

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
SIXTH REQUEST FOR INFORMATION**

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

I. PROCEDURAL HISTORY

NXP/Samsung served its sixth RFI to Austin Energy on April 6, 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 6-11 Please describe the ERCOT “credits” referred to in AE current tariff for the Regulatory Charge. Please provide the amount of the “credits” included in the Regulatory Charge during the test year.

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 related to costs recovered through AE’s Regulatory Charge are being recovered through base rates or are more appropriately recovered through base rates. The amount of the “credits” included in the Regulatory Charge during the test year does not pertain to these issues. Thus, this request seeks information 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 6-15 Please provide the amount of losses associated with the disposition of On-Site Energy Systems assets included in the test year and in the prior three years.

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 excluded all costs related to On-Site Energy Resources ("OSER") from its proposed revenue and what costs, if any, related to OSER should be recovered through AE's rates. The amount of losses associated with the disposition of OSER assets included in the test year and in the prior three years does not pertain to these issues. Thus, this request seeks information 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 6-19 Regarding Austin Energy's proposed reduction of \$6,844,343 to transmission revenue resulting in a reduce proposed test year amount of \$62,129,919, from FY 2014 transmission revenue of amount of \$68,974,261, please provide an explanation of where the additional approximate \$14 million in revenue is accounted for in light of the following;

- A. In Public Utility Commission Docket 42385 (June 2014), Austin Energy received approval of Austin Energy's proposed interim transmission cost of service of \$1,160.111 per MW, which according to the testimony of Russell H. Maenius would increase AE's annual revenues by \$10,286,336.
- B. Austin Energy's approved transmission cost of service in Docket No. 42385 was \$75,697,440, as shown on Schedule A of Austin Energy's transmission rate filing.
- C. Austin Energy's transmission revenue based on Docket No. 43881 (2015 transmission matrix) utilizing updated ERCOT 4 CP numbers is \$73,876,692.
- D. Austin Energy reports in its Fiscal Year 2014-15 4th Quarter Report that it expects to receive \$74.3 million for ERCOT's use of AE's transmission system.
- E. Austin Energy's revenue approved by the PUC in Docket 45382 on March 25, 2016 is \$76,609,599.

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. AE's transmission revenue is not included in base electric rates and is 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 revenue, thus, the Impartial Hearing Examiner and Austin City Council cannot consider this issue. Accordingly, transmission revenue is appropriately reviewed as part of a TCOS filing at the PUC. 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. Providing the requested explanations 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 6-20 Is Austin Energy proposing to offset the recovery of transmission expense with transmission revenue received from ERCOT?

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. AE's transmission 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 expense and revenue, thus, the Impartial Hearing Examiner and Austin City Council cannot consider this issue. Accordingly, transmission expense and revenue are appropriately reviewed as part of a TCOS filing at the PUC. 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. Providing the requested answer 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.**

816 Congress Avenue, Suite 1900

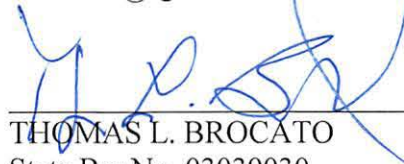
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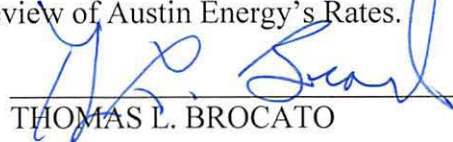
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ATTORNEYS FOR THE CITY OF AUSTIN

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 18th 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