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AUSTIN ENERGY 2016 RATE REVIEW

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 §

NXP Semiconductors and Samsung Austin Semiconductor, LLCs' Prehearing Conference Clarification and Link to Impartial Hearing Examiner's Memorandum No. 11: Statement of Issues

NXP Semiconductor, Inc. ("NXP") and Samsung Austin Semiconductor, LLC ("Samsung"), files this Prehearing Conference Clarification and Link to Impartial Hearing Examiner's Memorandum No. 11: Statement of Issues. On March 11, 2016, the Impartial Hearing Examiner ("IHE") in Memorandum No. 11 set forth those issues within the scope of this proceeding as well as a **limited** set of issues outside the scope of this proceeding. On March 6, 2016, Austin Energy ("AE") filed *Austin Energy's Objection and Motion to Strike Portions of the Direct Testimonies of Gary L. Goble and Marilyn J. Fox on Behalf of NXP and Samsung, the Seton Healthcare Family Presentation on the Issues, and Public Citizen's and Sierra Club's Position Statement/Presentation on the Issues* ("AE Motion to Strike"). Parties attended a prehearing conference on May 26, 2016 where several issues were discussed including AE's Motion to Strike and the response of NXP and Samsungs. At the prehearing conference it became apparent that the position taken by NXP and Samsung was becoming confused and therefore, in the interest of justice, NXP/Samsung would like to clarify statements made at the prehearing conference and link arguments made at the prehearing conference to specific issues in the *Impartial Hearing Examiner's Memorandum No. 11: Statement of Issues*, which is allegedly governing this proceeding.

IHE MEMORANDUM NO. 11

ISSUES WITHIN THE SCOPE OF THE RATE REVIEW PROCESS

1. Is Austin Energy's proposed base-rate revenue just and reasonable?
 - By the use of a stale Transmission Cost of Service ("TCOS"), AE has overstated its base rate and therefore its proposed base rate revenue *is not just and reasonable*.

- By using a cash flow method to determine return and include that in base rate, AE is artificially overstating its base rate and therefore its proposed base rate is *not just and reasonable*. If AE chooses to use the cash flow method, the detriments of that method highlighted in testimony should be considered as reasons to lower AE's proposed base rate revenue.
2. **Are Austin Energy's proposed rates just and reasonable? If not, what are the just and reasonable rates that Austin Energy should be permitted to charge?**
- By the use of a stale TCOS, AE has overstated its base rate and therefore its proposed rates *are not just and reasonable*.
 - By using a cash flow method to determine return, AE is artificially overstating its costs to run the utility and therefore its proposed rates *are not just and reasonable*. If AE chooses to use the cash flow method, the detriments of that method highlighted in testimony should be considered as reasons to lower AE's proposed base rate revenue.
3. **What is Austin Energy's reasonable and necessary cost of providing service?**
- To determine reasonable and necessary cost of providing service, true costs need to be accounted for, which includes the *true amount* AE will be collecting through TCOS. By not using this *true amount*, AE has overstated its cost of providing service.
 - By using a cash flow method to determine return, AE is artificially overstating its cost of providing service, and therefore they are not reasonable and necessary, instead they are in excess of what is reasonable and necessary, which is a product of the method AE chose to utilize. AE unreasonably chose this method knowing that it produces inflated and unreasonable costs.
4. **Are Austin Energy's costs properly functionalized?**
- NXP/Samsung questions how costs can properly be functionalized when the true costs are not used (TCOS) and when other costs are artificially created and inflated (cash flow method).
5. **Do Austin Energy's rates reflect a proper allocation of its cost of service to its customer classes? If not, what is the appropriate method to use when allocating costs?**
- Through use of a TCOS, which results in AE overstating their base rate, as well as the use of a cash flow method, which results in an artificially high and excessive return.

no rate can be properly allocated. NXP and Samsung question how unreasonable rates can be properly allocated, if they are unreasonable because they were established using unreasonable methods, how can the distribution of these unreasonable rates be “proper.”

6. Are Austin Energy’s proposed modifications to the financial reserve policies reasonable? If not, what financial reserve policies are reasonable?
7. Is Austin Energy’s proposal to maintain a rate differential between customers located outside of the Austin city limits and those located inside reasonable?
8. Are Austin Energy’s proposed rate discounts reasonable? If not what discounts, if any, are reasonable?
9. Is Austin Energy’s proposal to allocate its proposed change in revenue across the various customer classes reasonable? If not, what spread of Austin Energy’s proposed change in revenue is reasonable?
 - NXP and Samsung question how unreasonable rates can be properly allocated, if they are unreasonable because they were established using unreasonable methods, how can the distribution of these unreasonable rates be “proper.”
10. Is Austin Energy’s rate design, including maintaining a tiered rate structure for residential customers, reasonable? If not, what rate design is reasonable?
 - The reasonableness of AE’s rate design is predicated on the reasonableness of AE’s rates and cost of service, both of which are called into question because of their use of a cash flow method as well as through the use of a TCOS which overstates base rates.
11. Is Austin Energy’s proposed load factor floor reasonable? If not, what load-factor floor is reasonable?
12. Has Austin Energy adopted appropriate criteria for establishing customer classes and are the customer classes Austin Energy proposes reasonable? If not, what criteria are reasonable and what, if any, additional customer classes are reasonable to add or to eliminate?
13. Are Austin Energy’s proposed changes to the method by which it calculates pass-through charges, including changes in rate design and allocation of costs associated with pass-through charges, reasonable? If not, what, if any, changes to the method by which it calculates pass-through charges, including rate design and allocation of costs associated

with pass-through charges, reasonable for calculating Austin Energy's pass-through charges?

14. Are any costs related to costs recovered through Austin Energy's Power Supply Adjustment also being recovered through base rates?
15. Are any costs related to costs recovered through Austin Energy's Power Supply Adjustment more appropriately recovered through base rates?
16. Are any costs related to costs recovered through Austin Energy's Regulatory Charge also being recovered through base rates?
17. Are any costs related to costs recovered through Austin Energy's Regulatory Charge also being recovered through base rates?
18. Should costs related to costs recovered through Austin Energy's Community Benefit Charge be recovered through Austin Energy's rates? Is so, how should such costs be allocated to the customer classes?
19. Are any costs recovered through Austin Energy's Community Benefit Charge also being recovered through base rates?
20. Are any costs related to costs recovered through Austin Energy's Community Benefit Charge more appropriately recovered through base rates?
21. Has Austin Energy excluded all costs related to the On-site Energy Resources ("OSER") system from its proposed revenue?
22. What costs, if any, related to the OSER should be recovered through Austin Energy's rates?
23. **Are any costs related to Austin Energy's Transmission Cost of Service being recovered through base rates?**

– By allowing Austin Energy to use the TCOS they have chosen to use, they are overstating their base rate and therefore over collecting. Testimony related to AE's TCOS is not a criticism of their rate, just an analysis of how the rate they chose to use results in an overstatement of their base rate to the detriment of customers. AE is being allowed to pass TCOS expenses along to customers without also passing along the benefits that are associated with the increased TCOS revenues AE will experience, therefore allowing AE to *over recover through base rates*.

24. Beyond the General Fund Transfer, what, if any, non-utility costs are being recovered through Austin Energy's rates? If any such costs are being recovered through Austin Energy's rates, what are those non-utility costs and should such costs be included or excluded from recovery through Austin Energy's rates?
- Through Austin Energy's use of the cash flow method, Austin Energy is able to inflate their cost of service, inflating their base rate, and therefore recovering excess rates that are not associated with any utility service but are instead a result of unreasonable financial practices.

ISSUES OUTSIDE THE SCOPE OF THE RATE REVIEW PROCESS

1. Except as noted above in Issue Nos. 14 and 15 regarding Austin Energy's Power Supply Adjustment, the prudence of Austin Energy's fuel and power supply contracts is outside the scope of this proceeding.
2. Except as noted above in Issue Nos. 16 and 17 regarding Austin Energy's Regulatory Charge, level of the Regulatory Charges is outside the scope of this proceeding.
3. Except as noted above in Issue No. 23 regarding Austin Energy's Transmission Cost of Service, the reasonableness of Austin Energy's Transmission Cost of Service ("TCOS") is outside the scope of this proceeding.
 - Though a discussion of the use of an updated TCOS might be considered an attack on the reasonableness of that TCOS, The testimony of NXP and Samsung merely provides proof that by using the TCOS rate AE chose to use, they are inflating their base rate. Therefore, if they would like to use the TCOS as it is presented in their case, they *must* offset their base rate to account for the over collection.
4. Austin Energy's decision to utilize a cash flow basis to determine just and reasonable base rates **in lieu of debt service coverage** is outside the scope of this proceeding.
 - If the IHE wanted all discussion of the reasonableness of utilizing a cash flow method then this issue should **not** have been modified as a comparison between cash flow and debt service coverage. The only portions of the testimony provided by NXP and Samsung testimony that makes any kind of comparison are found on page 9, line 14 to page 10 line 17 from the Direct Testimony of Marilyn Fox. The other portions of Ms. Fox's testimony discussing cash flow can be thought of as background and a way

to establish the financial decisions Austin Energy has taken to determine their rates are **not reasonable** and therefore their rates are unreasonable and artificially inflated. Arguments could be made that Austin Energy can use the cash flow basis to determine rates *if* they offset the determined rates by some amount to account for the fact that by using this method an inflated base will result. This argument has nothing to do with an analysis of debt service coverage but is helped by background as presented in Ms. Fox's testimony. Additionally, a criticism of the cash flow method is essential when analyzing if AE's rates are just and reasonable.

5. The prudence of any invested capital investment that was used and useful prior to end of the City's 2009 Fiscal Year is outside the scope of this proceeding.

Respectfully submitted,

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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, in accordance with Austin Energy Instructions, on the 27th day of May, 2016.


J. Christopher Hughes