

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

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**BEFORE THE CITY OF AUSTIN
IMPARTIAL HEARING EXAMINER**

**AUSTIN ENERGY'S OBJECTION AND MOTION TO STRIKE PORTIONS OF
THE DIRECT TESTIMONY OF PAUL ROBBINS**

COMES NOW Austin Energy ("AE") and files this Objection and Motion to Strike Portions of the Direct Testimony of Paul Robbins.

The City of Austin Procedural Rules for the Initial Review of Austin Energy's Rates § 9.1(a) provides that "[i]rrelevant ... evidence shall be excluded." Texas Rule of Evidence 401 states, "[e]vidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action." Therefore, evidence that has no tendency to make a fact more or less probable than it would be without the evidence, or is of no consequence in determining the action, is irrelevant. Irrelevant evidence burdens the record of the proceeding and obscures the issues to be properly addressed. Austin Energy, therefore, objects and moves to strike from the record irrelevant testimony. AE details its objection and the basis for striking such testimony as follows:

**I. OBJECTION TO TESTIMONY AND PRESENTATIONS ON ADJUSTMENTS
TO TRANSMISSION COSTS**

AE objects to Paul Robbins' testimony regarding "Disputed Property" under Issue 1: Imprudence Due to Misuse of Property. This testimony is irrelevant because it has no tendency to make a fact more or less probable than it would be without the evidence and is of no consequence in determining an action in this proceeding. Therefore, the testimony should be stricken from the record.

AE objected to Paul Robbins's requests for information ("RFI") regarding properties that are not included in AE's base electric rates. Mr. Robbins did not file a response to such objections or motion to compel but acknowledges AE's position in his testimony by stating,

“Austin Energy contends that any transfers of ownership of its formerly owned property that took place before the 2012 rate case and its 2009 test year are irrelevant because the decision on prudence have, de facto, already been made.” Indeed, as explained in AE’s objection to Mr. Robbins’ RFIs, the scope of this proceeding is limited to Austin Energy’s base electric rates. Costs related to the value of property and land assets whose transfer of ownership occurred before AE’s 2012 rate case, Docket No. 40627, and its 2009 test year are not included in base electric rates and this issue is not included in the scope of this proceeding as set forth in the Impartial Hearing Examiner’s Memorandum No. 11. Because issues related to these costs could have been raised during Docket No. 40627, but were not, it is appropriate to preclude examination of such costs in this rate review. Thus, Mr. Robbins’ testimony on “Disputed Property” is irrelevant and burdens the record.

II. CONCLUSION AND PRAYER

For the foregoing reasons, AE respectfully requests that the specified portions of the above-referenced testimony be stricken, and requests any other relief to which it may be entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was transmitted by fax, e-mail, hand-delivery and/or regular, first class mail on this 13th day of May 2016, to the parties of record.



HANNAH M. WILCHAR