

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

* * * * *

HEARING

May 31, 2016

Volume 1

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The hearing in the above-entitled matter came on to be heard before ALFRED HERRERA, Independent Hearing Examiner, beginning on the 31st day of May 2016, from 9:15 a.m. to 12:20 p.m. and from 1:35 p.m. to 6:55 p.m., respectively. The proceedings were reported by Sandra S. Givens, Certified Shorthand Reporter in and for the State of Texas, reported by machine shorthand method, at Town Lake Center, 721 Barton Springs Road, Assembly Room, Austin, Texas 78704.

AUSTIN ENERGY

2016 JUN -8 AM 9:11

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1 PROCEEDINGS

2 9:15 A.M.

3 * * * *

4 MR. HERRERA: Good morning,

5 everyone. It's about 9:15 on May 31st. Thanks,

6 everyone, for being here. This is the Austin Energy

7 rate review proceeding for 2016. Can everyone hear me?

8 That was a weird question. I guess it would be, is

9 there anyone who can't hear me? Either way, the person

10 not hearing can't answer.

11 My name is Alfred R. Herrera. I'm the

12 impartial hearing examiner assigned to these

13 proceedings by the city of Austin. What we're going to

14 do here is first take appearances of the parties and

15 then talk about some procedural matters. We'll take

16 appearances of the parties. I'm just going to start

17 over here on my right and go across and then back of

18 the room, please.

19 MR. COFFMAN: Appearing on behalf

20 of the Independent Consumer Advocate I'm John B.

21 Coffman. Need my address?

22 MR. HERRERA: No. I don't need

23 your address, Mr. Coffman.

24 MS. COOPER: Good morning. My name

25 is Lanetta Cooper. I'm here today on behalf of Austin

1 Energy Low Income Customers.

2 MR. BROCATO: Good morning, Your
3 Honor. Thomas Brocato appearing on behalf of the city
4 of Austin and Austin Energy. Cody Faulk will also be
5 defending in this hearing.

6 THE REPORTER: Who? I'm sorry.

7 MR. BROCATO: Cody Faulk.

8 MR. HUGHES: Christopher Hughes,
9 Your Honor, entering on behalf of NXP and Samsung.
10 Maria Faconti will also be participating in this
11 hearing on behalf of NXP and Samsung as well.

12 MS. BIRCH: Carol Birch appearing
13 for Public Citizen and Sierra Club. Cyrus Reed will be
14 appearing for Sierra Club and Kaiba White for Public
15 Citizen.

16 MR. HERRERA: Thank you.

17 MR. BORGELT: Roger Borgelt
18 representing Homeowners United for Rate Fairness.

19 MR. HERRERA: Ms. Dunkerley, did
20 you want to make an appearance?

21 MS. DUNKERLEY: Oh, Betty Dunkerley
22 representing Seton Family of Hospitals.

23 MR. HERRERA: Thank you. Anyone on
24 this side of the room that wants to make an appearance?

25 MR. LATSON: I'm Ed Latson. I'm

1 with the Austin Regional Manufacturers Association.

2 MR. HERRERA: Let's go over here,
3 and I'm just going to start in the front of the room.

4 MR. WELLS: I'm Cliff Wells,
5 representing Bethany United Methodist Church and the
6 other 410 Houses of Worship.

7 MR. CARRILLO: Jose Carrillo with
8 the Austin Chamber of Commerce.

9 MR. HERRERA: Say that again? I'm
10 sorry?

11 MR. CARRILLO: Jose Carrillo with
12 the Chamber of Commerce.

13 THE REPORTER: Could you -- last
14 name, I'm not hearing your last name.

15 MR. CARRILLO: Carrillo,
16 C-A-R-R-I-L-L-O.

17 MR. MANCINELLI: Joe Mancinelli
18 with NewGen Strategies on behalf of Austin Energy.

19 MR. MCCOLLOUGH: Howdy. Scott
20 McCollough for Data Foundry.

21 MR. HERRERA: Anyone else that
22 wants to make an appearance? Okay. As we go through
23 the proceedings if you would identify when you're, when
24 you're either addressing me or when you're first
25 questioning a witness, making a presentation, anything

1 like that, if you would identify yourselves each time
2 that you initiate that, that would be very helpful for
3 me and the court reporter.

4 There was an agreed-to sequence of
5 presentation and cross-examination last Thursday at the
6 prehearing conference we held. Are there any changes
7 to that? And I know we had some dates certain for
8 some witnesses. Mr. Brocato, you had a couple of
9 witnesses that were date certain. Would you identify
10 those just for the record, please?

11 MR. BROCATO: Yes, Your Honor.
12 Mr. Joe Mancinelli and Mr. Greg Canally, both rebuttal
13 witnesses, are scheduled for Thursday with no specific
14 time being designated. Also, one intervenor witness,
15 Mr. Paul Robbins, is a time certain after lunch on
16 Wednesday.

17 MR. HERRERA: Other than that, are
18 there any changes in the orders of presentation? All
19 right. Off the record we discussed the new findings
20 that were made between Thursday and now with the city
21 clerk's office. There was some corrections to
22 testimony as well as a finding by NXP that I think my
23 memo 17 dispensed with before the finding that NXP made
24 with regard to some evidentiary rulings.

25 What I'd like to do now, do the easy one

1 first. Does anyone have an objection to Data Foundry's
2 request for official notice of the NARUC manual and the
3 provisions that Mr. McCollough provided and then the
4 PUC substantive rules?

5 MR. BROCATO: As I indicated
6 previously, we don't have an objection to him using
7 that without offering it into evidence. I'm not taking
8 a formal legal position as to whether it does qualify
9 for being judicially noticed under the rules, but
10 nevertheless, we don't have a problem with him using it
11 during his [inaudible] presentation.

12 MR. HERRERA: And Mister --

13 THE REPORTER: Could you either
14 speak up or into the microphone, please?

15 MR. BROCATO: Yes, ma'am.

16 THE REPORTER: This thing is in my
17 way here. Thanks.

18 MR. BROCATO: Do you need me to
19 restate anything? Okay.

20 MR. HERRERA: And Mr. McCollough,
21 with regard to any documents that I would like, if you
22 have specific pages out of those -- out of the PUC
23 rules, substantive rules, or the NARUC manual that you
24 intend to use, I would appreciate it if you gave me
25 copies of those, and the court reporter as well,

1 whenever you're going to use them.

2 MR. McCOLLOUGH: I did attach the
3 portions of the NARUC manual. If you want hard copies,
4 I can supply them.

5 MR. HERRERA: That'll be fine. I
6 did get a copy of that. I didn't go through it in
7 detail. I thought it was the entirety of the NARUC
8 manual, frankly.

9 MR. McCOLLOUGH: It was not. There
10 was a bunch more.

11 MR. HERRERA: And that was the sad
12 part.

13 MR. McCOLLOUGH: I did take the
14 excerpts, although admittedly, there were many pages.
15 Quite frankly, the main purpose of all of this was so
16 that I could reduce cross-examination time and avoid
17 having to put it into the physical evidence. My main
18 goal is to use it as an authoritative source during
19 briefing.

20 MR. HERRERA: Okay.

21 MR. McCOLLOUGH: Thank you.

22 MR. HUGHES: Your Honor, we
23 do -- we will have references to NARUC, the NARUC
24 manual as well as some of the substantive rules, and we
25 have copies of them, all of them.

1 MR. HERRERA: Thank you,
2 Mr. Hughes. Next I'll turn to the Independent Consumer
3 Advocate's objections to Austin Energy's rebuttal
4 testimony. I'll hear your argument.

5 MR. COFFMAN: Yes. Your Honor, the
6 objection is based on two grounds. First of all, it's
7 inappropriate. Supplemental direct is a dramatic
8 reallocation doubling the impact almost on residential
9 customer class. It's purported to be in response to
10 Public Citizen testimony. If I understand correctly,
11 that testimony had been stricken; which is the second
12 grounds, that it's not responsive. Even if it hasn't
13 been stricken, it isn't in response to the testimony
14 that it purports to be responding to.

15 MR. HERRERA: Mr. Brocato?

16 MR. BROCATO: Yes, Your Honor.
17 First of all, we have not filed a written response to
18 their motion. I offered to do so the other day, but
19 after discussion of another procedural matter our
20 understanding was that you overruled the ICA's motion,
21 and therefore, we felt like the issue was resolved.
22 But then we noticed in memorandum number 17 there's a
23 reference to there not being a ruling and waiting on
24 our response. We do not plan on doing that at this
25 time unless we're asked to do so. More substantively,

1 the --

2 Oh, actually, one additional procedural
3 point. Your ruling with respect to our motion to
4 strike Public Citizen's testimony was limited to their
5 proposal to increase the amount of the EES and not the
6 change in the allocation. In fact, memo 17
7 specifically makes that statement. I can find it if
8 you need me to, but the basic argument is this: We
9 have a disagreement with Public Citizen and Sierra Club
10 as to the appropriate allocation of the EES. That
11 issue is within the scope of this proceeding.

12 In the rebuttal testimony Austin Energy
13 presented testimony by Ms. Kimberly that responds to
14 their proposal and proposes an allocation methodology
15 that is different than what was proposed in our initial
16 filing to make it more consistent with cost causation
17 principles, but nevertheless, their testimony is still
18 in the record. Ms. Kimberly's testimony does not agree
19 with it and is responsive to it, and therefore, we
20 believe that it is appropriate to let the testimony
21 speak -- uh, allowed into the record.

22 MR. HERRERA: Thank you,
23 Mr. Brocato. I am, I am going to --

24 MS. BIRCH: Your Honor, may I weigh
25 in --

1 MR. HERRERA: No.

2 MS. BIRCH: -- specific concerns?

3 MR. HERRERA: Thank you. I said
4 no. I'm ready to rule. I'm going to overrule the
5 objection and allow the testimony in.

6 MR. BROCATO: Your Honor,
7 Mr. Dreyfus has a comment about room microphone issues.

8 MR. DREYFUS: Your Honor, I am
9 advised that because of the Channel 6 recording of the
10 meeting that use of microphones is very important to
11 the recording, and so if all participants could speak
12 to the microphone or if you are from the audience, if
13 you could approach the podium so that we get -- the
14 record properly reflects their comments. Thank you.

15 MR. HERRERA: Thank you. All
16 right. The last topic we have are the new findings
17 that were made to either correct testimony or, from
18 some parties' perspective, to introduce new testimony.
19 We'll start with that issue.

20 And Mr. Brocato or Mr. Hughes, when we
21 were off the record you each indicated that while there
22 was some aspects of it was filed that were corrections,
23 some of it appeared to be new testimony. And then
24 we'll also deal with the -- with what I believe is a
25 new filing by Public Citizen and Sierra Club.

1 MR. HUGHES: Well, Your Honor,
2 Public Citizen and Sierra Club originally filed a
3 statement of position that we objected to in its form
4 because it was -- closely resembled testimony and there
5 was nobody to sponsor the various provisions that we
6 could cross examine. They subsequently designated
7 different individuals to sponsor different sections of
8 their statement of position, and we were okay with
9 that, and they filed a corrected version of that
10 statement of position that actually had new information
11 in it, and we didn't object to that.

12 And then this weekend they filed all new
13 testimony that, frankly, I didn't have a chance to go
14 through in detail, but I just think that that's awfully
15 late to be filing what probably contains a lot of new
16 information, and it requires the parties to then go
17 through their -- the new filings and way after these
18 were supposed to be filed and after we accepted the
19 designation of their -- of the folks to sponsor their
20 original statement of position. So I'm not sure why
21 they filed it, the late testimony, but I would say that
22 it's too late and really shouldn't, shouldn't be
23 considered, but . . .

24 MR. HERRERA: Mr. Brocato?

25 MR. BROCATO: I agree with

1 Mr. Hughes, and just so we're clear, there's a number
2 of documents I think we all understand, so I'd like to
3 go through them individually.

4 As Mr. Hughes indicated, on May 3rd they
5 filed their direct case. On May 10th they filed a
6 cross rebuttal, which was also appropriate. Neither
7 document, however, identified witnesses or was
8 presented in question-and-answer format, which in and
9 of itself is not problematic and has been done by
10 Austin and others in this case, but then on May 19th,
11 as Mr. Hughes indicated, they filed a response to
12 NXP/Samsung's objection, refusing to identify a witness
13 until their discovery response was due.

14 Then on May the 23rd they filed what was
15 labeled as corrected direct testimony and then
16 corrected cross rebuttal. I would move to strike those
17 documents as being inappropriate supplemental testimony
18 rather than simply corrections. Witnesses frequently
19 will file erratas or other corrections, as several
20 witnesses have done in this case, in order to correct
21 minor, generally nonsubstantive errors that they
22 identify in their testimony subsequent to filing.
23 These documents, however, contain much more than that,
24 including substantive argument and testimony that we
25 believe is inappropriate, and so we would move to

1 strike those.

2 Also, on the 27th, just last Friday,
3 late in the day at 4:26 they filed supplemental
4 testimony of Mr. Reed responding to Ms. Kimberly's
5 testimony related to the EES issue we just discussed.
6 Again, we would argue that that's inappropriate
7 testimony. The rules do not provide for such
8 testimony. The proper course would have been for them
9 to file a motion to strike Ms. Kimberly's testimony,
10 and although the ICA filed such a motion, Public
11 Citizen did not, and therefore, that testimony is
12 inappropriate.

13 MR. HERRERA: What date was that
14 filed, Mr. Brocato?

15 MR. BROCATO: Friday at 4:26. Then
16 later on Friday afternoon at 4:53 they filed
17 supplemental testimony of four witnesses. Generally,
18 they took their original May 3rd filing, broke it into
19 parts and had separate witnesses offer that testimony.
20 They also reformatted it in Q&A fashion. However, they
21 did some additional things, such as include additional
22 attachments that had previously not been put into their
23 testimony but were available and could easily have been
24 included at that time.

25 One document related to their FPP

1 defeasement proposal is some type of outside report
2 that was dated May 27th, the very day of that -- of
3 their filing. And so again, we would argue that that
4 testimony is inappropriate supplemental testimony and
5 should not be considered. That's all I have.

6 MR. MCCOLLOUGH: I'm not going to
7 argue. I just want the record to reflect that we join
8 in the two objections.

9 MR. HERRERA: Ms. Birch?

10 MS. COOPER: Your Honor, I just
11 want to make --

12 MR. HERRERA: I'm sorry.

13 MS. COOPER: -- one comment. Like
14 Scott, I don't really want to belabor the point, but if
15 you rule in favor of Public Citizen, we would like
16 leave to file supplemental live cross rebuttal on the
17 issue of the Fayette Power Plant debt reserve, paying
18 off the debt.

19 MR. HERRERA: Anyone else before
20 Public Citizen closes? Ms. Birch?

21 MS. BIRCH: Your Honor, I will
22 explain why we did what we did. No one on this team
23 has ever done anything in a rate case before. I'm a
24 former administrative law judge, so I've done a lot of
25 hearings, but I didn't do rate hearings. I read the

1 rules; nothing in the rule says that you cannot call
2 your witnesses on direct testimony. I learned that we
3 would not be able to do that on Thursday late afternoon
4 at the prehearing conference.

5 So we scrambled to put our testimony in
6 the form of question and answer, one, because we
7 thought it would help you; and two, because we weren't
8 able to call the witnesses that we had designated.

9 With respect to Mr. Reed's rebuttal
10 testimony of -- on the EES issue, I didn't file a
11 motion to strike because I also thought you had ruled,
12 but I intended to support Consumer Advocate's motion
13 because there was nothing responsive in that rebuttal
14 testimony and, by definition, it's not rebuttal if it's
15 not rebutting another party's position. They merely
16 rebutted their own position.

17 We supported their position in the
18 initial rate package, and so in the interest of
19 fairness we need a chance to respond to that, and the
20 only way to respond to that is to be able to file
21 testimony after the fact, because it's not rebuttal
22 testimony, it's changed direct testimony that no one
23 ever got a chance to address. So I mean, I think in
24 fairness we either need to be allowed to call witnesses
25 live, which will take more time, or allow us to put in

1 the testimony that we formulated based on what we had
2 previously submitted.

3 MR. HERRERA: Thank you. My
4 understanding was that Public Citizen, Sierra Club were
5 going to identify witnesses to support the
6 presentations that had been timely filed, but what
7 appears has happened is that we have new testimony that
8 was filed considerably after the deadline for filing
9 testimony. I understand the fact that folks may be new
10 to the process, but I'm not sure that that is a valid
11 reason to allow the testimony.

12 So because it was late filed, because
13 it's not simply identification of witnesses to support
14 what was timely filed, I am going to sustain the
15 objections to that testimony.

16 MS. BIRCH: Your Honor, can I ask,
17 there are two of the witnesses that the parties said
18 they had no cross examination for that we offered in
19 the -- in those filings. Are they objecting to those
20 too?

21 MR. HERRERA: I'd ask the parties
22 to clarify. If you can identify who the two witnesses
23 are and what pieces of testimony they were presenting,
24 perhaps Mr. Hughes or Mr. Brocato and Mr. McCollough or
25 Ms. Cooper or someone can tell us whether they have an

1 objection to that.

2 MS. BIRCH: Leslie Libby on issues
3 of Value of Solar, basically, and Mark Kapner on demand
4 response and storage issues.

5 MR. HERRERA: I'm sorry, say that
6 last one?

7 MS. BIRCH: Storage.

8 MR. HERRERA: Oh, I'm sorry. Okay.

9 MR. HUGHES: Were they -- Your
10 Honor, were those -- I guess the question I would have
11 is, were those witnesses, weren't they, weren't they
12 going to be sponsors of the original statement of
13 position filed?

14 MS. BIRCH: We identified them.
15 Yes.

16 MR. HUGHES: So I don't know why
17 that wouldn't be sufficient as opposed to allowing
18 late-filed testimony. I mean --

19 MR. HERRERA: No. I've ruled that
20 the late-filed testimony --

21 MR. HUGHES: Yeah. So I don't --

22 MR. HERRERA: -- I sustained that
23 objection. I thought Ms. Birch's question was more in
24 the nature of clarification from --

25 MR. HUGHES: Oh, I thought she

1 wanted their testimony still entered. What was your
2 understanding?

3 MR. BROCATO: My understanding is
4 the same as yours, I believe, that she's asking about
5 the -- their initial filing May 3rd, their direct case.

6 Let me step back. They made a filing on
7 May the 3rd. They did not identify witnesses, they
8 just had it in a narrative format. And then in
9 response to NXP's discovery request, just last Monday
10 they identified which portions of that filing were
11 going to be sponsored by which witness. When we
12 reviewed their initial filing we determined that we do
13 not have cross examination of those portions of that
14 May 3rd filing, and therefore, we stipulated to
15 Mr. Kapner and Mister --

16 MR. REED: Ms. Libby.

17 MR. BROCATO: -- Ms. Libby as well,
18 and we still have that same position. Given your
19 ruling, that's the only evidence that they're offering
20 at this time.

21 MR. HERRERA: That was my
22 understanding. I was misunderstanding what you were
23 asking, Ms. Birch. If you have witnesses to sponsor
24 the testimony filed on the 3rd of May, then those can
25 go forward. If there's no cross examination for them,

1 then there's no cross examination for them. But in
2 terms of any new filings, late filings after the
3 deadlines, I'm sustaining the objection.

4 MR. REED: Can I -- I'm sorry,
5 Judge. Can I just clarify that? There were actually a
6 number of, let's call them, late filings. One was on
7 the 23rd of May we filed corrected cross rebuttal and
8 original. Austin Energy -- I think, I believe
9 Mr. Hughes did not object to that, but Austin Energy
10 did. So we had corrected statements that were filed, I
11 believe on May 23rd, and I'm not sure if you're ruling
12 on those as well as the May 27th expert witness filings
13 or only the expert witness filings.

14 MR. BROCATO: My understanding was
15 you ruled on both.

16 MR. HERRERA: My intent was to rule
17 on both.

18 MR. REED: Okay.

19 MR. HERRERA: And my understanding
20 was that what was filed on the 23rd was not a
21 correction but new testimony.

22 MR. BROCATO: Correct.

23 MR. HERRERA: And obviously,
24 what --

25 MS. BIRCH: Was that -- but no

1 objection was raised to that.

2 MR. BROCATO: I'm raising it now.

3 MR. REED: He's raising it now.

4 MR. BROCATO: Our deadline is noon
5 today. I'm making an oral objection to it.

6 MR. HERRERA: And I'm, to the
7 extent you have filed new testimony, I am sustaining
8 the objection. If you can -- when I -- when we -- when
9 parties make a correction to testimony, then what I
10 would expect to see is the original testimony showing
11 what the corrections are, not new testimony, but what
12 I --

13 MR. REED: I believe that's what we
14 did, right? We just, we just --

15 MR. HERRERA: My understanding is
16 that there was new evidence presented after the filing
17 dates.

18 MS. BIRCH: So I dis --

19 MR. HERRERA: If that's not
20 correct, please correct me.

21 MS. BIRCH: I need clarification.
22 You're not, you're not striking the entire corrected
23 statements, rebuttal statements that we filed, just the
24 portions that are -- would be considered new testimony?

25 MR. HERRERA: And I need to -- I

1 have not had the opportunity to go through it in
2 detail, but what I skimmed through appeared to be new
3 to me.

4 MR. HUGHES: There were, Your
5 Honor, there were technical corrections, but there were
6 also whole new sentences added, new -- there was new
7 information added.

8 MR. HERRERA: Let me, let me ask --

9 MR. HUGHES: Even on the 23rd, and
10 we didn't -- and just to clarify our position, we
11 didn't originally object, but it's still late filed.
12 So we would --

13 MR. HERRERA: Let me ask you,
14 Mr. Brocato and Mr. Hughes, to do this. Go through
15 that testimony and tell me specifically what it is that
16 you want, that you believe is new. And Ms. Birch, we
17 will allow you to tell me why that's not new, but it
18 appears to be new in many respects, but I will give you
19 that opportunity and withhold ruling on your additional
20 filings.

21 MR. BROCATO: And there are some --

22 MR. HERRERA: And let me, let me be
23 clear. The testimony that was filed on the 27th that's
24 in rebuttal Ms. Kimberly's, I am sustaining that
25 objection.

1 MS. BIRCH: All right.

2 MR. BROCATO: As well as the
3 supplemental testimony from the four witnesses on
4 Friday as well?

5 MR. HERRERA: That is correct.

6 MR. BROCATO: Okay. And I should
7 clarify. While the corrected direct and cross rebuttal
8 testimony filed on the 23rd does have inappropriate
9 supplemental testimony included within it, there may be
10 additionally some proper errata changes, and I'm happy
11 to do that at the break. That is, I'm happy to
12 identify those parts.

13 MR. HERRERA: For the piece that
14 was filed on the 23rd?

15 MR. BROCATO: Yes, sir.

16 MR. HERRERA: Okay. Thank you.

17 MR. BROCATO: I can do that at the
18 break or lunch break for sure.

19 MR. HERRERA: That'd be fine.

20 MR. BROCATO: Okay.

21 MR. HERRERA: Any other procedural
22 matters that the parties wish to take up now?

23 MR. BROCATO: The only thing I
24 would mention, Your Honor, is Austin Energy will be
25 filing responses to five sets of rebuttal discovery

1 this morning, and parties, of course, will be able to
2 get copies of those and use them as part of the
3 rebuttal case. Those witnesses, of course, won't be
4 taking the stand, at least for 24 hours, maybe 48
5 hours. So I just wanted to note that.

6 And then lastly, we are going to be
7 offering our original tariff package as Exhibit No. 1.
8 We also have a sheet included within there that shows
9 which witnesses are sponsoring which parts of that
10 tariff package. We provided that previously to the
11 parties through discovery and otherwise, so I do not
12 intend to offer portions of it as each witness takes
13 the stand. We'll just do it one time. Of course, the
14 time for filing objections to that has long since
15 passed. That's all.

16 MR. HERRERA: Okay. All right.
17 Then let's get started with the case in chief. Do
18 folks want to make opening statements? I see some
19 noddings of heads yes, and I'm assuming that for
20 opening statements we'll use the same sequence of
21 presentation as was agreed to last Thursday. Is that
22 okay? Mr. Brocato?

23 MR. BROCATO: Thank you, Your
24 Honor.

25 MR. HERRERA: And just so

1 everyone's clear, you're now on your own clocks with
2 regard to the amount of time that was allotted for each
3 of you to make your presentations.

4 OPENING STATEMENT

5 AUSTIN ENERGY

6 MR. BROCATO: Indeed, I'll be
7 efficient. Good morning, Your Honor. I'd like to
8 begin this proceeding by providing some perspective.
9 This is a good time at Austin Energy and for its
10 ratepayers. Eight months ago Austin Energy reduced its
11 rates by 30 million dollars. Just two months ago they
12 lowered their rates by an additional 70 million
13 dollars. Later this summer Austin Energy expects
14 further reductions to the regulatory charge and the
15 PSA.

16 Similarly, in this proceeding Austin
17 Energy is requesting that city counsel approve a 24 and
18 a half million dollar base rate reduction. These
19 reductions will increase AE's competitiveness and
20 directly address the city's affordability challenges.
21 Notably, all of these reductions have been made
22 voluntarily and without litigation. I submit that no
23 other utility in the state would take such action on
24 its own. Moreover, AE continues to be a national
25 leader in the development of solar, demand-side

1 management, and renewable energy initiatives.

2 This case is a continuation of the
3 transition that began in the last rate case. In 2012
4 Austin Energy began to modernize and revise its rate
5 classes and the design of its rates. This transition
6 continues in this case. Austin Energy has proposed
7 changes to the structure of several charges to better
8 align them with cost causation principles, and they've
9 also proposed revisions to their reserve funding
10 policies.

11 And there is additional work to be done.
12 Austin Energy takes customer service to heart. They
13 agreed that improvements should be made to improve
14 customer satisfaction. Likewise, they agree that
15 future rate design changes will be necessary. Although
16 there are 23 intervenors in this matter, just three
17 parties conducted an examination of AE's revenue
18 requirement. Those parties, NXP/Samsung, AELIC, and
19 the ICA, represent divergent interests and propose
20 significantly different revenue requirement
21 recommendations.

22 Still other parties, Paul Robbins and
23 Public Citizens, Sierra Club, proposed to increase
24 certain rates. For example, Public Citizen's Fayette
25 proposal and EES proposals would increase rates by

1 approximately 40 million dollars. For its part, Austin
2 Energy has proposed changes to its financial policies
3 that will reduce rates. They propose to establish
4 non-nuclear decommissioning funds to avoid future rate
5 increases and reduce intergenerational inequities.

6 The differences between the intervenors
7 are particularly acute with respect to their proposed
8 allocation of production costs. AE has proposed a
9 methodology that balances the interests of residential
10 and commercial customers. Despite its progressive and
11 forward-looking outlook, some parties would like to see
12 Austin Energy move more quickly in adopting their
13 proposals. Although reasonable minds may differ on
14 specific details and time schedules, Austin values
15 these views and the input from these parties.

16 In summary, Austin Energy is a public
17 utility. It serves the public and seeks input in order
18 to provide better service to its customers.
19 Fundamentally, that's why we're here today. The city
20 of Austin deserves input into the setting of its base
21 rates. They entered into this process to give more
22 access and to receive feedback. This deliberative
23 process will be useful to both Austin Energy and city
24 council in reaching the proper outcome in this case.
25 Thank you, Your Honor.

1 MR. HERRERA: Thank you,
2 Mr. Brocato. Next on the sequence I have ARMA. Does
3 ARMA wish to make an opening statement?

4 OPENING STATEMENT

5 ARMA

6 MR. LATSON: Thank you, Your Honor.
7 My name is Ed Latson. I'm the executive director for
8 ARMA, and we appreciate the relationship with Austin
9 Energy and the opportunity to make a statement in this
10 rate case.

11 We believe that the current environment
12 for -- energy rates in Austin are too high, excuse me.
13 ARMA believes that the secondary and primary classes
14 are charging an unfair rate, and by AE's own data,
15 classes, the commercial and industrial classes, pay
16 a -- exceed cost of service by 71 million dollars. AE
17 has publicly acknowledged that these classes are
18 subsidizing other classes, and it's long overdue to
19 substantially reduce the rates on these ratepayers.

20 We believe that the utility can decrease
21 rates and not raise rates on other classes. We're not
22 looking to increase rates for anybody. We think
23 everybody should decrease. They can do this by
24 reducing the transfer to the city of Austin, which we
25 feel is particularly important, as well as reducing

1 revenue requirements. ARMA agrees with the cost
2 savings outlined by Samsung and NXP, and we believe
3 that this would allow the utility to adopt fair rates.

4 Just to set some context, I think
5 Austin Energy is proposing, you know, decreased
6 some -- increased -- excuse me. Austin Energy is
7 proposing some rate decreases that would be welcomed;
8 however, it's not enough. The utility is currently out
9 of the affordability goals set by city council to be in
10 the top 50 percent of utilities in the state, and we
11 benchmarked one of our members, Lunex, with -- Luminex
12 Corp., with what they would pay in the deregulated
13 market. They currently pay about \$500,000 a year for
14 energy within Austin Energy, and then if they were in
15 the Galveston/Houston, they'd pay about \$240,000. So a
16 difference of 60 percent.

17 And we feel like that sets the context
18 for the importance of this rate case. So to support
19 commercial and industrial classes it's imperative that
20 we reduce rates. Thank you.

21 MR. HERRERA: Thank you. And just
22 so you're aware, you had 10 minutes total; you used
23 about 2 minutes of your time. Mr. Brocato, you used
24 about 6 minutes of your time. Mr. Rourke? I didn't
25 see him in the room, but -- Mr. Robbins? Greater

1 Austin Chamber of Commerce?

2 OPENING STATEMENT

3 GREATER AUSTIN CHAMBER OF COMMERCE

4 MR. CARRILLO: Thank you. Good
5 morning. I'm Jose Carrillo with the Austin Chamber of
6 Commerce. The Greater Austin Chamber of Commerce
7 represents nearly 3,000 local businesses with over 90
8 percent of them being small businesses. The chamber
9 understands that energy costs are a major part of doing
10 business in Austin and has intervened in this rate case
11 on behalf of its members and, together with Data
12 Foundry, submitted a presentation regarding cost
13 allocation, revenue distribution, and rate design for
14 the Impartial Hearing Examiner's adoption.

15 As we all know and as ARMA just
16 testified, businesses in Austin pay significantly and
17 disproportionately more to Austin than it costs to
18 provide them service while residential customers pay
19 significantly less for the same. These costs also put
20 Austin at a competitive disadvantage, as Austin
21 businesses pay more for electricity than their
22 counterparts in other regions of Texas.

23 For several years the chamber has
24 advocated for and the city of Austin has adopted an
25 affordability policy for Austin Energy. Approved on

1 February 17, 2011 and reaffirmed on August 28, 2014,
2 the city's policy calls for Austin Energy to, quote,
3 "operate so as to control all-in rate increases to
4 residential, commercial, and industrial customers to 2
5 percent or less per year and to maintain Austin
6 Energy's current all-in competitive rates at the lower
7 50 percent of Texas rates overall." Unfortunately,
8 this goal has not been met to date, and there's no
9 mechanism to enforce it.

10 The chamber also calls for the equitable
11 allocation of the cost of service to all rate classes
12 with special attention to the commercial classes.
13 Bottom line, Austin Energy should meet the city's
14 affordability policy, and rates for businesses should
15 be adequately reduced along with existing subsidies so
16 that costs are shared equitably among all classes.

17 Thank you, and I give the balance of my
18 time to Data Foundry.

19 MR. HERRERA: Mr. Carrillo, you
20 used a minute and a half of your 15 minutes, and we had
21 not discussed the idea of giving your time to another
22 party. I'll leave that up to the parties' discretion
23 on what you want to do. From my perspective, I thought
24 the times that we'd agreed to on Thursday were the
25 times that we'd agreed to. So unless the parties tell

1 me differently, your time is your time. Data Foundry?

2 OPENING STATEMENT

3 DATA FOUNDRY

4 MR. MCCOLLOUGH: Thank you. I'll

5 just talk faster. Morning. My name is Scott

6 McCollough. I'm here on behalf of Data Foundry.

7 Those of us who heavily practice utility
8 law often lose the big picture by getting all religious
9 about individual components or issues. We speak in
10 acronyms, and oftentimes to normal human beings it
11 sounds like Klingonese. I want the ALJ to please try
12 to keep the big picture in mind and not get dragged
13 down into the details so that you do indeed lose the
14 big picture.

15 I don't know how many of the folks
16 around here remember a fellow by the name of Jimmy
17 McMillan. A couple years ago up in New York he was
18 complaining about the cost of living. If he lived in
19 Austin, you know what he'd be saying right now? The
20 rates are too damn high. I'm serious. The rates are
21 too high. And even the amounts that Austin Energy
22 admits to are simply not enough.

23 Now, this is especially so for medium
24 and large businesses that operate in the difficult
25 competitive marketplace that's global, national, state,

1 or regional, not just within the city. Our competitors
2 have lower rates and, therefore, competitive advantage.
3 It's as simple as that. The rates are just too high.
4 The total bill has to go down. The only way to get
5 meaningful total bill relief is to significantly reduce
6 the revenue requirements far and above beyond what the
7 utilities admitted to, probably closer to what NXP and
8 Samsung has recommended.

9 Our position on the issues is set out in
10 the two presentations, the chamber and Data Foundry.
11 Those are not evidence. They will not have a witness
12 supporting them. My goal for purposes of this hearing
13 is to reduce the evidence that is necessary to
14 basically give you the same presentation in brief, and
15 hopefully, you will see some value in what we have to
16 say at the end of the day.

17 The thing that causes the biggest
18 problem here, and quite frankly, it's the elephant in
19 the room, AE has self-owned generation, and the cost of
20 that generation something about 700 million dollars.
21 The specific amounts are contested, so I'm going to
22 use round numbers, but this generation doesn't serve
23 retail load. It served it wholesale to ERCOT. AE
24 then buys purchase power to serve its retail level.
25 Yet AE wants to cover a substantial amount in fixed

1 production-related costs from base ratepayers even
2 though this generation is not used by retail or useful
3 to retail. This generation is not necessary to provide
4 retail electric utility service. AE could buy
5 wholesale from ERCOT.

6 Now, Your Honor, you've done utility law
7 for a long time. You know what the used and useful
8 test is and the reasonable and necessary test is. Our
9 position is that as a matter of law this production
10 plant is not used by or useful to retail ratepayers,
11 and it is not reasonable or necessary costs.

12 Now, I'm going to be a little bit
13 generous to the utility here, and I think what we have
14 seen in their papers is they don't really make a
15 used-by test. They make something akin to a useful-to
16 test. They say that this generation is useful to
17 retail ratepayers in general in basic ways. And we're
18 going to get into that in here.

19 They also make a reasonable argument:
20 It's reasonable for ratepayers to bear these costs. I,
21 I urge you to listen very closely and read their papers
22 very closely. Where is used-by? Where is necessary?
23 They say reasonable, they say useful to. They never
24 say used by and necessary. I think that's a legal
25 failure, and I think as a matter of law these

1 production costs must be excluded.

2 Now, we're going to be focusing on base
3 rates here, but of course, there's a lot of discussion
4 of the PSA and the extent to which some of the variable
5 energy costs are, in fact, sent to the purchase power
6 revenue requirement, how they're treated, what should
7 be over there, what should be over here. I hope to put
8 some numbers on it and let the issue get crisp.

9 Let me close kind of on revenue
10 requirement though. We contend that retail ratepayers
11 cannot be required to pay the ongoing operational costs
12 of this generation plant. The debt's another thing.
13 What I'm concerned about is the ongoing operational
14 cost for which AE has sought rate base inclusion,
15 recovery in base rates, and then to some extent, pretty
16 good extent also, in the PSA.

17 Now, if you take out production, we
18 don't have to argue about the production allocator. We
19 will be discussing that, of course, because there are a
20 lot of testimony on it. For purposes of this hearing
21 I'm going to largely defer to NXP/Samsung. Like them,
22 we recommend A&E 4CP if production costs are allowed in
23 base rates.

24 There's one specific rate design issue
25 that we're going to talk about during the direct case

1 and in the rebuttal, and that's the regulatory charge
2 where AE is proposing to increase the primary service
3 to regulatory charge by 358 percent.

4 I'll conclude, however, the way I
5 started, in plain English. The rates are just too
6 high. This is why people are angry, it's why the
7 residential class is angry, it's why the businesses are
8 angry, and unless we get substantial revenue
9 requirements relief far above what the utility has
10 offered up, you're going to have these classes at each
11 other's throat for more years, just like they have for
12 a very long time. Thank you very much.

13 MR. HERRERA: Thank you,
14 Mr. McCollough.

15 MR. MCCOLLOUGH: By the way, I have
16 pictures, I have additional copies of pictures for
17 anybody.

18 MR. HERRERA: Bethany United.

19 OPENING STATEMENT

20 BETHANY UNITED METHODIST CHURCH

21 MR. WELLS: I'm Clifford Wells.

22 I'm the business administrator or administrative
23 executive for Bethany United Methodist Church. I am an
24 intervenor, but also I am something that some of the
25 intervenors aren't, and that's a customer. Bethany

1 United Methodist Church has six buildings, one of which
2 is a -- enjoys a House of Worship discount. The other
3 buildings are in the S2, S3 classes. We have a
4 residential one also. So I have spent over 10 years
5 working every month to try to find ways to effect these
6 changes.

7 But greater than representing Bethany
8 United Methodist Church, I also represent 410 other
9 houses of worship of varying sizes, and that's really
10 important, because in looking at this rate increase, or
11 the proposed dropping of the house of worship discount,
12 many of the small, especially the smaller and medium
13 and small churches, houses of worship, whether they be
14 churches or synagogues or whatever, would be greatly
15 affected.

16 In 2012 the city council came up with a
17 plan to allow houses of worship to have a discount, and
18 the discount basically said, We will forgive the demand
19 rates that you have on weekends, because that's kind of
20 a low-demand time for the whole system. They also
21 said, We'll put a CAP rate on, and that has been going
22 on for four years, and that was to mitigate and help
23 take care of the rate shock.

24 Well, it worked. In my, in my work I
25 analyze over 16 different churches of small, medium,

1 and large, and I found that there's been a fair amount
2 of success. It turns out that many of the large and
3 medium-size churches no longer need the discount.
4 They're not under the discount rate. But I also found
5 the fact that smaller churches especially would be
6 damaged.

7 So what has been proposed is to drop
8 this discount. By their own admission, Austin Energy
9 has said that this would be a 20 to 25 percent increase
10 for houses of worship. Well, I found that for small
11 churches especially it will be much greater.

12 I direct the attention of the Examiner
13 and also to other people to four letters that I have
14 attached at the end from churches in the Austin area
15 who are small. Some of them are in the S3 rate class,
16 S classification, and some are in the S2, and they will
17 be damaged with up to 90 percent increase. Now, it's
18 not a lot of money, but still they will, they will see
19 a substantial increase.

20 What I tried to show is that the simple
21 fact is that although it has made some progress, we
22 need to extend the transition for another four years to
23 allow the other churches to effect some changes. When
24 I, when I looked at the 411, including ourselves, cost,
25 68 percent, or 298 -- 298 customers of Austin Energy

1 really only make up 22 percent of the revenue and 35
2 percent of the discount. Now, what that means is that
3 they take an inordinate amount of this shock.

4 What we have proposed is, also said that
5 rate shock is still there. Rate shock is primarily due
6 to demand. When the big change was made in 2012, was
7 demand rates were added. Most of our facilities have
8 worked pretty well to get demand, but demand is very
9 difficult for smaller, low-load-profile customers.
10 These folks just plain, they have to turn the lights
11 on, and if they don't use very much in kilowatt hours
12 or usage, their demand rates become a big part of their
13 bill.

14 What happened, put it this way. If you
15 had a bill and all of a sudden you pay demand, I found
16 out that the demand-related charges, those for, for the
17 demand rate, the demand charge, the delivery charge,
18 the regulatory charge, make up 55 to 65 percent of most
19 of the bill of a person. So if your bill goes up that
20 much, it's very difficult to deal with.

21 So what I'm really proposing is that we
22 extend, that we extend the house of worship discount.
23 Although Austin Energy has done a good-faith effort to
24 help, most of the help that they have provided to
25 churches and the houses of worship with regard to

1 dealing with the cost increases have been on usage,
2 and simply -- they've given discounts and other
3 things -- usage doesn't help you out. Demand is much
4 more difficult to deal with.

5 So we propose that, number one, we
6 extend the discount; number two, we're offering that
7 it's difficult to get communication to the houses of
8 worship. We're hoping to partner with Austin Energy to
9 help in this transition. The communication needs to be
10 a little better, and we need to have some things
11 addressed, the difficult thing of taking care of
12 demand.

13 I think what it boils down to is, give
14 us some more time and work with us on the specific
15 difficult-to-deal-with demand charges so that we can
16 come out with something that is fair and affordable in
17 making this transition. And also, remember that we are
18 customers and that we need to partner and get together
19 to effect changes.

20 Of all the people that you might talk
21 about, churches are sensitive to the needs to conserve
22 energy, whatever it is, production capacity or just
23 kilowatt hours, and we are good citizens who working
24 with you can effect the changes that are needed. Thank
25 you very much.

1 MR. HERRERA: Thank you.

2 Mr. Wells, you had 30 minutes total. You used 6 and
3 three-quarter of your time. Mr. Borgelt?

4 OPENING STATEMENT

5 HOMEOWNERS UNITED FOR RATE FAIRNESS

6 MR. BORGELT: Good morning, Your
7 Honor. Roger Borgelt representing Homeowners United
8 for Rate Fairness, which I'll refer to as HURF.

9 HURF was formed in 2012 in response to a
10 rate increase that was imposed by the Austin City
11 Council, and we were formed by a group of entities,
12 residential and commercial customers, who live outside
13 or have their businesses outside the city of Austin,
14 and we had multiple issues with the rate increase at
15 the time. We were successful in getting thousands of
16 petition signatures and were able to take our issues to
17 the Public Utility Commission of Texas.

18 And after several months of discovery
19 and the filing of direct testimony, rebuttal testimony,
20 all of the parties to that proceeding, many of whom are
21 involved in this proceeding here today, were able to
22 reach a settlement of the issues that HURF had raised.
23 Not just the rate increase, but the fact that the
24 entities that I represent, the people that I represent,
25 are not entitled to any services from the general fund

1 transfer that Austin Energy makes to the citizens and
2 the people of Austin.

3 That general fund transfer is currently
4 set at a minimum of 105 million dollars, and the people
5 that I represent get no benefit from that, as they are
6 not citizens of Austin. They are not residents of
7 Austin. So in a what is typically termed a black-box
8 settlement, the concerns of HURF were recognized in the
9 form of a reduction in their rates of approximately
10 5.75 million dollars.

11 It's important to understand that this
12 was a settlement. HURF did not win this case. HURF
13 did not achieve a hundred percent victory on all of the
14 issues it had raised, but HURF believed, and we still
15 believe, that the 5.75 million dollar reduction in the
16 rates to outside customers is reasonable, and it was a
17 reasonable way to address those issues.

18 In this proceeding Austin Energy's rate
19 case has filed a rate package that recognizes that
20 discount almost to the penny. It continues to be a
21 5.75 million dollar rate reduction, and that represents
22 approximately 5.5 percent of the 105 million general
23 fund transfer, although approximately 14 percent of
24 Austin Energy's customers are outside the city of
25 Austin.

1 So again, it's a compromise of our
2 position in the rate case four years ago. We're
3 certainly willing and able to continue to abide by that
4 compromise, and we suggest that that compromise
5 continue to be recognized as it was filed in the Austin
6 Energy rate package.

7 The one thing that I will add is that if
8 Your Honor sees fit to adopt any of the cost of service
9 reductions or other rate deductions that have been
10 proposed by other parties, that this discount be
11 recognized in the final rates that are set, whatever
12 those rates might happen to be. Thank you.

13 MR. HERRERA: Thank you,
14 Mr. Borgelt. Ms. Cooper?

15 MS. COOPER: Yes, Your Honor.

16 MR. HERRERA: Low Income
17 Consumers -- Customers, pardon me.

18 OPENING STATEMENT

19 AUSTIN ENERGY LOW INCOME CUSTOMERS

20 MS. COOPER: Good morning, Your
21 Honor. My name is Lanetta Cooper, and I'm here today
22 on behalf of Austin Energy's Low Income Customers. I
23 want to start off by first thanking the city council
24 and Austin Energy for providing this forum in order for
25 us to address the issues, and the video recording to

1 make it truly accessible to all the public. So we are
2 truly grateful that all will have a chance to
3 participate in one form or another.

4 We will talk about many things in the,
5 in the coming hearing, but there's three primary things
6 that we are concerned about that address low-income
7 folks. The first one is rate design; the second one is
8 pilot programs; and the third is the CAP program.

9 We believe in regards to rate design,
10 the evidence will show that Austin Energy and its
11 arguments on rate design assumes all residential
12 customers use electricity the same way. We differ, and
13 we believe the evidence will show accordingly.

14 Second involving the prepaid project,
15 pilot project which we're most concerned about, but
16 other pilot projects, particularly those that affect
17 the most vulnerable, the low-income folks, we believe
18 that the evidence will show why a stakeholder process
19 is necessary to protect residential consumers,
20 particularly those most vulnerable, and that any pilot
21 program the only way it can be well thought out is to
22 have that stakeholder process, particularly to ensure
23 that low-income folks are not harmed through
24 unintentional utility actions in its pilot program. In
25 other words, if we don't bring the customers in, they

1 may not understand what problems the customers will
2 have, to make a long story short.

3 And then lastly the third one, we
4 believe the evidence will show that the current
5 Customer Assistance Program is a wonderful program and
6 that Austin Energy has done a very good job in
7 responding to some of the enrollment problems and that
8 they are working and continue to work with the
9 community. So to that extent we believe the evidence
10 will show that there's already an ongoing process to
11 resolve some of these problems. Thank you very much.

12 MR. HERRERA: Thank you,
13 Ms. Cooper. Public Citizen/Sierra Club.

14 OPENING STATEMENT

15 PUBLIC CITIZEN/SIERRA CLUB

16 MR. REED: Correct. Thank you.
17 Good morning, Judge. Good morning all. Thank you to
18 Austin Energy and to yourself for all the time and
19 effort.

20 I'm going to talk about the positions
21 that Public Citizen and Sierra Club have taken in this
22 rate case, and they're really designed to help Austin
23 Energy, the utility owned by the people of Austin, to
24 chart a course into the future. So the proposals that
25 we have in this rate case are designed to help Austin

1 Energy move away from our oldest gas and coal plants,
2 reduce emissions, create affordability, spur innovation
3 and new technologies, and reflect the values of our
4 community. We believe our proposals make economic
5 sense, provide price stability, and will protect the
6 health of Austin citizens.

7 They're also designed to implement the
8 wide policy positions taken by Austin Energy's board of
9 directors, the elected city council, which value moving
10 towards a net-zero carbon utility while maintaining
11 affordable bills and keeping a transparent response in
12 a reliable utility.

13 So first, we are going to say in this
14 rate case that in this new ERCOT market in which Austin
15 Energy operates, the cost of our generation units must
16 be based upon the energy they produce for different
17 customer classes and not upon the limited number of
18 hours, be it for, for summer peak hours as some
19 industrial consumers are arguing, or 12 peaks as Austin
20 Energy is arguing. Fairness dictates that a cost
21 allocation method for the -- for our production units
22 be developed which reflects how these generation
23 resources are actually dispatched in our nodal market.
24 We do run our plants, we will argue, to match load as
25 well as a hedge to high market prices.

1 Second, we believe that a residential
2 rate design that spurs innovation and rewards customers
3 who reduce their energy use must continue. We disagree
4 with the proposal by Austin Energy to flatten their
5 five tiers, and we disagree with the proposal to
6 eliminate summer- and winter-based rates in return for
7 a seasonal power supply adjustment.

8 Instead, we should continue to have
9 steeply tiered rates, consider a lower monthly customer
10 charge for apartment dwellers, and extend the five
11 tiers to the out-of-city residential customers. We are
12 not arguing with the discount to out-of-city
13 residential customers; we're arguing with the three
14 tier rates. Any residential rate decrease can be
15 spread evenly among the five rate tier classes while
16 maintaining the incentive to conserve energy.

17 Third, I'll say it here, we support AE's
18 original proposal to charge all customer classes that
19 currently pay the EES a uniform EES tariff, but we do
20 believe it should be extended to high-load primary
21 voltage and transmission customers. This will assure
22 that all customers pay into and benefit from the energy
23 efficiency demand response and solar programs. Austin
24 Energy through their budget process should offer
25 programs that can be accessed by all customer classes,

1 both inside and outside the city, and all classes
2 should pay for these programs.

3 We disagree with the more recent
4 proposal by Austin Energy to make residential customers
5 pay for roughly two-thirds of the EES programs by
6 charging them roughly three times the amount that other
7 customer classes would pay. Austin Energy should
8 return to its original proposal and also extend that
9 proposal to high-load customers.

10 Fourth, we are supportive of Austin
11 Energy to assure that sufficient revenues are recovered
12 and set aside for the decommissioning of our fossil
13 fuel units. We believe city council set a course for
14 retirement of these units in the future, and it makes
15 far more sense to set aside money now rather than put
16 these costs onto future ratepayers.

17 Similarly, we believe and we will argue
18 that city council has set a date for the retirement of
19 the Fayette Power Plant and has also told Austin Energy
20 to create an account to pay off the debt of the Fayette
21 Power Plant when the main part of that debt becomes
22 callable. In October of 2014 city council ordered
23 Austin Energy to begin talking with LCRA and produce a
24 memo discussing a possible course for retirement of
25 Fayette. That memo led directly to the idea of

1 defeasing the debt when the majority of it became
2 callable in November of 2022, an idea that was directly
3 adopted by city council on December 11th of 2014.

4 While we originally relied upon
5 information that some 189 million was still owed on
6 FPP, we know that in the course of this rate hearing
7 that amount is actually lower and our original proposal
8 for 31 million a year is -- will be significantly lower
9 because the amount is lower than we thought.

10 Fifth, we believe that Austin Energy
11 should and must be a leader on new technologies. We
12 believe that Austin Energy has a great solar program
13 that's working well, and part of it is because of the
14 adoption of a Value of Solar for residential
15 ratepayers. As such, there's no reason not to go ahead
16 and extend this Value of Solar for residential to a
17 commercial Value of Solar as well as a community of
18 Value of Solar today.

19 By doing this, Austin Energy will help
20 reduce the need to provide separate incentives for
21 commercial and community solar. Instead, Austin Energy
22 will create a market for the development of distributed
23 solar which will be of benefit to our goals and,
24 frankly, our bottom line.

25 Similarly, we support Austin Energy's

1 proposed storage rider, although we believe a more
2 transparent name and description of the rider are
3 needed. Furthermore, we should and must adopt a rider
4 for residential storage and also develop new tariffs
5 for demand response programs. Austin Energy should and
6 must be a leader on these new resources, and developing
7 tariffs and riders now will help our community develop
8 these dispatchable distributed resources today.

9 Our utility is unique: Publicly owned,
10 transparent, and a leader in Texas on clean energy
11 issues, our rate design should reflect these community
12 values. Making sure our rates and tariffs support
13 energy efficiency, on-site solar demand response and
14 storage, while setting aside decommissioning and debt
15 defeasement funds today for the eventual retirement of
16 our dirtiest fossil fuel plants are essential steps to
17 a future with clean energy accessible by everyone. The
18 long-term benefits far outweigh the monetary costs.
19 These measures will have direct impact on the health of
20 our citizens --

21 THE REPORTER: Could you slow down?
22 Please slow down.

23 MR. REED: Last sentence. These
24 measures will have a direct impact on the health of our
25 citizens and on the survival of our planet. That's it.

1 MR. HERRERA: Thanks, Mr. Reed.

2 Mr. Hughes?

3 OPENING STATEMENT

4 NXP/SAMSUNG

5 MR. HUGHES: I'll be brief, and
6 I'll try to talk slow. Your Honor, I represent NXP and
7 Samsung, two of Austin's largest employers and probably
8 among Austin Energy's largest customers as well.

9 Both NXP and Samsung have an electric
10 affordability goal. Coincidentally, so does the city
11 of Austin. Unfortunately, neither of those goals are
12 currently being met for the city's largest customers.
13 NXP and Samsung currently pay over 20 percent more than
14 they would in the competitive market in ERCOT. To meet
15 our goal, and the city's, we've made a number of
16 recommendations in this case to reduce rates for all
17 customer classes and move those classes closer to the
18 cost of serving them.

19 Those are our goals for equitable
20 treatment for all the customers, and we look forward to
21 the opportunity to present our recommendations on how
22 to achieve these goals for all of Austin Energy's
23 customers. And that's all I've got right now.

24 MR. HERRERA: Thank you,
25 Mr. Hughes. Mr. Coffman?

1 OPENING STATEMENT

2 INDEPENDENT CONSUMER ADVOCATE

3 MR. COFFMAN: Your Honor, I'm John
4 Coffman. I'm here representing the Independent
5 Consumer Advocate, and as you know, we have been tasked
6 with the job of representing the majority of the
7 electric service customers in the residential class,
8 the small business classes, as well as the houses of
9 worship, and after our investigation and performance of
10 our own cost of service study, we have found that
11 further reduction to Austin Energy's base rate revenues
12 should be made. We've made several revenue requirement
13 reduction recommendations.

14 We also have found that residential
15 household customers and small business customers
16 deserve to share in the benefit of this reduction to
17 lower electric rates, and also the rates and discounts
18 that are applying now to the houses of worship should
19 be studied further before being eliminated in order to
20 avoid the unfair and adverse impacts that Mr. Wells
21 described to you earlier.

22 As to the revenue requirement, we have
23 made several recommendations, including a normalization
24 of uncollectible expense to reduce the effect of the
25 billing issues that ballooned the bad debt in the years

1 2013 and 2014. We believe that longer a normalization
2 period will result in 5.85 million dollars of benefit
3 to the revenue requirement. The non-nuclear
4 decommissioning expense we believe is inflated and
5 should be reduced by 48 percent. That provides an
6 additional reduction of 9.89 million dollars.

7 We also believe that the economic
8 development and community program expenditures should
9 be treated as part of the general fund transfer,
10 essentially below the line. These are costs that are
11 not part of electric service cost and should not be
12 part of what ratepayers pay in the general part of the
13 rates.

14 The class cost allocation
15 recommendations, which will come through in our
16 presentation of Mr. Clarence Johnson's testimony, you
17 will see that the best class cost of service method is
18 actually a base, intermediate, peak method, BIP method,
19 which is also recognized in the NARUC manual and we
20 believe is the most appropriate for Austin Energy.

21 Mr. Johnson's replacement cost version
22 makes certain adjustments that include allocating
23 uncollectible expense based on revenues and other
24 important allocation issues involving generation O&M
25 expense, transformer and substation, substation cost,

1 administrative and general salaries and other items.
2 And after these adjustments are appropriately made you
3 will see that the residential class and the small
4 business class are not below cost, but rather, these
5 customers are essentially at cost, and so any rate
6 reduction should be spread to them as well. So if you
7 adopt even some of the revenue requirement adjustments
8 that are being made by intervening parties in this
9 case, the residential and small business class deserve
10 a significant rate reduction.

11 We agree with Austin Energy that the
12 customer charge for the residential class should remain
13 at 10 dollars. This is even higher than our cost study
14 believes is appropriate, based on direct cost
15 allocations. It is also appropriate to and good policy
16 to encourage energy conservation and apply any other
17 cost to the volumetric portion of the rates. This 10
18 dollars is still the highest residential customer
19 charge if you compare it to the other four
20 investor-owned [obscured] bundled electric rates in the
21 state of Texas.

22 So we agree with Austin Energy on that,
23 but we are also wary of their suggestion that perhaps
24 there be gradual adjustments to that going forward. We
25 believe that no adjustments to rates should be made

1 outside of this type of 30 overall all-relevant-factors
2 rate review.

3 So as you know, class cost of service
4 studies are merely a guide to distributing revenue, and
5 Your Honor, we don't recommend that you follow strictly
6 any particular cost study but look at all the cost
7 studies as a guide. Our recommendation for
8 distributing revenues based on our recommendation of a
9 39 million dollar revenue requirement reduction would
10 allow for the primary classes to be reduced from 9 to
11 12 percent reductions but also allow for the
12 residential class to set 5.5 percent reduction in the
13 small secondary class of 4.5 percent reduction.

14 There's enough revenue reduction to go
15 around, and reducing the base revenues collected from
16 the residential class will allow Austin Energy to
17 moderate the middle- and high-tier residential rates
18 without increasing the lowest-use tier rate, which we
19 believe is important.

20 As to the houses of worship, we believe
21 that the current transition situation should be
22 continued. Austin Energy should retain the cap of
23 13.15 cents per kilowatt hour, and it should retain the
24 practice of measuring peak usage only during weekdays.
25 The transition should not end until after the studies

1 that Austin Energy are planning of the S1 rate design
2 and the peak demand and not until the next rate case,
3 and Austin Energy should engage in meaningful outreach
4 to the houses of worship prioritizing those who would
5 experience the largest rate increases absent this
6 transition. And we have some suggestions about how
7 that might occur.

8 The Independent Consumer Advocate makes
9 some other recommendations. As I mentioned earlier, we
10 recommend that these very significant and unprecedented
11 public rate reviews be repeated every two to three
12 years with no piecemeal rate changes occurring in
13 between them. It is better to have a full rate review
14 every two to three years and keep all the components
15 in, in the proper relationship.

16 We have recommendations regarding pilot
17 programs and other -- the upcoming studies. We believe
18 that they should be reviewed by the EUC and the city
19 council and they should contain appropriate performance
20 criteria and evaluation.

21 Specifically with regard to the
22 prepayment pilot program, we agree with the Low Income
23 Consumers that this should be the subject of a
24 collaborative stakeholder group to ensure that the
25 consumer protections that now apply to customers

1 traditionally served also apply to those customers
2 under the prepayment pilot program. Austin Energy
3 should be required to implement a pick-your-own-date
4 billing option and also improve its customer
5 satisfaction generally.

6 In conclusion, I would like to share
7 with you some wisdom that I heard at an 8th grade
8 graduation. The young student that was given the
9 chance to give a speech, she concluded by saying, "With
10 great power comes great responsibility, but it may also
11 come with high electric rates."

12 And I suggest that we here have a
13 responsibility to consider this entire rate review in
14 the context of the affordability crisis here in the
15 city of Austin and to keep the small consumers in mind
16 and to share the benefit of a rate reduction with those
17 small customers. Thank you.

18 MR. HERRERA: Thank you,
19 Mr. Coffman. I believe those are all the parties that
20 had -- that were on my list for opening statements.
21 Any other party that wishes to make an opening
22 statement? Any citizen that wishes to make a protest
23 statement or comments? All right. We'll close that
24 part of the hearing proceeding. Let's take a five,
25 ten-minute break, and then we will start with Austin

1 Energy's direct case.

2 (At 10:29 a.m. the proceedings
3 recessed, continuing at 10:51 a.m.)

4 MR. HERRERA: Mr. Brocato, I
5 believe we're ready for Austin Energy's direct case.

6 MR. BROCATO: Thank you, Your
7 Honor. At this time I'd like to begin by offering
8 Exhibit, Austin Energy Exhibit No. 1 into the record.
9 This is our tariff package. We previously identified
10 the portions of that package that are going to be
11 sponsored by each individual witness. I've got a sheet
12 here that lists those portions. I don't intend to go
13 through it unless you would like for me to, and at this
14 time I would offer Austin Energy Exhibit No. 1.

15 MS. COOPER: Your Honor, at the
16 prehearing conference we've already, I think already
17 addressed the issue, but remember I had an objection as
18 to Mr. Dombroski's testimony? Well, actually, this is
19 rebuttal.

20 MR. BROCATO: Correct.

21 MS. COOPER: I apologize, Your
22 Honor. That'll come later. I apologize.

23 MR. HERRERA: Thank you. AE
24 Exhibit 1, which is Austin Energy's tariff package, is
25 admitted.

1 MR. BROCATO: And I don't know if
2 we ought to leave this here for the witness if he needs
3 it.

4 MR. HERRERA: Did you bring two
5 copies?

6 MR. BROCATO: I've got another copy
7 that I was going to use. So I would ask that we allow
8 him to use this if he needs to during his cross
9 examination and then make it the record copy.

10 MR. HERRERA: That's fine.

11 MR. BROCATO: I can make it --

12 MR. HERRERA: That's fine. I did
13 not bring my copy of that, thinking that we were going
14 to have two copies of that here, but that is fine in
15 the event that I had questions about a particular piece
16 of testimony.

17 MR. BROCATO: Trying to see if we
18 have another copy.

19 MR. HERRERA: Let's go ahead and
20 get started --

21 MR. BROCATO: We may be -- okay.

22 MR. HERRERA: -- the way you
23 suggested, and if it becomes an issue, I'll raise it.

24 MR. BROCATO: Okay. And then --

25 MS. COOPER: Your Honor, we're also

1 not clear about exactly what's being offered. The
2 exhibit list that was passed out to the parties shows
3 the testimony portion, for lack of a better term, as
4 Austin Energy's Exhibit 1, but there's also the working
5 papers and the schedules and some appendix, and I want
6 to know whether that also is being offered.

7 MR. HERRERA: Mr. Brocato, go ahead
8 and describe what it is you're offering.

9 MR. BROCATO: It is, but it does
10 include the appendix, and the rate study documents are
11 behind it. This is the entirety of the January 25th
12 filing or application, and there's been no change to
13 that document since then.

14 MR. COFFMAN: So for clarification,
15 Exhibit 1 includes the documents 1, 2, and 3 on the
16 city clerk's website? Is that --

17 MR. BROCATO: I don't know that
18 definitively. I'd have to see how it was broken apart,
19 but it's the January 25th filing. It's the entirety of
20 the application. I can confirm later if that's 1, 2,
21 and 3, but it should be.

22 MR. HUGHES: We have, we have an
23 extra copy of the rate-filing package if you'd like to
24 use it.

25 MR. HERRERA: That would be great

1 if you --

2 MR. HUGHES: Yeah.

3 MR. HERRERA: -- if you can spare
4 it.

5 MR. HUGHES: Sure. So this is,
6 this is the narrative part [inaudible.] Just ignore
7 our highlights.

8 (Laughter and cross-talk.)

9 MR. BROCATO: I didn't see any
10 notes in the margin.

11 MR. HERRERA: Mr. McCollough?

12 MR. MCCOLLOUGH: Just for
13 clarification, I think I recalled that in their
14 rebuttal case they indicated that they were making some
15 changes to the revenue part of the presentation, and I
16 believe they also said they were going to have some
17 revised schedules, including the cost of service. I
18 have yet to see that. Not that I'm going to object to
19 it since it's a reduction, but I'm wondering when we
20 will see that and specifically for purposes of this
21 exhibit whether when they do make the changes to the
22 rate-filing package and the schedules if they're going
23 to supplement or replace.

24 MR. HERRERA: Mr. Brocato?

25 MR. BROCATO: I believe what

1 Mr. McCollough is referring to are the adjustments that
2 are identified in Mr. Dombroski's rebuttal testimony.
3 Primarily, there was noted an adjustment related to cap
4 revenue and then an additional adjustment that impacted
5 customers that have less than 20 percent load factor.
6 We did not rerun the model to reflect those changes.
7 We detailed what those changes are in our rebuttal
8 testimony. Basically, it increased the rate decrease
9 from about 17 million to 24 and a half million.

10 Our plan was to just wait and, once you
11 made your recommendations, incorporate that and run the
12 numbers again if we're requested to do so but to not do
13 them -- to do that run as part of our rebuttal case,
14 and so we don't intend to, to run those numbers and try
15 them again at this point.

16 MR. MCCOLLOUGH: I thank you for
17 the clarification. I don't really have a problem with
18 that. It's just, you know, as I'm doing my cross we
19 will just all have to keep in mind that some of these
20 things will change when they do file the revised
21 schedules and give them to me. Thank you.

22 MR. HERRERA: Thank you.

23 MR. BROCATO: And in that regard
24 I'm not sure if you're going to want AE to run the
25 numbers at some point or if council will ask them to

1 run the numbers with various scenarios. We expected
2 that we might be asked at some point, and that was
3 another reason why we didn't just go ahead and do it
4 now. We figured we'll have to run them at some point
5 reflecting different adjustments and we'd be doing it
6 at that time.

7 MR. HERRERA: From my perspective I
8 thought that the rerunning of the numbers we'd do it at
9 the time that I issued the report and before we close
10 the hearing we have a discussion on file and we go
11 about doing that so that everyone's okay with the
12 process.

13 MR. BROCATO: Definitely. Yes.
14 We'll have to do that.

15 MR. MCCOLLOUGH: Otherwise, I have
16 no objection to the [inaudible].

17 MR. HERRERA: Mr. Brocato, are you
18 ready?

19 MR. BROCATO: I am, Your Honor. At
20 this time Austin Energy would call Mr. Mark Dombroski
21 to the stand.

22 MR. HERRERA: And you may start,
23 Mr. Brocato, since there is no oath to be taken here.

24 MR. BROCATO: And since we've had
25 his testimony admitted, we would tender the witness for

1 cross-examination.

2 MR. HERRERA: Just to make sure
3 that we cover everyone, ARMA, any questions?
4 Mr. Rourke is still not here, I believe. Mr. Robbins
5 is not here. Greater Austin Chamber of Commerce, any
6 questions? Data Foundry?

7 MR. MCCOLLOUGH: Thank you, Your
8 Honor.

9 PRESENTATION ON BEHALF OF
10 AUSTIN ENERGY

11 CROSS EXAMINATION

12 BY MR. MCCOLLOUGH:

13 Q How are you today, sir?

14 A Doing well. Thank you.

15 Q I'm going to start off, if you don't
16 mind -- by the way, my name is Scott McCollough. I'm
17 representing Data Foundry. I'm going to start off, if
18 you don't mind, sir, with some revenue distribution
19 rate design questions. If some of my questions seem to
20 be something you believe are more appropriately
21 answered by subsequent AE direct witness, please just
22 let me know and I'll try to accommodate that. All
23 right?

24 A I will.

25 Q You're the revenue distribution rate design

1 guy, aren't you?

2 A It is part of the responsibility of finance.
3 Yes.

4 Q Okay. And you were the ones who, you were
5 the one who is sponsoring some of the schedules that
6 implement AE's revenue distribution and rate design
7 proposals, right?

8 A That is correct.

9 Q You also do cost of service, but thankfully,
10 you and I don't get to visit about that today. I'm
11 gonna, I'm gonna leave that low-hanging fruit for
12 others.

13 A Okay.

14 Q All right. Would you agree with me that the
15 revenue distribution process is concerned with the
16 interclass revenues, how you split the revenue
17 requirement as determined into each of the various
18 classes? That's what revenue distribution is, right?

19 A That's correct.

20 Q And then when you get to rate design you are
21 designing rates that hopefully will recover the
22 revenues that were assigned to a particular class from
23 the ratepayers in that class?

24 A That's correct.

25 Q Okay. So when we talk about revenue

1 distribution we're, we're cutting the pie, so to speak,
2 correct?

3 A Exactly.

4 Q All right. And then rate design is all the
5 little pieces in each slice of the pie.

6 A That's correct.

7 Q Okay. Now, would you agree with me that one
8 of the goals of the revenue distribution process is to
9 try, insofar as is possible given other constraints
10 I'll probably have to visit with Mr. Dreyfus about, to
11 get each class more or less so that the revenues equal
12 the cost of service for that class?

13 A Correct. That is one of the goals.

14 Q Let's drill down just a little bit here, and
15 I'm going to talk in general about fixed and energy
16 costs, and then I want to visit with you a little bit
17 about primary service too, and then we're going to go
18 back to some other general revenue requirement things
19 as they impact what you're -- okay?

20 A Yes.

21 Q Okay. On rate-filing package part 6.2, Bate
22 134 to 135 -- and I think I may have that in something
23 that has been premarked as Exhibit 4, but if you want
24 to use your own version, that's certainly fine with me.

25 General statement, basically Austin

1 **Energy wants to try to reduce the extent to which it**
2 **recovers fixed costs through energy charges. Do you**
3 **recall that?**

4 A Yes.

5 Q Okay. And while you say you don't get there
6 all the way this time around, it is a goal that the
7 utility has, it wants to design rates within the
8 classes so that the revenues from those classes and the
9 discrete rate items recover their cost. So variable
10 rate recovers variable cost and the fixed rates recover
11 the fixed costs, right?

12 A That's correct.

13 Q Okay. So would you agree with me in general
14 that the Primary Service 2 class largely already
15 accomplishes that goal?

16 A I don't believe that those rates have a
17 hundred percent of the variable costs through the
18 variable revenue at a hundred percent of the fixed
19 cost, in the fixed cost.

20 Q Well, among your cost of service there are no
21 variable costs, are there?

22 A In the total bill I would say yes.

23 Q Right. But now we're talking about base
24 rates.

25 A Base rates.

1 Q Once you -- under your cost of service study
2 and indeed in your schedule for, let's see, for work
3 paper H5-5 -- isn't that yours?

4 A Say the page again?

5 Q Work paper H5-5.

6 A 5 dash --

7 Q Okay. Here let me just go ahead and give you
8 this. And by the way, I misspoke. It's 5-6.

9 MR. MCCOLLOUGH: Your Honor, this
10 has already been handed to you premarked as Data
11 Foundry Demonstrative Exhibit No. 5.

12 MR. HERRERA: Number 5,
13 Mr. McCollough?

14 MR. MCCOLLOUGH: Yes, sir.

15 Q (By Mr. McCollough) Are you with me, sir?

16 A Yes, I am.

17 Q All right. Now, would you agree with me that
18 that exhibit -- and again, this is just a copy of the
19 rate-filing package. That exhibit, that work paper on
20 lines 64 through 100 show that y'all are proposing to
21 have energy charges, but in column H on those lines it
22 shows a zero cost of service.

23 A That's what the schedule shows. Correct.

24 Q All right. So you have energy charges here
25 that are entirely designed to recover something other

1 **than energy, right?**

2 A They're designed to recover those fixed costs
3 in our cost of service.

4 Q Okay. And for this class if you add inside
5 and outside-city charges, that's some almost
6 3.2 million dollars in energy-related charges that are
7 entirely over cost as shown there on column H. You
8 have the inside city and outside-city amounts in
9 columns K and N respectively. If you add up the amount
10 in line 100 -- I'm sorry, column L and the amount in
11 line 100, column O, that's about, what, 3.2 million
12 dollars, right?

13 A I agree with your math. Correct.

14 Q All right. So we've got 3.2 million dollars
15 in energy charges that are 100 percent over-recovering
16 the energy costs that were calculated for that class,
17 right?

18 A I don't think I agree with your
19 characterization of --

20 Q Okay.

21 A -- over-recovery.

22 Q Well, you got 3.2 million dollars in
23 something, in a rate element that has zero calculated
24 costs, right?

25 A According to the schedule, that's correct.

1 Q Okay. Now, this same schedule also shows on
2 demand charges, line 60 -- you see line 60, columns L
3 and O? Do you see those?

4 A Yes, I do.

5 Q If you add those up, that's about 11.4
6 million dollars, isn't it?

7 A Approximately correct. Yes.

8 Q Okay. And you show a demand cost of
9 11.2 million dollars.

10 A That's correct.

11 Q So the demand for costs charges for the P2
12 class are also over cost?

13 A That's correct.

14 Q And since it -- the demand charges are over
15 cost, there are no fixed costs in the demand element to
16 recover through energy charges, right?

17 A That is correct.

18 Q Thank you. Let's slightly change subjects,
19 and I need to give -- let's see here. Turn to demand
20 rate-filing package, and it would be Bate page 168,
21 page 6-37, and if you have a difficulty, I have a copy
22 of it if you need it.

23 MR. MCCOLLOUGH: And Your Honor,
24 for your reference that is Data Foundry Demonstrative
25 Exhibit 4, page 7 of 10.

1 MR. HERRERA: Thank you.

2 Q (By Mr. McCollough) So Figure 6.25, do you
3 see that, sir?

4 A Yes.

5 Q Okay. And you are there discussing AE's
6 proposed change to regulatory charges and, focusing on
7 the Primary Service 2 class, tell me, the existing rate
8 is \$3.16 -- is 69 cents and you want to raise that to
9 \$3.16, correct?

10 A That's correct.

11 Q Would you agree with me that's about a 358
12 percent increase?

13 A Approximately, yes.

14 Q For that element? Now, I'm going to move
15 over to what I think in all fairness is a revenue
16 requirements question, and the reason I'm going to ask
17 you some of these questions is because the numbers that
18 I wish to use show up in your cost allocation study.

19 A Okay.

20 Q But if you would prefer that I address any of
21 these following questions to Mr. Dreyfus or perhaps
22 Ms. Ball, just tell me and I will do that. All right?

23 A I will. Thank you.

24 Q We're probably going to do this a lot better
25 if I go ahead and give you this document. It is

1 premarked Data Foundry Demonstrative Exhibit 1, and it
2 is some material in the main rate-filing package; in
3 other words, not the schedules.

4 A Okay.

5 Q And I'm probably going to give you some of
6 your schedules in a minute, but let's just stick with
7 that right now.

8 If you take a look at page 24 of that
9 exhibit, for your reference purposes it's Figure 5.8,
10 Bate page 115. You can tell me when you're with me.

11 A I'm at Figure 5.8.

12 Q There's a 341,575,538 figure there. Do you
13 see that?

14 A Yes.

15 Q Now, I want to try to follow that number
16 through for a minute if we can. Let's get Exhibit 2
17 now. Did I already give you what I had marked as
18 Exhibit 2? No, I didn't. There, I'm sorry.

19 Now, for the record, Exhibit 2 is a copy
20 of Schedule G-8 from the rate-filing package, and I
21 believe you're responsible for this, aren't you?

22 A Correct.

23 Q Now, what I'm going to try to do is, I'm
24 going to try to work with this 341 million dollar
25 figure that's in Figure 5.8 and see how it is treated

1 ultimately in Schedule G-8. Okay?

2 A Yes.

3 Q All right. Take a look at G-8 that's on page
4 1, line 19 of Exhibit 2 there. Do you see that number
5 308,047,663?

6 A Yes.

7 Q Okay. Would you agree with me that the
8 difference between the 341 million in Figure 5.8 on
9 Bate 115 and that 308 million on Schedule G-8, line 19
10 is 33 -- 33,527,875 that's assigned to community
11 benefit on line 13 of G-8?

12 A Yes. I agree.

13 Q So if you add the 33 million and the 308
14 million, you'd find the 341 million that's in Figure
15 5.8?

16 A That's correct.

17 Q All right. Then what you do is you take that
18 308 million dollars, and your cost allocation study
19 assigns it to the various classes using the production
20 allocator that AE has advanced in this case, right?

21 A Correct.

22 Q And we're talking about fixed or demand cost,
23 right?

24 A That's correct.

25 Q And you can see how that works there on

1 Schedule G-8 as the 308 million goes all the way across
2 to the various classes of service, right?

3 A That's correct.

4 Q Okay. One of the things was -- and I'll be
5 real honest with you. One of the things that was
6 confusing to me when I was trying to understand your
7 presentation was that it initially looked like Austin
8 Energy was, in fact, trying to recover many of its
9 production costs through base rates when, in fact, many
10 of them ended up being backed out and sent over to the
11 PSA. And now I'm talking about energy. Okay?

12 A Yes.

13 Q All right. We know that the demand cost, the
14 341 turns into the 308, and Austin Energy's proposing
15 to recover that in base rates from ratepayers through
16 demand charges, right?

17 A That's correct.

18 Q Okay. Now, y'all did different for energy,
19 didn't you?

20 A Yes.

21 Q Okay. Figure 5.8 in the rate-filing
22 package -- by the way, that's page 24 of Exhibit 1 if
23 you need to see it -- shows \$442,455,280. Do you see
24 that?

25 A Yes.

1 Q Okay. Now, that also in your Schedule G-8 is
2 distributed across the various classes, isn't it? You
3 assign that to retail classes.

4 A That's correct.

5 Q But then ultimately, y'all end up backing
6 that out, don't you, for revenue requirements purposes?

7 A In calculation of the base rates, correct.

8 Q Okay. So the energy portion that you
9 calculate, or at least a good part of it, doesn't stay
10 in base rates. It's sent over to the PSA.

11 A That's correct.

12 Q Okay. And specifically, 411.6 million
13 dollars out of the 442.5 goes to the PSA, right?

14 A That's correct.

15 Q Now, 6.8 million goes to the regulatory
16 charge?

17 A That's correct.

18 Q And 22.7 goes to Green Choice?

19 A That's correct.

20 Q All right. Let me ask you about this Green
21 Choice. Is this 22 million a cost, or is it just how
22 you decided to treat actual revenue?

23 A It's a revenue.

24 Q It's a revenue item, not a cost?

25 A Yes.

1 Q Okay. So we end up ultimately with regard to
2 energy costs that y'all calculated only 1.2 million
3 dollars stays in base rates, right?

4 A That's correct.

5 Q Okay. And that is associated with the
6 street-lighting issue. Take a look at lines 55 and 56,
7 columns A and L there on Exhibit 2, page 1.

8 A Yes. I see the 1.2 million. However, I have
9 to determine what that applies to.

10 Q Okay. Well, if you look over, I think, in
11 column L on lines 55 and 56 --

12 A That's right.

13 Q -- you'll see that 1.2 million under street
14 lighting? Sorry the print's so small. That's not my
15 fault.

16 MS. COOPER: That's true.

17 THE WITNESS: I agree that that is
18 associated with street area lighting.

19 Q (By Mr. McCollough) Okay. Thank you. So
20 would it be fair to say, then, that AE's position is
21 that there are no variable or energy production related
22 costs in base rates under your proposal other than this
23 1.2 million dollars?

24 A To define the word "variable" that it changes
25 with the amount of production, I would generally agree

1 with your statement.

2 Q Okay. And quite frankly, I want to save the
3 fight over marginal and long-run and short-run costs
4 for rebuttal.

5 A Yes.

6 Q Okay. But if I understand what AE's position
7 is here, the way it calculated your costs and presented
8 them in your rate-filing package, Austin Energy's
9 position is that all of the production energy costs
10 other than this 1.2 million for street lighting went
11 over to the PSA, right?

12 A That's correct.

13 Q All right. Now, that 411 million dollars
14 that we figured out here a minute ago in energy cost
15 that you sent to PSA, those are exclusively fuel costs,
16 aren't they?

17 A There are a number of cost items associated
18 with that. Includes the fuel, includes transportation
19 to get the fuel to the plants.

20 Q As a general proposition, however,
21 y'all identified what you called recoverable fuel
22 costs.

23 A That's correct.

24 Q And it may be some things more than just
25 fuel, but you characterize these as recoverable fuel

1 costs, right?

2 A I agree with you.

3 Q And the amount of recoverable fuel costs that
4 you calculated are the 411 million dollars, right?

5 A That's correct.

6 Q Okay. And that shows up, by the way, on
7 Exhibit 2 I believe I gave you, page 2, which is
8 Schedule G-7, lines 11, 16, and 18.

9 A That's correct.

10 Q All right. Now I want you to go back to the
11 main rate-filing package, Bate 103, and so on page 30
12 of Exhibit 1. And again, this is just a copy of
13 y'all's rate-filing. You with me?

14 A I'm on page 30, yes.

15 Q Yeah. It's 30 of my exhibit. Okay. This
16 figure here, 4.7, asserts that AE has \$612,427,438 in
17 test-year production O&M, right?

18 A That's correct.

19 Q Okay. Now, we just talked about the 411
20 million that you calculate as recoverable fuel cost.
21 Am I correct that the 411 million is part of the 612
22 million?

23 A Yes.

24 Q All right. And so after you take the 612
25 million and reduce it by 411 million -- let's just say

1 we do that, subtract the 411 from the 612 -- we end up
2 with some 200 million dollars, and specifically
3 \$200,778,242. Would it be fair to characterize that
4 200 million dollars as non-fuel production O&M?

5 A We have to get specific numbers to agree with
6 you.

7 Q We picked out the 612 million that's shown in
8 Figure 4.7.

9 A Yes.

10 Q And that's production O&M.

11 A That's correct.

12 Q You agreed with me that 411,649,196 of that
13 is what y'all call recoverable fuel cost.

14 A That's correct.

15 Q Okay. So would it be fair to say, then, that
16 the remainder of that 612 could be called non-fuel
17 production O&M? We've got production O&M, we pulled
18 out the fuel, the remainder is non-fuel, right?

19 A I believe I can agree with your premise on
20 this.

21 Q Okay. If you have a better word, we can use
22 it. Now, the debate that I told you we were going to
23 defer for rebuttal with regard to variable cost and
24 either short run or long run --

25 A Um-hm.

1 Q -- that's what it pertains to, isn't it?

2 It's what portion of the 200,778,242 is short run?

3 Mostly the fuel, right, the 411? And the remainder is
4 either fixed or long-run variable, right?

5 A I think I would defer to Dr. Dreyfus on that.

6 Q Very well. Fair enough. Let me make a note,
7 and you just dropped six questions.

8 There is a dispute here in this case,
9 and we're the ones who raised it, Data Foundry, about
10 the benefits that retail ratepayers accrue from AE
11 having its own generation. Is that something I can
12 take it up with you, or do you want me to chew on
13 Ms. Ball and Dr. Dreyfus about that?

14 A I believe that general argument is covered by
15 Dr. Dreyfus.

16 Q All right. You just dropped a bunch more
17 questions. You just deferred on the remainder of them.

18 MR. MCCOLLOUGH: So I pass this
19 witness, Your Honor.

20 MR. HERRERA: Thank you,
21 Mr. McCollough.

22 MR. MCCOLLOUGH: And by the way,
23 those exhibits that I used were all for demonstrative
24 purposes. I don't feel the need to offer them at this
25 time. I may circle back around with that when we get

1 done with Mr. Dreyfus, but they are purely for
2 demonstrative.

3 MR. BROCATO: I would simply note
4 that the highlighting was done by Mr. McCollough and
5 not in the original.

6 MR. MCCOLLOUGH: Absolutely. I
7 added the colors.

8 MR. HERRERA: Bethany United, any
9 questions?

10 MR. WELLS: No.

11 MR. HERRERA: HURF?

12 MR. BORGELT: Your Honor, to save
13 time I do not have any questions for the Austin Energy
14 witnesses.

15 MR. HERRERA: For any of them?

16 MR. BORGELT: For any of them.

17 MR. HERRERA: Thank you. Low
18 Income Customers?

19 MS. COOPER: Yes, Your Honor. I
20 don't have somebody to help me pass out the exhibits,
21 so I'm going to take this stack and put them over here
22 on the table. I'm not asking somebody to help me, I'm
23 just stating the facts.

24 MR. MCCOLLOUGH: I'll help you out.

25 MS. COOPER: Thanks.

1 CROSS EXAMINATION

2 BY MS. COOPER:

3 Q Good morning, Mr. Dombroski.

4 A Good morning.

5 Q I have --

6 MS. COOPER: May I approach the
7 witness, Your Honor?

8 MR. HERRERA: Yes.

9 MS. COOPER: Thank you.

10 MR. BROCATO: If you can hold on.

11 MR. MCCOLLOUGH: I'm sorry.

12 MR. BROCATO: No, no. It's okay.

13 MR. MCCOLLOUGH: (Inaudible.)

14 Q (By Ms. Cooper) And if you would look what's
15 been placed before you and has been marked for
16 identification as AILEC Exhibit No. 15, you would
17 agree that it is a request for information response
18 that -- from you all that you sponsored a series of
19 RFIs, and they relate to the Fayette Power Plant; is
20 that correct?

21 A That's correct.

22 Q And basically, what these RFIs show is that
23 Austin Energy doesn't really know the financial ability
24 of LCRA to pay off their debt in relation to their half
25 interest in the two units at Fayette Power Plant; is

1 **that correct?**

2 A That's correct. I cannot testify to LCRA's
3 position.

4 MR. HERRERA: Ms. Cooper, which
5 exhibit are you looking at, I'm sorry?

6 MS. COOPER: Exhibit 15. It should
7 be the one at the very first.

8 Q **(By Ms. Cooper) And then if we look at**
9 **Exhibit 16, you would agree that this is a series of**
10 **Austin Energy responses dealing with the non-nuclear**
11 **decommissioning costs; is that correct?**

12 A That's correct.

13 Q All right. And if you could turn -- let's
14 back up.

15 You would agree that Austin Energy is
16 asking to increase their operation and maintenance
17 expenses by about 19.4 million dollars annually to fund
18 the non-nuclear decommissioning reserve; is that
19 correct?

20 A That's correct.

21 Q All right. And you would agree that the
22 non-nuclear decommissioning reserve is supposedly
23 funding to pay to put a piece of property back to
24 original as much as possible dealing with the power
25 plants when you retire a power plant?

1 A It's to decommission the plant.

2 Q Decommissioning. And the study included
3 three power plants: That's Decker, Fayette Power
4 Plant, and Sand Hill; is that correct?

5 A That's correct.

6 Q Now, it's come to our knowledge that
7 the -- you had assumed one retirement date for Decker
8 but now there's a different retirement date; is that
9 correct?

10 A Questions specific to the decommissioning
11 study --

12 Q I'm sorry. I missed that.

13 A Questions regarding the decommissioning study
14 used in our rate review can best be answered by the
15 other witness, Mr. Mancinelli at NewGen.

16 Q Right. But I'm asking you, Mr. Dombroski, as
17 current manager, it's been reported in the papers that
18 the Decker Power Plant retirement has now been delayed.
19 Is that a true statement that was reported in the
20 press?

21 A We had a intended or a planned retirement
22 date for Decker in our last resource plan that informed
23 the rate review. At this time we have deferred the
24 commercially available operating date of a new gas
25 plant, and those do work in tandem, but we don't yet

1 have the specific decommissioning date for Decker or
2 for the new gas plant.

3 Q It's clearly not going to be the time that
4 was -- that you currently have?

5 A That's correct.

6 Q All right. It's going to be later. I guess
7 I should be more precise.

8 A At some later date. Yes.

9 Q Okay. I apologize. All right. And if you
10 could turn to page 4 of what's been marked for
11 identification as AELIC Exhibit 16, you would agree
12 that placing the non-nuclear decommissioning amount of
13 19.2 million dollars as an O&M isn't the end to the
14 cost related to that decommissioning reserve; isn't
15 that true?

16 A That is the annual amount for all three
17 plants, and so we will collect that until we've
18 accumulated enough based upon the decommissioning
19 study.

20 Q All right. Well, what I'm talking about is
21 that, yes, we know O&M is going up 19.4, but because
22 you've placed the 19.4 in the O&M are there other costs
23 that are also increased? Such as your working capital
24 reserve, such as your contingency reserve, such as your
25 emergency reserve that's reflected on page 4 of AELIC

1 **Exhibit 16.**

2 A That's correct.

3 Q Now, when you look at Exhibit -- I mean page
4 **4 of Exhibit 16 --**

5 MR. BROCATO: Your Honor, if I may,
6 Ms. Cooper's Exhibit 16 appears to be a number of RFI
7 responses that were sponsored by Mr. Dombroski, but I'm
8 not sure what page 4 is, and I don't think the witness
9 has identified it either. So I advise --

10 MS. COOPER: All right.

11 MR. BROCATO: -- that we get some
12 clarity as to what this document is before Ms. Cooper
13 asks questions about it.

14 MS. COOPER: I hope that's not my
15 time, Your Honor, but I'll clear it up.

16 Q **(By Ms. Cooper) You would agree that page 4**
17 **is a list and it's entitled "Reserves Related to**
18 **Non-nuclear Decommissions Reserves"; is that correct?**

19 A It's handwritten. Yes.

20 Q Yes. And you would agree that we just
21 earlier talked about the three reserves that are
22 identified on page 4 are the reserve costs that are
23 impacted by including the non-nuclear reserve as an O&M
24 expense; isn't that correct?

25 A You have listed working capital, contingency

1 reserve, and emergency reserve, and those are three
2 existing reserves that we have that are based upon the
3 number of O&M costs.

4 Q All right. And then underneath the working
5 capital we see the words "45 days of non-fuel O&M."
6 You would agree that that is the amount of time that's
7 included to find out how much working capital reserve
8 you need; is that correct?

9 A I would have to go back into the rate-filing
10 package and look.

11 Q Well, let's --

12 A Can you refer me --

13 Q -- do that.

14 A -- to a specific page?

15 Q Yes. Let's do that. Let's go to your
16 discussion of reserves, which is 4, and let's look at
17 starting at the bottom of -- well, it's Bates-stamped
18 95, but it's 4-66 where it says "Existing Reserve
19 Policies." And -- all right. And if you look under
20 the 14.4.1, the first bullet it says "Working Capital."

21 A That's correct.

22 Q And it says "45 days of non-power supply
23 operating requirements"; isn't that correct?

24 A That's what it says. Correct.

25 Q And isn't the non-nuclear decommissioning

1 reserve considered a non-power supply O&M expense?

2 A Yes.

3 Q All right. So working capital -- to get the
4 ratio to multiply to the O&M to come up with the
5 working capital reserve you take the 45 as numerator
6 and the 365 days as a denominator; is that correct?

7 A That's correct.

8 Q And it creates a ratio, and you multiply it
9 by the non-fuel O&M to get the working capital, right?

10 A Generally, yes.

11 Q Yes. So to identify the cost consequences
12 for the non-nuclear decommissioning reserve, you would
13 take that ratio and multiply it by the 19.4; is that
14 correct?

15 A For all three plants, that's correct.

16 Q All right. And if you look at the
17 contingency, we would make the same kind of
18 calculation, but instead of the 60 days -- I mean
19 instead of the 45 days, excuse me, you would use the 60
20 days as the numerator; is that correct?

21 A That's correct.

22 Q And then also with the emergency reserve,
23 once again instead of the 45 days you would use the 60
24 days as the numerator, 365 to the denominator, take
25 that ratio and multiply it by 19.4; is that correct?

1 A Yes. That's correct.

2 Q And that would create the reserve cost
3 related to the non-nuclear decommissioning reserve; is
4 that correct?

5 A Yes.

6 Q All right. Thank you so much.

7 MS. COOPER: Your Honor, people
8 gave me stuff while I was thinking -- sorry about that.

9 Q (By Ms. Cooper) Now, if you could turn to
10 what's been identified as AELIC Exhibit 17 which has
11 been marked for identification, you would agree that
12 it's a series of RFI responses that Austin Energy
13 provided in this rate proceeding in which you're the
14 sponsoring witness related to bad debt; is that
15 correct?

16 A That's correct.

17 Q All right. And just for the record, when
18 Austin Energy refers to uncollectible expense, another
19 way of saying it is bad debt?

20 A That is the customer bad debt. Yes.

21 Q Yes. Thank you. And if we could turn to
22 what's been marked for identification as AELIC Exhibit
23 No. 18, and you would agree, sir, that once again this
24 is an Austin Energy response to some discovery request
25 that I believe you were the sponsoring witness on. It

1 **doesn't have anything identified here.**

2 A I can't confirm that.

3 Q **All right.**

4 MR. HERRERA: Mr. Dombroski, when
5 you say --

6 THE WITNESS: Yes.

7 MR. HERRERA: -- you can't confirm
8 that, you mean you can't confirm whether you were the
9 sponsoring witness for this document?

10 THE WITNESS: That's correct, Your
11 Honor. I sponsored several hundred RFIs, and this does
12 not have my name on the attached document. It could
13 very well possibly. I just don't have the original one
14 in front of me.

15 Q **(By Ms. Cooper) Okay. Well, we could**
16 **revisit that one.**

17 If you could turn to what's been marked
18 for identification as AELIC Exhibit No. 19, and you
19 would agree, sir, that AELIC Exhibit No. 19 contains
20 Austin Energy responses provided to discovery in this,
21 in this rate case in which you were identified as the
22 sponsoring party; is that correct?

23 A That's correct.

24 Q **All right. And you would also agree that**
25 **these RFIs relate to the under-recovery of the**

1 regulatory charge that was addressed in fiscal year
2 2016 budget; is that correct?

3 A Yes.

4 Q All right. And you would agree that the
5 under-recovery means that Austin Energy raised the rate
6 to pay for the under-recovery as part of the regulatory
7 rate in fiscal year 2016?

8 A Correct. The prior two years the regulatory
9 charge was not high enough to adequately cover the
10 expense that the utility incurred. So in '16 when we
11 lowered the PSA we were able to increase the regulatory
12 charge in order to bring the cash in to pay for those
13 expenses.

14 Q All right. And it's not that Austin Energy
15 hadn't paid those expenses, but they used working
16 capital to pay for those expenses that were
17 under-recovered with the rate; is that correct?

18 A That's correct.

19 Q So at the end of fiscal year 2016 Austin
20 Energy will be repaying themselves back the 29 million
21 dollars; is that correct?

22 A That is -- the intent is to have a zero net
23 at the end of the year.

24 Q In other words, Austin Energy will have 19.4
25 million dollars to return to the working -- I mean,

1 sorry, not the 19.4 -- the 29 million dollars to return
2 to working capital. That's the goal of the
3 under-recovery component of the regulatory charge
4 increase?

5 A That's correct.

6 Q All right. I'd like to turn your attention
7 to AELIC Exhibit No. 20 that's been marked for
8 identification. You would agree that these are Austin
9 Energy responses to discovery in this rate case in
10 which you are the sponsoring party?

11 A Yes. I agree to that.

12 Q All right. Thank you. And you would agree
13 that they deal with an issue that was raised by
14 Mr. Robbins concerning the Austin Energy receipt of
15 proceeds from a sale of land connected to their -- your
16 former control center; is that correct?

17 A Yes.

18 Q And the money was, like, 14.5 million dollars
19 in which Austin Energy received it about November of
20 2015; is that correct?

21 A That's correct. That would be fiscal year
22 2016.

23 MS. COOPER: Your Honor, at this
24 time AELIC would move for -- proffer into evidence
25 what's been marked for identification 15 through 20

1 with the exception of 18 and with, as noted by
2 Mr. Brocato, AELIC Exhibit 16, page 4 is for
3 demonstrative purposes and not for the truth of the
4 matter.

5 MR. HERRERA: Ms. Cooper, you're
6 offering 16, 17 --

7 MS. COOPER: 15. 15 --

8 MR. HERRERA: 15?

9 MS. COOPER: Yes, Your Honor. 16,
10 whereas page 4 of 66 is for demonstrative purposes; 17,
11 19, and 20.

12 MR. HERRERA: Any objections?

13 MR. BROCATO: It's a little bit
14 unusual to have her own cover sheet and it's a little
15 bit unusual to have multiple RFIs in one exhibit, but
16 I'm not going to object to that. But I am -- can I ask
17 that we be given the opportunity to check and see if
18 there were any supplemental responses to any of these
19 questions and, if there are, that we be able to include
20 those as a form of optional completeness?

21 Moreover, I see at least one response
22 that refers to an attach -- attachments. The ones that
23 she just offered on Exhibit 20, Paul Robbins 1-2.4,
24 references four attachments that have not been
25 included, and again, I would just ask that we be given

1 the opportunity to complete those responses if it's
2 appropriate.

3 And then just to confirm, you did not
4 offer 18; is that right?

5 MS. COOPER: That's correct.

6 MR. BROCATO: Okay. Subject to the
7 comments I just made, we have no objection to her
8 offer.

9 MR. HERRERA: Those are --

10 MS. COOPER: I'm sorry, Your Honor.
11 Clarification: Is Mr. Brocato making his offer under
12 Rules 106 and 107 of the Texas Rules of Evidence in
13 terms of optional completeness? Is that it?

14 MR. BROCATO: That is the rule that
15 I'm, that I'm referring to. Whether that applies
16 directly to this proceeding or not it's unclear, but
17 regardless, I think in fairness even if it doesn't
18 directly apply, we ought to be given that opportunity.
19 That's the very notion behind the rule as I understand
20 it.

21 MR. HERRERA: Those exhibits are
22 admitted.

23 MS. COOPER: Thank you, Your Honor.

24 Q (By Ms. Cooper) Now, at page 6.6 of your
25 testimony, whatever it's called, you see Section

1 6 -- are you there? I'm sorry. I didn't mean to hurry
2 you. I apologize.

3 A 6.6 of our report?

4 Q Yes.

5 A Yes.

6 Q Thank you. And 6.5.1 you talk about factors
7 impacting the residential class's deviation from cost
8 of service; is that correct?

9 A That's correct.

10 Q And correct me if I misquote your first
11 sentence, "One of the reasons that the residential
12 class remains under-recovered is that the class load
13 characteristics have changed since the 2012 general
14 rate review"; is that correct?

15 A That's correct.

16 Q You still believe that statement?

17 A Yes.

18 Q All right. And this load charac -- load
19 characteristic sets a usage characteristic of the
20 class, would that be another way of saying load
21 characteristic?

22 A Yes.

23 Q All right. So we've -- but the costs that
24 we're talking about here are fixed costs, right?

25 A A large portion of the costs are fixed. Yes.

1 Q All right. So the fixed cost, the change
2 between customer classes can change because of usage;
3 is that correct?

4 A Can you restate the question again?

5 Q Well, let me withdraw that one and rephrase.

6 You would agree that the changes to
7 usage affect the costs that are assigned to the various
8 customer classes; is that correct?

9 A That's correct.

10 Q So in the last rate case residential
11 customers' usage, they got less of this fixed cost; is
12 that correct? As a percentage.

13 A I believe that is correct.

14 Q All right.

15 MS. COOPER: Your Honor, I have no
16 more questions. Thank you very much. Thank you,
17 Mr. Dombroski.

18 MR. HERRERA: Public Citizens?

19 MS. BIRCH: Your Honor, we believe
20 that all of our questions are directed to
21 Mr. Dombroski's rebuttal testimony, and we would
22 reserve the right to ask when he's offered on rebuttal.

23 MR. HERRERA: You don't have any
24 questions for Mr. Dombroski's direct, is that what
25 you're telling me?

1 MS. BIRCH: Correct.

2 MR. HERRERA: Okay. NXP/Samsung?

3 MR. HUGHES: Thank you, Your Honor.

4 CROSS EXAMINATION

5 BY MR. HUGHES:

6 Q I'm going to be handing you some exhibits, or
7 Ms. Faconti will be handing you some exhibits,
8 throughout this questioning. Exhibits, we start with
9 Exhibit No. 5. 1, 2, 3, and 4 will be our -- the
10 testimony for NXP/Samsung that'll be part of
11 our -- we'll present when we're up.

12 So the first one is Exhibit 5, and it
13 goes -- it is part of the rate-filing package, Bates
14 number 487. If you could look at the second paragraph
15 from the first sentence, do you see it?

16 A Yes. It's highlighted in yellow.

17 Q Okay. Does this refer to collecting the
18 decommissioning costs over the life of the asset?

19 A May I read the paragraph first?

20 Q Sure.

21 A Ready. Can you repeat your question again
22 then?

23 Q Does this refer to the collecting the
24 decommissioning costs over the life of an asset?

25 A Yes. I believe that's what it's referring

1 to.

2 Q Okay. Has AE done this for non-nuclear
3 generation assets?

4 A I've only been with Austin Energy since
5 October 2014. I can't testify to previous plants.

6 Q Okay. Well, with regards to the
7 decommissioning costs for facilities that are proposed
8 to be decommissioned in this rate-filing package, for
9 instance, Decker, have they been collected over the
10 life of those plants?

11 A No.

12 Q Okay. I'm now going to hand you
13 Exhibit -- Ms. Faconti is going to hand you Exhibit 6,
14 and this is -- if you will turn to the recommendations
15 beginning on Bates page 488 of the rate-filing package,
16 which is Exhibit 6, and under the recommendations
17 towards the end of page 488 could you please point out
18 where in those recommendations they speak to treating
19 the decommissioning costs as an expense?

20 A I don't see a specific reference to expense,
21 but this is a report prepared by NewGen Strategies.
22 Perhaps the witness Mr. Joe Mancinelli could best --

23 Q The problem --

24 A -- answer your question.

25 Q The problem, the problem that is, though,

1 **Mr. Mancinelli is a rebuttal witness and this is part**
2 **of the rate-filing package, which is direct testimony.**
3 **So --**

4 A Okay.

5 Q -- that's why I'm, that's why I'm asking you.

6 A Okay.

7 Q Okay.

8 A I don't see a specific reference to an
9 expense --

10 Q Okay.

11 A -- in this paragraph.

12 Q Okay. In your rate-filing package Austin
13 Energy has asked for 14 million dollars in
14 decommissioning for Decker in fiscal year 2017. Will
15 AE spend 14 million dollars decommissioning Decker in
16 fiscal year 2016?

17 A We'll be spending cash?

18 Q (Nods head.)

19 A No, we won't.

20 Q Do you have -- do you know how long Decker
21 units 1 and 2 have been in service?

22 A I don't recall specifically.

23 Q Would you trust me that it's -- unit 1 was
24 commissioned in 1979 and unit 2 in 1980?

25 A That's sounds approximately correct.

1 Q Okay. So is it your theory or Austin
2 Energy's theory that you should only collect
3 decommissioning expenses from ratepayers as O&M, as
4 operating and maintenance, during the last years of its
5 useful life, not the service life of the units?

6 A In general you should collect the
7 decommissioning cost over the life of the plant
8 associated with the production. Our financial policy
9 states that at a minimum of four years prior to
10 decommissioning we should start collecting
11 decommissioning cost.

12 Q Okay. So doing it during -- doing it as part
13 of O&M in the later part of the, the later useful life
14 of the plants, that wouldn't really line up or that
15 wouldn't be consistent with the alignment or matching
16 principle that's described in the NewGen report in
17 Exhibit 6, would it?

18 A That's correct. We should collect that over
19 the life of the asset.

20 Q Does Austin Energy prepare its budget on a,
21 on a cash basis?

22 A A modified cash. Yes.

23 Q Okay. By including the decommissioning
24 amount in operating and maintenance will this have an
25 impact on the working cash reserve?

1 A Will you restate the question again?

2 Q By including decommissioning amount in O&M
3 will that have an impact on the working cash reserve
4 funding?

5 A I don't believe so.

6 Q Does Austin Energy transfer cash outside
7 of -- to the outside trust for nuclear decommissioning
8 regularly?

9 A Yes, we do.

10 Q Does Austin Energy control that account?

11 A The trust account?

12 Q Um-hm.

13 A No. It's under the control of the trustee.

14 Q Okay. Now I'm going to go to some questions
15 on CIP transfer. Ms. Faconti will hand you Exhibit 7,
16 which is the current rate ordinance number 20120607-55,
17 055.

18 A Yes.

19 Q That's a mouthful. So will you look
20 at -- would you read part 7 of that ordinance?

21 A Part 7. "The Council adopts a policy of
22 targeting a debt-to-equity ratio of 60/40 for financing
23 electric utility capital projects until October 1st,
24 2014, and reaffirms the current long-term policy of
25 maintaining a 50/50 ratio."

1 Q Does that paragraph or does that part say
2 thereafter or long-term?

3 A It says neither.

4 Q I think if you read closer, it says
5 long-term.

6 A Oh, the current long-term policy. Yes.

7 Q Okay. With respect to the financial
8 policies, does 40 percent fall within 35 and 60
9 percent?

10 A Yes.

11 Q Would you consider the spending plan to be an
12 estimate of what may be spent during the time the rates
13 are in effect?

14 A That's correct.

15 Q How much does Austin Energy expect to receive
16 in -- contribution in aid of construction, CIAC, in
17 fiscal year 2016 and '17?

18 A I don't know that number.

19 Q Okay. Did Austin Energy receive cash from
20 the sale of property in late 2015?

21 A We received cash from sale in November of
22 2015, which was fiscal year 2016.

23 Q Okay. So it was fiscal year 2016, but it was
24 calendar year late 2015?

25 A That's correct.

1 Q Okay. Did Austin Energy include this as a
2 known and measurable adjustment to the CIP transfer?

3 A No. We did not.

4 Q Okay. I'm going to move now to economic
5 development.

6 How many customers were added during the
7 test year Austin -- to Austin Energy, and what were the
8 load factors of these customers as a result of Austin
9 Energy's contribution to the Economic Development
10 Department?

11 A I don't know that number.

12 Q Do you collect that data, or is there any way
13 to measure it at all?

14 A I don't know if we have collected that data
15 in that specific form.

16 Q How many customers were added on the downtown
17 chillers as a result of funding the Economic
18 Development Department?

19 A I don't know that number.

20 Q So that's not -- you don't know if that
21 data's collected or not, or you don't think it is? Or
22 an analysis or some sort of . . .

23 A If you give me a period of time, we know when
24 customers sign on for our chiller, but sitting here
25 today testifying, I don't know how many customers

1 signed on during that period.

2 Q Okay. I'm moving on to loss on asset
3 disposal, and this will be Exhibits 8 and 9. And if
4 you would, refer to Austin Energy's response to
5 NXP/Samsung's request for information 4.10 and 4.11.

6 You're the co-sponsoring -- you're a
7 co-sponsor for this response, correct?

8 A I am the sponsor.

9 Q You're the sponsor?

10 A (Nods head.)

11 Q Okay. How much was the loss in 2013?

12 A \$67,255.85.

13 Q So roughly \$67,000, and that's -- I should
14 clarify -- loss on, the loss on asset disposal?

15 A That's correct.

16 Q How much did Austin Energy include in its
17 2015, 2016 budget for losses or gains on asset
18 disposal?

19 A I would have to look up the exact amount, but
20 approximately 7 million dollars.

21 Q So 7 million dollars in 2015 and 2016?

22 A In 2015?

23 Q It's 2015 and 2016 budget.

24 A Oh, that number I do not know.

25 Q Okay.

1 A Excuse me. I thought you were referring to
2 the test year.

3 Q Okay. Moving -- I'm going to give her a
4 chance to catch up. We've got two more exhibits.
5 Moving to customer care, Exhibit 10 and 17. I'm amazed
6 we can't do this electronically. We'd all have little
7 handheld . . .

8 If you would refer to Table 1 on page 33
9 of Marilyn Fox's corrected direct testimony.

10 MR. BROCATO: I would ask that you
11 hold on just a moment.

12 MR. HUGHES: Okay.

13 MR. BROCATO: That's okay. You
14 asking him to look at NS-17?

15 MR. HUGHES: NS-17 and 10. Yes.
16 Her 17, which is -- the reason it's number 17 is
17 because her testimony will have --

18 Q (By Mr. Hughes) Okay. So this is an excerpt
19 from Ms. Fox's testimony. Can you explain, looking at
20 that table, why customer complaints are allocated 100
21 percent to Austin Energy when this is a multifunction
22 or a multi-agency customer center?

23 A I believe the specifics of the drivers of
24 this can best be answered by Mr. Kerry Overton, our VP
25 of customer care.

1 Q Is he, is he a direct? Is he --

2 A Yes.

3 Q -- one of our direct witnesses? Okay. So
4 you don't know -- you don't, you don't personally have
5 any knowledge as to why we allocate a hundred percent
6 of all complaints at the center to just Austin Energy?

7 A I don't.

8 Q So would you know whether the call center
9 takes calls for any other agencies other than Austin
10 Energy?

11 A I don't.

12 Q You don't know?

13 A Huh-uh.

14 Q Okay. Well, then I'll leave these questions
15 for him.

16 And now I'm going to move to outside
17 services, and these will be Exhibits 11 and 12, and
18 we'll wait till Mr. Brocato . . .

19 Okay. So looking at Exhibit 11, how
20 many full-time equivalents does Austin Energy have
21 dedicated to IT in its approved budget for 2015, 2016?

22 A 145 and 15, and 148 and 16.

23 Q Okay. And looking at Exhibit 12, how many
24 full-time equivalents were approved in the 2015, 2016
25 budget for Austin Energy in total?

1 A 1,672.75.

2 Q I'd hate to be the three-quarters of a person
3 that's referenced there, but . . .

4 Okay. Now we're going to go to the
5 regulatory charge. We'll get to a point here where the
6 exhibit handing-out slows down.

7 MR. HERRERA: It goes more slowly
8 or you have fewer?

9 MR. HUGHES: Fewer. They sort
10 of -- the questions become . . .

11 Q (By Mr. Hughes) Okay. So referring to
12 Exhibit 13, would you refer to Section 6.7.2 of Austin
13 Energy's prefiled narrative, Bates number 167?

14 A Yes. I have it here.

15 Q You list the components of the regulatory
16 charge here. Does Austin Energy receive any revenue
17 from rates that are established by the Public Utility
18 Commission of Texas?

19 A We own transmission and receive revenue from
20 other utilities that use our transmission lines.

21 Q Okay. And I think that is -- that should be
22 shown in work paper E-5.1.1, which is Exhibit 14.

23 A That's correct.

24 Q Okay. I think these are the last two
25 exhibits. Not the last two questions but the last two

1 exhibits.

2 Okay. So looking at Exhibit 15, would
3 you refer to -- it's Austin Energy's rate-filing
4 package, and it's work paper D-1.2.11.

5 A Yes.

6 Q That schedule states that the test-year
7 amount recorded in account 565 is 108,023,817; is that
8 correct?

9 A For fiscal year 2014, correct.

10 Q Now, in that same schedule Austin Energy's
11 proposing an adjustment of 8,832,134 to the test-year
12 amount, which was the 108 -- 108,023,817, to increase
13 the total to 116,855,952; is that correct?

14 A That's correct.

15 Q Okay. So the total amount that Austin Energy
16 is proposing to recover through the regulatory charge
17 is 116,855,952, correct?

18 A In the test year, correct.

19 Q In the test year. The reference for the
20 Austin Energy adjustment is work paper D-1.2.11.1,
21 which is Exhibit 16. I think we referred to it earlier
22 or -- on that schedule it appears that Austin Energy's
23 justification for the increase in account 565 is a PUCT
24 Docket 43881, which is the 2015 ERCOT transmission
25 matrix; is that correct?

1 A That is what's noted on the document. Yes.

2 Q Okay. Did you prepare or otherwise supervise
3 this work paper?

4 A It's under my guidance. Yes. I had staff
5 [inaudible].

6 Q I'll accept that. One of the requirements in
7 the PUC substantive rules is that an adjustment to
8 test-year revenue requirements or cost of service be
9 known and measurable. Is that your understanding as
10 well?

11 A That's correct.

12 Q Is Austin Energy's adjustment to 565, in
13 quotes, "Transmission of electricity by others," a
14 known and measurable expense?

15 A The details on our TCOS and transmission can
16 best be answered by our finance director, Mr. Rusty
17 Maenius.

18 Q Okay. Is he -- he's not available on direct
19 either. He's a -- he was -- he is a rebuttal witness,
20 and we do have questions for him on rebuttal, but so I
21 guess we'll move this to rebuttal.

22 Would you agree that it is a -- or maybe
23 Mr. Maenius will have to agree, that it's normal
24 practice for utilities, Public Utility Commission
25 staff, and intervenors to propose known and measurable

1 adjustments for action that occurred after the test
2 year but which meet the standard of known and
3 reasonable -- known and measurable?

4 A I can agree to that. Yes.

5 Q Okay. What is the purpose of adjusting
6 test-year revenue requirements for known and measurable
7 adjustments that may occur after a utility's test year?

8 A In general, the idea behind a known and
9 measurable that if an event or an expense or revenue
10 that is incurred during the fiscal year isn't likely to
11 reoccur, then you make a known and measurable, and you
12 have to both know that the event will occur and be able
13 to measure it.

14 Q Would it, would it be an accurate statement
15 to say that it's to reflect as close as possible a
16 matching of utility costs with the period of time the
17 proposed rates will be in effect?

18 A That's correct.

19 Q Okay. Now let's move on to a discussion of
20 the other category of Austin Energy transmission costs,
21 the costs incurred by Austin Energy that are recovered
22 by AE through a PUC-approved access fee imposed on
23 other DSPs in ERCOT.

24 Austin Energy's proposed two separate
25 adjustments in this proceeding relating to transmission

1 service. The first we've already discussed. That's
2 Austin Energy's proposal to increase the transmission
3 expense borne by AE retail customers through the
4 regulatory charge. We'll go into the next now.

5 So if you'll go back to Exhibit 14,
6 which is the work paper E-5.1.1 as shown on this
7 schedule, Austin Energy is proposing a known and
8 measurable adjustment of \$6,844,343 to set wholesale
9 revenue equal to wholesale transmission cost of
10 services; is that correct?

11 A That's correct.

12 Q On this schedule AE is proposing to reduce
13 fiscal year 2014 transmission revenues of 68,974,261 to
14 a proposed test-year amount of 62,129,919, correct?

15 A That's correct.

16 Q Would you agree that, with me, in stating
17 that there are two categories of Austin Energy
18 transmission costs that must be recovered for AE to
19 have sufficient revenue to pay all of its transmission
20 expenses?

21 A That's correct.

22 Q We've already identified the transmission
23 costs reflected in account 565 are recovered by AE
24 through its regulatory charge.

25 Would you also agree that charges

1 reflected in account 565 are those transmission costs
2 imposed on AE through the annual PUC-approved matrix
3 and which represent AE's share of statewide ERCOT
4 transmission expenses?

5 A Subject to check, but I would agree. Yes.

6 Q Okay. The second category of costs, then,
7 are costs incurred by Austin Energy to operate and
8 maintain transmission assets owned by Austin Energy and
9 which previously were recovered previously through
10 retail rates to Austin Energy customers; is that
11 correct?

12 A Previous, are you referring to prior to the
13 nodal market?

14 Q Prior to -- well, prior to the nodal market
15 and prior to it being recovered through the approved,
16 the PUC-approved access fee.

17 A Yes.

18 Q Okay. So these costs are now recovered to be
19 a PUC-approved access fee which is imposed on other
20 distribution providers throughout ERCOT; is that
21 correct?

22 A That's correct.

23 Q And AE, Austin Energy has identified these
24 costs on Exhibit 14, the work paper E-5.1.1; is that
25 correct?

1 A That's correct.

2 Q And did you prepare or otherwise supervise
3 this, the preparation of this work paper?

4 A Yes.

5 Q High level?

6 A Very high level.

7 Q In reviewing the work paper, Austin Energy is
8 stating that its wholesale transmission costs of
9 service includes transmission O&M, less FERC account
10 565, depreciation expense, and wholesale transmission
11 return, and that these costs are offset by
12 non-operating transmission revenue; is that correct?

13 A That's what it states. Correct.

14 Q And then the total wholesale transmission
15 cost of service is 67,129,919, correct?

16 A That's correct.

17 Q So I take it that the rationale for Austin
18 Energy's known and measurable adjustment on this work
19 paper is that Austin Energy's total wholesale
20 transmission cost of service is 62,129,919, and as
21 such, that amount should be identified within the
22 overall total cost of service, and likewise, Austin
23 Energy transmission revenue of the same amount, the
24 62,129,919, should be recognized as the source of
25 revenue to meet those costs, correct?

1 A That's correct.

2 Q Is it your testimony that, today or -- and in
3 your prefiled testimony, then, that Austin Energy's
4 wholesale transmission cost of service as of fiscal
5 year 2014 was 62,129,919?

6 A The test year. Yes.

7 Q Since Austin Energy's received almost
8 69 million in wholesale transmission revenue in fiscal
9 year 2014 and Austin Energy now states that its total
10 wholesale transmission cost of service is 62 million,
11 it would appear that either Austin Energy is
12 understating the total wholesale cost of service or
13 Austin Energy is over-recovering its wholesale
14 transmission revenue, as evidenced by its proposed
15 6 million dollar reduction in revenues. Could you
16 respond to that?

17 MR. BROCATO: Objection, Your
18 Honor. Number one, it assumes many facts that are not
19 in evidence; and number two, relevance. The question
20 asks for information that's beyond the scope of this
21 proceeding as determined by your prior memorandum.

22 MR. HUGHES: Actually, it goes
23 directly to what you ruled on in memo 17, but also as
24 far as the numbers, it's stated wholly in the work
25 paper that they provided. It's not, it's not based on

1 information that's not -- that's outside of the
2 evidentiary record. It is wholly within the
3 evidentiary record, and actually, he's holding the work
4 paper that has it in there. That's what it's based on.

5 MR. HERRERA: I'm --

6 MR. BROCATO: I disagree with both
7 of those if I may respond.

8 MR. HERRERA: Yes.

9 MR. BROCATO: Number one, the work
10 paper talks about an adjustment that Mr. Dombroski
11 prepared prior to submitting the rate-filing tariff.
12 What the question is going to are transmission revenues
13 and costs that happened beyond that, which are not
14 within the scope of this case.

15 And then secondly, IHE memo 17 makes it
16 very -- makes transmission costs very limited in this
17 proceeding to only demonstrating that somehow
18 transmission cost impacts the reasonableness of base
19 rate.

20 MR. HUGHES: Your Honor --

21 MR. BROCATO: The question does not
22 go towards that.

23 MR. HUGHES: -- when we had the
24 discussion with regards to whether these transmission
25 costs should be -- how they should be looked at in this

1 hearing and in this case, we specifically discussed the
2 idea of Austin Energy over-recovering, and
3 over-recovery and not then -- and whether those
4 over-recoveries are then inured to the benefit of
5 ratepayers does go to the reasonableness of the rates
6 in this case. So we respectfully disagree with
7 Mr. Brocato.

8 MR. HERRERA: Mr. Hughes, I'm, I'm
9 having the same difficulty today that I was having
10 Thursday. I understand what you're saying, and I
11 overruled Austin Energy's objections to your continued
12 exploration of this issue, but what I'm not seeing is
13 how -- I'm not seeing the link to the base rates. I
14 understand what you're saying to that. Generally,
15 Mr. Dombroski here today said the costs were 62, the
16 recovery was 69, therefore you have a difference of
17 about 7 million dollars.

18 MR. HUGHES: Well, whether there's
19 any -- Your Honor, whether there's any application of
20 additional monies that were over-recovered and whether
21 those can be applied to the revenue requirement or a
22 reduction in the revenue requirement, in the overall
23 analysis of how rates are created I think that those
24 are -- those go directly to whether the rates are
25 reasonable and whether the revenue requirement is

1 reasonable, whether the cost allocation is reasonable.

2 It's -- it would seem to me that if
3 there's an over-collection or an over-recovery in any
4 regard, that it would -- that would go to
5 reasonableness of rates.

6 MR. HERRERA: Mr. Dombroski, as I
7 understand your testimony, you had during the test-year
8 cost of 62 million?

9 THE WITNESS: That's correct. Yes,
10 Your Honor.

11 MR. HERRERA: And during the test
12 year you had revenue of 69 million?

13 THE WITNESS: Yes, Your Honor.

14 MR. HERRERA: Can you tell me how
15 that impacts your base rates?

16 THE WITNESS: That -- I do not
17 believe that impacts our base rates.

18 MR. HERRERA: Okay. And that's
19 where I'm kind of stuck, Mr. Hughes. And with regard
20 to the objection and to your pursuit of this, this area
21 within the rate case, I understand the -- as I
22 understood the argument, it was -- and let me finish,
23 please, Mr. Hughes. As I understood your argument, it
24 is to suggest that this is one item that could go to
25 show, perhaps not in specific terms, but could go to

1 show that the base rates are not just and reasonable
2 and overstated somehow.

3 But what I am not seeing -- which is why
4 I overruled the objection that Austin Energy made to
5 the testimony. But what I am still not seeing is how
6 that directly impacts and what the dollar-for-dollar
7 impact is on base rates.

8 So I'm -- just to cut to the chase, I am
9 going to overrule the objection and allow Mr. Dombroski
10 to answer, but based on what he just told me, I'm still
11 missing the link on how this directly impacts the base
12 rate revenue requirement.

13 I understand the argument you made that
14 this goes to show that if there was a doubt in my mind
15 or counsel's mind, whenever the ultimate decision is
16 made on what base rates should be on whether one item
17 should be 10 dollars as opposed to 9 dollars, then this
18 particular piece of testimony with regard to TCOS,
19 transmission cost and transmission revenue, would
20 suggest that maybe you should go with 9 dollars,
21 hypothetically. I understand that. But what I'm not
22 seeing is where you've shown me that base rates should
23 be reduced by 9 million dollars.

24 MR. HUGHES: I will -- I would
25 just, I would just say that because base rates are set

1 or directly tied to the revenue requirement, that any
2 potential reduction -- and we've proposed a number of
3 reductions in revenue requirement, so -- in order to
4 lower base rates so that any reductions in the revenue
5 requirement that could be made should be made in order
6 to affect base rates. So that's, that's my general
7 argument.

8 MR. HERRERA: Did you have more
9 questions for Mr. Dombroski?

10 MR. HUGHES: That's it. Pass the
11 witness. Thank you, Mr. Dombroski.

12 THE WITNESS: You're welcome.

13 MR. HUGHES: Your Honor.

14 MR. HERRERA: It's 12:20. What is
15 the parties' preference in terms of taking a break for
16 lunch now? Mr. Coffman, how much do you have for
17 Mr. Dombroski?

18 MR. COFFMAN: Oh, I'd say at least
19 half an hour, maybe more.

20 MR. HERRERA: Then I suggest we go
21 ahead and take our lunch break now. How much time do
22 parties want? How about an hour and 15 minutes just in
23 case there's still a crowd at wherever we go eat?
24 We'll be back at -- in an hour and 15 minutes, whatever
25 it is at 12:20. Off.

1 (At 12:20 p.m. the proceedings
2 recessed, continuing at 1:35 p.m.)

3 MR. HERRERA: Before we begin with
4 Mr. Coffman's cross-examination of Mr. Dombroski, I
5 believe Mr. Hughes has one or two exhibits to offer.

6 MR. HUGHES: Yes, Your Honor. But
7 we didn't offer most of the exhibits because they are
8 part of the record already. However, we don't believe
9 that -- while we referenced it in our testimony, we
10 don't believe that the city rate ordinance 201, number
11 20120607-055, we don't believe a copy of it has been
12 entered. So we would like to have that entered into
13 the record.

14 MS. COOPER: That's NS-7?

15 MR. HUGHES: Yes.

16 MS. COOPER: Okay.

17 MR. HUGHES: It's N -- ordinance
18 number 20120607-055.

19 MR. HERRERA: Any objections?

20 MR. HUGHES: And that's our -- and
21 that's our settlement.

22 MR. HERRERA: Any objections? It's
23 admitted.

24 MR. HUGHES: Thank you.

25 MR. HERRERA: All right. We were

1 to the Independent Consumer Advocate's cross
2 examination of Mr. Dombroski.

3 CROSS EXAMINATION

4 BY MR. COFFMAN:

5 Q Good afternoon, Mr. Dombroski. Can you hear
6 me?

7 A Yes, I can.

8 Q Great. Earlier Mr. McCollough had discussed
9 with you the non-fuel production O&M expense. Do you
10 recall that discussion?

11 A Yes.

12 Q Who prepared the Austin Energy class cost
13 allocation model?

14 A It was a combination of Austin Energy staff
15 in conjunction with, I believe, NewGen Strategies, our
16 consultant.

17 Q Mr. Mancinelli?

18 A That's correct.

19 Q And when, when was that cost of service model
20 first run?

21 A I don't know the date.

22 Q Would that have been November of 2015?

23 A I just don't know the exact date.

24 Q Was it in 2015, or was it -- can you remember
25 if it was last year?

1 A With this rate review our first run would
2 probably have been sometime during fall of 2015.

3 Q **Okay. Does the model include work papers for**
4 **classifying part of the production non-fuel O&M expense**
5 **as energy related?**

6 MR. HERRERA: Mr. Coffman, could
7 you repeat that for me, please?

8 THE WITNESS: Do you have a
9 specific reference you could point me to? I'm --

10 MR. HUGHES: Well, before that,
11 could you just repeat that for me, please? It was --

12 Q **(By Mr. Coffman) Well, does the model**
13 **include support for classifying part of the production**
14 **non-fuel O&M expense as energy related?**

15 A Do you have a specific page you can refer me
16 to?

17 Q **WP F-2.4.**

18 MR. BROCATO: Could you restate
19 that, Mr. Coffman?

20 Q **(By Mr. Coffman) WP F-2.4.**

21 A Is there a letter in front of the 2.4?

22 Q **F.**

23 A F.

24 Q **As in Frank.**

25 MR. BROCATO: I think it's Bates

1 page 930; is that correct? I don't know if that's
2 helpful for anyone. I'm not even sure if I'm right.

3 THE WITNESS: It's some very small
4 print. Can you repeat your question again now?

5 Q (By Mr. Coffman) Well, my question is
6 whether the method that Austin Energy used for
7 allocating this non-fuel O&M expense, is this called
8 the cost-accounting method, the NARUC cost-accounting
9 method? Do you know?

10 A I don't know the question [sic] to that.

11 Q Is it correct that Austin Energy chose not to
12 use that work paper to classify the production non-fuel
13 O&M expense?

14 A I don't know.

15 Q Would that be a -- would Mr. Mancinelli know,
16 or would there -- is there another witness I can ask
17 about this?

18 A Perhaps finance director Russell Maenius is
19 closer to the model than I am.

20 Q Okay. Let me refer you now to ICA Exhibit
21 No. 3. It was a response relating to the houses of
22 worship bill frequency table.

23 A Yes.

24 Q Do you recognize that and did you prepare
25 that?

1 A It was prepared under the direction of my
2 staff. Yes.

3 Q And what I gave you is an accurate copy of
4 that?

5 A I believe so. Yes.

6 Q Okay. I'm going to wait to the end, I guess,
7 to offer that, but that's all I have on that one.

8 If you take a look at ICA Exhibit No. 4,
9 which is a -- it's titled "Austin Energy's Supplemental
10 Response" to 1-11.

11 A Yes.

12 Q Regarding key account customers.

13 A That's correct.

14 Q And let me just first ask, what, what is a
15 key account customer?

16 A Key account is a function with our customer
17 service's group that manages the accounts of some of
18 our larger commercial/industrial customers.

19 Q And is it correct that the residential class
20 is allocated a portion of key account costs?

21 A That's correct. \$43,418.

22 Q So if I can direct you to the first page of
23 the attachment to that, there's a footnote at the
24 bottom.

25 A Yes.

1 Q Does that indicate that the residential key
2 accounts are under the name of a commercial account?

3 A That's what it states. Yes.

4 Q Why would you allocate these residential key
5 account costs to the residential class instead of the
6 commercial class associated with the commercial
7 customer whose name is on the account?

8 A The rest of the note says, "For example,
9 model homes for residential homebuilders." So if you
10 have a new development and a builder has a model home
11 there, that person's not a resident. It's a business
12 used for the purposes of business, but it would have a
13 residential meter on it since it's a home.

14 Q Is that the only instance where a residential
15 account would be allocated these costs?

16 A I don't know of any other instance.

17 Q You can't think of any other instance?

18 A No.

19 Q Okay. All right. Now, let me direct you to
20 ICA Exhibit No. 5. It's a question and answer relating
21 to secondary commercial customers.

22 A Yes.

23 Q And if we focus just on the secondary
24 greater-than-10-kilowatt section --

25 A Yes.

1 Q -- does it appear that in general, load
2 factor increases as the customer's demand increases?

3 A Yes. I would agree with that.

4 Q In general, do customers in that particular
5 greater-than-10-kilowatt class pay higher bills if they
6 have a higher load factor?

7 A If they have more consumption, their energy
8 component would be higher.

9 Q Would that mean that they pay higher bills?

10 A Yes.

11 Q Okay. Moving on to the next exhibit, which
12 is ICA Exhibit No. 6 --

13 MS. COOPER: I don't have mine.

14 MR. COFFMAN: Oh [inaudible].

15 Q (By Mr. Coffman) This one is, this is
16 referring to an NXP/Samsung data request response, and
17 it says on it -- it's a supplemental response, and it
18 has a cover sheet there which I apologize for, and it
19 is -- it includes a work paper for the 311 call center
20 reimbursement.

21 A Yes.

22 Q That seem accurate?

23 A Yes.

24 Q Now, the line under Austin Energy shows how
25 much Austin Energy is charged for 311 service, correct?

1 **And . . .**

2 A The second line. So you have "Total General
3 Fund" and we have "Austin Energy."

4 Q Right. The second line, is it correct that
5 most of that 311 charge is based on the value of the
6 311 call center that's a backup to Austin Energy's own
7 call center of 2.2 million dollars?

8 A Yes. The direct charge? Yes.

9 Q Yes. The direct charge. And isn't the usage
10 allocation much smaller than the value as a backup
11 direct charge? Isn't --

12 A You're referring to the 5.35 percent --

13 Q Yes.

14 A -- the statistic?

15 Q Isn't that, the majority of that this direct
16 assignment?

17 A That's correct. It's directly assigned to
18 Austin Energy.

19 Q And when, when is that, that other facility
20 used primarily?

21 A The exact hours are best responded to by
22 Mr. Kerry Overton. However, our call center, I
23 believe, or the call center itself, Austin Energy is
24 open from 7 a.m. to 9 p.m., and the 311 is open 24
25 hours. 311 acts as a backup call center for Austin

1 Energy.

2 **Q So customers are -- if they call in after**
3 **hours, they're referred to that?**

4 A They will get the 311 center.

5 MR. COFFMAN: Okay. Okay. I have,
6 I have four more exhibits, which I don't have any
7 clarifying questions on but, if I understand correctly,
8 Austin Energy is willing to stipulate to. And those
9 are ICA Exhibits 7, 8, 9, and 10, and they are
10 respectively the responses that Austin Energy responded
11 to ICA requests for information 1-19, 2-27, 2-28, and
12 2-30. And at this point I would offer into the record
13 ICA Exhibits 3, 4, 5, 6, 7, 8, 9, and 10.

14 MR. HERRERA: Any objections?

15 MR. HUGHES: No.

16 MR. HERRERA: Those are admitted.

17 **Q (By Mr. Coffman) Is it true, Mr. Dombroski,**
18 **that with regard to the energy efficiency programs that**
19 **Austin Energy does not budget by customer class?**

20 A That's correct.

21 MR. COFFMAN: That's all I have,
22 Your Honor.

23 MR. HERRERA: Thank you,
24 Mr. Coffman. Mr. Brocato, redirect?

25 MR. BROCATO: Thank you. Yes, a

1 few questions.

2 REDIRECT EXAMINATION

3 BY MR. BROCATO:

4 Q Hello, Mr. Dombroski. You were asked some
5 questions by Mr. Hughes about the number of outside
6 service -- excuse me, about the number of IT employees
7 that Austin Energy employs.

8 Does the fact that AE employs IT
9 personnel in your opinion eliminate the need to hire
10 outside IT support?

11 A No, it doesn't.

12 Q Is the amount that AE spends on outside IT
13 support duplicative of the cost that it spends for
14 internal IT personnel?

15 A No, it's not.

16 Q Why is that?

17 A We would hire outside help either if we do
18 not have the expertise in house in a specific function
19 or if we needed to augment our staff for a specific
20 project.

21 Q Do you have a copy of NS-8 in front of you?
22 Let me find it myself.

23 A Yes, I do.

24 Q What does that document show?

25 A This has a three-year history for fiscal year

1 '13, '12, and '11 for the gain and loss on disposal of
2 our assets.

3 Q And Mr. Hughes asked you the amount for one
4 of the years on that chart; is that right?

5 A Correct. For fiscal year '13.

6 Q And will you state the loss on disposal that
7 AE incurred in the other two years that are depicted on
8 that response?

9 A For fiscal year '12 we incurred \$8,108,821 on
10 loss of disposal. In fiscal year '11 we incurred
11 \$10,213,180 on loss on disposal.

12 Q And how did those years compare to the
13 test-year amount that's being requested?

14 A For our test year we had approximately
15 7 million dollars. So it would be less than both
16 fiscal years '12 and '11.

17 Q You were also asked some questions about
18 Austin Energy's proposal to establish a non-nuclear
19 decommissioning fund. Do you recall those questions?

20 A Yes, I do.

21 Q Does the fact that Austin Energy did not
22 previously have a non-nuclear decommissioning fund make
23 it unreasonable to have one now?

24 A No. It does not.

25 Q Why is that?

1 A Because that is a event that's going to
2 occur, and the sooner we can begin collecting the
3 decommissioning cost, the less impact is on our
4 customers.

5 **Q Are there any fairness issues?**

6 A Yes. The customers who benefit from those
7 facilities should be the ones who pay for the
8 decommissioning. If you waited to begin collecting
9 decommissioning dollars from the customers after
10 decommissioning, there would be an intergenerational
11 inequity on that.

12 **Q All right. And can you explain what would**
13 **happen in the event Austin Energy ends up**
14 **over-recovering the requested decommissioning amounts?**

15 A If we did not use all of the dollars in that
16 decommissioning fund, we would go to council and
17 request permission to transfer those funds either to
18 other reserves or to working capital.

19 **Q All right.**

20 MR. HERRERA: I'm sorry. I missed
21 the last part of your answer. Other reserves or?

22 THE WITNESS: Working capital.

23 MR. HERRERA: Working capital.

24 Thank you.

25 **Q (By Mr. Brocato) Mr. McCollough asked you**

1 some questions about Figure 4.7 on Bates page 103. Do
2 you recall that, or those questions? And I would also
3 ask you to turn to page 115, Bates-stamp 115, which is
4 on his Demonstrative Exhibit 1.

5 A Okay. I'm on page Bates number 103. What
6 was the other?

7 Q Bates page 115. This is Figure 5.8 on Data
8 Foundry Demonstrative Exhibit 1 as well, page 24 of
9 30 --

10 A Yes. I have those two.

11 Q -- those two documents. All right. Looking
12 first at the energy amount that's on Figure 5.8.

13 A Yes.

14 Q Is that energy amount, what does that include
15 besides fuel? Does it --

16 A That includes our net ERCOT settlement. So
17 it includes the revenue we generate by selling our
18 power to the ERCOT market, it includes the cost of
19 serving our load, it includes our Green Choice revenue,
20 it includes bilaterals, and it includes our hedging
21 cost.

22 Q Okay. And that's in addition to fuel?

23 A Correct. And it also includes our renewable
24 energy and power purchase agreements.

25 Q Now, after removing some dollars for energy

1 **efficiency he had you then subtract that number from**
2 **the 612 million dollar number on Figure 4.7. Do you**
3 **remember that?**

4 A I do.

5 Q **Is that an appropriate apples-to-apples**
6 **calculation?**

7 A I don't believe so. No.

8 Q **How come?**

9 A The number in Figure 4.7, the 612,427,438, is
10 just cost. It doesn't have the other components
11 offsetting revenue pieces.

12 Q **Would you turn to Bates page 167 of the rate**
13 **tariff package?**

14 A I'm there.

15 Q **Mr. McCollough asked you some questions about**
16 **the proposed regulatory charge. Do you remember those?**

17 A I do. Yes.

18 Q **Can you tell me what, what is the existing P2**
19 **rate?**

20 A The existing P2 rate for regulatory charge is
21 69 cents per kilowatt.

22 Q **And what is it expected to be going forward?**

23 A The expected or proposed is \$3.16 per
24 kilowatt.

25 Q **Is that a cost base rate?**

1 A That is below the cost of service we have
2 calculated, which is \$3.61.

3 Q Do you know how much additional revenue the
4 regulatory charge would bring in if the P2 rate was
5 increased to \$3.16?

6 A I believe the cost would bring in an
7 additional 1.8 million in revenue.

8 Q And do you know what that translates into in
9 terms of a percentage of total revenue from those
10 customers?

11 A Approximately 4 percent.

12 Q Thank you, Mr. Dombroski. Those are the only
13 questions I have.

14 MR. HERRERA: Any redirect on those
15 questions? I'm sorry. Recross, pardon me. And I'm
16 going to go in the same order. Mr. McCollough?

17 MR. MCCOLLOUGH: Thank you.

18 MR. HUGHES: I'm assuming ARMA
19 doesn't have any questions.

20 REDIRECT EXAMINATION

21 BY MR. MCCOLLOUGH:

22 Q I want to follow up on some of the questions
23 that your counsel asked you about my questions to you
24 originally, and I'm going to make the same offer to you
25 as I did before. If you need me to take any of this up

1 with Ms. Ball, Dr. Dreyfus, just tell me. All right?
2 But since he asked you on redirect I guess I gotta come
3 back around.

4 Now, I believe that counsel just a
5 moment ago asked you to explain the components of the
6 figure that's -- figures in Figure 4.7 and 5.8.

7 A That's correct.

8 Q All right. And you indicated that the two
9 could not really be compared because one of them have
10 some offsets. Is that the gist of what you were --

11 A That's correct.

12 Q Okay. And some -- and I'm not going to go
13 through the whole list of them. Some of the offsets
14 were settlement revenue, right?

15 A That's correct.

16 Q And another was hedging.

17 A That's correct.

18 Q Okay. And then there was also not really an
19 offset but the cost of your power purchase, which would
20 have been a debit, not a credit, right?

21 A Our power purchase agreements or our load?

22 Q Well, and this is one of the things I wanted
23 to get from you. When you mentioned your power
24 purchase --

25 A Yes.

1 Q -- was that a debit or a credit, or is it
2 both?

3 A That is -- no. The power purchase is simply
4 the power we purchase off of the grid to serve our
5 native load.

6 Q Okay.

7 A So that's a cost.

8 Q A cost. And in an accounting sense, then, it
9 would be a debit?

10 A Debit.

11 Q Okay. On the other hand, net settlement
12 revenues.

13 A Yes.

14 Q Those would incur -- have both debits and
15 credits, wouldn't they?

16 A That's correct.

17 Q What was the net settlement revenue amount
18 for the test period?

19 A I don't have any information in front of me
20 at this time.

21 Q You don't. And it's not in the rate-filing
22 package either, is it?

23 A No, it's not.

24 Q Uh-huh. And it's not in the schedules that I
25 believe you may have put forward, was it G-9? Which

1 was the development of the surcharge amounts? We
2 couldn't find that figure in there. It's buried in
3 some of the line items, right?

4 A That's correct.

5 Q Okay. What was the net hedging amount?

6 A I don't have that number in front of me.

7 Q That would have been both debits and credits,
8 wouldn't it?

9 A It's possible. Yes.

10 Q Do you know whether it was, the amount was a
11 net debit or a net credit? In other words, did you end
12 up making more money than you spent, or did you end up
13 spending more money than you made?

14 A Our hedging activity would have been expended
15 more than we made. We don't speculate on our hedging.

16 Q Okay. So your hedging ended up on the debit
17 side? If it's a negative number, you didn't make
18 money, you lost money.

19 A That's correct.

20 Q And I don't mean that in a pejorative sense.
21 All right.

22 A That's correct. It's like an insurance
23 policy for us.

24 Q Let me go back now to the net settlement.
25 You told me you don't have that number, but was it a

1 **positive number or a negative number?**

2 A For test year I believe it was positive.

3 Q **It was a positive number?**

4 A Yes.

5 Q **All right. In other words, you got more**
6 **money in than you sent out for that particular item?**

7 A I believe so. Yes.

8 Q **And in that sense that would have served to**
9 **reduce the PSA revenue?**

10 A That's correct.

11 Q **We just don't know how much it was.**

12 A That's correct.

13 Q **On the other hand, the hedging would have**
14 **served to increase the PSA level?**

15 A Yes.

16 MR. MCCOLLOUGH: Okay. That's all
17 I have.

18 MR. HUGHES: Your Honor?

19 MR. HERRERA: Who will have
20 questions on recross for Mr. Dombroski?

21 MR. HUGHES: I have one.

22 MR. HERRERA: Ms. Cooper?

23 MS. COOPER: Yes, Your Honor.

24 MR. HERRERA: Go ahead, Ms. Cooper.

25 MS. COOPER: Okay.

1 MR. HERRERA: We're going to go the
2 same order, Mr. Hughes.

3 REDIRECT EXAMINATION

4 BY MS. COOPER:

5 Q Mr. Dombroski, earlier you talked with your
6 counsel about the non-nuclear decommissioning reserve,
7 but wouldn't you agree that the goal of the
8 decommissioning reserve is to have the money to pay for
9 the decommissioning at the time the plant retires?

10 A That's correct. To have the cash on hand.

11 Q All right. Now, do we know has the city
12 council made a decision on when any of these plants are
13 going to retire?

14 A We have no definitive or approved date to
15 decommission.

16 MS. COOPER: Thank you, Your Honor.
17 No more. Thank you, Mr. Dombroski.

18 MR. HERRERA: Mr. Hughes?

19 REDIRECT EXAMINATION

20 BY MR. HUGHES:

21 Q Along that similar vein I want to go -- you'd
22 indicated, as Mr. Brocato had asked you a question on
23 redirect regarding the trans -- the decommissioning
24 accounts are not used in full for the decommissioning,
25 that those funds would then be transferred to other

1 reserves or working capital, correct?

2 A That is one possibility.

3 Q So they would not then go back to the
4 consumers who had paid for those decommissioning costs?

5 A It would benefit -- all of our funds
6 ultimately go to benefit of our customers.

7 Q Maybe? I mean, that's not --

8 A We don't distribute to any of the
9 shareholders, so . . .

10 Q No. But reserve, they could stay in reserve
11 in perpetuity?

12 A That's correct, and it improves our credit
13 writing, it lowers our bond rating. That's for the
14 benefit of our customers.

15 Q Thank you.

16 MR. HERRERA: Any final
17 re-redirect? I'm sorry. Mr. Coffman, do you have any
18 recross?

19 MR. COFFMAN: No, sir. No, Your
20 Honor.

21 MR. BROCATO: I have no further
22 questions.

23 MR. HERRERA: Mr. Dombroski, I
24 think you're done with your direct. Thank you.

25 THE WITNESS: Thank you, Your

1 Honor.

2 MR. HERRERA: Mr. Brocato?

3 MR. BROCATO: Thank you, Your

4 Honor. At this time Austin Energy would call

5 Ms. Elaina Ball.

6 DIRECT EXAMINATION

7 BY MR. BROCATO:

8 Q Good afternoon, ma'am. Would you please
9 state your name for the record?

10 A Elaina Ball.

11 MR. BROCATO: Ms. Ball is
12 sponsoring portions of the tariff package that have
13 already been admitted, and so therefore, I would tender
14 her for cross examination.

15 MR. HERRERA: Thank you,
16 Mr. Brocato. I am assuming, but just to make sure,
17 that ARMA, Mr. Rourke, Mr. Robbins, Greater Chamber,
18 Greater Austin Chamber have no questions. So Data
19 Foundry?

20 MR. MCCOLLOUGH: Thank you, Your
21 Honor. I now have a complete linear set of my exhibits
22 for anybody who doesn't yet have one.

23 CROSS EXAMINATION

24 BY MR. MCCOLLOUGH:

25 Q Ms. Ball, I'm going to give you a complete

1 set, although a couple of them are already there.

2 It'll hopefully --

3 A Thank you.

4 Q -- be easier for you to find. Did you have a
5 nice lunch, ma'am?

6 A I did.

7 Q You ready to go?

8 A I'm ready to go.

9 Q All right. Let's rock. I want to pick up
10 with you kind of out of order in the cross that I
11 prepared, follow up with what just transpired on
12 redirect with Mr. Dombroski.

13 In the exhibit set, I believe it is Data
14 Foundry Exhibit 3, AE's Third Supplemental Response to
15 NXP/Samsung First RFI 1-31 --

16 A I think it's 1-51.

17 Q Oh, I'm sorry. I need my see-biggers. Hang
18 on.

19 A It's okay. I just wanted to make sure we're
20 talking about the same thing.

21 Q Yes, ma'am.

22 A Okay.

23 Q It's the one with the chart and the picture.

24 A You bet.

25 Q All right. Were you the responsible witness

1 **for that?**

2 A Yes, sir. I am.

3 MR. MCCOLLOUGH: I offer Data
4 Foundry Exhibit 3, Your Honor.

5 MR. HERRERA: Just so I have the
6 right one, Mr. McCollough, it's response to NXP/Samsung
7 1-51?

8 MR. MCCOLLOUGH: Correct. PSA 12
9 components.

10 MR. HERRERA: Any objections?

11 MR. BROCATO: No objections.

12 MR. HERRERA: It's admitted.

13 Q **(By Mr. McCollough) This response that you**
14 **prepared is, it somewhat bears on what Mr. Dombroski**
15 **was just testifying to, doesn't it? In that the**
16 **amounts for your settlement and hedging. And I know**
17 **there's other components, we can talk about them if you**
18 **want to, but that's not my goal here today. But**
19 **settlements and hedging, they are reflected in the bar**
20 **chart here, aren't they?**

21 A Yes, sir. That's correct.

22 Q **Okay. Mr. Dombroski indicated that the net**
23 **settlement revenue for the test period was a positive**
24 **number and in that sense would serve to reduce the PSA**
25 **revenue requirement. Do you agree with that statement**

1 by him?

2 A Yes, sir. I do.

3 Q Okay. And that would be reflected somewhat
4 in this chart; for example, right over here, the second
5 one from the left, "Thermal Generation Net Revenue,"
6 and it's a negative number, 174 million dollars.

7 A Correct.

8 Q Okay. That, that is a settlement number?

9 A It's a net positive settlement toward
10 offsetting load costs.

11 Q And that's one of things I wanted to get
12 into. Even though it's a paren in here indicating it's
13 a negative, it really reflects positive revenues.

14 A Correct.

15 Q And in that sense serves to reduce the PSA
16 revenue.

17 A Yes, sir.

18 Q Okay. But it was a net number. You had some
19 costs that went into it, and then you had some revenues
20 that went against it?

21 A This is our thermal generation net revenue.

22 Q Okay. Which means there were costs and then
23 there were revenues.

24 A Correct. That's what that means.

25 Q Very good. The cost portion of it would

1 **largely be fuel cost, wouldn't it?**

2 A That's our largest cost, which is variable in
3 nature. Yes, sir.

4 Q And using the terminology, I don't know if
5 you were in here earlier this morning that I had with
6 Mr. Dombroski, that's what y'all have called your
7 recoverable fuel revenue.

8 A I believe so -- I was in here for a portion
9 of that -- subject to check.

10 Q It sounds familiar, though, doesn't it?

11 A Yes, sir.

12 Q Okay. So the recoverable fuel piece would go
13 into this as a cost that you sell to ERCOT and you get
14 revenue.

15 A Correct.

16 Q And it worked out so that your revenues were
17 greater than your costs, and at least here on the
18 thermal side you had 174 million dollars in net
19 revenues, which meant you were 174 million dollars over
20 the costs as you calculated it.

21 A We were 174 million dollars favorable and not
22 over the cost; we earned an additional 174 million.

23 Q Recovered your cost, got another 174?

24 A Correct.

25 Q Okay. You also have here "Renewable

1 Generation Net Cost." Now, is that also an ERCOT
2 wholesale-related thing? Y'all have renewable
3 generation that you sell to ERCOT?

4 A Yes, sir. That's correct.

5 Q Now, there's not much fuel there, but if I'm
6 reading this correctly, even though you don't have fuel
7 cost in very large part to offset with your renewables,
8 you were still \$80 in the red for this portion?

9 A So we don't have fuel, but we do have
10 contract costs.

11 Q Um-hm.

12 A So when you compare our contract costs
13 against production, the net was 80 million dollars.

14 Q In normal terms whatever cost y'all
15 calculated, you understand they're not fuel in large
16 part, they're other costs.

17 A Correct.

18 Q The revenue that you got for this kind of
19 generation was 80 million dollars less than the cost.

20 A Correct.

21 Q Now, Green Choice revenue I still -- I'll be
22 honest with you, I still haven't figured out
23 what -- how y'all -- what you're doing here, other than
24 I understand that is actually a revenue item?

25 A Yes, sir. It is.

1 Q It's money that you get from your retail
2 customers?

3 A It's Green Choice subscribers pay into the
4 program, and we receive revenue for that.

5 Q So this is not a wholesale thing, this isn't
6 an ERCOT wholesale revenue or cost item, it's retail?

7 A The item that you're looking at here is the
8 Austin Energy PSA cost component, and Green Choice
9 flows through our PSA.

10 Q Very good. And that was positive 33 million
11 in Green Choice?

12 A Yes, sir.

13 Q Bilateral is zero, and there's this hedging
14 amount, 4 million. It's shown with parens on it, which
15 in our world means it's actually a good thing. You
16 made money, right?

17 A For this period of time we were 4 million
18 dollars in the positive on our hedging activities, but
19 as you all mentioned, hedging is really about insurance
20 and price stability.

21 Q Well, so it may be that during the rate
22 effective year it's 4 in the red. It depends on how
23 things work.

24 A It's a risk management strategy.

25 Q Well, y'all consider that to be a profit

1 center?

2 A No, sir. We do not speculate. We use that
3 as risk management to maintain price stability for our
4 customers.

5 Q For the test period, however, what this seems
6 to indicate is that your hedging activity was 4 million
7 dollars in favor. In other words, you managed to save
8 or make 4 million dollars, and it served to reduce the
9 PSA revenue requirement by 4 million dollars.

10 A For this period, yes, sir.

11 Q Thanks. Okay. We, we sort of got out of
12 order with what I had planned to do, but I had wanted
13 to follow up with that while all this was fresh in our
14 minds from Mr. Dombroski so we could kind of hit it all
15 together.

16 Let me step back a little bit and
17 ask you some more general questions if I can. Now,
18 if I understand AE's position, it is that AE-owned
19 generation is now entirely dedicated towards serving
20 what I would call the wholesale market. All of your
21 production goes to ERCOT and it's sold to others; is
22 that fair?

23 A If I can add a clarification.

24 Q Certainly.

25 A All of our wholesale energy that we produce

1 is sold to ERCOT. However, I wouldn't categorize that
2 the benefit only goes to ERCOT. We have that
3 generation in place as a risk management strategy for
4 our retail customers.

5 Q Okay. And let's just be clear. What I'm
6 trying to do here is get into the record why Austin
7 Energy thinks there is a benefit to retail ratepayers
8 on account of its having its own generation.

9 A Understood.

10 Q Okay. And so what you just told me is there
11 is one.

12 A Yes, sir.

13 Q It doesn't all go to ERCOT, and I get you.
14 Let's talk about that.

15 But first of all, I don't think there's
16 any dispute here. Y'all say all of our generation is
17 sold to ERCOT. None of it is there to serve our retail
18 load, right?

19 A All of our generation is sold into ERCOT
20 wholesale market.

21 Q And AE serves its retail load by buying from
22 ERCOT at wholesale, right?

23 A We are a load-serving entity. We purchase
24 all of our power from ERCOT.

25 Q And so I guess what -- would it be fair to

1 say that one of Austin Energy's goals is, is to make
2 enough money from its generation that it serves to
3 material offset -- materially offset and ultimately
4 reduce the PSA cost incurred when you buy energy from
5 ERCOT at wholesale?

6 A Price control and risk management are two of
7 the primary drivers for our wholesale portfolio. We
8 also have other policy objectives with our portfolio.

9 Q Okay. I want to try to get to dollars here.
10 Okay? Because ultimately, we've gotta figure out a
11 revenue requirement and we've gotta figure out what
12 costs go in base rates. Okay? So let's -- I mean, if
13 you want to tell me about a benefit, trust me, I'm
14 going to follow up and say, How much? Okay?

15 And the thing that I'm trying to get a
16 handle on in this case is, while I see that Austin
17 Energy is saying there are benefits to ratepayers from
18 us owning generation and selling at wholesale to ERCOT,
19 I never see a dollar figure attached to it.

20 A You're looking at one right here, which is
21 the net impact to our PSA, which directly flows to our
22 customer bills. All of the costs that you walked me
23 through --

24 Q Um-hm.

25 A -- on NXP/Samsung 1, uh, I-51, all of those

1 flow directly to our customers' bills. So you see a
2 load -- the load-zone costs or cost during this period
3 for purchasing power from ERCOT is 580 million dollars.
4 As you walk across the right you see our net power
5 supply cost in at 449. It's a net reduction in our PSA
6 as a result of all of these activities inclusive of
7 owning and operating a merchant fleet, or a wholesale
8 fleet.

9 Q Setting aside the Green Choice, which we
10 established a moment ago isn't wholesale --

11 A Correct.

12 Q -- then if I were to compare the 580 on the
13 left to the 449 on the right and then take the green
14 power over to the 449, would the difference basically
15 be the dollar benefit to rate-payers that they get from
16 having -- from AE owning generation?

17 A This is certainly one element. The other
18 element is being able to protect customers from price
19 spikes. So there's also a risk management component.
20 And as I mentioned, there are also other policy
21 objectives with regard to lessening our environmental
22 footprint.

23 Q Okay. I told you every time you say
24 something like that I'm going to ask you for a dollar
25 figure. So how much did the risk management piece save

1 **ratepayers, retail ratepayers in Austin during the test**
2 **period? How much?**

3 A Can you define what you interpret as risk
4 management?

5 Q **Well, that's your term, ma'am, not mine.**

6 A I want to understand. You're asking for
7 dollars, so --

8 Q **Yes.**

9 A -- can you give me a definition?

10 Q **You had said that one of the benefits and one**
11 **of the policy goals is risk management.**

12 A Correct.

13 Q **And I believe a second ago you said one of**
14 **the things for that is price spikes.**

15 A Correct.

16 Q **Okay. Is there a dollar figure that you can**
17 **give us for how much y'all -- doing this serves to**
18 **benefit ratepayers dollarwise during the test period?**
19 **Did you save us 80 million dollars? 20 million**
20 **dollars, one dollar? How much?**

21 A So again I'll redirect you to this slide.
22 When you look at what our load exposure was, 580
23 million dollars in ERCOT.

24 Q **Um-hm.**

25 A When you look at net all of our activities,

1 including our wholesale business, we ended up at 449.
2 And I would add, on the policy item where I mentioned
3 decarbonizing and reducing emissions for our fleet,
4 Green Choice revenue --

5 Q Um-hm.

6 A -- is directly tied to that program. So
7 there are dollar benefits associated with, with this
8 portfolio. I'd just offer that.

9 Q So the environmental aspect of it you would,
10 you would, you would point to the 33 million in Green
11 Choice?

12 A That is a component. Yes, sir.

13 Q Understanding, however, that's not a
14 wholesale; it is retail revenue.

15 A It is, it is PSA revenue.

16 Q Understood. Are there -- do you contend that
17 there are any dollar benefits flowing from AE operating
18 its generation plant that would not be captured in the
19 difference between the 580 and the 449?

20 A I would say that the majority of the benefit
21 is here. As I mentioned, price control, for example.
22 And if you'll indulge me a moment --

23 Q Um-hm.

24 A -- we have generation near AE's load zone.
25 So when prices do tick up in this area, by injecting

1 generation directly near our load we're able to
2 directly control prices and minimize risk. That is not
3 going to be explicit in our settlements. That is
4 actual direct price control that goes on in ERCOT.

5 Is that -- does that -- is that helpful?

6 Q It is helpful, and so you're saying that
7 load-zone control is not captured in here?

8 A It is not.

9 Q Do you have a dollar amount for that?

10 A No, sir. I do not.

11 Q Nothing? I mean, there is a benefit, you
12 just can't put your figure on the dollar amount?

13 A I believe if you look at the Navigant study,
14 which looked at our independent resource plan review,
15 they actually attributed some value to that. It's very
16 difficult, it's an estimated value, but you can
17 certainly look at that.

18 Q Do you recall that number?

19 A Not off the top of my head, but it was
20 substantive.

21 MR. MCCOLLOUGH: Is that in the
22 record? Do you know?

23 MR. BROCATO: I don't believe that
24 it is.

25 THE WITNESS: Navigant was

1 conducted after our 2014 rate case. So that would have
2 been during the 2015 time period. So -- but it's
3 publicly available.

4 MR. MCCOLLOUGH: If you don't mind,
5 we'll work on --

6 MR. BROCATO: Sure.

7 MR. MCCOLLOUGH: -- trying to get
8 that in. Okay.

9 Q (By Mr. McCollough) Now, in order to achieve
10 the benefits that we see here, put in dollar terms here
11 on Data Foundry Exhibit 3, and then I guess any amount
12 that might be identified by Navigant, AE incurs costs,
13 right? Doesn't it?

14 A Could you repeat that?

15 Q Running generation costs money.

16 A Running generation costs money.

17 Q And I guess we can talk about the difference
18 between whether it is 341 in fixed cost or 308 in fixed
19 cost. According to AE's numbers, the fixed costs are
20 308 or 341, depending on how you want to look at it,
21 right?

22 A I am -- I did not develop the rate package.
23 I'm going to defer those conclusions to I believe
24 Mr. Maenius' testimony.

25 Q Okay. How about the energy side? You might

1 be a little bit more familiar with that. Some 442.4
2 million dollars in energy-related production costs.

3 A (Nods head.)

4 Q And of that I think we -- Mr. Dombroski
5 agreed with me -- either agree or disagree, here's
6 going to be your chance -- some 411.6 million is
7 basically recoverable fuel cost.

8 A The majority is fuel cost. I can't validate
9 those specific numbers, but yes, the majority is fuel
10 cost.

11 Q So 442 million or 411, pick your number, is
12 energy-related costs that are incurred to generate
13 electricity that is sold to ERCOT, right?

14 A To offset load costs for our customers. That
15 would be my only add.

16 Q So we're spending 700 million dollars in
17 order to get a hundred million in benefit?

18 A Again, I'm going to, I'm going to defer
19 validating your numbers to Mr. Maenius, but yes, sir.
20 We do invest in these resources in this portfolio to
21 deliver benefits back to our customers.

22 Q Whatever your calculated fixed in energy
23 costs related to the generation of electricity sold to
24 ERCOT, what that yields is this difference between 580
25 and 449 here as shown on Exhibit 3?

1 A That's one of the main benefits.

2 Q And the other benefit you can identify here
3 today at the stand is the load zone one that's in the
4 Navigant study?

5 A That's another example of a benefit. Yes,
6 sir.

7 Q Are there any others? Here's your shot.

8 A Again, we make portfolio decisions which are
9 based on broader policy that are not always solving for
10 least cost.

11 Q I think this is your part of the rate-filing
12 package. It's Bate page 3. If you want to, you can
13 look at my Exhibit 1, page 5.

14 MR. BROCATO: Sorry. It's Bates
15 page what?

16 MR. MCCOLLOUGH: Bate 43. It's in
17 the --

18 MR. BROCATO: Okay.

19 MR. MCCOLLOUGH: -- main
20 rate-filing package.

21 MR. BROCATO: Yeah.

22 THE WITNESS: And so could you
23 refer me to the section that you're --

24 Q (By Mr. McCollough) Yes, ma'am. And this is
25 my characterization, please tell me if I'm wrong:

1 Basically what that says there is on average it's a
2 wash for utilities that have both generation and retail
3 in that the wholesale sales price on average equals a
4 wholesale purchase price?

5 A Again, can you tell me what section you're
6 in? I apologize, I'm not following where you're at.
7 It's in the tariff package; is that correct?

8 Q Yes, ma'am. It is Bate 43 if you take a look
9 at the bottom right-hand corner.

10 A Okay.

11 Q It's in the middle 314, and what I am
12 focusing on is that highlighted part, if you've got my
13 exhibit, that says, "This means, on average, LSEs paid
14 \$40.64." Do you see that, ma'am?

15 A I believe so. Yes, sir. 40.64 at the top.
16 Yes, sir.

17 Q Okay. This means on average LSEs,
18 load-serving entities, paid \$40.64 for every megawatt
19 hour of electricity they bought, and generating
20 companies received on average \$40.64 for every megawatt
21 energy of electricity they produced.

22 A I would add to characterize that statement as
23 in the realtime market, which is important. We don't
24 just purchase energy and supply energy in real time.
25 We also have other ways we monetize assets for our

1 customers.

2 Q Thank you for the clarification.

3 A Certainly.

4 Q With regard to the realtime market, did this
5 hold true for Austin Energy? In your realtime sales
6 and purchases did it average out so that the amount you
7 paid to ERCOT to serve your retail load equaled the
8 amount you got from ERCOT?

9 A I'd have to go back and check. I'll be
10 honest, I know these are high-level average numbers,
11 but to say that that would be the same for every node
12 that we generate in, in ERCOT, I would find that
13 surprising. So there probably is some difference
14 between these two numbers and what our actual
15 experience was, because we do have generating assets in
16 different parts of ERCOT that from time to time can
17 experience price separation from our load zone. Does
18 that make sense?

19 Q Sure.

20 A Okay.

21 Q And I'm sure it makes a lot more sense to you
22 than it does to me, but I guess what that brings me to
23 then is, well, then, since y'all are kind of
24 distributing and you have different zones, which way
25 did it go for you during the test year? Did you sell

1 higher than you bought, or did you buy higher than you
2 sold?

3 A I would -- I'd bring you back to your exhibit
4 that you shared, which is this waterfall chart which is
5 your Exhibit 3.

6 Q Um-hm.

7 A And as you can see as you walk across the
8 chart, our load-zone costs were higher than our
9 ultimate power supply adjustment cost, which means that
10 the portfolio benefited the load-zone cost. Does that
11 make sense?

12 Q Well, it does, but I'm not sure it answers my
13 precise question, so let me try again.

14 On average, understanding that y'all
15 serve different zones, did Austin Energy pay more for
16 the power it purchased on a kWh basis -- on a kmWh
17 basis than what it sold? Did you sell for more than
18 you bought, or did you buy for more than you sold on
19 average during the test period?

20 A Without going back and doing a detailed
21 interval analysis of all of the points we generated in
22 our -- and compared that against load, I can't answer
23 that question today, but I can tell you when you
24 aggregate all those dollars, you look at the net
25 position that having our portfolio and these other

1 resources in AE's portfolio, that there was a net
2 benefit to customers, 580 dollars -- 580 million
3 dollars loads on cost with nothing else. If we didn't
4 hedge, we didn't have generation, we didn't have PTAs,
5 we would have been exposed to 580 million dollars of
6 cost. With these other activities that net power
7 supply adjustment cost was reduced to 449 million
8 dollars. Does that make sense?

9 Q Yes, ma'am.

10 A Okay.

11 Q All right. Would you, would you expect what
12 you observed during the test period to generally hold
13 true for the rate of, say, the first year of the
14 rate-effective period?

15 A Can you tell me more about what you're
16 expecting me to project?

17 Q Yes, ma'am. You keep pointing me back to
18 that chart there on Exhibit 3.

19 A Yes, sir.

20 Q You think that's about what it's going to
21 look like during the rate-effective year 2?

22 A Honestly, this, this chart, what underlies it
23 is the fundamental market conditions.

24 Q Uh-huh.

25 A And so you're basically asking me to

1 speculate about what I think ERCOT is going to look
2 like for the next 12 months.

3 Q Yes, ma'am.

4 A And I will tell you we have a whole team of
5 folks who do project that, and we work to position
6 these resources to maximize value for our customers.
7 Can I tell you --

8 Q Well, what are they telling you? I'm sorry.
9 I didn't mean to interrupt.

10 A No, no. And so for me to tell you yes, it's
11 going to be exactly identical, I don't feel
12 comfortable, in full truthfulness, to say that. But we
13 work very hard to make sure that we're maximizing the
14 value of all of these resources for our customers.

15 Q Let me try my question again.

16 A Yes, sir.

17 Q And I'm not going to hold you to, you know,
18 You were off by 73 cents, trust me. But generally
19 speaking, do you expect that spread like we see on
20 Exhibit 3 to generally hold the same for the
21 rate-effective period?

22 A So for the rate-effective period the big
23 drivers are going to be the price of natural gas --

24 Q Um-hm.

25 A -- largely, that drives the ERCOT price, and

1 the price of natural gas is lower than it was in 2014.
2 So if you were to ask me based on today's gas prices
3 will the spread be the same? I would probably say
4 there's more of a likelihood that they'll be closer
5 together. In a down market all generators are seeing
6 pressure.

7 We, again, when we make these decisions
8 on resources we're not looking at near-term conditions.
9 We're also looking at long-term, and the value of this
10 portfolio has been -- has created value for the
11 community and the customers over the last few decades,
12 and that's the position that we look in when we're
13 looking at generation resources, not month over month.

14 Q Okay. I know you love your generation,
15 ma'am, and you're a good salesman for it. Okay? But
16 what I think I heard you say buried in there is that
17 for so long as the price of gas stays low, that spread
18 there we see on Exhibit 3 may just get compressed a
19 little, right?

20 A I believe it would.

21 Q All right.

22 MR. MCCOLLOUGH: That's all I have,
23 Your Honor.

24 MR. HERRERA: Mr. Borgelt, did you
25 say you had no questions for the other witnesses?

1 MR. BORGELT: Correct.

2 MR. HERRERA: Ms. Cooper?

3 MS. COOPER: Yes. There you go,

4 Your Honor, I . . .

5 CROSS EXAMINATION

6 BY MS. COOPER:

7 Q Good afternoon, Ms. Ball.

8 A Good afternoon.

9 Q I wanted to ask you a quick question. I
10 found your testimony very, very interesting, but I
11 wanted to ask you a little bit about the Green Choice.

12 You said it flows through the PSA. Does
13 that mean the cost and revenues are reconcilable
14 dealing with the Green Choice?

15 A I believe so, but what I would ask is perhaps
16 if you could direct that question to Ms. Kimberly --

17 Q Okay.

18 A -- or Mr. Dombroski. They're, they're more
19 of an expert in that, not me.

20 Q I might be a dollar short with Mr. Dombroski,
21 but Ms. Kimberly is still here.

22 A Okay.

23 Q Thank you so much. I've placed before you,
24 and what's been marked for identification, as AELIC
25 Exhibit 22. You would agree that that is a series of

1 **Austin Energy responses to discovery that relate to the**
2 **retirement of the Fayette Power Plant? Take your time**
3 **and look at them.**

4 A Yes, ma'am. This appears to be the RFIs that
5 we supplied answers to.

6 Q All right. Basically, there's just a series
7 of questions of kind of what, what items do you need to
8 think about or have thought about that are connected to
9 the Fayette Power Plant project. Would that be a fair
10 characterization of these RFIs?

11 A Well, I would say the requester probably
12 should characterize them, but we certainly tried to
13 provide full and complete answers to each of the
14 questions regarding FPP.

15 Q Okay. And while we're on -- I want to take a
16 little side-step on Fayette and talk a little bit about
17 Decker.

18 We talked a little bit about this with
19 Mr. Dombroski, but it's my understanding, having read
20 hot off the press two days ago or three days ago, that
21 there's been a new decision affecting when the Decker
22 power plant would be retired; is that correct?

23 A We have -- we announced last week our intent
24 to postpone the project associated with construction of
25 a replacement asset for two of the Decker units, and

1 that is in tandem with the retirement decision. Those
2 things do -- they're connected, and we've -- we
3 announced at the Electric Utility Commission that we're
4 going to postpone funding that project for a year while
5 we continue to evaluate energy prices and ERCOT market
6 conditions.

7 **Q Yes, ma'am. And do you have an idea how long**
8 **the extension is?**

9 A For the, for the --

10 **Q Retirement of Decker.**

11 A Right now we have announced, again, that
12 we've postponed the project for a year, which would put
13 commercial operation of the new units in 2022.

14 **Q 2022.**

15 A But we will continue to look at all of our
16 assets --

17 **Q Sure.**

18 A -- and their performance relative to
19 continued operation.

20 **Q If you would, turn your attention to what's**
21 **been marked for identification as AELIC Exhibit 23, and**
22 **you would agree that these are -- once again, I asked**
23 **you a lot of question, but I used them -- our Austin**
24 **Energy responses to some discovery that relate to the**
25 **non-nuclear decommissioning cost; is that correct?**

1 A Yes, ma'am.

2 Q All right. Now, I want to take just a tiny
3 step back, and what, what are the steps to
4 decommissioning? It seems to me first you would have
5 to have the city council say that we are going to
6 decommission a power plant; is that correct?

7 A Yes, ma'am. Certainly our governing body
8 would be a key first step.

9 Q And then having heard your discussion with
10 Decker, it sounds like you would also need to look at
11 what kind of replacement resources that you would have
12 on hand to replace the resource that you're retiring;
13 is that correct?

14 A From a portfolio standpoint, yes, ma'am.
15 That, that would be part of the work at that time.

16 Q And then also don't you also have to get some
17 type of regulatory approval through ERCOT?

18 A We would require that we would have to notify
19 ERCOT of our intent to suspend operations at the
20 facility and enter their regional planning process.

21 Q And do you know what type of lead time you
22 need for these steps? Do you have any idea, just an
23 estimate, a reasonable estimate?

24 A I'll give you an estimate for the ERCOT
25 process, which is probably the most certain, I guess is

1 a nice way to put it.

2 Q Okay.

3 A You know, going through that process would
4 probably be a 30- to-36-month process from the time we
5 notice them to having a plan for transition.

6 Q All right. Okay. Now, these are the things
7 I'm very interested in. When I talked with
8 Mr. Dombroski earlier today he agreed with me that
9 another characterization of load characteristic is
10 usage characteristic.

11 Do you agree with that, that usage
12 characteristic is another way of saying load
13 characteristic?

14 A Can you, can you define those for me a little
15 bit? I'm not trying to be --

16 Q Well, load characteristic --

17 A -- obtuse. I want to make sure I understand.

18 Q -- is how people use their electricity
19 throughout the year. So a usage characteristic would
20 be another way of saying it, how they use their
21 electricity throughout the year.

22 A This is probably the engineer in me. I
23 apologize.

24 Q That's okay.

25 A I categorize --

1 Q I appreciate it.

2 A I categorize usage in terms of demand and
3 energy --

4 Q Uh-huh.

5 A -- and both, both are important.

6 Q Um-hm. Demand is the other side of the coin
7 of energy?

8 A No, ma'am. Demand is really more of an
9 instantaneous measure of maximum output of that energy
10 requirement.

11 Q But you still are measuring energy, you're
12 just, you're measuring it over a certain point in time?

13 A You're measuring it over -- energy is in
14 kilowatt hours or energy over long durations.

15 Q Right.

16 A And demand is that instantaneous or very
17 short-duration maximum requirement.

18 Q Right.

19 A So they're different concepts.

20 Q Right. So I'd like for you now to turn to a
21 document that's been placed before you that's been
22 marked for identification as AELIC Exhibit 26.

23 Well, let me have you wait a minute,
24 pause for a moment on that. I apologize. I'd like you
25 to look at -- I'm running out of exhibits here -- 24.

1 If you could look at AELIC 24, and you'll understand
2 once we do this.

3 You would agree that this exhibit is
4 request for information relating to the diversity of
5 residential meters that Austin Energy has that serves
6 their customers; is that correct?

7 A Yes, ma'am. This was, this was provided by
8 my staff.

9 Q Yes, ma'am.

10 A I didn't directly provide this.

11 Q Okay. And one thing I am interested in, if
12 you could turn to -- oh, dear, I forgot to number the
13 RFI. If you could turn to the second full page of this
14 exhibit where it's Austin Energy's response to
15 AELIC -- TLSC's 1-15, you have the cost of the meters.
16 Are any of those meters that are identified interval
17 data-recording smart meters?

18 A So I want to check the answer, but I do
19 believe we have some meters that do collect the
20 interval data. I don't know the volume, but we do have
21 some of -- some meters that have that functionality.

22 Q Okay. Well, let's look at the previous page,
23 the answer to AELIC 1-14, the first supplemental -- I
24 mean third supplemental response. This lists all the
25 meters. Now, which meter would be the interval

1 **data-recording smart meter, do you know?**

2 A I don't want to speculate, but I believe the
3 demand meters certainly would have that capability, but
4 we could get you a more complete answer outside of,
5 outside of this proceeding.

6 Q **And you would agree that -- well, the Value**
7 **to Solar customers, do they have one or two meters?**

8 A I believe -- and I'm going to direct this to
9 Ms. Kimberly.

10 Q **Okay.**

11 A She's the right person to answer.

12 Q **All right.**

13 A But I believe we do have separate meters for
14 solar installations.

15 Q **All right.**

16 A But you can check that with her.

17 Q **Well, does the residential customer who does**
18 **Value to Solar, do they have one meter or two meters at**
19 **their house?**

20 A Again, I believe we --

21 Q **Oh, I'm sorry. Okay.**

22 A -- have separate meters, so that would be at
23 least two.

24 Q **It'd be two? Okay. But I'll ask**
25 **Ms. Kimberly.**

1 A Okay.

2 Q I'm sorry. Okay. So if we could now turn to
3 what's been marked for identification as AELIC Exhibit
4 25, and you would agree that these are Austin Energy
5 responses to discovery relating to infrastructure of
6 cost diversity? Take your time and look.

7 A Tell me, tell me what you're wanting me to
8 categorize these as.

9 Q Well, I called it "Infrastructure Cost
10 Diversity," and if that's not a very good way of
11 classifying it, I don't mind changing that.

12 A No. I just -- can you tell me what you mean
13 by that?

14 Q Infrastructure cost diversity? In other
15 words, the cost changes depending upon the usage
16 characteristics of the thing you're measuring. For
17 instance, if we look at page 2 of the exhibit, the size
18 of a residential structure relates to the size of a
19 load; is that correct?

20 A Yes, ma'am. It does.

21 Q And so that does affect the size, the cost of
22 the infrastructure?

23 A Yes, ma'am.

24 Q All right.

25 A Generally, and I will say there's more

1 net-zero capable and a number of other things coming
2 out, but generally, that is correct in distribution
3 planning.

4 Q I agree. It's in general. Yes, ma'am.

5 Okay. Now we want to turn to what's
6 been marked for identification as AELIC Exhibit 26,
7 this document, and you would agree that this is a
8 portion of y'all's -- would it be called the design
9 manual?

10 A I believe this is our Design Criteria Manual,
11 but I can -- it's not marked, but I believe that's
12 where this is coming from.

13 Q Okay. Too-late copying, I guess, at my -- I
14 apologize for that.

15 And so, and the section we've got here
16 is the section that deals with residential electric
17 demand estimation; is that correct?

18 A Yes, ma'am.

19 Q Now, if we can turn to page, what's been
20 marked as page 2 -- and the numbers I'm referring to
21 are in the bottom right-hand corner -- it seems to me
22 that this reflects exactly what we were talking about
23 earlier with AELIC Exhibit 25, that the bigger the
24 house, the more of a, of a load demand. Would that
25 correctly reflect if we look under Table 3.3?

1 A Yes, ma'am. 3.3? Yes, ma'am. Generally,
2 that is, that's the trend showing the maximum kVA
3 demand, generally, by square footage.

4 Q And then one thing I'm interested in is
5 there's little cells in this Table 3.3. Like, for the
6 number of homes it's 6, and at 4,000 to 5,000 square
7 feet the listing in the cell is not a number but an NA.
8 Could you tell us what that means?

9 A Subject to check, this is roughly sizing
10 infrastructure for these number of homes. So
11 generally, the larger -- if you have a large
12 subdivision with a lot of large homes, you're going to
13 break up that load on different transformers. And so
14 this is, again, looking at kVA demands by the number of
15 homes, in general, sizing transformers and
16 infrastructure.

17 But that's subject to check. I didn't,
18 again, I didn't build this table, but that's what I
19 would infer from it.

20 Q Okay. And so what you're saying is that this
21 may be a break when you need another transformer, for
22 instance?

23 A For a different infrastructure.

24 Q For a different infrastructure. Okay. And
25 then if we look at Table 3-4, we see that when we add

1 **residential structures with all electric that the load**
2 **also goes up just because of the all-electronic part**
3 **component?**

4 A Yes. Yes, ma'am.

5 Q And then it also still goes up depending upon
6 **the size of the house; is that correct?**

7 A Yes, ma'am. That's the trend you see.

8 MR. REED: Lanetta, can -- do you
9 have an extra copy of these exhibits?

10 MS. COOPER: Yes. They're over
11 there on the chair. I'm sorry. I didn't have anybody
12 to -- oh no, wait, Scott gave them back to me.

13 THE WITNESS: And I believe this
14 document's publicly available on our website.

15 MR. HUGHES: There's a lot of
16 publicly available documents.

17 Q **(By Ms. Cooper) While we're talking about**
18 **the -- I almost forgot. The Navigant study, can I go**
19 **to the web portal, the Austin Energy web portal and**
20 **type, Google, whatever it's called, "Navigant" and find**
21 **it?**

22 A I believe that it is -- it was posted on a
23 city council and also a utility oversight committee
24 meeting.

25 Q **Okay.**

1 A So it would be in the city directory there.
2 We may also have it on our website. I don't want to
3 say that definitively, because I haven't gone out to
4 look for it.

5 Q Okay. All right. Well, I'm interested in
6 it. Thank you so much.

7 A Yes, ma'am.

8 Q And then if we turn to page 5 of Exhibit 26,
9 you would agree that once you get into a large, very
10 large home that you start moving in and looking at more
11 finite for the demand factors? Is that what this page
12 reflects?

13 A More finite, can you define what you mean by
14 "more finite"?

15 Q Well, in other words, you start looking at
16 the, you're actually looking at the appliance, the
17 appliance; that would be an example. Another would
18 maybe, would be other, other buildings. I think I saw
19 one with sauna or something in there somewhere, the
20 swimming pool.

21 Let me just strike that question and ask
22 you, how would you characterize what this information
23 is, is conveying to the public in this manual?

24 A I believe you're referring to Table 3.7; is
25 that correct?

1 Q Yes, ma'am.

2 A Okay.

3 Q And I apologize, I wasn't very clear.

4 A That's okay. I just want to make sure for
5 the record.

6 Q No. I appreciate it.

7 A I'm not trying to be difficult.

8 Q Thank you so much.

9 A Table 3.7, for those of you who don't have
10 the handout, is the demand factors for various
11 residential loads in custom single-family homes that
12 are greater than 5,000 foot squared, and the table
13 itself is giving general averages for demand factors
14 and kW's per unit for with what they call demand
15 categories, which includes lighting, electronics, air
16 conditioning, appliances. So this is a rough
17 estimate --

18 Q Okay.

19 A -- of demand factors and connectivity per
20 unit. That's, that's how I interpret this table.

21 Q Okay. And if we could turn to page 9,
22 please, of the exhibit, and if we look under Table
23 3.10, which is residential central air conditioning,
24 this also shows the bigger the air conditioning unit,
25 the bigger the demand; is that correct?

1 A Yes, ma'am.

2 Q And window units have some of the smallest
3 demand. Or room air conditioners is how you classify
4 it. There's a star.

5 A So I can't generally say that.

6 Q Okay.

7 A For -- and I'll tell you why. For example --

8 Q That's okay. Yes, ma'am.

9 A -- the 1.5-ton unit --

10 Q Uh-huh.

11 A -- which is a room air conditioner --

12 Q Right.

13 A -- has higher kVA demand than a 2-ton central
14 unit.

15 Q You're right. I see that.

16 A So I can't generally say that.

17 Q You're right, but barring that exception, in
18 general the smaller window units have less demand?

19 A Smaller window units have, according to this
20 table, smaller kVA demand.

21 Q And would these larger units, like a 7.5, be
22 correlated to large houses?

23 A Certainly those sizes would, but I would also
24 say larger units can be also correlated to poor
25 building envelope or other characteristics.

1 **Q Okay. Could you just follow up a little bit**
2 **on that? That's my last question, so make it good.**

3 A So you asked if square footage is the only
4 driver of cooling loads, essentially?

5 **Q Air conditioning, yes --**

6 A Other [crosstalk] --

7 **Q -- and then you mentioned the envelope.**

8 A Certainly. You know, older homes, for
9 example --

10 **Q Right.**

11 A -- that may not, that may not be as well
12 insulated may have larger units, but they will not
13 be -- you know, they may have more, more production or
14 more demand but that may be a smaller square-foot home.

15 **Q Right.**

16 A So you can't generalize across --

17 **Q Right.**

18 A -- all types, is --

19 **Q I agree.**

20 A -- basically what I'm saying.

21 **Q I agree. I understand. Okay. Let me**
22 **doublecheck and make sure I didn't lie. Okay. Well,**
23 **thank you.**

24 MS. COOPER: I have no more
25 questions, Your Honor. Thank you very much, Ms. Ball.

1 MR. HERRERA: Public Citizens?

2 CROSS EXAMINATION

3 BY MS. BIRCH:

4 Q I didn't think I had any questions, but now I
5 have a couple based on the questions Ms. Cooper asked
6 you. I'm Carol Birch here on behalf of Public Citizen
7 and Sierra Club.

8 Did I hear you correctly in response to
9 one of her questions that it could take, the process
10 could take 30 to 36 months to retire Decker?

11 A What I mentioned was in the ERCOT regional
12 transmission planning process and any changes around
13 Decker could take that long.

14 Q Okay. Are you familiar with the ERCOT
15 protocols regarding notification and mothballing or
16 retiring a plant?

17 A Yes, ma'am.

18 Q So it's true, isn't it, that ERCOT only
19 requires 90 days' notice of an intent?

20 A Yes, ma'am. That is correct. If, however,
21 in that notice they deem that there are transmission
22 constraints in the area, that will be moved into
23 regional planning, and depending on the nature of the
24 work, that could take several years to make
25 transmission system configuration changes before that

1 resource could be removed from the grid.

2 So again, I'm answering conservatively
3 but trying to be truthful about what I know around
4 Decker.

5 Q Okay. I just wanted to clarify that.

6 A Yes, ma'am.

7 Q Thank you.

8 MS. BIRCH: That's all we have.

9 MR. HERRERA: NXP?

10 MR. HUGHES: No questions, Your
11 Honor.

12 MR. HERRERA: Independent Consumer
13 Advocate?

14 MR. COFFMAN: Yes.

15 CROSS EXAMINATION

16 BY MS. COOPER:

17 Q I have a package of exhibits. You should be
18 handed a copy of exhibits, ICA 11, 12, 13, 14, 15, 16,
19 17, and I think -- that's it. So six, six exhibits.
20 Do you have that package? Ms. Ball, do you have that?

21 A Oh, yes, sir. I'm sorry. I was reading.

22 Q That's okay, and I don't have --

23 MR. HERRERA: Mr. Coffman, before
24 you start, Ms. Cooper, did you intend to offer these?

25 MS. COOPER: Thank you, Your Honor.

1 We'd like to enter into evidence what's been marked,
2 what, 20 --

3 MR. HERRERA: I have 22 through 26.

4 MS. COOPER: That'll do it, Your
5 Honor.

6 MR. HERRERA: Any objections?

7 MR. BROCATO: Just one brief
8 moment. There was another document that was not
9 marked.

10 MS. COOPER: Let me see. No. It
11 was marked. I'm sorry, Thomas. That was -- I did this
12 last night -- was No. 23.

13 MR. BROCATO: Well, I have a
14 separate document [inaudible] --

15 MS. COOPER: That's why I tried
16 to -- [obscured by coughing] so people could see
17 easily. No. 22 through 26.

18 MR. BROCATO: Again, on 23, the
19 first response, which is NXP/Samsung 1-112, she
20 references two attachments that we would reserve the
21 right to also offer, but otherwise, we have no
22 objections to these exhibits.

23 Oh, I would make one other notation. On
24 Exhibit 25 there's some highlighted material on mine
25 that I'm not sure of the purpose, but I would just note

1 that. It's not in the original.

2 MS. COOPER: What page, Thomas?

3 MR. BROCATO: The next to last

4 page, 5.

5 MR. HERRERA: Mr. Brocato, which is
6 the one that you reserved the optional completeness on?

7 MS. COOPER: And I will say, Your
8 Honor, that I did -- that's not Austin Energy's. I
9 highlighted that, and I apologize for not pointing that
10 out.

11 MR. BROCATO: On 23, Your Honor.

12 MR. HERRERA: Thank you.

13 MR. BROCATO: Also, 26, this is an
14 AE document, but it appears, though, to be just the
15 attachment to an RFI response and only a portion of it.
16 I'm not sure if Ms. Ball is the sponsor of this
17 discovery response or not. Regardless, I don't have an
18 objection, but again, we would reserve the right to
19 complete this document and perhaps include the RFI
20 response as well that went with it.

21 MR. HERRERA: Okay. With those
22 notations, AELIC's Exhibits 22, 23, 24, 25, and 26 are
23 admitted.

24 MS. COOPER: Thank you, Your Honor.

25 MR. HERRERA: Sorry, Mr. Coffman.

1 MR. COFFMAN: No problem.

2 Q (By Mr. Coffman) All right. In the interest
3 of time, we're going to try to get through my exhibits
4 here as quick as I can, as long as you can identify
5 them, Ms. Ball.

6 A Yes, sir.

7 Q I'd like to first refer you to ICA Exhibit
8 No. 11, which is your response to ICA request for
9 information 1-6. Do you see that?

10 A Yes, sir.

11 Q It asks about the percentage increase and the
12 procurement cost for transformers as a result of the
13 new federal energy efficiency standards; is that right?

14 A Yes, sir.

15 Q Moving along to ICA Exhibit --

16 MR. BROCATO: Well, actually, if I
17 may, Your Honor, maybe I can expedite this. We have no
18 objection to the admission of these documents.

19 MR. COFFMAN: That's great. And to
20 my knowledge, they are all complete.

21 MR. BROCATO: The only thing is,
22 there's a cover sheet on 16, but --

23 MR. COFFMAN: Oh, right.

24 MR. BROCATO: -- that's not
25 particularly problematic either.

1 MR. COFFMAN: And that is because
2 it's a supplemental response, my belief is that that is
3 the only response to that.

4 MR. BROCATO: Fair enough. So we
5 have no objections to ICA [inaudible].

6 MR. COFFMAN: Okay. I --

7 MR. HERRERA: So no objection to
8 ICA 11 through 17, Mr. Brocato?

9 MR. BROCATO: That's correct, Your
10 Honor.

11 MR. HERRERA: Those are admitted.

12 MR. COFFMAN: Thank you.

13 Q (By Mr. Coffman) I have a couple questions
14 about ICA 16, if you don't mind, if you'll turn to
15 that, which is the supplemental response to ICA 4-9,
16 and this response indicates that the requested cost of
17 service in this case includes debt service on CWIP and
18 on Plant Held for Future Use. That's in subpart C.
19 You see that?

20 A Yes, sir. I do.

21 Q Okay. And CWIP is also called Construction
22 Work in Progress, or y'all here in Texas call it
23 "kwip," right?

24 A Correct.

25 Q In Kansas they call it "C whip," but --

1 MR. BROCATO: Yeah, but that's
2 Kansas.

3 MR. MCCOLLOUGH: They're kinky up
4 there.

5 Q (By Mr. Coffman) Okay. And Austin Energy
6 includes 100 percent of CWIP in the cost of service,
7 correct?

8 A Again, I'm going to defer that to the finance
9 team to validate that.

10 Q Okay. And what witness?

11 A Mr. Maenius, please, Rusty Maenius.

12 Q Okay. Would you know in your, in your role
13 with the company, though, whether CWIP is subject to
14 certain special standards?

15 A Can you elaborate?

16 Q Yes. The exceptional form of rate relief
17 standard, which requires a financial integrity finding
18 regarding prudence of construction management findings,
19 is that a -- is that something you know about?

20 A I'm probably not in the best position to
21 answer that question. Again I would defer that to
22 Mister --

23 Q A finance --

24 A Please.

25 Q -- related question?

1 A Yes, sir.

2 Q Do you know about the Texas PUC's general
3 requirement regarding Plant Held for Future Use?

4 A I do generally, but again, if you're looking
5 at specific substantive items related to that PUC rule,
6 I would defer them to finance or --

7 Q Do you generally -- I'm sorry.

8 A -- to Mister -- or Mr. Dreyfus, Dr. Dreyfus.

9 Q Do you generally understand that the Texas
10 PUC requires a definitive date and a plan in order to
11 include Plant Held for Future Use in the cost of
12 service?

13 A Again, I'm going to defer to Dr. Dreyfus on
14 those particular matters.

15 Q You're not familiar enough with the rule
16 yourself?

17 A No, sir. I really am not.

18 Q Okay.

19 MR. COFFMAN: That's all I have,
20 Your Honor.

21 MR. HERRERA: Mr. Brocato, have any
22 redirect?

23 MR. BROCATO: I have no redirect.

24 MR. HERRERA: No redirect?

25 MR. BROCATO: No. No redirect.

1 MR. HERRERA: You're excused.

2 Thank you.

3 THE WITNESS: Thank you.

4 MR. HERRERA: Mr. Brocato, you want
5 to call your next witness?

6 MR. BROCATO: Yes, sir, Your Honor.
7 Thank you. At this time Austin Energy would call
8 Ms. Kerry Overton to the stand.

9 MR. HERRERA: Mr. Brocato, did you
10 tell Mr. Overton you're on the clock?

11 MR. BROCATO: He's here.

12 DIRECT EXAMINATION

13 BY MR. BROCATO:

14 Q Good afternoon. Will you please state your
15 name for the record?

16 A Kerry Overton.

17 MR. BROCATO: Mr. Overton is
18 sponsoring portions of the rate tariff package that's
19 already been admitted, and so with that, I would tender
20 Mr. Overton for cross examination.

21 MR. HERRERA: Mr. McCollough?

22 MR. MCCOLLOUGH: I have no
23 questions of this witness, Your Honor.

24 MR. HERRERA: You'd think I'd have
25 memorized the order by now. Mr. Borgelt?

1 MR. BORGELT: No questions.

2 MR. HERRERA: Ms. Cooper?

3 MS. COOPER: Yes, I do, Your Honor.

4 If I can just pull these exhibits up.

5 MR. BROCATO: And for future
6 reference, I don't mind if the parties want to provide
7 their exhibits to my witnesses at one time in packets
8 in advance. That way, you know, we can sign off on
9 them.

10 MR. HUGHES: From now on we'll do
11 that.

12 MR. BROCATO: I understand. We'll
13 just start.

14 CROSS EXAMINATION

15 BY MS. COOPER:

16 Q Here you go, Mr. Overton. Good afternoon,
17 Mr. Overton.

18 A Good afternoon.

19 Q It's good inside, I don't know about outside.

20 MR. HERRERA: Ms. Cooper, is what
21 you handed out your Exhibits 29 through 34?

22 MS. COOPER: Let's see here. Yes,
23 Your Honor.

24 Q (By Ms. Cooper) Mr. Overton, you, according
25 to your testimony, you are in a supervisory position in

1 the CAP program and you can speak to us about the
2 Customer Assistance Program; is that correct?

3 A I can.

4 Q All right.

5 A Yes.

6 Q Now, since the Customer Assistance Program
7 has, has begun with Austin Energy, there's other
8 components that have been added since then; isn't that
9 correct? Like the weatherization program is a new
10 component?

11 A That's correct.

12 Q And the CAP discount program has, the
13 enrollment has increased since it originally started;
14 is that correct?

15 A That's correct.

16 Q And the CAP program also provides services to
17 the medically vulnerable population; is that correct?

18 A The medically vulnerable are part of the
19 CAP's definition.

20 Q Right. And that program has also grown; that
21 correct?

22 A That's correct.

23 Q In terms of what services the CAP program
24 offers this, this population?

25 A That's correct.

1 Q I'd like to have you turn your attention to
2 the documents in front of you that's been marked for
3 identification as AELIC Exhibit 29. Have you got it
4 there?

5 A Yes.

6 Q Okay. And you would agree that it also
7 includes the cover page, but it's a copy of a full
8 response to, Austin Energy's response to AELIC's second
9 RFIs, and you're listed as the sponsoring witness on
10 all of these RFIs. Have you had a chance to look?

11 A This appears to be both the responses, and it
12 appears to be complete.

13 Q Okay. And Austin Energy -- you have not
14 supplemented any of these RFIs since these were
15 originally filed?

16 A Not to my knowledge.

17 Q Okay. And I'd like to have you -- draw your
18 attention to two documents. One is marked for
19 identification as AELIC Exhibit 30, and the other one
20 is AELIC Exhibit 31. Do you have those in front of
21 you, sir?

22 A I do.

23 Q All right. And you would agree that these
24 also are responses to Austin -- to discovery requests
25 and that you are the sponsoring witness; is that

1 correct?

2 A I am in part, and Mrs. Kimberly is sponsor
3 for some portions of it.

4 Q All right. You would agree that both of
5 these exhibits reflect demographic data dealing with
6 your customer population; is that correct?

7 A That's correct.

8 Q And it classifies the demographics based on
9 household income; is that correct?

10 A It is one of the factors that are -- that's
11 on the matrix.

12 Q All right. And if we were to look at page 3
13 of Exhibit No. 30, we would see Table 1; is that
14 correct?

15 A That's correct.

16 Q And if we look in the most left vertical
17 column and come down to the title that says "Households
18 by Percent of Poverty," are you there?

19 A I am on that spot.

20 Q Okay. And would percent of poverty refer to
21 the federal poverty guidelines?

22 A Yes.

23 Q And are the federal poverty guidelines a
24 measure of indigency that is published by a federal
25 agency every year?

1 A It is a factor. Yes.

2 Q And it is one that your department, as well
3 as other departments in Austin Energy, rely on --

4 A We --

5 Q -- in making certain decisions, like the CAP
6 program?

7 A We do.

8 Q Now I'd like to refer you what's been marked
9 for identification as AELIC Exhibit 32. Are you there?

10 A No. I have 30, 31, and it skips to 33 and
11 34.

12 Q Okay. That's midnight putting-together.

13 MS. COOPER: May I approach the
14 witness, Your Honor?

15 MR. HERRERA: Yes.

16 MS. COOPER: Thank you. And I
17 apologize, Mr. Overton. And if Your Honor and the
18 court reporter can check to make sure you have Exhibits
19 32 and 33.

20 MR. HERRERA: I have it,
21 Ms. Cooper.

22 THE WITNESS: Thank you.

23 Q (By Ms. Cooper) Yes. If you would take a
24 moment. I apologize for not having it in front of you.

25 A This is Exhibit No. 32.

1 Q All right. And you would agree that those
2 are some Austin Energy responses from discovery in
3 which you're the sponsoring witness; is that correct?

4 A That's correct.

5 Q All right. And what that exhibit reflects is
6 what's called the late penalty fee; is that correct?

7 A Yes. That's correct.

8 Q All right. And in it's a discussion, is that
9 you haven't done a cost study on the late penalty fee;
10 is that correct?

11 A We have not.

12 Q And wasn't part of your response in
13 that -- what would be -- would your response -- now
14 I've lost my Exhibit 32.

15 Your response was that you think that
16 the late penalty fee is appropriate because the city
17 council has approved it; is that correct?

18 A That is correct.

19 Q All right.

20 MS. COOPER: May I approach the
21 witness, Your Honor?

22 MR. HERRERA: Yes, you may.

23 Q (By Ms. Cooper) And you have in front of you
24 what's been marked for identification as AELIC
25 Exhibit 33; is that correct?

1 A I do.

2 Q All right. And you would agree that this is
3 a portion of the Public Utility Regulatory Act, the
4 Utilities Code. Are you familiar with that law?

5 A I am somewhat familiar with it. Yes.

6 Q All right. And that we are looking at a
7 portion from Chapter 17 of the Texas Utility Code?

8 A Yes. That's correct.

9 Q And that if we turn to page 3, and there's
10 some yellow highlights -- those highlights are
11 mine -- we see "Customer Protection Standards," is the
12 title of this, this section; is that correct?

13 A That's correct.

14 Q So move over to page 4 -- if we turn to page
15 5, let's do page 5, and would it be fair to say that
16 the state legislature has said that the municipally
17 owned utilities also have to follow the goals that are
18 set out in Chapter 17?

19 A My, my understanding, just from glancing at
20 this reading and my understanding of the PURA, is that
21 it does set out a standard that municipal-owned
22 utilities do follow these standards, but ultimately,
23 we're under the regulations of our city council.

24 Q All right. All right. Now I'd like to turn
25 your attention to a document that's been identified,

1 **marked for identification as AELIC Exhibit 34.**

2 A I have it.

3 Q **And you would agree that this exhibit**
4 **reflects portions of --**

5 MS. COOPER: May I approach the
6 witness, Your Honor?

7 MR. HERRERA: Yes, you may.

8 Q **(By Ms. Cooper) -- of the Public Utility**
9 **Commission's substantive rules; is that correct?**

10 A It does, as best that I can see.

11 Q **All right. And if we turn to page 2 of this**
12 **exhibit --**

13 A Okay.

14 Q **-- are you familiar -- Section 25.28 is**
15 **certain customer protections related to the regulated**
16 **market. Are you familiar with that?**

17 A I'm reading -- this is 25.28 --

18 Q **Right.**

19 A -- the "Bill Payment and Adjustments," are
20 for retail services. Yes.

21 Q **Okay. And if we look at (b) of that -- of**
22 **this section on page 2 --**

23 A Um-hm.

24 Q **-- it does provide for a penalty, but the**
25 **penalty is only charged on delinquent commercial or**

1 industrial bills. Isn't that what it says?

2 A That's what this says.

3 Q All right. Now, if we turn to page 1 -- this
4 is Section 25.480 -- you would -- do you know whether
5 this is part of the deregulated market?

6 A The entire page 1?

7 Q Yes. That this is a customer protection rule
8 related to the deregulated market.

9 A Yeah. This, this applies to REPs,
10 electric --

11 Q Retail electric providers?

12 A Retail electric providers.

13 Q And that would cause you to think that this
14 is in the deregulated market, correct? It's okay if
15 you don't know.

16 A I don't know that, but I think what, again,
17 my statement to the earlier one is that, but we also
18 have the rules that are governed by the council as they
19 approve those rules.

20 Q That's not what I asked.

21 A Okay.

22 Q I under -- I understand what you're saying.

23 A Okay.

24 Q But listen to my question. Do you know
25 whether this is rules related to the deregulated

1 market?

2 A I'm not certain.

3 Q Okay. Well, let's look at subsection (c)
4 where they talk about a penalty on delinquent bills,
5 and isn't it true that there -- that while you can do a
6 delinquent penalty fee for residential consumers,
7 there's an exception for customers who are getting bill
8 payment assistance?

9 MR. BROCATO: Your Honor, I'm going
10 to object. First of all, these questions call for a
11 legal conclusion, and it has not been established that
12 Mr. Overton is an attorney. But perhaps more
13 importantly than that, he's just testified that, the
14 prior question, that he wasn't sure what these rules,
15 these specific rules, applies to, whether it's a
16 deregulated market or not.

17 So if Ms. Cooper wants to argue about
18 what the [obscured by coughing] is and what applies to
19 municipally owned utilities, I'm happy to do that in a
20 brief, but it doesn't seem like this is the appropriate
21 way to just ask these questions.

22 MS. COOPER: Well, Your Honor, in
23 the answers to the discovery dealing with the late
24 penalty fee he did specifically refer to PUC
25 substantive rules. So I'm not asking him --

1 MR. HERRERA: Can you point me to
2 where he said that, Ms. Cooper?

3 MS. COOPER: Let me find that
4 exhibit. I think it's, what, 31? No. It's the late
5 penalty, it's the one that's called late penalty fee.
6 Here it is. It's 32, Your Honor, and if you look at
7 page 1, second paragraph --

8 MR. BROCATO: I'm sorry,
9 Exhibit 30-what?

10 MS. COOPER: 32, AELIC Exhibit 32.
11 And the second paragraph, last, last sentence he
12 specifically refers to PUC 25.28(b).

13 MR. HERRERA: My understanding of
14 the objection by Mr. Brocato was that Mr. Overton had
15 already answered that he didn't know whether this was
16 or was not in the regulated industry, that he's not an
17 attorney --

18 MS. COOPER: That's correct.

19 MR. HERRERA: -- to be qualified.
20 So I'm going to sustain that objection. If you have
21 other questions on the merits of the late payment
22 penalty, you can continue with those.

23 MS. COOPER: No, Your Honor.
24 Actually, Exhibit 33 and 34 were more like judicial
25 notice more than actually an exhibit, because it was my

1 understanding that we had to provide those sections
2 that we were going to rely on for cross.

3 So at this time, Your Honor, we would
4 like to move for admission what's been marked for
5 identification as AELIC Exhibit 29, 30, 31, and 32.

6 MR. HERRERA: Any objections to
7 those exhibits?

8 MR. BROCATO: I have no objections
9 on 30. However, we would reserve optional
10 completeness.

11 MR. HERRERA: On 30?

12 MR. BROCATO: Yes.

13 MR. HERRERA: Those are admitted.

14 MS. COOPER: And did I say 29 too,
15 Your Honor? I don't mean to --

16 MR. HERRERA: I thought you did.

17 MS. COOPER: I thought I did too,
18 but I just wanted to check. All right. And I have no
19 more question, Your Honor.

20 MR. HERRERA: And Mr. Brocato, did
21 you have any objection to judicially noticing what
22 Ms. Cooper provided as Exhibits 33 and 34?

23 MR. BROCATO: Did you request
24 those?

25 MS. COOPER: I did not specifically

1 ask -- request it before the hearing. This is Texas
2 law. Judicial notice doesn't apply to Texas law. It
3 was my understanding --

4 MR. BROCATO: No. I was just
5 asking if you request --

6 MS. COOPER: Oh, okay.

7 MR. BROCATO: -- if you're
8 requesting it, period. I'm not --

9 MS. COOPER: All right.

10 MR. HERRERA: I understood
11 Ms. Cooper was requesting judicial notice of what she
12 provided as Exhibits 33 and 34.

13 MR. BROCATO: Sure. I have no
14 objection to that.

15 MR. HERRERA: All right. 29
16 through 32 are admitted. 33 and 34 are noticed. And
17 Ms. Cooper, you have no more questions for Mr. Overton?

18 MS. COOPER: I have not. That's
19 correct. Thank you, Mr. Overton.

20 THE WITNESS: Thank you.

21 MR. HUGHES: Lanetta, do you have
22 copies of those as well --

23 MS. COOPER: Yes.

24 MR. HUGHES: -- that last group?

25 MS. COOPER: I have them over here.

1 MR. HUGHES: That's okay. We can
2 come -- she'll come get them.

3 MS. COOPER: Okay. I'll bring it
4 to you. I'm through.

5 MR. HUGHES: Okay.

6 MR. HERRERA: Public Citizen/Sierra
7 Club?

8 MS. BIRCH: We have no questions
9 for this witness.

10 MR. HERRERA: NXP?

11 MR. HUGHES: Yes, Your Honor. We
12 have a few, just a few questions. But before I do
13 that, as I said earlier with regards to the exhibits
14 that we provided to Mister -- during Mr. Dombroski's
15 testimony, we thought -- we believe most of that
16 information is in the record. However, out of an
17 abundance of caution, I'd like to go ahead and have,
18 move to have our Exhibits 5 -- all of the Exhibits 5
19 through 17 that we've already distributed to the
20 parties entered. And I'm going to hand Mr. Overton a
21 couple of copies that the rest of you should already
22 have, but Ms. Faconti will give one to Mr. Brocato as
23 well as you, Your Honor.

24 MR. BROCATO: If we may go off the
25 record just for a brief moment.

1 MR. HERRERA: Let's go off the
2 record.

3 (At 3:22 p.m. the proceedings went
4 momentarily off the record.)

5 MR. HERRERA: I believe,
6 Mr. Hughes, you were offering NS Exhibits 5 through 17?

7 MR. HUGHES: Yes, Your Honor.

8 MR. HERRERA: Any objections,
9 Mr. Brocato?

10 MR. BROCATO: Just a few comments,
11 Your Honor. Again, on 5, I believe that's taken from
12 the tariff package, but it's been highlighted by NXP,
13 I believe, and was not in the original. 6 was
14 also -- I'm going to assume it's taken directly from
15 the --

16 MR. HUGHES: Yes.

17 MR. BROCATO: -- tariff package.
18 7, I don't have problems taking judicial notice of the
19 city's ordinance. 8, I have no objection to that or 9.
20 10 appears to be some pages from an RFI response. We
21 would just ask that, again, we have optional
22 completeness on the remainder of that response. I have
23 no objection to 11. 12 refers to another RFI response,
24 and again, for optional completeness I would reserve
25 the right to offer that response as well.

1 It appears that 13, 14, 15, 16 are all
2 from the tariff package. So while cumulative, I don't
3 have an objection to that. And then lastly, 17 appears
4 to be a page from Mrs. Fox's testimony. Assuming that
5 there's -- that that goes into the record, I don't have
6 an objection to this document. So with those
7 comments --

8 MR. HUGHES: Yeah. Her testimony
9 will be actually 1 through 4 that we'll offer up when
10 she's on the stand.

11 MR. BROCATO: Right. So those are
12 my only comments on those documents.

13 MR. HERRERA: Those are admitted.

14 MR. HUGHES: Thank you, Your Honor.

15 CROSS EXAMINATION

16 BY MR. HUGHES:

17 Q So Mr. Overton, I'm going to hand you -- so
18 Mr. Overton, if you'd look at Table 1 on page 33 of
19 Ms. Fox's corrected direct testimony, and that's going
20 to be Exhibit No. 17. On that table, if you notice, it
21 shows that a hundred percent of the customer complaint
22 costs are allocated to Austin Energy.

23 Can you explain why all the customer
24 complaints are allocated a hundred percent to Austin
25 Energy?

1 A The main reason is, this is an allocation
2 schedule that was prepared by an independent consulting
3 firm, KPMG --

4 Q Um-hm.

5 A -- back in 2002, I believe, and that
6 represented both best practices and their
7 recommendations of allocating it just based on back
8 office and customer service operations, and we've
9 continued to use that model going forward.

10 Q So that, so that practice is still in effect
11 and they -- it was put into effect because it was
12 considered best practices?

13 A It is, and also in terms of the customer
14 complaints this is an area that was very, very
15 difficult for the allocations, primarily because a
16 complaint can take on multiple forms. A customer
17 can -- there's some can be very, very straightforward.
18 They can call and complain and say, I have an issue
19 with my water portion of the bill, or customers can
20 call and say, I have an issue with my bill, and
21 our -- the same workgroup would complete all of those
22 functions in order to satisfy that request.

23 Q Okay. So, so I guess I'm assuming the call
24 center does take calls that deal with other services
25 other than electric?

1 A We do.

2 Q But you don't keep track of those calls or
3 the calls that are wastewater or solid waste or water?
4 I mean, there's, there's no way to keep track of the
5 complaints? And I'm assuming there's a lot of
6 complaints about water, meter reading, what have you.
7 There's no way to keep track of those, or you don't, or
8 you just don't do it?

9 A Can you restate the question?

10 Q Does the call center take any calls that deal
11 with other agencies or other utilities other than
12 electric?

13 A We do.

14 Q Okay. But you don't -- do you keep track of
15 that?

16 A We do, and that tracking is somewhat
17 different, though, than just the ultimate complaint.
18 Those initial calls through IBR is, like, again, if
19 it's real simple, a customer comes into the center and
20 has an issue with a water-related issue, either they
21 will select that on the IBR or the agent will deal with
22 that, and those kind of costs of operations are
23 embedded throughout this entire table. When it's
24 specifically an escalated complaint it may start out as
25 water, but when we ultimately address the issue with

1 the customer it can very much be a very different
2 issue.

3 Q But will you allocate all the costs to
4 electricity just automatically, to electric
5 automatically?

6 A For just that category, only on the customer
7 complaint.

8 Q Okay. Are the number of customers the same
9 for Austin Energy and Austin Resource Recovery?

10 A They're not the same.

11 Q They're not? They're different? Okay. But
12 as calls come in, whether it's a water -- it's a
13 complaint on water or solid waste, it is -- the cost
14 allocation is automatically assigned to Austin Energy?

15 A No. As the call come in, the cost allocation
16 schedule addresses all of these issues that you see
17 here on the table. Some are billing-specific issues,
18 some are about metering issues, some are part of the
19 cost of -- there are, there are multiple ways in which
20 that's allocated. Only on the customer complaint --

21 Q But it's specifically to customer complaint?

22 A Yes. That's correct.

23 Q So all customer complaints are assigned to
24 Austin Energy?

25 A In this category, yes.

1 Q And by "this category" we're talking customer
2 complaints, correct? Or --

3 A That's correct.

4 Q So all customer complaints that come into the
5 customer service center, the cost of that is, of the
6 complaints, is allocated to Austin Energy?

7 A That's correct, based on the schedule that
8 we've used from the model presented by KPMG.

9 MR. HUGHES: Okay. No further
10 questions, Your Honor.

11 MR. COFFMAN: My turn?

12 MR. HERRERA: Mr. Coffman.

13 CROSS EXAMINATION

14 BY MR. COFFMAN:

15 Q Good afternoon, Mr. Overton.

16 A Good afternoon.

17 Q I'm John Coffman with the Independent
18 Consumer Advocate.

19 A Okay.

20 Q You should be handed a packet of three short
21 exhibits. These are ICA Exhibits 18, 19, and 20, and
22 they refer to ICA, responses to ICA request for
23 information 1-15, 2-29, and 3-2. Do you see those
24 there? I'm going to ask some questions about each of
25 these, starting with the first one, ICA Exhibit No. 18.

1 A Okay.

2 Q And this is a response you are sponsoring
3 that shows the number of call center calls by subject
4 matter, correct?

5 A That's correct.

6 Q And can you tell me -- can you give me a
7 better definition of what you classify as an inquiry?
8 What type of a call would you classify as an inquiry?

9 A You know, a basic contact by a customer that
10 calls in any broad category, and we try to define them
11 based on the headers that you have here on the --

12 Q Is that just sort of a catchall category? Is
13 that a, is that an inquiry about a bill?

14 A It's about a bill or it could be anything.
15 It could be about outage, management, it could be any
16 of the services associated with those broad headings.

17 Q But you already have a category for outage.
18 Is it -- so would you say an inquiry is just sort of a
19 catchall category that doesn't fall under any other
20 category? Do you have a definition of the inquiry
21 category?

22 A Well, an inquiry itself could just be the
23 customer contact to us, and based on that contact we,
24 as best as we can, you know, gather what the contact
25 was about, we put it into one of these areas.

1 Q But if a, if a customer calls and just says,
2 My bill's too high, this can't be right, what -- where
3 would -- which category does that fall under?

4 A It would -- it could be under either one of
5 those based on whether we needed to take a field action
6 or we needed to be -- it needed an account, or it could
7 actually be an inquiry.

8 Q So if, if a customer calls in just
9 complaining about how high the rates are --

10 A That would be an inquiry.

11 Q That would probably just be an inquiry.
12 Okay. Just, like, The rent's too damn high, the bill's
13 too high, it's a, it's an inquiry.

14 A Yes.

15 Q Is it, is it correct to say that under the
16 products and services category, do those generally
17 involve questions about energy efficiency and solar
18 products?

19 A That would be pretty much the majority of the
20 category.

21 Q Any other type of call would fall under that?

22 A From different times we may have programs
23 that we have offered, and some of them could be
24 actually in the payment area where we had changed a
25 payment plan that was new versus one that they've had

1 before, and so they may look at that as a new service
2 offering, and it could be captured there.

3 Q So if a, if a caller is asking about an
4 energy efficiency program, do -- would the call center
5 employee then refer them to someone in the Energy
6 Efficiency Department, or would they handle the call
7 themselves?

8 A They can handle a base call, but primarily if
9 it becomes a very detailed discussion, we will refer
10 that to our energy efficiency experts.

11 Q So if they, if they're definitely interested
12 in enrolling in a program, they will be referred?

13 A That's correct.

14 Q Can you better define for me what you define
15 as the escalation category?

16 A Well, it's, it's -- it depends on the
17 complications of it, based on the customer's concern.
18 One, do they actually want an inspector to come out
19 and, you know, visit with them and take a look at their
20 conditions? If they want to find out, you know,
21 details that go beyond just simple calculations of us
22 telling them what would be prudent from a theoretical
23 standpoint to more specifics to their condition, that
24 would escalate over and we would send that to our
25 energy efficiency experts.

1 Q So is it fair to say that many of these
2 escalation-related calls might involve something other
3 than bills?

4 A That, that would be correct.

5 Q Is the call center the primary place for
6 customers to report outages?

7 A It is.

8 Q Okay. Hopefully, we won't get any of those
9 calls tonight.

10 A Yeah.

11 Q If customers from a particular area call in
12 and report an outage, does this help Austin Energy fix
13 the cause of the outage more promptly?

14 A It does.

15 Q Would you agree that taking an outage call is
16 an important function of the call center?

17 A It is.

18 Q Does the call center call such a customer
19 back again to see if the outage has been corrected and
20 to find out if the power is back on?

21 A We do.

22 Q I'm going to move on to the next exhibit,
23 which is ICA Exhibit 19. These relate to bankruptcy
24 proceedings for your larger customers.

25 Does this answer to ICA 2-29 show that

1 **since 2012 that there have been about 21 bankruptcies**
2 **involving the secondary-above-50-kilowatt-hour classes**
3 **and the transmission class?**

4 A That's correct.

5 Q **And is it correct that for the secondary-**
6 **larger-than-50kW bankruptcies, that Austin Energy**
7 **cannot identify which ones of those are in the actual**
8 **larger-than-300-kilowatt-hour class?**

9 A We cannot.

10 Q **Do you know whether Austin Energy's cost of**
11 **service study allocates any of the collectible expense**
12 **to transmission customers or to the secondary-**
13 **larger-than-300kW customers?**

14 A I'm not aware of that. You'd have to direct
15 that to our financial group.

16 Q **Would that seem fair to you that at least**
17 **some of these that uncollectible expense should be**
18 **allocated in that way?**

19 A I'm an operational manager on it. I would
20 prefer you to direct that to one of our financial --

21 Q But --

22 A -- in terms of the recovery aspect.

23 Q **Is it true that it's not just residential and**
24 **small customers that have uncollectible bad debt?**

25 A Say it again?

1 Q It's not just the small customers that have
2 bad debt, though, right?

3 A That's correct.

4 Q Okay. The last exhibit in front of you, ICA
5 Exhibit 20, relates to products and services in
6 e-Business, and that is a -- that does look to be the
7 answer that you're sponsoring in response to ICA
8 request 3-2, right?

9 A Yes. Correct.

10 Q I'm not sure I have a question on that. I
11 think that will wrap it up for me. Thank you very
12 much. Thank you, Mr. Overton.

13 A Okay.

14 MR. BROCATO: Are you going to
15 offer these?

16 MR. COFFMAN: Oh, yes, please.
17 Thank you. I offer into the record Exhibit ICA 18, 19,
18 and 20.

19 MR. HERRERA: Any objections?

20 MR. BROCATO: No, Your Honor.

21 MR. HERRERA: Thank you. Any
22 redirect, Mr. Brocato?

23 MR. BROCATO: No, Your Honor.

24 MR. HERRERA: Who is your next
25 witness, Mr. Brocato?

1 MR. BROCATO: He's done?

2 MR. HERRERA: Yes. Mr. Overton,
3 you are done. I apologize.

4 MR. BROCATO: I just want to
5 clarify. Yes, for now.

6 MR. HERRERA: We were going to let
7 him sit there a little bit longer since he took so long
8 to get up.

9 THE WITNESS: Yes, sir. I've been
10 fighting these allergies. I do apologize, Your Honor.

11 MR. BROCATO: At this time Austin
12 Energy would call Ms. Debbie Kimberly.

13 MR. HERRERA: Do you folks want to
14 take a break now?

15 MS. BIRCH: Yes.

16 MR. HERRERA: Let's take a
17 10-minute break. It likely will become 15, so let's
18 call it 10.

19 (At 3:38 p.m. the proceedings
20 recessed, continuing at 3:59 p.m.)

21 MR. BROCATO: At this time we would
22 call Ms. Debbie Kimberly.

23 DIRECT EXAMINATION

24 BY MR. BROCATO:

25 Q Good afternoon. Would you please state your

1 **name for the record?**

2 A My name is Debbie Kimberly.

3 MR. BROCATO: Ms. Kimberly is
4 offering -- excuse me, sponsoring portions of our
5 tariff package that have already been admitted.
6 Therefore, I would tender Ms. Kimberly for cross
7 examination.

8 MR. HERRERA: Thank you. I am
9 going to skip to Mr. McCollough, assuming that the
10 folks before him have no cross. Data Foundry have any
11 questions for this witness?

12 MR. MCCOLLOUGH: We have no
13 questions for this witness.

14 MR. HERRERA: Ms. Cooper?

15 MS. COOPER: Yes, Your Honor.

16 CROSS EXAMINATION

17 BY MS. COOPER:

18 Q **Good afternoon. Stormy afternoon. It was a**
19 **dark and stormy afternoon.**

20 MR. MCCOLLOUGH: Oh, my God.

21 MS. COOPER: I know.

22 Q **(By Ms. Cooper) I've placed before you two**
23 **documents. One is marked for identification as AELIC**
24 **Exhibit 27, and the other is AELIC Exhibit 28. If you**
25 **would take a moment to look at them.**

1 A Yes.

2 Q Okay. And you would agree that both of these
3 are Austin Energy responses to discovery in which you
4 are identified as the sponsoring witness; is that
5 correct?

6 A Yes.

7 Q All right. And you would agree that AELIC
8 Exhibit 20 -- just a second -- 27 shows that there are
9 other goals that Austin Energy captures in relation to
10 their energy efficiency program; is that correct?

11 A Yes.

12 Q Other than demand.

13 A Yes. That's correct.

14 Q All right. Now, does Austin Energy also
15 capture water savings?

16 A Austin Energy reports some water savings
17 associated with our programs.

18 Q All right. And would it be water savings
19 when we reduce consumption at, let's say, Fayette?
20 We've reduced water? Would that be an example of water
21 savings?

22 A The only water savings that are reported are
23 those water savings from avoided evaporation at our
24 plants.

25 Q At your plants. All right. And then

1 Exhibit, AELIC Exhibit 28 you would agree was a request
2 to identify the demand savings for the Electric Vehicle
3 Program that's funded with energy efficiency dollars;
4 is that correct?

5 A This is the request that was filed.

6 Q Right.

7 A Energy efficiency rebates are not applied to
8 the Electric Vehicle Program.

9 Q All right. If we could look at the last
10 paragraph here, it says, "Finally, Austin Energy
11 noticed that the level of rebates provided in fiscal
12 year 2014 was not listed In fiscal year 2014,
13 Austin Energy provided 181,541 in EV charging station
14 rebates"; is that correct?

15 A That's correct. They are not --

16 Q Does EV stand for electric vehicle?

17 A Yes, it does.

18 Q All right. Now, are there any demand
19 savings that Austin Energy realized for funding this
20 program?

21 A No, ma'am. There are not.

22 Q Okay. Thank you. Thank you very much,
23 Ms. Kimberly.

24 MS. COOPER: Your Honor, I'm
25 through, pass the witness.

1 MR. HERRERA: Did you want to offer
2 your exhibits?

3 MS. COOPER: Oh, yes. Thank you,
4 Judge. Yes, Your Honor, at this time AELIC would like
5 to proffer into evidence what's been marked for
6 identified as AELIC Exhibits 27 and 28.

7 MR. HERRERA: Any objections? No
8 objections?

9 MR. BROCATO: No.

10 MR. HERRERA: They're admitted.
11 Public Citizen/Sierra Club?

12 CROSS EXAMINATION

13 BY MS. BIRCH:

14 Q Good afternoon, Ms. Kimberly. I'm Carol
15 Birch with -- here on behalf of Public Citizen and
16 Sierra Club.

17 A Good afternoon.

18 Q I just have a few questions for you. Can you
19 turn to Bates number 69? Which is within the -- the
20 topic is 3.6.1 "Energy Conservation," but specifically
21 page 69 is what I want you to [obscured by coughing]
22 there.

23 A Okay.

24 Q And you state there that energy conservation
25 reduces power plant emissions and that Austin Energy's

1 conservation programs result in fewer megawatt hours of
2 generation that need to be dispatched. Is that --

3 A That's correct.

4 Q And further, you state that you have reduced
5 the peak demand by 441 megawatts between 2007 and 2014,
6 correct?

7 A That's correct.

8 Q Has this reduction in peak demand led to a
9 benefit to customers in terms of a lower PSA because
10 you have to buy less energy or run the plants less?

11 A Yes.

12 Q Does that result in a benefit to customers?

13 A Yes.

14 Q And these benefits are shared by all customer
15 classes regardless of whether they participate in the
16 conservation programs, correct?

17 A That's correct.

18 MS. BIRCH: That's all we have,
19 Your Honor. We reserve the rest of our questions for
20 rebuttal.

21 MR. HERRERA: Thank you, Ms. Birch.
22 Mr. Hughes?

23 MR. HUGHES: No questions, Your
24 Honor.

25 MR. HERRERA: Mr. Coffman?

1 MR. COFFMAN: Yes.

2 CROSS EXAMINATION

3 BY MR. COFFMAN:

4 Q Good afternoon --

5 A Good afternoon.

6 Q -- Ms. Kimberly. I'm John Coffman, the
7 Independent Consumer Advocate. I want to ask you some
8 quick questions about the energy efficiency programs.

9 Do you know what kind of cost benefit
10 tests are performed by Austin Energy on their energy
11 efficiency programs?

12 A Yes, I do.

13 Q And could you just briefly define what a
14 participant test is?

15 A Participant test looks at -- it's also
16 referred to as a ratepayer impact test. It looks at
17 the effect on all customers associated with offering
18 energy efficiency and demand response programs.

19 Q And what is nonparticipant test?

20 A Nonparticipant test looks at every single
21 customer we serve, irrespective of whether they receive
22 a benefit from the program.

23 Q And what is a societal test?

24 A Societal cost test looks at the total
25 resource cost but as well factors in the environmental

1 factors associated with offering the programs to our
2 customers.

3 Q Does Austin Energy design its energy
4 efficiency programs to pass the nonparticipant test?

5 A It largely designs their programs to pass the
6 total resource cost test.

7 Q So the answer is no?

8 A No.

9 MR. HERRERA: I'm sorry. I'm
10 confused. The answer, what is the correct answer?

11 THE WITNESS: Repeat the question,
12 please.

13 Q (By Mr. Coffman) Does Austin Energy design
14 its energy efficiency programs to pass the
15 nonparticipant test?

16 A No.

17 Q Does Austin Energy analyze its programs after
18 the design to see if they do pass the nonparticipant
19 test?

20 A Yes, they do.

21 Q Okay. And if a program passes the
22 nonparticipant test, does that mean the program reduces
23 future revenue requirements for all customers?

24 A It may.

25 Q Does it mean that the program reduces the

1 future revenue requirements for more customers than the
2 customers who are actually receiving the programs
3 directly?

4 A Yes, it does.

5 Q And so if a program is properly designed and
6 you find that it does pass the nonparticipant test, is
7 it correct that any reduction in the need to build
8 future generation plants will benefit customer classes
9 other than those in the participant customer class?

10 A Yes.

11 Q I may -- I'm going to have a lot of questions
12 for you when we get to rebuttal regarding the proposal
13 you made regarding the energy efficiency surcharge, but
14 I need to ask you now, is this -- was, was that
15 particular change considered by Austin Energy before it
16 filed its tariff package in this case?

17 A I don't know.

18 Q You -- okay. Did you personally consider it
19 before the tariff package?

20 A No. I did not.

21 Q But is it true that the issue -- that
22 particular issue of changing the cost allocation was
23 under discussion as early as February 1st?

24 A Yes.

25 Q So it was discussed but not considered?

1 A Could you please elaborate on your question?
2 I believe your question related to whether I was aware
3 of it prior to the filing. Is that correct?

4 Q **Yes. When was the, when was the tariff**
5 **package filed?**

6 A January 25th.

7 Q **Okay. So it was, it was not discussed before**
8 **the tariff package was filed?**

9 A Not to my knowledge, but you may want to ask
10 that question of other witnesses.

11 Q **All right. We'll follow up on that under**
12 **rebuttal.**

13 MR. COFFMAN: That's all I have.

14 MR. HERRERA: Any redirect,
15 Mr. Brocato?

16 MR. BROCATO: No, Your Honor.

17 MR. HERRERA: Ms. Kimberly, thank
18 you. Mr. Brocato, do you want to continue?

19 MR. BROCATO: Yes, Your Honor. At
20 this time Austin Energy would call Mr. Mark Dreyfus.

21 DIRECT EXAMINATION

22 BY MR. BROCATO:

23 Q **Will you please state your name for the**
24 **record?**

25 A Mark Dreyfus.

1 MR. BROCATO: Mr. Dreyfus is
2 sponsoring portions of the tariff package that have
3 already been admitted into evidence. Therefore, I
4 would tender him for cross examination.

5 MR. HERRERA: Thank you,
6 Mr. Brocato. Mr. McCollough?

7 MR. MCCOLLOUGH: Thank you, Your
8 Honor.

9 CROSS EXAMINATION

10 BY MR. MCCOLLOUGH:

11 Q Dr. Dreyfus -- is it Doctor or Mister?

12 A Either way is fine by me.

13 Q Whatever, all right. There should be a stack
14 of Data Foundry exhibits over here. I'm going to start
15 off with three of them.

16 MR. MCCOLLOUGH: Where'd they go?

17 MR. BROCATO: Are these the ones
18 from earlier, Scott?

19 MR. MCCOLLOUGH: Yes, they are. I
20 need the last three.

21 MR. BROCATO: Oh, you're taking
22 them from me?

23 MR. MCCOLLOUGH: No. Well, I need
24 to offer them. They were --

25 MR. BROCATO: Okay.

1 MR. McCOLLOUGH: -- in there. I
2 need to -- unless you don't mind, I'll just get those
3 responses to interrogatories out.

4 MR. BROCATO: I don't mind if you
5 get them in, but --

6 Q **(By Mr. McCollough) Do you see my exhibits**
7 **there?**

8 A Yes, sir. There they are, I think.

9 Q **No, that's not it.**

10 MR. McCOLLOUGH: I apologize, Your
11 Honor. I had them all set here. Sorry, Your Honor.

12 Q **(By Mr. McCollough) All right, Mr. Dreyfus,**
13 **I apologize for the confusion. Okay. Let me find**
14 **them. They may be in reverse order. Okay. We're all**
15 **assembled now.**

16 I've handed you what I stamped at the
17 bottom Data Foundry Exhibits 6, 7, and 8. Are those
18 RFIs to Austin Energy, specifically Data Foundry 2-26,
19 2-19, and 2-25?

20 A They are.

21 Q **And are you the responsible witness for the**
22 **responses?**

23 A I sponsored each of these items.

24 Q **All right.**

25 MR. McCOLLOUGH: I offer Data

1 Foundry Exhibits 6, 7, and 8, Your Honor.

2 MR. HERRERA: Any objections?

3 MR. BROCATO: No, Your Honor.

4 MR. HERRERA: They're admitted.

5 Q (By Mr. McCollough) Dr. Dreyfus, I want to
6 visit with you really briefly about some general let's
7 just call it policy-level issues concerning revenue
8 distribution, maybe rate design.

9 Would you agree with me that after we
10 know the revenue requirement we perform a cost
11 allocation on that revenue requirement to attribute the
12 costs to the various classes?

13 A Yes.

14 Q And would you agree that one of the goals of
15 cost allocation is to allow an analyst to locate a
16 specific cost element in the revenue requirement and
17 follow it all the way through to the cost of serving
18 that class for, say, a particular rate element?

19 A I don't know if I'd call that a goal, but I'd
20 call that an element of the process.

21 Q All right. So we should be able to see a
22 cost on the revenue requirement side, kind of follow it
23 through and see where it goes to a class --

24 A Or to --

25 Q -- in whole or in part?

1 A Or across the classes. Yes.

2 Q All right. And you work backwards too, can't
3 you? If you look at a price in a tariff, you should be
4 able, generally speaking, to see that price and be able
5 to work backwards and see more or less where it came
6 from in the overall revenue?

7 A I think the cost allocation model, the cost
8 of service model would let you go in either direction.

9 Q Thank you. But then when we actually get to
10 rate design, after you do cost allocation revenue
11 distribution and you get to rate design, generally
12 speaking, would you agree with me it's, it's -- an
13 analyst should, to a certain extent, be able to look at
14 a specific rate element, say demand charges, for a
15 particular rate class, say primary to, and you can kind
16 of track that back to the overall revenue requirement?
17 You can see how it shows up in the P2 class, you can
18 see how it showed up in the revenue distribution, you
19 can see how it showed up in the cost allocation, which
20 of course starts with the revenue requirement.

21 A There are, there are schedules in the cost
22 allocation cost of service model that allow you to step
23 through each of the steps of allocating those costs
24 from the revenue requirement to the rate design. Yes.

25 Q Great. Would you agree with me that as a

1 goal, an end point, one would hope that there are no
2 prices in a tariff for a particular customer class that
3 have no connection whatsoever to a cost that shows up
4 on the revenue requirement side?

5 A I think as an end point it is not preferable
6 to have a price that has no connection to cost. Yes.

7 Q Thank you. Let's talk about the council's
8 affordability goals for a second, if you can. The
9 council adopted an affordability goal in February of
10 2011. You characterize it in the rate-filing package,
11 Section 2.2.1, page 2-7.

12 A Yes.

13 Q Okay. Is it AE's position that the
14 affordability goal is to -- that rate adjustments
15 should be no more than 2 percent annually with regard
16 to total revenue increases? In other words, the
17 overall revenue requirement.

18 A The affordability goal is a two-part goal.
19 One part of the goal is to limit overall rate increases
20 to no more than 2 percent annually. The second part of
21 the goal is that our rates will be in the lower 50
22 percent of rates in the state.

23 Q The second part is important.

24 A Yes.

25 Q And we will -- we may talk about it in a

1 moment, but let's talk about the first part first.

2 The 2 percent annually, does that apply
3 to revenue requirement? You don't want the revenue
4 requirement to grow by more than 2 percent annually?

5 A It applies to overall rates.

6 Q Does that mean revenue requirement?

7 A Not necessarily.

8 Q So the revenue requirement is not in and of
9 itself subject to the affordability goal?

10 A The affordability goal as written does not
11 refer to the revenue requirement. I believe it refers
12 to rates.

13 Q Well, then, does it constitute as a goal a
14 2 percent limit to base rate increases?

15 A No. It's overall rates.

16 Q Does it apply to 2 percent increases overall
17 rates to individual classes?

18 A I do not believe it does.

19 Q You don't think so?

20 A I believe it applies to the overall rates of
21 Austin Energy.

22 Q So in your opinion, that 2 percent goal
23 doesn't say, for example, small commercial service, the
24 smallest businesses, they're not going to get more than
25 a 2 percent? It doesn't say that?

1 A No. It does not.

2 Q In your opinion. All right. Let me go a bit
3 further. I think I know the answer, but let's get it
4 on the record.

5 Does the affordability goal purport or
6 try to limit increases to no more than 2 percent for
7 individual customers?

8 A No.

9 Q And once again I thought I heard you say it,
10 but I want to get it on the record. You look at this
11 from a total bill perspective, right, not base rate,
12 not anything else? A total bill including --

13 A Total --

14 Q -- all pass-throughs?

15 A Yes. Total.

16 Q Changing gears just a little bit.
17 Consideration of pass-through charges, sort of related
18 to the affordability goal since pass-through charges
19 have an impact on the total bill.

20 Did Austin Energy consider the impact of
21 its pass-through charges when it was developing its
22 base rate revenue distribution?

23 A Yes, it did.

24 Q And so I presume you would agree that it is
25 appropriate when you're coming up with your revenue

1 **distribution approach to kind of keep an eye on the**
2 **total bill impact, including pass-through charges?**

3 A When we developed our proposal for allocating
4 the 17 million dollar, 17 and a half million dollar
5 reduction to customers, which I presume is what you are
6 talking about when you refer to revenue distribution,
7 we looked at the base rate impacts and the total
8 revenue impacts for each customer class.

9 Q **So the pass-through charges were a**
10 **consideration factor when you did the revenue**
11 **distribution?**

12 A Yes, they were.

13 Q **Change of subjects. Rate shock, I'm seeing**
14 **it used several times by different witnesses, this will**
15 **or will not be rate shock.**

16 **Would you tell me and the Judge what**
17 **your understanding is of rate shock, what that means?**

18 A You know, I'm not familiar with a
19 quantitative definition of what rate shock is. We did
20 not present a quantitative definition of rate shock.
21 Others who have referred to rate shock in this
22 proceeding I don't believe have used a quantitative
23 definition.

24 But I think that we're referring to on
25 balance an impact on rates of a customer or customer

1 class that seems unacceptable based on the balance of
2 factors that we look at in setting rates.

3 Q So it's a subjective consideration factor?

4 A In this proceeding it is subjective because
5 there's no quantitative measure of what constitutes
6 rate shock.

7 Q Then I guess it'd be fair to say that there's
8 really nothing that you can look at by way of an, of an
9 increase to a class or a customer that may occur and
10 you'd look at that and go, Um, you know, that percent
11 is rate shock. You have to look at the overall.

12 A We have not specified a specific quantitative
13 metric for what constitutes rate shock.

14 Q Now, you've, you've said "quantitative" many
15 times, and I understand that, but generally speaking,
16 in your experience if someone were to look at a
17 2 percent base rate increase, 2 percent base rate
18 increase, do you think your response to that would say,
19 Oh, my God, that's rate shock?

20 A You ask if someone looked at a 2 percent
21 increase, I think that -- again, this is not an
22 accepted, widely accepted quantitative measure.
23 Different observers, different participants may have a
24 different view of what that is. I do not believe that
25 for an individual customer I would characterize

1 2 percent increase, a 2 percent increase as rate shock.

2 No.

3 **Q How about for a class, 2 percent for a class?**

4 **A Well, while I would note that -- well, let**
5 **me, let me say, I do not anticipate that if I looked at**
6 **a class and saw a 2 percent increase that I would think**
7 **that that constitutes rate shock, but I'd have to look**
8 **at the individual circumstances on that class.**

9 **Q Fair enough. If -- let me back up. Under**
10 **y'all's cost of service study the residential rate**
11 **class continues to be significantly below cost,**
12 **correct?**

13 **A That is correct.**

14 **Q In order to -- under y'all's revenue**
15 **requirement there would be an increase to residential**
16 **even though your overall revenue requirement represents**
17 **a reduction, right? If we, if we were to go to cost of**
18 **service.**

19 **A If all customer classes moved to cost of**
20 **service, there would be an increase in the residential**
21 **class, since the residential class is below cost of**
22 **service.**

23 **Q Now, the required amount of an increase to**
24 **that class is more than 2 percent even under your**
25 **revenue requirement, wouldn't it be?**

1 A Under the, the cost of service numbers that
2 are, that are published in our direct testimony, the
3 increase to the residential class, if you were to move
4 the residential class all the way to cost of service,
5 would be more than 2 percent. Yes.

6 Q You didn't say how much the cost -- the
7 increase would be, and that's fine.

8 If we were to move the residential class
9 all the way to cost of service under Austin Energy's
10 revenue requirement, would that, in your opinion, lead
11 to rate shock?

12 A Yes, it would, and I believe we stated that
13 in our direct.

14 Q Very good. And probably the same thing for
15 secondary, non-demand metered customers?

16 A I would have to look -- I'm sorry. Secondary
17 non-demand meters? So the S1 class?

18 Q Yes, sir. S1.

19 A The S1 class, subject to check, is about
20 1-and-a-half percent below cost of service. I'd have
21 to verify that in the direct. I think that that is not
22 necessarily what I would refer to as rate shock if it
23 is, if it is indeed 1-and-a-half percent, as I believe
24 I've said already.

25 Q Would you agree with me it is possible,

1 however, even if a, a class increase seems relatively
2 large -- let's stick with something over 2, say 3
3 percent. You can ameliorate rate shock within a class
4 by doing targeted rate design changes, can't you,
5 within that class?

6 A I would have to know the details of the
7 proposal. I think the answer is generally yes, but
8 sometimes you could attempt to ameliorate rate shock
9 that it would have differential impacts on different
10 customers within that class. So again, the specific
11 circumstances would be important.

12 Q I get the general sense that from the
13 rate-filing package, like, for example, Section 2.5,
14 page 2-12, in addition to concerns over potential rate
15 shock Austin Energy also embraces for revenue
16 distribution or rate design purposes the principle of
17 gradualism. Is that a fair statement?

18 A That is referenced as an objective in our
19 direct.

20 Q Generally speaking, is it fair to say that
21 Austin Energy wants to try to get the various classes
22 to a unity relative rate of return at cost over time
23 through specific steps? Not all here, but continuing
24 to work towards it over time?

25 A To the best of my recollection, Austin Energy

1 has never specified an objective to achieve unity cost
2 of service. In the 2012 rate proceeding we did have an
3 objective to be within plus or minus 5 percent of cost
4 of service, but I am not aware that we've ever set
5 unity as an objective.

6 Q You want to try to get close to it,
7 somewhere within --

8 A I think it is --

9 Q -- 5 percent.

10 A -- desirable to get within an appropriate
11 bound of cost of service, yes, over an appropriate
12 timeframe, as you said.

13 Q Did y'all have that plus or minus 5 percent
14 as an objective in this case?

15 A We did not set that as an objective in this
16 case. We had it as an explicit objective in 2012.

17 Q Now, the last case ended up with a black-box
18 settlement.

19 A Black-box settlement is your term.

20 Q Fair enough.

21 A In my mind the settlement was very explicit
22 about the terms. So --

23 Q Fair enough.

24 A -- I personally don't define it as a
25 black-box. I define it as a settlement that laid out

1 very specific changes.

2 Q Well, then, in your opinion, did we make
3 movement towards cost of service in that last
4 proceeding?

5 A We did.

6 Q Now, the current base rates have been in
7 effect for more than a year, haven't they? The
8 settlement was what, 2012?

9 A Yes, they have. The settlement was in the
10 fall -- I'm sorry, the spring, early summer of 2013,
11 and the final ratings as adjusted went into effect
12 after that.

13 Q They've been in effect more than one year.

14 A Yes.

15 Q So I guess my next question is, in y'all's
16 rate-filing package do you have any recommendations
17 about specific base rate changes that should be made
18 after year one of the rate effective period?

19 A We did not make such recommendations.

20 Q So, then, how can we accomplish one of the
21 goals, being continued movement toward cost of service,
22 using the principle of gradualism if we do not continue
23 to make adjustments to rates on a regular period of
24 time?

25 A Well, moving closer to cost of service I

1 would think would require making adjustments to
2 [obscured] over time.

3 THE REPORTER: Adjustments to what
4 over time?

5 THE WITNESS: To rates over time.

6 Q (By Mr. McCollough) But your rate-filing
7 package doesn't talk about what might could happen more
8 than a year out in terms of specific rate proposals,
9 does it?

10 A Our rate design package did not make specific
11 rate proposals for rate changes beyond year one.

12 Q That's all I have. Thank you, Doctor.

13 MR. HERRERA: Ms. Cooper?

14 MS. COOPER: Yes, Your Honor.

15 CROSS EXAMINATION

16 BY MS. COOPER:

17 Q I just have a couple of quick process
18 questions. At page 1-2 of the report you're sponsoring
19 you addressed the Public Information Act; is that
20 correct?

21 A I'm sorry. What was the page?

22 Q Page 1-2.

23 A Yes. The Texas Public Information Act is
24 referenced on that page.

25 Q All right. And is it your -- I understand

1 you're not a lawyer, and I'm sure you're thankful for
2 that, but nonetheless, is it your understanding that
3 the Public Information Act applies to a, a litigated
4 proceeding?

5 A First I would know note that I am not an
6 attorney and I do not provide legal advice to the city
7 of Austin, and I am not aware how the Texas Public
8 Information Act addresses confidential information in a
9 legal proceeding.

10 Q All right. Do you recall that the hearing,
11 the appeal before the PUC, that a protective order was
12 utilized to allow parties to see confidential
13 information?

14 A In the proceeding before the Public Utility
15 Commission that is correct.

16 Q Now, did you talk to either your general
17 manager or -- your general manager or the general
18 manager or the counsel about seeking an Attorney
19 General opinion about whether information that,
20 confidential information that is provided in discovery
21 would not be considered a waiver of your exception
22 under the Public Information Act?

23 A Did not have that specific conversation. No.

24 Q All right. Are you aware of anybody in
25 Austin Energy that did?

1 A I am not aware of any specific person at
2 Austin Energy who had that conversation as you
3 specified it.

4 Q All right. Okay. Now if we could turn to
5 page 2-5 of the report in which you sponsored it, on
6 that page you listed a series of rate design
7 principles; is that correct?

8 A Yes.

9 Q I don't see competitiveness as a principle of
10 rate design.

11 A Competitiveness is not on that list.

12 Q All right. Do you think rates should
13 consider competitiveness in -- well, excuse me, not you
14 think rates.

15 Do you think Austin Energy should
16 consider competitiveness in the design of rates?

17 A Yes, I do. As a matter of fact, the --

18 Q That's, that's all I ask.

19 A -- city, Austin city --

20 Q I asked for a yes or no. I don't mean to
21 interrupt, but time's short. So Mr. Brocato can
22 ask . . .

23 So that's, competitive would be an
24 additional point that you'd want to add in your list of
25 principles?

1 A Well, competitiveness is an objective given
2 to Austin Energy by the city council in the operation
3 of the utility. That is listed in the, later in the
4 direct, two pages later in the direct as one of the
5 policy frameworks under which we operate. So it is in
6 effect even if it is not on this list. It is a policy
7 framework given to us by the council that we work
8 toward accomplishing.

9 Q All right. So your answer is yes or no,
10 should it have been on your list?

11 A No.

12 Q All right. So you think -- you've got your
13 list of principles, and then there's some other kind of
14 policy that's not necessarily a principle of rate
15 design that should be followed?

16 A You'll note on page 2-6 and 2-7 --

17 Q Uh-huh.

18 A -- we laid out the policy framework under
19 which we operate. There are a number of items on that
20 policy framework that we're working toward that are not
21 reflected on the list of rate design principles that we
22 developed.

23 Q All right. And can you show me on --

24 A But they are, they are equally objectives
25 under which we work.

1 **Q All right. Show me on page 2-6 where it says**
2 **the word "competitiveness," or 2-7.**

3 **A On 2-7 under "Affordability," "remain in the**
4 **lower 50 percent of rate" -- "retail rates across the**
5 **state is a competitiveness goal for our rates compared**
6 **to other entities in the state."**

7 **Q All right. Okay. So now if you turn to page**
8 **2-7, which we're there, and you talk about pass-through**
9 **rates and you say, "It's passed through dollar for**
10 **dollar to customers with no mark-up."**

11 **Now, does that mean that if you**
12 **over-collect on those costs that you refund them to**
13 **ratepayers, or if you under-collect those costs you**
14 **surcharge those ratepayers?**

15 **A The Customer Assistance Program funds are**
16 **collected and received solely for expenditure on the**
17 **Customer Assistance Program. Currently we have an**
18 **overage. We continue to, to expend that overage on**
19 **services in the Customer Assistance Program. Surface**
20 **area street lighting and energy efficiency services are**
21 **trued up to actual expenditures.**

22 **Q So the answer is, to my question, was yes?**

23 **A The answer is that energy efficiency services**
24 **and surface area lighting are trued up to expenditures,**
25 **and Customer Assistance Program funds are reserved and**

1 held for future expenditures of the Customer Assistance
2 Program.

3 Q Mr. Dreyfus, the question I asked, were these
4 pass-through expenses, except for the CAP, if you
5 over-recover, you refund those revenues back to the
6 customers, or if you under-recover, you surcharge the
7 rates to the customers? Is that your understanding --

8 A If, if --

9 Q -- of what the pass-through means?

10 A If we over-recover on the surface area
11 lighting and the energy efficiency services, we will
12 reduce those rates going forward. Yes.

13 Q All right. So in essence, you're refunding
14 the over-collected revenues?

15 A If you want to characterize it that way,
16 that's fine.

17 Q All right. Now, the PSA is the old fuel
18 adjustment clause, and it's adjusted as well; is that
19 correct?

20 A The PSA is not the old fuel adjustment
21 clause. The PSA is the power supply adjustment.

22 Q It originated as a fuel adjustment cause; is
23 that correct?

24 A Prior to 2012 we had a fuel adjustment clause
25 that applied to all customers --

1 **Q Right.**

2 A -- in our tariffs. We replaced the fuel
3 adjustment clause with the power supply adjustment
4 except for customers that were in transition. So we
5 now have a different charge, the power supply
6 adjustment.

7 **Q All right. And when you say those customers**
8 **in transition, you mean those customers that were those**
9 **large commercial and industrial customers that had**
10 **special contracts with Austin Energy; is that correct?**

11 A The large services special contract rider
12 customers remained under the fuel adjustment clause
13 until the expiration of that tariff.

14 **Q All right. And so the PSA can be adjusted**
15 **more than annually; is that correct?**

16 A Yes, it can.

17 **Q All right. And this PS -- and the PSA has a**
18 **specific formula that allows Austin Energy to make that**
19 **adjustment without even getting council approval.**
20 **However, you do notify the council; is that correct?**

21 A The tariff says specifically that Austin
22 Energy may adjust the tariff if -- mid year outside of
23 the budget.

24 **Q Right.**

25 A If it is over- or under-collected by 10

1 percent, we make that adjustment and we notify council.

2 Yes.

3 **Q And the answer is yes. All right.**

4 Okay. So if we could turn to page 2-13
5 of your report -- when I say "your" report, I mean
6 Austin Energy's report, the part of which you're
7 sponsoring.

8 A I understand.

9 **Q All right. So you state that "If the cost**
10 **drivers do not vary with the season, why does Austin**
11 **Energy use" -- you state that you want to get rid of**
12 **the summer surcharge because it's a fixed cost; is that**
13 **correct?**

14 MR. BROCATO: I'm sorry. What page
15 is she looking at?

16 MS. COOPER: Page 2-13.

17 THE WITNESS: Would you direct me
18 to the specific line?

19 **Q (By Ms. Cooper) 2.5.1.1.1.**

20 A 2.5.1.1.1 says that our cost drivers do not
21 vary with the season. It does not refer to fixed
22 costs.

23 **Q Okay. What are the underlying cost drivers?**

24 A The costs of, the base rate costs of power
25 supply and transmission matrix expense and ERCOT fees.

1 **Q But isn't it your testimony --**

2 **A And I would also add, for completeness, that**
3 **distribution costs as well are included in customer**
4 **costs.**

5 **Q All right. But what do you mean by**
6 **"underlying cost drivers"? Why do they not vary with**
7 **the season?**

8 **A Because they do -- the costs are the same**
9 **across different seasons.**

10 **Q So they're fixed costs?**

11 **A No. They're, they are -- they may be fixed**
12 **or variable costs.**

13 **Q All right.**

14 **A But they do not vary with the season.**

15 **Q But you, you included the power supply cost,**
16 **but you are asking for a summer surcharge on that one.**

17 **A I do not believe we are asking for a summer**
18 **surcharge.**

19 **Q You're not asking to create a seasonal**
20 **adjustment for the PSA? Look in your very next**
21 **subsection.**

22 **A We are asking to create -- we have**
23 **recommended the creation of a seasonal adjustment to**
24 **the PSA.**

25 **Q So it's your understanding at least those**

1 **costs vary with the season?**

2 A It is certainly my understanding that ERCOT
3 market prices vary with the season.

4 Q **So if the underlying cost drivers don't vary**
5 **with the season, why does Austin Energy use a 4CP to**
6 **allocate the transmission costs among the customer**
7 **classes since they don't vary with the season?**

8 A Today we use 4CP to allocate transmission
9 matrix expense, because when that charge was developed
10 it was determined that it was appropriate to pass
11 through those costs as they were allocated to us by the
12 Public Utility Commission. In other words, the Public
13 Utility Commission allocates transmission matrix
14 expense to different distribution companies based on
15 4CP, and since it was allocated to us based on 4CP, we
16 passed it through to our customers based on 4CP.

17 Q **What steps has Austin Energy taken, if any,**
18 **to try to change the allocators at the PUC level? Have**
19 **you advocated something other than 4CP at the PUC**
20 **level?**

21 A No.

22 Q **Okay. 2-13 we've talked about the PSA, and**
23 **you're also recommending that the tier structure be**
24 **modified; is that correct?**

25 A That is correct.

1 Q And one of your concerns is that when you
2 have an unusually moderate summer Austin Energy could
3 significantly under-collect; is that correct?

4 A That is correct.

5 Q But isn't it also true if you have an
6 unseasonably hot summer or an unseasonably cold winter
7 that Austin Energy can over-collect?

8 A That, that is also a possibility.

9 Q And that what we're setting rates for is
10 based on a normalized weather; is that correct?

11 A The cost of service model does have
12 normalized -- weather normalization. Yes.

13 Q And than on page 2-16 you talk about
14 discounts, Mr. Dreyfus, and I guess the concern I have,
15 I wasn't -- it wasn't clear if your -- with the
16 information in the report you're sponsoring whether
17 Austin Energy intends to apply this 20 percent discount
18 to any other customer groups going forward.

19 In other words, like, would you have
20 this policy apply a 20 percent discount to a demand
21 management reduction group of customers regardless of
22 the cost of serving that customer?

23 A The recommendations for discounts are as
24 specified in the report. There are no other
25 recommendations for discount.

1 Q All right. So, and I just want to be clear,
2 is that you're not asking the council, if we were to
3 approve this, that 20 percent is just a normal 20
4 percent discount regardless of the particular customer
5 group you're looking to give a more competitive rate
6 for?

7 A We have made specific recommendations in the
8 direct, and those are the only recommendations for
9 discounts that we've made.

10 Q Okay. So the 20 percent discount -- I'm
11 sorry, I don't mean to repeat myself and I apologize,
12 but the 20 percent discount is limited solely to the
13 school district and the military discount; is that
14 correct?

15 A We have recommended -- first off, it's 20
16 percent off of the base rate --

17 Q You're right.

18 A -- component of the bill --

19 Q You're right.

20 A -- for ISDs, military bases, and state
21 accounts.

22 Q Okay. And so that discount is just limited,
23 that 20 percent is limited to those three groups?

24 A Those are the only groups of customers for
25 which we have recommended a 20 percent discount off of

1 the base rates.

2 Q All right. And now I'd like you to turn to
3 page 6-3 of the report.

4 A I'm there.

5 Q God, I'm not. Sorry about that.

6 Okay. And this is the section where you
7 talk about fixed versus variable; is that correct? The
8 6.2 and the -- and you've got a Figure 6.1?

9 A Fixed and variable costs are discussed in
10 that section, and there is a Figure 6.1 that
11 addresses --

12 Q Right.

13 A -- addresses those issues.

14 Q And I'd like you to pick up that bundle of
15 exhibits I passed to you and look for a document that's
16 been marked for identification as AELIC Exhibit 21.

17 A I have it.

18 Q All right. And you would agree that
19 Exhibit 21 is a page from the rate-filing package,
20 Schedule H-5.3, which is Bates-stamped 1071; is that
21 correct?

22 A It does appear to be H-5.3.

23 Q All right. And the last two vertical columns
24 on the right that have titles on top of them are
25 labeled "Fixed" and "Variable"; is that correct?

1 A They are labeled "Fixed" and "Variable."

2 Q All right. And what have you identified
3 as -- have you identified the CAP and the street
4 lighting and the energy services and the regulatory
5 charge and the other power supply as variable or fixed?

6 A I am not familiar with this schedule, and I
7 do not know the answer to that.

8 Q All right. You would agree, though, that the
9 Customer Assistance Program and the street lighting and
10 the energy efficiency service and regulatory charge and
11 other power supply have reconciliation mechanisms? In
12 other words, you, if you over-recover, you refund; if
13 you under-recover, you get to surcharge the rate?

14 A Except for CAP, which as I discussed
15 perviously --

16 Q You're right.

17 A -- we retain the revenue from CAP to provide
18 services to, to qualifying customers.

19 Q Now, and you may not know this and Ms. Ball
20 asked me to defer to Ms. Kimberly, and I'll talk to her
21 about it on rebuttal, but is Green Choice, is it a
22 reconcilable expense? It's listed separately here.

23 A Would you define what you mean by
24 "reconcilable expense"?

25 Q Reconcilable means that on an annual basis

1 **those revenues can go up and down as a potential credit**
2 **or debit reflecting whether the utility has over- or**
3 **under-recovered.**

4 A Green Choice is a sales product. So it does
5 not seem to me that it fits that definition. Green
6 Choice is strictly revenue that we receive for the
7 direct retail sale of renewable energy to customers.

8 Q **All right. But Ms. Ball said it flows**
9 **through the other power supply.**

10 A The power supply adjustment does include
11 revenues from Green Choice. Yes.

12 Q **All right.**

13 A Green Choice retail sales.

14 Q **And the -- you would agree that the delivery**
15 **charge that's color-coded in purple, there's**
16 **also -- Austin Energy has got some, some of the**
17 **expenses incurred as, categorized as delivery are**
18 **actually prepaid; isn't that correct? The CIAC**
19 **component of the delivery?**

20 A I am really not familiar with that in detail.

21 MR. BROCATO: And Your Honor, while
22 I understand that this document in part is out of the
23 tariff package, Ms. Cooper or someone has categorized
24 various costs in a particular way, and that individual
25 was not Mr. Dreyfus or anyone else from AE that I know

1 of. So if she wants to admit this, I would ask that
2 she authenticate it in some way --

3 MS. COOPER: Well, Your Honor,
4 that's what --

5 MR. BROCATO: -- verified through
6 this witness.

7 MS. COOPER: -- we're doing right
8 now.

9 MR. BROCATO: But he's already
10 indicated he was unclear about whether some of these
11 costs were fixed or not.

12 MS. COOPER: That's correct, but --

13 MR. HERRERA: So for example, just
14 so that I'm clear, Mr. Brocato, your objection is that
15 Mister -- Dr. Dreyfus has answered that with regard to
16 the items that are color-coded in green that is a
17 "Fixed Cost Postpaid Recover Fixed Charge" that may or
18 may not be a fixed cost, that he does not know that?

19 MR. BROCATO: Right. He has not
20 validated or verified her characterization of these
21 costs.

22 MS. COOPER: Well, Your Honor, I
23 have not moved to admit it yet, and as we know, we have
24 been going down this list and we have gotten
25 information that Mr. Dreyfus felt qualified to be able

1 to answer. And to the extent he can finish up any
2 other part of this component, we can have this -- we've
3 got it marked for identification and we can wait for
4 the expert who, the witness who's going to be
5 qualified.

6 But Mr. Dreyfus is the one who discussed
7 fixed versus variable expenses, and this is the page
8 that talks about fixed versus variable. So it was
9 logical to assume he would ask [sic] these questions,
10 but we'd like to at least get the information we can
11 from Mr. Dreyfus, leave this document pending, because
12 we'll have partially authenticated it.

13 MR. HERRERA: So it's not been
14 offered yet?

15 MS. COOPER: No, sir. It hasn't.

16 MR. HERRERA: Okay. You may
17 continue.

18 MS. COOPER: All right.

19 **Q (By Ms. Cooper) And then the customer**
20 **charge, you would agree that the customer component as**
21 **characterized is a fixed cost?**

22 **A** As I mentioned, I am not familiar with this
23 schedule and I would want to drill down into each one
24 of those items before I was able to answer that
25 question.

1 Q All right. So who, who is qualified to
2 answer these questions?

3 A This question would be appropriate for either
4 Mr. Mancinelli or Mr. Maenius or Mr. Dombroski.

5 Q All right. Now --

6 A I would start with Mr. Dombroski.

7 Q All right. Now, you were the one, though,
8 that provided the overview testimony on fixed versus
9 variable. Where did you --

10 A That is correct.

11 Q Okay. Where did you obtain this information?

12 A The numbers that are referenced in the
13 Figure, Figure 6.1 that you mentioned before, were
14 developed by the finance team.

15 Q All right. And so you just accepted the
16 document -- the data from the finance team without
17 questioning it or looking at underlying information?

18 A I relied on the expertise of the finance team
19 to develop this chart.

20 Q All right. And so is Mr. Dombroski the
21 person who's got the financial expertise to answer more
22 questions about this, this chart?

23 A Mr. Dombroski is our CFO, and he has
24 financial expertise that would be relevant to this
25 chart.

1 Q All right. All right. Enough already with
2 fixed versus variable. We're going to move on.

3 I'd like to have you -- draw your
4 attention to a document that's been placed before you
5 and marked for identification as AELIC Exhibit No. 4.

6 A I have AELIC Exhibit No. 4.

7 Q All right. All right. And you would agree
8 that this is an Austin Energy response to discovery in
9 which you have been identified as the sponsoring
10 witness; is that correct?

11 A While that is correct, I'm not sure that this
12 exhibit is correct. It refers that -- the written
13 answer refers to studies that we -- or presentations
14 which report the result of our performance against the
15 affordability goals, but the attachment that I have
16 here is "Plan" -- is titled "Plan to Eliminate Coal
17 from Austin Energy's Portfolio, Public Discussion." I
18 am unfamiliar with that document, and I am -- I would
19 doubt that it is the document that was provided under
20 my sponsorship in response to this question, Samsung
21 2-16.

22 Q All right. Would you look up in the upper
23 right-hand corner of the purple? Where it's purple
24 there's a single line and then there's a lighter purple
25 and then there's a darker purple line. The top purple

1 line it says at the beginning, doesn't it say "Austin
2 Energy's Response to NXP/Samsung RFI No. 2-16"?

3 A It does say that.

4 Q All right. So you're saying this is
5 incorrect?

6 A This, as far as I can tell, is not a
7 presentation that refers to Austin Energy's
8 affordability goal.

9 Q Well, you -- Austin Energy provided it in
10 response to this RFI. All right? And it does address
11 affordability concerns dealing with eliminating coal
12 from Austin's energy portfolio; is that correct?

13 A Could you direct me to a specific reference?

14 Q No. I'm going to withdraw that question and
15 I'm going to ask, who is going to vouch for this
16 answer? In other words, you're saying that Austin
17 Energy made a mistake in this RFI?

18 A I am not saying that, but I am saying that
19 this does not appear to me to be a presentation which
20 reports the results of our performance against the
21 affordability goal since the goals were adopted in
22 February 2011.

23 Q Well, I guess the point I'm making,
24 Mr. Dreyfus, is I didn't answer this RFI. Austin
25 Energy responded to this RFI. They refer to

1 **attachments. The attachment that I've included is an**
2 **attachment that specifically refers to this RFI.**

3 **So the question is, are you saying that**
4 **Austin Energy erred in responding to this RFI by**
5 **including this attachment?**

6 A That is possible.

7 Q Do you know whether this is actually a
8 **presentation by Austin Energy to the council dealing**
9 **with the plan to eliminate coal?**

10 A It appears to be so, but I am not --

11 Q But you can't authenticate it?

12 A I am not familiar with this direct
13 presentation. No.

14 Q So you can't authenticate it. Now you're
15 **saying Austin Energy made a mistake in responding to**
16 **this RFI --**

17 A I said that is --

18 Q -- so we can't rely on this?

19 A I said that is possible.

20 Q So you don't even know that?

21 A No. I don't know if we made a mistake in
22 presenting this.

23 Q Could you --

24 MR. HERRERA: Ms. Cooper --

25 MR. BROCATO: May I clear this up,

1 Your Honor?

2 MR. HERRERA: As I read the request
3 for information, they ask -- it asks a question
4 regarding an affordability matrix -- affordability
5 matrices, I guess -- since 2011, and what is attached
6 to what you have marked as AELIC Exhibit No. 4, in
7 response to that RFI it does not appear to be
8 responsive to the RFI.

9 MS. COOPER: All I'm saying, Your
10 Honor, is I didn't --

11 MR. HERRERA: And wait a minute.
12 Let me, let me --

13 MS. COOPER: I apologize.

14 MR. HERRERA: -- finish this,
15 please. So I can appreciate your frustration, but I'm
16 not sure we're gaining anything by --

17 MS. COOPER: I was moving on.

18 MR. HERRERA: Thank you.

19 Q (By Ms. Cooper) I'd like to have you focus
20 in on what's been -- the document before you that's
21 been marked for AELIC Exhibit No. 5.

22 A Yes. I have it.

23 Q Now, this is the same RFI and the attachment.
24 Are we going to have the same problem? Take a moment
25 to look at this. All right. Have you had a chance to

1 look at it?

2 A Yes.

3 Q You would agree that this is an Austin Energy
4 Response to a discovery request in which you've been
5 identified as the sponsoring witness?

6 A It appears to be so.

7 Q All right. And if you could turn to page 3
8 of the exhibit. Are you there?

9 A Yes.

10 Q You would agree that this is the formula that
11 Austin Energy utilizes, at least right now, to
12 determine the power supply adjustment formula rate?

13 A At a high level it is.

14 Q Well, it tells the component parts that
15 Austin Energy considers in determining the PSA rate; is
16 that correct?

17 A The PSA rate, according to the tariff,
18 includes net ERCOT settlement, cost of fuel, purchase
19 power, less Green Choice revenue, bilateral sales, and
20 hedging expenses.

21 Q Does -- never mind. Could you turn to page
22 7? I mean, I'm sorry, page 7, document -- what's been
23 marked for identification as AELIC Exhibit 7, the
24 document that's in front of you.

25 A Yes. I have it.

1 Q And you would agree that this is an Austin
2 Energy response to a discovery request in which you've
3 been identified as the sponsoring witness?

4 A Yes, it is.

5 Q And you would agree that it's a portion of an
6 Austin Energy presentation to the proposed fiscal year
7 2016 budget; is that correct?

8 A Yes.

9 Q All right. If we turn to page 3, you would
10 agree that this presentation shows that Austin Energy
11 is seeking a 50.9 million dollar increase in the
12 regulatory charge; is that correct?

13 A I'm on page 3 --

14 Q Page 3.

15 A -- the presentation says "Revenue Changes
16 From the FY 2014-2015 Amended Budget," and then under
17 "Regulatory" it states 50.9 million dollar increase.
18 Yes.

19 Q All right. Now, do you recall whether part
20 of that 50.9 million dollars included a recovery of a
21 29 million dollar under-recovery from previous years?

22 A It is my understanding, subject to check,
23 that that is correct.

24 Q And at the time Austin Energy made this
25 presentation, at least this document shows that Austin

1 **Energy made -- was recommending no change to the**
2 **community benefit charge; is that correct?**

3 A That is what the document says.

4 Q All right. And then page 4 it does talk
5 **about the under-recovery of the regulatory charge; is**
6 **that correct?**

7 A Yes.

8 Q And then page 5 just talks about the bill
9 **impacts on Austin Energy's recommendation in the**
10 **PowerPoint presentation; is that correct?**

11 A Residential customer bill impacts --

12 Q Yes.

13 A -- is the subject of this slide for
14 **inside-city-of-Austin customers.**

15 Q All right. And then I'd -- now I'd like to
16 **refer you to a document that's been placed before you**
17 **that's been identified, marked for identification as**
18 **AELIC Exhibit 8.**

19 You would agree that this is a copy of
20 **some email correspondence, starting with a request from**
21 **me to you to ask for information involving the revenues**
22 **and expenses of the energy efficiency rates; is that**
23 **correct?**

24 A The bottom of what is labeled page 1 is an
25 **email from you to me from August 17th of 2015**

1 requesting information about energy efficiency rates
2 for FY15 and '16 in a particular format.

3 Q All right. And it also includes a copy of
4 email response from Luis Rivas. Do you know Mr. Rivas?

5 A Yes, I do.

6 Q Okay. And he is your public information
7 officer?

8 A He is the primary subject matter expert at
9 Austin Energy who's responsible for responding to
10 Public Information Requests. Yes.

11 Q All right. And you -- and do you recognize
12 his email address on page 1?

13 A Yes, I do.

14 Q Okay. And then if we look at one, two, the
15 third page of the exhibit, the third full page, once
16 again it's the same thing except started with a request
17 to you requesting information, audit information about
18 the fiscal year 2014 energy efficiency expenses and
19 revenues; is that correct?

20 A I'm sorry. Could you direct me where
21 you're -- I'm not seeing that.

22 Q Well, I guess I left it out for space
23 purposes. It says at the very bottom, it refers that I
24 have made a Public Information Request; is that
25 correct?

1 A On what is labeled page 1, which is --

2 Q **Which is actually the third full page --**

3 A -- the fifth page.

4 Q **-- of the document.**

5 A I think the fifth page. There is an email
6 dated May 18th, 2015 from me to you that says I have
7 received your information and will treat it as a PIR.

8 Q **All right. And then on the top is once again**
9 **Mr. Rivas responding with the 2014 budget figures; is**
10 **that correct?**

11 A Yes.

12 Q **All right. And I'd like to refer you to a**
13 **document that's been placed in front of you and marked**
14 **for identification as Austin -- as AELIC Exhibit 6.**

15 MR. HERRERA: Ms. Cooper, did you
16 say 6?

17 MS. COOPER: 6, "sies," 6.

18 THE WITNESS: Yes, I have it.

19 Q **(By Ms. Cooper) And you would agree that**
20 **this is an Austin Energy response from discovery**
21 **requests in this case in which you've been identified**
22 **as the sponsoring witness?**

23 A It is.

24 Q **All right. If we look at page 2, there's a**
25 **highlighted portion, and I made that highlighted**

1 portion so we could see it.

2 You would agree that this bottom portion
3 is what appears to be an email from Mr. Rabon to a
4 series of people. Does it include you as well in the
5 cc:? Are you Mark?

6 A No. I am not.

7 Q Okay.

8 A This does appear to be an email from Grant
9 Rabon to a number of Austin Energy's staff, exclusively
10 in finance, as well as cc:s to NewGen staff and Austin
11 Energy finance.

12 Q And so the highlighted point, part says, "As
13 a point of reference, at," the percentage of, "summer
14 costs, based on everything currently within the PSA,
15 the summer and non-summer PSA would be identical." Is
16 that --

17 A That's what is written in the highlighted
18 section.

19 Q And then if you could turn to page 3, there
20 appears to be another email, and I've highlighted the
21 section, and we're going to look at the email, in which
22 I've highlighted in yellow, from Mr. Mickelson to Grant
23 Rabon, and a series of other people have been
24 identified as well; is that correct?

25 A Yes.

1 Q Okay. And so the section of the email says,
2 "for the seasonal fuel, if we take the three year
3 average of summer PSA costs (the information that Mark
4 Mirick provided) . . . that gives a 40.26 percent
5 weighting in summer that produces rates slightly higher
6 in the summer versus the winter," and then in parens,
7 "(compared to the results you were getting with winter
8 slightly higher than summer) with the minimal balance
9 difference throughout all classes." Have I read that
10 correctly?

11 A You skipped over a little bit in the parens,
12 but otherwise, yes, you have --

13 Q Okay.

14 A -- read it correctly.

15 Q Okay. I did a pretty good job. All right.
16 And could you tell me who Mark Mirick is?

17 A He's an analyst in Austin Energy's finance
18 department.

19 Q All right. So if you could now move your
20 attention to a document in front of you that's been
21 marked for identification as AELIC Exhibit 11.

22 A Yes, I have it.

23 Q All right. And you would agree that this
24 document refers to an Austin Energy response to
25 discovery in which you've been identified as the

1 **sponsoring witness?**

2 A Yes. That is correct.

3 Q And what's attached appears to be an internal
4 PowerPoint presentation, at least what appears on the
5 top; is that correct?

6 A It is an Austin Energy PowerPoint
7 presentation. I do not know who the audience is,
8 but --

9 Q Okay.

10 A -- but it may have been an internal
11 discussion document.

12 Q All right. And then if we look at page
13 4 -- and I'm referencing the number 4 in the bottom.

14 A Yes.

15 Q Okay. And this is a graph that is
16 representative of concerns about whether Austin Energy
17 rates are competitive or not?

18 A That is correct.

19 Q And then page 5 is also the same type of
20 graph?

21 A Yes. These are both graphs related to
22 competitiveness by the measure that we discussed
23 earlier about being in the lower 50 percent of rates in
24 the state from the two-part council affordability goal.

25 Q All right. Now, I'd like to turn now briefly

1 to the document in front of you that's been
2 identified -- that's been marked for identification as
3 AELIC Exhibit 12. And I made it voluminous so you
4 could kind of see where it came from, Mr. Dreyfus, so
5 it is a little thick. Give you a moment to look at it.

6 A Yes. I have it.

7 Q All right. And you would agree that this is
8 a partial response to this -- an Austin, partial Austin
9 Energy response to discovery in which you've been
10 identified as the sponsoring witness; is that correct?

11 A That is correct.

12 Q All right. And if we could just briefly just
13 hold this one in front of you but briefly pick up AELIC
14 Exhibit 11, and you would agree that if we look at 4
15 and 5, the graphs for competitiveness, that the source
16 data is an EIA form; is that correct?

17 A So you're asking me to go back --

18 Q Yes.

19 A -- to Exhibit 11 and --

20 Q And look at pages 4 and 5 --

21 A -- validate that the source data is from the
22 EIA form 861 data?

23 Q Yes.

24 A That is correct.

25 Q Okay. All right. Now, you would agree that

1 pages 4 through 7 are taking a set of utilities and
2 comparing the various average rates and average usage,
3 is that correct, for 2013?

4 A I'm sorry. Would you ask the question again?

5 Q All right. Let's look at page 4. Are you
6 there, page 4 --

7 A I am.

8 Q -- on Exhibit 12? It's got a series of
9 utilities that are listed, right?

10 A It does.

11 Q And it's -- and the year in reference is
12 2013; is that correct?

13 A Yes.

14 Q And if we move to the right, there's a series
15 of vertical columns with titles. One of them
16 identifies residential revenues, correct?

17 A Yes.

18 Q Residential sales?

19 A Yes.

20 Q Residential customer count?

21 A Correct.

22 Q And residential average usage?

23 A That is correct.

24 Q And then the residential average cost; is
25 that correct?

1 A Yes.

2 Q So we can compare Austin Energy's average
3 cost with the average cost of these other utilities; is
4 that correct?

5 A Using this chart that is correct.

6 Q Using this chart. And then we can also do it
7 for commercial customers and the industrial customers
8 if we move along. I didn't break this up, I think this
9 is how it came --

10 A Yes. I understand.

11 Q -- because it was so long.

12 A That is correct.

13 Q All right. And so the cover pages to these
14 explain -- if you look at page 10, we're looking -- we
15 know that for sure it's the EIA data. Look at page 10.
16 Look at the email from Christopher Mickelson to
17 Mr. Dombroski and Mr. Dreyfus, and so you've got these
18 two charts for each sector using the EIA tables.

19 A I do believe that the charts that you have
20 shown me for 2013 are drawn from the EIA 861 data set.
21 Yes.

22 Q Okay. All right. So now if we could look at
23 pages 13 and compare it to 14, what we see, page 13 is
24 the average system cost, well, versus the median cost,
25 is that correct, if we compare 13 and 14?

1 A That is what the legend -- the legend on 13
2 says that it is the Texas entity median. The legend
3 on 14 refers to the Texas entity system average
4 unfiltered.

5 Q Now, median is another form of average; isn't
6 that correct?

7 A Well, median is a median. So it is the
8 middle point of a set of data.

9 Q So if we were seeing if somebody was higher
10 or lower, the median would be the middle where
11 everybody below it would be lower and everybody above
12 that point would be higher?

13 A It would the mid point of that data set or,
14 yes, those below were below and those above were above.

15 Q Right. It's like half of the customers would
16 be below and half would be above, for example.

17 A If you had a rank order numeric column
18 representing customers, yes.

19 Q So we look at 15 and 16 and we compare Austin
20 Energy average residential cost using the median, we
21 find that Austin Energy's residential costs are greater
22 than the median; is that correct?

23 A In this chart --

24 Q In this chart.

25 A -- as the data are displayed in this chart --

1 Q All right. And then --

2 A -- the median beginning in 2013 for
3 residential state -- for Texas entities is higher than
4 Austin Energy's average cost. Yes.

5 Q All right. And page 16, then, is just the
6 pure average, and it shows that Austin Energy's average
7 residential cost is lower than the average.

8 A The legend says "Texas Entity (system
9 average - unfiltered)," and I do not know exactly what
10 that means, but in this chart the Texas entity average
11 is higher than the average cost for Austin Energy.

12 Q All right. But if we were to look at pages
13 10 and 11, doesn't this email talk about the difference
14 between filtered and unfiltered?

15 A The email does refer to filtered and
16 unfiltered.

17 Q All right. Now I'd like for you to focus in
18 on the document that's been marked for identification
19 as AELIC Exhibit 13.

20 A Yes. I have it.

21 Q And you would agree that this is an Austin
22 Energy response to discovery in which you've been
23 identified as the sponsoring witness; is that correct?

24 A That is correct.

25 Q And on page 2 of this exhibit doesn't it

1 **establish a average base rate?**

2 A Would you refer me specifically to where
3 you're referencing?

4 Q Right. Let's look at this email. Isn't
5 this, isn't this an email from Mr. Rabon to Mickelson,
6 Christopher Mickelson; Russell Maenius; Mirick and Mark
7 with copies to Oberwortmann, John; Mancinelli; and
8 Bernt; is that correct?

9 A It is an email from Grant Rabon to those
10 folks. I would just note Mark Mirick is one
11 individual, not two.

12 Q Okay. Thank you. What can I say?

13 So anyway, they're looking at numbers
14 trying to find how much below cost the tier structure
15 is, if you were to take a moment to look at this email;
16 is that correct?

17 A Would you ask your question again?

18 Q I said doesn't this email show that this
19 person was doing a calculation to address a factual
20 presumption that the residential tiers, 80 percent of
21 residential customer usage was below cost?

22 MR. BROCATO: Your Honor, I would
23 just note this is an incomplete copy of this email. At
24 the bottom of it, it states "Important Notes," and it
25 has three bullet points, and then it appears to be in

1 mid sentence it is cut off. I'm not sure what else
2 came after that.

3 MS. COOPER: AELIC has no objection
4 to an optional completeness if that's what's Austin
5 Energy's pleasure. Once again I would like to note,
6 Your Honor, that we have not made a motion to introduce
7 this at this time. So it was a little presumptive for
8 Mr. Brocato to make his comment.

9 MR. BROCATO: No. Actually what
10 I'm referring to is she's asking the witness to
11 interpret this email, but she hasn't given the entirety
12 of it to him.

13 MR. HERRERA: Do you have the
14 entirety of the email, Ms. Cooper?

15 MR. BROCATO: If you would notice,
16 he's not the author of the email, although admittedly
17 he sponsored this attachment. I'm not trying to be
18 difficult, but it does appear to be a complicated
19 email.

20 MS. COOPER: All right. I'm going
21 to strike that question, Your Honor, and move on to
22 another question dealing with this document. All
23 right?

24 MR. HERRERA: Dealing with which
25 document, Ms. Cooper?

1 MS. COOPER: AELIC Exhibit 13. I
2 can't find the rest of it.

3 Q (By Ms. Cooper) Looking at the email,
4 Mr. Dreyfus, doesn't it look like Mr. Rabon tried to
5 find the average base rate, or, more specifically, the
6 amount of base revenue that should come from the energy
7 cover -- energy charge to recover the full cost of
8 service? And . . .

9 A Well, there is a line that says a
10 calculation, which is in the prior sentence, "leaves
11 the net amount of base revenue that should come from
12 the energy charge to recover the full cost of service."
13 That is what is stated in the email.

14 Q All right. So number 2, they took that
15 amount and divided it by the total residential
16 test-year kilowatt hours, and that resulted in an
17 average energy rate; is that correct?

18 A That is what the email states.

19 Q All right. I'd like to turn to page 3, just
20 the back, and if -- I'm asking you to assume that to
21 come up with the total average base rate you take the
22 base rate cost of service and divide it by the
23 residential annual kilowatt hours.

24 And if you could look at schedule -- you
25 know what, Your Honor, I'm just going to go ahead and

1 **preserve this exhibit till Mr. Dreyfus comes back for**
2 **rebuttal, and that way I will provide the rest of the**
3 **thing and it will make a clearer record.**

4 MR. HERRERA: Ms. Cooper --

5 MS. COOPER: I'm going to move on.

6 MR. HERRERA: I appreciate that.

7 Obviously you can process your case as you wish. If
8 you were going to ask Mr. Dreyfus to authenticate this,
9 maybe you were going to ask him to do that between now
10 and his rebuttal so that we can save some time when he
11 takes the stand and not have to do mathematics on the
12 stand.

13 MS. COOPER: You mean ask him now,
14 like, between now and rebuttal?

15 MR. HERRERA: When you're at a
16 break or whenever, if you want to --

17 MS. COOPER: That's fine. Sure.
18 That's fine. Okay. Your Honor, at this time -- well,
19 I do have one more RFI, if I can find it. But I
20 appreciate that sentiment, Your Honor. That's a good
21 suggestion.

22 **Q (By Ms. Cooper) If you could focus your**
23 **attention on AELIC Exhibit No. 14, what's been marked**
24 **for identification as AELIC Exhibit 14.**

25 **A Yes. I have it.**

1 Q All right. And you would agree that once
2 again this is an Austin Energy response to discovery in
3 which you've been identified as the sponsoring witness;
4 is that correct?

5 A That is correct.

6 Q All right. And if we turn to page 2 it looks
7 like it's a email from Mr. Mickelson to, to -- you're
8 included as a, as a copy of this RFI, Mr. Dreyfus; is
9 that correct?

10 A That is correct.

11 Q And who is Mr. Mickelson?

12 A He's an analyst in our finance team.

13 Q All right. And he is obviously one of the
14 people Austin Energy utilized to prepare its rate case;
15 is that correct?

16 A He is.

17 Q And this email is, is an idea that
18 Mr. Mickelson himself thought that the street area
19 lighting, a solution to -- let me rephrase that.

20 You would agree that this email appears
21 to be addressing a concern about the high rates for
22 commercial customers?

23 A I'm sorry. Would you state that question
24 again?

25 Q I said -- well, let's just back up. Let me

1 read this, and correct me if I'm wrong. "Here's a
2 thought. For the upcoming December 15th briefing, an
3 option we might want to consider and present to council
4 is the elimination of the municipal street lighting
5 tariff . . . which takes away Issue 25 from our P3
6 customers. Instead, SAL would be a reduction from the
7 general fund transfer and city shared services (keeping
8 Austin Energy whole); and therefore, giving us
9 approximately an additional 11.2 million, depending on
10 allocators used."

11 Did I correctly read that sentence?

12 A With the exception of a few acronyms, yes.

13 Q Okay. I apologize for that. Okay. Now, who
14 are P3 customers?

15 A P3 customers -- well, let's say the P3
16 customer class is primary service above 20 megawatts.

17 Q All right. All right. Mr. Dreyfus, thank
18 you so much. You've been very patient.

19 MS. COOPER: Your Honor, I have no
20 more questions. I pass the witness. But before I
21 go -- finally I remember -- I'd like to move for
22 admission certain exhibits. Exhibit 11, Exhibit 5, 6,
23 14 -- I've said 7. So it would be 5 through 8, 11, 12,
24 and 14.

25 MR. HERRERA: 5, 6, 7, 8, 11, 12,

1 and 14?

2 MS. COOPER: 5, 6, 7, 8, 11, 12,
3 and 14, yes.

4 MR. HERRERA: Any objections?

5 MR. BROCATO: Yes. I don't recall
6 ever seeing an RFI response being broken into separate
7 exhibits before.

8 MS. COOPER: I'm sorry, I missed
9 that.

10 MR. BROCATO: I don't recall ever
11 seeing one RFI response broken into this multiple
12 exhibits, but having said that, I'll try to work within
13 what we've been given.

14 As to 5-8, it's not clear that the two
15 pages that she's attached are, in fact, part of
16 the -- actually, I stand corrected. You can see it
17 through the blue ink. I don't have an objection to
18 Exhibit 5, although I would reserve optional
19 completeness. It's two pages out of what appears to be
20 an 891-page attachment. I would also reserve the right
21 for optional completeness as to Exhibit 6 and would
22 again note that the highlighting is done by Ms. Cooper.
23 Exhibit 7 is another excerpt to the response that's
24 also addressed in AELIC 5. So if we complete the
25 response to AELIC 5, we would also capture the

1 remaining pages of AELIC 7.

2 MR. HERRERA: So on 7 you don't
3 have an objection other than reserving the right to
4 complete it?

5 MR. BROCATO: Correct. AELIC 8 is
6 really just a -- it looks like an email from Ms. Cooper
7 and a response from Mr. Rivas. There's also another
8 response from him. This response is hearsay as to
9 Mr. Dreyfus, but I won't object to it, so I'm okay with
10 that. 11 the same issue that comes up with respect to
11 AELIC 6, we would reserve optional completeness; this
12 is the four excerpts from the same RFI response. 12,
13 again optional completeness; this is the same RFI as we
14 discussed previously. Then you did not offer 13,
15 correct?

16 MS. COOPER: That's correct.

17 MR. BROCATO: But you are offering
18 14. Again, this is the same RFI. We reserve optional
19 completeness on that as well.

20 MR. HERRERA: On 14?

21 MR. BROCATO: Yes, Your Honor.
22 That's all.

23 MR. HERRERA: Those are admitted
24 subject to optional completeness. Ms. Cooper, are you
25 finished?

1 MS. COOPER: Yes, Your Honor. I'm
2 sorry if I didn't say that. I thought that I had.

3 MR. HERRERA: I think you did. I
4 was just clarifying.

5 MS. COOPER: Okay. Thank you for
6 checking.

7 MR. HERRERA: Public Citizen?

8 MS. BIRCH: Our questions for this
9 witness, Your Honor, are all for rebuttal.

10 MR. HERRERA: No questions right
11 now?

12 MS. BIRCH: No questions.

13 MR. HUGHES: Just a couple --

14 MR. HERRERA: Mr. Hughes?

15 MR. HUGHES: Just a couple brief
16 questions.

17 CROSS EXAMINATION

18 BY MR. HUGHES:

19 Q Dr. Dreyfus, I want to go back to the
20 conversation you had with Mr. McCollough earlier with
21 regards to rate shock and whether there was a
22 quantitative way to determine it or not, and I think in
23 that conversation you suggested that in this case
24 moving residential ratepayers to cost of service would
25 result, would likely result in rate shock?

1 A I believe that is correct.

2 Q Do you know or do you have an idea as to what
3 percentage that rate increase would be on average in
4 that -- for the residential rate class?

5 A It is in the direct testimony, but off the
6 top of my head I don't know what that number is.

7 Q Would slightly over 11 percent sound right?

8 A I'd like to check the direct testimony to
9 weigh in on that.

10 Q Okay.

11 A But it is, it is explicitly written in the
12 direct testimony.

13 Q Okay. I just don't have it with me. Do you
14 have any idea or are you familiar with what the Public
15 Utility Commission has stated was -- or has indicated
16 would or would not be rate shock in their most recent
17 cases? I think the most recent one with an actual
18 order that wasn't a settlement was in December of 2015.
19 That was SPS, and then they -- in that case they
20 reference another one with -- in SWEPCO's case, but do
21 you -- are you familiar with those?

22 A I am not familiar with what the commission
23 may have said about rate shock in either of those two
24 cases. No.

25 MR. HUGHES: Okay. No further

1 questions, Your Honor.

2 MR. COFFMAN: We're ready to go,
3 Your Honor. Time for me to [inaudible]. We have three
4 exhibits, RFI responses, which are ICA Exhibits 21, 22,
5 and 23, and those are responses to ICA requests for
6 information 2-7, 1-7, and 1-26 respectively. And so
7 we'll just get those out of the way first.

8 CROSS EXAMINATION

9 BY MR. COFFMAN:

10 Q You have a copy of those, Mr. Dreyfus?

11 A I have ICA 21, 2-7 --

12 Q Yes.

13 A -- 22 ICA 1-7, and 23 ICA 1-26. Yes.

14 Q And referring to the first, the ICA Exhibit
15 21 -- let's see, those are -- okay. With regard to ICA
16 Exhibit 21, those are a list of community programs
17 funded through Austin Energy's utility rates, correct?

18 A That is correct.

19 Q And is it true that the money going to these
20 particular charities and programs are not necessarily
21 prudent to the provision of electricity service, right?

22 A The money that Austin Energy allocates to
23 these funds is not explicitly to provide for them to
24 receive electric service. No.

25 Q But the source of the funds are derived from

1 **customer rates. So would it be fair to consider these**
2 **customer-funded contributions?**

3 A Well, I'm not sure what the term
4 "customer-funded contribution" means, but as you said,
5 these funds do originate from rates that are charged to
6 customers. Yes.

7 Q And is it true that customers don't have a
8 choice as to whether or not their, their utility bills
9 go to fund these programs, right? It's not like a
10 check-off program. The decisions are made by Austin
11 Energy and --

12 A Well, there is a separate check-off program,
13 but these expenditures are typically not subject to a
14 customer's decisionmaking.

15 Q And you understand the Independent Consumer
16 Advocate recommendation that these contributions be
17 considered as part of the general fund transfer? In
18 other words, below the line.

19 A I will accept that that is your
20 recommendation.

21 Q And do you object to that recommendation?

22 A I believe that these expenditures are
23 appropriate community expenditures of Austin Energy,
24 and so I would object to that recommendation.

25 Q Okay. Let's see. Just for identification

1 purposes, ICA Exhibit 22 is an RFI response that you
2 sponsored related to the house of worship discounts,
3 correct?

4 A That is correct.

5 Q And that seems to be an accurate copy of it?

6 A That is correct.

7 Q Okay. And then ICA Exhibit 23 is an Austin
8 Energy response to ICA 1-26 stating that Austin Energy
9 has no cost basis for the inside- and outside-city
10 customer rate differential, correct?

11 A The, the response is that Austin Energy has
12 no responsive information to the request, which is,
13 provide cost basis which exists for the
14 inside/outside-city customer rate differential.

15 Q So --

16 A So --

17 Q -- can we draw the conclusion that Austin
18 Energy has no cost justification for the differential?

19 A The inside/outside customer differential was
20 not cost-based.

21 Q Okay. Along that same lines, I believe, now,
22 this may be in your rebuttal testimony, but you state
23 that outside-the-city customers receive a
24 disproportionate amount of the EES rebates?

25 A I did not say in my rebuttal testimony that

1 they had a disproportionate amount of those rebates.

2 Q Do customers outside the city receive energy
3 efficiency rebates?

4 A Yes, they do.

5 Q How would you -- do they receive more or less
6 EES rebates proportionately to the customers inside the
7 city limits?

8 A In my rebuttal testimony I noted that while
9 13.6 percent of the customers are customers that reside
10 outside of the city limits of Austin, greater than 13.6
11 percent of the energy efficiency rebates did serve
12 outside-city customers during the test year.

13 Q And would that be 22 percent, based on your
14 rebuttal testimony?

15 A Subject to check, that seems appropriate.

16 Q I believe your testimony says 22 percent of
17 the rebates received in 2015.

18 A Okay. 2015, I stand corrected.

19 Q Does Austin Energy propose to differentiate
20 the EES allocation change to reflect this differential
21 between inside- and outside-city customers?

22 A No. It does not.

23 Q Let me follow up on the, on the question of
24 rate shock. And if I'm to understand, Austin Energy
25 would like to avoid rate shock to its customers if

1 **possible, correct?**

2 A I believe we stated that in our direct
3 testimony.

4 Q And, and one -- and you proposed not to
5 propose an increase to the residential customers of a
6 double-digit amount. Whether it was 11 percent or 20
7 percent based on your cost study, that's not your
8 recommendation, to --

9 A We did not propose an increase of any sort to
10 the residential customer class as a class.

11 Q And was the avoidance of rate shock the
12 primary reason for the concept of gradualism?

13 A I would say it was one reason, but I would
14 not characterize it as the primary reason for a
15 recommendation that there be no increase to residential
16 customers in the first year.

17 Q Is it fair to characterize the proposal in
18 the Austin Energy proposal in this tariff package to
19 eliminate the house of worship discount as potentially
20 causing rate impacts of over 20 percent?

21 A There are some examples of houses of worship
22 that may have impacts of as much as 20 percent. There
23 have been some claims of impacts of much, much higher
24 than those, but I believe that discovery responses that
25 we have provided shows that those were not calculated

1 correctly.

2 Q Could they be as much as 30 percent for some
3 churches in the winter period?

4 A I do not know the specific answer to that
5 question.

6 Q Would you define a 20 to 30 percent impact to
7 house of worship customers as being rate shock,
8 potentially generating rate shock?

9 A I would not because of the transition period
10 that the city council has brought -- has, has offered
11 the houses of worship customers to bring them from the
12 prior non-demand residential rate to the current demand
13 rate. I think the council determined in 2012 that at
14 that time house of worship customers would be subject
15 to rate shock. They afforded them a, some of them, a
16 significant discount during that period, and the
17 increase is an artifact of the discount. And so I
18 would not characterize that myself as rate shock that
19 the sun -- based on the sunsetting of the discount.

20 Q Even -- and you would -- that would be your
21 testimony even if at the conclusion of this case, from
22 one month to the next a bill might go up over 20
23 percent for these customers?

24 A I believe I have so stated.

25 Q Okay. Transparency is one of the guiding

1 **rate-making principles that Austin Energy tries to**
2 **adhere to?**

3 A We have articulated that in our direct
4 testimony.

5 Q Do you believe that this transparency
6 principle should apply to the pilot programs that
7 Austin Energy engages in?

8 A Yes.

9 Q And would -- conducting some public process
10 of collaboration and working with impacted stakeholders
11 would be a way to provide more transparency to the
12 pilot program process?

13 A That is one way to provide transparency.
14 Another way that we have offered transparency is by
15 offering those programs last year in the city budget
16 process which accommodated a public hearing.

17 Q Let me ask you another question about
18 transparency. Should the same transparency that Austin
19 Energy has provided in this rate review process apply
20 to any rate changes that occurred in between rate
21 cases?

22 A I don't think that's necessarily so.

23 Q Would that be true even if, even if a change
24 made in between a rate case caused as much of an impact
25 on a customer's bill as this particular rate case

1 **might?**

2 A It certainly depends on the particular
3 circumstances. For example, if there were a
4 significant increase in our power supply cost, we would
5 during the interim make an adjustment to the power
6 supply adjustment that may have a higher increase
7 without this type of proceeding.

8 Q I'd like to ask some clarifying questions
9 based on your tariff package direct case, if you have
10 that in front of you.

11 A I have that in front of me.

12 Q On page 2-12 the last paragraph of Section
13 2.5, just your basic rate design overview, you state,
14 "Looking beyond year one there are many rate-making
15 considerations related to moving all customer classes
16 closer to cost of service."

17 By stating "looking beyond year one,"
18 are you proposing in this case that there be rate
19 changes that occur after the conclusion of this rate
20 review but before the initiation of the next rate
21 review?

22 A We have not made any such proposal. I do not
23 anticipate that we would make a proposed change to base
24 rates in the interim. However, I think that this, this
25 paragraph opens up the possibility that in this

1 proceeding parties may make recommendations for a more
2 than one-year transition period, and that's what that
3 paragraph speaks to.

4 Q So there isn't a planned year-two proposal
5 that we don't know about?

6 A There is not a planned year-two proposal that
7 you do not know about.

8 Q That's good, given your [obscured by
9 laughter] of transparency.

10 And I believe that, and maybe this was
11 in rebuttal, that you stated that you, and correct me
12 if I'm wrong, you think it would be inappropriate to
13 make a piecemeal adjustment from one customer class to
14 another in between rate reviews?

15 A I think it is not desirable, though at
16 times -- let me back up for a minute. I am not exactly
17 sure where you are referring to in my rebuttal
18 testimony. However, I believe that it is not desirable
19 to make such a change, but at times the balance of
20 public policy interests may lead the city council to
21 make such a change.

22 Q Do you have any plans to make that type of a
23 move after this rate review is concluded and before the
24 next one?

25 A I do not have any plans to make such a move

1 after this rate review is concluded and before the next
2 one.

3 Q Where it might not be desirable to make
4 customer class shifts in between rate cases, do you
5 have feel it's equally undesirable to reallocate cost
6 recovery within a class in between rate reviews?

7 A I believe I agree with that statement.

8 Q Okay. I like that answer. One more
9 clarifying question, and this would be on page 6-3,
10 Section 6.2. In here you have a discussion of Austin
11 Energy's philosophy regarding the relationship between
12 fixed and variable cost, and paragraph 2 begins with
13 the sentence that says, "Overreliance on revenues that
14 vary with consumption creates risk for Austin Energy."

15 And it's -- you don't state it
16 explicitly, but is this setting up the suggestion that
17 Austin Energy would like to make changes that alleviate
18 the risk of revenue variability?

19 A I don't read this paragraph to make a
20 suggestion to do that. I believe that this paragraph
21 points out on a, on a factual basis that if fixed costs
22 are embedded in variable charges, then there is risk to
23 the utility of under-recovery of its fixed cost, an
24 issue we have been discussing in this room for many
25 years.

1 Q And the last sentence on this page states
2 that "The proposed rates addressed fixed cost recovery
3 through gradual measures that slowly improve cost
4 recovery alignment while minimizing customer impacts."

5 A That is what it says.

6 Q By this statement, you're not proposing that
7 piecemeal changes be made in between rate reviews, are
8 you?

9 A I believe we addressed that issue previously,
10 but as I said, there is no plan for incremental base
11 rate adjustments between now and some forthcoming base
12 rate case.

13 Q And by "gradual measures" are you merely
14 stating that this, this particular case makes gradual
15 movement, not that you're proposing gradual measures be
16 made after this --

17 A That is correct, with the caveat that I
18 mentioned earlier that in this proceeding parties have
19 and have had the opportunity to make recommendations
20 for movement toward cost of service.

21 Q And to the degree that movement would be made
22 to mitigate or to improve revenue stability for the
23 utility, would it be fair to describe that as also
24 shifting risk from the utility to its customers?

25 A I think the answer to that is yes and no.

1 You know, it, it's that, it's that issue that municipal
2 utilities do not have shareholders. We have customers,
3 we have citizens, and so the customers and citizens are
4 really the ones who bear virtually all the risks. The
5 city bears some risk for performance of the utility and
6 some financial risk, and the utility manages the
7 customers' risk. So I think there's, there's a little
8 bit on both sides of that question.

9 **Q You'd agree with me, though, that risk is a**
10 **zero-sum game though, that if risk is mitigated for the**
11 **utility, that it might increase the risk to the**
12 **customer?**

13 **A** I'd have to think about that zero-sum game
14 thing a little bit. That's a, that's a very
15 black-and-white statement, and I, and I'm not sure
16 whether it's that black and white. There might be some
17 gray there. I'd really have to think about that before
18 I could answer.

19 **Q I appreciate that.**

20 **MR. COFFMAN:** I think that's all.
21 I think we can wrap it up. Oh, Your Honor, I would
22 like to offer not only these three exhibits, 21, 22,
23 and 23, but also I want to make sure that I offered
24 into the record the exhibits with Mr. Dombroski.

25 **MR. HERRERA:** That was years ago,

1 Mr. Coffman, and I don't remember.

2 MR. COFFMAN: Someone asked me and
3 I'm not sure whether I did or not.

4 MR. HUGHES: I sympathize with him.

5 MR. COFFMAN: I thought that I did.

6 MR. BROCATO: I think he means ICA

7 3- [crosstalk] --

8 MR. COFFMAN: I'm going -- I would
9 like -- if I haven't made it already, I'll make the
10 motion to enter into the record ICA 3 through 10 as
11 well as 21, 22, and 23.

12 MR. BROCATO: I have no objections
13 to 21, 22, and 23.

14 MS. COOPER: I've got a notation,
15 Your Honor, that they've already been admitted, 3
16 through 10.

17 MR. BROCATO: I --

18 MR. HERRERA: Let's go off the
19 record just briefly.

20 (At 6:01 p.m. the proceedings went
21 momentarily off the record.)

22 MR. HERRERA: Mr. Coffman, you've
23 offered ICA Exhibits 3 through 10, and Mr. Brocato, you
24 have no objection to those?

25 MR. BROCATO: That's correct, Your

1 Honor.

2 MR. HERRERA: And you also offer,
3 Mr. Coffman, Exhibits 21, 22, and 23, and I believe
4 Mr. Brocato indicated he had no objection to those as
5 well?

6 MR. BROCATO: That correct.

7 MR. HERRERA: Those are admitted.

8 MR. COFFMAN: Thank you, Your
9 Honor.

10 MR. HERRERA: Before we get to
11 redirect -- Mr. Brocato, I'm assuming we have redirect?

12 MR. BROCATO: Just a few questions.

13 MR. HERRERA: I did have a couple
14 of questions for Mr. Dreyfus, if I could, please.

15 MR. BROCATO: Certainly.

16 CLARIFYING EXAMINATION

17 BY MR. HERRERA:

18 Q Mr. Dreyfus, I forget who was asking the
19 question, I think it was Mr. McCollough, regarding the
20 affordability goals, and I was a little confused as to
21 what is included in the percentage or whatever the
22 affordability may be, and I think it's a 2 percent
23 increase in --

24 A Yes.

25 Q -- overall revenues, is what I believe you

1 **testified to.**

2 A I do not have the, the language in front of
3 me, but I believe it says "rates," which we take to
4 mean average customer, average customer rate or average
5 customer cost.

6 Q And my question was, did you -- in assessing
7 whether you've met the council's affordability goals,
8 do you look at the revenue produced by base rates, the
9 PSA, the CBC, and the regulatory charge?

10 A We look at the, the total revenues, including
11 the base rate and all the pass-throughs. Yes.

12 Q And then the other question, Mr. Coffman had
13 some questions for you regarding fixed versus variable
14 cost and how those are recovered.

15 Could you give me an example of a fixed
16 cost?

17 A I would presume that the cost of a
18 transformer in a substation is a fixed cost. As the
19 cost of that transformer, its, its capital and
20 operating and maintenance costs do not change with the
21 number of customers or the amount of usage.

22 Q Okay. And give me an example of a variable
23 cost, a specific example of type of cost.

24 A A variable cost would be something that
25 changes with the amount of customers or the amount of

1 usage, and just, just off the top of my head I'm not
2 thinking of a, of a good example. I think
3 Mr. Dombroski would be able to give you a much more
4 complete response to that than I am.

5 Q Both with regard to fixed and variable or
6 just with regard to variable?

7 A With regard to all of those types of counting
8 metrics, measures.

9 Q I'll ask Mr. Dombroski when he comes back.
10 Thank you.

11 MR. HERRERA: Mr. Brocato?

12 MR. BROCATO: Thank you, Your
13 Honor.

14 REDIRECT EXAMINATION

15 BY MR. BROCATO:

16 Q Mr. Dreyfus, would you turn to page 129 of
17 the tariff package? And you have a copy there to your
18 left, or perhaps in front of you as well.

19 A That's the Bates page?

20 Q Correct.

21 A Yes. I have it.

22 Q Would you look at footnote 104?

23 A I'm sorry?

24 Q Would you look at footnote 104 that's at the
25 bottom of that page?

1 A Yes.

2 Q Even without any increase to residential
3 customers, is the residential class moving closer to
4 unity in this case than it was in the last case?

5 A Yes. In footnote 104 it notes that in the
6 2009 cost of service study the residential class was
7 under-recovered by approximately 78 million, and I
8 believe that the comparable number in this proceeding
9 is on the order of 53 million, which is less, or closer
10 to unity as you say.

11 Q Has the -- changing subjects now, has the
12 Austin City Council previously approved rates that
13 included charitable contributions and community program
14 sponsorships?

15 A Yes, they have.

16 Q Are you aware of whether the Public Utility
17 Commission has approved such expenditures?

18 A Yes, they have.

19 Q Are you aware of whether the commission has a
20 rule that addresses such expenditures?

21 A I believe that the commission does.

22 Q And what does that rule -- what is your
23 understanding of that rule?

24 A My understanding of that rule is that it sets
25 an allowable level for those costs and other costs.

1 **Q Are all HOWS alike?**

2 **A No, they're not.**

3 THE REPORTER: Are all what alike?

4 All what alike?

5 MR. BROCATO: I'm sorry. HOWs,

6 houses of worship.

7 THE REPORTER: Thank you.

8 **Q (By Mr. Brocato) Are you aware of whether**
9 **different HOWs will see disparate impacts as a result**
10 **of AE's rate proposal?**

11 **A The impact of the rate proposal would be**
12 **different on different houses of worship, depending on**
13 **their usage patterns and their, their, their load.**

14 **Q Do you know if some will see a decrease as a**
15 **result of this case?**

16 **A Some houses of worship will certainly see a**
17 **decrease as a result of -- would see a decrease as a**
18 **result of Austin Energy's proposals.**

19 **Q Let me make sure I understand how the**
20 **affordability goals work. Is the 2 percent limitation**
21 **on existing rates, or is that over the 2012, 2013 rate?**

22 **A It's, it's an annual. So 2 percent, it's a**
23 **2 percent annual adjustment, but it is, it is**
24 **benchmarked, I believe, back to 2013.**

25 **Q Thank you, Mr. Dreyfus. Those are the only**

1 **questions I have.**

2 MR. BROCATO: I pass the witness.

3 MR. HERRERA: Any recross based on
4 that redirect?

5 MS. COOPER: None, Your Honor.

6 MR. COFFMAN: None, Your Honor.

7 MR. HERRERA: Thank you,
8 Mr. Dreyfus. Let's go off the record.

9 (At 6:10 p.m. the proceedings
10 recessed, continuing at 6:30 p.m.)

11 MR. HERRERA: Let's go ahead and
12 address first the -- when we were off the record we had
13 discussions with regard to Austin Energy's and
14 NXP/Samsung's objections to additional presentations
15 and testimony offered by or filed by Public Citizen and
16 the Sierra Club. These were filed on the 23rd of May
17 with the city clerk's office, and one of those
18 documents is entitled "Public Citizen's and Sierra
19 Club's Corrected Position" -- pardon me, "Corrected
20 Position Statement/Presentation on the Issues."

21 And Ms. Birch, my understanding is that
22 with regard to that particular document you are
23 withdrawing the additions on pages 40 and 41, including
24 the footnotes 42 through appears to be 44 -- the print
25 is fairly small -- as well as the email that was

1 attached to that document; is that correct?

2 MS. BIRCH: That's correct, plus
3 page 9.

4 MR. HERRERA: And then on page 9 as
5 well, thank you, you are withdrawing the sentence that
6 starts with the phrase "While ERCOT wholesale prices
7 are largely a function of" and ends with the word
8 "prices" and then footnote 8, you're withdrawing that?

9 MS. BIRCH: Right.

10 MR. HERRERA: So we don't have any
11 issues with regard to the remainder of Public
12 Citizen/Sierra Club's corrected position statement/
13 presentation on the issues?

14 MR. HUGHES: Correct.

15 MR. HERRERA: With regard to the
16 document that has a title "Public Citizen and Sierra
17 Club's Cross Rebuttal Presentation on the Issues,"
18 Ms. Birch or Ms. White, you each wanted to present your
19 argument on the additions you've made there, and this
20 is your opportunity.

21 MS. WHITE: Thank you, Your Honor.
22 I just wanted to speak to changes made on page 5. We
23 did not make any new argument there. We -- in fact,
24 you can see that we struck some text and then added it
25 in. It's slightly different wording, but it's the same

1 point that we were making before. I think this
2 actually is what you would consider a correction as
3 opposed to an addition.

4 MR. HERRERA: Anything else?

5 MS. BIRCH: There's one, I think
6 it's footnote 11, Your Honor, on page 8. The sentence
7 that the footnote belongs to references the generation
8 plan, and all we did was provide a link to that plan.
9 So that wasn't anything new. It was already --

10 MR. REED: In other words, we said,
11 The generation plan says this, and then we provided a
12 link to show the generation plan indeed does provide
13 that. That was the only intention.

14 MR. HERRERA: Okay. Anything else?
15 All right.

16 MS. BIRCH: I think that's all.

17 MR. HERRERA: With regard to what I
18 have numbered as page 4 of the corrected cross rebuttal
19 presentation on the issues, I'm overruling the
20 objection to inclusion of the footnote. I can see that
21 being a correction. The testimony of Mr. Johnson is
22 cited to in that footnote. That was in the record in
23 terms of the public record, not in the evidentiary
24 record. So I can see where someone may have forgotten
25 simply to provide the cite to the statement that's made

1 that's attached to that footnote. So that objection is
2 overruled.

3 With regard to page 5 and the objection
4 to deletion of the text that starts with the phrase
5 "Indeed, it is almost certainly" -- that it
6 indeed -- "Indeed it almost certainly costs more" and
7 ends with the phrase "outside the city," I'm overruling
8 that objection as well as the objection to deletion of
9 the next phrase that says "Prove that customers outside
10 of Austin should pay more" and overruling the objection
11 to insertion of the phrase "determine whether it cost
12 more or less to serve outside-the-city customers." I
13 don't know that that introduces a new thought.

14 I am granting the motion to strike with
15 regard to the changes that follow after the phrase
16 "there is certainly no evidence." I am granting the
17 motion to strike those additions, because that does
18 change the concept of the phrase that was there. It's
19 one thing to say there's no evidence to support
20 something versus to say there's no rationale to support
21 it.

22 MS. BIRCH: Can I just --

23 MR. HERRERA: With regard to
24 footnote number 8, I'm overruling the objection to
25 footnote number 8. And on page 8 I am overruling the

1 objection to footnote number 11 for the reasons I
2 stated earlier. This is simply a citation that was
3 inadvertently left out. But I am granting the motion
4 to strike the remainder of the addition there that
5 starts "In particular, the generation plan approved on
6 December 11, 2014" and ends with the phrase "Austin
7 Energy's share of Fayette starting in 2022."

8 MS. BIRCH: Your Honor, may I ask a
9 clarifying question --

10 MR. HERRERA: Yes.

11 MS. BIRCH: -- on page 5, the more
12 complicated section? I'm not sure if -- I mean, if
13 some of what we added is coming out, are we allowed to
14 put back in what we took out and replaced?

15 MR. HERRERA: Let, let me go over
16 that again.

17 MS. BIRCH: Yeah. I wasn't, wasn't
18 clear.

19 MR. HERRERA: Sure. I am
20 overruling NXP's objection to the deletion of the
21 following phrase. Public Citizen/Sierra Club moved to
22 delete or struck through the phrase, "Indeed, it almost
23 certainly costs more, not less, to serve those living
24 outside the city."

25 MS. BIRCH: So what I'm asking --

1 MR. HERRERA: So I'm leaving, I'm
2 leaving the deletion.

3 MS. WHITE: We would like to
4 retract --

5 MR. BROCATO: It seems to me --

6 MS. BIRCH: What I'm saying is --

7 MR. BROCATO: -- a party can always
8 decide not to offer evidence. They can always withdraw
9 it, in my opinion.

10 MR. HERRERA: That's -- to me
11 it's . . .

12 MR. HUGHES: It's fine.

13 MR. HERRERA: Your next sentence
14 now reads, "While future study is merited, to determine
15 whether it costs more or less to serve outside the city
16 customers" -- I can see where you're confused now.
17 That did not complete your sentence. I'm okay with
18 your changing that phrase, because that doesn't change
19 what you were saying earlier. I am not okay with the
20 remainder of it, because you changed your -- the basis
21 for your statement.

22 MS. BIRCH: So what we had before
23 that, I believe, is so that it would read "There is
24 certainly no evidence to support them paying less" --

25 MR. HERRERA: That would remain.

1 MS. BIRCH: -- period. So, so
2 that's the complete?

3 MR. HERRERA: That would remain.

4 MS. BIRCH: Okay.

5 MS. WHITE: Your Honor, what we are
6 asking for is if we could just, I guess, retract our
7 motion, if that's what you would call it, to strike the
8 sentence that starts with "Indeed" so that the rest of
9 it still makes sense.

10 MR. HERRERA: You want to bring
11 back the sentence you struck through?

12 MS. WHITE: Yes, please.

13 MR. HERRERA: And I'm fine with
14 that.

15 MS. WHITE: Okay. Thank you.

16 MS. BIRCH: So I have a question on
17 what we do. I mean, should I make these changes and
18 refile it or just offer it?

19 MR. HERRERA: Just offer a clean
20 version of it. Okay? A now-corrected --

21 MS. BIRCH: With the strike --

22 MR. HUGHES: Another corrected --

23 MR. HERRERA: -- new-correct
24 version of it.

25 MR. BROCATO: Did you mark my

1 version? You did? I'm actually serious.

2 MR. HUGHES: Your Honor, have we
3 finished?

4 MR. HERRERA: Yes.

5 MR. BROCATO: Because one of you
6 has to give my copy back.

7 MR. HERRERA: I'm keeping my copy,
8 Mr. Brocato.

9 MS. BIRCH: I have to make the
10 changes. How am I going to make the changes without a
11 copy?

12 MR. HERRERA: I will give you my
13 copy.

14 MR. BROCATO: No. It's okay. I
15 can always make another copy. So the only -- so
16 basically, you adopted exactly what we proposed with
17 respect to the direct presentation, right, that
18 was -- right?

19 MR. HUGHES: The statement of
20 position.

21 MR. HERRERA: That is correct.

22 MR. BROCATO: Yeah. That's what
23 I'm -- and then with respect to the cross rebuttal, I
24 think I've got all your rulings on it. I'm not sure
25 how it's going to --

1 MR. HERRERA: It's going to read.

2 MR. BROCATO: Compared to what I
3 did.

4 MR. HERRERA: But Ms. Birch is
5 going to give us a new version that's going to show us
6 how it should read.

7 MR. BROCATO: Okay.

8 MS. BIRCH: And let me ask you,
9 should the version show the changes or just remove them
10 so it's -- I mean, what do you mean by "a clean
11 version"? Strike through what -- put back in and --

12 MR. BROCATO: I want to see a
13 redline.

14 MR. HUGHES: Yeah. A redline,
15 because you just put back in --

16 MR. BROCATO: A redline to the
17 original.

18 MR. HUGHES: Redline to the
19 original.

20 MR. HERRERA: Let's go off the
21 record.

22 (At 6:40 p.m. the proceedings went
23 momentarily off the record.)

24 MR. HERRERA: Mr. Brocato, does
25 that conclude Austin Energy's direct case?

1 MR. BROCATO: Yes, Your Honor.

2 MR. HERRERA: So tomorrow we will
3 start with who and which witness?

4 MR. BROCATO: I show the following.
5 I show that we would start with Ms. Cooper and followed
6 by Ms. Szerszen followed by Mr. Reed, then Fox, Goble,
7 and Johnson. And one caveat being that Mr. Robbins
8 will be inserted right after the lunch hour. So again,
9 I show Cooper, Szerszen, Reed, Fox, Goble, Johnson, and
10 then Mr. Robbins being taken out of order whenever we
11 come back from lunch.

12 MR. HUGHES: I was just going to
13 ask if he had an idea as to the time remaining for the
14 various --

15 MR. HERRERA: I do.

16 MR. HUGHES: Okay.

17 MR. HERRERA: And I was going to go
18 through that. This may not be precise to the second,
19 but here's what I show. I show Austin Energy having
20 5 hours and 40 minutes left; Data Foundry having 30
21 minutes left; Austin Energy Low Income Customers having
22 an hour and 29 minutes; NXP/Samsung, who's been
23 extremely efficient with his time, 6 hours and 19
24 minutes.

25 MR. HUGHES: Glad to help. We're

1 trying to help.

2 MS. COOPER: You're doing good,
3 dude.

4 MR. HERRERA: Public Citizen a
5 close second in efficiency, 5 hours and 52 minutes; and
6 Independent Consumer Advocate 4 hours and 9 minutes.

7 MR. BROCATO: Maria has --

8 MS. BIRCH: Your Honor, we started
9 with 6 and we only used 8 minutes?

10 MR. HERRERA: You haven't crossed
11 anyone.

12 MR. HUGHES: Ms. Faconti --

13 MR. HERRERA: Yeah. But not --

14 MR. HUGHES: Ms. Faconti reminds me
15 that we're saving most of it for our closing.

16 MR. HERRERA: Yes. My
17 understanding was Public Citizen is saving most of it
18 for rebuttal.

19 MS. COOPER: Your Honor, I'd like
20 to bring to your attention the fact that we were not
21 able to get responses to discovery on Austin Energy's
22 rebuttable today. Today was literally the first day
23 that we were able to. I've tried to look at them on
24 whatever I have available, electronic [indiscernible]
25 today, because it was at noon, and there is a

1 voluminous, several voluminous responses that I have to
2 look at, and I do think that some of the information I
3 have is going to be relevant and necessary for me to be
4 able to cross examine some of these witnesses tomorrow.
5 So I'm between the proverbial rock and a hard place
6 trying to create a situation where I will be able to
7 look at the discovery --

8 MR. HERRERA: Ms. Cooper, I'm going
9 to ask you what my son's eighth-grade principal used to
10 say: So what's your solution?

11 MS. COOPER: Well, my solution is
12 to, is to ask the Court's discretion that -- I don't
13 have any cross on the intervenors, first of all, and I
14 know I'm going first, but I guess I'm going to need to
15 have some idea when these other folks, when Austin
16 Energy rebuttal is going to take place. I guess that's
17 what I'm asking in a roundabout way.

18 MS. BIRCH: And we have, we have
19 the same concern, because we just got the responses
20 also.

21 MR. BROCATO: I think they're all
22 safe tomorrow morning and probably most of the day, if
23 not all the day, the entire day.

24 MR. HUGHES: Do you have --

25 MS. COOPER: It's just that I have

1 voluminous responses.

2 MR. BROCATO: Well, why don't you
3 just check in.

4 MS. COOPER: Okay.

5 MR. BROCATO: I mean, I would
6 suggest --

7 MR. HUGHES: Don't you have
8 time -- you have time-certain folks on Thursday.

9 MR. BROCATO: We do have a couple
10 but not all, but I would say just, I mean --

11 MS. COOPER: Who are they?

12 MR. BROCATO: -- touching base --

13 MS. COOPER: I'm sorry. I forgot.

14 MR. BROCATO: No. It's quite all
15 right. Date certainties for Thursday are Chernick and
16 then Mancinelli and Canally.

17 MS. COOPER: Oh. I have -- I'll
18 probably have some cross for Canally.

19 MR. BROCATO: But you only have an
20 hour and 29 minutes left, so you don't have that much.

21 MS. COOPER: Well, that's about
22 half of the time I've gotten, so --

23 MR. BROCATO: All right. So
24 regardless, and then we have the others. So I think
25 you handle it however you see fit, of course, but my

1 recommendation would be you just check back at, you
2 know, 10 and then at 2, more -- I think we have a full
3 day with intervenors, it sounds like. I assume that do
4 you all have cross for -- I mean, do the intervenors
5 have a significant amount of cross for the other
6 intervenors?

7 MR. HUGHES: The most I have is for
8 Clarence.

9 MR. BROCATO: Ballpark? A little?

10 MR. HUGHES: At least an hour --

11 MR. BROCATO: Okay.

12 MR. HUGHES: -- to an hour and a
13 half.

14 MS. BIRCH: We have some but not a
15 lot.

16 MR. BROCATO: Okay. It sounds like
17 we have a full day, though, of intervenor witnesses.
18 So she'll be free to look at rebuttal.

19 MS. COOPER: Okay. I will focus in
20 on Mr. Canally's issues first, then, in my discovery,
21 because there's other rebuttal witnesses as well.

22 MR. BROCATO: Okay.

23 MS. COOPER: And then also I think
24 that this will bring great happiness to everybody, that
25 I misunderstood Samsung's information request. I do

1 not intend to be an expert witness in our statement of
2 position/presentation except for one area, which is
3 policy witness, not -- policy witness on pre-pay, and
4 we're a fact witness on our first issue.

5 And I can -- we've not corrected
6 the -- I have not had the time. I can cross those
7 out, because it's my understanding you don't
8 want state -- and I agree with you, you don't want
9 statements of position entered as exhibits. So I can
10 cross out those sections, Your Honor, if that would be
11 your pleasure.

12 MR. HERRERA: It's --

13 MR. BROCATO: I don't understand
14 what --

15 MR. HERRERA: You can --

16 MR. BROCATO: -- you just said.

17 MR. HERRERA: -- offer what you
18 want, Ms. Cooper, and then these folks can object to
19 whatever they find objectionable.

20 MR. BROCATO: Well, the only thing
21 I would ask, though, is that we don't spend the evening
22 preparing cross for something that's not going to be
23 offered that -- tell me again --

24 MR. HERRERA: Go off the record.

25 (At 6:47 p.m. the proceedings went

1 off the record, continuing at 6:53.)

2 MR. HERRERA: We had some
3 off-record discussions with regard to proceedings
4 tomorrow, and we also discussed -- we may have
5 discussed on the record -- how much time parties have
6 left of their allotted times. Bethany United has 23
7 minutes, we discussed that off the record.

8 Ms. Cooper and Mr. Brocato had a
9 decision with regard to her statement of position and
10 with regard to what was coming in and what was not,
11 since she will be presenting herself as a witness. And
12 I believe that is it. We will start tomorrow at 9
13 a.m., and again, folks, remember to bring your exhibit
14 lists printed up and provide me a copy and the court
15 reporter a copy.

16 Anything else? All right. We're in
17 recess until tomorrow. Thank you.

18 (At 6:55 p.m. the proceedings
19 recessed for the day.)

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REPORTER'S CERTIFICATION

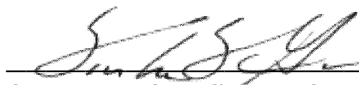
THE STATE OF TEXAS)
)
 COUNTY OF TRAVIS)

I, Sandra S. Givens, Certified Shorthand Reporter
 in and for the State of Texas, do hereby certify that
 the above and foregoing 337 pages contain a full and
 true transcript of my shorthand notes taken upon the
 occasion set forth in the caption hereof, as reduced to
 written form by me.

I further certify that VOLUME 1 of this
 transcription of my notes truly and correctly reflects
 the exhibits offered into evidence, if any.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this
 7th day of June, 2016.

GIVENS COURT REPORTING
 6549 Fair Valley Trail
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 SANDRA S. GIVENS, CSR
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