

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

AUSTIN ENERGY
2016 APR 32 AM 7:48
BEFORE THE CITY OF AUSTIN
IMPARTIAL HEARING EXAMINER

**OBJECTIONS OF AUSTIN ENERGY TO
BETHANY UNITED METHODIST CHURCH'S
THIRD REQUEST FOR INFORMATION**

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

I. PROCEDURAL HISTORY

Bethany Church served its third RFI to Austin Energy on April 19, 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 Bethany Church conducted good faith negotiations that failed to resolve the issues. While Austin Energy will continue to negotiate with Bethany Church 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

Bethany Church 3-1 The bills commercial customers receive are complicated with eight to nine lines of charges for different items. In this Rate Proposal all of the rate items are changing and rate classes consolidated. In an effort to assess the effect of all these variables, actual bills for HOW's were used to assess current and proposed changes and their effects. Two bills each for two users of the HOW Discount are attached. Please verify that the attached accumulations of the Rates and Fees and applications of the new Rates and Fees using known and published information are correct. Please verify that the calculations, extensions and assumptions are correct. Please note where they are incorrect and explain where and how they may be corrected. Please explain assumptions used or corrections of assumptions. Include any calculations or formulas. The individual HOW sheets are available in excel if requested so the formula's used would be visible. Please note that both customers have authorized the use of their billing information for this request, as well as AE's response to this request. Attachment 3.1a Rate Sheet Summary — All should be clear except the Community Benefit Charges. Two of the three elements, the SAL & ESS increased. The CAP seemed to change from summer to winter. Advise if tables provided are correct and complete.

Format for all the Analyses has first on the left, Actual billing information for the stated Read period. Then, continuing to the right, columns show the Old and New Rates. Then the statement of the KW & kWh values with the new Rates and the calculation column with totals summarized at the bottom. The Box at lower right on page 2 shows Net Bill before Rate Changes and Net Bill after Rate Changes.

Attachment 3.1b. Analysis of Bethany United Methodist Church — Sanctuary — Acct. No. 71446 00000 for power used in December; Billed in January

Attachment 3.1c. Analysis of Bethany United Methodist Church — Sanctuary — Acct. No. 71446 00000 for power used in July; Billed in August

Attachment 3.1d. Analysis of First Unitarian Church — Sanctuary — Acct. No. 74488 00000 for power used in December; Billed in January

Attachment 3.1e. Analysis of First Unitarian Church — Sanctuary — Acct. No. 74488 00000 for power used in July; Billed in August

If any questions, contact Cliff Wells, noted below or at cliff.wells@bethany-umc.org.

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 analysis.

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 analysis 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).

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



THOMAS L. BROCATO