

AUSTIN ENERGY

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<b>AUSTIN ENERGY'S TARIFF PACKAGE:</b>	<b>§</b>	<b>BEFORE THE CITY OF AUSTIN</b>
<b>2015 COST OF SERVICE STUDY</b>	<b>§</b>	<b>IMPARTIAL HEARINGS</b>
<b>AND PROPOSAL TO CHANGE</b>	<b>§</b>	<b>EXAMINER</b>
<b>BASE ELECTRIC RATES</b>	<b>§</b>	

**AE LOW INCOME CUSTOMERS' RESPONSE TO IMPARTIAL HEARING  
EXAMINER'S REVISED MEMORANDUM NO. 6**

COMES NOW, Texas Legal Services Center ("TLSC") on behalf of AE Low Income Customers ("AELIC"), responding to the Impartial Hearing Examiner's ("IHE" or "Your Honor" or "Judge") Revised Memorandum No. 6 stating as follows:

**I.**  
**Introduction**

After the parties proposed issues to be addressed in this rate proceeding, the IHE issued Memorandum No. 6. The Memorandum sets out the list of issues to be addressed in this rate proceeding, sets out issues that are to be excluded from this rate proceeding and requests further discussion on whether certain non-base rate services should be included in the list of issues to be addressed in this rate proceeding.

AELIC urges the IHE to reconsider his exclusion from this proceeding: the rates for the Power Supply Adjustment ("PSA"); the On-Site Resources ("OSER") system; and Austin Energy's Transmission Cost of Service ("TCOS"). Further, AELIC urges Your Honor to include issues related to the Regulatory Charge, the Energy Efficiency ("EE") rate, and the Street Area Lighting Rate ("Street Lighting"). Lastly, and in the alternative, AELIC urges Your Honor to find that discovery related to the issues stated above is relevant to determining whether base rates are reasonable.

**II.**  
**Excluded Issues**

The PSA rate, the OSER system and TCOS issues should be included in this rate proceeding.

AE filed a comprehensive rate-filing package that included its costs and realized revenues from all its tariffed rates, including both base rates and non-base rates, and for its non-utility operations. The rate-filing package includes all its proposed tariffs and proposes new tariffs. The package discusses rate change proposals for AE's non-base rate services. Specifically, AE proposed changes to the rates for the PSA rate, the regulatory charge rate, the EE rate, and the Street Area Lighting rate. AE made no attempt in its rate-filing package to separate out the costs and corresponding revenues realized from its non-base rate services from the costs and corresponding revenues attributable to its base rates.

Over ½ of the costs AE identified in its rate-filing package are attributable to non-base rate reimbursed operations, comprising at least half of a residential customer's monthly bill.

The Austin City Council ("Council") direction for a rate review every five years was not limited to base rates. Consequently, non-base rate issues should be considered in this proceeding, especially those raised by AE that are included in its rate-filing package such as the PSA rate, the Regulatory Charge and the Street Area Lighting rate. With over ½ of the costs attributable to non-base rate funded operations<sup>1</sup>, the significance of these rates to AE customers is apparent. For instance, AE increased the Regulatory Charge for FY 2016 rates by \$5 per month for a residential customer using 1000 kWh/month.<sup>2</sup>

Because these non-base rates encompass a material and substantial portion of residential retail electric service bills; because the Council did not exclude non-base rate issues from consideration in this rate proceeding; and because AE itself included proposed rate changes to the PSA, regulatory charge, and street area lighting and provided discussion in support of these changes in its rate-filing package, these issues should be addressed in this rate proceeding.

### III.

#### Regulatory Charge, EE Rate, and Street Area Lighting

The Regulatory Charge, EE rates and Street Lighting rates were created in AE's 2009 test year rate proceeding. Formerly the costs underlying these rates were recovered in base rates. AE has recommended rate design changes for these three rates and has provided a discussion to

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<sup>1</sup> For instance, see p. 2-9 (Bates Stamp p. 021) of the rate-filing package which stated, in pertinent part, "The base rate revenue requirement is \$614.4 million. The difference between the revenue requirement and the base rate revenue requirement is the projected costs of the pass-through charges (Power Supply Adjustment, Regulatory Charge, and Community Benefits Charge), which are not included in base rates." See also footnote on this same page that recites its proposed revenue requirement of "1,217,227,310."

<sup>2</sup> See AE portion of Austin's proposed FY 2016 budget.

support these changes in its rate-filing package. In addition, AE has included the proposed tariffs in its rate-filing package. More importantly, AE's costs and revenues realized from these rates are included and commingled with the costs and revenues from AE's base rates in the rate-filing package. As such, the issues addressing these tariffed services should be included in this rate proceeding.

#### IV. Relevancy

At least two fundamental rate regulatory principles address the relevance of AE's non-base rate funded services and its non-utility operations in this rate proceeding.

The first principle is that a customer should not be charged twice for his/her electric service. The unbundling of AE's electric service into multiple rates with base rates being but one of these rate increases the risks that the same cost is being recovered not only in base rates but again in one or more of the non-base rates. Consequently, costs and revenues from AE's non-base rate services need to be reviewed to ensure they have not been included again in the costs underlying AE's base rates.

AE's filing on a total system-wide basis including costs and realized revenues from all its tariffed services increases the need to identify what costs and realized revenues should be adjusted out of the cost of service ("COS") for purposes of determining the reasonableness and fairness of its base rates.

The second regulatory principle is that AE monopoly retail customers' rates are not to subsidize rates for non-AE, non-monopoly customers and are not to subsidize non-utility operations. The services provided by the TCOS rate are provided not only to AE's monopoly retail customers but to customers in the de-regulated electric market in Texas. As such, the TCOS is relevant to ensuring that AE's monopoly retail customers are not subsidizing other customers in the de-regulated retail electric market.

AE is also engaged in non-utility operations referred to in the Memorandum as the OCER system. To ensure AE's monopoly retail customers are not subsidizing AE's non-utility operations, parties have the right to determine whether AE has excluded all costs related to this non-utility operation. Understanding how the non-utility operations are performed provides the parties and ultimately Your Honor the opportunity to identify the AE costs incurred in providing this service.

As mentioned earlier, AE presented a COS in its rate-filing package that included all its operational costs including the TCOS services and the non-utility operations. While AE's COS shows adjustments to it in the rate-filing package alleging to delete the costs and realized revenues attributable to its non-utility operations, the COS presented was at an aggregated level. AE provided no workpapers related to this adjustment that provided a more detailed, less aggregated reporting of its non-utility operational costs. There was no attempt by AE to disaggregate the TCOS costs and realized revenues from the COS presented in its rate-filing package.

For both the TCOS services and the non-utility operations AE has incurred invested capital costs, with some of the invested capital funded with debt. Debt-financed invested capital raises cash flow issues that affect the COS for base rates. (Cash flow addresses issues such as debt/equity levels, debt service obligations, and reserves. AE commingles its debt from TCOS and its non-utility services with its other invested capital funded debt used in its other regulatory operations. )

Given that TCOS services have invested capital costs, another relevant consideration to be given to AE's TCOS service regarding this rate proceeding is whether AE's financial policies are consistently applied regarding AE's financial policies before the Texas Public Utility Commission ("PUC") and before Your Honor in this rate proceeding. For instance, working capital reserves are considered in TCOS proceedings before the PUC. Has AE applied the same policies and analyses in deriving the amount that should be included for recovery by its TCOS rates as it has in this rate proceeding. This question is relevant to determining the reasonableness of AE's policies and analyses in its working capital reserve levels in this case. To the extent AE has been inconsistent in the application of its financial policies to rates depending upon the rate-setting jurisdiction, parties should be able to question or challenge these inconsistencies and their base rate implications in this proceeding.

## V.

### Consideration of the Consumer Advocate

This Memorandum initially establishing the issues in this case was rendered before the deadline for intervention and before the hiring of the Consumer Advocate.

AELIC urges Your Honor to provide opportunities to potential parties intervening before the deadline for intervention and to the Consumer Advocate to comment of the proposed issues, including the proposal of additional issues.

## VI. Conclusion

AE filed a consolidated rate case that co-mingled its costs and realized revenues from non-base rates with its costs and realized revenues from its base rates. While filing a consolidated rate case provides the opportunity for parties to ensure AE is not charging for the same cost twice—once in base rates and again in non-base rates, that opportunity is lost without the identification of costs and realized revenues that should be excluded from AE's COS because they relate to non-base rate services. Even when AE identified costs and realized revenues from its non-utility operations, the rate-filing package failed to include the workpapers essential to reviewing those adjustments for correctness and for reasonableness.

Furthermore, the changes in rate design AE is seeking in several of its non-base rates should be a part of this rate proceeding. AE presented them in its rate-filing package. These rates represent one-half of the utility's costs and have a significant impact on residential utility bills. The Council did not restrict this proceeding to simply a review of base rates costs and revenues. Lastly, even assuming Your Honor does not include these rates for review, their underlying costs and revenues should be subject to discovery to ensure that non-base rate costs and revenues are excluded from AE's consolidated COS filed in its rate-filing package.

The TCOS should be subject to discovery, not to set rates, but to ensure costs and revenues are properly identified and to review the financial policies AE presented before the PUC to ensure they are consistent with the policies presented in this rate proceeding.

## Prayer

**WHEREFORE, PREMISES CONSIDERED,** AELIC respectfully requests Your Honor to include the review of and recommend the reasonableness of AE's proposed rate changes to the PSA, the regulatory charge, Street Lighting. Should Your Honor disagree, AELIC alternatively requests Your Honor to find that discovery pertaining to these rates is relevant to determining what costs and realized revenues should be excluded from the test year COS for purposes of determining the reasonableness and fairness of AE's base rates. AELIC



additionally requests Your Honor to find that discovery on AE's TCOS services and its OCER systems operations are relevant to determining the reasonableness of its base rates.

Respectfully Submitted

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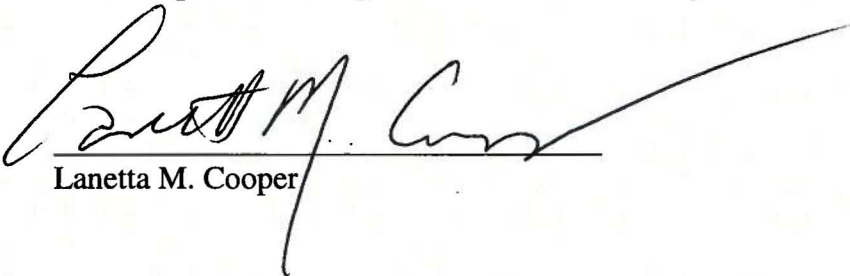
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### **CERTIFICATE OF SERVICE**

The undersigned certifies that TLSC has served a copy of the attached document upon all known parties of record by email and to the Impartial Hearing Examiner on the 22<sup>nd</sup> day of February 2016

  
Lanetta M. Cooper