

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 PAUL ROBBINS'S  
THIRD REQUEST FOR INFORMATION**

Austin Energy ("AE") files these Objections to Paul Robbins's Third Request for Information ("RFI"), and respectfully shows, as follows:

**I. PROCEDURAL HISTORY**

Paul Robbins served its third RFI to Austin Energy on April 5, 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 Paul Robbins conducted good faith negotiations that failed to resolve the issues. While Austin Energy will continue to negotiate with Paul Robbins 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**

Paul Robbins 3-4.1 Please provide a summary of Austin Energy's transmission and distribution assets, including each type of assets' estimated worth. (Examples of types of assets include land or rights-of-way, transformers, poles and conduits.)

#### **Objection:**

Regarding transmission assets, 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. AE's transmission O&M expenses are not included in base electric rates and are not included in the scope of this proceeding as set forth in the Impartial Hearing Examiner's Memorandum No. 11. Indeed, Memorandum No. 11 states, "the reasonableness of Austin Energy's Transmission Cost of Service ("TCOS") is outside the scope of this proceeding." Moreover, the Public Utility Commission of Texas ("PUC") has exclusive jurisdiction over transmission related costs, thus, the Impartial Hearing Examiner and Austin City Council cannot consider this issue. Accordingly, transmission related costs are appropriately reviewed as part of a TCOS filing at the PUC. Thus, this request seeks information outside the scope of this proceeding.

Notwithstanding this objection, Austin Energy is providing the requested information pursuant to the Texas Public Information Act, Tex. Gov't Code Ch. 552.

Paul Robbins 3-4.2 Please break down the percentage of these assets and their worth that are inside the City of Austin and outside the City of Austin.

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 a break down of the percentage of these assets and their worth that are inside the City of Austin and outside the City of Austin.

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 break down 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.

Paul Robbins 3-4.3 Please provide the projected T & D assets that will be added and their worth over the next 5 years.

Objection:

Regarding transmission assets, 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. AE's transmission O&M expenses are not included in base electric rates and are not included in the scope of this proceeding as set forth in the Impartial Hearing Examiner's Memorandum No. 11. Indeed, Memorandum No. 11 states, "the reasonableness of Austin Energy's Transmission Cost of Service ("TCOS") is outside the scope of this proceeding." Moreover, the Public Utility Commission of Texas ("PUC") has exclusive jurisdiction over transmission related costs, thus, the Impartial Hearing Examiner and Austin City Council cannot consider this issue. Accordingly, transmission related costs are appropriately reviewed as part of a TCOS filing at the PUC. Thus, this request seeks information outside the scope of this proceeding.

Notwithstanding this objection, Austin Energy is providing the requested information pursuant to the Texas Public Information Act, Tex. Gov't Code Ch. 552.

Paul Robbins 3-4.4 Please break down the percentage of these assets and their worth that are inside the City of Austin and outside the City of Austin.

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 a break down of the percentage of these assets and their worth that are inside the City of Austin and outside the City of Austin.

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Paul Robbins 3-4.5 Please provide a summary of Austin Energy's transmission and distribution operation & maintenance costs in FY 2016, and estimated costs for over the next 5 years.

Objection:

Regarding transmission costs, 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. AE's transmission O&M expenses are not included in base electric rates and are not included in the scope of this proceeding as set forth in the Impartial Hearing Examiner's Memorandum No. 11. Indeed, Memorandum No. 11 states, "the reasonableness of Austin Energy's Transmission Cost of Service ("TCOS") is outside the scope of this proceeding." Moreover, the Public Utility Commission of Texas ("PUC") has exclusive jurisdiction over transmission related costs, thus, the Impartial Hearing Examiner and Austin City Council cannot consider this issue. Accordingly, transmission related costs are appropriately reviewed as part of a TCOS filing at the PUC. Thus, this request seeks information outside the scope of this proceeding.

Notwithstanding this objection, Austin Energy is providing the requested information pursuant to the Texas Public Information Act, Tex. Gov't Code Ch. 552.

Paul Robbins 3-4.6 Please break down the percentage of these operation & maintenance costs that are inside the City of Austin and outside the City of Austin.

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 a break down of the percentage of these assets and their worth that are inside the City of Austin and outside the City of Austin.

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 break down 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.

#### 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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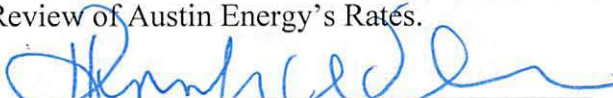
HANNAH M. WILCHAR

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 15th day of April, 2016, in accordance with the City of Austin Procedural Rules for the Initial Review of Austin Energy's Rates.



HANNAH M. WILCHAR