

# AUSTIN ENERGY 2016 RATE REVIEW

AUSTIN CITY CLERK  
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AUSTIN ENERGY'S TARIFF PACKAGE §  
UPDATE OF THE 2009 COST OF §  
SERVICE STUDY AND PROPOSAL TO §  
CHANGE BASE ELECTRIC RATES §

2016 FEB 23 AM 11 16  
BEFORE THE CITY OF AUSTIN  
IMPARTIAL HEARING EXAMINER

## NXP Semiconductors and Samsung Austin Semiconductor, LLCs' Response to Public Citizen's Request for a Prehearing Conference to be Held the Week of February 22

NXP Semiconductors (f/k/a Freescale Semiconductor, Inc.) ("NXP") and Samsung Austin Semiconductor, LLC ("Samsung"), files this Response to Public Citizen's Request for a Prehearing Conference to be held the week of February 22, 2016. On February 16, 2016, the Impartial Hearing Examiner (IHE) issued *Impartial Hearing Examiner's Revised Memorandum No. 6: Statement of Issues* (Memo 6), in which the IHE stated that "should any party believe a prehearing conference would be of assistance to the efficient prosecution of these proceedings, and in particular, to address the Statement of Issues... the [IHE] asks that a party request a prehearing conference **by no later than Friday, February 19, 2016**" (emphasis added). On Monday, February 22, 2016, Public Citizen served Parties with their *Request for Prehearing Conference*. Pursuant to Procedural Rule § 3.3(b), which provides a party "five Business Days after a motion is filed to respond," NXP and Samsung timely file this response to Public Citizen's request for a prehearing conference.

As previously stated, on Monday, February 22, 2016, Public Citizen served Parties with their *Request for Prehearing Conference*, which was a response to the IHE's Memo 6 that set a Friday, February 19, 2016 deadline for such a request so that a prehearing conference could be held the week of February 22, 2016. As part of their service on the Parties, Public Citizen stated that they had submitted this request by the Friday, February 19, 2016 deadline. However, NXP and Samsung argue that this filing failed to meet the noon, February 19, 2016 deadline as required by Procedural Rule § 3.1(e).

Though NXP and Samsung are not opposed to a prehearing conference being convened, we urge the IHE to follow the rules which appear to govern this proceeding.<sup>1</sup> NXP and Samsung

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<sup>1</sup> NXP and Samsung continue to believe the Procedural Rules established by Austin Energy and dated February 2, 2016 are inherently unfair and prejudicial but recognize that until the Austin City Council or IHE states

feel that in order for this proceeding to be deemed credible in any way, the rules that govern the proceeding should be followed. Procedural Rule § 3.1(b) makes clear that "all filings shall be served on all Parties and the Impartial Hearing Examiner using the email address on record." Samsung and NXP were not served until Monday, February 22, 2016. Procedural Rule § 5.1(a) states that the IHE "**will** inform the Parties about the prehearing conference **at least** five days before the prehearing conference is scheduled to be held." NXP and Samsung presume that this rule was designed to give Parties adequate time to make arrangements to attend a prehearing conference. Because of this, NXP and Samsung feel that if a prehearing conference is to be scheduled it should not be scheduled this week, but should instead be scheduled for March 2, 3, or 4, in order to allow all Parties adequate time to make arrangements to participate. If the IHE disagrees and believes he is in his authority to set a prehearing conference this week, NXP and Samsung request arrangements be made for telephonic participation. Ultimately, NXP and Samsung urge the IHE to follow the rules governing this proceeding and because the finalization of a Statement of Issues before March 4<sup>th</sup> is not imperative to the fairness of this proceeding, NXP and Samsung request the IHE give Parties the contemplated five days notice before the convening of this particular prehearing conference.

At this time, NXP and Samsung would also like to urge the IHE to use his power to request that the Austin City Council add to their agenda a standing item which would provide for discussion and possible action on issues that might arise in this proceeding. NXP and Samsung recognize that ultimately the Austin City Council is the decision maker and therefore should be able to hear issues and answer questions that might arise in this proceeding. NXP and Samsung point out that issues regarding the procedural schedule could have been rectified this Thursday, February 25, 2016, if Austin City Council had the opportunity to discuss the June 30<sup>th</sup> deadline which has been created by Austin Energy and a contract that no Party to this proceeding was involved in. Additionally, NXP and Samsung feel that by providing this standing item on the agenda, the IHE can utilize that time to speak with Austin City Council about his responsibilities, including his ability to change the procedural rules and establish a different procedural schedule.

For these reasons, NXP and Samsung respectfully request the IHE not convene a prehearing conference this week, but convene one either March 2, 3, or 4 to allow Parties

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otherwise, these are the rules that shall govern this proceeding. NXP and Samsung believe that this proceeding already lacks credibility and therefore the IHE should do everything in his power to maintain the credibility that this is actually a PUC style hearing.

adequate time to make arrangements to attend. Additionally, NXP and Samsung request the IHE ask the Austin City Council to add the following to their agenda as a standing item until the completion of this hearing process: *discussion and possible actions pertaining to issues arising in Austin Energy's Tariff Package: 2015 Cost of Service Study and Proposal to Change Base Electric Rates.*

Date: February 23, 2016

Respectfully submitted,

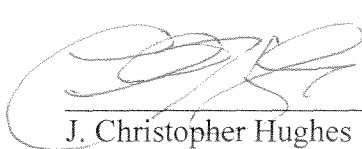
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**ATTORNEYS FOR NXP SEMICONDUCTORS  
(F/K/A FREESCALE SEMICONDUCTOR, INC.) AND  
SAMSUNG AUSTIN SEMICONDUCTOR, LLC**

**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 23<sup>rd</sup> day of February, 2016.

  
J. Christopher Hughes