

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

AUSTIN ENERGY
2016 MAR 31 PM 12:57
BEFORE THE CITY OF AUSTIN
IMPARTIAL HEARING EXAMINER

**OBJECTIONS OF AUSTIN ENERGY TO
ICA'S THIRD REQUEST FOR INFORMATION**

Austin Energy ("AE") files these Objections to the Independent Consumer Advocate's ("ICA") Third Request for Information ("RFI"), and respectfully shows as follows:

I. PROCEDURAL HISTORY

The ICA served its third RFI to Austin Energy on March 21, 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 the ICA conducted good faith negotiations that failed to resolve the issues. While Austin Energy will continue to negotiate with the ICA 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 competitive information not subject to disclosure under the Texas Public Information Act.

III. SPECIFIC OBJECTIONS

ICA 3-1

- A. Please provide the average cost/kW demand savings for Austin Energy's energy efficiency programs.
- B. Please provide the average cost/kWh energy savings for Austin Energy's energy efficiency programs. For the answer to 'A' and 'B,' please state whether the stated value is per year or over the life of the energy efficiency investment.
- C. Please provide the average capacity factor (or load factor) for Austin Energy's energy efficiency programs.
- D. Please provide the average life for Austin Energy's energy efficiency programs.
- E. Please state Austin Energy's goals or objectives with respect to energy efficiency programs as a percentage of future capacity or energy supply additions.
- F. Explain in detail how energy efficiency program costs are allocated among customer classes.

Objection:

Austin Energy objects to subparts A-E of this request because they 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, the scope of this proceeding is limited to Austin Energy's base electric rates. The Impartial Hearing Examiner's Memorandum No. 11 limited the issues inside the scope of this rate review process to whether costs related to costs recovered through AE's Community Benefit Charge are being recovered through base rates and, if so, how should such costs be allocated to the customer classes, and whether such costs are more appropriately recovered through base rates. The requested information regarding AE's energy efficiency programs does not pertain to these issues. Specifically, the direct program costs are collected through the Community Benefit Charge. Thus, this request seeks information outside the scope of this proceeding.

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

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, the scope of this proceeding is limited to Austin Energy's base electric rates. The Impartial Hearing Examiner's Memorandum No. 11 limited the issues inside the scope of this rate review process to whether AE's proposed changes to the method by which it calculates pass-through charges are reasonable and, if not, what, if any, changes to the method would be reasonable. The requested explanation regarding gas cost reclassification does not pertain to these issues. Thus, this request seeks information outside the scope of this proceeding.

Additionally, Austin Energy does not consider this request a formal request under the Texas Public Information Act, Tex. Gov't Code Ch. 552 because it requests the creation of new documents. The Texas Public Information Act does not require governmental bodies to provide answers to questions or to general inquiries, nor does it mandate the creation of new documents in response to a request. Information is subject to disclosure only if it was in existence at the time the request was made.¹ Providing the requested explanation would require Austin Energy to create new documents in response to a request. Austin Energy is, thus, not required to respond to this request under the Texas Public Information Act.

¹ See Open Records Decision No. 555 at 1-2 (1990) (considering request for answers to fact questions).

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, the scope of this proceeding is limited to Austin Energy's base electric rates. The Impartial Hearing Examiner's Memorandum No. 11 limited the issues inside the scope of this rate review process to whether costs recovered through AE's Power Supply Adjustment are being recovered through base rates and, if so, how should such costs be allocated to the customer classes, and whether such costs are more appropriately recovered through base rates. The requested explanation does not pertain to these issues. Thus, this request seeks information outside the scope of this proceeding.

Additionally, Austin Energy does not consider this request a formal request under the Texas Public Information Act, Tex. Gov't Code Ch. 552 because it requests the creation of new documents. The Texas Public Information Act does not require governmental bodies to provide answers to questions or to general inquiries, nor does it mandate the creation of new documents in response to a request. Information is subject to disclosure only if it was in existence at the time the request was made.² Providing the requested explanation would require Austin Energy to create new documents in response to a request. Austin Energy is, thus, not required to respond to this request under the Texas Public Information Act.

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ICA 3-23

What is the Energy Efficiency Services budget for 2015? Quantify and explain any deviations from the \$22.8 million amount shown on WP-D.1.2.7.

Objection:

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Notwithstanding this objection, Austin Energy is processing part of this request as a formal request under the Texas Public Information Act, Tex. Gov't Code Ch. 552. However, to the extent the request seeks an explanation, Austin Energy does not consider this request a formal request under the Texas Public Information Act because it requests the creation of new documents. The Texas Public Information Act does not require governmental bodies to provide answers to questions or to general inquiries, nor does it mandate the creation of new documents in response to a request. Information is subject to disclosure only if it was in existence at the time the request was made.³ Providing the requested explanation would require Austin Energy to create new documents in response to a request. Austin Energy is, thus, not required to respond to this request under the Texas Public Information Act.

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⁴ See Open Records Decision No. 555 at 1-2 (1990) (considering request for answers to fact questions).

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,

**LLOYD GOSSELINK ROCHELLE &
TOWNSEND, P.C.**

816 Congress Avenue, Suite 1900

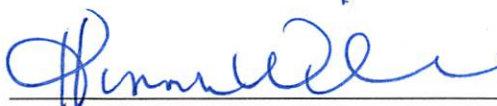
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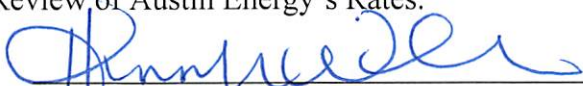
HANNAH M. WILCHAR

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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 31st day of March, 2016, in accordance with the City of Austin Procedural Rules for the Initial Review of Austin Energy's Rates.



HANNAH M. WILCHAR