

AUSTIN ENERGY 2016 RATE REVIEW

AUSTIN ENERGY
2016 MAY 16 AM 11:35

AUSTIN ENERGY'S TARIFF PACKAGE	§	
UPDATE OF THE 2009 COST OF	§	BEFORE THE CITY OF AUSTIN
SERVICE STUDY AND PROPOSAL TO	§	IMPARTIAL HEARING EXAMINER
CHANGE BASE ELECTRIC RATES	§	

Objections of NXP Semiconductors and Samsung Austin Semiconductor, LLCs' to Austin Energy's Fifth Request for Information

NXP Semiconductor, Inc. ("NXP") and Samsung Austin Semiconductor, LLC, ("Samsung") (collectively, "Customers"), each on its own behalf, by and through its attorneys of record, files these Objections to Austin Energy's ("AE") Fifth Request for Information, submitted on May 10, 2016. Pursuant to the March 10, 2016 Revised Procedural Schedule, this Response is timely filed.

I. Procedural History

AE served its fifth request for information ("RFI") on NXP/Samsung on May 10, 2016. Pursuant to the March 10, 2016 Revised Procedural Schedule, NXP/Samsung had five calendar days to respond to this request. As five calendar days after May 10, 2016 is Sunday May 15, 2016, pursuant to § 1.4(a) of the *City of Austin Procedural Rule for the Initial Review of Austin Energy's Rates* ("Procedural Rules"), these responses are timely filed.

Counsel for NXP/Samsung and AE conducted good faith negotiations that failed to resolve the issues. While NXP/Samsung will continue to negotiate with AE regarding these and any future objections, NXP/Samsung file these objections for preservation of its legal rights under the established procedures. To the extent any agreement is subsequently reached, NXP/Samsung will withdraw such objections.

II. General Objections

NXP/Samsung generally objection to RFIs to the extent they seek publicly available information or seek information not in NXP/Samsungs' possession.

III. Specific Objections

AE 5-2 Ms. Fox states on page 39 (Bates 41) of her Direct Testimony, “AE has far more reserves than its peers.” She then references Table 7-6 of NewGen Strategies and Solutions *Summary of Austin Energy’s Reserve Funds* at Bates 478. Please provide the dollar amount of total reserves for each of the peer companies referenced in NewGen’s Table 7-6 and explain how Austin Energy has “far more reserves than its peers.”

Objection: NXP/Samsung object to this request because it seeks information publicly available and provided as part of Austin Energy’s Rate Filing Package. Pursuant to City of Austin Procedural Rules for the Initial Review of Austin Energy’s Rates § 7.3(c)(2)(D), if the answer to a request can be found in publicly available documents, the responding party does not need to produce the documents. Instead, the party only has to describe where the information can be found. Therefore, notwithstanding this objection, Austin Energy has described where the information can be found in its response.

AE 5-3 Ms. Fox also indicates on page 39 of her Direct Testimony that she reviewed the City of Austin Internal Audit Report of Reserves to assess AE's level of reserves as compared with peer companies. Please provide the total dollar amount of reserves for each of the peer companies referenced in that report and explain how Austin Energy has "far more reserves than its peers."

Objection: NXP/Samsung object to this request because it seeks information publicly available and provided as part of Austin Energy's Rate Filing Package. Pursuant to City of Austin Procedural Rules for the Initial Review of Austin Energy's Rates § 7.3(c)(2)(D), if the answer to a request can be found in publicly available documents, the responding party does not need to produce the documents. Instead, the party only has to describe where the information can be found. Therefore, notwithstanding this objection, Austin Energy has described where the information can be found in its response.

AE 5-14 Page 38, lines 14-15 of the Direct Testimony of Marilyn J. Fox states, "...AE is requesting that Council approve some, but not all, of NewGen's recommendations." Please provide a list of NewGen's recommendations that AE is not requesting City Council to approve and a document reference relied upon for the list.

Objection: NXP/Samsung object to this request because it seeks documents not in NXP/Samsung's possession. 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. This request seeks NXP/Samsung to produce documents not in NXP/Samsungs' possession because it would require NXP/Samsung to create a chart or list that was never created. Further, the information that would be used to create such chart or list was provided by Austin Energy in their original Tariff Package, therefore Austin Energy is in the same position as NXP/Samsung to create the list requested.

AE 5-16 Page 39, line 2 of the Direct Testimony of Marilyn J. Fox states that NewGen recommended "...to include Non-Nuclear Decommissioning cost as a reserve, instead of as part of O&M expense." Please provide the document relied upon for this statement.

Objection: NXP/Samsung object to this request because it seeks information publicly available and provided as part of Austin Energy's Rate Filing Package. Pursuant to City of Austin Procedural Rules for the Initial Review of Austin Energy's Rates § 7.3(c)(2)(D), if the answer to a request can be found in publicly available documents, the responding party does not need to produce the documents. Instead, the party only has to describe where the information can be found. Therefore, notwithstanding this objection, Austin Energy has described where the information can be found in its response.

IV. Conclusion

NXP/Samsung therefore request these objections be sustained. NXP/Samsung also request any other relief to which it may show itself justly entitled.

Respectfully submitted,

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**ATTORNEYS FOR NXP SEMICONDUCTORS AND
SAMSUNG AUSTIN SEMICONDUCTOR, LLC**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this pleading has been forwarded by fax, e-mail, U.S. first class mail, hand-delivery, or by courier service to all parties and filed with the City Clerk on the 16th day of May, 2016.

Maria C. Faconti