

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

**OBJECTIONS OF AUSTIN ENERGY TO NXP SEMICONDUCTORS' AND  
SAMSUNG AUSTIN SEMICONDUCTOR, LLC'S  
FIFTH REQUEST FOR INFORMATION**

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

**I. PROCEDURAL HISTORY**

NXP/Samsung served its fifth RFI to Austin Energy on March 23, 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 competitive information not subject to disclosure under the Texas Public Information Act.

AUSTIN ENERGY  
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### **III. SPECIFIC OBJECTIONS**

NXP/Samsung 5-2      Please restate debt service amounts shown on C-3.1.1 (Accrual Basis) to the budget basis for the years 2012-13, 2013-14, and estimated 2016-2015.

#### **Objection:**

Austin Energy objects to this request because it seeks information Austin Energy does not possess. 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. Therefore, Austin Energy is not required to restate debt service amounts shown on C-3.1.1 (Accrual Basis) to the budget basis for the years 2012-13, 2013-14, and estimated 2016-2015.

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. Providing the requested information 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.

NXP/Samsung 5-3      Please provide the calculation of Debt Service Coverage that is used in Bond Official Statements using the data from the test year.

Objection:

Austin Energy objects to this request because it seeks information Austin Energy does not possess. 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. Therefore, Austin Energy is not required to provide the calculation of Debt Service Coverage that is used in Bond Official Statements using the data from the test year.

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NXP/Samsung 5-11 Refer to Schedule F-6. Please provide additional allocation factors for Primary and Secondary service customer classes calculated using Summer NCP demands (i.e., the sum of NCP demands in the months of June through September.)

Objection:

Austin Energy objects to this request because it seeks information Austin Energy does not possess. 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. Therefore, Austin Energy is not required to provide the requested additional allocation factors.

Notwithstanding this objection, Austin Energy updated its RFP to allow intervenors to add allocation factors of their own design.

NXP/Samsung 5-12 Refer to WP F-6.2. Please expand this workpaper to provide the development of the Summer NCP demand allocation factors for Primary and Secondary voltages referred to in the above question.

Objection:

Austin Energy objects to this request because it seeks information Austin Energy does not possess. 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. Therefore, Austin Energy is not required to expand the requested workpaper.

Notwithstanding this objection, Austin Energy updated its RFP to allow intervenors to expand this workpaper.

NXP/Samsung 5-19 Please reclassify Meter Expenses in account 586, Customer Installation Expenses in account 587, and Maintenance of Meters in account 597 as customer related costs and provide the resulting G and H schedules showing the impact of this classification.

Objection:

Austin Energy objects to this request because it seeks information Austin Energy does not possess. 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. Therefore, Austin Energy is not required to reclassify the requested Meter Expenses.

Notwithstanding this objection, Austin Energy updated its RFP to allow intervenors to reclassify Meter Expenses.

NXP/Samsung 5-21 Refer to Schedule G-7, line 8 (Excel row 14), Service Area Street Lighting.

- B. Please explain why Service Area Street Lighting has negative recoverable fuel and purchased power costs.

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 why Service Area Street Lighting has negative recoverable fuel and purchased power costs, which are pass-through charges, does not pertain to these issues. Thus, this request seeks information outside the scope of this proceeding.

Notwithstanding this objection, Austin Energy is providing the requested information.

#### **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.**

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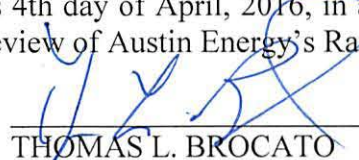
HANNAH M. WILCHAR

State Bar No. 24088631

**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 4th day of April, 2016, in accordance with the City of Austin Procedural Rules for the Initial Review of Austin Energy's Rates.



THOMAS L. BROCATO