

**AUSTIN ENERGY 2016 RATE REVIEW**

<b>AUSTIN ENERGY'S TARIFF PACKAGE</b>	§	
<b>UPDATE OF THE 2009 COST OF</b>	§	<b>BEFORE THE CITY OF AUSTIN</b>
<b>SERVICE STUDY AND PROPOSAL TO</b>	§	<b>IMPARTIAL HEARING EXAMINER</b>
<b>CHANGE BASE ELECTRIC RATES</b>	§	

AUSTIN CITY CLERK  
RECEIVED  
2016 FEB 22 PM 1:11

**NXP Semiconductors and Samsung Austin Semiconductor, LLCs' Response to the  
Impartial Hearing Examiner's Memorandum No. 6**

NXP Semiconductors (f/k/a Freescale Semiconductor, Inc.) ("NXP") and Samsung Austin Semiconductor, LLC ("Samsung"), files this Response to the Impartial Hearing Examiner's Memorandum No. 6. On February 16, 2016 the Impartial Hearings Examiner (IHE) issued *Impartial Hearing Examiner's Revised Memorandum No. 6: Statement of Issues* (Memo 6). In Memo 6, pursuant to City of Austin Procedural Rules §§ 6.1(a)(2) and 1.4(a), the IHE provided the Statement of Issues, which would dictate the issues under review during the Austin Energy rate review proceeding. In Memo 6, the IHE stated that if a party disagrees with the IHE's conclusions regarding what issues are outside the scope of the proceeding, the party must submit arguments addressing the exclusion of issues by Monday, February 22, 2016.<sup>1</sup> Therefore, this pleading is timely submitted.

Though NXP and Samsung support the IHE's attempts to broaden the scope of the rate review proceeding and included in the List of Issues many specific topics of concern for NXP and Samsung, we believe the IHE has erred in his determination on which issues to exclude from the scope of this proceeding. We urge the IHE to conduct a full and robust hearing that addresses all issues associated with cost to a ratepayer. Specifically, NXP and Samsung continue to support the proposition that costs recovered through riders should be considered in this process, including costs associated with the power supply adjustment, regulatory charge, community benefit charge, and the customer assistance program, as these costs make up a large bulk of a customer's bill. Second, NXP and Samsung urge the IHE to find that cost and revenue associated with on-site energy resources should also be included as an issue to be addressed in this proceeding as this issue relates to class subsidization. Third, NXP and Samsung believe the

---

<sup>1</sup> NXP and Samsung are treating Memo 6 as if it was an order from an administrative law judge, though the role of the IHE in this proceeding is still ambiguous. NXP and Samsung would like the IHE to recognize his power to issue orders that party's must respond to.

IHE should consider what the appropriate method for calculating rates is as, unlike what Austin Energy has argued, this issue was not determined by the Public Utility Commission (PUC) in Docket No. 40627, but instead was part of a non-precedential settlement. Finally, NXP and Samsung note that the IHE's Statement of Issues contains internal inconsistencies that should be corrected.

#### **I. Costs Recovered through Riders: Power Supply Adjustment, Regulatory Charge, Community Benefit Charge and Customer Assistance Program**

The IHE has recommended that the Power Supply Adjustment (PSA) be excluded from the scope of this proceeding. The IHE indicated that he is undecided on the remaining riders. NXP and Samsung urge the IHE to reconsider and revise the List of Issues to include all riders as issues to be addressed in this proceeding. This proceeding is designed to determine what just and reasonable rates would be for customers served by Austin Energy. The only way to determine just and reasonable rates is to consider all factors that are included in rates. The costs recovered through riders are significant for Austin Energy; the total amount of the pass-through charges which Austin Energy has estimated and included in their rate filing package equates to approximately **48%** of the total cost of service – **a significant amount**. The PSA itself is **34%** of the total cost of service, representing a majority of costs a customer ultimately must pay. Austin Energy has never demonstrated that these costs are a true pass-through of actual cost and NXP and Samsung argue that Austin Energy has historically not used them as a true pass-through of cost. The cost included in the PSA and Regulatory charges reflect operational, business, and accounting decisions made by Austin Energy. Because these costs are impacted by Austin Energy's operational and business decisions they must be included in the scope of this proceeding.

In addition to the aforementioned reasons, NXP and Samsung request the IHE revise his recommendation for the following reasons:

1. Austin Energy's filing has incorporated its estimates for the PSA throughout the Tariff Package filing and Austin Energy has calculated its proposed decrease in overall rates by including a known and measurable adjustment to recoverable fuel in the amount of \$88 million (See Exhibit I) (Schedule A of the Rate Filing and Work Paper D-1.1.1) bringing issues of the PSA into the scope of the proceeding.

2. Austin Energy is proposing to change the PSA in this proceeding by adding seasonality to the charge. Austin Energy is also recommending changes to Regulatory and Community Benefit charges. (Exhibit II) (Section 6.7 of Austin Energy's Tariff Package). Therefore, again, by their own actions, Austin Energy is bringing issues related to the PSA into the scope of this proceeding.

3. Austin Energy has made an adjustment, moving costs from recoverable fuel to non-recoverable, presumably to base rates, therefore bringing these issues within the scope of this proceeding.

As a result of the differences between the manner in which the costs are allocated and the manner by which the allocated costs are recoverable by use of pass-through charges, embedded differences can result in each class's base rates. Therefore, in order to insure that base rates are properly designed, and include truly pass-through charges, it is necessary to address the proper allocation of the pass-through amounts. Though the IHE has acknowledged that the pass-through costs can be allocated as Austin Energy has proposed them in their estimated costs found in their Tariff Package, NXP and Samsung believe this is illogical because it amounts to accepting cost allocations without any vetting of the origins of the costs being allocated.

Additionally, one reason Austin Energy insists on finishing this process by June 30 is to include the new rates in the budget process so the Austin City Council can fully evaluate the budget at once, which includes Austin Energy's rates. Part of this budget process will include the evaluation of the IHE's recommended schedule. Also part of the full budget process is the consideration of the riders which are a part of the current tariff, including the PSA and all other pass-through costs; all of these costs will therefore be included in the *budgeting process*. NXP and Samsung therefore urge the IHE to include the evaluation of all pass-through charges during this full review of Austin Energy's rates as a full and robust review is in the best interest of customers and will provide the most accurate and comprehensive information to the City Council. NXP and Samsung are asking that the City Council be provided the best and most impartial information, which can only be done after thoroughly vetting all of the numbers that will become a part of the full city budget, prior to the consideration of the city-wide budget. Because pass-through charges will be considered during the city-wide budget process, which Austin Energy has asserted must include a final determination of Austin Energy's rates, pass-

through charges, and all other inputs to Austin Energy's rates should be considered by the IHE so the best recommendation can be made to and relied upon by the City Council.

## **II. Cost and Revenue Associated with On-Site Energy Resources**

The IHE also concluded that review of cost and revenue associated with On-Site Energy Resources (OSER) be excluded from this proceeding. NXP and Samsung disagree and urge the IHE to include these items in review. OSER is not established as a separate Enterprise Fund where the expenses and revenue are not comingled with utility expenses and revenue. (See Exhibit III) (Work Paper E-4.2).<sup>2</sup> The operations share personnel, infrastructure, and funding, and Austin Energy has used its bonding authority to issue bonds for OSER. However, Austin Energy claims that OSER is non-utility despite the fact Austin Energy has not demonstrated that the non-utility function of OSER is a stand-alone entity. Therefore, OSER should be included in the scope of the rate review in order to ensure that the electric ratepayers are not subsidizing downtown customers and other customers served by OSER.

## **III. Cash Flow versus Debt Service Coverage**

The IHE also asserted that the PUC in Docket 40627 approved the use of the Cash Flow method to determine Austin Energy's revenue requirement. NXP and Samsung argue that though the Commission did accept the Cash Flow method in that document, it was approved as a part of an overall settlement and in light of several other factors, and therefore is not precedential. The Commission itself recognized the non-precedential nature of their finding in Ordering Paragraph 4 which states that the settlement should not be regarded as precedent (Exhibit IV). In addition, NXP and Samsung point out that in Docket 40627 the PUC only had jurisdiction over customers that were outside the Austin city limits and therefore, due to this limited jurisdiction, adopting different methodologies for different customers would be unreasonable. Therefore, NXP and Samsung find that no determination as to the best methodology for calculating rates has ever been determined and therefore it would be prudent for the IHE to include the appropriate methodology for calculating rates as part of the analysis, and therefore issues to be addressed, in this proceeding.

---

<sup>2</sup> Included in OSER is the Downtown Chiller System, The Domain and the Unit at Dell's Children's Hospital. These costs are incorporated in the Tariff Package.

#### **IV. Internal Conflicts/Inconsistencies with the List of Issues Presented in Memo 6**

NXP and Samsung note that the IHE has created inconsistencies within the Statement of Issues presented in Memo 6, which create confusion as to what the actual scope is of certain issues. For example, Item 37, concerning the District Cooling System has been marked as an issue related to Austin Energy's revenue requirement/cost of providing service. This conflicts with Item 26 which is delineated as being outside the scope of this proceeding. NXP and Samsung would note that both Item 37 (within the scope) and Item 26 (outside the scope) deal with On-site Energy Resources, which include the District Cooling System and therefore create confusion as to what issues are actually within the scope of the proceeding. NXP and Samsung strongly urge the IHE to find that these systems have been and continue to be heavily subsidized by the electric ratepayers through the use of Austin Energy's bonding authority and the rates for chilled water cooling to over fifty downtown buildings that are being charged less than the cost of that service, therefore raising relevant issues of subsidization.

In addition, Item 6, dealing with "cash-flow or debt service" has been marked as an issue related to Austin Energy's revenue requirement/cost of providing service, and within the scope. This directly conflicts with Item 25, which deals with Austin Energy's decision to utilize a cash flow basis to determine just and reasonable rates, which has been designated as outside the scope of the proceeding. Samsung and NXP urge the IHE to review all issues that have been designated as within the scope of this proceeding to make sure they do not conflict with determinations as to issues that are outside the scope.

#### **V. Conclusion**

For all of the reasons stated, NXP and Samsung urge the IHE to update the scope of issues to be addressed in this proceeding to include a **full rate review**, which is the only way the just and reasonableness of Austin Energy's rates and cost of service can be fully vetted and analyzed.

Date: February 22, 2016

Respectfully submitted,

By: 

J. Christopher Hughes

State Bar No. 00792594

Maria C. Faconti

State Bar No. 24078487

HUSCH BLACKWELL, LLP

111 Congress Avenue, Suite 1400

Austin, Texas 78701

Phone: (512) 472-5456

Fax: (512) 481-1101

[chris.hughes@huschblackwell.com](mailto:chris.hughes@huschblackwell.com)

[maria.faconti@huschblackwell.com](mailto:maria.faconti@huschblackwell.com)

**ATTORNEYS FOR NXP SEMICONDUCTORS  
(F/K/A FREESCALE SEMICONDUCTOR, INC.) AND  
SAMSUNG AUSTIN SEMICONDUCTOR, LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of this pleading has been served on all Parties and the Impartial Hearing Examiner, in accordance with Austin Energy Instructions, on the 22<sup>nd</sup> day of February, 2016.

  
J. Christopher Hughes

# Exhibit I

**Austin Energy**  
**Electric Cost of Service and Rate Design**

**EXHIBIT I**

Schedule A

Schedule A  
Summary of Total Cost of Service by Function

No.	Description	Reference	Total Company		Non-Electric Adjustment/Transfer		Total Electric		Electric Allocation to Texas	
			(A)		(B)		(C)		(D)	
1	Recoverable Fuel Cost	WP D-1.1	\$	501,593,157	\$	-	\$	501,593,157	\$	501,593,157
2	Non-Recoverable Fuel Cost	WP D-1.1		13,714,130		-		13,714,130		13,714,130
3	Non-Fuel O&M	Schedules D-1, D-2, Less (Line 1 + 2)		520,416,024		(592,816)		519,823,209		519,823,209
4	Total O&M		\$	1,035,723,311	\$	(592,816)	\$	1,035,130,495	\$	1,035,130,495
5										
6	Depreciation & Amortization	Schedule E-1	\$	147,302,442	\$	(6,798,240)	\$	140,504,202	\$	140,504,202
7										
8	Taxes Other Than Income Taxes	Schedule E-2		1,407,353		-		1,407,353		1,407,353
9	Federal Income Taxes	Schedule E-3		-		-		-		-
10	Other Expenses	Schedule E-4		39,480,742		(13,835,205)		25,645,536		25,645,536
11	Total Other Expenses		\$	40,888,095	\$	(13,835,205)	\$	27,052,889	\$	27,052,889
12										
13	Total Expenses (before Return)	Line 4 + 6 + 11	\$	1,223,913,848	\$	(21,226,261)	\$	1,202,687,587	\$	1,202,687,587
14										
15	Return									
16	Debt Service	Schedule C-3	\$	130,995,451	\$	(3,842,913)	\$	127,152,538	\$	127,152,538
17	Required Reserve Contributions	Schedule C-3		-		-		-		-
18	General Fund Transfer	Schedule C-3		105,000,000		-		105,000,000		105,000,000
19	Internally Generated Funds for Construction	Schedule C-3		88,866,639		(2,763,667)		86,102,972		86,102,972
20	Sub-Total		\$	324,862,090	\$	(6,606,580)	\$	318,255,510	\$	318,255,510
21										
22	Less:									
23	Depreciation & Amortization	Schedule C-3	\$	(147,302,442)	\$	6,798,240	\$	(140,504,202)	\$	(140,504,202)
24	Interest and Dividend Income	Schedule C-3		(5,191,382)		-		(5,191,382)		(5,191,382)
25	Contribution in Aid of Construction	Schedule C-3		(13,036,715)		217,405		(12,819,311)		(12,819,311)
26	Sub-Total		\$	(165,530,540)	\$	7,015,645	\$	(158,514,895)	\$	(158,514,895)
27										
28	Cash Flow Return Requested	Line 20 + 26	\$	159,331,551	\$	409,065	\$	159,740,615	\$	159,740,615
29										
30	Total Cost of Service	Line 13 + 28	\$	1,383,245,399	\$	(20,817,197)	\$	1,362,428,202	\$	1,362,428,202
31										
32	Less Other (Non-Rate) Revenue									
33	Other Revenue	Schedule E-5	\$	(108,277,160)	\$	18,471,610	\$	(89,805,550)	\$	(89,805,550)
34	Sub-Total		\$	(108,277,160)	\$	18,471,610	\$	(89,805,550)	\$	(89,805,550)
35										
36	Total Retail Electric Revenue Requirement	Line 30 + 34	\$	1,274,968,239	\$	(2,345,587)	\$	1,272,622,652	\$	1,272,622,652

000000



**Austin Energy**  
**Electric Cost of Service and Rate Design**

Schedule A

**Schedule A**

Historical Allocation to				Adjusted Total Electric		Normalized Allocation to			
Production	Transmission	Distribution	Customer	Known & Measurable	to Texas	Production	Transmission	Distribution	Customer
(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)	(N)
\$ 501,593,157	\$ -	\$ -	\$ -	\$ (88,748,556)	\$ 412,844,601	\$ 412,844,601	\$ -	\$ -	\$ -
13,714,130	-	-	-	24,244,982	37,959,112	37,959,112	-	-	-
173,783,768	135,500,308	91,333,739	119,205,394	33,421,011	553,244,219	222,762,837	145,698,897	93,985,259	90,797,227
\$ 689,091,055	\$ 135,500,308	\$ 91,333,739	\$ 119,205,394	\$ (31,082,563)	\$ 1,004,047,932	\$ 673,566,549	\$ 145,698,897	\$ 93,985,259	\$ 90,797,227
\$ 64,015,023	\$ 16,333,280	\$ 58,777,979	\$ 1,377,921	\$ -	\$ 140,504,202	\$ 64,015,023	\$ 16,333,280	\$ 58,777,979	\$ 1,377,921
-	-	1,407,353	-	-	1,407,353	-	-	1,407,353	-
-	-	-	-	-	-	-	-	-	-
12,096,805	-	10,946,716	2,602,015	(16,610,129)	9,035,407	3,488,638	-	3,165,502	2,381,267
\$ 12,096,805	\$ -	\$ 12,354,069	\$ 2,602,015	\$ (16,610,129)	\$ 10,442,761	\$ 3,488,638	\$ -	\$ 4,572,855	\$ 2,381,267
\$ 765,202,883	\$ 151,833,587	\$ 162,465,787	\$ 123,185,330	\$ (47,692,692)	\$ 1,154,994,895	\$ 741,070,210	\$ 162,032,176	\$ 157,336,093	\$ 94,556,415
\$ 58,314,647	\$ 22,427,074	\$ 46,396,501	\$ 14,317	\$ (24,399,117)	\$ 102,653,421	\$ 38,974,972	\$ 17,933,287	\$ 45,730,845	\$ 14,317
-	-	-	-	11,590,703	11,590,703	5,348,585	-	4,738,146	1,503,972
38,394,106	8,327,019	40,764,807	17,514,068	-	105,000,000	44,297,706	7,561,714	39,855,178	13,285,402
22,832,268	10,143,404	48,908,867	4,218,435	2,238,482	88,341,455	23,274,765	10,364,686	50,231,715	4,470,289
\$ 119,541,020	\$ 40,897,496	\$ 136,070,175	\$ 21,746,819	\$ (10,669,932)	\$ 307,585,578	\$ 111,896,027	\$ 35,859,686	\$ 140,555,884	\$ 19,273,980
\$ (64,015,023)	\$ (16,333,280)	\$ (58,777,979)	\$ (1,377,921)	\$ -	\$ (140,504,202)	\$ (64,015,023)	\$ (16,333,280)	\$ (58,777,979)	\$ (1,377,921)
(4,364,373)	(105,516)	(755,111)	33,617	558,230	(4,633,152)	(2,282,371)	(890,025)	(1,122,564)	(338,192)
-	-	(12,819,311)	-	(5,693,910)	(18,513,221)	-	-	(18,513,221)	-
\$ (68,379,396)	\$ (16,438,795)	\$ (72,352,400)	\$ (1,344,304)	\$ (5,135,680)	\$ (163,650,575)	\$ (66,297,393)	\$ (17,223,305)	\$ (78,413,763)	\$ (1,716,113)
\$ 51,161,625	\$ 24,458,701	\$ 63,717,774	\$ 20,402,516	\$ (15,805,612)	\$ 143,935,003	\$ 45,598,634	\$ 18,636,382	\$ 62,142,121	\$ 17,557,867
\$ 816,364,508	\$ 176,192,288	\$ 226,183,561	\$ 143,587,846	\$ (63,498,304)	\$ 1,298,929,898	\$ 786,668,845	\$ 180,668,558	\$ 219,478,214	\$ 112,114,282
\$ (3,896,645)	\$ (70,656,949)	\$ (7,511,793)	\$ (7,740,163)	\$ 8,102,962	\$ (81,702,589)	\$ (2,638,026)	\$ (63,812,606)	\$ (7,511,793)	\$ (7,740,163)
\$ (3,896,645)	\$ (70,656,949)	\$ (7,511,793)	\$ (7,740,163)	\$ 8,102,962	\$ (81,702,589)	\$ (2,638,026)	\$ (63,812,606)	\$ (7,511,793)	\$ (7,740,163)
\$ 812,467,862	\$ 105,635,339	\$ 218,671,768	\$ 135,847,683	\$ (55,395,342)	\$ 1,217,227,310	\$ 784,030,818	\$ 116,855,952	\$ 211,966,421	\$ 104,374,119

**Austin Energy**  
Electric Cost of Service and Rate Design

# EXHIBIT I

WP D-1.1.1

Work Paper D-1.1.1  
Fuel and Purchased Power

N.O.	FEBC	Description	Reference	Total Company (A)	Non-Electric Adjustment/Transfer (B)	Total Electric (C)	Electric Allocation to Texas (D)	K&M Reference (E)	Known & Measurable (F)	Adjusted Total Electric to Texas (G)
1		Power Production Recoverable Fuel and Purchased Power								
2		Steam Power Generation								
3	501	Fuel - Recoverable	WP D-1.1.1	189,075,394	-	189,075,394	189,075,394	WP D-1.2	\$	189,075,394
4		Sub-Total		189,075,394	-	189,075,394	189,075,394		\$	189,075,394
5										
6		Nuclear Power Generation								
7	518	Nuclear Fuel Expense	WP D-1.1.1	16,646,703	-	16,646,703	16,646,703	WP D-1.2	\$	16,646,703
8		Sub-Total		16,646,703	-	16,646,703	16,646,703		\$	16,646,703
9										
10		Other Power Generation								
11	547	Fuel	WP D-1.1.1	-	-	-	-	WP D-1.2	\$	-
12		Sub-Total		-	-	-	-		\$	-
13										
14		Other Power Supply								
15	555	Purchased Power - Recoverable	WP D-1.1.1	197,491,789	-	197,491,789	197,491,789	WP D-1.2	\$	197,491,789
16	556	System Control and Load Dispatching - Recoverable	WP D-1.1.1	98,379,271	-	98,379,271	98,379,271	WP D-1.2	\$	98,379,271
17		Sub-Total		295,871,061	-	295,871,061	295,871,061		\$	295,871,061
18										
19		Total Recoverable Fuel and Purchased Power	Line 3 + 8 + 12 + 17	581,593,157	-	581,593,157	581,593,157		\$	581,593,157
20										
21		Off-System Sales								
22		Off-System Sales Fuel	WP D-1.1.1	-	-	-	-	WP D-1.2	\$	-
23		Sub-Total		-	-	-	-		\$	-
24										
25		Total Recoverable Fuel and Purchased Power Net of Off-System Sales	Line 19 - 23	581,593,157	-	581,593,157	581,593,157		\$	581,593,157
26										
27		Non-Recoverable Fuel and Purchased Power								
28		Steam Power Generation								
29	501	Fuel - Non-Recoverable	WP D-1.1	5,740,918	-	5,740,918	5,740,918	WP D-1.2	\$	5,740,918
30		Sub-Total		5,740,918	-	5,740,918	5,740,918		\$	5,740,918
31										
32		Nuclear Power Generation								
33	518	Nuclear Fuel Expense	WP D-1.1	0	-	0	0		\$	0
34		Sub-Total		0	-	0	0		\$	0
35										
36		Other Power Generation								
37	547	Fuel	WP D-1.1	-	-	-	-	WP D-1.2	\$	-
38		Sub-Total		-	-	-	-		\$	-
39										
40		Other Power Supply								
41	555	Purchased Power - Non-Recoverable	WP D-1.1	151,584	-	151,584	151,584	WP D-1.2	\$	151,584
42	556	System Control and Load Dispatching - Non-Recoverable	WP D-1.1	7,973,212	-	7,973,212	7,973,212	WP D-1.2	\$	7,973,212
43		Sub-Total		7,973,212	-	7,973,212	7,973,212		\$	7,973,212
44										
45		Total Non-Recoverable Fuel and Purchased Power	Line 30 + 34 + 38 + 43	13,714,130	-	13,714,130	13,714,130		\$	13,714,130
46										
47		Total Recoverable and Non-Recoverable Fuel Net of Off-System Sales	Line 25 + 45	595,307,287	-	595,307,287	595,307,287		\$	595,307,287
48										
49		Summary								
50		Recoverable Fuel and Purchased Power								
51	501	Fuel - Recoverable	Line 3	189,075,394	-	189,075,394	189,075,394		\$	189,075,394
52	518	Nuclear Fuel Expense	Line 7	16,646,703	-	16,646,703	16,646,703		\$	16,646,703
53	547	Fuel	Line 11	-	-	-	-		\$	-
54	555	Purchased Power - Recoverable	Line 15	197,491,789	-	197,491,789	197,491,789		\$	197,491,789
55	556	System Control and Load Dispatching	Line 16	98,379,271	-	98,379,271	98,379,271		\$	98,379,271
56		Total Recoverable Fuel		581,593,157	-	581,593,157	581,593,157		\$	581,593,157
57										
58		Non-Recoverable Fuel and Purchased Power								
59	501	Fuel - Non-Recoverable	Line 29	5,740,918	-	5,740,918	5,740,918		\$	5,740,918
60	518	Nuclear Fuel Expense	Line 33	0	-	0	0		\$	0
61	547	Fuel	Line 37	-	-	-	-		\$	-
62	555	Purchased Power - Non-Recoverable	Line 41	151,584	-	151,584	151,584		\$	151,584
63	556	System Control and Load Dispatching - Non-Recoverable	Line 42	7,973,212	-	7,973,212	7,973,212		\$	7,973,212
64		Sub-Total		7,973,212	-	7,973,212	7,973,212		\$	7,973,212
65		Total Non-Recoverable Fuel and Purchased Power	Line 59 + 61 + 63 + 64	13,714,130	-	13,714,130	13,714,130		\$	13,714,130
66										
67		Total Recoverable and Non-Recoverable Fuel Net of Off-System Sales	Line 56 + 65	595,307,287	-	595,307,287	595,307,287		\$	595,307,287
68										
69		Summary								
70		Recoverable Fuel and Purchased Power								
71	501	Fuel - Recoverable	Line 3	189,075,394	-	189,075,394	189,075,394		\$	189,075,394
72	518	Nuclear Fuel Expense	Line 7	16,646,703	-	16,646,703	16,646,703		\$	16,646,703
73	547	Fuel	Line 11	-	-	-	-		\$	-
74	555	Purchased Power - Recoverable	Line 15	197,491,789	-	197,491,789	197,491,789		\$	197,491,789
75	556	System Control and Load Dispatching	Line 16	98,379,271	-	98,379,271	98,379,271		\$	98,379,271
76		Total Recoverable Fuel		581,593,157	-	581,593,157	581,593,157		\$	581,593,157
77										
78		Non-Recoverable Fuel and Purchased Power								
79	501	Fuel - Non-Recoverable	Line 29	5,740,918	-	5,740,918	5,740,918		\$	5,740,918
80	518	Nuclear Fuel Expense	Line 33	0	-	0	0		\$	0
81	547	Fuel	Line 37	-	-	-	-		\$	-
82	555	Purchased Power - Non-Recoverable	Line 41	151,584	-	151,584	151,584		\$	151,584
83	556	System Control and Load Dispatching - Non-Recoverable	Line 42	7,973,212	-	7,973,212	7,973,212		\$	7,973,212
84		Sub-Total		7,973,212	-	7,973,212	7,973,212		\$	7,973,212
85		Total Non-Recoverable Fuel and Purchased Power	Line 79 + 81 + 83 + 84	13,714,130	-	13,714,130	13,714,130		\$	13,714,130
86										
87		Total Recoverable and Non-Recoverable Fuel Net of Off-System Sales	Line 76 + 85	595,307,287	-	595,307,287	595,307,287		\$	595,307,287
88										
89		Summary								
90		Recoverable Fuel and Purchased Power								
91	501	Fuel - Recoverable	Line 3	189,075,394	-	189,075,394	189,075,394		\$	189,075,394
92	518	Nuclear Fuel Expense	Line 7	16,646,703	-	16,646,703	16,646,703		\$	16,646,703
93	547	Fuel	Line 11	-	-	-	-		\$	-
94	555	Purchased Power - Recoverable	Line 15	197,491,789	-	197,491,789	197,491,789		\$	197,491,789
95	556	System Control and Load Dispatching	Line 16	98,379,271	-	98,379,271	98,379,271		\$	98,379,271
96		Total Recoverable Fuel		581,593,157	-	581,593,157	581,593,157		\$	581,593,157
97										
98		Non-Recoverable Fuel and Purchased Power								
99	501	Fuel - Non-Recoverable	Line 29	5,740,918	-	5,740,918	5,740,918		\$	5,740,918
100	518	Nuclear Fuel Expense	Line 33	0	-	0	0		\$	0
101	547	Fuel	Line 37	-	-	-	-		\$	-
102	555	Purchased Power - Non-Recoverable	Line 41	151,584	-	151,584	151,584		\$	151,584
103	556	System Control and Load Dispatching - Non-Recoverable	Line 42	7,973,212	-	7,973,212	7,973,212		\$	7,973,212
104		Sub-Total		7,973,212	-	7,973,212	7,973,212		\$	7,973,212
105		Total Non-Recoverable Fuel and Purchased Power	Line 99 + 101 + 103 + 104	13,714,130	-	13,714,130	13,714,130		\$	13,714,130
106										
107		Total Recoverable and Non-Recoverable Fuel Net of Off-System Sales	Line 96 + 105	595,307,287	-	595,307,287	595,307,287		\$	595,307,287
108										
109		Summary								
110		Recoverable Fuel and Purchased Power								
111	501	Fuel - Recoverable	Line 3	189,075,394	-	189,075,394	189,075,394		\$	189,075,394
112	518	Nuclear Fuel Expense	Line 7	16,646,703	-	16,646,703	16,646,703		\$	16,646,703
113	547	Fuel	Line 11	-	-	-	-		\$	-
114	555	Purchased Power - Recoverable	Line 15	197,491,789	-	197,491,789	197,491,789		\$	197,491,789
115	556	System Control and Load Dispatching	Line 16	98,379,271	-	98,379,271	98,379,271		\$	98,379,271
116		Total Recoverable Fuel		581,593,157	-	581,593,157	581,593,157		\$	581,593,157
117										
118		Non-Recoverable Fuel and Purchased Power								
119	501	Fuel - Non-Recoverable	Line 29	5,740,918	-	5,740,918	5,740,918		\$	5,740,918
120	518	Nuclear Fuel Expense	Line 33	0	-	0	0		\$	0
121	547	Fuel	Line 37	-	-	-	-		\$	-
122	555	Purchased Power - Non-Recoverable	Line 41	151,584	-	151,584	151,584		\$	151,584
123	556	System Control and Load Dispatching - Non-Recoverable	Line 42	7,973,212	-	7,973,212	7,973,212		\$	7,973,212
124		Sub-Total		7,973,212	-	7,973,212	7,973,212		\$	7,973,212
125		Total Non-Recoverable Fuel and Purchased Power	Line 119 + 121 + 123 + 124	13,714,130	-	13,714,130	13,714,130		\$	13,714,130
126										
127		Total Recoverable and Non-Recoverable Fuel Net of Off-System Sales	Line 116 + 125	595,307,287	-	595,307,287	595,307,287		\$	595,307,287
128										
129		Summary								
130		Recoverable Fuel and Purchased Power								
131	501	Fuel - Recoverable	Line 3	189,075,394	-	189,075,394	189,075,394		\$	189,075,394
132	518	Nuclear Fuel Expense	Line 7	16,646,703	-	16,646,703	16,646,703		\$	16,646,703
133	547	Fuel	Line 11	-	-	-	-		\$	-
134	555	Purchased Power - Recoverable	Line 15	197,491,789	-	197,491,789	197,491,789		\$	197,491,789
135	556	System Control and Load Dispatching	Line 16	98,379,271	-	98,379,271	98,379,271		\$	98,379,271
136		Total Recoverable Fuel		581,593,157	-	581,593,157	581,593,157		\$	581,593,157
137										
138		Non-Recoverable Fuel and Purchased Power								
139	501	Fuel - Non-Recoverable	Line 29	5,740,918	-	5,740,				

**Austin Energy**  
**Electric Cost of Service and Rate Design**

WPP 0-1.1.1

Work Paper 0-1.1.1  
Fuel and Purchased Power

WPP 0-1.1.1

No.	FERC Acct	Description	Reference	Total Company (A)	Non-Electric Adjustment/Transfer (B)	Total Electric (C)	Electric Allocation to Texas (D)	K&M Reference (E)	Known & Measurable (F)	Adjusted Total Electric to Texas (G)
57										
58		Non-Recoverable Fuel and Purchase Power								
59	508	Fuel - Non-Recoverable	Line 29	5,740,918	-	5,740,918	5,740,918		(197,333)	5,543,585
60	518	Nuclear Fuel Expense	Line 33	0	-	0	0		-	0
61	547	Fuel	Line 37	-	-	-	-		-	-
62	555	Purchased Power - Non-Recoverable	Line 41	151,584	-	151,584	151,584		22,771,539	22,923,113
63	556	System Control and Load Dispatching	Line 42	7,831,628	-	7,831,628	7,831,628		1,670,766	9,492,193
64		Total Non-Recoverable Fuel		\$ 13,714,110	\$ -	\$ 13,714,110	\$ 13,714,110		\$ 24,344,982	\$ 37,959,112
65										
66		Total Recoverable and Non-Recoverable Fuel		\$ 515,307,287	\$ -	\$ 515,307,287	\$ 515,307,287		\$ (64,503,574)	\$ 450,803,713
67										
68		Off-System Sales	-(Line 22)	-	-	-	-		-	-
69										
70		Total Recoverable and Non-Recoverable Fuel Net of Off-System Sales		\$ 515,307,287	\$ -	\$ 515,307,287	\$ 515,307,287		\$ (64,503,574)	\$ 450,803,713

000011

# Exhibit II

#### **6.6.6. Other Non-Residential Rate Changes**

AE proposes suspending the permanent non-residential TOU rate due to a lack of interest in this rate<sup>129</sup> and the lack of consistency between the current rates and AE's recommendation to remove the seasonality from base rates. However, during the next budget process, AE will propose a new pilot TOU option for non-residential customer classes that aligns with proposed fixed cost recovery, price signals, and non-seasonality within base rates.

#### **6.7. CHANGES TO PASS-THROUGH CHARGES**

Austin Energy's approved tariffs include three charges — the PSA, Regulatory Charge, and the CBC<sup>130</sup> — that are passed through directly to customers. While these pass-through charges are adjusted each year in the City's budget process, to conduct a comprehensive COS study, Austin Energy estimated the likely changes in pass-through charges that would then be proposed in the next budget.<sup>131</sup> Over the course of this proceeding, AE will update the estimates as new information becomes available.

While AE is not proposing any changes to the costs<sup>132</sup> recovered through the pass-through charges, Austin Energy recommends changing each charge's structure. The proposed modifications will simplify the management and administration processes as well as improve the rate design. They are also better aligned with AE's rate design principles and provide rate stability from year to year.

The following sub-sections present AE's proposed restructuring of the pass-through charges.

##### **6.7.1. Changes to the Power Supply Adjustment**

The Power Supply Adjustment includes revenues from the sale of power to ERCOT,<sup>133</sup> fuel costs,<sup>134</sup> net Purchased Power Agreement costs,<sup>135</sup> power purchased from ERCOT to supply AE's

<sup>129</sup> Currently, AE has 12 non-residential TOU accounts, representing 0.02 percent of all non-residential accounts.

<sup>130</sup> Appendix K provides a detailed description of each pass-through charge.

<sup>131</sup> The impacts found in Figures 6.13 and 6.20 reflect both the proposed changes in base rates, and the anticipated adjustments to the pass-through charges. The specific numbers in the report reflect AE best estimates, at the time of filing this Report to Council, of what those pass-through charges should look like in the upcoming FY 2017 budget process, acknowledging that they are subject to change until then.

<sup>132</sup> Any changes in costs will be considered in the budget process in summer 2016.

<sup>133</sup> Charges and credits from ERCOT, other than the Administrative and Other Fees.

<sup>134</sup> Fuel costs mean fuel, fuel transportation, and hedging gains and losses.

<sup>135</sup> Net Purchased Power Agreement costs are the costs and revenues associated with short- and long-term PPAs, and the costs for distributed generation production.

customer load, and any adjustment for the over- or under-recovery PSA costs balance. The charge is set to recover current year power supply costs, based on the preceding year's expenditures.

The PSA is calculated using the sum of all net power supply costs plus any existing over- or under-recovery PSA costs balance that is attributable to the PSA, divided by the projected service area sales during the historical twelve month period following the effective date of the PSA. This results in an annual uniform system rate per kWh, which is then adjusted for voltage level, and applied to each customer class. Because this charge is driven in large part by fuel prices, the underlying cost drivers of the PSA vary with the season. Thus, Austin Energy proposes introducing seasonality into the PSA, a shift which will improve the timely recovery of power supply costs and help maintain pricing incentives consistent with the City Council's goals for energy efficiency and conservation.

Like most of Texas, Austin Energy has a summer peaking load, meaning that on a system-wide basis, the most electricity is consumed during the summer. As demand goes up, the power supply is constrained, which then can trigger price increases within ERCOT's competitive wholesale power market. Figure 6.21 is a graphic display, known as a "heat map", of AE's hourly ERCOT 4-year average wholesale market nodal settlement prices. This figure shows the volatility and seasonality of power costs within ERCOT on an hourly (y-axis) and monthly basis (x-axis). The map's color coding graphically displays the range of wholesale market settlement prices with color-coded prices escalating from blue, green, yellow, orange, and red. In general, the highest average prices (shaded in pink and red) occur during summer afternoons.

Figure 6.21

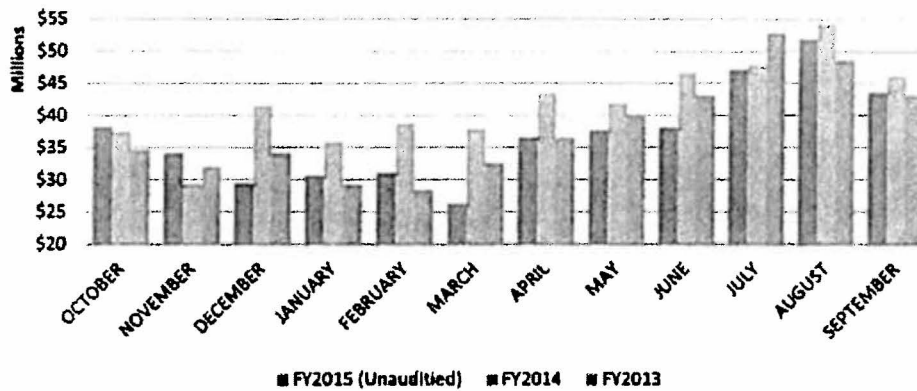
Austin Energy's Hourly ERCOT 4-Yr Average Wholesale Market Nodal Settlement Prices (\$/kWh)													
Hours	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Average
1	\$ 0.026	\$ 0.025	\$ 0.028	\$ 0.030	\$ 0.028	\$ 0.033	\$ 0.030	\$ 0.031	\$ 0.032	\$ 0.030	\$ 0.027	\$ 0.031	\$ 0.029
2	\$ 0.025	\$ 0.024	\$ 0.025	\$ 0.028	\$ 0.025	\$ 0.028	\$ 0.028	\$ 0.029	\$ 0.028	\$ 0.027	\$ 0.025	\$ 0.028	\$ 0.026
3	\$ 0.024	\$ 0.023	\$ 0.024	\$ 0.025	\$ 0.024	\$ 0.025	\$ 0.027	\$ 0.027	\$ 0.026	\$ 0.024	\$ 0.024	\$ 0.026	\$ 0.025
4	\$ 0.025	\$ 0.027	\$ 0.024	\$ 0.025	\$ 0.023	\$ 0.024	\$ 0.026	\$ 0.026	\$ 0.025	\$ 0.024	\$ 0.025	\$ 0.026	\$ 0.025
5	\$ 0.032	\$ 0.030	\$ 0.026	\$ 0.026	\$ 0.024	\$ 0.024	\$ 0.026	\$ 0.026	\$ 0.026	\$ 0.025	\$ 0.026	\$ 0.027	\$ 0.026
6	\$ 0.034	\$ 0.057	\$ 0.031	\$ 0.028	\$ 0.028	\$ 0.025	\$ 0.026	\$ 0.027	\$ 0.028	\$ 0.028	\$ 0.031	\$ 0.031	\$ 0.031
7	\$ 0.108	\$ 0.076	\$ 0.058	\$ 0.052	\$ 0.031	\$ 0.026	\$ 0.027	\$ 0.028	\$ 0.030	\$ 0.037	\$ 0.037	\$ 0.041	\$ 0.046
8	\$ 0.062	\$ 0.060	\$ 0.046	\$ 0.033	\$ 0.028	\$ 0.027	\$ 0.028	\$ 0.028	\$ 0.029	\$ 0.033	\$ 0.034	\$ 0.034	\$ 0.037
9	\$ 0.044	\$ 0.059	\$ 0.040	\$ 0.036	\$ 0.029	\$ 0.030	\$ 0.033	\$ 0.031	\$ 0.031	\$ 0.031	\$ 0.036	\$ 0.039	\$ 0.036
10	\$ 0.044	\$ 0.055	\$ 0.042	\$ 0.038	\$ 0.031	\$ 0.031	\$ 0.035	\$ 0.034	\$ 0.033	\$ 0.038	\$ 0.036	\$ 0.040	\$ 0.038
11	\$ 0.044	\$ 0.063	\$ 0.042	\$ 0.037	\$ 0.033	\$ 0.034	\$ 0.042	\$ 0.039	\$ 0.035	\$ 0.034	\$ 0.037	\$ 0.036	\$ 0.040
12	\$ 0.035	\$ 0.051	\$ 0.039	\$ 0.039	\$ 0.034	\$ 0.038	\$ 0.047	\$ 0.045	\$ 0.043	\$ 0.038	\$ 0.036	\$ 0.033	\$ 0.040
13	\$ 0.032	\$ 0.038	\$ 0.039	\$ 0.040	\$ 0.040	\$ 0.045	\$ 0.049	\$ 0.055	\$ 0.043	\$ 0.038	\$ 0.037	\$ 0.032	\$ 0.041
14	\$ 0.030	\$ 0.034	\$ 0.038	\$ 0.042	\$ 0.042	\$ 0.055	\$ 0.051	\$ 0.084	\$ 0.051	\$ 0.040	\$ 0.035	\$ 0.031	\$ 0.045
15	\$ 0.029	\$ 0.031	\$ 0.042	\$ 0.044	\$ 0.050	\$ 0.082	\$ 0.067	\$ 0.188	\$ 0.062	\$ 0.052	\$ 0.035	\$ 0.030	\$ 0.059
16	\$ 0.029	\$ 0.030	\$ 0.043	\$ 0.059	\$ 0.060	\$ 0.102	\$ 0.071	\$ 0.251	\$ 0.083	\$ 0.068	\$ 0.034	\$ 0.030	\$ 0.072
17	\$ 0.029	\$ 0.031	\$ 0.083	\$ 0.066	\$ 0.066	\$ 0.080	\$ 0.084	\$ 0.262	\$ 0.102	\$ 0.071	\$ 0.034	\$ 0.030	\$ 0.078
18	\$ 0.040	\$ 0.035	\$ 0.052	\$ 0.049	\$ 0.049	\$ 0.054	\$ 0.064	\$ 0.106	\$ 0.052	\$ 0.044	\$ 0.079	\$ 0.058	\$ 0.057
19	\$ 0.050	\$ 0.060	\$ 0.074	\$ 0.041	\$ 0.040	\$ 0.047	\$ 0.049	\$ 0.052	\$ 0.043	\$ 0.043	\$ 0.063	\$ 0.045	\$ 0.051
20	\$ 0.037	\$ 0.042	\$ 0.044	\$ 0.037	\$ 0.036	\$ 0.045	\$ 0.044	\$ 0.047	\$ 0.042	\$ 0.048	\$ 0.039	\$ 0.036	\$ 0.042
21	\$ 0.035	\$ 0.039	\$ 0.044	\$ 0.045	\$ 0.040	\$ 0.041	\$ 0.045	\$ 0.046	\$ 0.040	\$ 0.036	\$ 0.033	\$ 0.035	\$ 0.040
22	\$ 0.031	\$ 0.033	\$ 0.037	\$ 0.037	\$ 0.039	\$ 0.039	\$ 0.039	\$ 0.040	\$ 0.036	\$ 0.034	\$ 0.032	\$ 0.034	\$ 0.036
23	\$ 0.031	\$ 0.031	\$ 0.038	\$ 0.036	\$ 0.034	\$ 0.038	\$ 0.036	\$ 0.037	\$ 0.035	\$ 0.032	\$ 0.034	\$ 0.037	\$ 0.035
24	\$ 0.027	\$ 0.026	\$ 0.030	\$ 0.033	\$ 0.030	\$ 0.031	\$ 0.033	\$ 0.033	\$ 0.033	\$ 0.029	\$ 0.028	\$ 0.032	\$ 0.030
Avg.	\$ 0.038	\$ 0.041	\$ 0.041	\$ 0.039	\$ 0.036	\$ 0.042	\$ 0.042	\$ 0.066	\$ 0.041	\$ 0.038	\$ 0.036	\$ 0.034	\$ 0.041
On Peak		Mid Peak		Off Peak		Summer		Winter					

By adjusting the PSA to reflect seasonality, AE is able to better align price signals sent to customers with the cost of power supply in ERCOT. Austin Energy's PSA recommendation works in tandem with the removal of seasonality in base rates as presented in section 6.3. These changes are supported by the rate design principles, provide incentives for energy conservation, promote the efficient use of resources, and encourage consumer investment in energy efficiency.

Austin Energy recommends adjusting the PSA to reflect the two seasonal periods, summer and non-summer. AE will apply a seasonal adjustment factor based on a three-year average of PSA costs. The average will use two years of historical and one year of current costs. Figure 6.22 shows the actual monthly power supply costs for FY 2013 through FY 2015 and clearly demonstrates some degree of underlying seasonality.

Figure 6.22

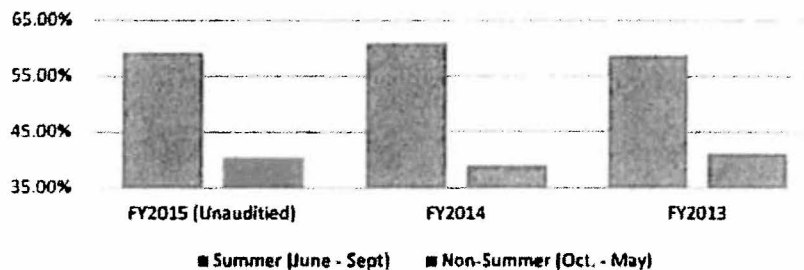
**Monthly Power Supply Cost  
for Fiscal Year 2013 through Fiscal Year 2015**



Applying the three-year average to the collection of PSA costs would result in 40.26 percent of costs being collected during the four summer months and 59.74 percent of costs being collected during the eight non-summer months. Figure 6.23 shows the seasonal power supply cost percentage for FY 2013 through FY 2015.

Figure 6.23

**Seasonal Power Supply Cost Percentage  
for Fiscal Year 2013 through Fiscal Year 2015**



The sum of these seasonal costs is recovered from the various customer classes based on an energy usage adjusted for losses. This yields a rate per kWh, but needs to be adjusted to reflect the different level of losses associated with different service voltages. Via this process, AE is able to establish a system uniform rate per kWh for each season period that is the same for all applicable customer classes, except that losses are also acknowledged and incorporated. Thus, for both seasons, AE calculates a rate per kWh for Secondary Voltage, Primary Voltage, and Transmission Voltage. For



illustrative purposes, Figure 6.24, show the existing annual PSA rate compared to estimated seasonal PSA rates that are subject to change and will be determined during the annual budget process.

**Figure 6.24**  
**Power Supply Adjustment Rates by Voltage**

	<b>Existing Annual PSA Rate (\$/kWh)</b>	<b>Proposed Summer PSA Rate (\$/kWh)</b>	<b>Proposed Non- Summer PSA Rate (\$/kWh)</b>
Rate before Losses	0.03124	0.02989	0.02967
Secondary Voltage	0.03139	0.03148	0.03124
Primary Voltage	0.03068	0.03076	0.03053
Transmission Voltage	0.03029	0.03037	0.03015

#### **6.7.2. Changes to the Regulatory Charge**

Just like the PSA, the Regulatory Charge is determined as part of the City's annual budget process, during which the Regulatory Charge may be adjusted to eliminate any over- or under-recovery from previous periods. Specifically, the Regulatory Charge recovers the costs associated with transmission by other utilities contained in FERC Account 565 and Texas RE and ERCOT administration fees assessed on power generation, offset by the revenue from Congestion Revenue Rights (CRR) sold via auction by ERCOT and distributed to Load Serving Entities, such as Austin Energy. The cost of transmission by other utilities is incurred by AE based on AE's load contribution to the ERCOT 4CP. Thus, each customer class' contribution to the ERCOT 4CP is the cost of service basis for allocating to that class the cost responsibility for transmission by other utilities. The ERCOT administration fees and the CRR revenues are allocated to customer classes based on NEFL.

AE proposes changing the methodology of how it calculates the Regulatory Charge. The cost will still be recovered by a kWh charge for non-demand classes and a kW charge for demand classes; however for demand classes, the charge will vary slightly, depending on the customer's voltage level (secondary, primary, or transmission). For example, if a customer moves from S1 to S2, while certain charges will change and increase, the customer's Regulatory Charge will remain the same. This change will maintain a Regulatory Charge that is in alignment with the actual cost of service on a voltage level basis and reduce inter-class cost shifting during the intervening years.

To calculate the value of this proposed Regulatory Charge, AE first addressed the unique T2 customer class situation. Because T2 operates under a separate tariff provision, the Regulatory Charge

for these customers is fixed, with conditions. Thus, the costs associated with this class' Regulatory Charge were removed from the calculation so that they did not influence the costs assigned to other customer classes.

Next, AE calculated the total Regulatory Charge costs to be recovered from the residential and S1 classes based on an energy charge and separately calculated the total costs to be recovered from the remaining customer classes based on a demand charge.<sup>136</sup>

Austin Energy then divided the sum of costs recoverable from customer classes based on an energy charge by the total NEFL for the Residential and S1 classes. This yielded a rate per kWh which was subsequently adjusted to reflect losses. Similarly, AE divided the sum of costs recoverable from customer classes based on a demand charge divided by total demand before losses for the remaining non-residential customer classes. This yielded a rate per kW which was subsequently adjusted to reflect the different level of losses associated with different service voltages.

Using this process, AE established a system-wide uniform rate that is the same for all applicable customer classes, except that losses are also acknowledged and incorporated. AE calculated a rate per kWh for residential and S1 classes, and a rate per kW for secondary voltage, primary voltage, and transmission voltage. Figure 6.25 shows the existing annual Regulatory Charges rates compared to estimated Regulatory Charges.<sup>137</sup>

**Figure 6.25  
Regulatory Charges by Customer Class**

	Res	S1	S2	S3	P1	P2	P3	T1	T2
	\$/kWh		\$/kW						
<u>Regulatory Charges</u>									
Existing	0.01414	0.01530	4.57	4.43	6.75	0.69	5.18	2.79	4.12
Proposed	0.01159	0.01159	3.24	3.24	3.16	3.16	3.16	3.12	3.98

This development approach ensures that movement of customers between customer classes, or growth in any class due to new customers, will not shift cost responsibility between classes, which can

<sup>136</sup> Given the very small amount of cost responsibility associated with the lighting classes as a group, and for ease of administration, AE has excluded the lighting classes from the Regulatory Charge development. The lighting classes are substantially off-peak and as a result, the Regulatory Charge costs assigned to them in total is less than \$5,000.

<sup>137</sup> These estimates are subject to change and will be determined during the annual budget process.

create volatility in the pass-through rates. This has been an issue for AE in the past and is reflective of the differences between existing and proposed rates and from customer class to customer class. For example, P2 will see an increase in the Regulatory Charge under the new structure. In prior years, growth in the number and consumption of customers in the P2 class resulted in a significant reduction in the class Regulatory Charge, as well as significant cost savings for P2 customers. Nevertheless, a majority of classes will see a reduction.

#### **6.7.3. Changes to the Community Benefits Charge**

As for other pass-through charges, the City's annual budget process sets the CBC. The CBC is assessed to customers on a rate per kWh basis and recovers certain costs incurred by the utility for activities undertaken as a benefit to AE's service territory customers and the greater community. The CBC includes three specific programs and services provided to customers: Service Area Lighting (SAL), Energy Efficiency Services (EES), and CAP. Customers who receive electrical service outside City limits are not assessed the SAL portion of the CBC pursuant to the terms of the settlement agreement in PUCT Docket No. 40627.

In calculating the SAL and EES rates, AE adjusts the costs to address any prior over- or under-recovery balances as well as any revenue from other cities for outside the City street lighting. For the EES, the gradual drawdown of any over-recovery balances is over the course of three years (*i.e.*, FY 2016, FY 2017, and FY 2018). The CAP rate is set by policy, rather than calculated.

Austin Energy recommends designing and applying the SAL and EES rates on a system basis without class distinction. Austin Energy believes this change will maintain alignment with the actual cost of service and reduce inter-class cost shifting during the intervening years.

Similar to the development of the proposed Regulatory Charge, AE took into consideration the T2 tariff, which does not include SAL or EES rate components. Thus, these program costs need to be recovered without revenue from the T2 customer class.

Other customer classes pay specific portions of the CBC but not all three. For example, none of the lighting classes currently pay EES since the lighting classes are not meaningful beneficiaries of the EES programs.<sup>138</sup> Further, the City-Owned, Private Outdoor Lighting customer class typically has security lighting service that is not assessed the CBC and separate service provided through a primary meter which is assessed the CBC. Also, the Customer-Owned, Non-Metered Lighting and Customer-Owned,

---

<sup>138</sup> Some lighting classes have the EES rate component listed in their tariff, but the rate is currently \$0 per kWh.

Metered Lighting customer classes pay the CAP and SAL charges, while Street and Traffic Lighting and City-Owned, Private Outdoor Lighting customer classes do not. Based on ease of administration, consistency across lighting classes, and recovery rationale, the lighting classes were excluded from CBC recovery in the proposed rates.

Since the CBC is charged to all customer classes based on an energy charge, the relevant net costs for SAL and EES, as shown in Figure 6.26, were divided by total NEFL for the relevant customer classes and then these resulting rates were adjusted for losses. Figure 6.26 shows by customer class the existing SAL and EES rates compared to estimated SAL and EES rates.<sup>139</sup>

**Figure 6.26**  
**Street Area Lighting and Energy Efficiency Services by Customer Class**

	Res	S1	S2	S3	P1	P2	P3	T1
<u>SAL Rates (\$/kWh)</u>								
Existing	0.00093	0.00096	0.00076	0.00068	0.00058	0.00054	0.00051	0.00045
Proposed	0.00145	0.00145	0.00145	0.00145	0.00141	0.00141	0.00141	0.00139
<u>EES Rates (\$/kWh)</u>								
Existing	0.00289	0.00337	0.00378	0.00198	0.00252	0.00049	0.00114	0.00146
Proposed	0.00246	0.00246	0.00246	0.00246	0.00240	0.00240	0.00240	0.00237

As with the development of the proposed Regulatory Charge, this CBC development approach ensures that movement of customers between customer classes, if, for example, their loads change or if any class grows due to new customers, will not shift cost responsibility between classes and create volatility in the pass-through rates.

## 6.8. CHANGES TO DISCOUNTS

Austin Energy provides discounts to certain residential customers, ISDs and group religious worship facilities accounts. While Austin Energy does not propose making any changes to the existing residential discount program, Austin Energy proposes several adjustments to existing discounts offered to the non-residential customers. The City Council found in the 2012 rate ordinance that these benefits “are fair, just, and reasonable, and support the community priorities of well-funded public education

<sup>139</sup> These rates are estimates that are subject to change and will be determined during the annual budget process.

# Exhibit III

Austin Energy  
Electric Cost of Service and Rate Design

EXHIBIT III

WP E-4.2

Work Paper E-4.2  
Non-Electric Expenses

WP E-4.2

No.	Sheet Acct	Description	Reference	FERC 417 (A)
<b>1</b>	<b>Non-Electric Expenses by FERC</b>			
2	1105	Facility Management	\$	88,068
3	1124	Energy Products		127,090
4	1302	Law Section		33,353
5	1306	General Operations		(7,272)
6	1330	Reliability Compliance Program		18
7	1361	Corporate Priorities		17,650
8	2100	Environmental Management		452
9	2101	Ae Laboratory Services		1,184
10	2221	Downtown Plant-Chilled Water		3,775,885
11	2222	Admin For District Energy		1,014,625
12	2223	Lamar And 6Th Chilled Water		36,095
13	2224	N. Burnet Dist Energy (Domain)		3,819,818
14	2225	911 Call Center-Chilled Water		1,136,599
15	2230	911 Back-Up Center		6,628
16	2232	Rmec - District Energy		1,405,197
17	2234	Rmec- Generation		408,815
18	3202	Substation And Relay Eng.		16,179
19	3714	New Energy Control Center		2,117
20	8313	Pricing & Rate Analysis		16,654
21	8814	Credit Management		(129)
22	8821	Call Cntr City Wide Info Cntr		1,548
23		Total	\$	11,900,572

# Exhibit IV

PUC DOCKET NO. 40627  
SOAH DOCKET NO. 473-13-0935

2013 APR 29 PM 12:35  
PUBLIC UTILITY COMMISSION  
FILING CLERK

PETITION BY HOMEOWNERS  
UNITED FOR RATE FAIRNESS TO  
REVIEW AUSTIN RATE ORDINANCE  
NO. 20120607-055

§ PUBLIC UTILITY COMMISSION  
§  
§ OF TEXAS  
§

**ORDER**

This Order addresses the rate-filing package (RFP) of the City of Austin d/b/a Austin Energy (Austin Energy or AE) filed pursuant to § 33.104 of PURA<sup>1</sup> in response to the Petition by Homeowners United for Rate Fairness to Review the City of Austin Rate Ordinance No. 20120607-055 passed by the Austin City Council on June 7, 2012 (June 7<sup>th</sup> ordinance). An unopposed stipulation and settlement agreement (agreement) was signed by a majority of the parties (signatories) that resolves all issues in this case. The agreement is included as Exhibit A to this Order. Consistent with the agreement, Austin Energy is hereby ordered to change rates for customers outside the City of Austin in accordance with this Order.

**I. Findings of Fact**

**Procedural History**

1. Austin Energy is a municipally-owned utility serving over 400,000 customers and a population of almost one million in the Greater Austin area.
2. Austin Energy's 437-square mile service area includes customers in the City of Austin, the environs, and the following municipalities: Bee Cave, Buda, Cedar Park, Creedmoor, Del Valle, Lakeway, Manchaca, Manor, Mustang Ridge, Pflugerville, Rollingwood, Sunset Valley, Village of the Hills, and Westlake Hills.
3. Following a public process, the Austin City Council (council) unanimously approved a system-wide rate increase for Austin Energy ratepayers through Ordinance No. 20120607-055 on June 7, 2012. The rates approved by the council became effective on October 1, 2012.

<sup>1</sup> Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (Vernon 2007 & Supp. 2012) (PURA).

436



4. The council found Austin Energy's adjusted test-year revenue requirement of \$1,123,477,268 to be just and reasonable. However, to mitigate the impact of the rate increase on Austin Energy's customers, the council approved a system-wide revenue requirement in the lesser amount of \$1,109,871,703, a \$91,634,419 increase over system-wide revenues under previous rates. Because certain commercial customers are currently served under long-term contracts with fixed base rates, these customers will not begin to receive service under the new rates until the expiration of their contracts, no later than June 1, 2015. As a result, Austin Energy will not collect from these customers \$20,345,009 of the increase approved by the council until the expiration of the contracts. Therefore, the new rates that Austin Energy implemented on October 1, 2012, provide for a \$71,289,410 increase (a system-wide average increase of 7%) over prior rates, including a \$44,383,091 increase (11.7%) over system-wide revenues from prior residential rates.
5. In addition to increases to the revenue requirement, the June 7<sup>th</sup> ordinance consolidated Austin Energy's previous 24 rate classes into 12 rate classes.
6. Pursuant to PURA § 33.103(a), Austin Energy issued a 14-day report stating the effect of the governing body's decision on each class of ratepayer on June 21, 2012. This 14-day report was published in the *Austin American Statesman*, the newspaper of widest circulation throughout Austin Energy's service area.
7. Austin Energy also provided notice to its customers through a bill insert that detailed the new rates for each customer class.
8. On August 2, 2012, Homeowners United for Rate Fairness (HURF) filed a petition for review of the June 7<sup>th</sup> ordinance. That petition was supplemented with additional signatures on August 6, 2012.
9. On September 7, 2012, Austin Energy filed a Statement of Review indicating that it did not contest the validity of HURF's petition.
10. In response to HURF's petition, and pursuant to PURA § 33.104, Austin Energy filed its rate-filing package (RFP) on November 1, 2012. The RFP included the direct testimony of 24 witnesses and additional materials to demonstrate to the Commission that the

revenue requirement and corresponding rate design approved by the council were just and reasonable as applied to Austin Energy's customers outside the City of Austin.

11. Because the Commission does not have an RFP for municipally-owned utilities, Austin Energy organized its RFP based upon the Non-Investor-Owned Utility Transmission Cost of Service RFP, supplemented by the Investor-Owned Utility Transmission and Distribution Cost of Service RFP.
12. Austin Energy's cost of service was presented using the cash flow method.
13. The 12-month test-year used in Austin Energy's RFP was October 1, 2008 through September 30, 2009. At the time Austin Energy began the rate review process in the summer of 2010; this was the time period with the most recent audited financial statements available. This was the same test-year presented to the council.
14. On November 5, 2012, the Commission referred this case to the State Office of Administrative Hearings (SOAH) to conduct an evidentiary hearing and to prepare a proposal for decision.
15. Commission Staff participated in this docket. Additionally, the following parties were granted intervenor status in this proceeding, without objection: HURF, the Office of Public Utility Counsel (OPUC), Westlake United Methodist Church (WUMC), Texas Ratepayers' Organization to Save Energy/Texas Legal Services Center (Texas ROSE/TLSC), Citizens for Fair Affordable Innovative Rates (FAIR), and the City of Lakeway.
16. On November 8, 2012, Data Foundry, Inc. moved to intervene as a customer of AE. On November 15, 2012, Austin Energy and OPUC objected to the intervention of Data Foundry claiming that Data Foundry lacked standing to intervene by failing to prove standing as a customer outside the City of Austin.
17. Data Foundry responded to the objections of Austin Energy and OPUC, presenting a lease for 200-square-feet of a 1,500-square-foot storage facility outside the City of Austin.

18. On November 16, 2012, the Commission issued the Preliminary Order specifying issues to be addressed in this case. After receiving briefing on threshold issues, the Commission issued the Supplemental Preliminary Order addressing threshold legal and policy issues, on December 13, 2012. In the Supplemental Preliminary Order, the Commission held that (a) the 185-day deadline stated in PURA § 33.054(c) was mandatory and could not be modified; and (b) in determining what known and measurable changes are to be considered for its *de novo* review of the June 7<sup>th</sup> ordinance in this docket, the Commission may consider only known and measurable changes that were available to the council at the time the June 7<sup>th</sup> ordinance was passed. The Commission further ruled that to the extent that there is evidence available to the Commission that was not available at the time the council made its decision, the evidence would be admissible only for purposes of determining what conditions existed at the time the council acted.
19. With the agreement of the parties and as authorized by SOAH Order No. 2, issued on November 28, 2012, Austin Energy filed the supplemental direct testimonies of Pat Sweeney and Ann Little on December 12, 2012, to address additional issues set forth in the Preliminary Order. The parties' agreement also established that the 185-day deadline applicable to this case was to be measured from December 12, 2012, making the statutory deadline June 15, 2013. The Commission approved the measurement of the 185-day deadline from December 12, 2012 in the Supplemental Preliminary Order.
20. At the December 18, 2012 prehearing conference, Data Foundry was granted party status based on the lease documentation showing Data Foundry to be a customer outside the City of Austin. The Administrative Law Judges (ALJs) also determined that no additional notice was necessary.
21. On February 7, 2013, the following intervenor parties filed direct testimony: HURF, Data Foundry, OPUC, and Texas ROSE/TLSC. On this same date, FAIR and WUMC filed statements of position.
22. On February 11, 2013, the City of Lakeway sought leave to withdraw as an intervenor, which request was granted in SOAH Order No. 7 on February 19, 2013.
23. On February 14, 2013, Commission Staff filed its direct testimony.

24. On February 20, 2013, HURF, OPUC, Data Foundry, Texas ROSE/TLSC and WUMC filed cross-rebuttal testimony.
25. On February 22, 2013, Austin Energy filed rebuttal testimony in response to Commission Staff and the intervenor parties.
26. On February 26, 2013, the signatories reached an agreement in principle that resolved all issues in this proceeding.
27. At the prehearing conference on March 1, 2013, the parties informed the ALJs that an agreement had been reached. During the prehearing, the ALJs ordered a stay of the procedural schedule to allow parties to finalize the agreement.
28. On March 1, 2013, the council approved the terms set forth in the agreement in a public meeting.
29. After being notified that the council approved the terms on March 1, 2013, the ALJs issued SOAH Order No. 9, canceling the hearing on the merits scheduled to commence on March 4, 2013.
30. On March 18, 2013, the signatories filed the agreement, signed by Austin Energy, Commission Staff, OPUC, HURF, Texas ROSE/TLSC, WUMC, and FAIR. Data Foundry indicated that, while not a signatory to the agreement, it would not oppose issuance of a final order in this proceeding consistent with the terms of the agreement.
31. On March 27, 2013, the SOAH ALJs issued Order No. 11, which granted the signatories unopposed motion and admitted into evidence the agreement, the supplemental direct testimony of Mark Dreyfus in support of the agreement, Austin Energy's amended tariffs reflecting new rates for customers outside the City of Austin, and the prefiled exhibits of Austin Energy, Commission Staff, HURF, OPUC, TLSC/Texas ROSE, WUMC, and Data Foundry.<sup>2</sup>

---

<sup>2</sup> On March 28, 2013, Data Foundry submitted exhibit copies of witness Kelso King's testimony as directed in SOAH Order No. 11.

**Description of the Agreement**

32. The signatories agree that a negotiated resolution of this proceeding is desirable and in the public interest because the result is reasonable under the circumstances, is supported by the evidence, will conserve the public's and the signatories' resources, and will eliminate controversy.

**Base Rates**

33. The rates that will result from the agreement will apply only to ratepayers who receive service at points of delivery outside the City of Austin, and will apply only to service received at locations outside of the City of Austin.
34. Under the rates approved in the June 7<sup>th</sup> ordinance, Austin Energy's revenue requirement for customers outside the City of Austin was \$159,970,582. Under the rates in this agreement, Austin Energy's revenue requirement for customers outside the City is \$153,794,692.
35. The agreement provides for a reduction to the revenue collected from residential customers whose points of delivery are located outside the City of Austin in the amount of \$5,751,892.
36. Of the \$5,751,892 revenue requirement reduction:
- (a) \$4,299,895 is assigned to reduce the residential class energy charges in order to achieve the rates specified in Finding of Fact No. 40 and the Residential-Outside Austin tariff, attached as Exhibit B to this Order.
  - (b) \$1,205,734 is assigned to reduce the residential class Community Benefit Charge (CBC), by the reduction in the amount charged for the Customer Assistance Program and the removal of the Service Area Lighting component from the residential class CBC in the portion of AE's service territory outside the City of Austin, as shown in the attached CBC tariff for points of delivery outside of Austin, Austin Energy will collect \$80,188 associated with this change in the CBC to customers outside the City of Austin under the Service Area Lighting tariff,
  - (c) Commercial customers outside the City are assigned a total of \$326,451 in base rate reductions:

- (1) Base rate revenues for the secondary voltage  $\geq 10$  kW < 50 kW class outside the City are reduced by \$32,422;
  - (2) Base rate revenues for the secondary voltage  $\geq 50$  kW class outside the City are reduced by \$132,011;
  - (3) Base rate revenues for the primary voltage < 3 MW class outside the City are reduced by \$63,219; and
  - (4) Base rate revenues for the primary voltage  $\geq 3$  MW < 20 MW class outside the City are reduced by \$98,799.
37. The \$162,018 reduction for the primary voltage < 3 MW class and the primary voltage  $\geq 3$  MW < 20 MW class outside the City of Austin would translate into a \$2.5 million system-wide reduction for the primary voltage < 3 MW class and the primary voltage  $\geq 3$  MW < 20 MW class.
38. These rate reductions for commercial customers bring the affected classes outside the City of Austin closer to cost of service.
39. The agreement provides that the residential customer charge will remain at \$10.00, as approved in the June 7<sup>th</sup> ordinance. OPUC does not agree to the \$10.00 customer charge.
40. The agreement provides that the \$4,299,895 reduction will result from Austin Energy's five-tier rate structure within the residential class being adjusted as follows:

	Summer Rates (per kWh)	Winter Rates (per kWh)
1 <sup>st</sup> Tier	\$0.03750	\$0.01800
2 <sup>nd</sup> Tier	\$0.08000	\$0.05600
3 <sup>rd</sup> Tier	\$0.09325	\$0.07170
4 <sup>th</sup> Tier	\$0.09325	\$0.07170
5 <sup>th</sup> Tier	\$0.09325	\$0.07170

41. In the portion of Austin Energy's service territory outside of the City of Austin, Austin Energy will offer the Houses of Worship and Independent School District discounts as adopted by Austin City Council, but the revenue effect of providing these discounts has been imputed to the reduction in the revenue requirement established in Finding of Fact Nos. 35 and 36.

42. The agreement provides that Austin Energy may rely upon the modified A&E 4CP production cost allocation methodology approved in the June 7<sup>th</sup> ordinance and as set forth in Austin Energy's RFP.

**Fuel Charge**

43. The agreement provides that a public hearing will be conducted prior to Austin Energy changing its charge for fuel, purchased power, and related costs *via* the Power Supply Adjustment (PSA) approved by council in June of 2012. Signatories agreed that a PSA change, if any, must be considered as part of the City of Austin's annual budgeting process. This term of the agreement does not alter Austin Energy's ability to adjust the PSA to eliminate any over- or under-recovery if the balance of the PSA costs is more than 110% or less than 90% of PSA costs actually incurred, pursuant to the PSA tariff. The right to appeal a change to the PSA or fuel adjustment clause under PURA is not affected by the fact that the action is taken through the City of Austin's annual budget process.

**Riders**

44. The signatories agree that AE will charge residential customers outside the City \$0.001180 per kWh for Customer Assistance Program (CAP) funding. As a result, Austin Energy will charge approximately \$442,923 less to residential customers outside the City of Austin than under current rates. It is Commission Staff's position that this amount aligns CAP funding levels with the State of Texas System Benefit Fund. It is TLSC/Texas ROSE's position that this funding amount is reasonable for purposes of the agreement because it is within the range of low-income program funding previously approved by the Commission. Notwithstanding this limitation, AE will fully fund the CAP at \$9.6 million, as approved by the council. Additionally, the CAP charge will be set annually through the City budget process, pursuant to the tariff. TLSC/Texas ROSE also agreed to this funding amount for purposes of the agreement because AE agreed to supplement the low-income funding to reach the level of funding approved in the June 7<sup>th</sup> ordinance.

45. The agreement provides that Austin Energy shall charge service-area lighting customers outside the City of Austin under the Service Area Lighting tariff rather than charging these costs to customers outside the City of Austin through the Service Area Lighting component of the CBC, as stated in Finding of Fact No. 36(b).
46. The signatories agree that the Commission has no jurisdiction to consider the rate-case expenses incurred by Austin Energy after the council's adoption of the June 7<sup>th</sup> ordinance.

**Consistency of the Agreement with PURA and Commission Rules**

47. The agreement is the result of good faith negotiations by the parties, and these efforts, as well as the overall result of the agreement viewed in light of the record as a whole, support the reasonableness and benefits of the terms of the agreement.
48. The reductions to the revenue requirement in the agreement are consistent with applicable provisions of PURA and Commission rules.
49. A residential customer charge of \$10.00, as approved in the June 7<sup>th</sup> ordinance, is reasonable for customers outside the City of Austin under the terms of the agreement.
50. Austin Energy's tiered rate structure for residential energy charges provided in the agreement is reasonable for customers outside the City of Austin.
51. Austin Energy's CBC, as modified by the agreement, is reasonable for customers outside the City of Austin.
52. Austin Energy's funding for its low-income programs included as part of the stipulated revenue requirement under the agreement in this case is reasonable.
53. Austin Energy's use of the modified A&E 4CP for production cost allocation under the terms of the agreement is reasonable.

**II. Conclusions of Law**

1. Austin Energy is a municipally-owned utility as defined in PURA § 11.003(11).
2. PURA exempts municipally-owned utilities from Commission regulation, with some exceptions, subject to PURA §§ 33.101-.104.



3. The Commission has jurisdiction over this matter pursuant to PURA § 33.101.
4. Based upon Findings of Fact Nos. 8-9 and pursuant to P.U.C. PROC. R. 22.244(d), the signatures on the petition were determined to be valid and the appeal of the June 7<sup>th</sup> ordinance was properly perfected.
5. The Commission has original jurisdiction over Austin Energy's transmission rates; therefore, the Commission did not consider Austin Energy's transmission rates in this appeal.
6. The 185-day deadline stated in PURA § 33.054(c) is mandatory and cannot be modified.
7. Pursuant to PURA § 33.054(a), the appropriate test-year for the Commission to review in this proceeding was the test-year presented to the Austin City Council, October 1, 2008 through September 30, 2009.
8. In determining what known and measureable changes are to be considered for its *de novo* review of the June 7<sup>th</sup> ordinance in this docket, the Commission may only consider known and measureable changes that were available to the council at the time the June 7<sup>th</sup> ordinance was passed, except that to the extent that there is evidence available to the Commission that was not available at the time the council made its decision, the evidence would only be admissible for purposes of determining what conditions existed at the time the council acted.
9. The agreement, taken as a whole, is a just and reasonable resolution of all the issues it addresses, is consistent with the relevant provisions of PURA, the Commission's rules, and the public interest.
10. The rates that will result from the agreement will not be unreasonably preferential, prejudicial, or discriminatory, but will be sufficient, equitable, and consistent in application to each group of customers.
11. Austin Energy's tariffs and rate schedules included as Exhibit B to this Order accurately reflect the terms of the agreement, as applied to customers outside the City of Austin. The Commission does not have jurisdiction over the portions of the tariffs that apply only

- to inside the City of Austin and this Order does not affect those portions of Austin Energy's tariffs.
12. Under PURA, municipally-owned utilities may pursue reasonable policy goals in the design of rates, subject to Commission review on appeal.
  13. Austin Energy's rates resulting from the agreement are just and reasonable and meet the requirements of PURA § 36.003 for customers outside the City of Austin.
  14. The agreement resolves all issues pending in this proceeding.
  15. The Commission's adoption of a final order consistent with the agreement satisfies the requirements of TEX. GOV'T CODE ANN. §§ 2001.001 - 2001.9023 (Vernon 2012) without the necessity of a decision on contested case issues resulting from a hearing on the merits.
  16. The requirements for informal disposition pursuant to P.U.C. PROC. R. 22.35 have been met in this proceeding.

### **III. Ordering Paragraphs**

In accordance with these findings of fact and conclusions of law, the Commission issues the following Order:

1. Consistent with the agreement, the rates set by the City of Austin in the June 7<sup>th</sup> ordinance for customers whose delivery points are outside the City of Austin are affirmed, except to the extent modified by this Order and the agreement.
2. Consistent with the agreement, the tariffs, rate schedules, and riders that apply to customers outside the City of Austin are approved and shall become effective June 1, 2013, for customers outside the City of Austin.
3. Within 20 days of this Order, Austin Energy shall file a clean record copy of the approved tariffs to be stamped "Approved" by Central Records and retained for future reference.
4. The entry of this Order consistent with the agreement does not indicate the Commission's endorsement of any principle or methodology that may underlie the agreement. Further,

the entry of this Order should not be regarded as precedent as to the appropriateness of any principle or methodology underlying the agreement.

5. All other motions, requests for entry of specific findings of fact, conclusions of law, and ordering paragraphs, and any other requests for general or specific relief, if not expressly granted in this Order, are hereby denied.

SIGNED AT AUSTIN, TEXAS the 29<sup>th</sup> day of April 2013.

**PUBLIC UTILITY COMMISSION OF TEXAS**

  
DONNA L. NELSON, CHAIRMAN

  
KENNETH W. ANDERSON, JR., COMMISSIONER

**EXHIBIT A**

**SOAH DOCKET NO. 473-13-0935**  
**PUC DOCKET NO. 40627**

<b>PETITION BY HOMEOWNERS</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>UNITED FOR RATE FAIRNESS TO</b>	<b>§</b>	<b>OF</b>
<b>REVIEW AUSTIN RATE</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>
<b>ORDINANCE NO. 20120607-055</b>	<b>§</b>	

**STIPULATION AND SETTLEMENT AGREEMENT**

This Stipulation and Settlement Agreement ("Agreement") is entered into by the City of Austin ("City") doing business as Austin Energy ("Austin Energy" or "AE"), the Staff of the Public Utility Commission of Texas ("Staff"), Homeowners United for Rate Fairness ("HURF"), the Office of Public Utility Counsel ("OPUC"), Westlake United Methodist Church ("WUMC"), Texas Ratepayers' Organization to Save Energy/Texas Legal Services Center ("Texas ROSE/TLSC"), Citizens for Fair Affordable Innovative Rates ("FAIR") and through their duly authorized representatives (collectively, the "Signatories"). The Signatories agree that a negotiated resolution of this proceeding on the basis set forth in this Agreement and related tariffs is in the public interest, provides just and reasonable rates, and will conserve the parties' and the public's resources and eliminate controversy. Accordingly, the Signatories request approval of this Agreement by the Public Utility Commission of Texas ("PUC" or "Commission") and issuance of a final order and approval of the tariffs applicable to customers with points of delivery outside the City of Austin. Data Foundry, Inc., the only party in this proceeding that is not a signatory to the Agreement, does not oppose the issuance of a Commission final order in this proceeding consistent with the terms of the Agreement.

## I. BACKGROUND

1. Austin Energy is a municipally owned utility under the Public Utility Regulatory Act ("PURA"),<sup>1</sup> which is owned and operated by the City of Austin. Following a public process, on June 7, 2012, the Austin City Council ("Council") unanimously approved a system-wide increase for Austin Energy electric rates through Ordinance No. 20120607-055 ("June 7<sup>th</sup> Ordinance"). The rates approved by the Council became effective on October 1, 2012.
2. The Council found AE's adjusted test year revenue requirement of \$1,123,477,268 to be just and reasonable. However, to mitigate the impact of the rate increase on AE's customers, the Council approved a system-wide revenue requirement in the lesser amount of \$1,109,871,703, a \$91,634,419 increase over system-wide revenues under prior rates. Because certain commercial customers are currently served under long-term contracts with fixed base rates, these customers will not begin to receive service under the new rates until the expiration of their contracts, no later than June 1, 2015. As a result, AE will not collect \$20,345,009 of the approved increase from these customers until that time. Therefore, the new rates that AE implemented on October 1, 2012 provide for a \$71,289,410 increase (a system-wide average increase of 7%) over system-wide revenues under prior rates, including a \$44,383,091 increase (11.7%) over system-wide revenues from prior residential rates.
3. On August 2, 2012, HURF filed a petition for review of the June 7<sup>th</sup> Ordinance with the Commission. The petition was supplemented with additional signatures on August 6,

---

<sup>1</sup> Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001 – 66.017 (West 2007 & Supp. 2012) ("PURA").

2012. On September 7, 2012, AE filed a Statement of Review indicating that it did not contest the validity of HURF's petition.

4. In response to HURF's petition, and in accordance with PURA § 33.104, on November 1, 2012, Austin Energy filed a Rate Filing Package ("RFP"), including the direct testimony of 24 witnesses and additional materials to demonstrate to the Commission that the revenue requirement and corresponding rates approved by the Council are just and reasonable as applied to AE's customers outside the City of Austin. On November 5, 2012, this proceeding was referred to the State Office of Administrative Hearings ("SOAH").
5. Subsequent to AE filing its RFP, the following parties were admitted as intervenors in this proceeding: OPUC, FAIR, WUMC, Texas ROSE/TLSC, Data Foundry, and the City of Lakeway. On February 11, 2013, the City of Lakeway sought leave to withdraw as an intervenor, a request which was granted on February 19, 2013 by SOAH Order No. 7.
6. On November 16, 2012, the Commission issued a Preliminary Order specifying issues to be addressed in this case. After receiving briefing on threshold issues, on December 13, 2012, the Commission issued a Supplemental Preliminary Order addressing threshold legal and policy issues. In the Supplemental Preliminary Order, the Commission held that a) the 185-day deadline stated in PURA § 33.054(c) was mandatory and could not be modified; and b) in determining what known and measurable changes are to be considered for its *de novo* review of the June 7<sup>th</sup> Ordinance in this docket, the Commission may consider only known and measurable changes that were available to the Council at the time the June 7<sup>th</sup> Ordinance was passed. The Commission further ruled that to the extent that there is evidence available to the Commission that was

not available at the time the Council made its decision, the evidence would be admissible only for purposes of determining what conditions existed at the time the Council acted.

7. With the agreement of the parties and as authorized by SOAH Order No. 2 issued on November 28, 2012, AE filed the Supplemental Direct Testimonies of Pat Sweeney and Ann Little on December 12, 2012. The parties' agreement also established that the 185-day deadline applicable to this case was to be measured from December 12, 2012, which the Commission approved in the Supplemental Preliminary Order.
8. On February 7, 2013, the following intervenor parties filed direct testimony: HURF, Data Foundry, OPUC, and Texas ROSE/TLSC. On that date, FAIR and WUMC filed statements of position.
9. On February 14, 2013, the Commission Staff filed its direct testimony. On February 20, intervenors filed cross-rebuttal testimony.
10. On February 22, 2013, AE filed rebuttal testimony in response to Commission Staff and the intervenor parties.
11. On March 1, 2013, the Council approved the terms set forth in this Agreement in a public meeting.
12. The Signatories believe that a negotiated resolution of this proceeding is desirable and in the public interest because the result is reasonable under the circumstances, is supported by the evidence, will conserve the public's and the Signatories' resources, and will eliminate controversy. Data Foundry has indicated that, while it is not a signatory to the Agreement, it will not oppose the terms of the Agreement and did not request or demand a hearing under P.U.C. PROC. R. 22.206.

## II. SETTLEMENT PROVISIONS

The Signatories have reached agreement on the issues as set out below and agree that the Commission should enter an order consistent with this Agreement:

13. **Application of Agreement:** The terms of this Agreement apply only to rates charged by Austin Energy to customers located outside of the City of Austin and do not affect rates charged to customers inside the City of Austin. The provisions of this Agreement shall become effective on June 1, 2013.
14. **Revenue Requirement:** The Signatories agree that, relative to the rates in the June 7<sup>th</sup> Ordinance, the revenue requirement to be charged to AE's customers outside the City through base rates and the Community Benefit Charge ("CBC") shall be reduced by \$5,751,893. Under the rates approved in the June 7<sup>th</sup> Ordinance, Austin Energy's revenue requirement for customers outside the City of Austin was \$159,970,582. Under the rates in this Agreement, Austin Energy's revenue requirement for customers outside the City is \$153,794,692.
15. **Cost Allocation/Revenue Spread:** Signatories agree that AE may rely upon the modified A&E 4CP production cost allocation methodology approved in the June 7<sup>th</sup> Ordinance, and as set forth in AE's RFP. Of the agreed \$5,751,893 reduction:
  - (a) \$4,299,895 is assigned to reduce the residential class energy charges in order to achieve the rates specified in paragraph 17 and the Residential-Outside Austin tariff.
  - (b) \$1,205,734 is assigned to reduce the residential class CBC, by the reduction in the amount charged for the Customer Assistance Program (as described in paragraph 20) and the removal of the Service Area Lighting component from the residential class CBC (as described in paragraph 21) in the portion of AE's service territory outside of the City of Austin, as shown in the CBC tariff for points of delivery outside of the City of



Austin. Austin Energy may charge \$80,188 associated with this change in the CBC to customers outside the City of Austin.

(c) Commercial customers outside the City are assigned a total of \$326,451 in base rate reductions as follows:

(1) Base rate revenues for the secondary voltage  $\geq 10$  kW < 50 kW class outside the City are reduced by \$32,422;

(2) Base rate revenues for the secondary voltage  $\geq 50$  kW class outside the City are reduced by \$132,011;

(3) Base rate revenues for the primary voltage < 3 MW class outside the City are reduced by \$63,219; and

(4) Base rate revenues for the primary voltage  $\geq 3$  MW < 20 MW class outside the City are reduced by \$98,799.

These rate reductions for commercial customers bring the affected classes outside the City closer to cost of service.

16. **Residential Customer Charge:** In the portion of AE's service territory outside of the City of Austin, Signatories agree that AE's fixed residential customer charge will remain at \$10.00. OPUC does not agree to the \$10.00 customer charge.
17. **Residential Class Tiered Rates:** In the portion of AE's service territory outside of the City of Austin, Signatories agree that the tiered rate structure for energy charges within the residential class shall be as follows:

	Summer Rates (per kWh)	Winter Rates (per kWh)
1st Tier	\$0.03750	\$0.01800
2nd Tier	\$0.08000	\$0.05600
3rd Tier	\$0.09325	\$0.07170
4th Tier	\$0.09325	\$0.07170
5th Tier	\$0.09325	\$0.07170

18. **Houses of Worship/Independent School Districts Discount:** In the portion of AE's service territory outside of the City of Austin, AE shall offer the Houses of Worship and Independent School District discounts as adopted in the June 7<sup>th</sup> Ordinance, but the revenue effect of providing these discounts has been imputed to the revenue requirement established in paragraph 14.
19. **Public Hearing Prior to Power Supply Adjustment ("PSA") Change:** Signatories agree that a public hearing will be provided prior to AE changing its PSA. This provision does not alter Austin Energy's ability to adjust the PSA to eliminate any over- or under-recovery if the balance of the PSA costs is more than 110% or less than 90% of PSA costs actually incurred, pursuant to the PSA tariff.
20. **Customer Assistance Program ("CAP"):** Signatories agree that AE will charge residential customers outside the City \$0.001180 per kWh for CAP funding. It is Staff's position that this amount aligns CAP funding levels with the state's System Benefit Fund. It is TLSC/Texas ROSE's position that this funding amount is reasonable for purposes of the Agreement because it is within the range of low-income program funding previously approved by the Commission. As a result, Austin Energy will charge \$442,923 less to residential customers outside the City than under current rates. Notwithstanding this limitation, AE will fully fund the CAP at \$9.6 million, as approved by the Council. Additionally, the CAP charge will be set annually through the City

budget process, pursuant to the tariff. TLSC/Texas ROSE also agreed to this funding amount for purposes of the stipulation because AE agreed to supplement the low-income funding to reach the level of funding approved in the June 7<sup>th</sup> Ordinance.

21. **Service Area Lighting:** Signatories agree that in the portion of AE's service territory outside the City of Austin, AE shall charge service area lighting customers under the Service Area Lighting tariff rather than charging these costs through the Service Area Lighting component of the CBC, as provided in paragraph 15(b).
22. **Rate Case Expenses:** The Signatories agree that the Commission has no jurisdiction to consider the rate case expenses incurred by AE after the Council's adoption of the June 7<sup>th</sup> Ordinance.
23. **Approval:** The Signatories agree to support this Agreement and to take all reasonable and necessary steps to obtain prompt Commission approval of the Joint Proposed Order that is attached to this Agreement as Exhibit "A."
24. **Evidence and Proposed Order:** The Signatories agree that the Commission should issue the proposed order, attached as Exhibit "A," which is consistent with the terms of this Agreement. The Signatories agree to the admission into evidence of the following documents for the limited purpose of supporting this Agreement: the Rate Filing Package (including Austin Energy's direct testimony and supplemental direct testimony), the supplemental direct testimony of Mark Dreyfus addressing this Agreement, direct testimony of the Signatories, cross rebuttal testimony of the Signatories, Austin Energy's rebuttal testimony, AE's amended tariffs for customers outside the City of Austin, and this Agreement. Subject to the Commission's adoption of this Agreement and issuance

of the proposed order as the final decision in this case, the Signatories waive their right to a hearing and cross-examination.

**25. Effect of Stipulation and Settlement Agreement:**

A. This Agreement binds each Signatory only for the purpose of settling the issues as set out herein and for no other purpose. Except for a proceeding to enforce the terms of this Agreement or to the extent that this Agreement expressly governs a Signatory's rights and obligations for future periods. The Signatories acknowledge and agree that:

(1) This Agreement shall not be binding or precedential on, or constitute an admission by, a Signatory outside of this case;

(2) A Signatory's support of the matters contained in this Agreement may differ from its position or testimony in other proceedings not referenced in this Agreement. To the extent that there is a difference, a Signatory does not waive its position in such other proceedings;

(3) A Signatory is under no obligation to take the same position as set out in this Agreement in other proceedings, whether those proceedings present the same or a different set of circumstances.

B. A Signatory's agreement to entry of a final order of the Commission consistent with this Agreement should not be regarded as an agreement to the appropriateness or correctness of any assumptions, methodology, or legal or regulatory principle that may have been employed in reaching this Agreement.

C. The Signatories agree that they will not challenge any future rate action taken by the Council to implement the rates established in this Agreement.

- D. The Signatories acknowledge and agree that the provisions of this Agreement have been entered into as a matter of compromise and are not intended to create a precedent for resolving such issues in any future proceeding and are not binding or precedential on any Signatory or its representatives in any other proceeding before the Commission or any court, tribunal, or similar authority.
- E. The Signatories agree that their request that the Commission enter an order consistent with the Agreement is the result of negotiation, and is not intended to have precedential value with respect to any particular principle, treatment, or methodology that may underlie the Agreement.
- F. The Signatories agree that the terms and conditions herein are interdependent and not severable, and no Signatory shall be bound by any portion of this Agreement outside the context of the Agreement as a whole. The Signatories agree that none of the provisions of this Agreement shall become fully operative unless the Commission shall have entered a final order approving this Agreement. If the Commission does not accept this Agreement as presented, or issues an interim or final order inconsistent with any term or provision of this Agreement, the Signatories agree that any Signatory adversely affected by that modification or inconsistency has the right to withdraw its consent from this Agreement, thereby becoming released from all commitments and obligations, and to proceed to hearing on all issues, present evidence, advance any position it desires as if it had not been a Signatory, and exercise all rights available under law.
- G. The Signatories agree that neither oral nor written statements made during the course of the settlement negotiations, nor the terms of this Agreement may be

used as an admission or concession of any sort or as evidence in any proceeding. This obligation shall continue and be enforceable, even if this Agreement is terminated.

H. This Agreement, including all attachments hereto, contains the entire understanding and agreement of the Signatories, supersedes all other written and oral exchanges, or negotiations among them or their representatives with respect to the subjects contained herein; and neither this Agreement, nor any of the terms of this Agreement, may be altered, amended, waived, terminated, or modified, except by a writing properly executed by the Signatories.

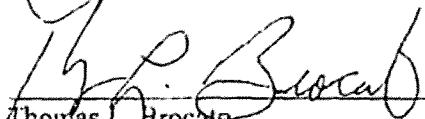
I. The Signatories mutually agree that they enter into this Agreement for their exclusive benefit and the benefit of their respective lawful successors. Signatories agree that nothing in this Agreement shall be construed to confer any right, privilege or benefit on any person or entity other than the Signatories and their respective lawful successors.

26. **Execution:** Each signing representative warrants that he or she is duly authorized to sign this Agreement on behalf of the Signatory he or she represents. Facsimile and PDF copies of signatures are valid for purposes of evidencing execution. The Signatories may sign individual signature pages to facilitate the circulation and filing of the original of this Agreement.

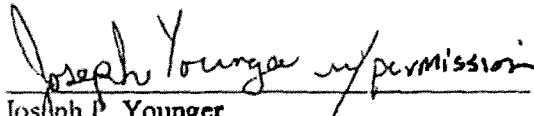
27. The Signatories shall act in good faith to support Commission approval of the Agreement. The Signatories agree that they will use their best efforts to obtain expeditious implementation of this Agreement by entry of appropriate orders.

**AGREED:**

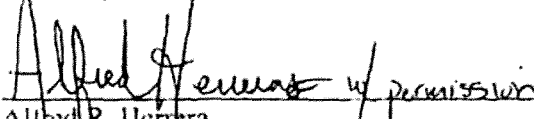
**THE CITY OF AUSTIN**

  
Thomas L. Brocato  
State Bar No. 03039030  
Lloyd Gosselink Rochelle & Townsend, P.C.  
816 Congress Avenue, Suite 1900  
Austin, TX 78701

**PUBLIC UTILITY COMMISSION OF  
TEXAS - LEGAL DIVISION**

  
Joseph P. Younger  
State Bar No. 24037761  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, TX 78711-3326

**CITIZENS FOR FAIR AFFORDABLE  
INNOVATIVE RATES**

  
Alfred R. Herrera  
State Bar No. 09529600  
Herrera & Boyle, PLLC  
816 Congress Avenue, Suite 1250  
Austin, TX 78701

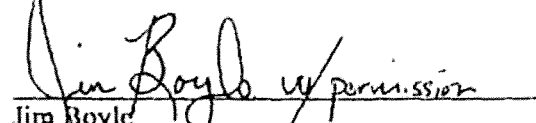
**TEXAS RATEPAYERS' ORGANIZATION  
TO SAVE ENERGY AND TEXAS LEGAL  
SERVICES CENTER**

\_\_\_\_\_  
Lanetta Cooper  
State Bar No. 04780600  
Texas Legal Services Center  
815 Brazos, Suite 1100  
Austin, TX 78701

**HOMEOWNERS UNITED FOR RATE  
FAIRNESS**

\_\_\_\_\_  
Roger B. Borgelt  
State Bar No. 02667960  
Borgelt Law  
614 S. Capital of Texas Hwy.  
Austin, TX 78746

**WESTLAKE UNITED METHODIST  
CHURCH**

  
Jim Boyle  
State Bar No. 02795000  
Herrera & Boyle, PLLC  
816 Congress Avenue, Suite 1250  
Austin, TX 78701

**OFFICE OF PUBLIC UTILITY  
COUNSEL**

\_\_\_\_\_  
James K. Rourke, Jr.  
State Bar No. 17323700  
1701 N. Congress Avenue, Suite 9-180  
P. O. Box 12397  
Austin, TX 78711-2397

**AGREED:**

**THE CITY OF AUSTIN**

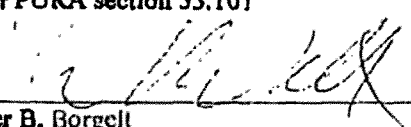
---

Thomas L. Brocato  
State Bar No. 03039030  
Lloyd Gosselink Rochelle & Townsend, P.C.  
816 Congress Avenue, Suite 1900  
Austin, TX 78701

**HOMEOWNERS UNITED FOR RATE FAIRNESS**

In addition to the language in paragraph 19, HURF asserts that any PSA change is appealable if it is an action affecting rates under PURA section 33.101

---

  
Roger B. Borgelt  
State Bar No. 02667960  
Borgelt Law  
614 S. Capital of Texas Hwy.  
Austin, TX 78746

**PUBLIC UTILITY COMMISSION OF TEXAS - LEGAL DIVISION**

---

Joseph P. Younger  
State Bar No. 24037761  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, TX 78711-3326

**WESTLAKE UNITED METHODIST CHURCH**

---

Jim Boyle  
State Bar No. 02795000  
Herrera & Boyle, PLLC  
816 Congress Avenue, Suite 1250  
Austin, TX 78701

**CITIZENS FOR FAIR AFFORDABLE INNOVATIVE RATES**

---

Alfred R. Herrera  
State Bar No. 09529600  
Herrera & Boyle, PLLC  
816 Congress Avenue, Suite 1250  
Austin, TX 78701

**OFFICE OF PUBLIC UTILITY COUNSEL**

---

James K. Rourke, Jr.  
State Bar No. 17323700  
1701 N. Congress Avenue, Suite 9-180  
P. O. Box 12397  
Austin, TX 78711-2397

**TEXAS RATEPAYERS' ORGANIZATION TO SAVE ENERGY AND TEXAS LEGAL SERVICES CENTER**



**AGREED:**

**THE CITY OF AUSTIN**

---

Thomas L. Brocato  
State Bar No. 03039030  
Lloyd Gosselink Rochelle & Townsend, P.C.  
816 Congress Avenue, Suite 1900  
Austin, TX 78701

**PUBLIC UTILITY COMMISSION OF  
TEXAS - LEGAL DIVISION**

---

Joseph P. Younger  
State Bar No. 24037761  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, TX 78711-3326

**CITIZENS FOR FAIR AFFORDABLE  
INNOVATIVE RATES**

---

Alfred R. Herrera  
State Bar No. 09529600  
Herrera & Boyle, PLLC  
816 Congress Avenue, Suite 1250  
Austin, TX 78701

**TEXAS RATEPAYERS' ORGANIZATION  
TO SAVE ENERGY AND TEXAS LEGAL  
SERVICES CENTER**

---

Lanetta Cooper  
State Bar No. 04780600  
Texas Legal Services Center  
815 Brazos, Suite 1100  
Austin, TX 78701

**HOMEOWNERS UNITED FOR RATE  
FAIRNESS**

---

Roger B. Borgelt  
State Bar No. 02667960  
Borgelt Law  
614 S. Capital of Texas Hwy.  
Austin, TX 78746

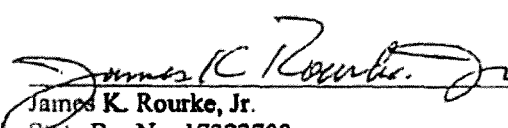
**WESTLAKE UNITED METHODIST  
CHURCH**

---

Jim Boyle  
State Bar No. 02795000  
Herrera & Boyle, PLLC  
816 Congress Avenue, Suite 1250  
Austin, TX 78701

**OFFICE OF PUBLIC UTILITY  
COUNSEL**

---

  
James K. Rourke, Jr.  
State Bar No. 17323700  
1701 N. Congress Avenue, Suite 9-180  
P. O. Box 12397  
Austin, TX 78711-2397

**AGREED:**

**THE CITY OF AUSTIN**

---

Thomas L. Brocato  
State Bar No. 03039030  
Lloyd Gosselink Rochelle & Townsend, P.C.  
816 Congress Avenue, Suite 1900  
Austin, TX 78701

**PUBLIC UTILITY COMMISSION OF  
TEXAS - LEGAL DIVISION**

---

Joseph P. Younger  
State Bar No. 24037761  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, TX 78711-3326

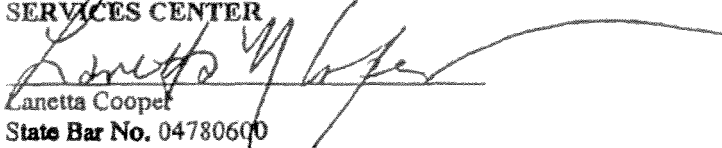
**CITIZENS FOR FAIR AFFORDABLE  
INNOVATIVE RATES**

---

Alfred R. Herrera  
State Bar No. 09529600  
Herrera & Boyle, PLLC  
816 Congress Avenue, Suite 1250  
Austin, TX 78701

**TEXAS RATEPAYERS' ORGANIZATION  
TO SAVE ENERGY AND TEXAS LEGAL  
SERVICES CENTER**

---

  
Lanetta Cooper  
State Bar No. 04780600  
Texas Legal Services Center  
815 Brazos, Suite 1100  
Austin, TX 78701

**HOMEOWNERS UNITED FOR RATE  
FAIRNESS**

---

Roger B. Borgelt  
State Bar No. 02667960  
Borgelt Law  
614 S. Capital of Texas Hwy.  
Austin, TX 78746

**WESTLAKE UNITED METHODIST  
CHURCH**

---

Jim Boyle  
State Bar No. 02795000  
Herrera & Boyle, PLLC  
816 Congress Avenue, Suite 1250  
Austin, TX 78701

**OFFICE OF PUBLIC UTILITY  
COUNSEL**

---

James K. Rourke, Jr.  
State Bar No. 17323700  
1701 N. Congress Avenue, Suite 9-180  
P. O. Box 12397  
Austin, TX 78711-2397