have the consumer advocate in place. And I don't think we can -- we can sort of speculate on what the timeline will be between now and budget. But if we don't have a consumer advocate in place until just speculating in may then we can't that process needs to include the consumer advocate in a robust and comprehensive way. I agree we need to keep moving forward. Until that integral piece is slotted in, we really -- it's hard to make it any real decisions or determinations from the dais on what the schedule is going to be.

[10:31:26 AM]

It would be nice if it could match one the budget. But I believe that we have the ability to manage it even if it comes out of sync with our standard budget process. And I understand that that has happened in the past. I think we're well equal to that task.

>> Mayor Adler: I hope that would be presented as one of the options as you look at that.

>> All right, I think we may be ready for your presentation.

>> Council, I have a lengthy presentation. But given the hour and recognizing that we still have to get to the presentation on the navigant report, I'm going to work to keep this to 11:00 and skip over stuff that I'm happy to spend time with you at a future point to go into it in more detail. You should also know that today in the conclusion of this meeting we're releasing our report and proposed tariffs. There's a lengthy description of much of this material that I'm going to -- I will go over today in -- in -- some in fair amount of detail that explains a reasoning and what the proposals are and what the implications are with those proposals. First as I mentioned earlier, it's important that the public participate in the process. The process will not be successful and we have taken a number of steps to accommodate the participation of the public. The public can participate in an informal and formal way. Informally, we have material on the website. That's a screen shot that I made on Austin energy.com and select rates.

[10:33:29 AM]

There's a full description of this proceeding and how one can participate. Sign up for the e-mail alerts and all of the documents in this proceeding are going to be posted on the clerk's website. And we so appreciate the conversation we had with the clerk's office to make this happen and the hearings will be available for review on the city's website. More formally, we're alonging for members of the public to really be engaged in the process, not just as an observer, but to be engaged and I believe we've made that quite accessible. If you are the type of person who likes to drill into the spread sheets, we'll make those available to you and you can participate. If you want a higher level policy level than our narrative, we'll give you the material to participate at that level. We've also done something to accommodate folks. Not everybody is a lawyer. Not everybody is needed to be represented by a lawyer. We made all of the form, all of the documents that one would use in an administrative proceeding available as forums on the website. Instead of hiring a lawyer to write an intervention pleading, we just made a form that you can fill out. Include the appropriate information, give it to the clerk's office, and that's how you get engaged. We've done everything we can think of to engage the public and directions for all of that are on our website. In December, we gave you a presentation on the revenue requirement and on the cost allocation. And today my focus is on the rate design proposals, the third step in setting rates. As we've discussed before, we are guided by city policies and principles. And our work and we've given that guidance as well to the impartial hearings examiner.

[10:35:36 AM]

And Austin energy has a number of objectives that we are trying to balance in this proceeding. We've issued a white paper that is an appendix to our narrative document. It's the same white paper that we issued in 2010 at the last proceeding. These on the screen are some on the objectives that are particularly relevant. We believe in this proceeding that the process is transparent, we believe it is. It be fair on all customers. We focus on affordability. Adhere to applicable states, local laws. In the end of the process, we sustain the long-term financial health of the utility. I raised with you this in December. This is a good news story. The state of the utility is good. We are proposing to reduce base rates by \$17.4 million. That's the setting of base rates that's our primary focus to this proceeding. As well, every year of

the budget process you adopt the power supply and the regulatory charge. Those are separate from the base rate. The base rate being the operation and the maintenance cost of our system and our debt service cost. We're proposing that base rate be reduced. We're also recognized that this summer when you consider the budget, we have forecasted and we anticipate that there will be additional reductions to the power supply adjustment and the regulatory charge. And that is, again, a very good thing. But it is a little complicated. Sometimes I'll be talking about base rates and sometimes I'll be talking about the passthrough charges and we're trying to be clear about which I'm speaking about when.

[10:37:39 AM]

It's a good news story how we make significant progress since 2012 in restoring the financial health of Austin energy. But as I discussed in December with Mr. Dombrowski, we continue to face long-run revenue stability challenges. And as well, we're challenged to meet our affordability goal for competitiveness. I'm going skip a little bit. And this is a chart that we showed you in December. And -- and this is really is one of the key public policy issues we will all be engaged on in this proceeding. This chart shows for the various customer classes, the deviation of that customer class from the true cost of service. So the red bar shows we have \$17.4 million in rate reductions for our customers. The residential customer class is paying \$53 million below the calculated cost of service. The small commercial class is a little below cost of service. But mid commercial is well above cost of service as well as the primary count which is are large commercial and industrial customers. And this is a very difficult issue for our community to get engaged on. And I anticipate that how close we move to public service. How quickly we move to cost of service. How many steps we take. And how we do that is the key issue to be discuss in this proceeding. One other note. I've given you a handy-dandy cheat sheet by your desk. Because we talk a lot about customer classes and so the cheat sheet gives you an idea of which customer classes I'm talking about and what types of customers those are as we go through the customer classes.

[10:39:49 AM]

I would note in this discussion that we had earlier that the council made significant changes to our rate structure in 201. It was a very, very deep dive and a very involved process. And one of our conclusions is that the rate structure adopted in 2012 remains sound. We're not recommending any kind of fundamental overhaul to the rate structure. However, we recognize based on our experience since then. The feedback, some of which we're discussing with you. Our new data, there's a need to adjustments to a number of e-mails in our rates that will improve the long run stability in the utility. There's some of the key steps we made in 2012. Let me point to a couple of them. The second one, we unbundled the passthrough charges from base rates. Again, the base rates are the cost of operating the system and our debt service. The passthrough charges that we unbundled we set separately in the process, the project that was unbundled. The community benefits charge goes with the community programs, the assistance programs and street lighting. That's the secondary charge. It's our utilization of the grid. Those are separated out. We reform the power supply adjustment to take into account the modern reality of the ERCOT market and we embedded incentives in our industry in base rates. We established a five-tier structure for our residential rates chls. We did discuss in December that structure that we adopted created some challenges we want to address. We adopted the value of solar. We created some discounts for commercial customers, we adopted the funding mechanism for the program.

[10:41:55 AM]

So now I'm going to move into specific recommendations. The first is related to the community benefit

charge. We are proposing to maintain the current customer assistance program, charge, and design. The energy efficiency services funding and programs, and the service area street lighting funding. We are going to suggest a restructuring of the charge to make it more uniform and I will discuss that in a little bit. But in a fundamental level, we're proposing no changes to the programs or the amount of funding for the community benefit charges. The next issue has to do with the incentives for efficiency that are embedded in our rates. And our revenue stability issue. And that is one of the things we adopt in 2012, a great deal of seasonality in our rates. For the four summer month, the rates are much higher than in the eight nonsummer months. We're recommending that we eliminate that seasonality from base rates for several reasons. One is the seasonal fluctuation has proved potentially burdensome to a number of our customers. Not only in the summer is it hotter and you use a lot more electricity, the rate is much higher. We had a discussion this year about customers in our community that are challenged to pay their bills and we believe levelling bills across the year instead of having the higher summer bills and lower nonsummer bills would be a great benefit to a number of our customers who are struggling. We also find that there is limited cost justification for supporting these seasonal factors. The cost of operations and maintenance in our system and the cost of debt service not vary by season. So we put these incentive factors in to encourage energy efficiency.

[10:43:56 AM]

They're not really cost-based. So we are proposing to eliminate the seasonality in the base rate. However, we believe the power supply adjustment, today is a uniform charge across the year, does reflect some seasonality. So we're proposing to adopt seasonality in the power supply adjustment so we would set it for two times of a year and we would have a little bit of that differential. The next is the residential tier structure. As you know, we have a five-tier residential rate. We showed you really using this chart last month that we're not sufficiently collecting residential revenues. If you can read through that chart, the green line is the revenue we received from customers at different levels. The kind of brown line is the cost of service, and the chart is intended to show it requires a customer to use 1400 kilowatt hours of electricity a month for us to recover cost of service from that residential customer. But the average residential customer today uses about 900 kilowatt hours of electricity. So we're dependent on hot weather and high users to balance our residential revenues. And that is antithetical to our use of electricity. As well as the long-term decline by our uses in the community is additionally challenging. So we are recommending that we flatten the five residential tiers a little bit that will more closely align with cost of service. It will improve the stability by our cost recovery. It will maintain incentives for conservation because it will maintain a five tier structure but we're proposing to flatten it a little bit.

[10:46:04 AM]

Here's what that looks like. I'll quickly note that first numerical column is the existing rate. The second numerical column is the proposed rate. We're not proposing at this time a change to the customer charge. But we are proposing to change the seasonality and flatten the tiers so that the middle block is the summer rates, the lower block is the nonsummer rates. In the summer we're proposing to keep the lowest block at the same level of 3.3 cents. But we have proposed to reduce the cost of the upper blocks. In the nonsummertime period, our current rate for the first block is 1.8 cents. And not just low block customers pay that charge. Every single customer in that system pays there 1.8 cents. We just believe that level is insufficient. So we are proposing to use that up to the same as the summer rate and raise the winter charges a little bit and reduce the summer charges a little bit, eliminating the seasonality. The next issue is the small commercial customer class. We had a lengthy discussion this summer about small commercial customers and the impact that demand charges or charges based on

peak energy have on many of our small commercial customers. At that time we determined what's in the small commercial class and the mid commercial class by the one-time peak of the summer months. You made a policy change that customers would not be assigned to their class by the one-time take, but by the average peak over the four summer months. So, instead of being assigned to your customer class by a one-time peak where maybe you had a maintenance bim, you're -- or just something odd happened, instead, you had to look to your average over the four summer months.

[10:48:14 AM]

We implemented that Moll si this January. As a result, 1700 customers in the s-2 class out of the 14,000 customers in the s-2 class, moved from s-2 to s-1. And essentially all of those small commercial customers are getting a lower rate today because the average usage is under 10 kilowatts where the peak summer usage is above 10 kilowatts were moved 1700 down. They are all getting a lower rate today because of your policy. We are recommending that we maintain that policy. There's a request from some small business interests to change the break point between secondary class I and secondary class II. From 10 kilowatts peaking to 20 kilowatts peaking. We conducted some study about that. We had a study appended to the report releasing today. Our conclusion based on that study is there was not a cost-based reason for shifting that boundary between s-1 and s-2 from 10 kilowatts to 20 kilowatts. However, and I believe we discussed this last month, we are recommending that the upper end of the s-2 boundary be moved from 50 kilowatts to 300 kilowatts, because there's more of a cost distinction of the customers between 10 and 300 and above in the customers' 10 and 50 and above. We are, however, making an additional recommendation that will be to the benefit of small commercial customers with very peaky usage. You'll recall this summer that we had a long conversation in here about load factor. Load factor is -- is about the peakingness versus the steadiness of a customer's usage.

[10:50:18 AM]

And the information that we showed at that time was that customers -- commercial customers whose usage is very peaky, they have a big peak, but not a lot of energy in the year. Think about a car crusher. You turn that car crusher on, you have a huge peak. Their average rates are very high. Customers usages steady. The high load factor. The average rates are much lower. This chart shows you on the bottom, a load factor. A very high load factor on the end. A very low load factor at the bottom. And the average rate for those customers. And that rate curb is very steep and our studies show much steeper than other utilities comparable to us. So our proposal is we set a floor on the billing for commercial customers, small commercial customers based on their load factors. So if you're really peaking, imagine that car crusher, we're going to treat you in billing as if you're not quite as peaky. We're going to treat you as if your load factor is 20%. That will reduce your average rate and save you some additional funds. We find there are 3300 customers in the s-2 class who have load factors below 32%. There are 3300 customers on the s-3 class below factors. All of those customers will be benefitted by the recommendation. That recommendation does not come without cost. That is these customers will save about \$7 million. And those \$7 million will be shifted to other customers who have a load factor higher than 20%. This, is after all, a zero sum exercise.

[10:52:19 AM]

Any time we reduce revenues from one set of customer, we raise revenues to another set of customers. And the way we manage these types of offsets in our system is that if you're giving a break to customers in the mid commercial pass, we pass all of those costs on to the rest of the customers in the mid

commercial class. If you're giving a break to some customers in the small industrial class, we pass those on -- those costs on to the other customers in the small commercial industrial class.

>> Chair?

>> Chair: Yes, council member Poole.

>> Pool: I have a question about passing one class to another. Help me understand if we're trying to get to a place where it's payment for cost of service and if the -- the graph you were showing with the peaks and the -- the peakiness versus nonpeakiness on that load factor, it seems to me that in the past we have been collecting moneys for the peak over and above what it costs to serve that peak. It's been collected over a long period of time. So did we basically amortise the amount of money the cost of the service from the peak over that long time frame and that's what you're recommending we reduce. Or are you saying you cost more money for the cost of service for that peak. I realize it's nuanced. Then help me with that. I have a follow-on question.

>> We have a broad set of customers in a similar cost all in the same group. But the usage patterns are very different. Cost of service, we'd have a different rate for any of them.

[10:54:22 AM]

We have a cost of service for all of the customers in this group. Some of the customers in that group are paying below the cost of service. And some of the customers in that group are paying above the cost of service. And that all depends on the usage pattern and how we set the rates. And so I think the customers with low -- load factors, those are customers that are very peaky. I have examples in the presentation that you look at. We get way outside of time I think today to really walk through all of those, those customers have high average rates. You heard complaints from their representatives about the high average rates. It may be that some of the customers are the below cost of service. And so it's a balance. Who should pay exactly the cost of service? Who should be benefitted because of the usage pattern. Who -- if the customer has an inefficient usage pattern so their rates are high, should we charge them that rate or should we give them a little bit of benefit and ask the rest of the community to share in that? And that is a policy question that is embed in this recommendation to set the load factor for that you've expressed concern. Members of the community have expressed concern. And we somewhat agree that low load factor customers are seeing a high average rate and perhaps the rate should be topped off a little bit.

>> Pool: You're saying even within the same class, some people see an adjustment up and down based on their individuals.

>> I have a lot of impact charts that show that. We won't have time to go into it today.

>> Pool: I am interested in you just said that the loss in the change in this customer class will be made up for in other classes.

[10:56:26 AM]

What I'm hearing you say now is actually it would be made up by those within the same rate class.

>> That's policy in the past. That's the policy the council adopted in 2012. Any time we give the discount to a customer, and lots of customers get discounts for lots of reasons, the cost of that discount are shared by other customers in the same customer class. If we have mid sized commercial customers, we have some of them at a discount, the rest fund that discount. And in this case, this issue is in the s-2 and s-3 customer classes. And it's \$7 million worth of value to the low load factor customers that are passed that we are recommending that we pass on to higher load factor customers.

>> Pool: The last thing I would ask you is we talked about efficiency and rate customer class more efficient in our use. Does Austin energy work with those that have peaky or inefficient energy usage to



help them not and in those instances there may be some that you can't change.

>> That is one of our key targets. We -- we talked about this with the team a lot this summer. We're focusing a lot of our staff and resources to getting the load factor customers who have an inefficient use of our system. But sometimes it's unavoidable. There's a classic customer with the printing press. When he turns the printing press on, his peak gets high. The usage over the course of a month is not that high. And the printing press draws the power that it draws and there's not much to be done about it. We work with the customers while we can. Not every one of the customers can adjust.

>> Pool: The rate class then for the printer, you structuring recommendation for us that would allow us to capture that cost for that person?

[10:58:29 AM]

>> Well, it's -- it's -- all of the customers similarly situated to that customer whose load factors are below 20%.

>> Pool: Thanks.

>> Chair: Councilmember Zimmerman?

>> Zimmerman: The first part was one I had too. I don't think it went there at all. I think it's going back to quantify why we have the peak charges in the new ERCOT model. In the old model, Austin Energy is responsible for building a new power plant to handle the peak demand. And our understanding, right, we've been told that's not the case anymore. We don't have to build power plants to meet our peak demand. So I thought wasn't that peak demand charge originally based on the need to build new expensive power plants? So we're trying to understand in the new ERCOT model, why is that peak demand so important you should the new model off of the grid compared to the old model when Austin Energy was forced to build a new power plant?

>> That's.

>> One piece of the issue. The other piece of the issue is cost recovery in a sustainable manner and the incentives we're trying to create for customers to use power in an efficient way. There's three components to the base rate, the fixed charge that doesn't change from month to month, the demand charge based on peak. And the energy charge based on usage. A lot of our costs are still driven by peak. ERCOT is providing the power and the energy market. Charging customers on peak is more stable financially for the utility than charging on energy. Energies declines or if we have a cool summer, then we don't get full cost recovery. But peak is much more stable. But that is a -- that is a very, you know, active issue for this dialogue.

>> Pool: Okay. >>.

>> Zimmerman: I think the short answer, there's no short answer because it's a complicated question.

[11:00:33 AM]

But I'm still struggling with this to understand how -- I haven't had it explained to me yet. How the peak argument, has to have changed, right? Now Austin Energy doesn't have the obligation to build huge power plants to meet peak demand.

>> If you think about it, the transformer that serves your home has to be sized for your peak usage. So that is still a component of the cost that is built for peak. So that is in the demand charge. Some of the component unless the demand charge are there because that's the way costs are driven. Some of the components that are in the demand charge are there because we're trying to balance public policy objectives, like efficient use of electricity.

>> Chair: Mayor pro tem Tovo?

>> Tovo: I hope we have more opportunity to flatten the tiers and eliminate the summer rates. But I

want to make an observation and see if I'm correct in how I'm interpreting it. It looks like to me the lowest users, those in the first tier who are using 50 kilowatts a month are going to pay summer rates year round under this proposal.

>> The proposed rate in tier one is the same as today's summer rate. But in all of the other tiers, the summer rate would come down. So that's just fundamental to the flattening of the tiers. If you're going to flatten the tiers, you uh have to flatten the tiers.

>> Tovo: Right, but we would be -- we need to look at the Numbers more carefully. But it seems to me that the rate proposal will have the highest impact on our lowest energy users. That is definitely a policy issue that I think we need to spend considerable time talking about. Part of the tier purpose was to send pricing signals to those using the most and for those using as little energy as possible are low income users to make sure their rates are set as appropriately.

[11:02:44 AM]

But also that they're not bearing an undue burden. It's just one consideration. I hope we'll be able to talk about the summer rate and why the proposal why you're offering the proposal in a little more detail.

>> I would say there's a conundrum in our tiers. We set the tiers to send energy efficiency signals to the folks up here. We're covering insufficient revenue. To we rely on these folks to use a lot of electricity to recover revenue. So we're trying to address that by the -- by changing the stability of the tiers.

>> Chair: Do you have a question?

>> I have a follow question on that. I heard anecdotally some separate assumptions about who was in the lowest tier. I understand we're all in that tier and we pay that portion first. Who lives only in that lowest tier? How much of it is folks that are trying to conserve as much energy as possible because they want the lowest bill possible. How much it is folks living in highly efficient new construction that aren't being incentiveized by that lower rate. They have such a high efficient new unit. Whether or not that rate is insentencing people to use little energy or if some people by virtue of the style of home they have chosen to live in are just sort of getting the benefit of having that low rate. If we have an analysis of how many folks we're incenting, it would be helpful.

>> You hit on the theme that the look and feel of our community are changing. You can see it down the street.

[11:04:45 AM]

All kinds of customers are in that tier. Some of them are in housing stock where they have not seen the incentive. We want to address the issue about a tier structure. I think there's a misconception that low usage customers are low income customers. If they affect low income customers, they affect primarily low income customers. But what our data shows is low income customers' usage patterns are like everybody else. They look just the same. So if you take all of the cap customers and layer them with the non-cap customers, the usage pattern is identical. When we factor the tiers, there are low income customers that pay a little bit more and some low income customers that will pay a little less.

Downtown customers paying a little more. And west Austin customers will pay a little less. But there's no particular pattern of impact on low income customers. I know we're really short on time. So I want to move to a couple more recommendations before I finish up. The next is about the outside city customers. In 2012, we had a settlement at the public utility commission with the outside city of Austin customers where we passed them the reduction of 1.57 million. That's a loss to the utility. We're proposing to sustain that same outcome in this proceeding. We're giving the outside city customers a \$5.75 million reduction that has taken us a loss to the utility in order to sustain the outcome of that agreement. The next is a complicated issue on pass-through charges. But I would summarize it by saying

there is, today, a lot of volatility in the regulatory charge.

[11:06:47 AM]

In 2013, the regulatory charge for our s-2 customers, for p-2 customer, I'm sorry, \$2.92. The next year it went to 38 cents, the next year it went to 69 cents. For p-1 customers in 2013 was \$2.28. Then the next year, \$3.79, then the next year, \$6.75. The regulatory charges have been moving around all over the place. We're proposing to stabilize it with the uniform charge for all customers. It's a bit of an involved subject that I would have the opportunity to drop in on you. It's a flattening out. Regulatory charges are coming down in some charges. And some will come up for one or two customer classes. Because of the uniformity that we think it's appropriate. Commercial discounts. Today we give discounts to a number of different types of commercial customers. We are proposing first to maintain the existing discount for independent school district accounts. That's a discount, we believe, of \$2.8 million that is then funded by other commercial customers of the same size and type. That money goes to all independent school districts. We have eight school districts in our territory. Secondly, we're proposing to create a discount for state accounts at the conclusion of their current long-term contract which runs to the end of may, 2017. We are also proposing to add a discount for military bases. This is because of the specific division and state law. That's \$95,000 a year for the discount for military bases. And here's the issue that will have a lot of interest from our community.

[11:08:50 AM]

And that is in the 2012 rate proceeding, we had the discussion about the appropriateness of discounts for houses of worship. We used to call them the utility industry, the church rate. And the decision at that time was that we would continue to offer a discount to houses of worship as a transition until the next time we set rates. Discounts are no longer common in the state. All of the utilities appear before the public utility commission have removed the discounts. El Paso electric are winding down. The discount for houses of worship. We believe following the same policy is appropriate. I will tell you over the last several years, we have reached out to every single house of worship for the city to try to provide them energy proficiency and energy management assistance. We went to every single one. Some of them took us up on it. Some of us received benefit. Some of us I didn't. We did our best to reach out the all of the intervening years. Now we're proposing to offer the house of worship discount. We see on the impact tables. The houses of worship particularly those that are peaky with low load factors and the percentage increase of their rates could be significant. I'm in the kind of 20% range. I would note that when we change the policy this summer on who's in s-1 versus who's in s-2 based on the four-month summer peak, 60 houses of worship dropped out of s-2 into s-1, and that's a strong financial benefit for them. I would also note that for each of the customer types that received the type today. Those types are a structured hodgepodge.

[11:10:51 AM]

We're proposing in each one of those cases for those commercial customer counts that receive a discount, we provide a discount in the same way, which is 20% off of the base rate component of the bill. One more topic that's important to present to you today. The \$17.4 million reduction. How are we proposing to allocate that reduction across the customer classes. And we are proposing first for residential customers to hold the base rate residential collection from residential customers constant because they're below the cost of service. It's not appropriate to provide them at additional discounts. But as I noted in the beginning, we anticipate that the regulatory charge and the power supply

adjustment will both come down in the budget setting. That will reduce the costs to residential customers. We believe that we proposed a bunch of changes to the structure to the five tiers and seasonality. So it's important in the first year to implement those and allow the residential class revenue to stabilize and see where they're at. So we are proposing that the \$17.4 million reduction be passed through entirely to commercial customers. To the secondary and primary nonresidential classes. And we are proposing that no commercial class in secondary or primary receive an increase. And this is a little complicated because as I said, we're proposing to restructure the regulatory charge. And so some customers will come up on the regulatory charge. On that, it's important to us that none of the commercial customers receive an increase. So we tried to manage the base rate reduction to offset the regulatory charge increase. So no commercial class will receive an increase as all commercial classes are essentially above cost of service.

[11:12:59 AM]

Small secondary s-1, we proposed to hold constant. They're close to cost of service. A number of customers received a reduction when they went from s-2 to s-1 this year. The majority of reductions go to the immediate secondary class s-2 and s-3 those are the classes away from the cost of service. We bring them as close as possible for cost of service. On t-2, the nine-year contract they received this June, they would receive a small increase of \$300,000. That would be deferred for three years under the terms of the contract. That is really the conclusion that we have for you today. I will also note that we are proposing the cost of service studies, we're doing a number of studies on the variety of issues that we've addressed today and others. We can improve the rates of the near future. The charts that I know are accessible that show the impacts. We anticipate the changes on these types of customers. And these impacts are for the base rate reductions that we're proposing and the power supply adjustment and regulatory charge rep ductions we anticipate in the summer. So we'll discuss the tariffs for all of this information. We'll push Lish the cost of service model. We hope to finalize the procedural rules very soon unless it receives some direction to you all. We will begin the discovery, that's the deep questioning process before the impartial examiner.

[11:15:05 AM]

And I mentioned we have a great deal of outreach planned for the mid commercial segment to encourage our precipitation in this proceeding. Thank you.

>> One quick question.

>> The reason I ask is it's a point of interest for lots of us on the dais. You have time with customer impacts on it. The customer has a 90 cent decrease in the average monthly bill. Is that the net decrease they see a \$1.43 decrease in their tier one portion that they receive by the time they get their real bill, a 90 cent net decrease.

>> That's the net decrease taking into account all of the adjustments to the tier, plus the anticipated reduction and the regulatory charge in the power supply adjustment. So you'll see that tier one customers, the lowest usage customers will see \$1.50 a month. And customers in higher tiers will see higher reductions. That goes to the flattening of the tiers.

>> For tier two, for example, that's a 90-cent net real reduction in electric bill.

>> Yes. Yes.

>> All right, thank you.

>> Councilmember troxclair?

>> Troxclair: What is the existing discount for ISDs?

>> The existing discount for ISDs is 10% on the whole bill. We're proposing that be 20% on the base rate

component of the bill and my understanding subject to check is that is a benefit of about \$200,000 additional to the ISDs, but it's a big benefit to us in how we manage our billing system and our accounting.

>> Troxclair: Do you know if -- \$200,000 additional. But do you know what that total?

>> The total discount is projected to be \$2.8 million for ISDs.

[11:17:06 AM]

>> Troxclair: What about the houses of worship. How much -- what kind of discount -- what's the total, I guess, on that discount?

>> The house of worship discount is assessed today in a completely different manner than Ben if I want the peakiest houses of worship. But the number I have is that the discontinuing the house of worship discount is on the order of about \$1 million for the entire set of houses of worship.

>> Troxclair: Okay. And where you talk about the commercial customers receiving a discount, what are those discounts?

>> Military bases and the state would receive a 20% discount off of their base rate.

>> Troxclair: Okay. So just -- just the one. What we talked about earlier.

>> That point is posted suggests.

>> Troxclair: Thanks.

>> She didn't ask about state, but I would be curious what the state component was?

>> My understanding is that the state is also around \$2.8 million.

>> All right, thank you. Councilmember pool?

>> Pool: Back on page 29, slide 29, the one you were talking about with councilmember Casar. That's only the portion that's heat, right? Do we have -- that's electric heat, gas heat?

>> That's to distinguish the different types of customers because they have different usage patterns. The summer-winter differential makes a difference if you're a gas or a heat customer. We called out some that were -- these are actual customers, by the way, each of these charts shows actual customers. So we took their annual usage pattern in to account for providing some samples.

>> Pool: I wanted to point that out that it looks like you're talking about the heat usage which we know here is very different than air conditioning.

>> Right, so customers with the electric heat have higher winter usage than customers with gas heat.

[11:19:06 AM]

The flattening of the tiers and the seasonality has a bigger, differential impact on the electric heat versus gas heat customers.

>> Pool: That raises an issue I wanted to explore later in the year, with the new developers and condos and apartments if we could have them install gas heaters as opposed to relying on electricity for heat, we could see a big reduction in people's -- primarily renter's utility bills if they were using gas heating. But that's an aside.

>> And I would just say one of the -- one of the topics that we have for investigation before our next rate proceeding is we want to look at single family versus apartment and see if there's a cost differential that we can identify and put into the rates.

>> Pool: That could, then, bring us some -- that could bring to the dais some conversation about whether people are -- if the installs are gas heat or electric. I did want to bring you back to page 17 in relation to page 29. What I'm seeing on the nonsummer tier rates, that's almost 100% increase from .018 to .33. And then 50% in the third tier of an increase. And I would just be -- I will be very interested to see how that -- how the discussion goes on those.

>> The increase in the -- in the third tier is .3 cents.  
>> Pool: Talking in the percentage of the increase is about a 50% increase. You're going from 72% to 76%. It's about four, which is about -- do I have my decimal wrong?  
>> 7.2 cents to 7.6 cents.  
>> Pool: Right.  
>> .4 cents increase for usage in that third tier in the winter.  
>> Pool: So what percentage is that.

[11:21:07 AM]

>> Hate to do math in public. 5%. Roughly.  
>> Did you have a question, mayor pro tem toe row?  
>> Tovo: It's directly related to that. I was wondering -- I was flipping through the charts. I don't see a chart that shows the percent of impact on the different residential customers by tier. I wonder if I'm overlooking that or if that exists but I would be interested in seeing you should the proposed rates what percent increase each customer would be -- would experience.  
>> I just have that for these sample customers -- today I just have that for the sample customers. We can certainly present.  
>> Tovo: Where are the sample customers that look to the individual customer impacts. Do you know which ones those are on?  
>> The slide that's on the screen?  
>> Tovo: Those are the percent increase S?  
>> These are the --  
>> Tovo: I thought those were the percent of the customers are 7.43%. But what is the percent increase for each of those customers.  
>> I understand. We've given you a dollar value of increase and a percent of customers like that but we haven't given you the percent change.  
>> Tovo: That's important. I mentioned in the last hearing our staff participated in an on-line webinar or something like that that our Austin staff encouraged. They talked about what an ideal percent increase would be. I believe the cap suggested was no more than 4%, 5%, something in that ballpark. I'm not going to do math here on the dais either. But I'm real interested to know how that works out across. Because I think tier one is going to stay pretty high increase and percentage. I take your point, councilmember Cassar that people may be living in more energy efficient, better construction, set. They may pay more on that rental apartment based on the understanding that they would understand a net savings in their energy bills.

[11:23:17 AM]

As we move forward, I hope we can take these rates back to the goals sweat for energy consumption.  
>> To be clear I wasn't -- I'm not sure I have a point yet. It's a point of information so we know who it is in that tier because all I have now is anecdotal information.  
>> Tovo: Your point is a good one. There will be a variety of customers in the lowest usage. But we have encouraged people to use as little -- encouraging energy conservation. So when people are doing a great job at keeping their bills low, we don't want them to experience the highs necessarily. I think it's the highest conversation about we want them to be the highest increase in bills after the rate change.  
>> Pool: Sure. Mayor pro tem, with this conversation, this might be a good area for workshops as you put the workshop together so we can take the conversation to a very specific venue. We're almost at 11:30. We have one, two, three agenda items left. So those of you planning on leaving at 12:00 probably

need to plan on staying longer except for the two that I know are going to capital metro.

>> Chair Gallo, if I could? I wanted to make sure the mayor pro tem on the percentage increase that was brought to us. I go back to the point I was trying to make on the first tier nonsummer rates goes from .098 to .33 which is effectively a doubling of that increase. Which I said 100% give or take. So that is a really key point to make for those people using the least amount of energy for whatever reason. They don't have an air conditioner. They don't turn it on. They live in really energy efficient homes. That increase is going to be real 4x. That will be very much noticed.

[11:25:18 AM]

>> Gallo: Thank you. We move to agenda item four. The climate protection plan, to 2025.

>> We have Mr. Bradley here who conducted the study. This was delivered to the electric utility commission back in December. So we've had a bit of time given to them. Going to fall today. The information they gave to the council in December.

>> Good morning, councilmembers, madam chair.

>> Excuse me just a second.

>> Before the presentation gets started, I have to leave in 20 minutes, can I ask questions?

>> Yes.

>> Hi. I was wondering -- I have the same question, one of the speakers earlier spoke to. It might not have been a fair comparison, and apples to Oranges, because of the 500 megawatts. You know, solar gives a different output than 500 megawatts from a gas plant. So, can you address that? And if there was -- because another question is, was the cost -- my understanding was the cost of decommissioning the gas plant is millions of dollars. Would the cost of decommissioning a gas plant, which eventually has to happen, was that factored into this report?

>> Thank you. I'll address the questions one after another. In the report, what we did is, just taking a step back, we were looking at portfolios of resources. In fact, as we'll go through today, we had seven different resource portfolios. Each one of those seven different resource portfolios were composed primarily of all of the elements of Austin energy's 2014 generation plan. The one piece of that that we substituted out for other resources was the 500 mega-watt gas plant.

[11:27:26 AM]

For this study, each one of the 500-megawatt blocks that we substituted out were then composed either of all market purchases, which means no additional generation investment. We also had all solar for that 500-megawatt block on top of the 950 megawatts of solar in the Austin energy's generation plan. When you look at equated them, it's done on a megawatt basis. You're looking at an investment in a portfolio of resource, not necessarily to maintain a certain level of capacity. It's really -- you know, where ERCOT is. To equate the solar against the gas plant, it would've required 1,340 megawatts of solar investment to produce the same number of megawatt hours, although they would not necessarily flow - or they would not flow at the same time, and in the same way as megawatt hours would flow from a gas plant, which tend to have more of an around the clock operation. And so, you know, I'm not sure if that answers your first question but, you know, my take on it is that it is an apples to apples basis, since we're looking at a portfolio effect. We're not looking at two resources in an isolated situation. In terms of the decommissioning, those costs were not included in the study. We took from the scope of work that we were looking at, a 20-year period of time. Gas plants typically operate well beyond the 20-year period of time, as do many of the resources. We took a snapshot of the 20 future years starting from 2018 to 2038 and modeled all the costs and activities that the city of Austin, Austin energy, would be exposed to during that period of time. I hope that answers your question.

[11:29:27 AM]

>> Oh. I guess, could you explain -- you said that in order -- you said that it was an apples to apples comparison?

>> I said that it was.

>> Garza: But you would have to add an additional 1100 and something solar for it to be apples to apples, because of the output issues with solar?

>> It depends on how you define apples to apples. Apples to apples here is a portfolio comparison. And that's what we've done. If you wanted to match precisely the quantity of megawatt hours from solar as to the quantity of megawatt hours from a natural gas plant as we had modeled here, it would take about 1340. So, again, at the risk of doing math in public, that would be, you know, over 800 megawatts of additional solar that would need to be purchased and added to that. That's an upfront cost, then, to that portfolio, for that solar portfolio. The cost of that additional solar gets put in up front, and, you know, then over time as it gets modeled through the future scenarios, depending on market pricing, you're going to get a recovery on that cost as well.

>> Garza: So that comparison didn't happen? The adding the additional solar that it would require to be -- for the output to be equal? That comparison didn't happen, is that what you're saying?

>> Yeah. We did not create a scenario which in addition to at the 950 megawatts of solar in the Austin energy generation plant, we did not create a scenario in which we added an additional 1340 megawatts beyond that.

>> Garza: But instead, you added the difference in output. You added what it would cost to go get that energy on the ercot market, correct? Which could be any kind of different sources.

>> Right. The way we modeled it is that Austin energy purchases 100% of the power it needs to meet its load from ercot. And so that happens regardless of the resource scenario that we're looking at. That happens in all the scenarios.

[11:31:28 AM]

That's a cost to Austin energy. When you build resources, those resources are put into the ercot market. They compete for dispatch. And they operate, earn revenue. They have costs. So when we talk about preparing a -- you know, this analysis, in all of the scenarios, power is being purchased from the ercot market to serve load. And there is different amounts of solar, in this case, 500 megawatts of solar, or 500 megawatts of gas that were deployed by Austin energy into the market to receive -- to operate ercot, compete for dispatch, and earn revenue.

>> Garza: Okay. And you said it depends on how you define apples. Would you say that it really is hard to do a black and white comparison to these very different energy sources, and all the factors that you have to put in when you're dealing with the ercot market? It's really hard to compare these two energy sources?

>> Yeah. In this analysis, which is really, you know, analysis of an element of a plan, or when you look at an overall utility resource plan, that is extremely difficult, and you can't get away from it. Whether you're looking at gas, hydro in some cases, whether you're looking at storage -- all of these different technologies are out there, and they're difficult to make head to head comparisons, because they each have their own set of economics, different costs, characteristics. All of those differences, you know, are taken into account. And typically, the way you go about this in the utility construct is you develop a portfolio. So you're sharing the benefits, the costs, and the performance of these particular resources in a portfolio effect.

>> Garza: Okay. I have a lot of other questions, but I know we're limited on time, so I'll just let you do



your presentation. I just want to add, since I won't be here for the consumer advocate, I just want to add that I think it's very important that we get that consumer advocate in place as soon as possible.

[11:33:32 AM]

And if a delay in timeline is necessary, I think that's something we should consider.

>> Gallo: Councilmember kitchen, did you have any questions before you leave?

>> Kitchen: No. The last item on the agenda has to do with the selection process, correct? And I would just want to say, with regard to the selection process, and, of course, I'll weigh in more later, I think it's important to have a process whereby the public has some opportunity for participation in talking with and providing some input on the finalist.

>> Gallo: Thank you. Okay. I think the questions of the two members that are having to leave for another meeting have been asked, so if you would continue, please.

>> Thank you. So, just real quick, you know, my name is Dan Bradley. I served at the project manager for the independent study that Navigant conducted. I'm based in Austin. We had a team of 15 or 20 people work on the analysis, and the report, which we finalized and released the latter part of last year. The purpose of the presentation is to present the key findings and summary of recommendation from the our independent review. As part of the 2014 resource plan update, which I'm going to refer to as the plan, Austin energy identified potential retirements and additions to the fleet, and a review of a new gas plant and other options. City council awarded the contract to perform this independent study to Navigant, and Navigant's team included two local subcontractors, Quality Power LLC, and Utility -- Energy Utility Group LLC. We were looking at -- or the scope of work asked us to look at a 500-megawatt natural gas combined cycle plant added to the portfolio to be constructed in the Austin area, either at the Decker Creek plant site, or the Sand Hill energy site.

[11:35:45 AM]

We presented our study assumptions. The first couple weeks in August, and the first couple weeks in September we prepared our study assumptions and presented those to the EUC and the Austin City Council Utility Oversight Committee in September of 2015. After presenting our assumptions at that time, we then conducted an analysis and prepared the report. We presented our key findings and this summary of recommendations to the EUC on November 16, 2015. So, just to orient ourselves, what we have up here is a picture of the actions specific in the AE plan, AE generation plan, to resources, between 2018 and nominally 2025. All of these different actions are assumed to be in all of the different portfolios that we looked at and analyzed during the course of our study. The only thing that changed in between the different resource scenarios that we were looking at is that item in yellow, which is the addition of a 500-megawatt gas plant. Here we constructed seven different portfolios of either a gas plant, or composed of alternative resources. You'll note that in here, the second-to-last item is solar. And within that solar, 950-megawatt minimum goal laid out in the generation plan is the 600 megawatts of utility-scale solar. We studied that in two different ways, as we'll talk. So within that 500-megawatt block, all else being equal, we constructed seven different resource portfolios. These resource portfolios were part of our assumptions, part of our input assumptions. And we reviewed these with the EUC and presented them here in the September timeframe. So, in the first alternative resource portfolio, we said, what would it look like if no additional resource were added for that 500-megawatt segment, and all purchases from that would just be incremental purchases from the ERCOT market.

[11:38:01 AM]

We looked at two scenarios in which a 500-megawatt gas plant was added, as is in the plan. One at which the 500-megawatt plant was added in decker, and one in which it was added at sand hill. That was -- those two sites were identified in the scope of work to which we were working off of. We looked at two alternative resource scenarios where we have a 500-megawatt solar block, and wind block. The solar block is west Texas solar, on trackers, which gives it a higher overall energy output than, say, a fixed-tilt solar. So it's in a prime solar area of Texas. It tracks the sun. It's where the -- you know, hottest area of solar is right now in ercot, and probably in the United States. Great, great solar resources out there. What we've done with wind is we divided wind into two different buckets. We sited some of it coastal wind, which is more expensive, but gets a nice output during afternoon hours where it's nicely coincident with ercot peaks. And then an additional chunk of wind resources in western Texas, where the wind resources may not be as great, but it's a little bit low-cost. So we blended those two together to create the 500-megawatt wind portfolio. We came up with an alternative MIX which includes a portfolio within that 500 megawatts of wind, solar, demand response, and energy efficiency. The 50-megawatt chunk of energy efficiency is incremental to the overall plan goal that we looked at on the prior page of 800 megawatts, I believe, of energy efficient, which is the current goal by 2020. So that would be a block on top of that block.

[11:40:02 AM]

And then lastly what we looked at was what we called an accelerated solar. This is identical to all market. In other words, no additional resource was purchased for that 500-megawatt gas plant block. In this case, in the original ae2014 plan, they had solar coming in in three 200-megawatt blocks between 2018 and, I think, 2025. This accelerated solar -- this was prior to the decision made to go into ppa with 400 some odd megawatts of solar -- we looked at accelerating so all 600 came in 2016, so it would be ready for the 2017 time period. So, what do we do with these resource portfolios? Well, we modeled them against a couple of different futures. And what we looked at in terms of futures were futures that had different levels of natural gas pricing. Why is that important? Natural gas pricing is the primary driver of wholesale market power costs. So when you look at ercot and the market is at \$45 or \$25, or \$60, a big driver of that price is the price of natural gas. The base price, which is published, we wanted to get boundaries around that. We went to the eia website and looked at their highest and lowest price forecast, and we converted those so they were on an equivalent basis to our base case forecast. And then we stepped back and said, okay. Well, what other major changes can we see in ercot over this 20-year period which need to be looked at? The fourth -- that created the fourth market scenario, in which we have a high ercot solar scenario.

[11:42:02 AM]

This means that instead of combined cycle projects, and simple cycle projects being added to the grid, instead of combined cycle projects being added to the grid over time by various market actors when they made investments in new gas plants, all of that would instead be driven by incremental solar, interconnected to the ercot market. We came up with about 11.5 gigawatts of solar that would be layered on top of the wind build-out and other build-outs in the ercot market. So, we took these resource portfolios and these different scenarios that were market scenarios, and we modeled them in a model called pro-mod IV. It's industry-standard. And it simulates the hourly day ahead ercot market. We modeled it for a 20-year period for all seven resource portfolios, in each one of the four market scenarios. So, what this does is, it essentially looks at every single hour of the day, the 8,760 hours in each year times 20 years, and it deterministically models the whole ercot market as if ercot were modeling it right now. It's a market simulation tool. It incorporates the nodal structure of ercot, and

any forecasting construction in the load zone, or other Zones, is picked up in the model. It performs a commitment dispatch. In other words, resources have to compete for dispatch, just like they would in the ERCOT market. And it models the effect of transmission congestion, fuel cost, generator ability, and low growth into market prices and applies the same security constraint commitment as does ERCOT. So, what comes out of this for each one of these is a tremendous amount of data. The data is pulled together and creates the incremental variable costs of operating the Austin energy generation portfolio, and the cost to Austin energy of the wholesale energy purchase from the ERCOT market.

[11:44:14 AM]

We then add to that the costs that don't change between these scenarios. All the rest of the costs for power supplies, for Austin energy. Promod IV, it's great and detailed, but it's not really a risk model. It doesn't incorporate a lot of statistics, you can imagine, with the complexity of every hour for the next ten years, you press go, it takes a long time to run. What we have generated here are, from Promod, are the costs for each one of the scenarios across each one of the portfolios across the four different scenarios. So our analysis results shown below show AE's total cost to serve load over the 20-year study period and revenue earned from AE-owned or contracted generation. So, again, it's the cost -- 100% of ERCOT purchases, net of, revenues gained from resources that are AE-owned or contracted. So, the table here shows on the left-hand side the seven different market -- resource scenarios that we're looking at. And the scenarios that we model them against. The highlighted numbers in yellow indicate the lowest cost in the market. And the number in the parentheses shows the difference in any one of the other resource portfolios against that low-performing portfolio in that particular scenario. You'll see that the two resource scenarios that fair well on this are the Decker combined cycle project, although noting that Sand Hill is behind it by \$1 million. And the 500 wind does well at a high gas, and in the high solar scenario. So, as I mentioned before, Promod is a deterministic model. It doesn't take into account a risk analysis.

[11:46:19 AM]

It doesn't really, you know, dive down into the locality. And the foundational principle of the ERCOT market, as with organized wholesale markets across the country, is that energy prices are called locational marginal. And location is the key element of that. Just like it is, you know, in a real estate situation. If you're looking to buy a house and you're looking to buy a house right near where you work, odds are you're going to be able to wake up, walk out your door, walk down to the office. You're close to the activity. If you go farther out and you buy -- maybe it's cheaper. It's a longer distance to travel. And that longer distance to travel carries with it in the electric world, risk. It's risk of congestion costs, essentially traffic on transmission lines, and a number of other risks that you have to take into consideration when you're looking at operations in the wholesale power market. Austin energy is exposed to this risk in the AE load zone. The cost risks in the realtime and ancillary services market, neither of which is explicitly modeled in the standard Promod model, need to be separately calculated. So what we did is, we included estimates of these costs in our results, and then broke out where there's added risk, and we took a deeper dive into these areas. And these are primarily the locational impacts of where any of these resources are located and how they operate in the wholesale market, as a day ahead market, or in the realtime or ancillary services market, where additional risks will crop up.

>> Chair. Excuse me. I have a question. What's the unit of measure on the estimated added risk?

>> This is in millions of dollars.

>> Pool: And --

>> We'd be looking at 188 to 213 million in the highlight, just to orient yourself.

[11:48:21 AM]

>> Pool: And how often has Austin energy lost transmission or had congestion, or are these just factors that you put in there that are average? How much do they reflect what Austin energy's actual experience is?

>> That's a good question. You know, it's a tough question to answer, since the decker plant hasn't been retired. So you can't look back on history and say, you know, here's the historic congestion that has occurred because this plant doesn't exist. So, any speculation on the level of congestion costs has to be modeled, you know, based on congestion. There's no evidence because you haven't retired the project. That being said, congestion does exist. Austin energy load zone is in a highway of sorts. There is -- would you like to --

>> I'd be happy to provide some additional detail. I'm Elena, vp of power production, interim coo. We have several months of recent history. If you look at June of last year, there were a number of periods where we saw quite a bit of load zone separation in and around Austin. And running decker and sand hill did two things during those time periods. When I talk about load zone separation, I'm talking about several hundred dollars of experience of what's going on here in Austin for a megawatt-hour basis, to the \$20 range. So significant separation of pricing. Because we ran decker and sand hill, we brought in revenue that offset the load costs for customers. As we start those or any resource near that type of constraint, you will see the price come down. I think that's what you're speaking to. If you would like to see the examples, we would be happy to provide them to you.

>> Pool: Thanks.

>> Thank you.

>> Zimmerman: This seems to be really the crux of the argument, is accurate modeling or accurate estimates of what these charges are. Because if those congestion charges are very high, then you say you need to have local power here.

[11:50:27 AM]

If the charges are very low, ship it in from west Texas through wind mills and solar farms. It's kind of the crux of the issue. And I appreciate the fact that you're being honest about how hard it is to estimate this accurately, but it kind of strikes at the core of the issue.

>> I appreciate your comment. If you were to say it's the crux of the issue, and, you know, so what we're going to do is we're going to continue to build far, far away, that's the crux of the issue as it is today in the ERCOT market. As it changes over time, that may change. That may change tomorrow. It may change six months or six years from now. One thing, as you see -- you know, a shift in the makeup of the generation capacity in other ERCOT, additional renewables coming on may be creating transmission congestion or bottling it up in areas where we haven't seen it before. So it's not a static market, right. It's constantly changing. So one of the things that we did when we were modeling it is we took the 500-megawatt plant, we put it in the pocket and out of the pocket. And we got to about \$70 million worth of congestion risk that it solves. Now, as Elena mentioned, when you look at the separation in prices between the AE load zone and ERCOT south, and if you see it pop up and congestion pops up, and it's a \$10 difference, it doesn't sound that big. But then you layer on top Austin so it's \$25,000 per hour. That runs for a couple hours. If that separation were \$15, that's a 50% add to that. The real point of this slide is the congestion risk, the realtime volatility, and ancillary services in a changing ERCOT market, the risks are asymmetric. In other words, the chances of that 70 million being zero are zero, right. The chances of it being two or three times higher, it's in the reasonable realm of possibility.

[11:52:28 AM]

So from a directional basis, it's not going to get better, you know. You're facing real risks here. That could be multiple risks, and that's really the point of this slide. Those risks are addressed, really, by -- you know, would be addressed in the form of increased revenues to the gas plant in the Austin energy load zone, which reduces the overall financial risk of ae. And wind, solar resources, don't mitigate these risks. They are not controllable. They don't -- they're unable to earn ancillary services revenue, and, you know, as modeled here, they're not local to the ae load zone, which does, you know, add some ERCOT congestion risk. So I wanted to pause here to see if there were any further questions on the topic?

>> Gallo: Are there any questions, councilmembers? Okay.

>> So, we took a look at the Austin energy's renewable generation share. No surprise here, all of these plans met the goal of 55% renewable generation by 2025, because our starting point is the ae generation plan that was designed to meet that goal. So, in the cases where we, instead of putting a 500 megawatts gas plant, we put additional solar, you'll see in the alternative MIX, the wind MIX, and the solar MIX that the renewable share increases beyond the 55%. Here's a snapshot of our CO2 emissions by year. As we modeled, portfolio emissions reflecting the net of Austin energy's generating unit production and ERCOT purchasing in. So, again, Austin energy purchases 100% of its load from ERCOT. It owns generation, or contracts for generation that it sells in the market. What we're looking at is the net of those two in terms of looking at emissions by year. ERCOT purchase from the ERCOT do carry a carbon intensity to it. I want to reiterate, there are no direct emissions that are produced by the solar wind and alternative mixed resources.

[11:54:33 AM]

Those are emission-free resources in this. So what we're looking at here is the period of time between 2018 and 2025 where these portfolio additions are taking place, and all of the different scenarios, right. So beyond that, we just didn't add any additional capacity to Austin energy. We're just looking at the plan. You know, the plan doesn't have solar, wind, or a simple cycle unit going in in 2035. Beyond the 2025 period, that generation MIX kind of stays identical in all the rest of the years. And you see slight increases over time in CO2 emissions, primarily driven by load growth. From a water perspective, the gas plant water use rate is 65% less per megawatt hour than the retiring steam units at Decker. So, replacing the Decker steam units with a gas plant results in about 15%, more or less, depending on the cooling technology, more water usage than the other portfolios. We modeled this gas plant with a once-through cooling technology. We used a Stanley engineering consulting report, a preliminary report provided by Austin energy, done by their outside engineering consultant that looked at various configurations of the project. The water usage, depending on the configuration you choose, can be about 15% more, in the end, water usage than the other portfolios. There are other options within that engineering that could reduce that 15%. The gas plant, though, when you look at the overall ERCOT picture, it's going to displace, typically, more water intense generation in ERCOT. The net effect, if you looked at water in all of ERCOT, it wouldn't be surprising to see a reduction of overall usage to reduced power.

[11:56:33 AM]

It may be knocking off a steam unit, or coal unit, some other more water-intensive unit somewhere else in ERCOT. Land use impacts. No identifiable land use impacts for the all-market option, no surprise there. For both of the gas plant build options, either Decker or Sand Hill, the existing sites have more than adequate land available for development. Just wanted to note that a full assessment of land use

requires an engineer and an environmental study. That's a whole specialty in itself. We took a stab at estimating economic impacts for the gas plant, spending estimated to be \$74 million, of which 75% is assumed to be labor, about \$55 million in labor. It corresponds to 400 full-time equivalent construction-related jobs, which include support. And approximately 20 full-time jobs will be needed for o&m after the gas plant begins commercial operation. And so findings and recommendations. Our analysis, you can draw a lot out of it. There's a lot of different ways to look at it. One thing that was loud and clear to us was that it confirms that owning generation -- in particular, local generation -- mitigates ERCOT market price risks. Another observation is that the results between the portfolios assessed are very close. That's one of the reasons it's important to consider the range of risks to Austin Energy and its customers that can be mitigated by the gas plants. Those are primarily locational risks in the AE load zone. The portfolios with the gas plant as Decker or Sand Hill result in the best MIX of value and risk mitigation. We're not looking solely at that asset, it's in combination with all the rest of the decisions and recommendations that are in the generation plan. Gas plant portfolio provides the lowest cost on a day head basis.

[11:58:36 AM]

When you add in the locational risk element, it's the lowest overall. It supports the retirement of 1400 megawatts of generation, specifically the 735 at Decker in the AE load zone. It mitigates market risk and supports plan goals, like 55% renewable portfolio by 2025, reduction of total CO<sub>2</sub> by 20% from 2005 levels by 2020, uses less water, and provides positive local impact from the construction and operation of the plant. So, our -- Navigant's recommendation to Council on the basis of the benefits and impacts of each of the scenarios we assessed is that AE go ahead and build the gas plant in the AE load zone to replace the Decker Creek steam units when they are retired, and to support the plan for retirement of Fayette. There's two sites. There's a Sand Hill site as well. And you can see the differences between the two are small. Decker we had more of a preliminary engineering report on it which we had to review, which gave us some comfort in the level -- the small level of infrastructure that would be needed at that site. So we recommended Decker. As information comes out with Sand Hill, that may also be an alternative you may wish to investigate. We did note that there are other findings. There's a pace of change in renewables and storage costs. Austin Energy should continue to monitor and consider these resources, as it has in its generation plan. Energy efficiency and demand response resources are Austin highly valuable, if you can procure them cost-effectively, and they either reduce energy or peak when you want it to. Overall, they're highly valuable assets, if you can procure them cost-effectively. And Austin Energy should consider other -- starting generation technologies that were not in the scope of work to address the ERCOT market. When you look at the different forecasts and see the base generation in ERCOT shifting one way or another to more renewables, more renewables equals more volatility.

[12:00:45 PM]

Wind picks up, solar picks up. In this volatility in the market, you know, it points to probably an evolving trend over the next decade, 15 years, or seeing more quick-starting generating technologies. So that concludes my prepared remarks. I'm open for questions.

>> Gallo: Councilmember Zimmerman.

>> Zimmerman: You don't have to answer this, and you may not be prepared. But just from a high-level viewpoint, one of the things I've always struggled is, these problems we're talking about of uncertainty about the market, where are renewables going, where is the price of gas going, there's growth in the state. In other words, all the things we're talking about dealing with exist in Houston and Dallas, where we have some market competition. Austin and San Antonio is having the, you know, municipally owned monopolies. Then we have the more market-based areas I just mentioned. So, how are these questions

and these issues of investment and energy production, and wholesale, resale of energy, how are the questions answered in the areas where there's no energy monopoly?

>> That's a good question. And I will say the response to it is, you know, outside of the scope of this work and, you know, I can share with you the different, you know, different utilities approach this in different ways. And there's risk mitigations that they'll put into place. Up in Dallas, energy future holdings, the utility is there, but there's another subsidy which does own about 13,500 megawatts of generation. You know, I think it really comes down to, you know, working within the constraints and options that you have before you. If you're completely exposed to the market, you're going to be facing some volatility and risk that in some way, shape, or form, you need to cover.

[12:02:47 PM]

>> Zimmerman: Going back to here, it says Austin energy's plan met the goal of 55% renewable generation in 2025. In other words, if you have an area like Houston or Dallas, there somebody saying, we have to have 50% renewable, or 60% renewable? In other words, you don't have these politically motivated policies that are shaping the decision process, do you?

>> You know, one distinction that you draw between the two is, you know, is in an area where an iou has coverage. It's an investor-owned utility that's making decisions, and they may be propelled by legislation or by environmental commitments to set goals and mandates, and pursue them, absolutely. You know, I think -- I sat through the rate meeting earlier today -- presentation. You know. And one of the things that you take is when you have a public power in a city, that it's integrated in. And what bubbles out through that is really, you know, where, you know, where the city -- how it sees the future, right. That's how it plays out under a public utility. There's a lot of input and a lot of goals, right. And it's almost two different, you know, operating, you know, parameters, two different ways of going about it.

>> Zimmerman: It is. And a final point to what you just said. If it were me, with the concern we have with affordability -- lack of affordability in this area -- I would have hoped to see a slide that says Austin energy has a goal to lower the cost of energy. And that's not a goal. There's a renewable generation goal, but there's no goal to keep the cost of energy the same or to reduce it. It's not even a goal. So that's another reason I want to see Austin energy go away, but that's just my been. Opinion.

[12:04:51 PM]

>> Gallo: Do we have any other questions that are specifically directed to the consultant? Councilmember pool.

>> Pool: I was curious why the report that you did doesn't talk about the city council's adopted "No carbon emitting resources" that are under Austin energy by 2030. That is one of our specific goals, speaking of goals, by 2030. Did you take that into account, and if not, why not?

>> Yeah. Good question. What we did was, again, going back to, I think, the scope of work, which was fairly prescriptive or approved by the council, it's looking at the Austin energy plan. There's one element of the plan holding everything else equal. That's the path that we went down, and that's the path that we modeled. There would be options between now and 2030 to divest the asset. There's many different options you've had. We didn't look at that specifically.

>> Pool: Okay. Thanks. And then, is one other way to read your results is that in the out years, there really is very little monetary difference between building the gas plant or not building the gas plant, and relying on renewables?

>> Well, the gas plant does --

>> Pool: When all things are taken into account, including the clean energy aspects of solar and wind, for example, the renewables, that if you were to put pen to paper on the cost and you do it over a specific

number of years, then in the end the gas plant does not perform more favorably?

>> I would put it another way, in that as a part of a portfolio, in the out years it continues to not only produce revenues, but it continues to address the locational risk that, you know, I think provides, you know, a means to expand the generation beyond that. When you look at total costs over the 20-year period, you know, things are, you know, tens of millions, couple hundred million apart.

[12:06:56 PM]

That's one way of looking at it. You know, I do think that in the outer years, right, you have essentially locked in a way to address changes in the ERCOT market, including locational risks.

>> Pool: And in the other assessments and studies that Navigant has conducted, I guess you do this around the country, is that right?

>> We're a big company. We are not solely in the business of resource planning. This is one aspect of hundreds or thousands that we do. So when we have the opportunity to perform a resource plan for a city or a utility, we certainly compete for it, so.

>> Pool: So in the other studies that you've competed in and done --

>> Yeah.

>> Pool: For other municipalities, and generation groups, how often have you come down recently on the side of constructing a new gas plant versus expanding the portfolio of renewables?

>> Good question. I don't know right now of any other report that's, you know, looking at renewables and gas plant, you know, in the same analysis that we're doing. I could go back and look, but there aren't that many that are Teed up in this particular way.

>> Pool: I'd be interested to know what the other results -- the different studies that Navigant has done, and what the assessments were in the different settings. That would interest me, if it wouldn't be too much trouble.

>> A lot of it is posted on the website. I'll see what I can pull down.

>> Pool: Thank you.

>> You're welcome.

>> Gallo: Mayor.

>> Mayor Adler: Might be a real obvious answer to this question. What's -- do we have a no-build option that does not include decommissioning the Decker plant?

>> I'm sorry.

>> Mayor Adler: I'm just looking through the different resource portfolio scenarios.

[12:08:56 PM]

There are seven of them.

>> Mmhmm.

>> Mayor Adler: I thought you said each one of them assumed the Decker plant was decommissioned.

>> No. That was either a misstatement on my part. Yeah. So of the different resource portfolios that we have -- let me pull up the slide here. We have two in which, in lieu of the 500-megawatt gas plant in the resource plan, no additional resources are added, and it's just assumed that, you know, those costs are going to continue to be purchased from ERCOT without owning generation to net any of that. That's the all-market case and the accelerate solar case.

Ed solar case.>> Mayor Adler: And the Decker plant continues to operate.

>> Yes, up until the point that it retires in the generation plan in 2018.

>> Mayor Adler: Okay. Is it a viable option to keep that plant proceeding past 2018?

>> That would be a question I think that would be more appropriately directed to Austin Energy. My



understanding is it is, but that would be more appropriate for Austin energy to respond to.

>> Mayor Adler: Thank you.

>> Elena again. For all of our resources, we constantly model their profit and loss, and are constantly looking at the economic value, not only in revenue, but in total hedge value for our customers. And the reality is the decommissioning decision around the steam units are really tied to how the market's performing. A year and a half ago when we did the resource plan we're discussing right now, we looked to decommission the plant in about 2018. Of course we're constantly looking at the forward market conditions and determining when the ideal time is for decommissioning. The reality is, at some point, the decker units are going to move far enough up the ERCOT stack that they don't make sense for us to continue to run. We're not at that point now.

[12:10:57 PM]

The plant is still covering its costs and value to our customers, but we're going to be continually looking at that. At that point, we would need to initiate a process with ERCOT, because of transformation constraints. Economics wouldn't be the only aspect, we have to look at planning to address the transmission constraints around that facility.

>> Mayor Adler: I'm trying to create a grid and fill in all the answers to the different possibilities. One of the questions I heard was, rather than incurring a 20-year capital expense and retirement need to build a new gas plant, with the uncertainty associated with where we are with respect to the capital infrastructure and where the market's going to be in 5, 10, 15, or 20 years, does it make sense, rather than just assuming that we would lose the generation -- quicker start generation, the greater dispatchability associated with losing that plant, is it an option to keep that plant, and does that make sense. And what I understand you to say is that's just not something that you looked at.

>> We continually are looking at the economic value. I don't believe that's something that was modeled, but the reality is the decker units are -- you know, they're '70s vintage, so they're less efficient than the latest technologies. The latest technology would increase efficiency by almost 50% over what the current decker steam units are.

>> Mayor Adler: And that I have -- the question that I have is, I know if I could close my eyes and do that, I'd rather have the more efficient plant.

>> Sure.

>> Mayor Adler: All right. But I can't do that. If I build the more efficient plant, I have to pay for it.

>> Right.

>> Mayor Adler: I have a plant I've already paid for and it's there. I have uncertainty associated with what's going to be happening in the market with respect to solar pricing and ERCOT. The question that I don't have an answer to was, recognizing that it's less efficient, recognizing that it only has so much more time left to it, is it an option to consider taking the decommission date from that plant from 2018 to 2022 or 2023, and continue to operate it recognizing the bad part is it's less efficient than be a new plant, if I built a new plant, but I don't have a capital expense, as it got weighed into this option.

[12:13:33 PM]

>> Certainly. We can keep the plant open for a longer period of time. We just need to watch the market and recognize that we may be at a point where it's at a loss. And we're trying to mitigate those costs for our customers.

>> Mayor Adler: Right. And some of the costs and the risks we face in the analysis you've done in not building the new, more efficient plant, would be risks that, at least in the short term, wouldn't be presented if we kept the existing plant operating. Because we would have some measure of additional

dispatchability from the existing plant that's not represented in the scenarios which you have represented here, because you're assuming it's decommissioned in 2018, right?

>> I do understand that.

>> Mayor Adler: So the question would be, one option would be not to have those risks by virtue of just continuing to operate decker longer. Now, it may be that you know enough to say, that's a silly idea. Nobody would do that. It's going to fall apart. It's so inefficient that it makes no sense. Or, we haven't looked at that and we don't know that answer. It's either obvious to you it's not, or -- and that's the question. Does it bear looking at whether or not one way to mitigate the risks that you have presented here is with another option, which is not represented as being studied here, which is to maintain the decker plant longer?

>> That is an option that we can conduct a study on. We have not conducted a study on running the decker unit longer than the resource plan. It's part of the overall portfolio, but we could do that. The reality is, each of these units, regardless of where they sit, there is an economic end of life.

>> Mayor Adler: I know that. And it may be that I shouldn't ask mark to look at that because you can say, it can't last any longer, or it's so inefficient we shouldn't look at it. But is that an option that you think would be worth looking at, or does it not make sense to do?

[12:15:40 PM]

>> We can certainly look at it. To answer today one way or another, that's a tough decision, because the Numbers we're discussing have Bs after them, so we would want to do a more thorough analysis. I don't want to give you an off the cuff response and have it be inaccurate. The reality is, we don't dispatch these units against load, only when they're making money or revenue. If the market continues to decline, these units will dispatch less and less and their value will be reduced over time.

>> Mayor Adler: Okay. Thank you.

>> You bet.

>> Gallo: Are there any other questions? Okay. Thank you very much. Appreciate it. We are going to -- Mr. Ott has a 1:00 commitment, so we're going to flip agenda item number 5 with 6 and let him go ahead and address an update regarding the process to fill the position of Austin energy general manager.

>> Thank you, councilmember Gallo. Good afternoon, I think it is, members of council. It's good to be here with you. I think I sent you a memo last week providing a written update as to where we are on the GM recruitment for Austin energy. As I indicated in that memo, we hired an executive search firm to help us with that. They're called microf, fry, and prauss. They're well-respected in the executive search industry. They specialize in these kinds of searches with respect to the utility industry. We've had an opportunity to meet with them several times. At my request, I've asked them to reach out to the community, and they have, in terms of almost 100 community members representing various stakeholder groups, business, neighborhood, the euc, resource management commission, the environmental groups, industry, cultural, education, etc.

[12:17:44 PM]

We think that kind of outreach is important to help us develop the profile for the prospective candidates. And that outreach -- those contacts are asked to respond to a series of questions. I expect the advertisement for this recruitment to be ready in the next couple of weeks. And they will use -- that is, the search firm -- their expertise to make sure we're posting it in the appropriate locations. We expect to begin the screening process for the applicants sometime in March. It will not have a closing date. It will be an open process until we fill the position. Based on the responses we get

from the solicitation and the outreach, we will use that to develop the next steps in our recruitment. That includes the interview process and public participation as part of the recruitment process. Certainly, councilmembers, I'm interested, as you'll recall, in the correspondence that I sent you, in your input into the process. And I think I gave you a central point of contact to do that, assistant city manager mark Washington. So that's where we are, and we're optimistic that we're going to be able to generate a great pool of candidates for this important position.

>> Gallo: Council, do we have any questions?

>> Mayor Adler: I think that before councilmember kitchen left, she said that she wanted -- she expressed the opinion that there should be some community involvement in speaking to the finalists.

[12:19:50 PM]

And, one, I wanted to make sure that you heard the comment that she made on the dais before she went to the capital metro meeting, and to give you the chance to respond to her, or at least know that she asked that.

>> I am aware of that interest. I appreciate knowing that councilmember kitchen has that interest. I have not defined what the balance of the process will be. Certainly, with respect to the last recruitment that resulted in Mr. Weis' point, there was an opportunity for public participation. Whether I use that method again or not, I haven't determined at this point. I'm going to wait until I gather more information.

>> Gallo: Any other questions? Councilmember Houston.

>> Houston: Thank you, chair Gallo. My question, how long did the process take with the last -- with Mr. Weis?

>> You know, I don't remember the exact, but I can tell you generally, you know, just the recruitment process itself can take 60, 90 days or so, you know, just to get through the process, make the offer, and get acceptance. And then there's a period of time for that person, then, to arrive on the scene and assume their responsibilities.

>> Houston: Okay. Thank you.

>> Gallo: Councilmember Zimmerman.

>> Zimmerman: Thank you, chair Gallo. So, for the city manager, I want to go back -- a number of years back to one of my favorite things to harp on, was that east Texas power plant. And I would like to see the next energy director have either a physics or engineering background rather than philosophy. This is a highly, highly technical position that we need to fill. And I want to do whatever I can to make sure we have technical requirements in the curriculum vita for the next director.

>> Thank you. I appreciate that feedback.

>> Gallo: Mayor pro tem tovo.

>> Tovo: And I just wanted to add my voice to councilmember kitchen's. I hope that you will take seriously the community's suggestions, as well as the suggestion from several councilmembers to have some kind of public session.

[12:21:57 PM]

I think that's a process that, as you mentioned, was done -- or as somebody mentioned, I think was done with the hiring of our now former general manager. I believe it was also done for the neighborhood adviser, for the animal services office, for the police monitor -- police chief. I think for such a critical position, it is really important for the community to feel like they've had a direct way to provide feedback about the candidates.

>> I'm certainly sensitive to those values here in Austin. I'm thinking about the editorial that was in

yesterday's paper, and making that point, they cited three recruitments, if I recall correctly -- the police chief, the fire chief, and the recruitment for Mr. Weis. And two of the three that they pointed out, our recruitment

-- are recruitment processes I put together. Both of those did entail opportunity for public participation or input. I would note, also, that the same was true with respect to our recruitment for the animal services director, the park director, and chief sustainability officer, and the chief innovations officer. I think we have a record of recognizing those values in regard to important recruitments. Again, I haven't determined, in this case, how I intend to do that, but certainly, we do recognize those values. We want to balance those values, however, with the need to have as qualified a pool of candidates as we can at this particular level -- executive level. Depending on how we go about that, some candidates may choose not to apply. That was some of our experience during the last recruitment.

[12:24:00 PM]

And some will, as we experienced in the last recruitment, decide to discontinue in the process. And all of that has to do with the level of exposure that they may or may not be willing to accept. So, we're trying to balance all of those factors, and we will do that in making our determination about that part of the process.

>> Gallo: Did someone else have a question? I thought I saw another hand. How is the position of the cfo impacted by this? Will it be the new general manager that will be responsible for hiring that position, or is that another position you're looking at right now?

>> The new cfo? I don't think we'll need a new cfo. The acting general manager, mark, is actually the cfo serving in acting capacity at the general manager. I've heard him refer to himself a couple times today as a cfo. He's doing double duty.

>> Kitchen: I meant coo.

>> I didn't mean to give you a heart attack there, sorry. My brain was operating faster than my voice.

>> We will leave that position vacant until such time that we hire the new general manager.

>> Kitchen: So the new general manager will be responsible for that.

>> That's correct.

>> Kitchen: Thank you. Once again, sorry for that.

>> No worries.

>> Gallo: Any other questions? Councilmember Houston?

>> Houston: This is more of a statement than a question. Having now completed -- my freshman year, the complexity of Austin energy is just amazing. And I don't believe that the citizens understand it very well. And so it would be nice to have someone that's able to speak in laypeople's terms and help people understand how we get our energy, and then how we use our portfolio to sell energy to everybody else.

[12:26:01 PM]

And I don't think people understand that. And so it would be nice to have somebody that could help start explaining that to people who use Austin energy.

>> We'll be mindful of that.

>> Gallo: Any other comments? Councilmember pool.

>> Pool: I'd just add that it may be one of the qualities that we look for in the new general manager, is someone who has experience and evidence -- demonstrated a good understanding of the dynamics of the community within which he or she has been working as in that role in another city so that -- and I understand the city manager may be reluctant to open up the process entirely for complete transparency, although I would advocate for that. Failing that, if there isn't going to be that level of

ability for a community to know who we're talking to and interviewing, I would like us to look in the qualifications for someone who has a program wherever it is they're coming from that includes the stakeholders in the community, and can demonstrate that they have actively worked with low-income and middle-income, small business and large business, so that we know that that person has a sense of how that -- how those dynamics work in a community. And then we'll put them into play here. Does that make sense?

>> It does. Thank you.

>> Pool: Thank you.

>> Gallo: Councilmembers, I think that the city manager probably would be appreciative of any suggestions and additional comments from what I've heard today as part of the process. I think your email last week asked for that time of information from each of us.

>> That's right.

>> Gallo: I hope that you will take your suggestions and forward those to the city manager so they can be part of the process. Thank you. Any other questions? Thank you.

>> I appreciate the input. Thank you very much.

>> Thanks.

>> Gallo: Okay. Next on the agenda is item -- we'll go back to item number 5, which is an updating regarding the procurement of a consumer advocate to participate in Austin energy's rate review process.

[12:28:30 PM]

>> Committee chair, members of the committee, good afternoon, James, purchasing. This is a brief update concerning the procurement that was before you last December 1st. As you'll remember, prior to that particular council meeting, I issued a notice to you informing you of a disqualification of the recommended offer due to a violation of the city's anti-lobbying ordinance. At that time, it was your discretion to postpone the item until the administrative process had run its course. Following that date, the company that was disqualified, oxford -- excuse me. Let me get the entire name. Oxford advisers LLC, referred to as oxford going forward, filed a protest to receive by the purchasing office timely. The purchasing office facilitated a procedure attended by an independent hearing officer, Mr. Steven whip. At that time, the protested conveyed their concerns or issues associated with the disqualification, and staff responded to questions. On January 15th, the hearing officer rendered a recommendation to the purchasing office siding with staff in their interpretation and application of the anti-lobbying ordinance. On January 2nd, the purchasing office issued a decision sustaining the decision to disqualify the firm. And with no other firms remaining in response to that solicitation, the purchasing office moved to cancel the solicitation. So at this time, we have no recommendation for a contractor regarding this solicitation. We have no more solicitation, in fact. So to that extent, we are available to answer any questions with regard to our procurement options going forward.

[12:30:33 PM]

>> Gallo: Are there any questions? Councilmember pool.

>> Pool: One of the things we talked about when this came up in December was how quickly could the purchasing office reissue the request for proposal. Do you -- because clearly we need a consumer advocate. And I would like to move forward forwardexpeditiously. I know we had to wait until the hearing was held and the resolution was issued. Are you in a place to move forward quickly with a new rfp, and one that definitely shows that we are looking for someone with experience working actually with residential, low-income, and residential users?

>> Committee chair, we are able to proceed with a new solicitation, taking into consideration that if we do take that approach it'll be the third procurement for these particular services. Currently, Texas procurement statutes do not require us to seek competition for this type of professional service. When purchasing is asked which approach, and should we seek competition in these cases, it is always our preference and our recommendation that we do seek competition. In this case, we have done so twice already, and we are glad to do so for the third time, but we would like to consult with our customer, Austin energy, to determine which is the best approach to meet their retirement, whether it be a procurement or non-procurement solution. To your question, if we do proceed with a new solicitation in an expedited format, depending how soon we can get it on the agenda, it could be 60 or 90 days.

>> Pool: If you do the direct procurement, you have a list of people or firms that can adequately operate in and meet the goals that we've put forward with the criteria and the qualifications?

[12:32:37 PM]

>> We would rely on the program leadership at Austin energy to provide a recommendation outside of a competitive selection process, and with such a recommendation, we would estimate that we could proceed with something in approximately 30 to 60 days.

>> Pool: And would you also take recommendations from the community, or from council, or from others besides Austin energy?

>> To the extent that the purchasing office, like other departments of the city, we take our procedural and policy advisement from the city manager's office, to the extent that that was the desire of city leadership, then we would definitely do so.

>> Pool: Okay. Thanks.

>> Gallo: Mayor.

>> Mayor Adler: I was going to say, for what it's worth on that topic and giving the discussions about trying to move this process along and the danger associated with the scheduling on that, but with the clear need for us to have a consumer advocate that's trusted by the community, if there was a way for us to get that process done more quickly without going back through the process for a third time -- we've only had the same one person apply each time. If we were to assume that that person was going to apply again, maybe, but augmenting it with suggestions that would come from the community for Austin energy to consider, my preference would be for Austin energy to look at that person, if they're still in. Suggestions that would be made by the community recognizing that the real importance of the advocate is to have those segments of the community that are being advocated for feeling confident that their voices are being heard, and there's someone in the process, because it's a confidence issue. My hope would be that we could get that done sooner than later so that we have greater flexibility with respect to how we do our process and bring them in.

[12:34:42 PM]

>> Gallo: Are there any other questions? Councilmember Houston.

>> Houston: It thank you so much for that information. There's only one person that has been up for solicitation three times, and we've gotten only one response? Is that correct, or . . . ?

>> We have issued the solicitation twice previously. Two companies responded. The first solicitation that was issued that past summer, there was concern because there was such a low response rate that we did not proceed with the council recommendation at that time. Instead, staff went back to the respective offers to find out -- or to more clearly understand their interest and any impediments to participating in the solicitation. There was some broadening of the requirements, and the process that was applied to the second solicitation. We then, in fact, received offers from the same

two companies in the second solicitation. As you may recall from the previous discussion in this regard, one of the offers withdrew their proposal due to possibility of a conflict of interest. The presentation that you heard earlier this morning from Herrera and Boyle was actually the other offer. And they were awarded the hearing contract in this case. So they couldn't perform both sides of the service. So they withdrew from this particular solicitation. Because of the disqualification, oxford would not be able to participate in any subsequent competitor process. If, however, the city determined to source the contract through a noncompetitive professional service exemption, oxford would be able to proceed with a recommendation from Austin energy or an approval from council. But just so that you are clear with regard to a competitor process that we may engage, oxford would not be qualified to participate in that process.

[12:36:45 PM]

>> Houston: Thank you.

>> Gallo: Would you need any additional information from the council to proceed forward in either of the two paths that you talked about, either the competitive or noncompetitive direct?

>> I believe to the extent that you share the values of council with Austin energy leadership, and with the city manager's office, that would be sufficient for them to conclude their decision with our procedural and regulatory support. We would be able to proceed your quickly.

>> Gallo: So it can continue forward without any action from the council at this point?

>> That is correct.

>> Gallo: Great. Would anyone like to share their concerns, opinions, at this point, since it sounds like that there will not be additional council action needed to continue the process forward? Anyone? Councilmember pool.

>> Pool: And that's great. I think what the mayor is suggesting tracks with what my interests are as well, and possibly others on the council. But I would be curious on two counts. Who would members of the community confer with, or to whom would they submit names? How does that process work? And second, I don't think we have given up our ability to approve who the consumer advocate is. And I don't think that's what the chair is indicating. The consumer advocate choice would still be ratified by council.

>> Correct.

>> Pool: So what process would we use to give Austin energy operations for a consumer advocate?

>> Councilmember, if this is the path that you want to go down to enter into a professional services agreement with a candidate for the consumer advocate position, then I would suggest that any of you, or any members of the community who have suggested names send those to me. I have about a half dozen names in mind myself, people that I have worked with in this industry locally, or observed working in this industry.

[12:38:49 PM]

And my plan is to get on the telephone, contact that list, gauge interest, and then when that is narrowed down to provide them the scope of work that was provided to the original applicant -- original solicitation and have them respond to me on that. And then I will assemble an Austin energy team, we'll process them as soon as possible and bring a contract back to you. I will tell you that the folks who are on my list, for the most part, I spoke to them in the summer before we ever started this, and I didn't get a lot of interest. And I'm going to go back and have that conversation again, and I will, of course, follow up with any other names that I received from you or other members of the community as we feel appropriate.

>> Pool: So I have a question. I think this would be on the purchasing aspect of it, if the names that are

submitted, are those public? For example, the list of names that Mr. Dreyfus already has, and any names submitted by the community, can we post that list to the message board, or is that normally not a public document?

>> To answer your question, we don't have a lot of -- we don't have any statutory or regulatory process that would, kind of, frame that particular approach. Because we are outside of the Normal competitive process, the more closely the actions that we take look like a competitive process, there's going to be lines of comparisons made, and therefore, expectations that could be applied to whatever process is being contemplated here. So we just want to be careful that we don't over-formalize what is probably intended to be an informal process. But to the extent that those communications were made through Normal channels, then they would be subject to public records just like any other communications.

>> Pool: Including to Mr. Dreyfus' email box.

[12:40:52 PM]

>> I would like to confer with our colleagues at law, but I believe so, yes.

>> Pool: Okay. So we could actually have a public listing of who all is in competition for it. Maybe not necessarily where any of the proprietary information we might gather, but just like, oxford advisers was public, we could do that with this list?

>> I believe so. I would like to at least allow law to chime in, if there is any concern that they have.

>> Pool: Thanks. There's robin.

>> Gallo: Can I ask a question while he's coming up? Because this whole issue has evolved because of the violation of the no contact. Do we also have a no contact provision which applies to professional service agreement? So if we choose to go through that route, will there also be a no contact provision that is in place for that?

>> It's my reading of the ordinance that the anti-lobbying can be applied to other processes that are explicitly outside of the Texas procurement statute prescribed process. However, that would be an administrative decision that we would make clear on the outset of that or any similar process, always subject to conferring first with our colleagues.

>> Gallo: I think given the circumstances of why we are in this position right now, that I hope that we take the conservative approach to that.

>> I'm with the law department, councilmember pool, the question was about posting the names in the list. There are no legal reasons that I can think of why we could not make that information public.

>> Gallo: Mayor pro tem tovo.

>> Tovo: Thank you for asking that question, chair. I'm not sure I understood the answer. I think I understood, Mr. Scarborough, that you were saying you could apply the anti-lobbying ordinance to any other process, but I didn't hear you say the word anti. Was that your answer, that you can apply it to any other process, and then chair Gallo, were you saying you hope they will to this?

[12:42:56 PM]

>> Gallo: I think based on the circumstances of why we are here right now, because it was a violation of the no-contract, and it was done by the euc member who participated in that, I just want us to be very careful with this process that that is applied in the same manner.

>> Tovo: Thanks for your clarification. I missed a few words and couldn't quite follow the point. Thank you.

>> If I could clarify that, because the anti-lobbying ordinance has distinct triggers or starting points, and distinct triggers or stopping point, it is contemplated to be applied, and therefore procedurally, it has guidance when a competitive or full competitive process is being pursued. When an exempt



noncompetitive process is being pursued, then those trigger points might not exist. And so we'll have to examine this particular approach and figure out what are the similar or approximate those starting and stopping points, and then adjust our notices accordingly. That's why we want to make sure that we don't over-formalize this, because it could be 70%, 80%, 90% of what we would do in a formal process, and, therefore, the expectations may apply. So we just want to review the approach that we would put together with Austin energy to make sure that it's going to meet your expectations and still not put us into a controversial administrative procedure situation.

>> Gallo: Okay. Thank you.

>> If I may, chair Gallo and councilmember tovo, for the anti-lobbying ordinance, there are no specifics on whether it has to be a competitive solicitation or falling under the statutory regulations. So just a solicitation, any opportunity to conduct business with the city. So, the ordinance would still apply regardless of how we proceed.

>> Gallo: Terrific, thank you. Thank you. Where there any other questions? Councilmember troxclair.

[12:44:57 PM]

>> Troxclair: So -- the requirements in the anti-lobbying ordinance, the reason oxford was disqualified, because of the contact from the euc member, that is laid out in the state statute, is that right?

>> It is a city ordinance.

>> Troxclair: It's a city ordinance. Okay.

>> The ordinance does not differentiate between representation or conveyance of information from an author or their representative. It doesn't differentiate between a representation initiated by an offerer or city employee or official.

>> Troxclair: So is that something that we should talk about changing in the future? Because it occurs to me that in this instance, I mean, I don't think that there was the intent of disqualifying the oxford, or the person that had been -- that was being pursued. But it occurs to me that it seems like there could be potential for abuse in the future, that by no -- you know, ill intentions of the contract, what're they referred to as, the contractee or something? They weren't lobbying the city council or the euc. It seems like that's what the purpose of the anti-lobbying ordinance is. Is it worth taking a look at that?

>> Certainly, it's within your discretion to review this or other related ordinances. This discussion did occur in the hearing with the hearing officer, and also in front of the protesting firm. It's not a position that we certainly relish. Rather, we observe the documentation of the exchange that occurred, and it was our obligation, as was agreed to by the hearing officer, that the staff did not have discretion to come to any other conclusion than the one that we came to. We did debate, in the hearing -- not debate, but rather ponder -- whether or not -- if the exchange was intended or not.

[12:47:03 PM]

We would have to come up with criteria to measure communications for their intent, and it could get very complicated. But certainly, that would be worthy of a policy discussion, if you wish to have so at a future date.

>> Troxclair: Okay. Thank you.

>> Gallo: Are there any other questions, councilmembers? No? Thank you very much.

>> Okay.

>> Gallo: So, it is now 12:47, and I would entertain a motion to adjourn. Motion to adjourn. Any second? All in favor? Any opposed? All right. Thank you, members.