

AUSTIN ENERGY'S TARIFF PACKAGE: §
2015 COST OF SERVICE §
STUDY AND PROPOSAL TO CHANGE §
BASE ELECTRIC RATES §

2016 FEB 29 PM 2:28
BEFORE THE CITY OF AUSTIN
IMPARTIAL HEARING EXAMINER

**OBJECTIONS OF AUSTIN ENERGY TO
NXP/SAMSUNG'S SECOND REQUEST FOR INFORMATION**

Austin Energy ("AE") files these Objections to NXP Semiconductors' and Samsung Austin Semiconductor, LLC's (collectively, "NXP/Samsung") Second Request for Information ("RFI"), and respectfully shows as follows:

I. PROCEDURAL HISTORY

NXP/Samsung served its second RFI to Austin Energy on February 17, 2016. Pursuant to the City of Austin Procedural Rules for the Initial Review of Austin Energy's Rates § 7.3(c)(1), these objections are timely filed.

Counsel for Austin Energy and NXP/Samsung conducted good faith negotiations that failed to resolve the issues. While Austin Energy will continue to negotiate with NXP/Samsung regarding these and any future objections, Austin Energy files these objections for preservation of its legal rights under the established procedures. To the extent any agreement is subsequently reached, Austin Energy will withdraw such objection.

II. GENERAL OBJECTIONS

Austin Energy generally objects to these RFIs to the extent they are irrelevant or seek information not in Austin Energy's possession.

"Discovery is limited to relevant information that is not unduly prejudicial and can lead to the discovery of admissible evidence."¹ As indicated in its Tariff Package, Austin Energy is only proposing changes to its base electric rates in this proceeding. Thus, this rate review is

¹ City of Austin Procedural Rules for the Initial Review of Austin Energy's Rates § 7.1(a).

limited to Austin Energy's base electric rates. Discovery in this proceeding should, therefore, be limited to issues concerning Austin Energy's base electric rates and is irrelevant to the extent it seeks information not related to Austin Energy's base electric rates. Certain pass-through charges, including the Power Supply Adjustment, Regulatory Charge, and Community Benefits Charge, are not included in base rates and, thus, are not at issue in this proceeding. Indeed, in the Impartial Hearing Examiner's Memorandum No. 6, "the Impartial Hearing Examiner also lists as outside the scope of this proceeding, issues related to AE's pass-through charges and underlying costs pertaining to AE's Power Supply Adjustment and the prudence of Austin Energy's fuel and power supply contracts."²

Accordingly, Austin Energy objects to discovery requests seeking information that is neither relevant to the issues presented in this proceeding nor is reasonably calculated to lead to the discovery of admissible evidence.

² Impartial Hearing Examiner's Memorandum No. 6: Statement of Issues at 2 (Feb. 16, 2016).

III. SPECIFIC OBJECTIONS

NXP/Samsung 2-6. Please provide the monthly balances of the PSA for the test year and for FY 2014-2015.

Objection:

Austin Energy objects to this request because it seeks information that is neither relevant to the issues presented in this matter nor is reasonably calculated to lead to the discovery of admissible evidence. As indicated in Austin Energy's Tariff Package and Impartial Hearing Examiner's Memorandum No. 6, the scope of this proceeding is limited to Austin Energy's base electric rates and issues related to Austin Energy's pass-through charges are outside the scope of this proceeding.

Notwithstanding this objection, Austin Energy is processing this request as a formal request under the Texas Public Information Act, Tex. Gov't Code Ch. 552.

NXP/Samsung 2-19. Refer to WP E-5.1.1. When does AE intend to file a TCOS filing with the PUC to reduce its TCOS rates to the new Cost of Service?

Objection:

Austin Energy objects to this request because it seeks information Austin Energy does not possess and, therefore, seeks a speculative answer. Pursuant to City of Austin Procedural Rules for the Initial Review of Austin Energy's Rates § 7.3(c)(2)(F), a party does not need to produce a document or tangible thing unless that party has constructive or actual possession, custody, or control of the requested item. A party has possession, custody or control of a document or tangible thing if the party can get the document or tangible thing with reasonable effort. Austin Energy does not know when, if ever, it intends to file a TCOS filing. Therefore, this request seeks purely speculative information Austin Energy does not possess.

IV. PRAYER

WHEREFORE, PREMISES CONSIDERED, Austin Energy requests these objections be sustained. Austin Energy also requests any other relief to which it may show itself justly entitled.

Respectfully submitted,

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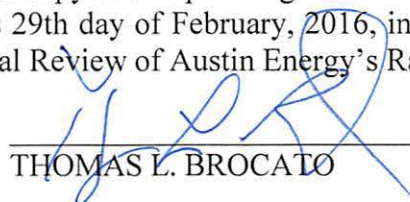
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ATTORNEYS FOR THE CITY OF AUSTIN

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 on this 29th day of February, 2016, in accordance with the City of Austin Procedural Rules for the Initial Review of Austin Energy's Rates.



THOMAS L. BROCATO