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

DATA FOUNDRY, INC.'S *CROSS REBUTTAL* PRESENTATION ON REVENUE REQUIREMENTS

Intervenor Data Foundry respectfully presents this *Cross Rebuttal* Presentation on Revenue Requirements.[1] Data Foundry opposes any of the Intervenor or ICA recommendations that do or could be read to support inclusion of AE's claimed production revenue requirement for fixed (demand) or variable (energy) production costs. As Data Foundry explained in its initial Presentation, these costs are not "necessary" to the provision of retail base rate service, and recovery is not reasonable. The generation assets are not used by, or useful to, retail base ratepayers. AE is trying to double recover some or all of these costs from base rates and then again from sales to the ERCOT wholesale market. The ongoing operations costs associated with wholesale activity cannot reasonably or lawfully be assigned to or recovered from captive retail base ratepayers.

The scope of this proceeding is strictly limited to retail base rates. Therefore to the extent any Intervenor or ICA propose creation of a fund (or several funds) that would be used to pay down some or all of AE's capital debt (in the form of bonds or any other kind of debt) that proposal cannot be accepted since the topic is out of the scope established in IHE Memorandum No. 11. The Council must devise some other process to investigate potential rationales, amounts and methods by which the remaining debt on AE's legacy[2] generation can be repaid through some mechanism other than base rates. But that must occur in a separate proceeding.

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[1] Data Foundry and the Austin Chamber of Commerce are jointly supplying a joint Cross-Rebuttal Presentation on Cost Allocation, Revenue Distribution and Rate Design.

[2] "Legacy generation" is the production plant that was planned and committed to service AE's retail load before the ERCOT rules entirely decoupled Austin's generation from servicing Austin's retail load and instead began to require that all of it be dedicated to serving the wholesale market. It does not include any generation AE might have recently decided to build or purchase with full knowledge that the newly-owned generation would be fully dedicated to the wholesale market.

I. Introduction

Several parties made revenue requirement recommendations. Some or all of them either expressly or implicitly included some or all of AE's claimed production costs in their recommended retail revenue requirement. Others recommended one or more adjustments to a retail revenue requirement item that is assigned to production demand or energy, and/or took a position or how a putative production cost should be attributed to the respective retail classes in the cost of service study.

It is not always apparent whether these parties were affirmatively recommending production cost base rate inclusion, passively accepting production cost base rate inclusion or simply attempting to move cost responsibility to or from specific retail classes without necessarily accepting that the costs should be allowed to begin with. Data Foundry will not endeavor to point specifically to each and every ICA or Intervenor recommendation that in some manner impacted AE's claimed production costs. Suffice it to say that Data Foundry stands in firm opposition to any recommendation by any party – whether AE, ICA or Intervenor – that would allow AE's production costs to be included in the retail base revenue requirement, allocated to any retail customer class and then flowed through to retail base rates to retail customers. All amounts should be excluded, period. We therefore should not have to argue where they might belong in the cost allocation, revenue distribution or rate design phases.[3]

Two parties (Public Citizen/Sierra Club and NXP Samsung) made specific recommendations that directly touch on treatment of AE's generation fleet costs beyond mere inclusion or exclusion in whole or in part. Data Foundry will individually address those two presentations below.

[3] The Data Foundry and Austin Chamber Cross-Rebuttal Presentation addresses the cost allocation questions that must be answered if and to the extent any production costs are wrongly allowed into the base revenue requirement.

II. Specific Presentations

A. Public Citizen/Sierra Club

Public Citizen/Sierra Club's Presentation Issue #4 (pp. 22-25) recommends creation of a "Fayette Power Project Debt Defeasement Fund." These Intervenors estimate that approximately $31,500,000 per year would be necessary to pay down the debt over six years in order to allow retirement in 2023. Public Citizen/Sierra Club identified an annual amount, but they did not address how the annual defeasement amortization "cost" would actually be recovered from ratepayers. We do not know whether these Intervenors are proposing that the annual amortization cost be included in base rates (and if so whether it would be recovered through base demand charges, base energy charges or some mixture of demand and energy) or if they are suggesting a surcharge or pass-through item independent of but in addition to base rates.

Amortization of debt related to production plant is a production related cost. Data Foundry opposes base rate treatment of any ongoing production related costs, and contends that the scope of this case is confined only to base rates. Therefore regardless of whether Public Citizen/Sierra Club propose base rate treatment or a surcharge/pass-through the recommendation must be rejected.

Data Foundry will not take a position <u>in this proceeding</u> on the question of whether Fayette should or should not be decommissioned before the end of its useful life. Any and all debate about whether Fayette should continue to be operated and if so for how long, and the disposition of Fayette-related costs, is entirely irrelevant to this case. Fayette is now dedicated to sales in the wholesale market, so cost recognition and treatment is irrelevant to base rates. Data Foundry strongly opposes assignment of current or prospective production-related *operation* costs (including debt service) to retail base customers, because they are wholesale costs, not retail costs and they do not belong in retail base rates. This case is not an appropriate vehicle for determining whether or how the Fayette debt can be given a special amortization.

The debt the city incurred before and immediately after SB 7 to build generation all happened in a different era. AE's legacy generation was originally placed to directly serve retail customers. Retail customers can fairly be said to have some responsibility to help defray the legacy debt[4] although the specifics of that responsibility cannot be determined or accomplished in this case. A "stranded cost" theory of recovery might justify creation of a defeasement fund to pay down some or all of the remaining debt associated with *all* of AE's legacy self-owned generation if and to the extent AE's wholesale operations alone cannot fully recover the legacy debt – in a proceeding dedicated to that question.

But none of this has *anything* to do with this case, AE's base rates and/or the reasonable and necessary ongoing operational costs of providing retail electric utility service to retail customers. Any "stranded cost" recovery would have to be justified, quantified and then collected through something other than base rates, and the determinations must occur in a different proceeding. Public Citizen/Sierra Club's proposal is interesting and may have some merit; indeed the idea of a defeasement fund might be applied to all of AE's remaining (unamortized) legacy debt. Nonetheless, it is an argument for another day, in another case or proceeding.

B. NXP/Samsung

1. Revenue Requirements[5]

NXP/Samsung witness Fox recommends on pp. 21-22 that AE not be allowed to include any funds related to construction expenditures for power production. Data Foundry concurs, but for a different reason than that expressed by Ms. Fox. Any power production related expenditure or cost – whether made through cash or debt – will be made in order to serve AE's wholesale load, not its retail load. AE's retail ratepayers cannot be required to bear any production costs related to AE's wholesale sales activities, and this is so even if the Council "determines AE's next power supply incremental." For this reason Data Foundry agrees with the exclusion, but disagrees that if and when Council does make a decision and "AE pursues plans to construct a

[4] As opposed to ongoing operational costs, which include far more than just debt service.

[5] Data Foundry supports the NXP/Samsung revenue requirement recommendations, except to the extent they allow recovery of any of AE's production costs.

gas-fired plant, then at that time it would be reasonable to include those costs" in the retail base revenue requirement.

2. Comparison of AE and ERCOT Power Supply Costs.

NXP/Samsung witness Goble addresses AE's power generation costs on pp. 39-43. He testifies that:

- Under AE's revenue requirement AE's power production costs are 48.5% greater than the costs of an equivalent amount of power and energy solely from ERCOT (p. 42).
- Under NXP/Samsung's revenue requirement AE's power production costs are 40.9% greater than the costs of an equivalent amount of power and energy solely from ERCOT (p. 42).
- AE's generation fleet is far less efficient than the ERCOT market in general (pp. 44-45).
- Other ERCOT wholesale power generators must recover 100% of their costs from their wholesale activities, but AE is forcing its retail ratepayers to subsidize AE's wholesale market activities (p. 43).
- Mr. Goble calculates that AE's "excess of power production costs above the costs of power available directly from the ERCOT market translates to $279.7 million per year of excess power costs that AE consumers are paying for power, using Ms. Fox's recommended revenue requirement (p. 44).

Mr. Goble recommends that the forgoing information should serve as a rationale for additional relief to the Primary Voltage ≥20 MW class (p. 45). He also suggests that AE be required to evaluate and report on its power supply costs in future filings, apparently so AE can provide a rationalization for why its power supply costs are so out of line (p. 45).

Data Foundry agrees with most of Mr. Goble's analysis, but not his recommendations. The Primary Voltage ≥20 MW class is indeed paying higher rates on account of AE's inefficiency and the resulting inability to recover wholesale production costs from wholesale revenues like all other generators that participate in the ERCOT market. AE's inability to efficiently compete leads directly to its efforts to have retail ratepayers subsidize AE's wholesale activities. But the Primary Voltage ≥20 MW class is not unique in this regard. All classes are suffering the same fate. The amount of the subsidy equals *all of AE's production costs that are in the base revenue requirement* (*e.g.*, $784,030,818), and every single ratepayer in every class is paying that subsidy. The only way to solve the problem is to entirely exclude AE's wholesale costs from the retail base revenue requirement. Then we do not have to debate whether any specific class should or should not bear the subsidy burden, or a greater or lesser share of that burden.

III. Conclusion

AE's production costs are not used by or useful to AE's captive retail ratepayers. These are not reasonable and necessary costs associated with the provision of retail electric utility service. This is necessarily so since the uncontested evidence is that AE's generation fleet is entirely dedicated to the wholesale market and no longer serves retail to any extent. The costs therefore cannot be justly or reasonably included in the retail base revenue requirement. Retail ratepayers cannot be required to pay retail base rates that include compensation for AE's wholesale production costs with the result that captive, monopoly ratepayers are forced to subsidize and act as conscripted guarantors of AE's significant competitive wholesale losses. The entire $784,030,818 of claimed fixed and variable production-related costs must be excluded from the base revenue requirement. In the alternative, the claimed $442,455,280 in variable costs must be excluded.

Date Foundry is not saying that none of the costs associated with AE's generation fleet can ever be recovered in some fashion; it is just that any recovery amount and mechanism cannot be determined in this case, or part of the base rate revenue requirement and then base rates that this case is all about. This proceeding is firmly confined to only a determination of the base rate revenue requirement and then base rates. AE cannot be allowed to recover the excluded costs under some new theory or using some mechanism besides base rates. The Council is free to devise some other process to investigate potential rationales, amounts and methods – in a separate case. But these costs cannot justly or reasonably or lawfully be allowed as part of the base revenue requirement or in any manner recovered through base rates. They must be excluded in their entirety.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, W. Scott McCollough, certify that I have served a copy of this Presentation on all parties listed on the Service List for this proceeding as it exists on the date this document is filed, using the email address provided for the party representative.

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W. Scott McCollough