

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

June 1, 2016

Volume 2

\* \* \* \* \*

The hearing in the above-entitled matter came on to be heard before ALFRED HERRERA, Independent Hearing Examiner, beginning on the 1st day of June 2016, from 9:09 a.m. to 12:22 p.m. and from 1:46 p.m. to 6:22 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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23 Austin Energy  
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1 PROCEEDINGS

2 9:09 A.M.

3 \* \* \* \*

4 MR. HERRERA: Are there any parties  
5 here today that weren't here yesterday that want to  
6 make an appearance? Okay. Ms. Birch, do you have a  
7 copy of what I will refer to as a conformed, corrected  
8 position statement by Public Citizen/Sierra Club and  
9 the conformed, corrected cross rebuttal presentation?

10 MS. BIRCH: We do, Your Honor. I  
11 talked to both Mr. Brocato and Mr. Hughes.

12 MR. HERRERA: Could you get closer  
13 to the mic, please? Thank you.

14 MS. BIRCH: Ms. White  
15 misunderstood -- well, I'm still not sure, but I think  
16 what the parties were asking for was a lined-through  
17 version, and what she did was remove the part that was  
18 stricken so it just doesn't appear now.

19 MR. HERRERA: Yeah. My  
20 understanding was that what the parties had requested  
21 and what we'd agreed to was a redlined version,  
22 essentially.

23 MS. BIRCH: Right. But I didn't  
24 discover that until we were leaving and we already had  
25 17 copies of it. I talked to both of them, and I'll

1 let them speak for themselves, but I think we can agree  
2 that those can be used.

3 MR. HERRERA: Mr. Brocato and  
4 Mr. Hughes?

5 MR. BROCATO: I'd just received a  
6 moment ago the document that she's referring to that  
7 apparently isn't complete. Even yesterday when you  
8 were making your rulings it was problematic for me  
9 because I didn't have a copy; you had mine and I never  
10 got it back, and so I'm --

11 MR. HERRERA: And you won't.

12 MR. BROCATO: And you made  
13 some -- fair enough. And you made some changes to what  
14 we proposed. So a redline would be very useful.  
15 Otherwise, it's going to take a little time to go back  
16 and basically cross-check everything that was done. We  
17 can do that, but --

18 MR. HERRERA: When, Ms. Birch --

19 MS. WHITE: Would you like --

20 MR. HERRERA: -- when do you think  
21 you can --

22 MS. WHITE: -- to use our copy?

23 MR. HERRERA: I'm sorry?

24 MR. BROCATO: Do you have a  
25 copy -- well, what if we just copied that?

1                   MR. HERRERA: What was the  
2 suggestion? I'm sorry. You were talking over each  
3 other.

4                   MR. BROCATO: I think she's saying  
5 she has the original handwritten version. Is that --

6                   MS. BIRCH: Yes.

7                   MR. BROCATO: Can I ask if she can  
8 make a copy of that? She's looking. Oh, okay. You  
9 may recall I had one additional color version of our  
10 edits, and I provided that to Public Citizens and they  
11 hand-marked the changes. So that's a useful roadmap.  
12 All I need to do, then, is just cross-check this with  
13 what they just handed us.

14                  MR. HERRERA: And all I ask is that  
15 we do that before Public Citizen's witness, witnesses  
16 take the stand, please. Okay.

17                  MR. BROCATO: And actually, if I  
18 can, just right before Ms. Cooper begins, if I can just  
19 have a moment to --

20                  MR. HERRERA: Okay. Sure. The  
21 other procedural item is, I have Austin Energy's  
22 exhibit list. I don't have the other parties' exhibit  
23 list. We will need your exhibit lists, please. Thank  
24 you. Mr. Coffman, do you have two copies of that?

25                  MR. COFFMAN: I do.



1                   MR. HERRERA: Did you give one to  
2 the court reporter?

3                   MR. HUGHES: Oh, I'm not very good  
4 at this.

5                   MR. HERRERA: Mr. Borgelt, did you  
6 give one to the court reporter?

7                   MR. BORGELT: Yes, I did.

8                   MR. HERRERA: And one thing, one  
9 thing I'd ask the parties to start thinking about, and  
10 Mr. Brocato, maybe Austin Energy can take the lead on  
11 this, is preparing an outline for what will be the  
12 closing briefs. We don't have to do anything about  
13 that today. I'm just making the parties aware that I  
14 would like that. It would be very helpful so that we  
15 have a, a common outline for all the briefs. I'm not  
16 asking for the parties to agree that an issue should or  
17 should not be on there. If a party thinks an issue  
18 should be on there, find a place for it wherever it may  
19 go.

20                   MR. BROCATO: Glad to do that.  
21 We're already working on it. My plan is to try to have  
22 something tomorrow.

23                   MR. HERRERA: Thank you. All  
24 right. Are we ready to get started with the  
25 presentation by the intervenors?

1 MR. BROCATO: Yes.

2 MR. HERRERA: Okay. And

3 Mr. McCollough indicated yesterday that he would not be  
4 here at the outset of the hearing. Does ARMA have a  
5 witness to present? Mr. Rourke, I don't see him in the  
6 room, and I know Mr. Robbins is a quasi-time-certain  
7 sometime after lunch or immediately after lunch. Does  
8 the Greater Austin Chamber of Commerce have a witness  
9 to present? I noted Data Foundry would not be here at  
10 the outset. Bethany United Methodist Church, does  
11 Bethany United Methodist Church have a witness to  
12 present?

13 UNIDENTIFIED: He is on his way.

14 MR. BROCATO: I don't have any  
15 cross for him, and to my knowledge, no one else does.  
16 And if that's the case, then I have no problem with  
17 stipulating to the admission of his testimony.

18 MR. HERRERA: Okay. We'll take  
19 care of that --

20 MR. BROCATO: I think that's the  
21 only one.

22 MR. HERRERA: We'll take care of  
23 that when he, when he shows up, Mr. Wells shows up.  
24 HURF, any witnesses to present?

25 MR. BORGELT: I do not.

1                   MR. HERRERA: Thank you. So the  
2 first up would be Austin Energy Low Income Customers.

3                   MS. COOPER: Your Honor, we have  
4 two witnesses. I've just got a very brief thing, and  
5 then Ms. Szerszen is here for her testimony.

6                   MR. HERRERA: Okay. Whichever  
7 order you intend to put on.

8                   MS. COOPER: I'll put Ms. Szerszen  
9 on first. She can leave then.

10

11                   PRESENTATION ON BEHALF OF  
12 AUSTIN ENERGY'S LOW INCOME CUSTOMERS

13                   DIRECT EXAMINATION

14 BY MS. COOPER:

15           Q     Ms. Szerszen, would you please state your  
16 name for the record, please?

17           A     Carol Szerszen.

18           Q     And you are a -- you have filed expert  
19 testimony on behalf of Austin Energy Low Income  
20 Customers; is that correct?

21           A     That's correct.

22           Q     And before you and what's been marked for  
23 identification is AELIC Exhibit 2 and 3. You would  
24 agree that with AELIC Exhibit 2 that you are a  
25 co-sponsor on the first, first paragraph?

26           A     Yes.

1           **Q**     And on AELIC Exhibit 3 you would agree that  
2     that is your cross rebuttal testimony; is that correct?

3           A     That's correct.

4           **Q**     If I -- do you have any corrections that need  
5     to be made?

6           A     I have one correction on -- in Exhibit A.

7           **Q**     And that would be part of your resume?

8           A     Yes.

9           **Q**     All right.

10          A     Under employment --

11                         MR. HERRERA: Just so I'm clear,  
12     Ms. Szerszen, there is an Exhibit A to AELIC Exhibit  
13     No. 2.

14                         MS. COOPER: It's AELIC Exhibit --

15                         MR. HERRERA: And you're referring  
16     to Exhibit A to AELIC Exhibit No. 3; is that correct?

17                         THE WITNESS: Yes.

18                         MR. HERRERA: Okay. Thank you.

19                         THE WITNESS: Under "Employment  
20     History" that first entry there where it says  
21     "Economist Office of Public Utility Counsel," the dates  
22     of employment should be January 1984 to February 2016.

23          **Q**     **(By Ms. Cooper)** And are there any other  
24     corrections --

25          A     No.

1           Q     -- that you're aware of?  If I were to ask  
2     you the questions that are contained in those  
3     testimonies today, would your answers be the same?

4           A     Yes, they would.

5                     MS. COOPER:  Your Honor, we pass  
6     the witness for cross examination.

7                     MR. BROCATO:  Well, actually, Your  
8     Honor, if I may, I have some comments about the  
9     presentation.

10                    MR. HERRERA:  Well, and I'm  
11     assuming you were offering these, Ms. Cooper?  You  
12     passed the witness but you have not offered these.

13                    MS. COOPER:  Yes.

14                    MR. BROCATO:  I was just handed  
15     these a moment ago, so bear with me.  My understanding  
16     is they presented direct testimony from Ms. Cooper and  
17     then rebuttal -- excuse me, cross rebuttal for  
18     Ms. Szerszen.  That all seemed pretty straightforward,  
19     but what I've got now are two exhibits that they would  
20     like to offer in lieu of those, and one is titled  
21     "AELIC 3" and has a page with some text about an FPP  
22     issue.  Was that in the direct presentation?

23                    MS. COOPER:  What, Thomas, what's  
24     the acronym?  I don't understand.

25                    MR. BROCATO:  FPP, Fayette Power

1 Plant.

2 MR. HERRERA: Let's go off the  
3 record.

4 (At 9:21 a.m. the proceedings went  
5 off the record, continuing at 9:24.)

6 MR. HERRERA: Ms. Cooper, you were  
7 offering AELIC Exhibits 2 and 3. Is there an objection  
8 to 2 and 3?

9 MR. BROCATO: I'm sorry?

10 MR. HERRERA: Is there an objection  
11 to --

12 MR. BROCATO: Oh, no. I have no  
13 objection.

14 MR. HERRERA: Those are admitted,  
15 and I think Ms. Cooper offers Dr. Szerszen for cross  
16 examination.

17 MR. BROCATO: And Ms. Cooper is  
18 going to be up in a moment to address AELIC 2, right?

19 MS. COOPER: Yes.

20 MR. BROCATO: Okay. Then --

21 MR. HERRERA: In terms of order of  
22 cross, my understanding is that the parties agree that  
23 we would follow the same order in which we were  
24 conducting cross examination of Austin Energy's  
25 witnesses. Just so that we're dotting I's and crossing

1 T's, does ARMA have any questions of Dr. Szerszen?  
2 Mr. Rourke is not here, Mr. Robbins' not here. Does  
3 the Greater Austin Chamber of Commerce have any  
4 questions of Dr. Szerszen? Data Foundry is not here.  
5 I don't see a representative for Bethany United  
6 Methodist Church here. Does HURF have any questions  
7 for Dr. Szerszen?

8 MR. BORGELT: No, Your Honor.

9 MR. HERRERA: Public  
10 Citizens/Sierra Club have any questions for  
11 Dr. Szerszen?

12 MS. BIRCH: Yes, Your Honor.  
13 Cyrus, start with the witness.

14 MR. REED: What?

15 MS. BIRCH: Give the witness one of  
16 each.

17 MR. REED: Oh, give the witness one  
18 first. Okay.

19 CROSS EXAMINATION

20 BY MS. BIRCH:

21 Q Good morning, Ms. Szerszen, my name is Carol  
22 Birch here on behalf of Public Citizen and Sierra Club.

23 A Good morning.

24 Q You've been handed what's marked for  
25 identification as PS -- PC-SC Exhibit No. 9?

1           A     I do.

2           Q     In your rebuttal testimony you stated that  
3   Public Citizen/Sierra Club's recommendation to  
4   establish a Fayette bond retirement reserve fund be  
5   established for the 2017, 2022 period was based on a  
6   2014 presentation by Austin Energy; is that correct?

7           A     Can you refer me to a specific line, page and  
8   line number?

9           Q     I'm not to the exhibit yet. I apologize.  
10   I'm just asking you in your testimony -- oh, is that  
11   what you -- let me find it. On page 2, I think  
12   starting with your testimony at line 21 you refer to  
13   the 2014 presentation; is that correct?

14          A     Okay. In line 21 and, lines 21 and 22 I  
15   relied on, I relied on AELIC's fourth number 1.

16          Q     Okay. Look at lines 14 and 15 where you say  
17   this recommendation is based on a 2014 presentation by  
18   Austin Energy, which assumes there is a 189 dollar,  
19   million dollar outstanding debt associated with  
20   Fayette?

21          A     Yes.

22                               MS. COOPER: Your Honor, I'm having  
23   a hard time hearing. Could you see if Ms. -- could you  
24   just talk a little bit louder? I'm really having a  
25   hard time hearing you.



1 MS. BIRCH: I will try. My voice  
2 doesn't carry very well.

3 MR. HERRERA: If you get right on  
4 the microphone, that would help.

5 MS. BIRCH: Okay.

6 Q (By Ms. Birch) And that report assumes that  
7 there is 189 million dollars of outstanding debt,  
8 correct?

9 A That's correct.

10 Q Now would you please look at what's been  
11 marked as PC-SC Exhibit 9 on the second page of the  
12 question 3-4?

13 A Okay.

14 Q And there doesn't Austin Energy say that as  
15 of 2016 there was approximately 165 million and that,  
16 assuming normal payments on our debt and principal,  
17 there should be approximately 143.8 million by October  
18 of 2022?

19 MS. COOPER: Your Honor, I'm going  
20 to object. She's referring to something that's not in  
21 evidence. Unless, is it in evidence?

22 MS. BIRCH: Not yet.

23 MS. COOPER: Okay.

24 MR. HERRERA: I'm assuming you're  
25 going to be offering this, Ms. Birch?

1 MS. BIRCH: Yes, Your Honor.

2 MR. HERRERA: And right now you're  
3 just laying the foundation for the questions you have  
4 or will have of Dr. Szerszen?

5 MS. BIRCH: Yes, Your Honor.

6 MR. HERRERA: Go ahead.

7 Q (By Ms. Birch) I mean, does -- Austin Energy  
8 has now said that by October 2022 the principal should  
9 be down to approx -- to 143.8 million?

10 MS. COOPER: Your Honor, once  
11 again, it's -- the question is phrased assuming the  
12 fact is already in evidence, and --

13 MR. HERRERA: I'm going to sustain  
14 the objection, Ms. Birch. If you would authenticate  
15 the document with Dr. Szerszen and then offer it, maybe  
16 we can dispense with that.

17 MS. BIRCH: I don't think I can.  
18 It's Austin Energy's response to one of our requests  
19 for production. I don't know that she can identify it  
20 or authenticate it.

21 MR. HERRERA: Well, maybe if you  
22 ask her and find out whether she can or not.

23 Q (By Ms. Birch) Have you seen this before, or  
24 are you familiar with that updated figure?

25 A No. I have not seen this RFI before.

1           Q     Are you familiar with the updated figure? Do  
2     you have any knowledge of that?

3           A     No. This is the first time I've seen it.

4           Q     So let's assume for purposes of this question  
5     that that is the correct figure according to Austin  
6     Energy, and if that's the case, then Sierra Club and  
7     Public Citizen overstated the amount of the outstanding  
8     debt.

9           A     If that is the correct number, yes, because  
10    Public Citizens and Sierra Club's, um, calculation was  
11    based on a higher amount.

12          Q     Okay. Now would you please look at what's  
13    been marked as PC-SC Exhibit 4?

14          A     Okay.

15          Q     And can you identify this?

16          A     This is "Austin Energy Resource, Generation  
17    and Climate Protection Plan to 2025: An Update of the  
18    2020 Plan."

19          Q     Are you familiar with this document?

20          A     I looked at some information that was either  
21    provided in the rate-filing package or in response to  
22    one of the parties' RFIs, and I don't know if this is  
23    exactly the same thing that I looked at.

24          Q     Okay. Well, I'm not asking you to  
25    authenticate it. I'm just asking you if you had seen

1     **it, just to clarify.**

2           A     I just, I don't recall.

3           Q     **Okay.**

4           A     I looked at whatever was provided during  
5     the --

6           Q     **Well, are you, are you aware that in this**  
7     **gen plan, as we refer to it --**

8                     THE REPORTER:  A what?  I'm sorry.

9                     MS. BIRCH:  Gen plan, G-E-N,  
10    generation.

11          Q     **(By Ms. Birch)  Would you agree that the city**  
12     **council has set a policy that indicates a goal to**  
13     **retire the coal plant in the 2022, 2023 time period?**

14          A     I remember that from -- yes.  That is, that  
15     is true.

16          Q     **And would you agree that city council**  
17     **identified the creation of a cash reserve to help**  
18     **defease the debt owed on the plant as one of the steps**  
19     **to help accomplish the task of retiring that coal**  
20     **plant?**

21          A     They did.

22          Q     **Okay Ms. Szerszen, would you please look at**  
23     **what's been identified as PC-SC Exhibit 6?**

24          A     All right.  I have that.

25          Q     **Have you seen that document?  And to help**

1     you, I'll tell you it was, it was sent to AELIC in  
2     response to one of their requests for production.

3           A     If that is the case -- I looked at, looked at  
4     all the RFI responses -- then I have seen it.

5           Q     Would you look on page 5 of your testimony?

6           A     Okay.

7           Q     And footnote 6, I believe, refers to this  
8     document, does it not?

9           A     Yes.

10          Q     "Plan to Eliminate Coal from Austin Energy's  
11     Portfolio - Public Discussion"?

12          A     That's correct.

13          Q     Okay. And did you rely on this document when  
14     you formed your opinions and your testimony?

15          A     Well, it's a footnote, so yes.

16          Q     So would you look at page, I guess it's 3 of  
17     Exhibit 6?

18          A     Okay.

19          Q     And wouldn't you agree that this plan is  
20     relying on the strategy beginning in 2017? Isn't that  
21     what the first point is?

22          A     Well, it says, "Three coal elimination  
23     strategies (beginning in 2017) were analyzed."

24          Q     Okay. So can you agree, Ms. Szerszen, that,  
25     I mean, 2017 is not the -- is different from the date

1 of 2022 or 2023 referred to in the gen plan?

2 A Referred to in what?

3 Q In the gen plan, that the timeframe begins --

4 A Are you referring to Exhibit 4, your --

5 Q Correct.

6 A Yes. Yes.

7 MS. COOPER: Exhibit 6 or 4? I'm  
8 sorry, I thought it was 6.

9 MS. BIRCH: That's -- the gen plan  
10 is Exhibit 4.

11 MS. COOPER: Okay. I apologize.

12 Q (By Ms. Birch) Okay. Ms. Szerszen, I  
13 apologize. On page 5 again of your testimony on line,  
14 beginning on line 16, beginning with "The 2014 AE  
15 presentation" -- which is, as we identified, Exhibit 6,  
16 correct?

17 A That's correct.

18 Q And you state that that presentation  
19 estimated that early retirement of Fayette would  
20 require a 25 percent rate increase, correct?

21 A That's, that's correct.

22 Q So would you agree with me that that 25  
23 percent rate increase that you found was based on  
24 different information than is contained in the  
25 generation plan? I mean, the numbers are different and

1     **the dates are different in Exhibit 6, correct?**

2           A     Which numbers are different? Could you  
3     clarify that?

4           Q     The year -- the timeframe is different,  
5     correct? You, you -- or the framework for retirement,  
6     because Exhibit 6 uses a beginning date of 2017,  
7     correct -- I believe you testified to that  
8     previously -- and the generation plan has a 2022 date?

9           A     So I'm just not sure. I'd have to read. I  
10    have to read this and refresh my memory. I don't  
11    recall what's all in this.

12          Q     Well, let me see if I can simplify it.

13          A     Okay.

14          Q     I mean, you agree that the dates were  
15    different, don't you? I mean, I thought we had already  
16    established that.

17          A     Well, the -- this is a update of the 2020  
18    plan.

19                   MR. HERRERA: Dr. Szerszen, when  
20    you say "this," if you can just for the record --

21                   THE WITNESS: Exhibit 4, I'm sorry.  
22    Exhibit 4. And they were both presented in 2014, and  
23    this seems to be a forecast for up to 2020. I'm not  
24    real sure -- yes.

25          Q     **(By Ms. Birch) But it also has a retirement**

1     **date anticipated as 2017, correct?**

2           A     Yes. This plan, well, it says "Three  
3 coal" -- I mentioned this before, "Three coal  
4 elimination strategies (beginning in 2017)" --

5           **Q     Right.**

6           A     -- "were analyzed." Yes.

7           **Q     And that's different than what's in the dates**  
8 **in the generation plan.**

9           A     Well, could you point me to something  
10 specific on the generation plan and I can confirm that?

11                   MS. COOPER: Your Honor, I've been  
12 patient, but this is a document that hasn't been  
13 authenticated. Once again we're dealing with the issue  
14 of evidence that has not been actually put into -- the  
15 facts that have not been put into evidence. So that's  
16 the concern I have.

17                   MR. HERRERA: Do you have an  
18 objection, Ms. Cooper?

19                   MS. COOPER: Yes. My objection is  
20 that this line of questions are assuming facts that are  
21 not in evidence.

22                   MR. HERRERA: Ms. Birch, I don't  
23 believe that this witness has authenticated what you  
24 are referring to as the exhibit, PC-SC Exhibit 4.

25                   MS. BIRCH: She had -- but she said



1 she had seen it and was familiar with it and was aware  
2 of at least generally what it contained. I'm not  
3 asking her to authenticate it.

4 MS. COOPER: We can let the witness  
5 speak to that, Your Honor, but it was my understanding  
6 it was the -- what's been marked for identification as  
7 Exhibit 6, but the witness could speak for it.

8 MR. HERRERA: That was my  
9 understanding as well, Ms. Birch, and maybe I  
10 misunderstood it. If you want to try to authenticate  
11 Exhibit 4, you're welcome to do so.

12 MS. BIRCH: We'll just save our  
13 questions for another witness, Your Honor. Withdraw  
14 that question.

15 MR. HERRERA: Do you have further  
16 questions for Dr. Szerszen, Ms. Birch? Ms. Birch, do  
17 you have further questions for Dr. Szerszen?

18 MS. BIRCH: No, Your Honor.

19 MR. HERRERA: Thank you. NXP?

20 MR. HUGHES: No questions, Your  
21 Honor.

22 MR. HERRERA: Mr. Coffman?

23 MR. COFFMAN: No questions, Your  
24 Honor.

25 MR. HERRERA: And Austin Energy?

1 MR. BROCATO: No questions.

2 MR. HERRERA: Dr. Szerszen, I  
3 believe you're excused.

4 THE WITNESS: Thank you.

5 MS. COOPER: Uh --

6 MR. HERRERA: Oh, I'm sorry. Do  
7 you have redirect?

8 MS. COOPER: Just a couple of  
9 redirect, Your Honor. Sorry.

10 REDIRECT EXAMINATION

11 BY MS. COOPER:

12 Q Sorry, Ms. Szerszen. You're not off yet. In  
13 your discussion with Public Citizen today they referred  
14 you to a report that you relied upon in your testimony;  
15 is that correct? And it's been marked for  
16 identification before you as Public Citizen Exhibit  
17 No. 6?

18 A That's correct.

19 Q All right. Now, if we were to turn to -- if  
20 you look in the middle of the page, there's a page  
21 number. If you could turn to page 554 of that exhibit,  
22 and the title of that page is "Costs of Legal,  
23 Regulatory and Other Risks not included in scenario  
24 analysis"; is that correct?

25 A That's correct.

1           Q     All right. And the issues that you raised on  
2 page 5 of your testimony relate to the findings that  
3 Austin Energy made and presented to the council that  
4 are reflected on page 564 [sic] of the exhibit in front  
5 of you that's been marked for identification as Public  
6 Citizen No. 6; is that correct?

7           A     Yes. I did rely on some of the language on  
8 this page.

9           Q     All right. And you would agree that one of  
10 the costs that have been identified on -- now on the  
11 exhibit that's been marked for identification as  
12 Exhibit 6, if you could -- I'm going to refer to it as  
13 the coal plan, plan to eliminate coal. On the plan to  
14 eliminate coal on page 554 there's a reference to the  
15 potential cost from negotiations with LCRA.

16                     What is your understanding of the  
17 relationship Austin Energy has with LCRA in relation to  
18 the Fayette plant?

19           A     LCRA is a co-owner of the plant.

20           Q     And to your knowledge, do you know what kind  
21 of position LCRA is willing to sell -- I mean to retire  
22 the Fayette Power Plant?

23           A     The last bit of information that I have is,  
24 is that they were not willing to. However, whether  
25 Austin Energy is having ongoing talks and negotiations

1 with LCRA since then and right now, I do not know.

2 Q All right. And you weren't here yesterday, I  
3 can appreciate that, but in AELIC's discussion with  
4 Ms. Ball yesterday she testified that when, when  
5 Austin -- once the council makes a decision to retire a  
6 plant the procedure to deal with the ERCOT regulatory  
7 environment takes from 30 to 36 months, and does that  
8 change your opinion about your finance -- your opinion  
9 that you've expressed relating to the need -- that  
10 there's not a need to do the finance, set up a reserve  
11 account right now?

12 A No.

13 MS. BIRCH: Your Honor, I object.  
14 I believe these questions go beyond the line of my  
15 cross. I didn't get into any of that.

16 MR. HERRERA: Ms. Cooper, I'm  
17 inclined to sustain the objection, but I will await  
18 your response if you can point me to something that  
19 ties it back to Ms. Birch's cross.

20 MS. COOPER: Well, Your Honor, the  
21 very first question out of the gate, she was asked  
22 about the generation plan setting up a fund to  
23 defease -- to do an early defeasement of the Fayette  
24 Power Plant debt, and so my redirect goes to that  
25 answer.

1 MR. HERRERA: Could you rephrase  
2 your question, please?

3 MS. COOPER: All right.

4 Q (By Ms. Cooper) Yesterday in AELIC's  
5 discussion with Austin Energy witness Ms. Ball, she  
6 testified that first you have to get the authority, the  
7 official authority from the council. And I'll stop  
8 there so we can see.

9 Is it your understanding, do you know  
10 whether the city council has formally made a decision  
11 to retire Fayette?

12 A No.

13 Q Okay. So --

14 MR. HERRERA: No, the city council  
15 hasn't made a decision, or no, you don't know whether  
16 they've made a decision?

17 THE WITNESS: I'm sorry. No. The  
18 city council has not made a formal, definitive decision  
19 on Fayette.

20 Q (By Ms. Cooper) But let's assume they have  
21 made the decision. Yesterday Ms. Ball talked about  
22 that once the council does make the decision, that the  
23 ERCOT regulatory timeline before the plant is free to  
24 be retired is 30 to 36 months.

25 Now, does this additional factor change

1     **your opinion of whether a fund to early defease the**  
2     **debt should be, should be done?**

3                     MS. BIRCH: Your Honor, I'm going  
4     to object again, because my question went to whether  
5     she was -- in her testimony her recommendation that she  
6     stated that our recommendation to establish a  
7     retirement fund was based on a different time period, I  
8     mean, for the 2017, 2022, and that's all I asked her.

9                     MR. HERRERA: And as I understand  
10    Ms. Cooper's question, what I think is, has your  
11    opinion changed?

12                    MS. COOPER: Right.

13                    MR. HERRERA: And I think that --

14                    MS. BIRCH: She's asking for an  
15    opinion I didn't elicit.

16                    MR. HERRERA: I'm going to overrule  
17    the objection and allow the question.

18                    MS. COOPER: And that's my last  
19    question, Your Honor.

20                    THE WITNESS: No. Does not change  
21    my opinion.

22                    MS. COOPER: Thank you,  
23    Ms. Szerszen. I have no more questions, Your Honor.  
24    There may be some recross.

25                    MR. HERRERA: Any recross based on

1     that redirect?

2                     MS. BIRCH:  No, Your Honor.

3                     MR. HERRERA:  Any party have any  
4     questions for Dr. Szerszen on recross?  Now,  
5     Dr. Szerszen, I believe you're excused.  Thank you.

6                     Ms. Cooper, how do you wish to proceed?

7     This is a --

8                     MS. COOPER:  This is very unusual,  
9     Your Honor.  I'm wearing two hats.

10                    MR. HERRERA:  Your, your testimony  
11     or your presentation is already in the record, so I am  
12     assuming you are tendering yourself for cross  
13     examination?

14                    MS. COOPER:  Yes, Your Honor.  
15     Under, under the first paragraph of AELIC Exhibit No. 2  
16     I'm a fact witness, and then the fact statements deal  
17     with the Public Information Request that's referred to  
18     in, in paragraph 1.  I am not an expert on non-nuclear  
19     decommissioning reserves and what the appropriate value  
20     of any should be, but the facts dealing with the Open  
21     Records Act -- I mean Public Information Act; that's  
22     how old I am -- Public Information Act are factual.

23                    MR. HERRERA:  So you are tendering  
24     yourself for cross-examination?

25                    MS. COOPER:  Yes, Your Honor.  I

1 am.

2 MR. HERRERA: If I skip you and  
3 you're in the room and you came in after we started, I  
4 apologize. Let me know. Does Public Citizen have any  
5 questions for Ms. Cooper?

6 MS. BIRCH: No, Your Honor.

7 MR. HERRERA: NXP?

8 MR. HUGHES: No.

9 MR. HERRERA: Independent  
10 Counsel -- or Consumer Advocate?

11 MR. COFFMAN: No, Your Honor.

12 MR. HERRERA: Austin Energy?

13 MR. BROCATO: Yes, Your Honor. I  
14 have a few.

15 CROSS EXAMINATION

16 BY MR. BROCATO:

17 Q Good morning, Ms. Cooper. I'm going to hand  
18 you what's been marked as Austin Energy's Exhibits 10  
19 and 11. Would you look at those, please?

20 A Yes, I will.

21 MR. BROCATO: I have copies for the  
22 parties that didn't receive a copy.

23 Q (By Mr. Brocato) Are those RFI responses  
24 sponsored by you?

25 A Well, yes, they are.



1 MR. BROCATO: Move for admission.

2 MS. COOPER: Your Honor, I would  
3 first argue that I'm testifying --

4 MR. HERRERA: Give me a moment to  
5 find the exhibit.

6 MS. COOPER: -- as an expert on --

7 MR. HERRERA: Ms. Cooper, give me a  
8 moment to find --

9 MS. COOPER: I'm sorry, Your Honor.

10 MR. HERRERA: -- the exhibit,  
11 please.

12 MS. COOPER: I'm sorry.

13 MR. HERRERA: Which one did you  
14 offer, Mr. Brocato?

15 MR. BROCATO: 10 and 11.

16 MR. HERRERA: Okay. And  
17 Ms. Cooper, you were going to voice an objection?

18 MS. COOPER: Yes. And I am a  
19 little uncomfortable in this dual role, I have to  
20 admit, Your Honor, but these, these questions relate to  
21 subject matter that is not part of the testimony I'm  
22 presenting today. So it's not relevant to the evidence  
23 that I've put in -- we've put into evidence that's  
24 reflected as AELIC Exhibit 2 and 3.

25 These issues relate, relate to

1 quantifying the reserve amount connected to the  
2 non-nuclear decommissioning reserve, which we did  
3 already address in cross examination of Mr. Dombroski  
4 yesterday. When I withdrew my statements dealing with  
5 these issues it was because they were stated as a  
6 statement of position and not as an expert opinion.

7 MR. HERRERA: Mr. Brocato, do you  
8 have a response?

9 MR. BROCATO: It's her discovery  
10 response. If she thought it was irrelevant, she could  
11 have objected. It's admission by a party opponent.  
12 I'm trying to figure out what her position is. It's  
13 changed from yesterday morning to yesterday afternoon  
14 to this morning. What she put into evidence is  
15 different than what she stated she was going to  
16 yesterday, and I want to explore that.

17 MR. HERRERA: And Ms. Cooper,  
18 addressing your argument as an attorney as, you know,  
19 cross is fairly wide open in Texas. So I'm going to  
20 allow --

21 MS. COOPER: All right.

22 MR. HERRERA: -- the admission of  
23 these two documents --

24 MS. COOPER: All right, Your Honor.

25 MR. HERRERA: -- and overrule your

1 objection.

2 MS. COOPER: All right.

3 Q (By Mr. Brocato) Ms. Cooper, in your initial  
4 statement position/presentation you have a discussion  
5 about non-nuclear decommissioning costs; is that  
6 correct?

7 A In my statement of position, yes,  
8 your -- yes, sir.

9 Q And your primary position is that the entire  
10 request should be excluded from rates; is that right?

11 A Yes.

12 Q And in your initial presentation you have an  
13 alternative recommendation that would allow \$1,834,000  
14 to be included in the rates for non-nuclear  
15 decommissioning; is that right?

16 A In my statement of position.

17 Q All right. Is that still included in your  
18 statement of position, or is that in your formal piece  
19 of testimony?

20 A It's not in the testimony. As I mentioned  
21 earlier when we were addressing whether these exhibits  
22 should be introduced into evidence, that is a statement  
23 of position and not a presentation and, therefore, is  
24 outside the purview of expert opinion and wasn't able  
25 to be admitted into evidence.

1           **Q     Given your response to AE Exhibits 10 and 11,**  
2   **is that statement of position still accurate?**

3           A     AELIC 10 and 11, could you tell me are you  
4   talking about --

5           **Q     The RFI responses.**

6           A     -- Austin Energy 10 and 11?

7           **Q     Yes.**

8           A     Is it Austin Energy 10 and 11?  Is --

9           **Q     Yes.**

10          A     -- that what you're talking about?

11          **Q     Yes.**

12          A     Okay.  Now, I'm sorry.  Could you repeat your  
13   question?

14          **Q     Given your acknowledgment that there was an**  
15   **error in those responses, is your statement of position**  
16   **with respect to your alternative non-nuclear**  
17   **decommissioning fund recommendation still accurate?**

18          A     It's accurate at the point, but we had a  
19   reservation that our position may change through the  
20   further review of evidence, not just in preparation of  
21   the hearing, but in the hearing itself.

22          **Q     Ms. Cooper --**

23          A     So the statement of, of --

24          **Q     You answered my question.  It was a yes/no**  
25   **question.  It's [crosstalk] --**

1           A     Well, it's not a yes or no, because there's a  
2 reservation.

3           Q     Where's the reservation you're referring to?

4           A     Well, in the statement of position. It's,  
5 it's stated in the statement of position.

6           Q     Now, in your RFI response you acknowledge  
7 that there was an error; isn't that right?

8           A     There was an error in my statement of  
9 position that was made on May, May 3rd.

10          Q     There was an error in your calculation; is  
11 that correct?

12          A     That's correct.

13          Q     Okay. And that resulted in your  
14 recommendation with respect to non-nuclear  
15 decommissioning to be -- to allow an annual recovery of  
16 3.7 million rather than 1.8 million; is that right?

17          A     I'm sorry. Where are you saying?

18          Q     Look at your response to --

19          A     Okay.

20          Q     -- AE RFI 2-1.

21          A     Okay. And that's -- what's -- is that Austin  
22 Energy 10?

23          Q     Yes.

24          A     Okay. And Austin Energy 11 is 2-2? I had  
25 them wrong. Okay. All right. And I apologize, but

1 could you repeat the question again?

2 Q That RFI response --

3 A Right.

4 Q -- prepared by you acknowledges that there  
5 was an error in your calculation; isn't that right?

6 A Yes.

7 Q And if you correct the error, your  
8 alternative recommendation is 3,710,274 rather than the  
9 1,834,000 that's included in your statement of  
10 position?

11 A Yes. The statement of position that was made  
12 on May 30th that's correct. That error was made on  
13 May -- and based on the information I had available on  
14 May 3rd, that the -- we used the lower end of the  
15 recommended decommissioning cost for Decker. But as  
16 you know, Decker has now been delayed.

17 Q Ms. Cooper, you answered my question.

18 A Okay.

19 Q Now, turning to AELIC 2, your remaining  
20 direct testimony --

21 A Yes, sir.

22 Q -- your recommendation is that the entirety  
23 of AE's non-nuclear decommissioning fund be disallowed;  
24 is that right?

25 A That's correct.

1           Q     And I believe you just stated to Your Honor  
2     that you're not an expert on the, on appropriate  
3     non-nuclear -- or decommissioning cost; is that also  
4     correct?

5           A     That's correct.

6           Q     Okay. And you would also agree, would you  
7     not, that there is a cost associated with the  
8     decommissioning of all of Austin Energy's gas-fired  
9     generation; is that right?

10          A     I think that there's a cost, but the burden  
11     is on the utility --

12          Q     I didn't ask you who the burden was on. You  
13     admit that there is a cost --

14          A     Well, you're asking me --

15          Q     -- to decommissioning.

16          A     -- something that's --

17          Q     It's a simple, straightforward question.

18          A     -- outside of . . .

19          Q     I asked you a simple question related to your  
20     testimony, Ms. Cooper.

21          A     Well, as, as a --

22          Q     There is also decommissioning cost associated  
23     with decommissioning their coal-fired generation as  
24     well; isn't that right?

25          A     This is --

1           Q     Do you know the answer to that question?

2           A     I'm not, I'm not an expert on this issue.

3           Q     Do you know if there's a cost associated with  
4   decommissioning the Fayette Power Plant?

5           A     There is a cost if it's prudent. There may  
6   not be a cost. The depreciation might have already --

7           Q     So it's your testimony --

8           A     -- played out. There's also salvage value,  
9   there's a lot of other issues that really are beyond  
10   the pale of my expertise, but there are a lot of other  
11   issues that can compensate for the actual cost of  
12   retirement. Just the sale of land itself could far  
13   exceed --

14          Q     I didn't ask you whether there may be  
15   offsetting revenues associated. I simply asked you do  
16   you know if there's a cost associated with  
17   decommissioning a power plant?

18          A     There is a cost.

19          Q     Okay. Are you aware of the Holly Power Plant  
20   decommissioning?

21          A     I'm aware of it.

22          Q     Do you know what the cost to decommission  
23   that plant was?

24          A     No. The cost was always excluded from the  
25   rate case. It was never an issue that -- in fact, you



1 objected to some, to some of my RFIs.

2 Q So do you not know the cost to decommission  
3 the Holly Power Plant?

4 A No. And I don't -- no.

5 Q Okay.

6 A I don't know the amount of the cost. I know  
7 there were costs. I don't, I don't mean to be unfair.  
8 I know there were costs; I don't know the amount.

9 Q I see. And so if there are ultimately  
10 costs associated with decommissioning these power  
11 plants, is it your position that Austin Energy should  
12 wait and collect those costs once the plant is  
13 decommissioned?

14 A That is not my opinion.

15 Q Okay. Would you agree that it would be  
16 more appropriate, to the extent possible, to collect  
17 those costs from the ratepayers that receive the output  
18 or benefit of the electricity or output from those  
19 plants?

20 A I think in the abstract, yes. Not talking  
21 about necessarily the facts of this particular case,  
22 but in the abstract, yes.

23 MR. BROCATO: I have no other  
24 questions.

25 MR. HERRERA: At this point we

1 would generally "Redirect, Your Honor."

2 MS. COOPER: Okay. I will try to  
3 be very short, Your Honor, because --

4 MR. HERRERA: I, I would --

5 MS. COOPER: I don't really want to  
6 waste the Court's time.

7 MR. HERRERA: I would appreciate  
8 that, because I think that in wearing your dual hats  
9 while on the stand you were doing a fairly good job of  
10 explaining --

11 MS. COOPER: My -- already. Yes.

12 MR. HERRERA: -- your position  
13 already.

14 MS. COOPER: Yes.

15 MR. HERRERA: But I will give you  
16 the opportunity very briefly.

17 MS. COOPER: Thank you, Your Honor.

18 REDIRECT EXAMINATION/STATEMENT

19 MS. COOPER: We talked about  
20 several things, and one of the things that -- the  
21 statement of position is something that is fluid, and  
22 we did make a reservation of changing our position with  
23 additional evidence, and yesterday was a perfect  
24 example of additional evidence that would affect our  
25 position on this issue, the issue of Decker plant being

1     delayed, further delayed.

2                     The second thing is the decommissioning  
3     cost. Decommissioning costs have to be thoroughly  
4     vetted in a rate hearing in which you actually see the  
5     actual cost and any competing benefits such as salvage,  
6     such as the sale of the land, for instance the sale of  
7     the land underneath, whether there are other revenues  
8     that offset it.

9                     Another issue is the reasonableness of  
10    the amount that should be included for an annual  
11    recovery and recovered in rates. For instance, almost  
12    42 percent of this cost gets assigned to residential  
13    customers. So it's a significant concern that we have.  
14    The fact that not only is the cost in there, 19.4  
15    million dollars, but there's this added cost. And I'm  
16    not going to go into it. We talked -- AELIC talked  
17    with Mr. Dombroski yesterday.

18                    So those are the serious issues. First,  
19    we don't even know if there could be a cost because of  
20    the competing values that could arise that would --

21                    MR. HERRERA: And Ms. Cooper, at  
22    this point I'm going to say you've already told me  
23    that. So if you have something new to add --

24                    MS. COOPER: That's it, Your Honor,  
25    and thank you for your time.

1 MR. HERRERA: Any -- I'm not sure  
2 where to go from here, but any other questions of  
3 Ms. Cooper by anybody?

4 MR. BROCATO: No questions.

5 MS. COOPER: Thank you, Your Honor.

6 MR. HERRERA: Thank you,  
7 Ms. Cooper. I wasn't sure who to take the time away  
8 there on that.

9 MS. COOPER: Oh, that's a good  
10 question, Your Honor.

11 MR. BROCATO: Please, her. I think  
12 none of us are getting that time back.

13 MR. HERRERA: We're going to take a  
14 five-minute break.

15 (At 10:09 a.m. the proceedings  
16 recessed, continuing at 10:19 a.m.)

17 MR. HERRERA: Ms. Birch, are you  
18 ready to call your next witness?

19 MS. BIRCH: My first witness?

20 MR. HERRERA: Your first witness,  
21 actually. You're right. I apologize.

22 MS. BIRCH: Your Honor, we need --

23 MR. HERRERA: We'll go back on the  
24 record. Go ahead.

25

1 PRESENTATION ON BEHALF OF  
2 PUBLIC CITIZEN/SIERRA CLUB

3 DIRECT EXAMINATION

4 BY MS. BIRCH:

5 Q Would you state your name for the record,  
6 please?

7 A Cyrus Reed.

8 Q And are you here in support of PC-SC's  
9 Exhibits 1 and 2, the corrected position statement and  
10 the corrected cross rebuttal on portions of those?

11 A On portions, correct.

12 Q And you're, you're sponsoring issue number 6,  
13 which relates to the EEST?

14 A Yes. The energy efficiency service tariff.  
15 Correct.

16 Q And policy issues related to issue 4, which  
17 is defeasement of the Fayette Power Plant?

18 A On policy issues, yes.

19 Q And also in the cross rebuttal on policy  
20 issues relating to the reserve?

21 A Correct. The reserve as well as those issues  
22 you mentioned on EES and that defeasement.

23 Q Okay.

24 MS. BIRCH: Your Honor, we offer  
25 our Exhibits 1 and 2.

1 MR. HERRERA: Any objections?

2 Those are admitted.

3 Q (By Ms. Birch) And Exhibit 3 is your CV; is  
4 that correct?

5 A Yes. A very hastily done version of my CV.

6 MS. BIRCH: And we offer that also,  
7 Your Honor.

8 MR. HERRERA: Any objections?

9 That's admitted.

10 MS. BIRCH: And we pass the witness  
11 for cross.

12 MR. HERRERA: Data Foundry?

13 MR. MCCOLLOUGH: We have no  
14 questions of this witness.

15 MR. HERRERA: Bethany United?

16 MR. WELLS: No, no questions.

17 MR. HERRERA: HURF?

18 MR. BORGELT: No questions for this  
19 witness.

20 MR. HERRERA: Low Income Customers?

21 MS. COOPER: No questions, Your  
22 Honor.

23 MR. HERRERA: NXP?

24 MR. BROCATO: No questions, Your  
25 Honor.

1 MR. HERRERA: Independent Consumer  
2 Advocate?

3 MR. COFFMAN: No questions, Your  
4 Honor.

5 MR. HERRERA: Austin Energy?

6 MR. FAULK: Just a few questions.  
7 Your Honor.

8 CROSS EXAMINATION

9 BY MR. FAULK:

10 Q Good morning, Mr. Reed. My name is Cody  
11 Faulk. I'm with the city of Austin. How are you this  
12 morning?

13 A Very well, thank you.

14 Q That's good. I just have a few questions on  
15 the energy efficiency charge.

16 A Sure.

17 Q When, when we're speaking about high-load  
18 primary voltage and transmission-level customers, we're  
19 talking about industrial-level customers, correct?

20 A Correct.

21 Q Okay. So are you aware currently of any  
22 utilities in Texas that charge customers an energy  
23 efficiency for industrial-level customers?

24 A I am not aware of, of any utilities that  
25 charge industrial-level customers for an energy

1 efficiency cost recovery effect or a fee.

2 Q Okay. And has -- in your examination of this  
3 case -- and when I say PC-SC, you know who I'm  
4 referring to.

5 A Yes.

6 Q Have you examined or researched any of  
7 the operational efficiencies associated with  
8 industrial-class customers in general?

9 A No.

10 Q Okay. And what about Austin Energy's  
11 industrial-class customers specifically?

12 A Other than informal conversations with folks,  
13 no.

14 Q Okay. And are you -- is PC-SC aware that  
15 Austin Energy is providing access to ERCOT's emergency  
16 response services program to its industrial-load  
17 customers?

18 A I am.

19 Q And has PC-SC examined the programs benefits  
20 to load curtailment?

21 A I am, I am familiar with those programs  
22 because I'm involved at ERCOT and am familiar that  
23 there's a benefit to those programs.

24 Q Okay. And has PC-SC examined Austin Energy's  
25 current progress towards obtaining a thousand megawatts



1     **of energy efficiency in demand response by 2025?**

2           A     Yes.

3           Q     **And what's the current -- what's your opinion**  
4     **on that?**

5           A     My opinion is that we're generally on course  
6     to meet the 800 megawatt goal by 2020 assuming, you  
7     know, that we meet similar levels between 2017 and 2020  
8     and that we're certainly on course to meet the 900  
9     megawatt, I'll call it the soft goal. It's, the jury's  
10    still out on the, I'll call the -- I mean the 900 hard  
11    goal, the jury's probably still out on what I'll call  
12    the soft goal. But I think, I think we are making  
13    progress towards those goals.

14          Q     **And it's PC-SC's recommendation that these**  
15    **industrial-level customers of Austin Energy should be**  
16    **charged under the energy efficiency charge, correct?**

17          A     Yes. Because your own cost of service study  
18    did show that there's a cost, that they bear a burden  
19    of the cost, and we argue that there's a systemwide  
20    benefit that all share in, whether or not they actually  
21    get those rebates.

22          Q     **Well, and wouldn't this be a case for pretty**  
23    **much any utility that has an energy efficiency program?**

24          A     That's correct.

25          Q     **And it's --**

1           A     But those industrial lobbyists are  
2 out-lobbying me at the legislature.

3           Q     **That's not my, that is not my question.**  
4 **Would that not be the case for all Texas utilities that**  
5 **have an energy efficiency program?**

6           A     Yes, it would.

7           Q     **Thank you.**

8                     MR. FAULK: Pass the witness.

9                     MR. HERRERA: Any redirect?

10                    MS. BIRCH: No, Your Honor.

11                    MR. HERRERA: Mr. Reed, I think you  
12 are excused.

13                    THE WITNESS: Darn, I wanted to say  
14 more.

15                    MR. HERRERA: I believe NXP is  
16 next?

17                    MS. BIRCH: Your Honor, we have, we  
18 have two witnesses.

19                    MR. HERRERA: I'm sorry. I  
20 apologize, Ms. Birch.

21                    MS. BIRCH: Well, it won't take  
22 very long, because we have Leslie Libby, who has  
23 sponsored a portion of Exhibits 1 and 2, and we have  
24 Mark Kapner. All of the parties have said they have no  
25 cross examination for those witnesses, but I do have a

1 CV for Ms. Libby that I would ask be admitted, and we  
2 are waiting on one from Mr. Kapner, and I will offer  
3 that as soon as I can.

4 MR. HERRERA: Are you offering  
5 Ms. Libby's --

6 MS. BIRCH: I am offering --

7 MR. HERRERA: -- resume?

8 MS. BIRCH: -- Exhibit 3a, yes.

9 MR. HERRERA: Any objections to 3a,  
10 PC-SC Exhibit 3a? It's admitted. And we're awaiting  
11 one more?

12 MS. BIRCH: One more on Mr. Kapner,  
13 and I would ask leave to be able to offer it when we  
14 get it.

15 MR. HERRERA: Oh, you don't have it  
16 now?

17 MS. BIRCH: I don't have it now.

18 MR. HERRERA: Okay. Just remind me  
19 about it and --

20 MS. BIRCH: I will.

21 MR. HERRERA: -- we'll deal with it  
22 later.

23 MS. BIRCH: And the only other  
24 witness is Mr. Chernick, and he'll be here tomorrow.

25 MR. HERRERA: Okay. He's the

1 date-certain witness?

2 MS. BIRCH: Yes.

3 MR. HERRERA: Now do we turn to

4 NXP/Samsung?

5 MR. HUGHES: Yes, Your Honor.

6 NXP/Samsung will call Marilyn Fox. Your Honor,

7 Ms. Faconti is passing out, I believe, the whole

8 exhibit list -- exhibit package, but I'm going to go

9 ahead and at this time, if you -- go ahead and ask to

10 admit the remainder of our exhibits, and that would be

11 NS-1 through 4 -- so I guess at this time we're only

12 going to enter in NS-1 and NS-3, which would be

13 Ms. Fox's direct testimony and rebuttal testimony.

14 MR. HERRERA: Are you offering

15 those?

16 MR. HUGHES: Yes.

17 MR. HERRERA: Any objections to

18 NS-1 and NS-3? Do I have the number right, Mr. Hughes?

19 MR. HUGHES: Sir?

20 MR. HERRERA: Do I have the number

21 right for Ms. Fox's rebuttal as NS-3?

22 MR. HUGHES: Yes. NS-1 is the

23 direct and NS-3 is the rebuttal, cross rebuttal

24 testimony.

25 MR. HERRERA: Any objections to

1 NS-1 and NS-3? Those are admitted. Do you tender the  
2 witness for cross?

3 MR. HUGHES: Yes. I --

4 PRESENTATION ON BEHALF OF  
5 NXP/SAMSUNG

6 DIRECT EXAMINATION

7 BY MR. HUGHES:

8 Q Ms. Fox, will you identify yourself, please?

9 A My name is Marilyn Fox.

10 Q And you're appearing on behalf of NXP and  
11 Samsung?

12 A That's correct.

13 MR. HUGHES: Okay. Tender the  
14 witness for cross.

15 MR. HERRERA: Thank you,  
16 Mr. Hughes. Since Ms. Fox is a new witness I'll go  
17 down the list. ARMA any questions? I don't see  
18 Mr. Rourke or Mr. Robbins in the room. Greater Austin  
19 Chamber of Commerce any questions? Data Foundry any  
20 questions?

21 MR. MCCOLLOUGH: I'm a really  
22 friendly guy, Your Honor, but in this instance and in  
23 keeping with the rule I will have no witness questions.

24 MR. HERRERA: Bethany United?

25 MR. WELLS: No questions, Your

1 Honor.

2 MR. HERRERA: HURF?

3 MR. BORGELT: No questions, Your

4 Honor.

5 MR. HERRERA: Low Income Customers?

6 MS. COOPER: No questions, Your

7 Honor.

8 MR. HERRERA: Public Citizen?

9 MS. BIRCH: No questions, Your

10 Honor.

11 MR. HERRERA: Independent Consumer

12 Advocate?

13 MR. COFFMAN: No questions, Your

14 Honor.

15 MR. HERRERA: Austin Energy?

16 MR. FAULK: We do have some

17 questions, Your Honor.

18 CROSS EXAMINATION

19 BY MR. FAULK:

20 Q Good morning, Ms. Fox. My name's Cody Faulk  
21 with Austin Energy. How are you this morning?

22 A I'm fine. How are you?

23 Q Just fine. So I'm going to go over some  
24 questions about your testimony, and one of the first  
25 portions I want to talk about, and this is page 12,

1 line 12 of your, of your corrected testimony. And I  
2 apologize, some of my line references may be to your  
3 previous testimony, but I don't think anything  
4 substantive has changed.

5 So this, the first statement that I'm  
6 pointing at you -- and you made this statement in  
7 several other portions of your testimony -- you're  
8 talking about the Austin Energy pass-through charges,  
9 and in your testimony you state that the pass-through  
10 charges make up approximately 50 percent of the  
11 customer's bill. Do you provide any information in  
12 your testimony that supports that statement?

13 A No, sir. I got that number from looking at  
14 your rate-filing package and the amounts that you had  
15 excluded from being pass-throughs compared to the total  
16 revenue requirement.

17 Q So nothing in your testimony directly  
18 provides that information?

19 A That's correct.

20 Q Okay. And is it NXP's -- and I'm going to  
21 just generally refer to NXP, but when I say that I mean  
22 NXP and Samsung.

23 A Sure.

24 Q Is it still their position that the city  
25 council should review not only base rate components

1     **that are part of this tariff's package but also the**  
2     **pass-through charges?**

3           A     That is our contention.   Yes.

4           Q     **Okay. And what is the basis of that**  
5     **contention?**

6           A     Well, the basis of that contention is, is  
7     during the budget process when the pass-throughs are  
8     approved there's very little time to really devote a  
9     lot of time to looking at these charges, and that to me  
10    is a concern, given the magnitude of the charges that  
11    are charged to the customers.

12          Q     **Is it NXP's position that there's no public**  
13    **participation in that proceeding?**

14          A     No, sir.

15          Q     **And you --**

16          A     There is public participation. It's just not  
17    to the depth that we have -- that we're experiencing  
18    here.

19          Q     **Have you examined as to whether or not the**  
20    **Austin Energy budget process is in compliance with**  
21    **state law?**

22          A     I'm sure that the budget process is in  
23    compliance with state law. I'm not talking about --

24          Q     **Okay. Thank you.**

25          A     -- budget. I'm talking about rate-making.



1           Q     Are you aware that there are certain  
2 exceptions under the PUC rules for certain pass-through  
3 charges that are followed outside of a normal  
4 rate-making process?

5           A     I'm aware of that.

6           Q     And can you provide a couple examples of  
7 this?

8           A     One of the most pertinent examples is their  
9 energy efficiency cost recovery, because there is a  
10 specific whole rule that's dedicated to nothing that,  
11 that does that for a statewide basis to talk about how  
12 energy efficiency costs are to be recovered and charged  
13 to customers.

14          Q     And would that charge under the PUC rules  
15 be -- would mirror the energy efficiency charge that  
16 Austin Energy currently charge its customers?

17          A     It's similar.

18          Q     Okay. And so based on your -- the exception  
19 that you just mentioned, that would be done in a  
20 process that is outside of a base rate proceeding,  
21 correct?

22          A     It can be outside of base rate, and if you  
23 look at the rule, which I think you all have  
24 referenced, what it says is if a utility is recovering  
25 that through base rates, it should for the next time

1 follow the procedures that's set out that deal solely  
2 with the recovery of energy efficiency charges.

3 Q And to your knowledge, what's the basis  
4 for -- and you may have kind of answered that in your  
5 previous, your previous answer, but what is the basis  
6 for having those individual proceedings as opposed to a  
7 base rate proceeding?

8 A Well, there's two things. One, those  
9 programs are approved part of the whole system that  
10 governs energy efficiency by the programs that are  
11 established by the PUC, and part of that, once they get  
12 to the recovery piece, those proceedings have a  
13 specific and very detailed application process that the  
14 utilities have to follow, which includes an  
15 application, testimony, the whole thing that's kind of  
16 what we're doing here.

17 Q Would it be fair to say that there are  
18 certain benefits to having these pass-through charges  
19 reviewed annually?

20 A I think very definitely. Yeah. I think so.

21 Q And what are some of those benefits?

22 A Well, some of the things that you're dealing  
23 with in the pass-through would change, game change  
24 dramatically, such as the PSA.

25 Q Okay. So it would -- okay. I'll move on.

1                   Is it NXP's position that  
2   decommissioning costs should be collected from  
3   ratepayers over the life of the asset?

4           A     It certainly is.

5           Q     Okay. And has NXP made any recommendations  
6   to Austin City Council outside of this normal  
7   rate-making proceeding as to decommissioning costs, to  
8   your knowledge?

9           A     Recommendations specifically to the city  
10   council?

11          Q     Any letters or anything like that.

12          A     There was a letter that was circulated to the  
13   city council.

14          Q     And was that consistent with collecting those  
15   decommissioning costs over the life of the asset?

16          A     Well, I'm trying to recall, but I don't. But  
17   I can tell you that for the particular decommissioning  
18   costs that you're talking about, that horse has already  
19   left the barn, because those units, particularly for  
20   Decker, were -- they were put into service in the  
21   '70s -- '79 and '80, I believe, and for that to go back  
22   and apply that matching principle that you're referring  
23   to is virtually impossible right now.

24          Q     Well, can you just briefly explain that?

25          A     Well, all of the ratepayers since '79 and '80

1 have been enjoying the output of those units, and you  
2 can't go back and back-bill all those customers.

3 Q Okay. And you're generally familiar with the  
4 cost causation theory, correct?

5 A Yes, I am.

6 Q And that people that benefit from facilities  
7 should bear the cost of those facilities like you just  
8 mentioned?

9 A Exactly.

10 Q And how do you believe that the cost  
11 causation analysis applies with the costs associated  
12 with the plants that Austin Energy is currently trying  
13 to recover decommissioning costs from? I know that's a  
14 lengthy question.

15 A Yeah. Would you --

16 Q Sure.

17 A -- restate that or try it again?

18 Q How would you apply the cost causation, cost  
19 causation analysis to the plants that Austin Energy is  
20 currently trying to in this tariff package recover  
21 decommissioning costs?

22 A There's only one way that Austin Energy can  
23 recover any decommissioning costs right now for Decker,  
24 and that's to put it in, not in operating expenses  
25 spread over the life of the asset as it should have

1     been done, but to collect those funds in a reserve.

2           **Q     And what is your basis for that statement?**

3           A     What is my basis for that statement?

4           **Q     Right. What is, what is the basis for that,**  
5     **that it should be put in reserve as opposed to**  
6     **operational costs?**

7           A     Well, in the first place, the treatment of  
8     that as an expense is a complete mismatch of when the  
9     funds will be expended. So you are asking for rate  
10    recovery as a miscellaneous power expense in your rate  
11    case, and yet you do not intend to expend those funds  
12    until the plant is retired. And so you have a direct  
13    mismatch from your treatment that you're requesting as  
14    far as it goes in rates.

15          **Q     You state on your -- in your testimony, and**  
16     **this is page 28 -- and again, I'm hoping that this is**  
17     **the correct pagination -- on lines 12 through 15 you**  
18     **say that NewGen recommended the amount be included as a**  
19     **reserve as specified in AE's current financial**  
20     **policies. Is that an accurate representation of what**  
21     **the -- what NewGen recommended in its report?**

22          A     From my reading of that, yes, it is. It's, I  
23    believe, on page Bates-number 488.

24          **Q     And did you review any of the rebuttal**  
25     **testimony of Austin Energy in this case?**

1           A     Of course.

2           Q     And that they cited to -- and I'll provide  
3     this, the actual cite here in a second, but that NewGen  
4     actually recommended the annual contributions to the  
5     reserve should be secured as an annual operating  
6     expense?

7           A     I read that section, and I also went back to  
8     the NewGen report and I looked at the subsequent  
9     paragraph to that, and it's obvious, I think, from the  
10    report that NewGen is saying that over the life of the  
11    assets that's when these decommissioning costs should  
12    have been collected, and unfortunately, that's not what  
13    happened.

14          Q     Okay.

15          A     But if you look at the next page where they  
16    have their specific recommendations, they do not  
17    mention operating expense at all.

18          Q     And in 27 and 28 of your testimony you  
19    mention that you -- that \$38.47 per kilowatt for the  
20    Decker Creek retirement is unreasonable and  
21    unnecessary, unnecessarily high. Do you have any  
22    independent basis for that outside of the NewGen  
23    report?

24          A     No. I relied upon the NewGen report, and the  
25    mean for what they had done is benchmarking across PUCs

1 in the country.

2 THE REPORTER: Benchmarking across?

3 THE WITNESS: Benchmarking from  
4 Public Utility Commissions across the country.

5 Q (By Mr. Faulk) And what is your basis for,  
6 in your recommendation, for excluding the Fayette Power  
7 Plant and the Sand Hill Energy Center from  
8 decommissioning expenses?

9 A To date there's been no firm commitment that  
10 those will be closed any time soon, and now we learn  
11 subsequently that even Decker's life may be extended.

12 Q But wouldn't you agree that these costs will  
13 have to be incurred and beginning recouping these costs  
14 will limit future rate increases?

15 A I think that's probably true, and if I were  
16 in the situation of Austin Energy at this point, I'd  
17 put that into a depreciation rate that's based on the  
18 remaining life of those assets, because usually it's  
19 through the depreciation rate that people collect the  
20 decommissioning expenses.

21 Q And you'd agree with me that Austin Energy's  
22 current customers are receiving the benefits of those  
23 plants?

24 A Of course.

25 Q Does NXP believe that economic development

1 programs are a worthwhile endeavor for the city of  
2 Austin?

3 A I believe I said that in my testimony. Yes.

4 Q Okay. And have you in the preparation of  
5 your testimony or subsequently reviewed any precedent  
6 that establishes economic development activities cannot  
7 be recouped in a cost of service?

8 A No.

9 Q Are you aware of any precedent that  
10 establishes that they can be recouped?

11 A No.

12 Q I'm going to represent to you that in the PUC  
13 commission Docket -- excuse me, the Public Utility  
14 Commission Docket 16705 that the commission states it  
15 is a good public policy to encourage economic  
16 development in Texas. Would you agree with that  
17 statement?

18 A Subject to check, I'm not familiar with what  
19 you're saying, but it sounds like something they would  
20 do.

21 Q So overall, you would, you would -- it would  
22 be fair to say that the commission in Texas in general  
23 is for economic growth?

24 A I think that's been a stated policy of the  
25 state forever.



1           Q     Yeah. And would it be fair to say that part  
2 of the provision of electric service and providing  
3 electric service is encouraging the reduction of shared  
4 costs for facilities?

5           A     Are you --

6           Q     Can you understand my question?

7           A     Are we still talking about economic  
8 development?

9           Q     Yes. Yeah.

10          A     Oh, okay.

11          Q     Okay. I'll repeat my question.

12          A     Thank you.

13          Q     Would it be fair to say that the part of,  
14 part of providing electric service is trying to  
15 encourage the reduction of share the costs that are  
16 associated with providing that electrical service?

17          A     I guess I just don't understand your premise  
18 of your question, because --

19          Q     Let me, let me state it another way.

20          A     Okay.

21          Q     The development of new business and new  
22 load-consuming facilities, you would agree with me,  
23 spreads out the costs associated with fixed costs,  
24 correct?

25          A     Only to the extent that you're not incurring

1 more fixed costs.

2 Q Sure. But that there's, there's a base that  
3 is, that is spread over, correct?

4 A There is a base in billing determinants, yes.

5 THE REPORTER: Base of what?

6 THE WITNESS: Billing determinants.

7 MR. HUGHES: Your Honor, are we  
8 going over specific testimony, specific testimony that  
9 Ms. Fox has testified to, or are you rebutting  
10 testimony that she's actually made?

11 MR. FAULK: The testimony regarding  
12 the reduction of the payments to the economic  
13 development fund of the city.

14 MR. HUGHES: These questions sound  
15 more like they're going to a -- to her philosophy of  
16 economic development and rates.

17 MR. FAULK: Well, she's saying that  
18 they're inappropriate for cost of service.

19 MR. HERRERA: I guess I could ask,  
20 Mr. Hughes, do you have an objection? If you do, state  
21 your objection and then let me hear your response.

22 MR. HUGHES: Well, I guess I'm,  
23 yes, I'm objecting, but I'm also offering him an  
24 opportunity to show me where -- to indicate to us  
25 where -- which precisely he's rebutting, which part of

1 her testimony he's rebutting.

2 MR. HERRERA: I guess at this point  
3 I'll let you continue with your cross, and if there's  
4 an objection, we'll deal with it.

5 Q (By Mr. Faulk) This is specifically in  
6 reference to -- and let me get the actual page number.  
7 This is on page 29 and 30. This is your adjustment to  
8 Austin Energy's transfer to the city of Austin's  
9 Economic Development Department and your recommendation  
10 that it's inappropriate.

11 A That's correct.

12 Q That's correct?

13 A Um-hm.

14 Q That's, that's the basis of your testimony,  
15 correct?

16 A Yes.

17 Q Okay. And what I'm asking is that economic  
18 development activities, you would agree with me the  
19 growth of customer base has some benefit to current  
20 customers, correct?

21 A And again I'll qualify that, because if you  
22 go over your existing ability to provide that load,  
23 you're going to have to incur more costs to provide it.  
24 So it's simply a quantitative result of, you know, how  
25 to answer your question.

1           **Q     There are certain hypothetical situations**  
2   **that could occur, correct?**

3           A     Yes.

4           **Q     And that -- but you would agree with me, as**  
5   **you stated previously, that it increases the base over**  
6   **which certain fixed costs are distributed, correct?**

7           A     Depending upon what type of assets are being  
8   created to serve the load.  Again, if you're talking  
9   about a music program for the city of Austin and  
10  providing that for musicians, I don't know exactly how  
11  directly that increases the load.

12          **Q     I'm not asking about specific aspects of the**  
13   **economic development program.  I'm asking about**  
14   **economic development programs in general and the**  
15   **payments of those by electric utilities.**

16          A     My remembrance is, back in the old days, is  
17   that utilities had specific economic development  
18   tariffs, and that was the way that they provided  
19   prospective customers to come into town and benefit.  
20   Now, that is a lot different than having electric  
21   customers pay for almost 10 million dollars to the city  
22   government to provide programs which may or may not  
23   benefit.  They could hurt the general ratepayer.

24          **Q     Is it merely just your personal belief on**  
25   **what is and what is not appropriate regarding economic**

1     **development activities?**

2           A     No. I asked the question of whether or not  
3     Austin Energy had ever done a cost benefit study of how  
4     that benefited the Austin ratepayers, how these  
5     programs did. The response in one of the RFIs was that  
6     they had not done such a study.

7           Q     Let me move on to your -- and this is on the  
8     customer center expenses that you testified to.

9           A     Um-hm.

10          Q     Did you review -- and I apologize -- the  
11     customer care allocation manual that was prepared by  
12     KPMG in June of 2002 that was used in the prior Austin  
13     Energy rate proceeding when analyzing the customer care  
14     costs?

15          A     Are you talking about the last rate review?

16          Q     Yes.

17          A     I don't, I don't recall if I did or not.

18          Q     Okay. And did you look at specific -- and  
19     did you do a thorough analysis of the customer care  
20     costs and some of the drivers associated with those  
21     costs?

22          A     I reviewed all of the studies that Austin  
23     Energy provided from 2002 on.

24          Q     Okay. So how did NXP develop its allocation  
25     method for the customer care costs?

1           A     Customer care cost, I think I looked at some  
2     of the footnotes that were included in some of those  
3     work papers, primarily the complaints, and it seemed  
4     inconceivable to me, quite frankly. That note says  
5     "Cannot track complaints," and so that was the reason  
6     given in the work papers of why a hundred percent of  
7     all the complaints are allocated to the electric  
8     utility.

9           Q     Is that the only thing you looked at for  
10    development of your allocation method?

11          A     I looked at all of the, the lists that are,  
12    that are here, I looked at the number of allocations  
13    that were presented in the work papers, and I made a  
14    judgment based upon what those functions are and also  
15    whether or not all customers are getting billed through  
16    the same billing system, for instance, which they are,  
17    and I made that judgment to change some of the  
18    allocations. If you'll note, I didn't change all of  
19    them.

20          Q     Okay. So was it merely your judgment call  
21    with certain allocations versus others?

22          A     Yes. And my knowledge of what utilities  
23    Austin has.

24          Q     Did NXP examine how the application of  
25    this -- of your proposed allocation methodology would

1     **impact other city departments?**

2           A     Obviously, if you're going to allocate it  
3     back to other city departments, it's going to increase  
4     the cost.

5           Q     I guess really more my question is how a  
6     change in this allocation methodology would impact the  
7     use of the current allocation methodology in other  
8     departments.

9           A     It would increase their costs. If you're not  
10    going to charge Austin Energy, you're going to  
11    reallocate it to other utilities.

12          Q     And did NXP take into consideration the fact  
13    that certain Austin's non-metered utilities have  
14    simpler billing calculations than Austin Energy would?

15          A     That's -- of course. Yes.

16          Q     And that there's certain administrative costs  
17    that are significantly reduced as a result?

18          A     I'm not so sure about that. No. I mean, you  
19    know, if you have a, if you have a billing error that's  
20    inside your billing system, it's going to take awhile  
21    for that error to get corrected based on customer  
22    complaints or any type of review of the revenue that's  
23    going out.

24          Q     Is there any evidence of any errors in any of  
25    the other utility departments that have a simpler

1     **billing methodology?**

2           A     I'm trying to recall. I think there was an  
3     instance years ago, perhaps, about the transportation  
4     fee, but again, I'm --

5           Q     **In this specific rate proceeding.**

6           A     -- trying to remember that. No. Not in  
7     this -- no.

8           Q     **Thank you.**

9           A     Life didn't start with this one.

10          Q     **And how did in your rate method -- I mean,**  
11     **excuse me, your allocation methodology, how did you**  
12     **specifically take cost causation factors into**  
13     **consideration?**

14          A     As I said, I looked at the function and  
15     looked at the description and looked at the allocation  
16     and said, okay, to me customer billing should be shared  
17     by all people who have billing, number of bills. And  
18     again, one of the problems here is that you don't issue  
19     the same number of bills to the same people in your  
20     service territory.

21          Q     **Okay. On losses on asset disposal, you're**  
22     **familiar with the test-year concept, correct?**

23          A     Yes, indeed.

24          Q     **Okay. Can you just generally describe what**  
25     **that entails? And essentially when -- in rate-making.**



1 I know that's a broad question, but you can, you can  
2 kind of humor me on this.

3 A Okay. I'll humor you. A utility will pick a  
4 test year, and that's their starting point, and  
5 preferably it will be one that's audited by its  
6 external auditors. It doesn't necessarily require  
7 that, but for the Public Utility Commission they do  
8 require that an audit be done somewhere within the  
9 prior 12 months.

10 That's your starting point, because your  
11 object, what you're trying to do with the test year is  
12 you're trying to say, okay, I want these rates that are  
13 going to collect revenue to match the expenses. Okay?  
14 And to do that you have to clearly analyze the costs  
15 that are in your test year, and you also have to look  
16 to see if those costs are abnormal for any reason  
17 whatsoever, be it weather or a catastrophic event like  
18 a hurricane, and you're going to eliminate those as  
19 nonrecurring out of your test year. Okay?

20 You're also on the other side you're  
21 going to pick up known and measurable changes to that  
22 test year that are -- have to be certain to occur and,  
23 and subject to measurement, and those are the  
24 adjustments that you can bring into your test year.

25 Q Sure. And so the -- but for costs that are

1 going to reoccur you include those in your cost of  
2 service, correct?

3 A Only if they can be measured.

4 Q Sure. Okay. And would you agree with me,  
5 based on your review of Austin Energy's historical and  
6 test-year losses for asset disposal, that that is a  
7 recurring cost?

8 A It is, it seems to be, at least since  
9 19 -- or 2013, but obviously, the amounts vary greatly.

10 Q Well, actually, I mean, you testified that  
11 since 2010 that they experience those costs, correct?

12 A I don't know. I'll have to check, because I  
13 was referring to your RFI response that actually gave  
14 me the losses since 2013.

15 Q But you stated that if they can be measured,  
16 that they can -- and they're recurring, that they  
17 should be included in the cost of service, correct?

18 A And it depends on if they're book loss,  
19 because a book loss is, by the nature of --

20 Q I'm --

21 A -- the way we do these rates, not  
22 necessarily.

23 Q I'm not asking about a book loss.

24 A Okay.

25 Q I'm just asking about a recurring cost.

1           A     Okay.

2           Q     Okay?  And then you testified line 12 and 13  
3     that they -- that since these losses vary greatly and  
4     therefore they cannot be deemed as a known and  
5     measurable cost, how, how does that comply with the  
6     recurring versus known and measurable?  I don't -- I'm  
7     not fully understanding the testimony in this -- under  
8     this portion.

9           A     Well, let me try, and you're right.  In my  
10    testimony I did look at the 2010 cost through 2013.

11                   These costs are solely dependent upon  
12    the utility's decision to retire assets in any given  
13    year.  We had asked for the utility's retirement plan  
14    and were told that you don't have one.  So from right  
15    now you really can't tell what assets you may be  
16    retiring in 2017, based upon the information that you  
17    provided to me.

18          Q     Well, but I don't understand how if there are  
19    recurring costs, what known and measurable has anything  
20    to do with it for, for purposes of adjustment.

21          A     Well, they could be recurring, but unless you  
22    know they're going to occur and unless you know the  
23    amount that is going to be subject to that, you can't  
24    say that it's going to be exactly a known and  
25    measurable adjustment to your test year.

1           **Q     Wouldn't that be the case for basically any**  
2     **test-year amount that could fluctuate, that has some**  
3     **fluctuation in it?**

4           **A     No.**

5           **Q     Why not?**

6           **A     Well, let's take payroll, for example.  Okay?**  
7     Payroll is pretty known and measurable, because you  
8     have a level of cost and you know if the city council  
9     is going to or the utility is going to recommend an  
10    increase to that payroll cost.  You also have things  
11    like insurance costs that come into the benefit for  
12    payroll, and if you know that those costs are going to  
13    be changed in the period that the test year is going to  
14    cover as adjusted, then you should adjust for that.

15          **Q     I understand the known and measurable**  
16    **adjustments, but what I'm talking about is a recurring**  
17    **cost:  You submit it, this is the test-year cost, and**  
18    **this is what we would like to recover.  I don't**  
19    **understand why if it's not a known and measurable**  
20    **change, why then that equates to a non-recovery.**

21          **A     It's possible, and nobody knows right now**  
22    whether you'll retire any assets next year.  And by  
23    that standard it is nonrecurring of what you experience  
24    during the test year.

25          **Q     But you would agree with me, as you reference**

1 in the RFI responses, that since 2010 Austin Energy has  
2 experienced asset loss disposal?

3 A That's correct.

4 Q Okay. Thank you. You make recommendations  
5 on the recovery of outside services; is that correct?

6 A Yes. Which page are you --

7 Q This is 34 and 35.

8 A Okay. Thank you.

9 MR. HUGHES: Direct?

10 MR. FAULK: Yes.

11 Q (By Mr. Faulk) On what rate-making principle  
12 do you rely on that Austin Energy should not recover  
13 its cost associated with outside services for IT?

14 A I don't think it's --

15 Q Information technology.

16 A Information technology. Right. You have,  
17 you have a lot of funds going to IT, and I understand  
18 you have a lot of reasons for that. I particularly  
19 relied upon your response from Mr. Overton that said  
20 those estimated costs for the staff supplemental  
21 program were not scheduled or planned for, and based  
22 upon that response, that's the only piece of your  
23 outside services that I'm recommending be disallowed.

24 Q And that's just because based on  
25 Mr. Overton's statements?

1           A     Well, based upon his statements who answered  
2     the RFI.

3           Q     Okay. But you would agree with me, as you  
4     stated just previously, that utilities have to  
5     incorporate outside services, correct, generally?

6           A     I think generally they do. I think that the  
7     level of what I've seen is probably higher than I would  
8     have expected.

9           Q     And what, on what basis?

10          A     Looking at other utilities.

11          Q     And what other utilities did you look at?

12          A     Not for this rate case but in the past. I  
13     mean, to have 53 million dollars spent in a test year  
14     for outside services, it seems pretty excessive when  
15     that's almost half of your total payroll cost.

16          Q     It seems just based on your personal belief  
17     or on any data you've observed in utility, the utility  
18     industry?

19          A     One of the things that I did go back and  
20     review for this adjustment was the Navigant report  
21     benchmarking that was done in 2010 -- I mean 2009, and  
22     they gave some averages from FTEs to total FTEs in that  
23     report, and that's one of the reasons that I ask for  
24     your number of FTEs that are dedicated to IT functions,  
25     and based upon that report in 2009, you are within that

1 range. However, that report did not consider the  
2 amount of your outside services that you're expending  
3 for IT services.

4 **Q And is that part of your testimony?**

5 A You asked me what I looked at. I guess it's  
6 part of my testimony.

7 **Q But you stated previously that it was really**  
8 **just based on your personal observation of those costs**  
9 **and that you believe they were excessive?**

10 A I think they are excessive based upon  
11 benchmark for other utilities, and you asked me what I  
12 looked at, and I looked at the benchmarking study that  
13 Navigant did for Austin Energy.

14 **Q Did NXP review past Austin Energy or city of**  
15 **Austin budgets for IT staff augmentation?**

16 A No.

17 **Q And would it be fair to say that Austin**  
18 **Energy will continue to incur these costs associated**  
19 **with outside services to some degree?**

20 A I assume from Mr. Overton's response, but he  
21 could not say how much.

22 **Q But that they would actually be incurred?**

23 A Yeah. And again, please, please don't  
24 mischaracterize my adjustment, because I left in costs  
25 for outside services for all of those utility functions

1     that are really necessary.

2           **Q     I understand.**

3           A     Thank you.

4           **Q     On uncollectible expense, and this is**  
5     **continued on your direct testimony -- I'm going to**  
6     **refer to that as bad-debt expense. Would you agree**  
7     **that that's a typical way to refer to it?**

8           A     Yeah. You can call it either one.

9           **Q     And you acknowledge in your testimony that**  
10    **this is a variable, correct? This is a variable**  
11    **expense that fluctuates?**

12          A     Generally it will fluctuate on the amount of  
13    revenue.

14          **Q     Okay. Has NXP conducted any study or review**  
15    **of bad-debt-expense data for other utilities in Texas?**

16          A     Not recently.

17          **Q     And have they examined any of the factors**  
18    **that are generally associated with bad-debt expense?**

19          A     Well, sure.

20          **Q     Okay.**

21          A     You know, utilities generally, regulated  
22    utilities have a very low rate of uncollectibles  
23    because they disconnect their customers.

24          **Q     Okay. What historical years did NXP review**  
25    **in determining the proper amount of bad-debt expense to**



1     **be included in cost of service?**

2           A     I looked at the response to the ICA 2-10,  
3     which gives a numeric listing from 2006 through 2015,  
4     unaudited.

5           Q     **Okay. And what was that number that you**  
6     **reached?**

7           A     What was the number that I reached? I'm  
8     sorry. I don't --

9           Q     **The -- what reduction are you recommending?**

10          A     About 4 million dollars, 4.8 million, I  
11     believe. What I did was I took the actual unaudited  
12     amount from 2015, which shows a declining trend, thank  
13     goodness, from bad debt.

14          Q     **Okay. But are you aware that Austin Energy**  
15     **experienced a year-to-year decrease in bad debt from**  
16     **2007 to 2008 and then subsequently in 2009 and 2010**  
17     **incurred an increase in bad debt expense?**

18          A     Certainly. Yes. I can see that from the  
19     numbers.

20          Q     **So a one-year difference is not -- as you**  
21     **said, can fluctuate up and down, correct?**

22          A     Right.

23          Q     **And so you just elected to choose the lower**  
24     **number?**

25          A     I elected to choose the lower number simply

1 because I know that you've reduced your fuel cost, and  
2 fuel costs in the summer are a large part of customers'  
3 inability to pay. And so if we're looking to the  
4 period that these rates will be in effect, because  
5 you're recommending a rate decrease and you have  
6 already decreased the fuel, I would very much be  
7 surprised if the bad debt went up this year.

8 **Q Did you testify to that, that you relied on**  
9 **fuel costs for your reduction?**

10 A No. I actually testified that it reflects a  
11 downward trend --

12 **Q And that's just --**

13 A -- particularly from --

14 **Q -- based on one year to one other year,**  
15 **correct?**

16 A No, no. It goes up from 3 million, 3.4  
17 million in 2012 to 17 million in 2013 up to 20.8  
18 million in 2014 and then down to 8.4 in 2015 unaudited,  
19 and that's the number that appeared to be, to me, to be  
20 reasonable to recommend.

21 **Q And is -- and that's the sole basis, is just**  
22 **because that it's showing, in your opinion, a downward**  
23 **trend?**

24 A I think the difference between 20 and 8 is  
25 significant.

1           Q     Okay. But -- on reserve funding is it NXP's  
2     position that -- excuse me. Let me rephrase that.

3                     Does NXP agree with NewGen's report that  
4     reserves should be funded using 150 days cash on  
5     hand --

6           A     Yes.

7           Q     -- that metric? And are you aware that the  
8     proposed changes to the financial policies with regards  
9     to reserve funding that have been recommended by NewGen  
10    have not been adopted by the city council, correct?

11          A     Yes.

12          Q     And would it be fair to say that if Austin  
13    Energy was to unilaterally apply the new recommended  
14    financial policies to this rate proceeding, that it  
15    would be in violation of city financial policies?

16          A     I guess I have a disagreement with that,  
17    because it seems to me that Austin Energy is  
18    recommending some of these changes, and as such, as  
19    your recommendation to the city council it should have  
20    been reflected in your case.

21          Q     But the city of Austin City Council has not  
22    approved those changes in financial policy, correct?

23          A     They've not yet, because they've not had a  
24    chance.

25          Q     But they have also not approved of this

1     **entire rate-filing package, correct?**

2           A     No. That's correct.

3           **Q     Okay.**

4           A     But you've made other adjustments,  
5 particularly for budgets that haven't been approved  
6 too. So, you know, I guess I'm a little -- I was a  
7 little confused about what the strategy was for Austin  
8 Energy at that -- on this point.

9           **Q     Simple answer, simple -- I mean simple**  
10 **question, simple answer: These policies have not been**  
11 **adopted by city council, correct?**

12          A     That's correct.

13          **Q     Okay. Thank you. Did you review**  
14 **Mr. Maenius' testimony in rebuttal to yours?**

15          A     I'm sure I must have.

16          **Q     Okay. And I'm just going to represent to you**  
17 **that he testified that altering the number of days on**  
18 **the working capital fund and eliminating the rate**  
19 **stabilization fund -- which is your recommendation,**  
20 **correct?**

21          A     That's right.

22          **Q     -- would render the entire reserve policy**  
23 **ineffective. What's your response to that?**

24          A     The current policy or the ones that NewGen  
25 recommended?

1           **Q     The current policy.**

2           A     Well, it seems to me that the current  
3 policies are, I'm recommending to change. So I don't  
4 know -- are you asking me if I'm recommending something  
5 that is not following the current policy? Is that your  
6 question?

7           **Q     No. I'm just asking what is your response to**  
8 **that statement? Your proposal changing based on the**  
9 **NewGen report, correct? You're making changes that are**  
10 **outside the NewGen report, correct?**

11          A     Some, yes.

12          **Q     Okay. Let's talk about those**  
13 **recommendations.**

14          A     Okay.

15          **Q     And what is your response to his statement**  
16 **that it would -- your changes would render the reserve**  
17 **policy ineffective?**

18          A     The proposed policy changes or --

19          **Q     Yes, ma'am. The proposed --**

20          A     -- the ones that are current?

21          **Q     The proposed policy changes.**

22          A     Oh, I disagree with that.

23          **Q     And on what basis?**

24          A     On the numbers.

25          **Q     And how do you propose that Austin**

1     **Energy -- you're aware of city council's affordability**  
2     **goals, correct?**

3           A     I certainly am.

4           Q     **Okay. And how do you propose that Austin**  
5     **Energy meet those goals without the power supply**  
6     **stabilization reserve?**

7           A     I would hope that they would exercise what's  
8     in their current tariff, and if the cost got so out of  
9     whack, they would change it, which they have the  
10    ability to do and they did do just this year.

11          Q     **So that's your only recommendation?**

12          A     No. My other recommendation that a rate  
13    stabilization fund that can be used to just achieve an  
14    affordability goal is not very transparent, because  
15    what you're doing, what you're asking is today's  
16    ratepayers to pay for something that may or may not  
17    happen in the future, and I don't think that's cost  
18    causation and nor do I think it's appropriate.

19          Q     **But it would be in compliance with a goal of**  
20    **affordability and not increasing rates significantly**  
21    **2 percent, over 2 percent a year or in proceedings,**  
22    **correct?**

23          A     If you're taking money from a ratepayer for  
24    this fund and then holding it until you need it to meet  
25    that affordability goal, I don't think that's

1 appropriate rate-making.

2 Q On what basis do you conclude -- and this is  
3 on the pass-through rates -- that, that those guarantee  
4 timely recovery of costs? And this is in kind of the  
5 same vein of these reserves. Let me see if I can point  
6 you to your testimony, restate that.

7 Let me just ask you this. Is it your  
8 position that the pass-through rates provide timely  
9 recovery of costs for Austin Energy?

10 A I think they do. Yes.

11 Q Okay. Are you aware that the council has  
12 previously delayed recovery of certain incremental  
13 regulatory charges in fiscal year 2015 based on its  
14 affordability goals?

15 A I had heard that, and again, I don't think  
16 that's appropriate rate-making.

17 Q But you would agree with the fact that that  
18 didn't provide timely recovery of rates through  
19 pass-through?

20 A I -- any --

21 Q Costs, excuse me.

22 A Okay. But you have the mechanism to adjust  
23 that, and that's built into your pass-throughs --

24 Q Would that --

25 A -- as over and under, and I don't think

1     that's timely if you're only foregoing recovery of that  
2     fund to meet affordability goals.

3           Q     Okay. I'm going to jump back to a portion of  
4     your testimony. I apologize. And this has to do with  
5     capital improvement costs.

6           A     Okay.

7           Q     You make the recommendation -- you state in  
8     your testimony -- and this is on page 22 of my copy.  
9     On page 22, lines 4 and 5 you state that you have no  
10    problem with 50 percent cash and 50 percent  
11    debt-funding strategy over the long-term with regards  
12    to this rate-setting?

13          A     That's right.

14          Q     And what is your basis, what is your basis  
15    for not using a 50 percent cash and 50 percent  
16    debt-funding strategy in this proceeding?

17          A     Well, my testimony is over the long-term, and  
18    obviously, looking at the last four or five years from  
19    Austin Energy, they did not follow that policy either  
20    in their expenses. If you keep getting out of that,  
21    over the long-term you're going to adjust that 50/50.  
22    And so it seemed to me that making a correction almost  
23    for what Austin Energy has done over the last four or  
24    five years was appropriate for this case.

25          Q     And how did you come to make that



1     **determination on those percentage allocations, that**  
2     **that would, in your opinion, correct what Austin Energy**  
3     **has been doing?**

4           A     Well, for this case that's -- these rates are  
5     going to be in effect for the next, what, three or four  
6     years? The fact is, you know, those CIP charges, even  
7     though you had a rate ordinance that authorized 40 to  
8     60 in the last case, Austin Energy's spending pattern  
9     did not follow that.

10                   And so looking at just the average that  
11     was funded by cash in the last, from the last rate case  
12     and going forward to when these rates are going to be  
13     in effect, it seemed to me more appropriate to pull  
14     back that cash and actually use debt funding,  
15     particularly for long-term assets, that that's more  
16     appropriate to put into rates for this case.

17           Q     Would you, would you agree with me that  
18     **Austin Energy would not be putting itself in financial**  
19     **straits by using a 50 percent cash, 50 percent debt**  
20     **allocation?**

21           A     Not be putting itself in financial straits?

22           Q     It would, it would be consistent with the  
23     **policies that are currently enacted, correct?**

24           A     For 50/50?

25           Q     Um-hm.

1           A     Yeah. It would, but they haven't followed  
2     it.

3           Q     But you are of the opinion that that model  
4     going forward is appropriate?

5           A     I think that target cap structure is  
6     appropriate over the long-term. I don't necessarily  
7     think that it is required each year, because you're  
8     going to have different projects that need to be funded  
9     by different types of financing.

10          Q     Sure. And that, and that's correct, and that  
11     these projects are going to fluctuate year to year over  
12     the course of between now and the next rate case  
13     proceeding, correct?

14          A     That's correct.

15          Q     And that -- but wouldn't it -- would it be  
16     fair to say that a use of the 50 percent cash, 50  
17     percent debt would be appropriate even going forward  
18     from today?

19          A     No. Not necessarily.

20          Q     Okay.

21          A     And again, in the financial policies it says  
22     35 to 60.

23                               MR. FAULK: I pass the witness.

24                               MR. HERRERA: Give me a moment,

25     Mr. Hughes.

1 MR. HUGHES: Yes, Your Honor.

2 CLARIFYING EXAMINATION

3 BY MR. HERRERA:

4 Q Ms. Fox, before Mr. Hughes goes through his  
5 redirect I did have a couple of questions for you  
6 regarding --

7 A Okay.

8 Q -- the recovery of decommissioning costs --

9 A Okay.

10 Q -- for a plant. And specifically, and maybe  
11 it's more out of curiosity than anything else, if you  
12 have a plant that went into service in 1975,  
13 hypothetically, and it's still in service today and  
14 it's not expected to be retired until 2020 and you had  
15 a large customer that moved into the service area in  
16 say, 2000, how do you address intergenerational  
17 inequity we've been discussing with regard to  
18 decommissioning costs?

19 A It's almost impossible, because, you know,  
20 again, that customer who just moves in is only going to  
21 get output from X number of years of that plant life.  
22 The only way that the city of Austin and Austin utility  
23 can now provide for those decommissioning expenses is  
24 really directly through, through a reserve, because  
25 they've missed the opportunity to really do it ratably

1 over the service life of that plant.

2 Q Now, with regard to decommissioning,  
3 recovering decommissioning costs, how does a fully  
4 bundled utility in a non-ERCOT area, for example, SPS,  
5 SWEPCO, El Paso Electric, and Entergy --

6 THE REPORTER: And what?

7 MR. HERRERA: Entergy,  
8 E-N-T-E-R-G-Y.

9 Q (By Mr. Herrera) How do they recover those  
10 decommissioning costs, if you know?

11 A Generally it's through the depreciation rate,  
12 and that's in accordance with FERC chart of accounts.

13 THE REPORTER: FERC what accounts?

14 THE WITNESS: FERC chart of  
15 accounts, system of accounts, I believe it is.

16 Q (By Mr. Herrera) With regard to Austin  
17 Energy, does Austin Energy maintain depreciation,  
18 depreciation rates for its production plant?

19 A They do have depreciation rates for its  
20 production plant.

21 Q And how are those used for purposes of  
22 setting rates?

23 A They're included in the rates as a noncash  
24 expense.

25 Q Do you know whether Austin Energy has

1     **conducted a depreciation study and, if so, when?**

2           A     Based upon our question to Austin Energy,  
3     they've not conducted a depreciation rate study.

4                     MR. HERRERA:  Thank you.  Go ahead,  
5     Mr. Hughes.

6                     MR. HUGHES:  Thank you.

7                     REDIRECT EXAMINATION

8     BY MR. HUGHES:

9           Q     **Ms. Fox, going back to the first question --**

10                    MR. HERRERA:  And let me interrupt  
11     you.  For purposes of recross, folks will be able to  
12     ask questions on recross based on my questions as well.

13                    MR. HUGHES:  Oh, okay.

14           Q     **(By Mr. Hughes)  Going back to first where**  
15     **we started in this line of questioning on the**  
16     **pass-through charges and the question that you were**  
17     **asked regarding your claim that 50 percent of Austin**  
18     **Energy's direct -- or 50 percent of the rates, Austin**  
19     **Energy's rates, or some thereabouts, were pass-through**  
20     **charges, you stated that that was Austin Energy, in**  
21     **Austin Energy's direct testimony, did you not?**

22           A     It was in their rate-filing.

23           Q     **Their rate-filing.  I'm sorry.**

24           A     Yes.

25           Q     **Their rate-filing package.  Okay.  I**

1 apologize. Okay.

2 Would you agree or are you aware that at  
3 the Public Utility Commission the allowance of  
4 pass-through charges is usually reconciled in a  
5 contested-case rate case where there's a full vetting,  
6 there's discovery of what those pass-through charges  
7 are?

8 A That's correct.

9 Q Okay. And are you aware of in the budget  
10 process where, the city of Austin budget process where  
11 they review pass-through charges, how robust is that?  
12 Is there discovery? How robust is that public  
13 participation in that budget process?

14 A There is public participation in the, in the  
15 budget process. Citizens can ask questions and council  
16 members can ask questions, and that's about it. The  
17 utility will present its budget and its recommendation,  
18 and sometimes the council will change that. But there  
19 is no in-depth analysis of the cost that goes through  
20 that. Not anything like a fuel reconciliation or a  
21 fuel [inaudible] with the PUC.

22 Q So's there's no test -- there's no testimony  
23 provided in cross examination of that testimony by the  
24 public of any type, is there?

25 A If --

1           Q     Other than what Austin Energy provides and  
2     other than what the city council provides.

3           A     That's right. And citizens can speak to the  
4     budget process, and they will speak to council. But  
5     again, it's in a public-participation forum, it's not  
6     like this.

7           Q     Okay. Thank you. At the Public Utility  
8     Commission, with regards to economic development  
9     expenses and their benefits, would those be pretty  
10    closely scrutinized as well, both before and after  
11    they've occurred --

12          A     Absolutely.

13          Q     -- in a rate case, during a rate case as  
14    well?

15          A     Yes.

16          Q     Ms. Fox, this is -- this rate review relates,  
17    and this is going to the customer care issue, this rate  
18    review is on Austin Energy's rates, is it not?

19          A     That's correct.

20          Q     So we're not here to review the rates or the  
21    expenses of solid waste or wastewater or the water  
22    department or any of those?

23          A     That's correct.

24          Q     Okay. So we are here to review the  
25    accounting and the rates of Austin Energy?

1           A     That's correct.

2           Q     Okay. I want to go to the questions  
3 regarding -- or the question regarding losses on asset  
4 disposal.

5                     You mentioned book loss. Would you  
6 explain the significance of book loss and, if possible,  
7 as it relates to Austin Energy in this case?

8           A     Yes. Usually when you retire a plant you're  
9 going to remove that through a journal entry to your  
10 accounting system, and you're also going to -- I guess  
11 that's credit, asset, debit, accumulated,  
12 depreciation -- and then you're going to set up a  
13 retirement project, and from that you will see if you  
14 can salvage any, any type of momentary value from what  
15 you've retired. The loss that's experienced is the  
16 difference between what you're retiring out of your  
17 plant accounting and the funds that you receive in  
18 salvage, and so as far as a cash outlay for that loss,  
19 there's generally not one.

20          Q     So it is significant? It is significant in  
21 determining what the actual costs were?

22          A     That's right.

23          Q     Okay. As it relates to outside services,  
24 it's not your contention that there is no need for  
25 outside services for IT work. It's, it's, the cost is



1 perhaps more cost transparency, whether they're  
2 identifiable or necessary; is that correct?

3 A That's correct.

4 Q Okay. Now, has Austin Energy provided any  
5 other information that would contradict what  
6 Mr. Overton stated in his direct testimony with regard  
7 to customer care? And I think specifically to -- oh,  
8 I'm sorry, with regards to outside services on IT.

9 A Well, what he provided was that, you know,  
10 these are not known. The cost is not estimatable  
11 or known of what they're going to present in the  
12 budget.

13 Q So it goes to the transparency and whether  
14 they're identifiable or not.

15 A Yes.

16 MR. HUGHES: No further questions,  
17 Your Honor. Oh, I have one more question.

18 MR. HERRERA: I'm sorry. You  
19 passed. It's like checkers.

20 MR. HUGHES: Okay.

21 MR. HERRERA: You took your fingers  
22 off the checker. Go ahead, Mr. Hughes.

23 MR. HUGHES: I've just, you know,  
24 I've got it coming from both sides.

25 Q (By Mr. Hughes) With regard to economic

1     development expenses, Austin Energy cited Docket Number  
2     16705, PUC Docket 16705, as indicative of what the  
3     PUC's policy with regards to economic development cost  
4     is.

5                     Are you aware of when that case was  
6     filed or when the order was entered?

7             A     No, but just the numbering on the docket  
8     would indicate it's been some number of years ago.

9             Q     1996 and '97.  So . . .

10                    MR. HUGHES:  All right.  Now  
11     further questions.

12                    MR. HERRERA:  I believe we're back  
13     to Austin Energy on recross.  So no one had any  
14     questions -- does anyone have any questions on my  
15     questions of Ms. Fox before we get to Austin Energy?  
16     All right.  Austin Energy.

17                    RE CROSS EXAMINATION

18     BY MR. FAULK:

19             Q     And this -- hello again, Ms. Fox.

20             A     Hi.

21             Q     So this is going to the Judge's questions  
22     about decommissioning costs and some of the other  
23     statements.

24                    But just as a clarification, we talked  
25     about the matching principle and those costs being

1     **recouped over the life of the assets, as he mentioned,**  
2     **correct?**

3             A     Um-hm.

4             Q     **And your recommendation is to do that through**  
5     **reserve funding?**

6             A     Now it is. It would not be for any new  
7     assets that came online.

8             Q     **Not any new asset that came online?**

9             A     Yeah.

10            Q     **Okay.**

11            A     I would hope that, you know, the accounting  
12     would change, you increase your depreciation rate to  
13     recover that. That's your source of funding that you  
14     can then put in the reserve.

15            Q     **And those should be collected over the life**  
16     **of the asset?**

17            A     Absolutely.

18            Q     **Okay. And so how is that different than**  
19     **including it in an O&M cost versus a reserve under this**  
20     **matching principle that you were talking about?**

21            A     Well, one big difference is you don't include  
22     depreciation into your reserve calculations, and if  
23     it's depreciation, it's a source of cash. You're  
24     collecting it that way, you can put it in the reserve.  
25     If you include it in O&M, it impacts the level of the

1 other reserve targets that you've set.

2 Q Okay. And then just another question about  
3 S2, counsel's question on the budget process.

4 Are you -- and this is kind of going to  
5 the PSA charge and how that's approved. Are you aware  
6 that two public hearings are required in certain  
7 situations with regards to the PSA charge that  
8 are -- exceed what the requirements for the budget  
9 process are?

10 A I'm aware of that.

11 MR. FAULK: Okay. No further  
12 questions.

13 MR. HERRERA: Any questions from  
14 that, Mr. Hughes?

15 MR. HUGHES: No, Your Honor.

16 MR. HERRERA: Ms. Fox, I believe  
17 you're excused.

18 THE WITNESS: Thank you.

19 MR. HUGHES: I'll give her a  
20 second. Your Honor, now NXP/Samsung -- unless  
21 you're -- assuming you're ready to take the --

22 MR. HERRERA: I believe we'll go to  
23 Mr. Goble next?

24 MR. HUGHES: NXP/Samsung calls Gary  
25 Goble.

1 DIRECT EXAMINATION

2 BY MR. HUGHES:

3 Q Mr. Goble, would you please identify yourself  
4 for the --

5 A My name is Gary Goble.

6 Q And you're appearing on behalf of NXP and  
7 Samsung?

8 A Yes, I am.

9 MR. HUGHES: Okay. I'm going to  
10 offer now NS-2 and NS-4 into the record.

11 MR. HERRERA: Could you describe  
12 what those are, please?

13 MR. HUGHES: NS-2 is Mr. Goble's  
14 direct testimony, and NS-4 is his cross rebuttal  
15 testimony.

16 MR. HERRERA: Any objections to  
17 NS-2 and NS-4?

18 MR. BROCATO: (Shakes head.)

19 MR. HUGHES: And then I tender the  
20 witness for cross examination.

21 MR. HERRERA: NS-2 and NS-4 are  
22 admitted, and Mr. Goble is available for cross. Again,  
23 since he is a new witness, I will go through the list.  
24 Does ARMA have any questions for this witness?  
25 Mr. Rourke? Mr. Robbins? Greater Austin Chamber of

1 Commerce? Data Foundry?

2 MR. MCCOLLOUGH: While we have some  
3 relatively small areas of disagreement with Mr. Goble  
4 as we did with Ms. Fox, we have no questions.

5 MR. HERRERA: Bethany United?

6 MR. WELLS: No questions, Your  
7 Honor.

8 MR. HERRERA: HURF?

9 MR. BORGELT: No questions, Your  
10 Honor.

11 MR. HERRERA: Low Income, Low  
12 Income Customers? I'm assuming since Ms. Cooper is not  
13 here, they have no questions. Public Citizen?

14 MS. BIRCH: No questions.

15 MR. HERRERA: Independent Consumer  
16 Advocate?

17 MR. COFFMAN: I do indeed. Thank  
18 you.

19 CROSS EXAMINATION

20 BY MR. COFFMAN:

21 Q Good morning --

22 A Good morning.

23 Q -- Mr. Goble. I'm John Coffman, the  
24 Independent Consumer Advocate, and I've got some  
25 questions about your testimony.

1                   Would you agree with me that class cost  
2 of service studies involve a series of subjective  
3 judgments?

4           A     It's a combination of subjective adjustments,  
5 precedent, and then empirical analysis.

6           Q     Part art and part science, right?

7           A     That's a quote often used by people that want  
8 to skew the results. Yes.

9           Q     So, so you have a, you have a perspective  
10 about how costs should be allocated among the various  
11 customer classes, as does Mr. Mancinelli and  
12 Mr. Johnson --

13          A     Correct.

14          Q     -- and you each in your own professional  
15 judgment come to different conclusions.

16                   And are you -- is it NXP and Samsung's  
17 position and your recommendation in this case that your  
18 class cost of service study be implemented without any  
19 rate design modifications, that it be implemented  
20 without any other policy considerations other than the  
21 results of your study?

22          A     Yes. I think in this case we have what  
23 should be a rare window of opportunity to correct some,  
24 what even Austin Energy refers to as some severe  
25 problems in under-recovery that will not be available

1 in the future. We're having a rate decrease in this  
2 case. When you correct the misalignment of costs at a  
3 time where we're facing a rate increase, then you're  
4 stacking the correction of cost of service on top of a  
5 rate increase. I think we have a window of opportunity  
6 here, and we should take advantage of that opportunity.

7 Q And we appreciate very much the testimony of  
8 Ms. Fox and the revenue requirement recommendations  
9 that you make, but are you, are you proposing that  
10 there be no other considerations other than your cost  
11 study as far as how the allocation of that revenue  
12 decrease be applied?

13 A Yes.

14 Q And, but you would agree that there often are  
15 other considerations such as the Bon Bright Principles  
16 that you note and other considerations that can, that  
17 can and should be applied to modify the cost result  
18 when designing rates, but in this case only your study  
19 should be the guide?

20 A Obviously, customer impact are concerns that  
21 should be looked at, depending on the level of rate  
22 relief ultimately granted in this case. However, I  
23 think under even the -- I'll leave it at that. Cost of  
24 service is probably the major consideration if customer  
25 impact becomes a large concern. Yes. That should be



1     some consideration, and that cuts both ways. You have  
2     residential increases which need to be considered, you  
3     have the competitive forces that large industrials must  
4     face as well that also have to be considered.

5           **Q     And you testify that rate shock is not a**  
6     **consideration in this case. Is that your opinion?**

7           A     No. I think I just said to you that customer  
8     impact should be considered in certain instances. I  
9     don't think that this is the case, though, where that  
10    should be a problem.

11          **Q     And are you -- and by that statement are you**  
12    **saying that rate shock consideration should be ignored**  
13    **or that there would be no rate shock as a result of**  
14    **your recommendation?**

15          A     I'm saying neither. I'm saying that we have  
16    a window of opportunity to address issues of cost of  
17    service and rate shock, which we're unlikely to have as  
18    we go forward in time. This is the case where they  
19    should be addressed.

20          **Q     Well, what percentage shift are you proposing**  
21    **onto residential rates on a revenue-neutral basis?**

22          A     On a revenue neutral -- you'll have to  
23    explain your question. I don't understand it.

24          **Q     Well, in your testimony you show the various**  
25    **class allocations that you would recommend, but you do**

1     it with the revenue reductions that you and Ms. Fox are  
2     recommending combined, and I'm trying to isolate just  
3     your class cost of service recommendation from that,  
4     that is a part . . .

5                     If there were no change in revenue  
6     requirement, what is your recommendation as far as the  
7     amount and percentage shift onto residential rates?

8             A     I can't speculate to facts that aren't in  
9     evidence. I don't know.

10            Q     You don't know what you're recommending be  
11     the shift, the shift as a result of your class cost of  
12     service study?

13            A     Well, if we gauge what's reasonable for other  
14     utilities that do ask for rate increases --

15            Q     That's just a -- excuse me.

16            A     -- of 20 percent or so -- I'm trying to  
17     answer your question.

18            Q     I'm asking do you know?

19            A     Do I know? The PUC generally says one and a  
20     half to two times the system average increase, which  
21     would be my recommendation as well.

22            Q     Sir, I'm just asking you whether you know the  
23     result of your own study. What is the -- what would be  
24     the shift onto the residential class as a result of  
25     your recommendation and your testimony?

1           A     You're asking me to judge a study I haven't  
2     seen, and I can't do that.

3           **Q     I'm asking about your study.**

4           A     You're asking me about a revenue-neutral  
5     study, not my study. Our study is a rate reduction --

6                     MR. HUGHES: Your Honor --

7           A     -- and I can testify to that.

8                     MR. HUGHES: -- I would object to  
9     the question in that Mr. Goble's testimony actually, in  
10    combination with Ms. Fox's testimony, recommended  
11    revenue requirement reductions and then cost  
12    allocations based on those recommendation. I think  
13    what he's doing now is giving him a speculative set of,  
14    set of facts to now opine on.

15                    MR. HERRERA: Mr. Coffman, I think  
16    Mr. Goble is saying he doesn't know.

17           **Q     (By Mr. Coffman) So just to be clear, you**  
18    **didn't look at the results -- what the impact of your**  
19    **study would be apart from Ms. Fox's revenue requirement**  
20    **reduction recommendations?**

21                    MR. HERRERA: Let me see if I  
22    understand your question, Mr. Coffman. Maybe you can  
23    answer my question, Mr. Goble.

24                    THE WITNESS: Yes.

25                    MR. HERRERA: Did you conduct a

1 class cost of service study or cost allocation study,  
2 whichever you want to call it, assuming that there was  
3 no change in revenue in this proceeding?

4 THE WITNESS: No. I did not.

5 MR. HERRERA: Does that answer your  
6 question, Mr. Coffman?

7 MR. COFFMAN: I suppose it does.

8 Thank you.

9 Q (By Mr. Coffman) So would you acknowledge,  
10 Mr. Goble, that Austin Energy did rely upon a version  
11 of the base, intermediate, and peak method to support  
12 its cost of service recommendation in the 2012 rate  
13 review?

14 A That's my recollection. Yes.

15 Q And your, your recommendation, your cost of  
16 service study in this case is a version of a 4CP  
17 method, correct?

18 A It's a 4CP A&E method, which is the method  
19 utilized in Texas.

20 Q And isn't it true that the NARUC manual  
21 provides some criticism of the 4CP method?

22 A As it does in 12NCP -- 12CP. Correct.

23 Q Fair enough. Now, you criticized  
24 Mr. Clarence Johnson's recommended base, intermediate,  
25 and peak method, which I'll just call the BIP method,

1     because it uses current replacement costs for  
2     generation plant technology; is that correct? You  
3     criticize that?

4           A     That was one of about 10 criticisms. Yes.

5           Q     And can we agree that the version that -- to  
6     refer to Mr. Johnson's study as the BIP replacement  
7     cost study, the replacement cost version of the BIP  
8     method?

9           A     That's what it's -- yes, sir.

10          Q     And you are aware, aren't you, that  
11     Mr. Johnson did include a net plant cost version of the  
12     BIP method in his testimony?

13          A     A net plant? He utilized the method that A&E  
14     had proposed previously as well as the replacement cost  
15     BIP.

16          Q     Yes. In Schedule CJ-2, do you recall seeing  
17     that in the --

18          A     I didn't memorize his exhibit numbers.

19          Q     If the BIP method that was based on net plant  
20     cost were to be utilized, is it correct that this would  
21     remove your criticism, at least that one criticism that  
22     he uses hypothetical cost rather than actual cost?

23          A     No. Because I don't think the actual costs  
24     are really appropriate for the logic that falls from  
25     his methodology. His calculations or replacement costs

1     were simply erroneous, in my opinion.  There's a much  
2     better way to do that.

3           Q     So you're critical that it uses replacement  
4     cost rather than actual cost, but you don't think  
5     actual cost would be appropriate either?

6           A     That is correct.  It's not consistent with  
7     the underlying theory of the BIP method.

8           Q     And you state in your testimony that you're  
9     not aware of any Texas PUC case that has approved a BIP  
10    method for any electric utility; is that true?

11          A     True.

12          Q     That's your, that's your statement?  Are you  
13    aware of any Texas PUC case that has ever rejected a  
14    BIP method?

15          A     Only the Austin Energy case and which was a  
16    settled case.  The staff recommended rejecting it.

17          Q     But not a Texas P -- that was -- they never  
18    reached that conclusion at the PUC in the appeal of the  
19    last case?

20          A     It was a settled case, yes, black-box.

21          Q     In your cross rebuttal -- I will refer you to  
22    page, page 8 -- you state there that Mr. Johnson's  
23    investigation of the BIP method fails to recognize all  
24    generation units.

25                   Are you aware of any instance in which

1 the intermediate portion of the BIP was calculated --  
2 I'm sorry. Let me refer you, let me refer you to lines  
3 4 to 6, which is above that. You state that  
4 Mr. Johnson "should have calculated the intermediate  
5 allocation factor as being equal to the peak demands  
6 (4CP) minus average demand."

7 A Correct.

8 Q A footnote there. Are you aware of any  
9 instance in which the intermediate portion of BIP has  
10 been calculated in that manner in any case?

11 A Yes. A number of cases before the PUC using  
12 the probability of dispatch method, that was the  
13 methodology used. The BIP method and the probability  
14 of dispatch, POD, have been compared to one another by  
15 various parties, including your witness.

16 Q And what was the, what was the resolution of  
17 those recommendations?

18 A We won.

19 MR. HERRERA: Who was the "we" and  
20 what was the --

21 THE WITNESS: The [crosstalk]  
22 Utility that proposed the method which I have suggested  
23 here.

24 Q (By Mr. Coffman) So you are aware of PUC  
25 decisions that rejected that method?

1           A     That rejected -- no. That accepted the  
2 method that I have proposed.

3           Q     Of calculating the intermediate portion?

4           A     Yes.

5           Q     Are you aware of any Texas electric utilities  
6 which use summer NCP to allocate distribution plant?

7           A     No. But then I've not conducted such a  
8 survey.

9           Q     And these are questions that we sent to you a  
10 couple weeks ago. Given Mr. Johnson's cost of service  
11 results, why do you object to his recommendation to  
12 spread a recommended base revenue decrease to the  
13 classes which includes NXP and Samsung?

14          A     I don't understand the question.

15          Q     All right. Let me back up. Assuming  
16 acceptance of the results of Mr. Johnson's class cost  
17 of service study, which shows all primary class current  
18 revenues need to be less than allocated cap cost, is it  
19 your position that Mr. Johnson should have recommended  
20 a revenue increase for primary customer classes?

21          A     I don't agree with his recommendation, so I  
22 can't agree with that outcome.

23          Q     On page 6 of your direct testimony -- well,  
24 strike that.

25                     Let me ask you a question about demand



1     and load factor.   Suppose you have two customers that  
2     have the same kilowatt of demand and pay the same  
3     demand charge rate.   Can you do that?

4           A     Sure.

5           Q     If the two customers have a different load  
6     factor, will they have a different cost per kilowatt  
7     hour?

8           A     A different average cost per kilowatt hour,  
9     yes.

10          Q     In other words, if they have the same demand  
11     but a different load factor and one has more kilowatt  
12     hours, the cost per kilowatt hour would be lower?

13          A     Yes.   The fixed cost will be spread over more  
14     billing determinants.

15          Q     Now, I'd like to turn you to pages 33 and 34  
16     on the tables you have in --

17          A     I am there.

18          Q     And that purports to show a comparison of  
19     Austin Energy's rates by class -- residential,  
20     commercial, industrial -- to Texas average rates?   All  
21     right.

22                     Do you agree that many commercial and  
23     industrial customers encompassed by these tables pay  
24     demand charges?

25          A     Yes.

1           Q     Do you know if the industrial customer  
2     classes in some of the other Texas utility service  
3     areas exhibit higher average load factors than do the  
4     average load factors for Austin Energy's industrial  
5     customers?

6           A     Generally, the large industrial customers all  
7     have very high load factors. Our class specifically  
8     has extremely high load factors.

9           Q     Are you familiar with some of the refineries  
10    or petrochemical plants in Texas and their very high  
11    load factors?

12          A     Yes.

13          Q     Would those tend to have higher load factors  
14    than your clients in this particular case?

15          A     I don't recall. 85 percent's a pretty high  
16    load factor though. I mean, you actually can't get  
17    much higher without causing concerns for the utility.  
18    So . . .

19          Q     All else being equal, would a high load  
20    factor for an industrial customer cause them to pay a  
21    lower revenue per kilowatt hour than a low-load-factor  
22    industrial customer?

23          A     A lower average revenue per kilowatt hour,  
24    correct.

25          Q     And if we look at these tables here on pages

1     **33 and 34, do we know if we are comparing customers**  
2     **with similar load factors?**

3           A     I would imagine the residential generally, my  
4     experience generally over many utilities, tend to have  
5     comparable load factors. Commercial not so much,  
6     industrial more so.

7           Q     **And did you do any analysis to, to compare**  
8     **Austin Energy's industrial customers and their average**  
9     **load factors to the Texas average?**

10          A     No. I relied on the Austin Energy-provided  
11     data, as noted in the footnote on page 33.

12          Q     **Have you ever sponsored a cost of service**  
13     **study methodology referred to as probability of**  
14     **dispatch, or POD method?**

15          A     Yes, I have.

16          Q     **Has the Texas PUC ever adopted the POD**  
17     **methodology?**

18          A     Yes, they have, prior to, prior to the ERCOT  
19     and nodal market.

20          Q     **Have you ever submitted proposals to Austin**  
21     **Energy to perform a POD method for Austin Energy?**

22          A     Yes. And I have conducted such a study prior  
23     to the advent of the ERCOT and nodal market.

24          Q     **And when was that?**

25          A     I don't remember the dates.

1 MR. HERRERA: Mr. Goble, you don't  
2 remember the dates of when you proposed that to Austin  
3 Energy, or you don't remember the dates when the  
4 probability of dispatch model was that you presented it  
5 to, I'm assuming PUC, and it was adopted?

6 THE WITNESS: It was probably the  
7 Electric Utility Commission, and I do not remember the  
8 dates. I do know it was probably over 10 years ago,  
9 and my memory fails me as to the precise time.

10 MR. HERRERA: Okay.

11 Q (By Mr. Coffman) Okay. Now, I know that you  
12 did -- you didn't perform any -- you didn't really even  
13 look at the results of what your cost of service study  
14 would be in isolation of the revenue requirement  
15 changes, but could you, could you testify that if there  
16 were no revenue requirement changes made in this case  
17 whether residential rates would go up under your  
18 proposal?

19 A They would. Under even AE's proposal they  
20 would go up 54 million dollars. My proposals  
21 are -- would essentially put more dollars upon that  
22 class.

23 Q And it's your testimony that as a result of  
24 just your work and your recommendation in this case  
25 that there should be no rate shock implications? Is

1     **that, is that a fair characterization of your**  
2     **testimony?**

3           A     Not exactly. Now, maybe you could restate  
4     the question.

5           Q     You said -- you state in your testimony that  
6     **rate shock should not be a consideration in this case.**

7           A     Under our recommendations, correct.

8           Q     And how did you arrive at that judgment that  
9     **rate shock is not a consideration?**

10          A     Because everybody gets a rate decrease under  
11     our recommendations.

12          Q     So you didn't actually analyze whether your  
13     **testimony and your -- alone would result in rate shock?**  
14     **You were looking at the totality of the NXP/Samsung**  
15     **recommendation?**

16          A     That's true, but I also considered the fact  
17     that there's some slight chance maybe every single  
18     recommendation of ours will not be approved and that if  
19     you look at other utilities throughout the state, you  
20     see that the commission generally begins balking when a  
21     rate increase is greater than 15 to 20 percent, one and  
22     a half to two times system average.

23                     It's a rate decrease, so we're looking  
24     at something a lot different. You can't really apply  
25     the one and a half to two times system average

1 precedent in this instance, but we see that utilities  
2 generally ask for rate increases somewhere between 5  
3 and 20 percent. One and a half to two times that would  
4 be a number that I would think would be a reasonable  
5 upper limit on customer impact.

6 **Q One or two times what?**

7 **A** A typical PUC application of somewhere around  
8 10 to 20 percent rate increase. So we're looking at if  
9 it gets above 15 to 20 percent increase for a class,  
10 then I can see consideration of customer impact, but I  
11 don't think that's what we're facing in this case.

12 **Q So if, if there are no revenue requirement**  
13 **changes adopted as a result of this case and Austin**  
14 **Energy's recommendation for their 24 million dollar**  
15 **rate reduction is adopted and no other revenue**  
16 **requirement changes are judged to be appropriate and**  
17 **your recommendation is adopted, I think we've**  
18 **established residential rates would still increase?**

19 **MR. HUGHES:** Your Honor, he's asked  
20 this question several times now. It's been answered by  
21 the witness.

22 **MR. HERRERA:** Sustained.

23 **Q (By Mr. Coffman) But I believe that you just**  
24 **stated earlier, you answered that as long as rate**  
25 **increases would not impact a class in the range of 15**

1 to 20 percent, it would be rate shock. Is that a fair  
2 characterization of what you stated?

3 A Rate shock can take a lot of forms. We can  
4 increase a class. A class can get no rate increase but  
5 still, because of the design of the structure of the  
6 class, the movement of tiers, you can still see some  
7 rate shock in individual customers. I'm addressing  
8 only the class as a whole.

9 And yes, somewhere around that range, 15  
10 to 20 percent, mainly because I doubt we're going to  
11 have this opportunity again. If Austin Energy  
12 continuously comes in for rate decreases, yes, we can  
13 take small bites of the apple and maybe 20 years after  
14 we're all retired we will get to that point where  
15 everybody is paying cost of service.

16 Q Um-hm.

17 A But I don't think we're going to see  
18 continual rate decreases every -- I mean, this is an  
19 anomaly, this particular case. So I think we ought to  
20 take advantage of the fact that we have a window of  
21 opportunity that we're unlikely to have in the future.  
22 This is the time to fix it rather than kick the can  
23 down the road continuously and never get to the point  
24 where we come to cost base rates.

25 Q Well, let me ask you hypothetically. If your

1 clients receive greater than a 10 percent rate  
2 reduction and residential rates increase by 10 percent,  
3 would you consider that rate shock to the residential  
4 class?

5 A A 10 percent increase to residential? No.

6 Q Okay.

7 A That's all I have. Thank you.

8 MR. HERRERA: Are we to redirect?

9 MR. BROCATO: Actually --

10 MR. HERRERA: Austin Energy?

11 MR. BROCATO: -- I have some  
12 questions.

13 MR. HERRERA: You have questions?

14 MR. BROCATO: Thank you, Your  
15 Honor.

16 CROSS EXAMINATION

17 BY MR. BROCATO:

18 Q Good after -- good morning, Mr. Goble.

19 A Good morning, Mr. Brocato.

20 Q You and I know each other, right?

21 A We go way back. Yes.

22 Q Well, and in that regard, you've been a  
23 consultant since 1980; is that right?

24 A 1980. Yes.

25 Q Is it fair to say that for most of your



1     **career you've done work for investor-owned utilities?**

2                     THE REPORTER:   For what utilities?

3                     MR. BROCATO:   For investor-owned  
4     utilities.

5                     THE WITNESS:   Probably 40 to 50  
6     percent of my work has been, 50 percent or so, with  
7     IOUs.

8             **Q        (By Mr. Brocato)   And you've also done work**  
9     **for the city of Austin; is that correct?**

10            A        Yes, I have.

11            **Q        Were you involved in the '88 rate case?**

12            A        Was that the one prior to the last one?

13            **Q        There was one in '94, but it wasn't a full**  
14     **rate case.**

15            A        Oh, the '88.

16            **Q        A rate change.**

17            A        Yeah. I think I was. Yes.

18            **Q        Okay. And you were involved in the last one**  
19     **back in 2012; isn't that right?**

20            A        I believe so. There was a case that I sat  
21     out, so I'm not sure.

22            **Q        You missed one.**

23            A        Yeah. I missed one.

24            **Q        You remember the, the residential rate**  
25     **adviser?**

1           A     Yes.   Okay.   That one I do.   Yes.

2           Q     And you worked with a residential rate  
3   adviser, right?

4           A     Yes.

5           Q     Do you remember who that was?

6           A     Yes.

7           Q     Who was that?

8           A     Bob, I can't pronounce his last name.

9           Q     All right.   Bob.

10          A     Bob.

11          Q     And so you represented the residential  
12   interests at the last one?

13          A     Yes.

14          Q     Okay.   And now you're representing some  
15   larger customers; is that right?

16          A     Yes, sir.

17          Q     All right.

18                         MR. HERRERA:   Somewhere in the  
19   background I'm hearing a [sound effect].

20                         MR. BROCATO:   That's what we've got  
21   in the [crosstalk].

22                         THE WITNESS:   Pardon my heavy  
23   breathing.

24          Q     (By Mr. Brocato)   I just have a few  
25   questions, actually, about your testimony itself.

1     Let's start by talking about the allocation of  
2     distribution substations, poles, and conductors, and  
3     I'll try to make it brief.

4                     Now, you recommend a NCP allocation; is  
5     that right?

6             A     A 4NCP, not the 1NCP as Mr. Mancinelli has  
7     testified to.

8             Q     All right. And that calculation -- or an NCP  
9     calculation is done at a class level; is that right?

10            A     There's terminology confusion on whether or  
11     not it's individual customer max or class.

12            Q     And it's done in a class, and I meant as  
13     opposed to a system base.

14            A     Yes. NCP is a -- it's either class maximum  
15     demand or a customer maximum demand. There's different  
16     terminology, and maximum diversified demand, for  
17     example, could be the customer max. NCP could be the  
18     class max. I've heard it referred to different ways.

19            Q     But as you propose it, it would be to  
20     allocate these costs on a class basis.

21            A     Yes. I -- yes. I took the 12NCP allocator,  
22     the data that's used to calculate the 12NCP allocator  
23     and modified it to be a four-summer NCP allocator.

24            Q     All right. And I think you just said this,  
25     but just to confirm. So then your recommendation would

1 be that these costs would be allocated, basically, on  
2 4 hours of the year rather than 12 or 1?

3 A Yes.

4 Q Okay. And would you agree that the NCP, or  
5 non-coincident peak methodology, recognizes that  
6 distribution infrastructure is sized to meet the  
7 localized demand on the system?

8 A To some extent, although as you move further  
9 from the customer's actual point of delivery there is  
10 greater diversity among the loads, more coincidence of  
11 loads. So it's a different type of demand, for  
12 example, at the substation level than you would see at  
13 the trans -- at the individual transformer level.

14 Q And I think this is basically what you may  
15 have just said, but so you're agreeing, then, that the  
16 localized demand will vary from area to area?

17 A Yes.

18 Q Okay.

19 A Um-hm.

20 Q And now, you also mentioned that in contrast  
21 to your recommendation, Austin Energy's proposing that  
22 these costs be allocated on a 12NCP basis; is that  
23 right?

24 A Correct. Based on the distribution  
25 specifications that the Austin Engineering uses when

1     they size transformers in distribution facilities.

2           **Q     Fair enough, but yet you would agree, would**  
3     **you not, that distribution capacity provides value to**  
4     **customers throughout the year?**

5           **A     Yes.   Yes.**

6           **Q     And now, if a, if a class is able to shift**  
7     **their demand away from the peak periods, they could**  
8     **avoid some of these costs; isn't that right?**

9           **A     Only if they can totally cut off the entire**  
10    **load during those summer periods.**

11          **Q     But if they're able to do that, then they**  
12    **would, they would not be allocated into these costs,**  
13    **right?**

14          **A     Well, that's correct, but that a customer**  
15    **would totally disappear from service for four complete**  
16    **months is a little stretching it, in my opinion.**

17          **Q     But it's not four complete months, is it?**

18          **A     Well, if they have any demand during that**  
19    **period, then they have an NCP demand.   So yes, it is**  
20    **four months entirely, every hour of four months.**

21          **Q     Say that again?**

22          **A     They would have to eliminate their load for**  
23    **every single hour of the four summer months in order to**  
24    **not have an NCP allocator, under my recommendation.**

25          **Q     Okay.   Now, let me ask you about your**

1     **proposal regarding billing adjustments, Doctor.**

2           A     Um-hm.

3           Q     **Now, you criticize AE for not calculating a**  
4     **billing adjustment factor on a class basis; is that**  
5     **right?**

6           A     Yes.

7           Q     **And do you have a separate proposal on that**  
8     **issue, or are you just recommending that it be thrown**  
9     **out?**

10          A     I recommend that it be thrown out.  
11     Obviously, there are some -- it's not supported by any  
12     testimony. It doesn't make sense --

13          Q     **Well, let's get to -- we'll get to that in a**  
14     **moment.**

15          A     Okay.

16          Q     **I understand you have your position, but AE**  
17     **uses systemwide basis as opposed to a class basis,**  
18     **right?**

19          A     Right. They spread the what they refer to as  
20     a billing adjustment, which I refer to as a  
21     book-to-bill adjustment, to all classes equally,  
22     assuming every single class will miss -- the billing  
23     determinants, misstate their revenue by 0.4 percent. I  
24     think that's impossible.

25          Q     **Mr. Goble, again I would ask that you limit**

1     your response to my question. I simply asked if AE  
2     used a systemwide basis as opposed to a class basis.

3           A     Yes.

4           Q     Okay. And so you would agree, would you not,  
5     that a billing adjustment factor accounts for  
6     differences between what AE actually books as revenue  
7     and what it should have booked based upon billing  
8     determinants and prevailing rates?

9           A     Not what it should have booked, what you get  
10    when you recalculate the rates using the billing  
11    determinants.

12          Q     And would you agree that that's a common  
13    adjustment in utility rate cases?

14          A     It's common to do it on a class-by-class  
15    basis. It is never done on a utilitywide basis, to my  
16    knowledge.

17          Q     Okay. And is it your position that AE  
18    calculated on a systemwide basis because they hid the  
19    data on the -- that they had regarding class basis?

20          A     I -- we asked for the information to verify  
21    the adjustment and were told that the data was  
22    confidential even for the A classes, for which there is  
23    no customer confidentiality concerns. In addition, the  
24    bottom line number, the total recalculated revenue  
25    using the book-billing determinants or to be used in

1 the billing determinants had to come from somewhere.

2 Somebody --

3 Q So, so to --

4 A -- made the calculation.

5 Q -- answer my question, yes, you think AE has  
6 that information but simply hasn't provided it?

7 A I know they have to have that informations.

8 Q Okay. Have you reviewed Mr. Mancinelli's  
9 rebuttal testimony on this point?

10 A Yes, I have.

11 Q And are you aware that AE systems do not  
12 allow allowable means to commonly identify a billing  
13 adjustment factor based upon a class basis?

14 A I find that absurd. Yes. If this company  
15 is --

16 Q You think he's not telling the truth?

17 A I don't see how it's possible.

18 Q So is that a yes?

19 A I can't --

20 Q You don't want to say it quite that strongly.

21 A Yeah. I don't want to say it --

22 Q And [crosstalk] --

23 A -- that strongly, but it, but it just  
24 occurs --

25 THE REPORTER: Could you talk one



1 at a time, please?

2 MR. BROCATO: Sorry.

3 Q (By Mr. Brocato) Go ahead.

4 A If Austin Energy five years ago spent  
5 70 million dollars on a customer billing and  
6 information system, they can't do what Bastrop,  
7 Lampasas, New Braunfels system can do? I just find  
8 that hard to believe.

9 Q But is it your position -- if you'll assume  
10 with me for a moment that they are being truthful, your  
11 recommendation would be that they not apply any factor  
12 rather than do it on a systemwide basis?

13 A Yes.

14 Q Okay. Let me ask you a moment about  
15 production cost allocations. I think you had a  
16 discussion with Mr. Coffman, but I'll just confirm  
17 again. You're proposing that production cost be  
18 allocated on a A&E 4CP basis, right?

19 A Correct.

20 Q Okay. And that allocates cost on four hours  
21 of the year; is that right?

22 A With a twist, yes.

23 Q Okay. And the ICA is proposing BIP method  
24 which you discussed earlier today, right?

25 A Yes.

1           Q     And AE is proposing a 12CP methodology,  
2     correct?

3           A     Yes.

4           Q     Okay. Is it, is it a fair statement that  
5     AE's production cost allocation proposal is roughly  
6     somewhere in between what NXP and the ICA are proposing  
7     in terms of the impact on the various classes?

8           A     Yes.

9           Q     And would you agree that AE's generation  
10    portfolio provides a hedge against price volatility in  
11    the ERCOT market?

12          A     Yes.

13          Q     And the value of that hedge occurs throughout  
14    the year?

15          A     Yes.

16          Q     And that market prices are unpredictable,  
17    would you agree with that?

18          A     Yes.

19          Q     And prices can spike during any month of the  
20    year? Really any moment in the year; isn't that right?

21          A     Yes. Although I believe AE has referred to  
22    those as rare excursions.

23          Q     Well, those rare excursions can be  
24    significant, nevertheless, can they not?

25          A     Potentially.

1 Q Do you know what the current price cap is?

2 A Not off the top of my head.

3 Q Do you know what the impact of a, of a price  
4 spike could be on Austin Energy?

5 A No.

6 Q Thank you, Mr. Goble. Those are the only  
7 questions I have.

8 CLARIFYING EXAMINATION

9 BY MR. HERRERA:

10 Q Before we go to redirect I just have one,  
11 maybe a couple of questions for you, Mr. Goble.

12 If you can describe for me for my  
13 benefit what the importance is of a load factor, or  
14 just describe what that is, please.

15 A Yes, sir. A load factor is the ratio of the  
16 average use of the electricity to a peak use of  
17 electricity. The higher the load factor, the more  
18 efficient the use of the facilities of the utility and  
19 consequent -- and also the lower the average cost when  
20 you divide the fixed amount of cost by greater number  
21 of billing determinants.

22 The higher load factors are usually  
23 associated with large industrial processes that are not  
24 temperature sensitive. The air conditioning load is  
25 one of the bigger drivers of low load factors in the

1 state of Texas, which is why it affects the residential  
2 class. They tend to have the lowest load factors.

3 It's -- a load factor would be the  
4 energy over a period of time divided by the number of  
5 hours in that period, and then that's your average  
6 demand; divide it by a measure of peak demand, whether  
7 or not it's the customer max, the class max, or the  
8 system peak. The denominator of it can be any number  
9 of measures of demand.

10 Q All right. Thank you. With regard to the  
11 billing adjustment that Mr. Brocato was asking you  
12 about, is that -- and I want to make sure I understand  
13 it in my mind -- is that to account for the difference  
14 between the amount of power at the generator versus the  
15 amount of power that's delivered?

16 A No.

17 Q Is that -- that's not to account for the line  
18 losses, I guess is my question?

19 A No, it's not.

20 Q Okay. What is it for?

21 A In every class you have book to revenue, and  
22 you also have the billing determinants associated with  
23 the class. When -- as I understand, most utilities  
24 that I've ever worked on will take the billing  
25 determinants that they have on their books and records,

1 will apply the applicable rate during that period, and  
2 then compare it to what's booked, and that's the  
3 billing adjustment.

4                   Now, when I've seen it done it's usually  
5 done by class by season as opposed to one giant  
6 systemwide number. But what it tells you is that due  
7 to things like proration of bills, for example -- let's  
8 say you have a high student population that comes in  
9 and out. Then you see a lot of partial-month billings  
10 so that it -- particularly if you have five tiers on a  
11 rate. If you try to bill those kilowatt hours, often a  
12 utility will take, for example, if a customer  
13 disconnects or reconnects on the 15th of the month,  
14 midway, let's say, in the middle of a billing period,  
15 it will double the amount of kilowatt hours, calculate  
16 the rate, and then cut it in half to give the customer  
17 the benefit of the full rate schedule. But if you  
18 later take those kilowatt hours and try to bill them  
19 out, you won't come to the same answer.

20                   So there's a mismatch between book  
21 revenue and rebilled revenue using the bill  
22 frequencies, and you also have other things like  
23 out-of-period adjustments and so forth that affect it,  
24 a billing correction from a prior month in which the  
25 dollar amount maybe be corrected but the kilowatt hours

1 are not corrected, or they are not corrected back in  
2 the month that the error occurred.

3 So a book-to-bill adjustment essentially  
4 recognizes that for every dollar of book revenue you  
5 have, you have a different number of rebilled revenues.  
6 So when we work with the billing determinants to  
7 calculate our proof of revenues, we have to compensate  
8 for that relationship between book-to-bill revenue.

9 Q Okay. Thank you.

10 MR. HERRERA: Are we to redirect?  
11 And Mr. Brocato, if you have questions on any of my  
12 questions, you'll have the opportunity.

13 MR. BROCATO: Thank you.

14 MR. HERRERA: Or any, any party  
15 will.

16 MR. HUGHES: Okay. Thank you, Your  
17 Honor.

18 REDIRECT EXAMINATION

19 BY MR. HUGHES:

20 Q With regard to Mr. Coffman's early question  
21 on considerations beyond cost of service in setting  
22 rates and determining what rates should be, you weren't  
23 suggesting that other factors should not be considered;  
24 you were just suggesting that this is an opportunity,  
25 considering that Austin -- that it's a proposed rate

1     decrease, this is an opportunity to address those cost  
2     of service irregularities or inequities that you might  
3     not have in any time in the near future?

4           A     That is correct. We have not experienced  
5     this opportunity in the past. It's unlikely, that I  
6     can foresee, unless Austin Energy comes in continuously  
7     for rate decreases, that we will really ever be able to  
8     resolve what are some fairly substantial deviations  
9     from cost of service.

10          Q     But you're not -- so you're not -- but you're  
11     not suggesting that other considerations don't -- are  
12     not -- should not be taken into consideration when  
13     setting rates --

14          A     Not at all.

15          Q     -- in cost of service?

16          A     No.

17          Q     Okay. There was a -- you had a discussion  
18     earlier with Mr. Coffman as well, Coffman as well about  
19     replacement cost versus actual cost as it relates to  
20     the BIP theory.

21          A     Yes.

22          Q     Can you elaborate on that?

23          A     Yes. The costs which have been utilized on  
24     the replacement costs are costs which we pull from a  
25     DOE, I believe it is, report. That report itself urges

1 caution in the use of these numbers, indicating that in  
2 some cases the technologies simply aren't comparable.  
3 The report also says that you need to adjust it for, I  
4 think there's 22 geographic regions. The report also  
5 assumes no land. It assumes a specific technology  
6 which may or may not be the technologies of the plants  
7 to which it's been applied in this case.

8 In my opinion, the way to do this, which  
9 is the way that we would do it under the probability,  
10 have done it in prior to ERCOT and nodal market, was to  
11 take the plant from the date it went in service, take  
12 additions in retirements by year, adjust them for what  
13 is known as the Handy Whitman Index of Construction  
14 Cost, which is on an account-specific basis by type of  
15 plant, to get it to, to eliminate what we refer to as  
16 vintage effects. The fact that you may have a fully  
17 depreciated older plant and we're trying to compare a  
18 system planner's thinking -- and of course, they would  
19 never consider installing a fully -- you can't install  
20 a fully depreciated plant.

21 So we try to adjust for that, and I  
22 believe that's what Mr. Johnson has attempted to do. I  
23 just don't believe his methodology is anywhere near  
24 accurate.

25 Q Okay. Going back to the questions regarding



1     who has or has not approved or rejected the BIP method  
2     in the past, prior to the 2012 rate case that AE just  
3     had, rates were last changed for Austin Energy in -- or  
4     the last rate review they had, I believe Mr. Brocato  
5     mentioned it earlier, was 1994 and '95, correct?

6           A     Yes.

7           Q     Did you participate in those proceedings?

8           A     Once again my memory fails me. I've pretty  
9     well been on all sides of this case, this utility --

10          Q     Well, I hope you were so you can answer the  
11     following question.

12          A     Okay.

13          Q     Is it correct that Austin Energy proposed the  
14     4CP methodology in that case?

15          A     I believe so.

16          Q     Okay.

17          A     Or 4CPA A&E, I believe it was.

18          Q     Yeah. Okay. So now I want to go back to the  
19     discussion with regards to rate shock.

20                     Despite Mr. Coffman's hopes and best  
21     efforts to suggest otherwise, you have not testified as  
22     to rate shock theories or as an expert on rate shock,  
23     have you?

24          A     No.

25          Q     And you have actually -- and you're not

1     **testifying in favor of a residential rate increase in**  
2     **this case, are you?**

3           A     No.

4           Q     You have actually recommended an  
5     **across-the-board decrease similar to what Austin Energy**  
6     **has, only with a different revenue requirement and**  
7     **some, you know, definitely different provisions, but**  
8     **nothing having to do with a rate increase or any**  
9     **testimony --**

10                         MR. BROCATO: Your Honor, I mean, I  
11     let the first two leading questions -- I would just ask  
12     that Mr. Hughes --

13                         MR. HUGHES: Okay.

14                         MR. BROCATO: -- ask these --

15           Q     **(By Mr. Hughes) Did you -- are you, are you**  
16     **a rate shock expert?**

17           A     I know it when I see it, but I don't believe  
18     we'll find it in this case.

19           Q     **Okay. Are you testifying as to rate shock in**  
20     **this case?**

21           A     No. I don't believe there will be rate shock  
22     in this case.

23           Q     **All right. One other question with regards**  
24     **to rate shock, and you mentioned it several times.**  
25     **What does the Public Utility Commission generally**

1     consider -- or what have they considered rate shocks in  
2     their various cases that you've worked on, rate shock  
3     in the various cases you've worked on at the PUC?

4           A     It's evolved over time. Originally it was  
5     the commission said that customer impact would be  
6     limited to two times the overall system increase. Now,  
7     at some point along the lines that became one and a  
8     half times system increase. So that's what I'm used to  
9     seeing as far as measure of customer impact, the upper  
10    limit of customer impact.

11          Q     And that's at the commission?

12          A     Yes.

13          Q     Okay. Mr. Coffman had suggested in his  
14     questions that the NARUC manual had criticized the 4CP  
15     or 4CP A&E method, but you're referencing NARUC manual  
16     not as Texas specific, but making a recommendation  
17     based on what ERCOT uses; is that correct?

18          A     That is correct.

19          Q     Okay. Do you have an opinion as to had the  
20     Austin Energy case that went to the commission on  
21     appeal, this last rate case that went to the commission  
22     on appeal, do you have an opinion as to what staff's  
23     recommendation would have been as it, as it relates to  
24     the BIP method?

25                               MR. COFFMAN: Objection. Calls for

1 speculation.

2 MR. HERRERA: Sustained.

3 MR. HUGHES: No further questions,

4 Your Honor.

5 MR. HERRERA: Any recross based on

6 that redirect or my questions?

7 MR. COFFMAN: No, Your Honor.

8 MR. BROCATO: No, Your Honor.

9 MR. HERRERA: Mr. Goble, you're  
10 excused.

11 THE WITNESS: Thank you.

12 MR. BROCATO: Your Honor, we do not  
13 have cross for Mr. Robbins. I don't know if Ms. Cooper  
14 does. I'm not sure if she's here. Oh, yeah.

15 MS. COOPER: I'm sorry.

16 MR. BROCATO: Do you have cross  
17 for --

18 MR. HERRERA: Let's go off the  
19 record.

20 (At 12:20 p.m. the proceedings went  
21 momentarily off the record.)

22 MR. HERRERA: Off the record we had  
23 some discussions about how to proceed going forward. I  
24 think folks indicated, most folks indicated they did  
25 not have questions for Mr. Robbins. Mr. Borgelt will

1 have questions for him, and Bethany United is handing  
2 out its exhibits.

3 Thank you. Is there any objection to  
4 the admission of Bethany United Methodist Church's  
5 initial party presentation corrected May 28th, 2016?

6 MR. BROCATO: No. No, Your Honor.

7 MR. HERRERA: It is admitted, and  
8 my understanding is no one has any questions of Bethany  
9 United; is that correct?

10 MR. BROCATO: Right.

11 MR. HERRERA: When we come back  
12 from lunch -- I say we take an hour and 15 minutes  
13 again, which will get us back at 1:35.

14 MR. BROCATO: Can we talk about the  
15 schedule?

16 THE REPORTER: On the record?

17 MR. BROCATO: We can go off.

18 THE REPORTER: Wait, wait, on or  
19 off?

20 MR. BROCATO: Off.

21 MR. HERRERA: Let's before we go  
22 off the record, when we come back from lunch we'll  
23 either deal with Mr. Johnson or Mr. Robbins, depending  
24 on whether Mr. Robbins is there then. Let's go off the  
25 record.

1 (At 12:22 p.m. the proceedings  
2 recessed, continuing at 1:46 p.m.)

3 MR. HERRERA: We're after our lunch  
4 break, about 1:45. I believe Mr. McCollough has a few  
5 procedural things, or just maybe one procedural matter  
6 to take care of.

7 MR. MCCOLLOUGH: Yeah. Just one.

8 MR. HERRERA: Mr. McCollough?

9 MR. MCCOLLOUGH: Your Honor, I have  
10 now supplied to Your Honor two couples of the NARUC  
11 Cost Allocation Manual excerpts that we requested to be  
12 included as official notice exhibits. They are marked  
13 as Data Foundry ON-A.

14 MR. HERRERA: Official notice --

15 MR. MCCOLLOUGH: ON-A for official  
16 notice A, and I will note for some reason I forgot to  
17 put it on the exhibit list that I gave you.

18 MR. HERRERA: Okay. I will add it.

19 MR. MCCOLLOUGH: But I do request  
20 that it be admitted into the evidentiary record as an  
21 official notice.

22 MR. HERRERA: Any objections? It's  
23 admitted. Okay. Next I believe up is Mr. Robbins,  
24 Mr. Paul Robbins, and I believe he's in the audience,  
25 and we will proceed with Mr. Robbins.

1                   And Mr. Robbins, just so you're aware,  
2   you will have your -- the statements that you filed  
3   with the city clerk's office, you will offer those into  
4   evidence and then you will tender yourself for cross  
5   examination. There is no additional presentation or  
6   speech or anything like that before you present your  
7   evidence, and then you'll be subjected to cross  
8   examination.

9                   MR. ROBBINS: Judge, I was under  
10   the impression that I'd be allowed to have a statement  
11   of position, and I prepared that in the last couple  
12   days. It's about 15 minutes.

13                  MR. HERRERA: No. Mr. Robbins,  
14   that is not the process we're using here. The  
15   statement of position is what you filed with the city  
16   clerk's office, and that's what you will be questioned  
17   on as all the other parties have been.

18                  MR. ROBBINS: Actually, Judge, I,  
19   I'm confused on a couple things, because one, I tried  
20   to make it clear that I would need 15 minutes to make a  
21   presentation. Secondly, I have not filed my statement  
22   of position with the city clerk. I was going to leave  
23   two copies with you when I gave it today. I have filed  
24   testimony, and I have sent that to you and all the  
25   parties.

1                   MR. HERRERA: And that's what you  
2 will be cross examined on today, Mr. Robbins, is your  
3 testimony, and any further written statements from you  
4 would be coming -- would come in as briefs after the  
5 close of the hearing, but there's not an opportunity  
6 for a party to now make a speech from the witness  
7 stand. Today is, the purpose of your appearing here  
8 today is for cross examination by the parties and then  
9 the redirect by you.

10                  MR. ROBBINS: Well, I stand  
11 officially confused. And for the record, I am offering  
12 my testimony into evidence. You asked for two copies,  
13 and here they are.

14                  MR. BROCATO: Your Honor --

15                  MR. ROBBINS: Regarding cross, I'm  
16 game.

17                  MR. HERRERA: Mr. Robbins, I've  
18 known you for probably 30 years. I know you've always  
19 been game. Mr. Brocato.

20                  MR. BROCATO: Mr. Robbins, I  
21 believe, may have requested some time for an opening  
22 statement, and he was not here yesterday. Speaking  
23 only for AE, not the other parties, we do not object if  
24 he would like to make an opening statement akin to what  
25 the other parties did yesterday. Again, that's, of



1 course, if the other parties and yourself are willing  
2 to do [crosstalk] --

3 MR. HERRERA: And that's entirely  
4 up to the parties. I'm okay with that, Mr. Robbins, if  
5 you wish to make an opening statement to --

6 MR. ROBBINS: I would, unless  
7 somebody objects.

8 MR. HERRERA: Does anyone have an  
9 objection to Mr. Robbins making an opening statement?  
10 And I would ask that you limit yourself to about 10  
11 minutes if you could, Mr. Robbins.

12 MR. ROBBINS: I'll do my very best.

13 OPENING STATEMENT

14 MR. ROBBINS: For the record, I'm  
15 Paul Robbins, an Austin Energy residential ratepayer  
16 living in the city limits of Austin. I have four  
17 separate issues in the 2016 Austin Energy rate case and  
18 am here to give a short statement of position on each  
19 of them.

20 First, imprudence due to misuse of  
21 property: The city of Austin mismanaged Austin Energy  
22 property by giving it to the city of Austin general  
23 fund either without compensation or without adequate  
24 compensation. I have discussed 12 properties that fall  
25 into these categories. While some are vacant lots,

1 others are worth over 10 million dollars. The amount  
2 of imprudence should be quantified and the general fund  
3 should reimburse the utility for the misuse of the  
4 property. This will allow Austin Energy to lower its  
5 rates below what it is expecting to do in these  
6 proceedings.

7                   On page 7 of his testimony, Austin  
8 Energy's Greg Canally commented several times that the  
9 land in question was sold in accordance with city  
10 policy. Just because the sale followed policy doesn't  
11 mean the policy was prudent and to the benefit of  
12 Austin Energy ratepayers. In the furtherance of  
13 various city council goals, including downtown  
14 development, various assets have literally been given  
15 away or greatly undervalued. Nor did Mr. Canally deal  
16 with conflicting legal, the conflicting legal opinion  
17 from the city attorney of Austin stating that municipal  
18 utilities must be compensated by the general fund  
19 departments for their assets.

20                   I realize that Judge Herrera has reduced  
21 the scope of this issue to only those properties that  
22 have had their ownership transferred after the test  
23 year of the last rate case. These were marked as  
24 disputed properties.

25                   I do want to point out two things for

1 the record though. First, there was no evidentiary  
2 hearing allowing me or others to bring these disputed  
3 properties up in the last rate case. Second,  
4 specifically regarding one of these disputed  
5 properties, Austin Energy has gone on record stating  
6 that the transfer of the Seaholm Substation did not  
7 occur until after 2013, after the test year. I ask the  
8 judge to reverse his ruling and allow this specific  
9 property to be considered undisputed property.

10               Regarding Austin Energy's other protest,  
11 I've the following comments on Mr. Canally's rebuttal.  
12 Page 10 and 11: Austin Energy maintains that the use  
13 of property was proper because it retains easements.  
14 There are easements on my house. Easements do not  
15 accomplish ownership and should not be an excuse for  
16 transfer without compensation. Page 12 regarding the  
17 Seaholm Power Plant: The city's general fund did not  
18 even receive most of the money the land was assessed  
19 for even in nominal dollars. Austin Energy literally  
20 received nothing.

21               Pages 18 and 19: Austin Energy contends  
22 that it stopped operating Holly in 2007, and since  
23 that's the case, it's not germane to the rate case. I  
24 believe the Judge has already ruled that it is. Austin  
25 Energy contends that Holly was transferred via a city

1 council resolution in 1985. If one reads the  
2 resolution, it states the transfer is ordered to occur  
3 when the plant is no longer used. Since it has not  
4 been fully decommissioned, it has never been  
5 transferred to the Parks Department and is relevant.

6 Issue 2, rate breaks to outside-city  
7 ratepayers: The concept of having two separate rates  
8 for Austin Energy, one for inside the city limits and  
9 one for outside, is not cost-based. Given the great  
10 pains Austin Energy has taken in presenting evidence  
11 justifying its rate proposal, this omission is glaring.  
12 I'm aware of only one other utility in the state that  
13 has separate rates for inside and outside city limits.  
14 I should rephrase: Municipal utility in the state that  
15 has separate rates for inside and outside the city  
16 limits, Bryan Texas Utilities. To my knowledge, this  
17 is based on cost of service, whereas Austin's dual  
18 structure is not. Currently, Bryan's rural rate is  
19 higher than the city rate, though it is lower in some  
20 years.

21 Austin Energy has criticized my  
22 testimony by saying that I based it on patterns of  
23 growth which the utility does not track. This is only  
24 partially accurate. I also base my testimony on  
25 assumptions of energy density. It is common sense to

1     assume that if you need power lines to cover distance  
2     and there are fewer customers to serve over that  
3     distance, the fixed cost of the power lines will be  
4     higher to serve those customers.

5                     Austin Energy also contends that it does  
6     not track its assets on whether they are inside or  
7     outside the city limits, and while this is likely true,  
8     nothing prevents them from creating the system to do  
9     so. Austin Energy states that it wants to continue  
10    this disputed discount even though it is not based on  
11    evidence but because it lowers the risk of litigation.  
12    If we ran our utility entirely on risk litigation  
13    measures such as this, its finances would never break  
14    even.

15                    Interestingly, Mark Dreyfus of Austin  
16    Energy in his rebuttal testimony uses the lack of  
17    evidence to criticize Public Citizen and Sierra Club's  
18    position on whether out-of-city -- on whether the  
19    out-of-city discount is fair but overlooks the lack of  
20    evidence in Austin Energy's own contention.

21                    I'm going to ask a serious question. If  
22    the ratepayers represented by Homeowners United for  
23    Rate Fairness, or HURF, were to ask Texas Gas Service  
24    or the cable companies that serve their area to give  
25    them a special discount that was not cost of service

1 based, would they be treated seriously by the utility  
2 or the regulators? I think they would not.

3                   Going further, if Austin Energy were to  
4 sell its out-of-city distribution system to a private  
5 company, this new company would find the notion of a  
6 rate discount not based on cost of service similarly  
7 unrealistic. The one concession I grant Austin Energy  
8 and HURF is that I really do support a cost of service  
9 study to determine the real cost of service for  
10 customers living outside the city limits. This can be  
11 used in the next rate case to adjust, to adjust rates  
12 accordingly, and I hope the Judge will recommend this.

13                   Issue 3, imprudence in Customer, in  
14 the Customer Assistance Program spending: In 2014 I  
15 first alerted Austin Energy that I had discovered that  
16 some of the people receiving CAP, as it's referred to,  
17 CAP assistance, were living in high-end homes. Almost  
18 21 months later there's still easily hundreds of  
19 participants that are not low income that are receiving  
20 the CAP discount.

21                   To give just one example of how bad this  
22 is, as of April 2016 the owner of 2921 Westlake Cove,  
23 an 8,100-square-foot mansion on Lake Austin appraised  
24 at 4 million dollars in 2015, was still receiving CAP  
25 subsidies. The home has its own indoor movie theater

1 and elevator. The CAP participant also owns another 17  
2 properties appraised at 5.8 million dollars in 2015,  
3 which apparently included part of a steel mill.

4 I have gone as far as to interview  
5 utilities that have programs similar to Austin Energy  
6 and have found that they can conduct income  
7 verification or stricter screens to make sure that  
8 they're serving the right people, and they can do it  
9 cost effectively. For instance, the Sacramento  
10 Municipal Utility District is entirely income-verified,  
11 has three times the participation of Austin in 2015,  
12 and it only required three or four staff people to  
13 administer it. This is just one example. This  
14 compares to Austin, which has 11 staff people as well  
15 as an expensive computer firm. I'm asking the Judge to  
16 recommend that Austin adjust its CAP program to assure  
17 that the money is spent prudently by going to the  
18 recipients that need it.

19 Finally, issue number 4, underspending  
20 for the South Texas Nuclear Project: It is not prudent  
21 practice to pay for a capital asset after its  
22 retirement. It is analogous to paying the note on a  
23 house after you no longer own it. I know of no bank  
24 that will lend money under this circumstance, and the  
25 utility should not operate in this manner. I contend

1     that at least until the plant receives a license  
2     extension it should return to a fiscally prudent  
3     payment schedule of having its debt retired by the end  
4     of its currently scheduled life in 2028.

5                     I have abbreviated my testimony to  
6     hopefully 10 minutes.

7                     MR. HERRERA:   Mr. Robbins, you do a  
8     phenomenal job of managing your time, and at 9 minutes  
9     and 25 seconds, I'm not sure most of the attorneys in  
10    this room could have done that like that.

11                    MR. ROBBINS:   No comment.

12                    MR. HERRERA:   None sought.   And I  
13    believe, Mr. Robbins, you have offered into evidence  
14    the testimony that you filed with the city clerk's  
15    office on May 3rd.   Are there any objections to  
16    Mr. Robbins' testimony?

17                    MR. ROBBINS:   I also offer into  
18    evidence the statement of position that I've just read  
19    from.

20                    MR. HERRERA:   Are there objections  
21    to this statement of position?

22                    MR. BROCATO:   I haven't seen the  
23    statement of position.   I'm not going to enter an  
24    objection most likely, but I would like a copy or to be  
25    able to see it.



1                   MR. ROBBINS: I can give you my  
2     copy after this presentation is over. I can email it  
3     to all the parties.

4                   MR. BROCATO: Email it, why don't  
5     you do that --

6                   MR. ROBBINS: Okay.

7                   MR. BROCATO: -- to the parties.  
8     That's --

9                   MR. HERRERA: And I'll reserve  
10    ruling on any objections that there may be to the  
11    statement.

12                  MR. ROBBINS: Okay.

13                  MR. BROCATO: The other thing is,  
14    did he offer the testimony?

15                  MR. HERRERA: He did.

16                  MR. BROCATO: Okay. Was that the  
17    May 3rd testimony, or was that the corrected version on  
18    the --

19                  MR. ROBBINS: It's the May 3rd  
20    that's corrected per Judge Herrera's May 26th rulings  
21    where he ruled out the disputed properties.

22                  MR. BROCATO: Right, but you had  
23    made some corrections on May 18th.

24                  MR. ROBBINS: That's correct. That  
25    was errata, and so this was errata, and then the

1 Judge's rulings were placed on top of that.

2 MR. BROCATO: Right. I understand.

3 I just want to make sure that's what you've offered.

4 MR. ROBBINS: That's what I've  
5 offered.

6 MR. BROCATO: Okay. Got it.

7 MR. HERRERA: Any objections?

8 Would you -- do you have a copy of it?

9 MR. BROCATO: I have a copy of the  
10 May 18th errata. I know what you struck. I --

11 MR. HERRERA: Why don't we go off  
12 the record real quickly and we can take a look at it.

13 (At 2:02 p.m. the proceedings went  
14 momentarily off the record.)

15 MR. HERRERA: Mr. Robbins has  
16 offered his corrected testimony that contains an errata  
17 as well as conforms the testimony to the rulings that I  
18 made based on the evidentiary objections that Austin  
19 Energy made. Are there any objections to that  
20 testimony?

21 MR. BROCATO: No, Your Honor.

22 MS. COOPER: No, Your Honor, but --

23 MR. HERRERA: And I'm going to  
24 refer to this as Robbins Exhibit 1.

25 MS. COOPER: Could Mr. Robbins, can

1     you email us copies?  I don't --

2                     MR. ROBBINS:  Yes.

3                     MS. COOPER:  -- need it today.

4     That would be fine.  Thank you, Your Honor.

5                     MR. HERRERA:  And Mr. Robbins, you  
6     will now be available for cross examination, and I'm  
7     going to go down the list.  ARMA, any questions by  
8     ARMA?  Any cross examination by Mr. Rourke?  Any  
9     questions by Greater Austin Chamber of Commerce?  Data  
10    Foundry?

11                    MR. MCCOLLOUGH:  No questions.

12                    MR. HERRERA:  Bethany United?

13                    MR. WELLS:  No questions.

14                    MR. HERRERA:  HURF?  Mr. Borgelt.

15                    MR. BORGELT:  Thank you, Your

16    Honor.  May I approach?

17                    MR. HERRERA:  Yes.

18  
19                    PRESENTATION ON BEHALF OF  
20                    MR. PAUL ROBBINS

21                    CROSS EXAMINATION

22    BY MR. BORGELT:

23                    **Q     Mr. Robbins, I'm going to ask you to talk**  
24                    **about what I've pre-marked as HURF Exhibit 1.**

25                    MR. BORGELT:  And for the other  
parties, there are copies on the back table.  I don't

1 have any up here with me today.

2 Q (By Mr. Borgelt) Mr. Robbins, do you  
3 recognize this document?

4 A I do.

5 Q And would I be correct in saying that this is  
6 the page titled "Issue 2: Special Rates for Out-of  
7 City Customers" that you included in originally your  
8 May 3rd party presentation and then subsequent filings?

9 A Correct.

10 Q You made a recommendation for how those rates  
11 should be set based upon the percentage of Austin  
12 Energy service territory outside Austin city limits; is  
13 that correct?

14 A No, it's not.

15 Q What was your recommendation based on?

16 A The only recommendation that I made,  
17 Mr. Borgelt, is I asked the Judge to recommend -- and  
18 I'm reading this not to be ridiculing, I'm just reading  
19 this to be plain. I asked the Judge to recommend two  
20 things: One, to eliminate the rate break in the next  
21 tariff because it lacks justification; and two, to  
22 conduct a cost of service study detailing the true cost  
23 of service inside and outside the city limits. That,  
24 that was my recommendation.

25 Q You also state in your Issue 2, "The

1 deduction above is circumstantial. Austin Energy does  
2 not currently break down its budget by how much of it  
3 is spent inside and outside the city limits"; is that  
4 correct?

5 A That is correct.

6 Q And to your knowledge, has Austin Energy  
7 conducted any type of cost of service based on inside  
8 versus outside the city limits?

9 A Regrettably, to my knowledge it has not.

10 Q And have you conducted any type of such a  
11 study?

12 A Regrettably, I am not in an income bracket  
13 that I can do that.

14 Q And are you aware that at this point in time  
15 there is a general fund transfer from Austin Energy to  
16 the city of Austin general fund that is currently at  
17 105 million dollars but can go higher than that number?

18 A I am.

19 Q And are you aware that that money is then  
20 spent for the benefit of people who live in the city of  
21 Austin?

22 A Generally, yes. As you know, there are  
23 indirect benefits to people that live outside the city,  
24 such as use of streets, but in general, it is used by  
25 the citizens that live in the city.

1           **Q     Do people outside the city of Austin get the**  
2   **benefit of the Austin Police Department?**

3           A     They get indirect benefits if they travel  
4   here, but --

5           **Q     That's not what I asked you --**

6           A     -- they do not get --

7           **Q     -- Mr. Robbins. I asked you if they get the**  
8   **direct benefit of the Austin Police --**

9           A     They do not get the direct benefit.

10          **Q     Do they get the direct benefit of the Austin**  
11   **Fire Department?**

12          A     They do -- very occasionally the Austin Fire  
13   Department will lend its equipment in critical  
14   emergencies, but other than that, no.

15                         MR. BORGELT: I'll pass the  
16   witness.

17                         MR. HERRERA: Low Income Customers?

18                         MS. COOPER: No questions, Your  
19   Honor.

20                         MR. HERRERA: Public Citizen?

21                         MS. BIRCH: We have a few  
22   questions, Your Honor.

23                         CROSS EXAMINATION

24   BY MS. BIRCH:

25          **Q     Mr. Robbins, I just want to be clear. Is it**

1     **your position that the 14.5 million that you identified**  
2     **should result in a rate reduction for Austin Energy's**  
3     **customers?**

4           A     Please let me clarify. The 14.5 million  
5     dollars was the appraised value for the energy control  
6     center, and I believe that money was indeed  
7     transferred. That, that money was indeed paid. What I  
8     am disputing is the fact that that 14.5 million dollars  
9     was based on a 2008 appraisal value for a 2015 transfer  
10    of ownership. I believe that the city should have  
11    gotten a bid in 2015 for the real value of that  
12    property, and the difference between the 14 and a half  
13    million and the increased value today would be what the  
14    general fund should reimburse Austin Energy for.

15           Q     **My question is, but is it your position that**  
16    **that money should be -- should result, whatever the**  
17    **amount of money is, the correct amount of money should**  
18    **result in a rate reduction?**

19           A     It could result -- in my, in my original  
20    testimony I did say that. Of course, it could be used  
21    for -- it could be used to buy a gas plant, it could be  
22    used to buy solar, it could be used to buy down debt,  
23    it could be used to improve the financial stature of  
24    the utility.

25           Q     **And so you would agree with me that it could**

1     **also be used to create a cash reserve for the**  
2     **defeasement, the eventual defeasement of the Fayette**  
3     **Power Project?**

4           A     For instance, yes.

5                         MS. BIRCH: That's all I have.

6                         MR. HERRERA: NXP?

7                         MR. HUGHES: No questions, Your  
8     Honor.

9                         MR. HERRERA: Independent Consumer  
10    Advocate?

11                        MR. COFFMAN: No questions, Your  
12    Honor.

13                        MR. HERRERA: Austin Energy?

14                        MR. BROCATO: Thank you, Your  
15    Honor. Just a couple of questions.

16                                 CROSS EXAMINATION

17    BY MR. BROCATO:

18           Q     Hello, Mr. Robbins.

19           A     Hi.

20           Q     I just want to ask you a couple of questions  
21    to follow up on what Ms. Birch just asked you.

22                                 The 14 and a half million dollars that  
23    she was referring to, that's a one-time payment; isn't  
24    that correct?

25           A     That's correct.



1           Q     And do you understand the difference between  
2     rate base and base rate?

3           A     Is this a trick question?

4                     (Laughter)

5           Q     It is not a trick. Should I take that as a  
6     no? I'll move --

7           A     I believe I do.

8           Q     Oh, you do? Okay. Very good. And would  
9     this be an amount that would be -- that would impact  
10    rate base or base rates? I'll make it easier. This  
11    would be a rate base amount, right?

12          A     It would be -- the way I view it, it's money  
13    that was at one time debt, and it could be used to  
14    defease debt or it could be used to lower rate  
15    requirements. It is, it's more money coming into the  
16    utility.

17          Q     Right. And in fact, those dollars have been  
18    used to purchase additional utility assets; isn't that  
19    correct?

20          A     Yes. As you know, I'm not contesting that  
21    Austin Energy received the 14.5 million. I'm saying  
22    they should have received more.

23          Q     Understood, but I just want to address this  
24    point because of the comments that you just -- or the  
25    questions you just received.

1                   And the asset that we were referring to,  
2 do you know what that is that this money been applied  
3 to?

4           A     It's been applied to the new energy control  
5 center, correct?

6           Q     Yes. Okay. Thank you.

7                   MR. HERRERA: [Inaudible],  
8 Mr. Brocato.

9                   MR. BROCATO: No further questions.

10                  MR. HERRERA: Very smart.

11                  MR. BROCATO: No further questions.  
12 I mean, I don't if you --

13                  THE WITNESS: Well, okay. Are you  
14 the --

15                  MR. BROCATO: I'm done.

16                  THE WITNESS: Is he the last cross,  
17 cross --

18                  MR. HERRERA: Yes, Mr. Robbins. He  
19 is the last to cross examine you, and you are --

20                  THE WITNESS: Okay. Am I  
21 dismissed?

22                  MR. HERRERA: You are dismissed.

23                  THE WITNESS: Thank you.

24                  MR. HERRERA: Thank you. The next  
25 witness I have on our list is Clarence Johnson for the

1 Independent Consumer Advocate; is that correct?

2 MR. COFFMAN: Yes. We would call  
3 to the stand Mr. Clarence Johnson, and there are a few  
4 changes to his testimony. One is some numbers on one  
5 of the tables within the testimony and a couple of  
6 typos, and we could either identify them now or have  
7 him walk through them, if you --

8 MR. HERRERA: Have you handed  
9 out -- I guess more specifically, did you provide me a  
10 copy of his --

11 MR. COFFMAN: Yes. Well, first --

12 MR. HERRERA: -- responses?

13 MR. COFFMAN: The direct testimony  
14 of testimony of Mr. Clarence Johnson is Exhibit ICA 1.

15 MR. BROCATO: Just to be clear,  
16 there was already a corrected version filed May 18th.  
17 Are you saying he's going to make corrections to that  
18 corrected version?

19 MR. COFFMAN: Yes.

20 MR. BROCATO: Okay.

21 MR. COFFMAN: That's what this --

22 MR. BROCATO: Oh, I see. Okay.

23 MR. COFFMAN: And then Exhibit  
24 ICA 2 is Mr. Johnson's cross rebuttal testimony, and  
25 then the version of -- the ICA 1 exhibit is the

1 corrected version that was filed on May 18th.

2 MR. HERRERA: Okay.

3 MR. COFFMAN: And then there are a  
4 couple of other small changes too. I have a -- made  
5 that into an exhibit, and on that what's labeled  
6 ICA 1-A, it is the numbers on the first two lines of  
7 that table, which the two lines -- the numbers on the  
8 "ICA Position" and then "Indicated increase and  
9 decrease."

10 MR. BROCATO: Are there any changes  
11 to the cross rebuttal testimony?

12 MR. COFFMAN: Just one typo.

13 MR. BROCATO: That he's going to  
14 make on the stand?

15 MR. COFFMAN: Yes, if that's  
16 acceptable.

17 MR. BROCATO: Yeah.

18 MR. COFFMAN: Your Honor, we have,  
19 I would say, three typos that we could reference as  
20 well. What would be your preference? Would you like  
21 the witness to --

22 MR. HERRERA: Yeah. Just to make  
23 them on whatever copy he's got in front of him, and if  
24 you tell me, Mr. Johnson, where you're making the  
25 changes.

1 THE WITNESS: Do I need to get  
2 sworn in, or are we doing that?

3 MR. HERRERA: There is no swearing  
4 in.

5 THE WITNESS: Okay.

6 MR. HERRERA: We just swear a lot.

7 THE WITNESS: The replacement page  
8 ICA 1-A, for some reason the table, that particular  
9 table did not get corrected in the corrected testimony.  
10 The numbers that are corrected there are the numbers  
11 that were on the corrected schedule. So for some  
12 reason when I made the corrected testimony, I lost,  
13 some mysteries of electronics, I lost the corrected  
14 schedule putting together the corrected testimony,  
15 so -- I mean the corrected table, rather. So it's  
16 really nothing new. It's what's in the corrected  
17 testimony in the schedules, but the table is made to  
18 conform to the schedule there.

19 On the direct testimony, page 22, line  
20 14, the word "outside" is changed to "inside." On page  
21 67, line 18, 9 -- the number 910 is changed to number  
22 916. And I believe those are all the corrections on  
23 the direct testimony.

24 On the cross rebuttal testimony there's  
25 only one correction. Page 24, line 1 the month

1 February is changed to January. It's January 25th's  
2 presentation, and those are all the corrections.

3 MR. HERRERA: Mr. Coffman, do you  
4 offer these exhibits?

5 MR. COFFMAN: I do. I offer  
6 Exhibit ICA 1, ICA 2, and ICA 1-A, the correction  
7 sheet.

8 MR. HERRERA: Any objections?

9 MR. BROCATO: I have a request.  
10 May I take the witness on voir dire for a moment?

11 MR. HERRERA: Yes.

12  
13 PRESENTATION ON BEHALF OF  
INDEPENDENT CONSUMER ADVOCATE

14 VOIR DIRE

15 BY MR. BROCATO:

16 Q Hello, Mr. Johnson. I just want to ask you a  
17 couple questions so I can understand the change that  
18 you made on ICA 1-A. Now, as I look at your testimony  
19 at pages 70 and 71, you've made a number of changes to  
20 the proposed cost of service study, and in this part of  
21 your testimony you're summarizing them; is that right?

22 A Yes.

23 Q And in your original testimony you're saying  
24 that the sum of those changes result in residential,  
25 the residential class being at about 11.4 million

1     dollars above cost of service; is that right?

2           A     Yes. That was the uncorrected schedule.

3           Q     All right. And then secondary-less-than-10  
4     at \$687,000 above cost of service. But the errata here  
5     shows that the residential class after you make these  
6     changes would actually be at about 1 and a half million  
7     dollars above cost of service; is that right?

8           A     Yes.

9           Q     Okay. And then secondary-less-than-10 would  
10    be about \$200,000 below cost of service.

11          A     Yes.

12          Q     Is that what that means, below, the negative?

13          A     No. It's, it's the secondary-greater-than-10  
14    should be indicated as a negative six-tenths of a  
15    percent decrease indicated. And now that I see that,  
16    under "Residential" that should be a positive .03  
17    percent.

18          Q     Okay. So now, you've used brackets, and  
19    that's the same thing, right?

20          A     Yes.

21          Q     Or parentheses? Okay. But here you're  
22    using the plus and minutes sign, symbol. So, okay.  
23    So, all right. But just so we're clear, but for  
24    secondary-less-than-10, that would be a negative  
25    \$199,021, right?

1           A     Right.

2           Q     Okay. And then a negative .6?

3           A     Right.

4           Q     Okay. And is it your testimony that the  
5     reason for this change is because you lost the  
6     calculation in some way or there was an error or --

7           A     Well, I could start out with the first  
8     corrected testimony, which had an error corrected in  
9     the cost of service study. There was a line item that  
10    just didn't get allocated, and after I filed the  
11    testimony I found that the totals did not match up on  
12    my schedules across classes. So I went back,  
13    identified the error, corrected the error, corrected  
14    the schedules, and it resulted in changes as indicated  
15    here. However, when I prepared the corrected testimony  
16    I pasted in, from the cost of service study pasted in  
17    Excel cells here, and for some reason it appears to me  
18    that they got -- they were linked and it changed them  
19    back to the old numbers.

20                         So that's the best I can tell. For  
21    whatever reason, in the corrected testimony, even  
22    though I did correct the table, what got filed did not  
23    have a corrected table.

24           Q     All right. Those are the only questions I  
25    have. Thanks, Mr. Johnson.



1 MR. HERRERA: Any objections?

2 ICA 1, ICA 2, ICA 1-A are admitted. Do you tender the  
3 witness for cross?

4 MR. COFFMAN: Tender the witness  
5 for cross examination.

6 MR. HERRERA: Any questions by ARMA  
7 of this witness? Mr. Rourke? By Mr. Robbins? Greater  
8 Austin Chamber of Commerce? Data Foundry?

9 MR. MCCOLLOUGH: We will take up  
10 our differences with the witness's testimony on brief.  
11 No questions.

12 MR. HERRERA: All right. Bethany  
13 United?

14 MR. WELLS: No questions.

15 MR. HERRERA: HURF?

16 MR. BORGELT: No questions.

17 MR. HERRERA: Low Income Customers?

18 MS. COOPER: No questions, Your  
19 Honor.

20 MR. HERRERA: Public Citizen/Sierra  
21 Club?

22 MS. BIRCH: No questions, Your  
23 Honor.

24 MR. HERRERA: NXP?

25 MR. HUGHES: Just a couple. Maybe

1 more than a couple. Ms. Faconti's going to be handing  
2 you a packet of exhibits that will be 18, 19, 20, 21,  
3 24, 25. I think that's it.

4 MR. HERRERA: Thank you.

5 MR. HUGHES: Oh, I'm sorry. 22,  
6 23, and 27 as well. I forgot I had some exhibits over  
7 here. So again, that's Exhibits 18, 19, 20, 21, 22,  
8 23, 24, 25, 27.

9 MR. HERRERA: Mr. Hughes, in my  
10 stack of exhibits there are some unnumbered documents.

11 MR. HUGHES: Oh, those are probably  
12 demonstrative excerpts that --

13 MR. HERRERA: You will use?

14 MR. HUGHES: -- I will point to.  
15 Yes. Yes, sir.

16 MR. HERRERA: Thank you.

17 MR. HUGHES: And I don't think I  
18 added number 26 as well. Okay.

19 CROSS EXAMINATION

20 BY MR. HUGHES:

21 Q Mr. Johnson, if I could refer you to  
22 Exhibit 18, which is ICA's response to Austin Energy  
23 RFI 1-1, do you recognize this response?

24 A Yes.

25 Q And did you prepare this response?

1           A     Yes.

2           Q     If you would refer to pages 16 and 17 of this  
3     response and describe it for us.

4                     MR. COFFMAN:  Are you, are you  
5     referring to NS-18?

6                     MR. HUGHES:  No, I'm sorry.  
7     Exhibit 19.

8                     MR. COFFMAN:  Oh, 19.

9                     THE WITNESS:  This is a work paper  
10    for the development of allocation factors for the BIP-R  
11    method and the BIP-N method.

12          Q     (By Mr. Hughes)  Okay.  So looking at that  
13    work paper, is this the work paper that develops the  
14    proposed -- well, obviously it is the proposed -- it  
15    proposed, develops the proposed BIP replacement  
16    production plant allocations?

17          A     Yes.  That's on the first page and through  
18    the second page.  Yes.

19          Q     So what are the weighted factors of 73.6  
20    percent, 20.5 percent, and 5.8 percent, and how are  
21    those used?

22          A     Those are the investment, the investment in  
23    the base load, intermediate, and peak plants, and those  
24    are used to reflect how much of the plant investment is  
25    for base load and how much is for intermediate and how

1 much is for peak.

2 Q Okay. So those are the weights that are  
3 given to those investments?

4 A Yes.

5 Q Okay. Where did these percentages come from,  
6 or how are they developed?

7 A If I do BIP-N, which is, I think, the last  
8 page, which is net-plant version, it's based on net  
9 plant from the cost of service study. If I use BIP-R,  
10 replacement cost, the -- it's developed from the  
11 replacement cost values on a dollar per kW construction  
12 cost basis from the Department of Energy's Energy  
13 Information Administration current cost assessment for  
14 2015.

15 Q So it's by multiplying Austin Energy's  
16 megawatt capacity type -- for instance, coal, nuclear,  
17 combustion turbine, et cetera -- times the megawatt  
18 capacity that Austin Energy owns?

19 A Yes. Um-hm. Yes.

20 Q Okay.

21 A If you look up there, there's megawatt  
22 capacity and then there's cost per kW at 2014 dollars.

23 Q And the percentages would be dollars for each  
24 type?

25 A Yes.

1           Q     Okay.

2           A     The percentage -- once you total up the  
3 investment for each of the three groups, then it's that  
4 percentage -- it's the percentage of total.

5           Q     Okay. So looking at page 16 again, which is  
6 Exhibit 19, is this the page that describes the  
7 development of the weighted factors for base load,  
8 intermediate, and peaking?

9           A     Yes.

10          Q     So 73.6 percent base load weight is the sum  
11 of the percentages of coal at 32 percent, nuclear at 41  
12 percent -- .4 percent, wind at 0 percent, and solar at  
13 0.3 percent?

14          A     Yes.

15          Q     Just out of curiosity, how did you arrive at  
16 the 0.3 percent for solar as base load?

17          A     Well, like Austin Energy, I classified solar  
18 as energy, which is essentially base load. So that  
19 number, that number for solar comes from the net, you  
20 know, from the net plant cost for -- that are in the  
21 cost of service study, AE's, Austin Energy's cost of  
22 service study. I did not apply any replacement cost to  
23 it. I mean, given that it's only 0.3 percent, I just  
24 left the net plant value and also assumed that it's  
25 probably pretty close to current cost.

1           Q     Okay. And the gas steam percentage on that  
2 same page of 20.5 percent -- well, actually, it's on  
3 17 -- is the intermediate weight factor, and the  
4 combustion turbine or peaking percentage is 5.8  
5 percent, correct?

6           A     Right.

7           Q     So stated another way, you're testifying that  
8 only 5.8 percent of Austin Energy's generation plant  
9 peak -- is peak related?

10          A     Yes.

11          Q     Is it correct that your 5.8 percent  
12 peak-related plant weight factor calculated on page 16  
13 of, of that, of AE 1-1, your response to AE -- to,  
14 excuse me, RFI AE 1-1 represents the ratio of peak or  
15 replacement cost, the total peak or replacement cost?  
16 In other words, 301,950,000 divided by 5 million --  
17 5,190,101,475?

18          A     I'm sorry. I'm not following you there.

19          Q     I'm just trying to get how you calculated,  
20 how you got to the 5.8 percent, which it would  
21 be -- the calculation that is on that page seems to be  
22 the 301,950,000 divided by 5,190,101,475. I'm just  
23 trying to establish that that's how you arrived at the  
24 5.8 percent for peak.

25          A     Yeah. It's --

1           Q     Or as you state it, you stated earlier, the  
2     total peak cost was calculated by multiplying the  
3     Department of Energy's EIA cost estimates you reference  
4     on footnote 42 on page 43 of your direct testimony?

5           A     Yeah.  It's -- there's a cost per kW in 2014  
6     dollars, \$671, which is multiplied times the 450  
7     megawatts.

8           Q     And that, yeah, that represents the  
9     replacement cost for the 450 megawatts at peaking power  
10    that Austin Energy owns?

11          A     Yes.

12          Q     What was Austin Energy's system peak demand  
13    in 2015?

14          A     I don't know off the top of my head.

15          Q     If you'll look at Exhibit 20 and refer to  
16    NXP/Samsung's RFI number 3-1 attachment 1, page 3 of 3.

17          A     What was your question again?

18          Q     Can you tell there, does that page indicate  
19    what Austin Energy's 2015 peak demand was?

20          A     Yes.  It indicates it was in August 2014.

21          Q     And the peak demand was 2735 megawatts,  
22    correct?

23          A     In 2014?

24          Q     2015.

25          A     Or 2015.  I'm sorry.  2735, yes.

1           Q     Okay. So essentially, you've assigned 450  
2     megawatts of peaking capacity to meet a peak demand of  
3     2735 megawatts; is that correct?

4           A     The capacity that is dedicated to, solely to  
5     meeting peak is that amount. Obviously, other  
6     generating units, both intermediate and base, are  
7     running during a peak hour.

8           Q     So how do you think -- so the follow-up to  
9     that is, how do you think Austin Energy meets the  
10    remaining 2285 megawatts of peak demand after the 450  
11    that you've assigned to peak? The other generation  
12    resources?

13          A     Yes.

14          Q     Okay.

15          A     They -- other generation resources are  
16    running, most likely are running during that hour.

17          Q     Okay. So have you assigned any of the cost  
18    of these plants needed to meet peak demands at the peak  
19    period in your BIP allocation method?

20          A     Well, the BIP allocation, the allocators for  
21    the base and for the peak -- I mean, excuse me, for the  
22    intermediate and the base reflect usage during a peak  
23    hour, because the base load is annual average usage.  
24    That means every hour of the year, so it includes peak  
25    hour. The 12CP, which is used for intermediate,



1 includes the peak hour. So they do -- they are  
2 assigned cost to the peak hour.

3 Q But if you're assigning a peak, a cost for  
4 peak power or for peak, meeting peak demand, if you're  
5 only assigning that cost at 450 megawatts, then you're  
6 kind of -- you're not really assigning a peak cost to  
7 the other 2285 megawatts.

8 A Again, I would disagree with that. The  
9 method of allocation is different for the intermediate  
10 and the base load. However, those methods of  
11 allocation do include the peak hour.

12 Q Okay. So have you assigned any of the cost  
13 of these plants needed to meet peak demand during the  
14 peak period?

15 A Yes. That's, that's what I'm saying. I  
16 just -- I think that's what I just said, is, in fact,  
17 because the base load is done -- is allocated on an  
18 annual average demand, an annual average demand  
19 includes the peak hour. And because 12CP includes the  
20 peak hour and those are the allocators for intermediate  
21 and for base load, they do receive an allocation for  
22 the peak hour.

23 Q So I guess you would not agree, then, that  
24 you've classified less than 16 percent of the total  
25 generation capacity needed to meet peak demands at

1 peak-related generation?

2 A I don't think I can agree with that. Yeah.

3 Q Okay. Mr. Johnson, even though you indicate  
4 that AE's other generation plants will be used to meet  
5 Austin Energy's peak demand, it doesn't appear that  
6 you've allocated a single dollar of these other plant  
7 costs on the basis of system peak demand, have you?

8 A Again, I would say, as I stated before, that  
9 in fact, the allocation methods that are applied to  
10 base load and intermediate include the peak hour. And  
11 so yes, I did allocate some of those plants to peak  
12 hour.

13 Q Your testimony is that Austin Energy will  
14 incur greater capital cost gen -- greater capital cost  
15 generating unit in order to achieve increased fuel cost  
16 savings; is that correct?

17 A Yes. Yes. Um-hm.

18 Q And thus, you argue that you still -- you've  
19 argued that 73.6 percent of all production demand cost  
20 should be allocated on the basis of energy; is that  
21 correct?

22 A Yes. Average demand, which is equivalent to  
23 energy.

24 Q Where in your recommendations have you  
25 matched this capital cost allocation with the

1     **corresponding fuel cost allocation?**

2           A     I haven't made any adjustments to fuel cost.

3           Q     Okay.  If the allocation of fuel expense was  
4     an issue that could be -- that was being more broadly  
5     considered in this rate review, how would you allocate  
6     fuel so that the fuel cost savings attributable to  
7     increased capital cost were properly matched or  
8     synchronized?

9           A     Well, there's a number of ways to examine  
10    that issue.  You know, one could make an adjustment, a  
11    monthly adjustment on fuel cost as opposed to an annual  
12    adjustment, which is what occurs through the  
13    pilot -- through the PSA, and that would be -- that  
14    would basically take care of any concern anyone has  
15    about that issue.

16                   But it is not an issue that I think is  
17    that concerning to me, because every time I have  
18    prepared an adjustment to try to address this concern  
19    or any time I've seen any other witness prepare such an  
20    adjustment, the effects are relatively minor.  And in,  
21    fact, you know, with the PSA having a summer/winter  
22    differential, I think that will in part address the  
23    issue.  Maybe not directly, but in part it may address  
24    the issue.

25          Q     So you don't agree that lower fuel costs are

1 a necessary condition of your BIP theory or  
2 consideration of lower fuel costs is necessary?

3 A I did not say that.

4 Q Then how would you -- if -- do you, do you  
5 think that your -- that the BIP theory requires  
6 consideration of lower fuel costs in order to be  
7 complete?

8 A I don't think it's necessary. Again, you  
9 know, you don't want to confuse the issue of are there  
10 lower fuel costs with the issue of the distribution of,  
11 you know, the recovery of fuel cost across time  
12 periods, and that's really what the issue is. And I  
13 think, as I've said, most adjustments I've seen the  
14 effect is fairly minimal if you attempt to adjust, you  
15 know, fuel to time periods. The effect on customer  
16 classes is relatively minimal.

17 Q Okay. Now I'm going to refer you to  
18 Exhibit 21, which is an EIA U.S. Energy Administration  
19 document, and it's part of a response to Austin  
20 Energy's RFI 1-1, and refer you to -- if you'll notice,  
21 it's pages -- I'll refer you to pages 27 to 30 of this  
22 response. And this is the portion of your response  
23 that refers to the DOE's data mentioned on pages 43 and  
24 44 of your direct testimony where you obtained your  
25 generation cost that you employed to calculate your BIP

1 replacement production plant allocation factor; is that  
2 correct?

3 A That's correct.

4 Q In fact, these costs that you use to develop  
5 BIP, your BIP-R on page 16 that we referred to earlier,  
6 uses the total overnight cost in 2014 from pages 30 of  
7 45, correct?

8 A That's correct.

9 Q Are these costs specific to ERCOT?

10 A No.

11 Q Okay.

12 A I, however, would mention that Austin Energy  
13 uses these costs in their system planning. I've seen  
14 that in their system planning studies. They have used  
15 the DOE numbers from --

16 Q Okay. Thanks.

17 A -- this table.

18 Q So if you'll now please turn to what is  
19 marked Exhibit NS-27, and I'll ask you, is this the  
20 full report from which you took pages, the pages  
21 Bates-labeled 25 to 27 of Exhibit NS-21 that we were  
22 just discussing? Have you found it there?

23 A No. I was looking to see if I could find the  
24 same tables in here. Again, I do not find the same  
25 tables that you just showed me, which are -- the tables

1 are what I used. This is, this is labeled as being,  
2 you know, part of the -- what you marked as NS-27 is  
3 labeled as being part of the energy outlook report that  
4 EIA prepares, but it does not appear to have the same  
5 tables in, you know --

6 **Q Would it be on Bates page 28?**

7 A Is there a Bates page 28 on this?

8 MR. COFFMAN: Excuse me.

9 **Q (By Mr. Hughes) This is on NS Exhibit 22.**

10 A Oh, I'm sorry. I'm looking at 27.

11 MR. COFFMAN: Excuse me, could I  
12 ask a clarifying question? Is this -- are you asking  
13 if these are the same document?

14 MR. HUGHES: I'm asking -- I'm  
15 trying to get him to the larger document that he took  
16 certain excerpts from, because there's --

17 MR. COFFMAN: There's different  
18 dates on these documents, the ones that -- different  
19 pagination. They don't seem to be the same document.

20 MR. HUGHES: One's pulled from the  
21 PDF and one's pulled from the website. They are the  
22 same document.

23 MR. COFFMAN: They have different  
24 dates at the top.

25 MR. BROCATO: What exhibit are we

1 looking at?

2 MR. HERRERA: Mr. Hughes, which  
3 exhibit numbers are you referring to?

4 MR. HUGHES: 27 and 22.

5 MR. HERRERA: Okay. I don't have a  
6 22.

7 MR. BROCATO: It's right after 27.

8 MR. HUGHES: I'm sorry. 21 and 27.

9 THE WITNESS: There's 27. I  
10 thought you said 22 awhile ago.

11 MR. COFFMAN: I think that  
12 they're -- I mean, they have the same title, but there  
13 are some differences.

14 MR. HUGHES: So actually  
15 these -- if you'll notice, so go to, go to the second  
16 paragraph of NS-21 and the second paragraph of NS-27  
17 and you'll notice that these documents are verbatim  
18 identical. "Levelized cost of electricity is often  
19 cited as a convenient summary measure of the overall  
20 competitiveness."

21 MR. COFFMAN: Well, that paragraph  
22 may be the same.

23 MR. HUGHES: The first, I believe  
24 the first paragraph is identical as well, and the third  
25 and the fourth.

1 MR. HERRERA: Mr. Hughes, I  
2 appreciate you telling us that, but I think you need  
3 the witness to tell us that.

4 THE WITNESS: I mean, I will say  
5 this, that on NS-22 the -- page 105, Table 8.2 is the  
6 same as Table 8.2 on NS-21.

7 Q (By Mr. Hughes) So is that the table you  
8 used?

9 A Yes.

10 Q Okay. So what we're essentially trying to  
11 show is that the same tables come from different  
12 documents and you've pulled them from one of these  
13 documents? I'm not sure which.

14 A Yeah. I downloaded them from the DOE  
15 website, the table. I don't know -- yeah. It was not  
16 marked as a --

17 Q So if you're looking at --

18 A (Inaudible.)

19 Q -- at -- well, looking again at Exhibit 22,  
20 is that the larger excerpt of the full section from  
21 what was pulled with regards to NS-2 -- Exhibit 21?

22 A It may be. I --

23 Q So let's go ahead and move to --

24 A Sorry. I was trying to find a date,  
25 but -- September 2015. Okay. I think one thing that



1    happened is sometimes DOE has an early release on  
2    certain information from their Annual Energy Outlook,  
3    and that appears to be the case with these two  
4    documents. One is -- you know, was probably an early  
5    release of the document and then the full, you know, a  
6    full document is released later.

7           Q     So let's go ahead and move on to Exhibit 23  
8    then. So now if we go off the website --

9           A     Yes.

10          Q     Page 106 -- I'm sorry. Exhibit 22. Page 106  
11    from the website, footnote 10, is this the same table  
12    that's in -- it was in the two previous documents, or  
13    is this a different table?

14          A     It appears to be the same table.

15          Q     So this is the source of the plant cost  
16    estimates, when you go to the documentation and  
17    assumptions relied upon in the capital cost of  
18    electricity 2013 study that --

19                   MR. COFFMAN: I'm sorry, could you  
20    refer me what page you're looking at?

21                   MR. HUGHES: We're looking at  
22    Exhibit 22 now, page 106, footnote 10.

23                   THE WITNESS: Well, I mean, I can  
24    read that footnote. I take it for, you know, what it  
25    says, sources.

1           Q     **(By Mr. Hughes) But that, that references**  
2     **the report that actually prepared the generating plant**  
3     **cost estimate that you relied upon, correct?**

4           A     Yes. I will note that it indicates that the  
5     2013 report was updated by external consultants.

6           Q     **Okay. So does the report on Exhibit 23 come**  
7     **from that footnote?**

8           A     Well, I don't know for sure. I think in  
9     part. I mean, just judging from the footnote, it would  
10    seem to me that in part it does. You know, to me it is  
11    a little ambiguous there when it says it was updated by  
12    external consultants, but, and that's really the best I  
13    can tell you right now on that.

14          Q     **Okay. If you'll go back to Exhibit 21 and**  
15    **look at the fifth paragraph on page 25, which is the**  
16    **first page of the EIA report "Levelized Cost and**  
17    **Levelized Avoided Cost of New Generation Resources in**  
18    **the Annual Energy Outlook 2015."**

19          A     Yes.

20          Q     **Would you read aloud the first sentence of**  
21    **that paragraph?**

22          A     The one that's in yellow?

23          Q     **Yes.**

24          A     "Since projected utilization rates, the  
25    existing resource mix, and capacity values can all vary

1 dramatically across regions where new generation  
2 capacity may be needed, the direct comparison of LCOE  
3 across technologies is often problematic and can be  
4 misleading as a method to assess the economic  
5 competitiveness of the various generation  
6 alternatives."

7 Q Okay. So the offers of the numbers that you  
8 use for the plant cost say "values can all vary  
9 dramatically" and then "the direct comparison of  
10 technologies," such as you made with your BIP  
11 replacement theory, "is often problematic and can be  
12 misleading."

13 A I don't think that what I quoted referred to  
14 my BIP, my BIP calculation. You know, it says --

15 Q No. We're referring --

16 A -- what it says.

17 Q We're referring to the levelized cost study.  
18 The "Levelized Cost and Levelized Avoided Cost of New  
19 Generation Resources," these are the documents that  
20 we've been trying to establish that you've used, but  
21 they come from so many different sources and -- but I  
22 believe that --

23 A Now, just to be clear, I did not use the  
24 levelized cost. I used the overnight -- as we went  
25 over initially, I used the overnight cost, overnight

1 capital cost, but there are a number of calculation  
2 steps in between going from there to the levelized  
3 cost, but the, the sentence says what it says.

4 Q Okay. So if I can, I'll recap our discussion  
5 thus far. To obtain your proposed BIP replacement  
6 allocation factor, you multiplied the cost per megawatt  
7 of differing generating resources that may be, may at  
8 sometimes be misleading -- that may be misleading, I'm  
9 sorry, may be misleading, times Austin Energy's  
10 megawatts of that type of generation. You've  
11 multiplied it -- you multiplied the cost per megawatt  
12 times the amount that Austin Energy currently owns.

13 MR. COFFMAN: Is that a question?

14 MR. HUGHES: Yes.

15 THE WITNESS: Well, I --

16 MR. COFFMAN: Then I object. It  
17 seems to imply something the witness had not said  
18 earlier.

19 Q (By Mr. Hughes) Well, I'm -- okay. Well,  
20 let me ask it. Let me just ask it this way. Have you  
21 multiplied -- have you obtained, have you, you know,  
22 obtained your proposed BIP-R allocation factor in this  
23 case, have you multiplied the cost per megawatts of  
24 different generating resources times Austin Energy's  
25 megawatts of that type of generation?

1           A     Yes. I've multiplied the cost per kW,  
2     construction cost times the megawatts for that type of  
3     unit on the Austin system.

4           Q     And as part of that you've assumed that  
5     Austin Energy meets its peak demand through a  
6     combination of 450 megawatts at peaking generation plus  
7     2285 megawatts of peaking power from some sort -- from  
8     some sources that no cost has been allocated towards;  
9     is that correct?

10          A     Okay. Again, where are you getting the 2200?

11          Q     Well, 2285 is the, is the amount of if you  
12     take 2285, add 450 megawatts at peaking power, you have  
13     what was Austin Energy's 2015 peak demand.

14          A     I don't know that I would use -- in order to  
15     try to give an answer here I would say yes, I don't  
16     know that I'd give those exact numbers. I mean, you  
17     know, Austin Energy may be purchasing some power in  
18     addition to its own power, and I, you know, would point  
19     to the capacities of the units that are on my work  
20     paper there. They may not exactly add up to that --

21          Q     So --

22          A     -- the number you mentioned.

23          Q     So if they're purchasing power, what's the  
24     cost allocated towards what they're purchasing? Is  
25     that -- is there any cost allocated to that?

1           A       Well, all of those costs are in the PSA.

2           Q       **Mr. Johnson, have you reviewed Austin**  
3 **Energy's tariff package, the 2015 cost of service study**  
4 **and proposal to change base electric rates?**

5           A       Yes.

6           Q       **Okay. If you'll refer to Exhibit 24, and go**  
7 **to page 3-31, 3-32, and 5-11, and please read the**  
8 **highlighted areas.**

9           A       Under "Transmission and Distribution Planning  
10 and Regulatory Analysis" it says, "The plan is ESD's  
11 strategic document that describes system improvements  
12 needed for successful operation for the next five  
13 years. The planning process begins with the review of  
14 the distribution system performance during the previous  
15 summer's peak load periods."

16                   You know, then the next, the next  
17 highlighted statement, "To ensure model accuracy, they  
18 first match and then test the previous summer's system  
19 configuration and peak load conditions."

20           Q       **Okay.**

21           A       And on page 5-11 of this exhibit, the next  
22 highlighted statement is, "The distribution function is  
23 concerned with meeting localized demands; therefore,  
24 class maximum demands are often used to allocate  
25 distribution costs. Finally, for individual customers,

1 AE is concerned with the maximum demand that the  
2 specific customer places on the system. These demands  
3 are significant cost drivers for AE's capital expenses,  
4 including debt."

5 Q Okay. Thank you. Now if you'll look at  
6 Exhibit 25, this is Austin Energy's response to  
7 NXP/Samsung's RFI 1-76, and the relevant highlighted  
8 portions will be in the following -- will follow -- for  
9 instance, I believe you have the highlighted portions  
10 on 1.4.13 of that response? If you'll read those  
11 highlighted sections, which is the last sentence of the  
12 first paragraph. This is NS-25?

13 A Yes.

14 MR. HERRERA: Mr. Hughes, what  
15 page --

16 MR. HUGHES: The highlighted  
17 sections. Look at the -- look all the way to the end.  
18 We've highlighted and given you highlighted excerpts.

19 MR. COFFMAN: What page is that?  
20 What page is it in Exhibit 25?

21 MR. HUGHES: It's going to be 390.

22 MR. COFFMAN: The first, if that's  
23 the first page of the exhibit, I don't see any  
24 highlighting.

25 MR. HUGHES: The highlighted

1 provisions are at the --

2 MR. COFFMAN: Oh, you have a  
3 separate page?

4 MR. HUGHES: Yeah. We had separate  
5 pages at the end --

6 MR. COFFMAN: I apologize. Here it  
7 is.

8 THE WITNESS: I mean, if you want  
9 to show me where it's at, I'm not finding it.

10 MR. HERRERA: It's the highlighting  
11 in the demonstrative exhibits you were going through.

12 MR. HUGHES: Yes.

13 THE WITNESS: Oh, okay. I didn't  
14 realize those were part of it.

15 MR. HUGHES: Mr. Coffman, have you  
16 found the high --

17 MR. COFFMAN: Yes.

18 MR. HUGHES: Okay.

19 MR. COFFMAN: On a separate page.  
20 Yes. Thank you.

21 Q (By Mr. Hughes) So the highlighted sentence,  
22 the last sentence in the first paragraph and then the  
23 entire last paragraph, which is 1.5.22 -- .2.2, if you  
24 can read those.

25 A Just 1.5.2.2?



1           **Q     No.   The --**

2           A     Oh, both of them.

3           **Q     Both of them.**

4           A     That's right.   Yeah.   Okay.

5                         THE REPORTER:   Could you, could  
6   you -- you're talking away from me.   If you could aim  
7   this way a little, please.

8                         THE WITNESS:   "On the ESPA form  
9   submitted by customer to AE, the demand load specified  
10   by the customer shall be the total undiversified  
11   connected demand load for each equipment item or load  
12   category, such that AE can appropriately size the AE  
13   electrical service facilities."

14                        "For the purposes of sizing AE  
15   facilities, AE Design shall determine the maximum  
16   expected customer demand load amps that will be seen by  
17   AE facilities from the customer's total connected  
18   undiversified load information and business type as  
19   documented on the ESPA form.   AE facilities will be  
20   sized by AE Design accordingly.   The maximum demand  
21   load amp service available from AE is defined in Table  
22   1.5.2.2."

23           **Q     Thank you.   Now if you'll look, there should**  
24   **be another highlighted attachment there, which will be**  
25   **page 391, and this is AE's response to NXP/Samsung RFI**

1     **number 1-76 as well. Have you found that?**

2           A     1-76.

3           Q     **It's page 391 at the bottom, center bottom.**

4           A     Okay. I see it. Yes.

5           Q     **Okay.**

6           A     I see it.

7           Q     **Will you read that highlighted section?**

8           A     This is under "3.1 Maximum Demand Load  
9     Capacities. This section provides a guide for the  
10    engineer or designer to facilitate the gathering and  
11    interpretation of information on the proposed project  
12    such as facility types, locations, sizes, ratings and  
13    other system and equipment parameters and to use this  
14    information to adequately size the AE facilities  
15    required to serve the customer's electrical demand and  
16    usage needs."

17          Q     **And do you have a highlighted version that  
18    says page 398 at the bottom, center bottom, which is  
19    also part of AE's response to NXP/Samsung RFI No. 1-76?**

20          A     Yes.

21          Q     **Will you read that highlighted portion?**

22          A     "Maximum Demand for Residential Services.  
23    Table 3.3 through Table 3.6 list maximum kVA demands  
24    for groups of single and multiple residential dwelling  
25    units. These tables give the average peak demand for

1 single and multifamily dwelling units for different  
2 square footage ranges. The maximum kVA demands shown  
3 on Table 3.3 through Table 3.6 for any group of  
4 dwellings should be used to size distribution equipment  
5 such as distribution transformers and secondary and  
6 service cables."

7 Q Thank you. Mr. Johnson, in any of the  
8 passages that you've just read was there any mention of  
9 energy loss concerns in sizing transformers?

10 A Not in the passages that you highlighted. I  
11 should mention I have not read the full document, so I  
12 can't tell you beyond the passages you've highlighted.

13 Q Well, it's in response to an RFI, so you  
14 should have access to it.

15 A Yes. I have access to it. That doesn't mean  
16 I've read it.

17 Q Okay. So now we'll go to page -- you should  
18 have an excerpt from your direct testimony that's page  
19 65 of 106. It's got a highlighted section in it as  
20 well.

21 A Yes.

22 Q Okay. On that page you recommend that the  
23 meters be allocated on the basis of a 60 percent  
24 weighted customers and 40 percent production demand  
25 cost allocation.

1                   Mr. Johnson, does Austin Energy's  
2   advance metering system facilitate increased demand  
3   response, reliability, and enhanced energy efficiency?

4           A     Some of the meters do, and I think it's in,  
5   within the next three to four years all of the meters  
6   are planned to do so, to be able to facilitate that.

7           Q     Is it true that the AMS itself doesn't  
8   directly produce those benefits? Or stated another  
9   way, is it not true that AMS does not directly produce  
10  these benefits but instead AMS offers expanded  
11  functionality to each customer on a meter-by-meter  
12  basis and that the functionality is not dependent upon  
13  the demand the customer places on the system or the  
14  amount of energy the customer uses?

15                   MR. HERRERA: Mr. Hughes, can I ask  
16  you to --

17                   MR. HUGHES: Repeat that?

18                   MR. HERRERA: -- read that question  
19  over?

20           Q     (By Mr. Hughes) Okay. I'll eliminate the  
21  first part of it. Is it not true that the advance  
22  metering system doesn't directly produce these  
23  benefits; instead, the advance metering system offers  
24  expanded functionality to each customer on a  
25  meter-by-meter basis and that the functionality is not

1     dependent upon the demand the customer places on the  
2     system or the amount of energy they use? Would you  
3     agree? And I can give you an example.

4             A     Oh, why don't you give me an example.

5             Q     AE won't install exactly the same advance  
6     meter system equipment on a home that uses 3 kilowatts  
7     of power as one that uses 15 kilowatts of power; isn't  
8     that correct?

9             A     If, if they're in the same rate class  
10    and -- I mean, if they're in the same rate class, I  
11    think you're right. I'm -- the only thing I'm having a  
12    bit of difficulty with is the fact that, you know, the  
13    rate classes have different meters, and some of those  
14    meters have -- some of the meters for the larger  
15    customers have more functionality.

16            Q     So you would -- would you stipulate that  
17    within the same rate class neither demand nor energy  
18    affects the cost of AMS meters?

19            A     Not -- no. It does not directly affect the  
20    cost.

21                             MR. HUGHES: No further questions,  
22    Your Honor.

23                             MR. HERRERA: Mr. Brocato?

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

1 CROSS EXAMINATION

2 BY MR. BROCATO:

3 Q Good afternoon, Mr. Johnson.

4 A Hello.

5 Q I just have a few questions for you today. I  
6 want to talk about your revenue requirement proposals  
7 for a moment.

8 Now, as I understand it, you've  
9 identified a couple of adjustments to Austin Energy's  
10 proposed revenue requirement; is that right?

11 A Yes.

12 Q And under your recommendations, rates, base  
13 rates should be lowered by approximately 39 million  
14 dollars; is that correct?

15 A Yes.

16 Q And just so I understand the difference  
17 between your recommendation and Austin Energy's direct  
18 case, you started with their proposed 17.4 million  
19 dollar rate reduction and then you made an adjustment  
20 to three items; is that right?

21 A Yes.

22 Q And the first one is -- well, and let me just  
23 list them. And those are bad debt, non-nuclear  
24 decommissioning, and outside -- inside/outside  
25 discount; is that right?

1           A     Yes.

2           Q     Okay. Now, you also state that Austin  
3     Energy's funding of the Economic Development Department  
4     should be included as part of the GFT; is that right?

5           A     Yes.

6           Q     You don't take the position, do you, as to  
7     whether Austin Energy should still get cost recovery  
8     for that, do you?

9           A     That's correct. That recommendation is  
10    separate and apart from whether or not there will be  
11    recovery of the cost. I view that as a city council  
12    issue.

13          Q     And I understand that you have some testimony  
14    about the GFT and how it should be set and so forth,  
15    but you're not recommending a disallowance per se of  
16    that 9 million dollars roughly; that right?

17          A     That's correct.

18          Q     Okay. And the same is true with respect to  
19    your power supply stabilization recommendation; isn't  
20    that right?

21          A     That's correct.

22          Q     Okay. Now, one of those three adjustments  
23    that we discussed a moment ago is non-nuclear  
24    decommissioning, right?

25          A     Yes.

1           Q     And as I understand it, I think page 20 of  
2     your testimony, you're proposing that an average  
3     decommissioning cost per kWh be used as a basis for  
4     determining the appropriate level of decommissioning  
5     funding; is that right?

6           A     That was the basis for the adjustment.

7           Q     And you get those average numbers based upon  
8     decisions in various cases by various PUCs across the  
9     country; is that also correct?

10          A     Yes. They're the cases that were identified  
11     in the NewGen report.

12          Q     And are you aware that Austin did a  
13     site-specific evaluation for one of the power plants  
14     that they're seeking the decommissioning funding for?

15          A     That's correct.

16          Q     But you believe that it would be better to  
17     use this average number rather than the site-specific  
18     evaluation?

19          A     Well, I think the -- what I've concluded is,  
20     I mean, there should be an adjustment to the level of  
21     non-nuclear decommissioning expense and that the dollar  
22     per kW method is the best way to make that adjustment.  
23     The reason for the adjustment is because after, you  
24     know, reading the NewGen report, my conclusion was that  
25     it appeared to be attempting to develop what I would



1 call a high-side type cost estimate.

2 Q Are you familiar with the Holly Power Plant,  
3 Holly Street Power Plant?

4 A Yes.

5 Q Are you aware of the cost to decommission  
6 that plant?

7 A No. In fact, I think I asked a request for  
8 information on it, and as best I can recall, I did not  
9 get an answer to that question.

10 Q So you're not aware of how those costs  
11 compared to other costs that were approved across the  
12 country?

13 A No. Again, as I say, I think I attempted to  
14 obtain those costs through discovery, and it fell  
15 within the public information exemption.

16 Q And did you do any comparison of the  
17 specifics of any of the plants in question versus the  
18 plants that were used to derive the average  
19 decommissioning cost per kW?

20 A No. The only -- well, in part I did in the  
21 sense that I isolated the dollars per kW by type of  
22 generation. So, you know, steam gas plant for  
23 comparison to Decker and coal plants for comparison to  
24 Fayette. So I --

25 Q So you acknowledge that there's a difference

1     to decommission a gas plant versus, say, a coal-fired  
2     plant?

3           A     Yes.

4           Q     Okay. But again, you rejected the specific  
5     evaluation that was done for, was it Decker?

6           A     Decker. I would not say rejected it. What I  
7     did is I made an adjustment to it.

8           Q     Because you felt like these other plants  
9     around the country would be a better proxy than the  
10    Decker study itself?

11          A     Well, I felt like the best way to address an  
12    issue of a what I would view as a high-side type  
13    estimate is to make the same type of adjustment that  
14    would be made by a Public Service Commission or a  
15    Public Utility Commission.

16          Q     Were any of these Texas cases, Mr. Johnson?

17          A     I believe there were some Texas cases on  
18    there, one or two.

19          Q     And those were for decommissioning what  
20    units?

21          A     I'd have to look through the NewGen report  
22    and look at their table there. They do -- in their  
23    report they do have a table that lists all the cases.

24          Q     Are you aware of any other utilities in Texas  
25    that have established non-nuclear decommissioning

1     **funds?**

2           A     Well, for most utilities the recovery of the  
3     non-nuclear decommissioning cost is through the  
4     depreciation --

5           Q     **Right.**

6           A     -- rate.

7           Q     **Are you aware of any others, any that have**  
8     **established non-nuclear decommissioning funds because**  
9     **of that?**

10          A     I'm not aware of any that have -- I'm  
11     not -- a non-nuclear decommissioning fund or which  
12     create a separate expense as Austin Energy has proposed  
13     here.

14          Q     **If council were to adopt your recommendation**  
15     **and it turns out that the cost to decommission these**  
16     **units exceeds the amount that's collected under your**  
17     **recommendation, would you agree that it would then be**  
18     **necessary for Austin Energy to collect those additional**  
19     **dollars from ratepayers to the extent that they're**  
20     **found prudent?**

21          A     In one way or another. I mean, there would  
22     be many options for how that could be addressed, but it  
23     would depend on the circumstances at the time. In one  
24     way or another there would be recovery of those costs.

25          Q     **And that would have to occur, then, after the**

1     **plant has been decommissioned; isn't that right?**

2           A     Yeah, or concurrent with it.

3           Q     **From those ratepayers that happened to be on**  
4     **the system at that time?**

5           A     Yes.

6           Q     **I want to talk just briefly about production**  
7     **costs. Austin Energy is proposing to use a 12CP method**  
8     **in this case to allocate production costs. Is that**  
9     **your understanding?**

10          A     Yes.

11          Q     **And would you agree that that's an**  
12     **improvement over the current AED methodology?**

13          A     I think my testimony says that.

14          Q     **So you agree?**

15          A     Yes.

16          Q     **Okay. And would you also agree that that's a**  
17     **more appropriate methodology than the Austin Energy 4CP**  
18     **methodology that's been proposed by others in this**  
19     **case?**

20          A     I think it's a slight improvement.

21          Q     **And why is that?**

22          A     Well, because it encompasses a broader number  
23     of hours than just four hours, and it also encompasses  
24     multiple seasons, and in many cases within ERCOT the  
25     outages -- I mean, excuse me, the emergency conditions

1    which have occurred, have occurred in non-summer  
2    months.  So there is probably some need in a  
3    reliability-based allocator to recognize the, the  
4    possibility of reliability events outside the summer  
5    season.

6           **Q     And that's why you believe it's appropriate**  
7   **to encompass more hours rather than fewer?**

8           A     Yes.

9           **Q     Those are all the questions that I have.**  
10   **Thank you, Mr. Johnson.**

11                         MR. HERRERA:  We'll go to your  
12   redirect, Mr. Coffman.  We're going to take a  
13   seven-minute break before we do that.  Go off the  
14   record.

15                         (At 3:22 p.m. the proceedings  
16   recessed, continuing at 3:37 p.m.)

17                         MR. HERRERA:  Mr. Coffman, we are  
18   back on redirect with Mr. Johnson?

19                         MR. COFFMAN:  Yes, sir.

20                         REDIRECT EXAMINATION

21   BY MR. COFFMAN:

22           **Q     Mr. Johnson, you were asked by the attorney**  
23   **for NXP/Samsung to read a line or two from their**  
24   **Exhibit NS-21 and a sentence from the EIA that says**  
25   **that "The direct comparison of LCOE across technologies**

1 is problematic to assess the economic competitiveness  
2 of various generation alternatives."

3 Was that the purpose that you used the  
4 EIA data for, comparing the economic competitiveness of  
5 various generation alternatives?

6 A No. I used it to obtain capital cost for  
7 purposes of planning, and in fact as I stated during  
8 cross examination, Austin Energy itself uses those  
9 costs from the Department of Energy to provide, you  
10 know, the planning cost inputs for the comparisons they  
11 make of revenue requirements associated with various  
12 options for generation.

13 Q And was that why you felt it was appropriate  
14 for your purposes of cost allocation?

15 A Yes. That's one reason.

16 Q You were also asked by NXP/Samsung to read  
17 various passages from a large manual and then asked  
18 about how that compared to your recommendation on  
19 transformers.

20 Did any of the passages you were asked  
21 to read relate to energy losses in your recommendation  
22 for classification and allocation in transformer  
23 investment?

24 A The passages in that document that were  
25 highlighted for me to read did not reference energy

1 losses, but it's a rather large document, since it's  
2 the planning manual for the, for engineers at the  
3 distribution level.

4                   And in my opinion, the issue of energy  
5 losses is more likely to be addressed in the  
6 procurement of transformers by Austin Energy. It's a  
7 matter of what cost of equipment is incurred, and  
8 higher-cost transformers can achieve greater losses.  
9 And from the RFI's answers that I've seen, Austin  
10 Energy has incurred additional transformer equipment  
11 cost to achieve the energy efficiency standards and, in  
12 fact, has attempted to be proactive in purchasing  
13 transformers that produce fewer losses.

14           **Q     Thank you. Then lastly, you were asked some**  
15 **questions by Mr. Brocato related to the non-nuclear**  
16 **decommissioning fund, and he suggested through his**  
17 **questions that if the fund is not sufficiently high to**  
18 **cover decommissioning costs at the time of retirement,**  
19 **then future ratepayers would have to cover it. Is it**  
20 **also, is it also a concern that if the fund is too**  
21 **high, that there's also an intergenerational inequity**  
22 **problem?**

23           **A     Yes. You know, the potential problem also**  
24 **runs the other way, and it's a matter of attempting to**  
25 **reach a balance that balances ratepayers' interest with**

1 the utility's interest, and that impact is another, I  
2 think another valid reason for using regulatory  
3 commission decisions regarding decommissioning cost,  
4 because regulatory commissions are charged with that  
5 duty of balancing consumer and utility interest.

6 **Q Just to clarify the record, what is the, what**  
7 **is the danger if you err on the high side in these**  
8 **decommissioning funds?**

9 A Well, the danger is that you have basically  
10 ratepayers who have foregone money that they've paid  
11 that will either be deferred even further into the  
12 future for other decommissionings or which would have  
13 to be returned through rate reductions at some future  
14 point.

15 **Q Okay. And you attempted to arrive at that**  
16 **balance in your recommendation?**

17 A Yes.

18 MR. COFFMAN: That's all the  
19 redirect that I have.

20 MR. HERRERA: I believe there's  
21 only Mr. Hughes and Mr. Brocato that had initial cross.  
22 Mr. Hughes, do you have any recross based on that  
23 redirect?

24 MR. HUGHES: No, Your Honor.

25 MR. HERRERA: Mr. Brocato?



1 MR. BROCATO: No, Your Honor.

2 MR. HERRERA: Mr. Johnson, you are  
3 excused. Mr. Brocato, are we up to rebuttal?

4 MR. BROCATO: Yes, sir. And we're  
5 prepared to call our first witness.

6 MR. HERRERA: Mr. Brocato, you can  
7 call your first witness on rebuttal.

8 MR. BROCATO: Thank you, Your  
9 Honor. At this time we would call Mr. Mark Dombroski.

10 And Your Honor, I'm going to go through,  
11 for convenience of the parties, and identify the  
12 portions of Mr. Dombroski's testimony we are no longer  
13 offering as a result of testimony that has previously  
14 been either stricken or designated as statements of  
15 position.

16 MR. HERRERA: Okay.

17 MS. COOPER: Clarification,  
18 Mr. Brocato. You're withdrawing those statements, is  
19 that what you're saying?

20 MR. BROCATO: That's correct.

21 MS. COOPER: All right.

22 MR. BROCATO: Subject to the  
23 testimony that was originally drafted in response to  
24 also being excluded from the evidentiary record. If  
25 for some reason at some later date that testimony is

1 considered part of the record, then we would reserve  
2 the right to re-offer this testimony.

3 MR. HERRERA: Okay.

4 MR. BROCATO: Page 22 delete lines  
5 6 through 12. Page 24, line 4 delete the acronym  
6 "AELIC."

7 MR. HERRERA: Page 24, line 4 --

8 MR. BROCATO: Delete "AELIC," and  
9 then strike through lines 8 through the remainder of  
10 the page. Page 25 strike through lines 1 through 8.  
11 Page 35 line strike through "AELIC." Page 36 strike  
12 lines 1 through 16. On line 20 of that same page  
13 strike "AELIC and." Page 37, line 3 strike "both AELIC  
14 and," add an S after the word "support." Page 37, line  
15 6 strike the entirety of that sentence that concludes  
16 on line 7.

17 MR. HERRERA: Including the  
18 footnote?

19 MR. BROCATO: Including the  
20 footnote 29. Page 38 strike lines 9 through 18. Page  
21 39, line 4 strike "AELIC, [commal]." Page 41, line 4  
22 strike "and AELIC's." In that same line strike the  
23 letter S in "claims." On line 6 strike the word  
24 "both," strike the words "and AELIC's." Strike the  
25 second S in the word "proposals," and then at the end

1 of line 6 strike the entire sentence that begins with  
2 "AELIC's position is based." Then on line 8 also  
3 strike the word "regardless, [comma]," and on line 9  
4 strike "and AELIC's" and then strike the last S in the  
5 word "proposals."

6 And with that I would offer Exhibit  
7 AE-2.

8 MR. HERRERA: Any objections?

9 MR. MCCOLLOUGH: Just a  
10 clarification. Are you striking [inaudible]?

11 THE REPORTER: I didn't hear you.

12 MR. MCCOLLOUGH: Page 41 are you  
13 striking the word [inaudible]?

14 MR. BROCATO: Yes.

15 MR. HERRERA: Did you --

16 THE REPORTER: No. The word what?

17 MR. HERRERA: I think

18 Mr. McCollough asked whether on page 41 we were  
19 striking footnote 37?

20 MR. MCCOLLOUGH: Yes.

21 MR. BROCATO: And we are.

22 MR. HERRERA: And the answer is  
23 yes.

24 MR. BROCATO: The footnote that  
25 goes with the stricken sentence. And actually, before

1 I offer I have one question of Mr. Dombroski.

2 MR. HERRERA: Okay.

3

4 REBUTTAL PRESENTATION ON BEHALF OF  
CITY OF AUSTIN

5 DIRECT EXAMINATION

6 BY MR. BROCATO:

7 Q Do you have any additional edits that you  
8 need to make, Mr. Dombroski, to this testimony?

9 A No, I don't.

10 MR. HERRERA: Any objections to  
11 Mr. Dombroski's testimony and rebuttal? It's admitted.

12 MR. BROCATO: And I tender  
13 Mr. Dombroski for cross examination.

14 MR. HERRERA: Before we start with  
15 cross examination, is it Mr. Dombroski or Dombrowski?

16 THE WITNESS: Dombroski.

17 MR. HERRERA: No W. Thank you.  
18 Data Foundry?

19 MR. MCCOLLOUGH: Since I only have  
20 30 minutes, I'm going to reserve it for some of AE's  
21 later witnesses. No questions.

22 MR. HERRERA: Bethany United?

23 MR. WELLS: No questions.

24 MR. HERRERA: HURF?

25 MR. WELLS: I do have one -- well,

1 I do have one question. Later on when I have a  
2 rebuttal with Dr. Dreyfus I have one exhibit that I'd  
3 like to have Mr. Dombroski authenticate.

4 MR. HERRERA: Then you should do  
5 that now.

6 MR. WELLS: Okay.

7 MR. BROCATO: Is it an RFI?

8 MR. WELLS: It's an RFI. You can  
9 see my -- I think it's BC-2.

10 MR. BROCATO: Sure. I mean, you  
11 want to show it to -- I can hand it to him and he can  
12 confirm it, but we're not going to have an objection.

13 MR. WELLS: Okay. Whatever.

14 MR. BROCATO: It's a little  
15 irregular, but it's probably the most efficient  
16 timewise.

17 MR. HERRERA: We're all irregular  
18 these days, Mr. Brocato.

19 MR. HUGHES: I'm not going to be --

20 THE WITNESS: I, I --

21 MR. BROCATO: It's an RFI that you  
22 sponsored. I'm introducing his exhibit. Yeah. We  
23 don't [inaudible].

24 THE WITNESS: This is a correct  
25 copy.

1 MR. HERRERA: WHAT, do we know what  
2 exhibit number that would be?

3 THE WITNESS: It's labeled --

4 MR. WELLS: It's BC-2.

5 MR. HERRERA: Okay. Thank you.

6 Bethany United Exhibit No. 2 is admitted. Low Income  
7 Customers any questions?

8 MS. COOPER: Yes, Your Honor. I  
9 do.

10 CROSS EXAMINATION

11 BY MS. COOPER:

12 Q Good afternoon.

13 A Afternoon.

14 Q How you doing? Hanging in there?

15 A I am.

16 Q I just have a couple questions. I wanted to  
17 follow up on some of our discussions that we kind of  
18 left open because of authentication purposes, for  
19 example, on 1, and then Mr. Dreyfus here passed the  
20 buck to you. So I've got some follow-up for you from  
21 Mr. Dreyfus.

22 MS. COOPER: I want to first go  
23 ahead and introduce this exhibit, and you may have to  
24 rip it apart, and I apologize, Your Honor, because  
25 earlier this was going to be a Rule 106 exhibit, but I

1 think it con -- in all fairness, I think it contains  
2 things that probably are objectionable and I'm not  
3 going to waste the Court's time fighting over it. But  
4 half of it is a response to Austin -- from Austin  
5 Energy. So I don't know how to best do it. It's kind  
6 of got both of them in here.

7 MR. HERRERA: Well, not knowing  
8 what's in there and not seeing it --

9 MS. COOPER: I know.

10 MR. HERRERA: -- I will wait till  
11 it's offered to see --

12 MS. COOPER: You'll wait --

13 MR. HERRERA: -- how we go.

14 MS. COOPER: -- till it's offered.

15 Okay. That's fair enough, Your Honor. That's fair  
16 enough.

17 Q (By Ms. Cooper) Mr. Dombroski, I have placed  
18 before you what's been marked for identification as  
19 AELIC Exhibit No. 1. You would agree that it contains  
20 my response to a discovery request you all made to me,  
21 AELIC response to Austin Energy RFI number 1.2 with an  
22 attachment; is that correct?

23 A That's what it states. Correct.

24 Q But it also contains about halfway through,  
25 and if you -- they're not numbered, but there's also an

1     **Austin Energy response from -- to the Independent**  
2     **Consumer Advocate, 1-22, that contains an attachment**  
3     **referenced in that answer; is that correct?**

4           A     That's correct.

5           Q     **And you are the sponsoring party on this RFI**  
6     **too?**

7           A     Correct.

8           Q     **All right.**

9                     MS. COOPER: Your Honor, for  
10    simplicity's sake I'd like to remove everything except  
11    the RFI, Austin Energy response to the Independent  
12    Consumer Advocate's 1-22, an attachment, and then --

13                    MR. HERRERA: Could you tell me  
14    what you are leaving in?

15                    MS. COOPER: I'm leaving in the  
16    Austin Energy response to the Independent Consumer  
17    Advocate 1-22 along with the attachment. So it's about  
18    halfway through the RFI, the remainder. Everything  
19    after the -- and including the front page of the  
20    response.

21                    MR. BROCATO: I'm still not clear.

22                    MS. COOPER: All right.

23                    MR. BROCATO: But perhaps more  
24    importantly, where is this referenced in his rebuttal  
25    testimony? I know it's an exhibit.



1 MS. COOPER: Well, this deals with  
2 rate design and the conservation effect and the tier  
3 structure.

4 MR. BROCATO: And that's where?

5 MS. COOPER: He makes some specific  
6 comments that the, that the tier structure promotes  
7 conservation.

8 MR. HERRERA: Ms. Cooper, if I  
9 understand what your offer is, it is Austin Energy's  
10 response to the Independent Consumer Advocate's first  
11 RFI, RFI number 1-22?

12 MS. COOPER: Yes.

13 MR. HERRERA: So if I, if I,  
14 Ms. Cooper --

15 MS. COOPER: It's on page 42,  
16 Thomas, of the rebuttal testimony.

17 MR. HERRERA: Ms. Cooper, is this  
18 your --

19 MS. COOPER: Approach the witness,  
20 Your -- I mean Your Honor.

21 MR. BROCATO: I don't see on page  
22 42 where there's a reference to --

23 MS. COOPER: That is conservation.  
24 That's the elasticity demand he's alleging.

25 MR. BROCATO: Okay. My question

1 is, where does he refer to that exhibit?

2 MS. COOPER: He doesn't necessarily  
3 refer to the exhibit. The exhibit is relevant to his  
4 rebuttal testimony. This is also an admission of  
5 Austin Energy. So originally it was --

6 MR. HERRERA: Mr. Cooper and  
7 Mr. Brocato, could I first have clarification from what  
8 it is you're offering?

9 MS. COOPER: I'm offering what's  
10 ICA, that and the attachment. There's an attachment,  
11 Your Honor, and that should be the end of the thing.

12 MR. HERRERA: All right. And  
13 Mr. Brocato, you had an objection?

14 MR. BROCATO: I'm still not clear  
15 what she's offering. Is the answer in the offer?

16 MS. COOPER: No. It's right here.  
17 Austin Energy response, it's halfway through. I said I  
18 was not going to include my answer to y'all.

19 MR. BROCATO: Oh, you're not?

20 MS. COOPER: It'd be a little  
21 chutzpah then.

22 MR. BROCATO: So you're not  
23 including it?

24 MS. COOPER: That's right. I don't  
25 think I have grounds and I don't want to waste time.

1 MR. BROCATO: Okay. She's offering  
2 as AELIC 1 our response to ICA 1-22. No objection.

3 MR. HERRERA: Exhibit 1 is  
4 admitted.

5 MS. COOPER: Thank you, Your Honor.

6 Q (By Ms. Cooper) Mr. Dombroski, let's, let's  
7 take a moment to look at AELIC Exhibit No. 1 and look  
8 at the attached conservation studies. This was a study  
9 performed by NewGen Strategies and Solutions; is that  
10 correct?

11 A Yes.

12 Q And do you find them pretty credible in  
13 dealing in issues such as elasticity of demand studies?

14 A They're a very credible consulting firm.  
15 Yes.

16 Q Okay. In fact, you guys hired them to do  
17 this?

18 A Yes.

19 Q All right. Then I'd like to --

20 MS. COOPER: May I approach the  
21 witness, Your Honor? I'm sorry, I don't have a packet  
22 of exhibits.

23 MR. HERRERA: Yes.

24 MS. COOPER: This is kind of  
25 follow-up here. I'm also going to give you the old

1 one.

2 MS. WHITE: Do you have copies of  
3 No. 1, Lanetta?

4 MS. COOPER: After my -- do you  
5 need it right now?

6 MR. WHITE: No.

7 MS. COOPER: Okay. Thank you for  
8 your patience.

9 Q (By Ms. Cooper) Mr. Dombroski, I've placed  
10 before you what's been marked for AELIC Exhibit No. 18,  
11 correct?

12 A Yes.

13 Q Now, this is not the first time you've seen  
14 this page; is that correct?

15 A That's correct. I believe you gave this to  
16 me during my initial --

17 Q Yes, yes.

18 A -- testimony and it didn't have my name on  
19 it.

20 Q And we couldn't find your name on it. But  
21 now we have it on AELIC Exhibit 18. If we could look  
22 on page -- at the last, very last page, it does show  
23 that you sponsored this RFI answer; is that correct?

24 A You're correct.

25 Q All right. And you would agree with me, sir,

1     that if we look at the second page, which is the inside  
2     of the first hard-copy page, there's a graph called  
3     "Count of 15 Minute Intervals Market Price over \$200  
4     per megawatt hour by month"; is that correct?

5           A     Yes.

6           Q     All right. And this is -- is this over the  
7     test year?

8           A     It says fiscal year 2014.

9           Q     Yes, sir.

10          A     So I would assume it is referring to our  
11     fiscal year, which would be the test-year period.

12          Q     Okay. And what this graph reveals is that  
13     price changes -- now, let me back up. Let me strike  
14     that question.

15                     The market price affects the power  
16     supply adjustment factor; is that correct?

17          A     That's correct.

18          Q     All right. And so the higher the market  
19     price, all things being equal, the higher the PSA, the  
20     PSA cost?

21          A     For the same amount of energy, yes.

22          Q     All right. And so if we look at this graph,  
23     what we find is that the most occurrences of market  
24     price over 200 occurred in January, February, and  
25     March; is that correct?

1           A       That's correct.

2                       MS. COOPER: All right. Your  
3 Honor, at this time we'd like to proffer into evidence  
4 what's been marked for identification as AELIC No. 18.

5                       MR. HERRERA: Any objection.

6                       MR. BROCATO: No, Your Honor.

7                       MR. HERRERA: It's admitted.

8                       MS. COOPER: Thank you, Your Honor.

9 I just have one more. Can't find my exhibits. I may  
10 skip it and come back. Your Honor, you should already  
11 have this exhibit. It was discussed yesterday. It's  
12 Exhibit 21, and you also should have it.

13           Q        (By Ms. Cooper) As a courtesy, I don't think  
14 you carry it around, so Mr. Dombroski, I've given you a  
15 document that's been marked for identification as AELIC  
16 Exhibit 21. You would agree that it is a page from  
17 Austin Energy's rate-filing package, Schedule H-5.3,  
18 Bates-stamp 1071?

19           A        That's correct.

20           Q        All right. And if we look at the most right  
21 vertical columns on this page, they're entitled "Fixed"  
22 and "Variable"; is that correct?

23           A        That's correct. I see those columns.

24           Q        All right. And is it your understanding of  
25 this page is that represents the -- for instance, let's

1 look at the "Residential" column, which is the first  
2 horizontal column -- that only 12 percent of the  
3 residential rates are fixed, whereas 44 percent are  
4 variable; is that correct?

5 A I believe that's what it represents. Yes.

6 Q All right. Now, what variable cost would you  
7 identify on this exhibit?

8 A Variable cost?

9 Q Yes. What, what factors? In other words, is  
10 the CAP rate considered a variable cost or a fixed  
11 cost?

12 A Variable cost would be anything that's  
13 charged based upon the kilowatt hour.

14 Q Okay. So that would be the CAP rate; is that  
15 correct?

16 A CAP rate is kilowatt hour. It's a, it's a,  
17 it's a variable revenue.

18 Q All right.

19 A But the cost itself is not variable, but the  
20 revenue is variable.

21 Q All right. And the same with street area  
22 lighting?

23 A Correct. That's a kilowatt hour.

24 Q And the regulatory charge as well?

25 A Yes.

1           Q     All right. And do you know how Green Choice  
2     is treated? Is it a variable cost or a fixed cost?

3           A     Be for residential customers, it would be a  
4     variable.

5           Q     All right. And is it a reconcilable cost?

6           A     Green Choice itself is not a cost, it's a  
7     revenue.

8           Q     All right.

9           A     It's something that a customer opts into to  
10    purchase.

11          Q     Is it an amount of revenue over and above the  
12    cost of the underlying service that's being provided?

13          A     It's an additional revenue that the customer  
14    benefits from by assuring that their energy comes from  
15    a green source.

16          Q     All right. Now, the -- in the other one it  
17    says "Other Power Supplies." Would that be the  
18    revenues attributed to the power supply adjustment  
19    factor?

20          A     Can you tell me which -- oh, the yellow line?

21          Q     Yes. The most right yellow line. And these  
22    are my colors.

23          A     Yes.

24          Q     Austin Energy did not make this colorful  
25    exhibit. It was, it was me.



1                   So the most right it says "Other Power  
2   Supply." Would those be the revenues attributed to the  
3   power supply adjustment factor or clause?

4           A     Subject to check, but I believe yes.

5           Q     All right. And do the revenues attributed to  
6   the power supply adjustment clause that's with this  
7   vertical column highlighted in yellow, is it intent to  
8   recover the costs of the power supply?

9           A     Of the power supply adjustment?

10          Q     Yes.

11          A     Correct.

12          Q     All right. Now, so the revenues under Green  
13   Choice are revenues over and above the cost recovered  
14   under the power supply adjustment clause, correct?

15          A     Green Choice is an offset to the rate we  
16   calculate for power supply.

17          Q     Okay.

18          A     So . . .

19          Q     So it's in addition to the cost. It's more  
20   like a credit?

21          A     Exactly.

22          Q     All right. The energy charge, you consider  
23   that a variable cost recovery mechanism?

24          A     Yes.

25          Q     And the demand?

1           A     Demand charge, it would be a fixed charge for  
2     residential. In S1 there is no demand charge.

3           Q     Okay. So there's no -- how do you recover  
4     the demand cost?

5           A     The --

6           Q     Or the delivery cost. I'm sorry.

7           A     Those costs would be a part of the energy  
8     component.

9           Q     And so that would be a variable cost?

10          A     It would be a variable revenue. The cost is  
11     this.

12          Q     Cost recovery. Yeah. And then the customer  
13     is a fixed cost recovery mechanism?

14          A     That's correct. It is a fixed revenue to  
15     recover a fixed cost.

16          Q     Now, we found out that the Green Choice has  
17     a -- is basically a credit. Now, doesn't the delivery,  
18     the -- there's some prepayment on the delivery cost  
19     related -- the infrastructure that's recovered under  
20     the delivery, like CIAC?

21          A     Can you restate the question?

22          Q     Yes. Doesn't Austin Energy receive  
23     contributions of capital before services are started  
24     for certain infrastructure in which it has been  
25     classified for cost allocation purposes under this

1     **delivery concept, like transformers?**

2           A     Correct. We have a line extension policy  
3     where a customer pays a hundred percent of their  
4     connection fee, and that contribution in aid of  
5     construction is an offset to our requirement for  
6     internally generated funds.

7           Q     So you also receive, like, a prepayment,  
8     almost, in that regard?

9           A     Correct. They pay before they're connected.

10          Q     All right. Now, the columns I've highlighted  
11     in yellow, except for the CAP -- we've talked about the  
12     CAP yesterday, but the street area lighting, energy  
13     efficiency services, the regulatory and other power,  
14     they're considered reconcilable, the rates are  
15     reconcilable; is that correct?

16          A     We [obscured] back to the cost of service?

17          Q     Well, the rates for the street area lighting  
18     and the energy efficiency services and regulatory  
19     charge and the power supply adjustment clause, the  
20     other power supply, those are reconcilable rates; is  
21     that correct?

22          A     Those are pass-through rates, yes.

23          Q     Well, if you don't recover enough money to  
24     pay your cost, don't you -- aren't you allowed to  
25     surcharge the customer to recover those costs?

1           A     On all of our pass-throughs we have an over-  
2     or under-recovery to ensure that those funds are made  
3     whole.   Yes.

4           Q     **So basically, there's no risk for the**  
5     **utility, in theory, and there's no risk for the**  
6     **customer for reconcilable rates, except for time?**

7           A     Or to the extent the affordability goal would  
8     preclude council from approving a rate change for us.

9           Q     **But that's the same for a fixed charge as**  
10    **well. The regulatory lag, what you're calling is a**  
11    **regulatory lag.**

12          A     Yes.

13                         MS. COOPER: All right. Your  
14   Honor, at this time we would like to move for  
15   demonstrative evidence only what's been marked for  
16   identification as AELIC Exhibit No. 21, and I will note  
17   for the record, Your Honor, these colors I did to  
18   highlight the different aspects.

19                         MR. HERRERA: Any objection?

20                         MR. BROCATO: I'm not sure that the  
21   witness agrees with Ms. Cooper's characterization of  
22   these various costs. If she can get him to do that,  
23   she can use this for demonstrative purposes, but  
24   otherwise, I would say --

25                         MS. COOPER: All right.

1 MR. BROCATO: -- I would object.

2 MS. COOPER: All right.

3 Q (By Ms. Cooper) We've already talked about  
4 the yellow one, and let's look at this. Didn't I  
5 say -- and we are accepting CAP with that additional  
6 thing. But cost recovered through reconcilable rates,  
7 meaning Austin will be reimbursed for any [obscured by  
8 coughing] recovery; isn't that correct? Look at the  
9 columns that are marked in yellow except for the one  
10 that says "CAP."

11 A Looking at them.

12 Q I'm sorry, what?

13 A I'm looking at them.

14 Q Are they the costs recovered through  
15 reconcilable rates, meaning Austin Energy will be  
16 reimbursed for any under-recovery?

17 A Those are pass-through rates.

18 Q Doesn't that mean, yes or no -- if you  
19 disagree with me, that's fine -- but the costs  
20 recovered through these reconcilable rates that are the  
21 yellow, meaning Austin Energy will be reimbursed for  
22 any under-recovery?

23 A That's the intent of the rate. Yes.

24 Q Okay. And then the pink columns, isn't that  
25 what -- which are the energy and the demand, a "Fixed

1     **Cost Postpaid Variable Rate Recovery"?**

2           A     Can you restate the question?

3           Q     Well, if you would look down at the bottom,  
4     that might help you, because I'm just quoting what I've  
5     put down here. It says, "Fixed Cost Postpaid Variable  
6     Rate Recovery," and we can change that if you disagree  
7     with that.

8           A     Okay. I've never referred to it as that, so  
9     I'm not quite sure how you're using your, your  
10    description.

11          Q     Okay. Is it, is it, is it variable rate  
12    recovery of fixed cost? Are you comfortable with that?

13          A     For the demand charge that you have  
14    highlighted in pink here --

15          Q     Uh-huh.

16          A     -- that is what we consider a fixed  
17    revenue --

18          Q     Okay.

19          A     -- recovering fixed cost.

20          Q     Okay. So it's a fixed revenue as well. All  
21    right. If you could, do you have a pen with you, sir?

22          A     Yes.

23          Q     If you could put an F on top of the pink  
24    column entitled "Demand," please.

25          A     Yes.

1           Q     And so the energy is a fixed cost that has  
2     variable rate recovery; is that correct?

3           A     It is a variable revenue, and depending on  
4     the class of customer, it contains both fixed and --

5           Q     The energy part?

6           A     The energy part will recover --

7           Q     Okay.

8           A     -- fixed and variable cost.

9           Q     Okay. Well, that's, that's good to know.  
10    First case that that includes both variable and fixed  
11    rate recovery; is that correct?

12          A     That is correct.

13          Q     All right. And then the purple one I  
14    just -- it contains fixed cost -- it does contain, I'm  
15    not saying that's the whole amount, but it does contain  
16    fixed cost where you have had prepaid recovery, and  
17    I've put CIAC in parentheses. Is that a correct  
18    statement? It's hard to know, huh? How would you  
19    characterize --

20          A     Well, contributions in aid of construction  
21    are made outside of any, any rate, and then those  
22    contributions in aid of construction are then amortized  
23    over the life of the asset.

24          Q     I agree.

25          A     So it's a noncash item.

1           Q     But Austin Energy is given that asset to use  
2     to serves its customers; isn't that correct?

3           A     To serve that customer.

4           Q     Well, if that customer moves or sells their  
5     house, it serves another customer. It doesn't get  
6     taken and gone up with the customer who bought it,  
7     correct?

8           A     That's correct.

9           Q     All right.

10          A     They don't take it with them.

11          Q     So you are uncomfortable with saying -- how  
12     about fixed cost -- how about contains fixed cost  
13     contribution, contribution to fixed cost?

14          A     It recovers fixed cost. That is correct.

15          Q     And it can --

16          A     And it's a variable revenue. It's charged on  
17     a per-kilowatt-hour basis.

18          Q     But Austin Energy also receives, receives  
19     customer [sic] in aid of construction revenues for some  
20     of its infrastructure?

21          A     Yes.

22          Q     And that asset is put in before you start  
23     providing service?

24          A     Yes.

25          Q     All right. And then the green area is the



1     **fixed cost in which you recover, recover it through the**  
 2     **fixed charge?**

3             A       It's a fixed cost and a fixed revenue.   Yes.

4             Q       **All right.**

5                     MS. COOPER:   Your Honor, for  
 6     simplicity's sake I'm going to go ahead and X through  
 7     the annotations next to the color.   I think the  
 8     testimony that's been brought out with our discussion  
 9     with Mr. Dombroski will clarify it, but just to  
 10    avoid -- trying to make sure everybody's exhibit looks  
 11    the same.   So I'm going to --

12            Q       **(By Ms. Cooper)   Mr. Dombroski, if you could**  
 13    **just X out the annotated statements next to the color**  
 14    **codes at the bottom, and you can even X out the color**  
 15    **code, but we will keep the color codes that are on your**  
 16    **exhibit.   All right?   Can you do that, sir?**

17            A       Yes.

18            Q       **All right.**

19                     MS. COOPER:   Your Honor, with that  
 20    change to the exhibit and for the purposes of  
 21    demonstrative evidence only, AELIC offers what's been  
 22    marked as identification as Exhibit 21 into evidence.

23                     MR. HERRERA:   Any objection?

24                     MR. BROCATO:   What about the letter  
 25    F above column C?

1 MS. COOPER: That was discussed and  
2 identified by Mr. Dombroski as "Fixed." Mr. Dombroski  
3 said those were fixed cost recovery.

4 MR. HERRERA: Mr. Brocato, before,  
5 and Ms. Cooper, before you -- I rule on the objection,  
6 I am, I am thoroughly confused with what this document  
7 is supposed to represent. I'd like to ask  
8 Mr. Dombroski some questions that I started asking  
9 Mr. Dreyfus yesterday.

10 CLARIFYING EXAMINATION

11 BY MR. HERRERA:

12 Q Mr. Dombroski, are the dollar amounts shown  
13 here, are these revenue amounts or are these costs?

14 A These are revenues, Your Honor.

15 Q Okay. And what I asked Mr. Dreyfus yesterday  
16 was, and now I'm paraphrasing my own question, but what  
17 I would like to have from you is an example of a fixed  
18 cost. And before you answer I'll give you an example.  
19 Is a transformer an item that is a fixed cost?

20 A Yes, Your Honor.

21 Q Okay. And I'll take it a step further. Is  
22 it a fixed cost forever, or is it a fixed cost over a  
23 particular time and that time is so long that we  
24 consider it to be a fixed cost when you're setting  
25 rates?

1           A     For purposes of setting rates, that's a fixed  
2     cost.

3           Q     Give me an example of a variable cost.

4           A     Fuel, transportation for the fuel, rail cars,  
5     those are the types of things that change with the  
6     amount of production.

7           Q     What do you consider a production plant to  
8     be? Is that a fixed cost?

9           A     The plant itself is a fixed cost. The fuel  
10    it uses to produce the energy is a variable cost.

11          Q     With regard to the document that Ms. Cooper  
12    has been asking you questions about, I can't tell  
13    if -- basically what you've said, this doesn't seem to  
14    represent costs.

15          A     No. She was -- it represents the revenue,  
16    and these are intended to recover certain types of  
17    cost, and I believe that's what she was getting at and  
18    I was answering, but this chart here represents  
19    revenues as stated on line 35, "Total Revenues."

20          Q     Okay. Thank you.

21          A     Yes, Your Honor.

22                         MR. HERRERA: Mr. Brocato, did you  
23    have an objection?

24                         MR. BROCATO: Well, let me -- I'm  
25    not sure yet. I'm still trying to figure this out like

1     you. Column E is, in what I've been given, is  
2     highlighted in yellow, but am I correct that it's not  
3     supposed to be in yellow?

4                     MS. COOPER: Are you asking me,  
5     Mr. Brocato, or --

6                     MR. BROCATO: Yes.

7                     MS. COOPER: Okay. That's because  
8     it is recovered through a variable rate recovery  
9     mechanism.

10                    MR. BROCATO: When you say "yes,"  
11     that means it is not supposed to be in yellow?

12                    MS. COOPER: No. It is supposed to  
13     be in yellow, because it is revenue recovered through a  
14     variable rate element.

15                    MR. BROCATO: All right. I thought  
16     I heard something to the contrary from you earlier, but  
17     all right. I'll try to make this easier. I don't have  
18     an objection to this being a demonstrative exhibit.

19                    MR. HERRERA: It is admitted as a  
20     demonstrative exhibit, and Ms. Cooper, I hope you tell  
21     us in your brief what it demonstrates.

22                    MS. COOPER: I will. Your Honor,  
23     the relevance of the exhibit goes to the continued  
24     pressure by Austin Energy to have more of a fixed  
25     charge. That's what it's relevant for.

1 MR. HERRERA: Thank you.

2 CONTINUATION OF CROSS EXAMINATION

3 BY MS. COOPER:

4 Q Now, Mr. Dombroski, let's talk a little bit  
5 about the power supply adjustment clause. It's my  
6 understanding, having read your testimony or report or  
7 whatever it's called, that Austin Energy is intending  
8 to take some of the over-recovery and apply  
9 it -- they're going to seek this change in the PSA rate  
10 to allow them to recover, use some of the over-recovery  
11 money and put it in the rate stabilization fund.

12 A That is a proposal in our reserve study.  
13 That's correct.

14 Q And is that a proposal that Austin Energy's  
15 going to take to the council as part of this rate case?

16 A That's our intent. Yes.

17 Q How -- what is -- is it your -- do you  
18 believe you have regulatory authority to do that,  
19 to -- this is a pass-through rate; isn't that correct?

20 A It is a pass-through rate. That's correct.

21 Q And a pass-through rate means that both the  
22 utility and the consumer are supposed to be made whole;  
23 is that correct?

24 A I'm not an expert on that regulatory issue.  
25 I'm not sure I can agree with your statement.

1           Q     Okay. That's, that's fair enough.

2                     Does Austin Energy continue to support  
3 inclining block rates?

4           A     Yes, it does.

5           Q     And do you agree --

6                     THE REPORTER: To support what  
7 rates?

8                     MS. COOPER: Inclining,  
9 I-N-C-L-I-N-I-N-G. Correct my spelling if I mix it up.

10          Q     (By Ms. Cooper) And would you agree,  
11 Mr. Dombroski, that inclining block rates are a rate  
12 design structure in which each successive block of  
13 usage is priced higher than the one before?

14          A     Yes.

15          Q     All right. So that you would agree that in  
16 an inclining block rate structure and given a fixed  
17 amount for recovery based on embedded cost, that at  
18 least one and maybe two tiers in an inclining block  
19 rate structure would be priced below average cost?

20          A     It would depend on the number of tiers, but  
21 at least one should be. Yes.

22          Q     All right. And then that being said, at  
23 least one tier should be priced above average cost?

24          A     If you have one below, then you to have one  
25 above. Yes.

1           Q     All right. That's what I thought. I was  
2     checking my math here.

3                     And then in your rebuttal testimony you  
4     mentioned that under your proposed changes in the  
5     residential tiers that there still will be a  
6     conservation effect; is that correct? And I think  
7     that's on page 42 of your rebuttal.

8           A     That's correct. We still see a pretty steep  
9     incline.

10          Q     All right. Now, have you done an elasticity  
11     of demand study to test whether the change in the tier  
12     structure will negatively impact the conservation  
13     effect of the inclining block rate?

14          A     We did not do on elasticity of demand study  
15     for this rate structure, but I also believe one was not  
16     done on your original, if [crosstalk].

17          Q     I'm not -- I'm just going to interrupt you.  
18     I apologize, but interrupt you because you answered my  
19     question.

20                     Now, you would agree if, if -- look at  
21     page 1074 of the rate-filing package.

22                     MS. COOPER: May I approach the  
23     witness, Your Honor?

24                     MR. HERRERA: Yes.

25                     MS. COOPER: I only have this one

1 copy of the exhibit [obscured by coughing].

2 MR. BROCATO: It's the page he's  
3 looking at.

4 Q (By Ms. Cooper) Do you have one -- do you  
5 have it there, Mr. Dombroski?

6 A Yes, I do.

7 Q Okay. I didn't realize it. I was encouraged  
8 to -- and you would agree that on page 1074 that's work  
9 papers H-5.1; is that correct?

10 A If you'll give me a moment here. And within  
11 our report are you referring to?

12 Q In the rate-filing package page 1047  
13 Bates-stamp, and it's -- we're dealing with working  
14 paper H-5.1; is that correct?

15 MR. BROCATO: It's going to be in  
16 the very back, 1074.

17 MS. COOPER: 74.

18 MR. BROCATO: There you go, very  
19 back.

20 THE WITNESS: 1000 . . .

21 MR. BROCATO: 74.

22 Q (By Ms. Cooper) Are you there?

23 A I am there.

24 Q Okay. If we look in the column that's  
25 entitled "Cost of Service," the vertical column, are



1     you there?

2             A     Yes.

3             Q     It looks like you have taken the number of  
4     kilowatt hours and used that to divide into the base  
5     rate cost except for the customer charge. I mean, I  
6     mean, just the -- let me strike that, because I know  
7     that's wrong.

8                     You have taken the number of kilowatt  
9     hours, the 4.2 billion, and divided that into the  
10    production cost assigned to the residential class less  
11    the energy efficiency service component; is that  
12    correct?

13            A     It appears to be where it's taking the total  
14    energy charges that is the sum that we have assigned to  
15    each of the tiers for summer and non-summer CAP and  
16    non-CAP.

17            Q     Right, the 4.2 billion, that's kilowatt  
18    hours, right?

19            A     That's correct.

20            Q     All right. And so you have come up with an  
21    average rate, .03069; is that correct?

22            A     Can you tell me where you're looking at?

23            Q     Right to the next of it. It's under "Rates"  
24    where it says .03069 under "Cost of Service."

25            A     Yes.

1           Q     So you come up with an average rate; is that  
2     correct?

3           A     I don't know if that's an average, but there  
4     is a constant rate there in column H.

5           Q     You don't know if that's an average rate?

6           A     I don't.

7           Q     You don't know what this amount was -- is the  
8     example of dividing the kilowatt, the 4.2 billion  
9     kilowatt hours into the production cost less energy  
10    efficiency services?

11          A     I don't know that, sitting here today. I  
12    would have to check.

13          Q     That's okay. You just lost a few questions.  
14    That's okay. All right. Thank you so much,  
15    Mr. Dombroski.

16          A     Thank you.

17                         MS. COOPER: I pass the witness,  
18    Your Honor.

19                         MR. HERRERA: Public Citizen?

20                         MS. BIRCH: We have questions, Your  
21    Honor. We need to --

22                         MR. HERRERA: You do or do not?

23                         MS. BIRCH: We do.

24                         MR. BROCATO: Can I get a copy of  
25    whatever's going to be offered?

1 MS. BIRCH: That's what we're  
2 trying to give you. That's why we're really -- well,  
3 he needs a copy.

4 Your Honor, can we take a two-minute  
5 break so I can run down the hall while we pass out the  
6 exhibits? Because I want --

7 MR. HERRERA: Yes. Go off the  
8 record for a couple minutes.

9 (At 4:32 p.m. the proceedings  
10 recessed, continuing at 4:40 p.m.)

11 CROSS EXAMINATION

12 BY MS. BIRCH:

13 Q Good afternoon, Mr. Dombroski. I'll  
14 introduce myself, since I didn't have questions for you  
15 yesterday. My name is Carol Birch, and I represent  
16 Sierra Club and Public Citizen.

17 Would you turn to page 22 in your  
18 rebuttal testimony, please?

19 A Okay. I'm there.

20 Q You stated that PS -- PC-SC has proposed  
21 establishing a fund to defease the debt for Austin  
22 Energy's share of the Fayette Power Project; is that  
23 correct?

24 A That's correct.

25 Q Actually, city council has directed Austin

1     **Energy to do that, have they not?**

2           A     To establish a defeat?

3           Q     **A defeasement.**

4           A     I do not believe that's correct.

5           Q     **Or a fund to defease Fayette?**

6           A     I do not believe that's correct.

7           Q     **Would you look at Exhibit 4?**

8           A     Yes.

9           Q     **And it's the "Austin Energy Resource,**  
10 **Generation, and Climate Protection Plan to 2025,"**  
11 **correct?**

12          A     That's correct.

13          Q     **Are you familiar with this plan?**

14          A     I know of the document and its purpose.   Yes.

15          Q     **Would you agree with me that Austin City**  
16 **Council has adopted this plan?**

17          A     Yes.   I believe they have.   Yes.

18          Q     **And in it they established goals, did they**  
19 **not?**

20          A     Yes, they did.

21          Q     **Would you look at page 3?**

22          A     Yes.

23          Q     **About two-thirds of the way down the page**  
24 **where it says, "The Plan adopts and acts immediately**  
25 **on," several items, would you -- do you agree?**

1           A       That's correct.

2           Q       Would you agree that this plan calls for  
3   Austin Energy to act immediately to create a cash  
4   reserve fund to enable the retirement of Austin  
5   Energy's portion of the Fayette project in 2022?

6           A       Number 2 says, "Supporting creation of a cash  
7   reserve fund for Fayette Power Project retirement.  
8   Reserves would be approved through the budgeting  
9   process and targeting to retire Austin's share of the  
10   plant beginning in 2022. Retiring Austin's portion of  
11   Fayette is contingent upon cash available to pay off  
12   debt and other costs associated with retirement while  
13   maintaining affordability."

14          Q       And that's preceded by "The plan adopts and  
15   acts immediately on," correct?

16          A       Yes. I answered that yes.

17          Q       I just wanted to clarify that.

18          A       Yes.

19          Q       Do you agree that 2018 is established as the  
20   expected retirement date for the Decker steam units in  
21   the plan?

22          A       I believe that is the correct date in this  
23   plan.

24          Q       Would you agree that Austin Energy is  
25   required to make a good-faith effort to achieve the

1 policy goals set forth by the Austin City Council in  
2 this plan?

3 A Yes.

4 Q As we heard yesterday from Ms. Ball, Austin  
5 Energy is now considering a retirement date for the  
6 Decker steam units that is beyond 2018, correct?

7 A That's correct. It's to be in line with  
8 replacement of that capacity.

9 Q And is it still your opinion that it's  
10 appropriate for Austin Energy to plan and save for  
11 retirement of the Decker units even though the utility  
12 may advocate to keep them running past 2018?

13 A Yes, because it was subject to affordability  
14 goal, and when we ran our forecast model this year it  
15 indicated that shutting Decker down in 2018 and  
16 bringing on that new capacity did not meet the  
17 affordability goal. So that was the reason why we  
18 pushed the retirement of Decker out another year.

19 Q Does the decommissioning study conducted by  
20 NewGen assume that the Fayette plant will be retired at  
21 some point in the future? Are you familiar with  
22 that --

23 A Yes, it does.

24 Q -- study? Does the study assume any expected  
25 retirement date?

1           A     I believe it was consistent with this  
2     resource plan, which would have been 2018. I believe  
3     that was the . . .

4           Q     Okay. Let me clarify. My question was that  
5     the NewGen -- several questions back I asked whether  
6     the NewGen study assumed that the Fayette plant would  
7     be retired at some point in the future, and your answer  
8     is?

9           A     Yes, it does.

10          Q     So does that study assume any expected  
11     retirement plan, retirement date for Fayette?

12          A     I'm sure it does. Yes. Or at least a year  
13     if not a date.

14          Q     I didn't, I didn't hear your answer.

15          A     A year if -- but not a date.

16          Q     Do you know what the year is?

17          A     I'd be speculating, but I believe it's either  
18     '22 or '23.

19          Q     But you don't think a year is a date?

20          A     A date is like May 1st; a year is like 2022  
21     or 2023.

22          Q     Would you agree, Mr. Dombroski, that it makes  
23     sense for Austin Energy to set aside money for a  
24     decommissioning now to help build up reserve to pay the  
25     cost of decommissioning whenever the coal plant

1       **retires?**

2           A       Absolutely we should be setting aside funds  
3       for decommissioning.

4           Q       And when I say "coal plant" you know I'm  
5       talking about Fayette, correct?

6           A       Yes. That's the only one we own.

7           Q       Would you look at Exhibit 7, please?

8           A       I have it.

9           Q       Please take a look at the last paragraph on  
10       page 2. And let's identify it first. This is the  
11       December 1st, 2014 memo from Larry Weis to Mark Ott,  
12       correct?

13          A       It's to the mayor and city council with a  
14       copy to Marc Ott.

15          Q       Right. Excuse me. And the subject is the  
16       "Fayette Power Project Solution Response"?

17          A       Correct.

18          Q       Now turn to page 2 and the last paragraph,  
19       give you a second to read that if you need to.

20          A       Okay. I'm familiar with the paragraph.

21          Q       Okay. And would you agree that the memo  
22       indicates that, that -- I mean this memo was prepared  
23       in response to a city council resolution that  
24       specifically mentions November of 2022 is when the  
25       majority of Austin Energy's debt associated with



1     **Fayette will become callable?**

2           A     That's correct.

3           Q     **So is November of 2022 enough of a date?**

4           A     Yes, it is.

5           Q     **Okay. Do you understand this to be accurate**  
6     **information?**

7           A     Yes.

8           Q     **Could you briefly explain what "callable"**  
9     **means?**

10          A     Yes. When we issue long-term debt there is  
11     on most bonds a date in which that debt can be retired  
12     or restructured. Until that point you don't have a  
13     legal right, you must make payments according to that  
14     schedule. And so this, this series you're referring to  
15     here, that is the first date in which we can  
16     restructure or retire that debt at our option.

17          Q     **So is Public Citizen/Sierra Club's proposal**  
18     **to set up a fund to defease the debt for Austin**  
19     **Energy's share of Fayette one possible mechanism that**  
20     **is actually discussed in this memo to achieve city**  
21     **council policy to retire Austin Energy's share of**  
22     **Fayette in 2023?**

23          A     Well, it talks about the mechanics of  
24     defeasing a bond in which you establish a trust. I'm  
25     not sure I equate that to a fund, but that's how you

1 would defease a bond, is to establish a trust.

2 Q Okay. Would you please look at Exhibit 8?

3 And this is Austin Energy's response to Public  
4 Citizen/Sierra Club's second request for information,  
5 question 2-1. Do you see that?

6 A Yes.

7 Q And if you look at the bottom table, would  
8 you agree that the information provided by Austin  
9 Energy here indicates that 189 million would be needed  
10 to defease the debt associated with Fayette by 2022?

11 A That's what the table states, yes, 189  
12 million.

13 Q Okay. Let's turn to Exhibit 9, which is  
14 Austin Energy's response to our third request for  
15 information --

16 A Yes.

17 Q -- question 3-4. Turn to the second page.  
18 The question I want to ask you about is on the back.

19 A Yes.

20 Q And do you agree --

21 MR. HERRERA: What was the exhibit  
22 number, Ms. Birch?

23 MS. BIRCH: 9, Your Honor, the back  
24 page.

25 Q (By Ms. Birch) Do you agree that the

1 information provided in this exhibit indicates that  
2 there will be just over 143 million to Fayette debt, of  
3 debt to defease in 2022?

4 A Yes. It states 143.3 million in October of  
5 2022.

6 Q Okay. And is that figure a more updated  
7 estimate than the information provided in Exhibit 8?

8 A Yes. I believe that the response in this RFI  
9 is a more appropriate figure to use for planning  
10 purposes.

11 Q Let's look at Exhibit 10. We need to -- this  
12 is Austin Energy's response to our first request for  
13 information. We need to clear something up. Will you  
14 look at on the second page -- you sponsored this,  
15 correct?

16 A It's what it states. Yes.

17 Q So will you -- would you look at Section E of  
18 your answer, that "The revenue requirement only  
19 provides for annual debt service as prescribed when the  
20 obligation is incurred and does not include additional  
21 funds for bond defeasement or early payoffs"?

22 A That's correct.

23 Q If you look back at the questions on the  
24 front page and if you look at -- I mean, it looks to me  
25 like that answer corresponds with F rather than E. Is

1     **that -- do you agree with that?**

2           A     The question on E is, "How and when is Austin  
3     Energy contemplating paying off these debts?"

4           Q     **And that answer doesn't seem responsive to**  
5     **that, does it?**

6           A     You're correct.

7           Q     **If you look at the question F on the first**  
8     **page -- look back at the first page, Mr. Dombroski --**

9           A     Yes.

10          Q     **-- and see if you think that's -- no. The**  
11     **first page of Exhibit 10. Just look at F.**

12          A     F. "How much in debts or interest in debts  
13     on power plants is being included in the revenue  
14     requirement in this rate case? Please identify the  
15     specific bonds and interest and for what purpose they  
16     are included in this rate case."

17          Q     **Now look back at the answer under E, and do**  
18     **you think that was meant for F?**

19          A     "Please see AE's response to Sierra  
20     Club/Public Citizen RFI No. 1-" --

21          Q     **No, Mr. Dombroski. Look at your answer E --**

22          A     Okay. E.

23          Q     **-- that we read earlier. Do you think that's**  
24     **responsive to F?**

25          A     Yes.

1           Q     So we can agree that --

2           A     So answer E is responding to question F.

3           Q     Okay. I just wanted to clarify that --

4           A     Okay.

5           Q     -- before we went any further or we were  
6 going to get very confused.

7           A     I'm now unconfused. Thank you.

8           Q     So the way I'm reading this is, your  
9 revenue -- the revenue requirement in the tariff  
10 package doesn't include any funds for bond defeasement  
11 related to Fayette, correct?

12          A     That's correct.

13          Q     So is Austin Energy not currently taking any  
14 action to plan or save for defeasement of Fayette debt  
15 by 2022?

16          A     There are a number of actions that need to  
17 occur before I as a CFO could recommend the act of  
18 collecting revenue from our customers for a  
19 defeasement, and those are really operational, because  
20 we own 50 percent of two separate units, and we would  
21 have to consolidate our interest into one single unit  
22 before we could even consider decommissioning.

23          Q     Well, so the answer is essentially no?

24          A     No. I -- yes. I said that we are not --

25          Q     Okay.

1           A     -- collecting funds for a defeasement of the  
2     debt.

3           Q     I just wanted to be clear about that.

4           A     Okay.

5           Q     And I believe you testified in your rebuttal,  
6     I'm not sure I can point you to it right this second,  
7     but let me just ask it and we'll see if we need to look  
8     for it.

9                     But you testified that there would be  
10    legal and other challenges if you were to pay the bonds  
11    off early?

12          A     If we were to -- if you're referring to  
13    attempting to defease the bonds before they're  
14    callable, yes.

15          Q     Okay.  So wouldn't you also agree that there  
16    might be legal or regulatory challenges to Austin  
17    Energy if the utility were to try to recover the debt  
18    on a plant that has already been retired?

19          A     Yes.  I believe there's a regulatory rule  
20    called "used and useful" that collecting -- paying debt  
21    off an asset that's no longer in service could cause a  
22    problem.

23          Q     Do you remember responding to an RFI from  
24    AELIC saying that payments on Fayette were scheduled to  
25    continue until 2046 under the current schedule?

1           A     I don't recall responding to an RFI on that,  
2     but I will -- that's approximately the correct date  
3     that that debt is retired. I will --

4           Q     Okay.

5           A     -- give you that.

6           Q     So let me ask you, Mr. Dombroski. You  
7     testified that it makes sense to set aside money for  
8     the decommissioning cost --

9           A     That's correct.

10          Q     -- correct, ahead of time? So doesn't it  
11     also make sense to set aside money to pay off the debt  
12     on the coal plant so that it actually can be retired?

13          A     No, it doesn't.

14          Q     No?

15          A     Because the decommissioning cost is -- we are  
16     incurring that expense as we're using the plant, and so  
17     while the cash flow has not occurred yet, we are  
18     incurring the expense, we're producing power with that  
19     plant.

20                     We're also making payments according to  
21     a debt schedule that is amortized over the life of that  
22     asset. So we are paying off the debt in the same  
23     manner as we're -- as we should be collecting for  
24     decommissioning, which is over the life of that asset.

25          Q     But if, but if the lifetime of the plant is

1 expected to be shorter, I mean, because if it's retired  
2 anywhere near what the city council has set as a goal,  
3 customers will be paying long after the plant is  
4 retired, will they not?

5 A We'll have to put it in place, but until we  
6 can consolidate our interest into one unit, I think  
7 it's premature to start collecting funds for defeasing  
8 a bond on a plant that we may not be able to shut down.

9 Q But you don't think it's premature to collect  
10 money to decommission the plant, to retire the plant?

11 A No. Because we are incurring that expense  
12 now as we operate the plant.

13 Q Do you know if Austin Energy has done any  
14 negotiations with LCRA to try to resolve some of those  
15 issues?

16 A I have not been a part of it. I do know that  
17 Austin Energy officials did discuss with LCRA the  
18 agreement we have with them and various options to try  
19 to treat the goals in this plant.

20 Q Okay. Would you look back at Exhibit 4?

21 A Yes.

22 Q Page 7 under "Coal." And again, this is a  
23 plan adopted by the city council, correct?

24 A That's correct.

25 Q And does it not say there that Austin Energy



1     should continue to talk with LCRA about retiring units  
2     1 and 2 as soon as economically and technically  
3     feasible and explore negotiation for control of one  
4     unit to chart a path toward early retirement starting  
5     in 2022?

6           A     That's correct.

7           Q     But to your knowledge, that's not happening?

8           A     It is, is it happening. I'm just not  
9     knowledgeable what's going on. I believe Ms. Elaina  
10    Ball could give you greater insight into that. She's  
11    responsible for our operating plants, and she is our  
12    main contact with LCRA regarding Fayette.

13          Q     Well, let me ask you this. I mean, the goals  
14    set out in Exhibit 4, they're not just suggestions,  
15    correct?

16          A     Correct. They're goals, they're things that  
17    we should be working towards and putting our best-faith  
18    effort towards.

19          Q     Well, would you agree with me that there is  
20    less of an impact, would be less of an impact on  
21    customers if the amount needed to defease  
22    Fayette -- which I believe you said is something over  
23    143 million, correct?

24          A     That's how much we would have to retire, I  
25    believe, in October of 2022. Yes.

1           Q     Correct. So wouldn't you agree with me that  
2     there would be less of an impact on customers if that  
3     were spread over six years, say, rather than a year or  
4     maybe two?

5           A     Yes. I would agree to that.

6           Q     Okay. Let's talk about seasonal PSA.

7           A     Okay.

8           Q     Which I understand better.

9                     MR. HERRERA: Ms. Birch are you  
10    moving on to a different area?

11                    MS. BIRCH: Yes.

12                    MR. HERRERA: Okay. If I could, I  
13    would like to ask Mr. Dombroski a couple of questions  
14    on defeasance.

15                    MS. BIRCH: Sure.

16                    CLARIFYING EXAMINATION

17    BY MR. HERRERA:

18           Q     Just so I'm clear, defeasance of bonds means  
19    payment of the bonds earlier than otherwise your  
20    schedule would call for?

21           A     Yes, Your Honor.

22           Q     And if I understood your testimony correctly,  
23    you can't do that because bonds aren't callable yet?

24           A     That's correct. Once they become callable,  
25    then we have the legal right to defease the bond.

1           Q     Thank you.

2                           MR. HERRERA:   Go ahead, Ms. Birch.

3                           CONTINUATION OF CROSS EXAMINATION

4   BY MS. BIRCH:

5           Q     Okay.  Let's turn to page 37 of your  
6   rebuttal, and on line 3, which has now been amended,  
7   but you stated that Public Citizen and Sierra Club  
8   support Austin Energy's recommendation for a seasonal  
9   PSA; is that correct?

10          A     That's correct.

11          Q     But isn't it true that we repeatedly stated  
12   that we support an annual PSA with continued winter and  
13   summer rates and do not favor a seasonal PSA?

14          A     Can you refer me to your . . .

15          Q     If you would look at -- at the bottom of your  
16   stack is Exhibit 1 and 2, I guess that would be R, and  
17   on pages 8 to 9 -- beginning on page 8 the last --

18          A     6, 7, 8.

19          Q     Do you see where the underline, "Eliminating  
20   the Summer and Winter Energy Rate Differential Reduces  
21   the Incentive to Conserve in the Summer and Lessens  
22   Predictability of Rates"?

23          A     Yes.  I see where it's underlined.  Yes.

24          Q     And on page 9 the first full paragraph in the  
25   middle of the page where it says, "It is preferable to

1 have an annual PSA, paired with summer and winter  
2 energy rates, to allow for better planning for summer  
3 demand reduction by customers," correct?

4 A Yes.

5 Q Did you -- I didn't hear you. Did you --

6 A Yes.

7 Q Sorry. So I mean, wouldn't you agree with me  
8 that the positions we've taken in this case are to  
9 continue the seasonal PSA -- I mean continue the  
10 seasonal rates and leave an annual PSA?

11 A Based upon the statements that you just read  
12 to me, yes.

13 Q Would you look at Exhibit 11? Which is  
14 Austin Energy's response to our first request for  
15 information, question 1-4.

16 A Yes.

17 Q Do you agree that the attachment to this  
18 exhibit are the actual average and peak load zone  
19 prices for Austin Energy by month and by hour for 2011  
20 through 2015?

21 A That's what it states. Correct.

22 Q Let's talk about customer fees for  
23 multifamily residence for a minute, and turn to page 40  
24 of your testimony.

25 A I'm there.

1           Q     Well, we're sort of talking about the entire  
2     section starting with line 10 through 17, but in  
3     response to our proposal to lower the customer charge  
4     to 6 dollars per month for multifamily residents you  
5     stated there is no basis for a 6 dollar residential  
6     customer charge, correct?

7           A     That's what it states.   Correct.

8           Q     Would you agree that it is possible that the  
9     fixed monthly cost to serve a multifamily unit is less  
10    than to serve a single-family home?

11          A     I agree it's possible, but I haven't  
12    conducted a study.

13          Q     Which brings me to my next question.   So is  
14    it your testimony that Public Citizen and Sierra Club  
15    are wrong in suggesting that a lower fee be charged to  
16    multifamily residents, or are you simply stating that  
17    more study is needed to see if 6 dollars per month is  
18    an appropriate monthly fee?

19          A     I believe the fee should be based upon a cost  
20    of service study, and we have not done that cost of  
21    service study, and I believe that's one of the issues  
22    we intend to look for -- look to in the future.

23          Q     But you didn't do it before this tariff  
24    package?

25          A     No, we didn't.   We did not separate out

1 multifamily from single-family residential customers.

2 Q Okay. I have a couple of questions on  
3 outside-the-city versus inside-the-city residential  
4 rates.

5 And currently the out-of-city rates is a  
6 three-tier structure, correct?

7 A That's correct.

8 Q Was that based on the settlement that was  
9 reached?

10 A I -- that's my understanding. Yes.

11 Q So it wasn't based on a policy, it's based on  
12 the settlement agreement?

13 A Yes. During the last rate review.

14 Q So would it be an option at this point to  
15 provide a discount to customers living outside the city  
16 tied to a five-tiered structure but simply have  
17 slightly lower rates but still do it on a five-tier? I  
18 mean, is there any reason you couldn't do that?

19 A Could we have proposed that?

20 Q Going forward, yes.

21 A We could have proposed, but we did -- we  
22 maintained our existing rate structure in the -- we  
23 maintained the spirit of the agreement we had with  
24 those ratepayers in our last rate review.

25 Q But the settlement agreement doesn't bind you

1     **in the new rate-making process, right?**

2           A     That's probably a question for one of the  
3     attorneys and not myself.

4           Q     Okay. Let's look at Exhibit 12. This is  
5     Austin Energy's response to our first request for  
6     information, question 1-5.

7           A     I have it.

8           Q     Would you agree that the attachment to this  
9     exhibit is the number of customers whose electric usage  
10    falls into each of the five rate tiers that apply to  
11    in-city customers for fiscal years 2012 through 2015  
12    divided by those who live inside or outside the city?  
13    Oh, let me re -- residential customers, and it's  
14    divided by in city and outside city.

15          A     Yes. It appears to be the data that's on  
16    these attached charts.

17          Q     Would you agree that this data shows that on  
18    average Austin Energy residential customers who live  
19    outside the city are using more electricity than  
20    residential customers who live inside the city?

21          A     Without doing an analysis of the numbers, I  
22    can't tell you, but I'll stipulate that that's my  
23    understanding.

24          Q     Thank you. Okay. I have a couple of  
25    questions about load-shifting voltage rider, and let's

1     refer back to your testimony page 48, beginning on line  
2     13.

3             A     Yes.

4             Q     You essentially state that PC-SC support the  
5     proposed rider but note that we want added clarity to  
6     make it clear the purpose of the rider is to shift peak  
7     load using storage technology; is that correct?

8             A     That's correct.

9             Q     Does Austin Energy agree that the proposed  
10    load-shifting voltage rider should be clarified to make  
11    it apparent to customers that it is intended to shift  
12    peak use and not reduce energy and that it is intended  
13    for storage technologies?

14            A     I believe that was the intent.   Yes.

15            Q     Public Citizen and Sierra Club recommend  
16    adding residential storage riders and demand-response  
17    tariffs to the present rate case.   You understand that,  
18    right?

19            A     I understand it.   Yes.

20            Q     I'm not asking you to agree with it.

21            A     Correct.   I understand it.

22            Q     But does Austin Energy have a position on  
23    adding those proposed riders or tariffs?

24            A     On the recommended additions here?   Certainly  
25    1, I don't think we object.   For 2 and 3 I think I



1 would have to confer with some of our staff on those.

2 Q Do you think it would be a good idea for a  
3 pilot program for residential storage or a pilot  
4 program for a demand response?

5 A I think it's a great way to study impacts of  
6 things, so I don't think I would disagree with  
7 potentially having a pilot program.

8 Q Let's talk about the energy efficiency fee  
9 tariff, services fee, EES. And on page 10 of your  
10 testimony -- and most of my questions about this I will  
11 ask Ms. Kimberly, but I have a --

12 A Okay.

13 Q -- few for you. And you stated at line 20  
14 that Austin Energy will be modifying its initial  
15 proposal for the EES charge to address cost causation  
16 with the initial structure, correct?

17 A That's correct.

18 Q Were the cost causation concerns with the  
19 initial structure first concerns from within Austin  
20 Energy or from outside Austin Energy?

21 A It was from, I believe, from within Austin  
22 Energy. That's how -- let me qualify my answer.  
23 That's how I was made aware. Now, whether someone else  
24 from Austin Energy spoke to a customer or an intervenor  
25 at that time I don't know, but I first became aware of

1 it internally.

2 Q Okay. Who told you, do you remember?

3 A Debbie Kimberly.

4 Q Would you look at Exhibit 15? I'm sorry,  
5 Exhibit 14. No. Let me back up, 15, and this is  
6 Austin Energy's response to our first request for  
7 production --

8 A Okay.

9 Q -- question 1-7. Do you have that?

10 A I do.

11 Q Do you agree that attachment 1 in response to  
12 this question shows the amount of revenue generated  
13 from each customer class from the EES fee for fiscal  
14 years 2013 through 2015?

15 A That's what it reports. Yes.

16 Q And do you agree that for fiscal years 2013  
17 through 2015 the residential class generated  
18 approximately 50 percent of the total revenue generated  
19 by the EES fee?

20 A Approximately, yes.

21 Q Now let's look at Exhibit 14 quickly, which  
22 is Austin Energy's response to PC-SC's second request  
23 for information, question 2-3.

24 A All right.

25 Q And in that -- you sponsored this answer

1     also, correct?

2           A     That's correct.

3           Q     And in it you state in response to a question  
4     that we -- the question is we asked you to provide  
5     documents and communications used to justify  
6     implementing different energy efficiency services fees  
7     to different customer classes, correct?

8           A     That's, that's the request.  Yes.

9           Q     And your answer was that you hadn't proposed  
10    implementing different EES fee rates to different  
11    customer classes during this proceeding?

12          A     Yes.

13          Q     And I will, because we separated this out, I  
14    will just tell you that this was signed on April 29th,  
15    just so you know when you provided the answer --

16          A     Okay.

17          Q     -- of this year.  And then you also stated  
18    that, "At no time during the current rate process did  
19    Austin Energy consider implementing different EES rates  
20    to different customer classes," correct?

21          A     That's correct, on an energy basis.

22          Q     And let's look at Exhibit 28, which is Austin  
23    Energy's response to our third request for information  
24    that we got yesterday.

25          A     Yes.

1 Q And it's sponsored by Ms. Kimberly, correct?

2 A That's correct.

3 Q And in it she states that, "Austin Energy  
4 staff reviewed cost causation and cost of service for  
5 residential and commercial customers in greater detail  
6 in the period between February 1st, 2016 and May 20th,  
7 2016," correct?

8 A That's what it states. Yes.

9 Q And February 1st was shortly after the tariff  
10 package was filed?

11 A Yes.

12 MR. BROCATO: Have you all handed  
13 that out? I don't seem to have that.

14 MS. COOPER: I haven't seen it  
15 either. I was looking through the exhibits.

16 MR. BROCATO: The last one, the  
17 highest number that I believe I have is 16.

18 MS. WHITE: I forgot to hand it  
19 out.

20 MR. HERRERA: And Ms. White, I  
21 don't have 15, I don't believe.

22 MS. BIRCH: You don't have 15?

23 MR. REED: They're on the back  
24 table. May I, may I approach you, Judge --

25 MR. HERRERA: Yeah.

1 MR. REED: -- to give you 15?

2 MR. HERRERA: Thank you. Oh, I  
3 thought it was 10.

4 MR. REED: Oh, yes. That's my  
5 writing.

6 MS. WHITE: Bad copier.

7 Q (By Ms. Birch) So my question,  
8 Mr. Dombroski, is, both of those statements can't be  
9 true, correct, when you stated it hadn't been  
10 considered on April 29th and she stated --

11 A Yeah. As far as the timeframe goes, I know  
12 there was quite a period of time where we were having  
13 discussions about cost causation and how to apply the  
14 rate during that time. It wasn't till recently that I  
15 think we made a decision to shift to a cost causation  
16 as opposed to a pure energy, or as we stated here,  
17 similar to our PSA, we'd just charge a single rate  
18 for -- per kilowatt hour and adjust for line loss.

19 Q Why didn't you do it before you filed the  
20 rate-filing package?

21 A Why didn't we?

22 Q I mean, why didn't you start considering it  
23 immediately after -- well, assuming Ms. Kimberly's  
24 answer is correct.

25 A Right. I think because when we were

1 developing these rates I and my team quite honestly  
2 were doing this in a bit of a vacuum, and after we  
3 proposed rates people started considering it, just like  
4 all the intervenors looked at it and they -- we got  
5 recommendations that we could -- perhaps we could do  
6 this in a, in a better approach by looking at cost  
7 causation in this.

8 Q Will you please look at Exhibit 16?

9 A Yes.

10 Q Which is Austin Energy's response to our  
11 third request for information --

12 A Yes.

13 Q -- which we also got yesterday. And your  
14 response says that, "Austin Energy has not updated its  
15 class cost of service study to reflect the change in  
16 EES cost assignments by customer class," correct?

17 A That's correct.

18 Q Don't you agree that it's important for the  
19 parties and the hearing examiner to know what the cost  
20 will be to various customer classes?

21 A Well, certainly there's the revenue piece and  
22 there's the cost piece, and I believe we did provide  
23 what the estimated rate would be on -- that we approach  
24 using cost causation. We did not run that through our  
25 cost of service model yet, because we will have several

1 adjustments as a result of these hearings that we will  
2 run through our cost of service model one more time.

3 Q But in the meantime, you proposed a change in  
4 the allocation across the customer classes, correct?

5 A Correct. We proposed the rate that we would  
6 charge under this new approach and so the customers  
7 know what they will pay. We have not allocated those  
8 costs across the classes of customers through our cost  
9 of service model.

10 Q Let me be sure I understood your answer. You  
11 haven't done it through a cost of service model? Is  
12 that what you said?

13 A That's right. Our total costs aren't  
14 changing. They're just shifting on which class of  
15 customer we will collect that debt revenue from. We  
16 did calculate what that -- what the customer rate will  
17 be, and we provided that information.

18 Q And you -- that changed -- the change in your  
19 proposal from what was in the tariff package was sent  
20 to the parties on May 20th, I believe. Does that sound  
21 right?

22 A It's -- I believe so. That's approximately  
23 the date.

24 Q Please look at Exhibit 13, which is Austin  
25 Energy's response to our third RFI, 3-2.

1           A     Yes.

2           Q     **And you sponsored this one also?**

3           A     That's what it states.  Yes.

4           Q     **But did you?**

5           A     I sponsored hundreds and hundreds of RFIs, so  
6     yes.  I just don't remember --

7           Q     **Okay.**

8           A     -- this particular one.

9           Q     **But would you agree that any infrastructure**  
10    **cost caused by commercial solar installations are the**  
11    **responsibility of the customer and not Austin Energy?**

12          A     I believe that's the policy.  Yes.

13                         MS. BIRCH:  I'd like to offer all  
14    these exhibits.  Give me just a second, Your Honor, to  
15    get the exhibits organized.

16                         MS. COOPER:  For the record, could  
17    you just kind of give us a tally of which ones you're  
18    asking to be admitted?

19                         MS. BIRCH:  That's what I'm doing.

20                         MS. COOPER:  Oh, okay.  I  
21    apologize.

22                         MS. BIRCH:  Just putting them in  
23    order to make it easier.

24                         MS. COOPER:  All right.  Okay.

25    Thanks.



1 MS. BIRCH: Okay. Your Honor, we  
2 offer Exhibit 4, 8, 9, 10, 11, 12, 13, 14, 15, 16, and  
3 28.

4 MR. HERRERA: Any objections?

5 MR. BROCATO: Give me a moment,  
6 Your Honor.

7 MS. BIRCH: We're waiting on  
8 Mr. Brocato, right?

9 MR. HERRERA: Yes.

10 MS. BIRCH: Okay. I just wanted to  
11 make sure we weren't waiting on me.

12 MR. BROCATO: I have no objection.

13 MR. HERRERA: 4 -- let's see.  
14 Public Citizen/Sierra Club's Exhibits 4, 8, 9, 10, 11,  
15 12, 13, 14, 15, 16, and 28 are admitted.

16 MS. BIRCH: If I didn't pass the  
17 witness, I meant to.

18 MR. HERRERA: Thank you. NXP? Do  
19 you have cross?

20 MR. HUGHES: Oh, no questions.  
21 Sorry about that.

22 MR. HERRERA: All right. It was  
23 the right answer.

24 MR. HUGHES: I was guessing.

25 MR. HERRERA: Independent Consumer?

1 MR. COFFMAN: Okay. My turn. Yes.

2 MR. HERRERA: And I -- before we  
3 move to you I believe Mr. Rourke, when we started cross  
4 with Mr. Dombroski's rebuttal, was not in the room, and  
5 I skipped over him and he may have --

6 MR. HUGHES: (Inaudible.)

7 MR. HERRERA: -- some items. So  
8 let me get to Mr. Rourke first, Mr. Hughes, and I'll  
9 come back to you.

10 MR. HUGHES: Okay.

11 MR. HERRERA: I believe you're  
12 going to give me a wrong answer now.

13 MR. HUGHES: Really quick.

14 MR. HERRERA: Mr. Rourke, if you  
15 would step up to a microphone somewhere.

16 MR. ROURKE: Okay. That's fine.

17 MR. HERRERA: It's standing, or  
18 Mr. Dreyfus just stood up for you if you wish.

19 MR. ROURKE: May I use this mic?  
20 Thank you.

21 CROSS EXAMINATION

22 BY MR. ROURKE:

23 Q Good afternoon, Mr. Dombroski. My name is  
24 Jim Rourke. I'm a party in the case, and I just -- you  
25 drew the short straw today. You're the only witness

1     for whom I have any question in this rate case.

2           A     All right.

3           Q     But I laid before you a little bit earlier  
4     during a break a couple of pages that are stapled  
5     together that are labeled at the lower right-hand  
6     corner of each page, the first page being Jim Rourke  
7     No. 1 and Jim Rourke Exhibit No. 2 on the second page.

8           A     Yes.

9           Q     Do you have those before you?

10          A     I do.

11          Q     Okay. Have you had a chance to look at  
12     those, or would you like a chance to look at those  
13     before you comment on this?

14          A     Yes. I would like a chance to read them.

15          Q     Okay. Let me know when you're ready.

16          A     I'm ready now.

17          Q     Mr. Dombroski, do you recognize Exhibit No. 1  
18     as Austin Energy's response to my first RFI question  
19     number 1-4?

20          A     Yes.

21          Q     Okay. And is the information there that  
22     Austin Energy has provided in response -- well, first  
23     of all, you're the sponsor of this answer?

24          A     That's correct.

25          Q     And is the information that's provided in

1     **there in response to the question still correct today?**

2           A     Yes.  As far as I know, yes.

3           Q     Okay.  And if you'll look at Jim Rourke  
4     **Exhibit No. 2, do you recognize that as Austin Energy's**  
5     **response to RFI Jim Rourke 1-6?**

6           A     Yes.

7           Q     Okay.  And is the information -- and you're  
8     **also the sponsor on that one, correct?**

9           A     I am.  Yes.

10          Q     Okay.  And is the information in that  
11     **particular answer still true and correct today?**

12          A     Yes, it is.

13                         MR. ROURKE:  Your Honor, I offer  
14     Exhibits Jim Rourke No. 1 and No. 2.

15                         MR. HERRERA:  Any objection?

16                         MR. BROCATO:  No, Your Honor.

17                         MS. COOPER:  I do, Your Honor.  I  
18     would like to raise not a specific objection but a Rule  
19     106 that we would like to reserve the right to  
20     supplement this.  This was a series of RFIs that  
21     addressed the cost of -- the average cost, and so we  
22     think in fundamental fairness that the other RFIs  
23     related to this should be considered.

24                         MR. HERRERA:  When you say "the  
25     other RFIs related to this" --

1 MS. COOPER: There's a first set of  
2 RFIs that Mr. Rourke served on Austin Energy, and  
3 those, all the RFIs dealt with the average cost of the  
4 residential customer at the usage level and all that  
5 stuff. So this statement is at X kilowatt hours  
6 they're above cost, but there are some other RFIs that  
7 identify what is cost.

8 MR. HERRERA: When do you expect to  
9 let me know?

10 MS. COOPER: I can try to give it  
11 to you in the morning. I can't do it today. I'm stuck  
12 here.

13 MR. BROCATO: I don't support that.  
14 It's at odds with my idea of the optional completeness.  
15 This answer is complete. There are other RFIs. She  
16 could have offered whatever she wanted to put in  
17 this [crosstalk]. This has --

18 MS. COOPER: I think you're  
19 on -- there's two -- I'm sorry. Go ahead. I  
20 apologize.

21 MR. HERRERA: My understanding, and  
22 I don't have the Rules of Evidence --

23 MS. COOPER: I do.

24 MR. HERRERA: -- is that the rule  
25 of optional completeness allows a party, in the

1 interest of fairness at the time that a document is  
2 offered, and we've not been abiding by that, to offer  
3 something that would complete the answer that is  
4 relevant to the answer that is provided, and I'm --

5 MS. COOPER: Well, I guess, Your  
6 Honor, in fundamental fairness, I mean, what is cost if  
7 this is above cost? I mean, in fundamental fairness we  
8 should be able to have the extent of that issue. What  
9 is cost if that's above cost? What is cost? I mean,  
10 that's just a blanket statement.

11 MR. HERRERA: Mr. Rourke, do you  
12 have a response?

13 MR. ROURKE: I do, Your Honor. I  
14 don't believe the information that Ms. Cooper is  
15 alluding to is actually in any of the responses to the  
16 RFIs. As Mr. Brocato has indicated, these answers are  
17 complete, and that's the way I regard them. I mean,  
18 the only way to judge that would be to have the  
19 complete document before you, and I don't think we have  
20 it at this moment.

21 MS. COOPER: No, Your Honor. I do  
22 not have the full set of --

23 MR. HERRERA: Ms. Cooper, this is  
24 what I'm going to do. You have said that there is some  
25 additional information that would complete this. If

1     you have it, bring it forward.

2                     MS. COOPER:   Not right now.

3                     MR. HERRERA:   Mr. Rourke's Exhibits  
4     1 and 2 are admitted.   And I understand that you  
5     reserve, Ms. Cooper.

6                     MS. COOPER:   Thank you, Your Honor.

7             **Q     (By Mr. Rourke)   Mr. Dombroski, now, the**  
8     **thrust of these two RFIs, RFI responses is that under**  
9     **Austin Energy's cost of service study in this case some**  
10    **in-city residential customers, like myself, pay rates**  
11    **that exceed the customer's cost of service, correct?**

12             A     I can't testify to the rates you pay.

13             **Q     Well, let's leave me out of it then.   But**  
14    **some customers, some residential in-city, in-city**  
15    **residential customers pay rates that are above the cost**  
16    **of service.   Isn't that what this -- these answers say?**

17             A     Correct.   If you are already in one of those  
18    higher tiers, the rates for that, those higher tiers,  
19    specifically third, fourth, and fifth, could be above  
20    cost of service.

21             **Q     Okay.   And that is so even if the residential**  
22    **class as a whole might be regarded as being below cost**  
23    **of service under Austin Energy's cost of service study?**

24             A     Correct.   The statement we're making here is  
25    about the class as a whole and not an individual

1 customer.

2 Q Right. And this -- and these answers here  
3 are true in regards to Austin's present, Austin  
4 Energy's present rates as well as the rates that are  
5 being proposed, correct?

6 A Correct. On 1-4, and our answer (a) is  
7 existing rate is 1346, and (b), the proposed rate is  
8 1342.

9 Q Okay. Thank you.

10 MR. ROURKE: That's all I have,  
11 Your Honor. Pass the witness.

12 MR. HERRERA: Thank you.

13 MR. ROURKE: Thank you,  
14 Mr. Dombroski.

15 MR. HERRERA: Mr. Hughes for NXP.

16 MR. HUGHES: Two quick questions.  
17 Approach the witness? This is just for demonstrative  
18 purposes. This -- I don't know if you'll you need it,  
19 Your Honor.

20 CROSS EXAMINATION

21 BY MR. HUGHES:

22 Q Mr. Dombroski, if you'll have a look at what  
23 I just handed you, that's part -- that is an excerpt  
24 from your rebuttal testimony page 18, lines 12 through  
25 15.



1                   **Based on that excerpt, are you adding**  
2   **back CIAC to the transfer request to defund CIP?**

3           A       We are. Can I walk you through --

4           **Q       Sure.**

5           A       So we start with our CIP in our test year,  
6   which was 168 million. We deducted 10 million for  
7   nonutility. That resulted in 158 million CIP. We  
8   deduct 18 million of contribution in aid of  
9   construction. So that gives us 140 million dollars of  
10   CIP remaining. We take that 140 million CIP, we  
11   multiply it times our equity portion, which is  
12   50 percent, give us 70 million of net revenue. We take  
13   the 70 million, which would be equity, plus the  
14   18 million in contribution in aid of construction,  
15   which is the other form of financing.

16                   You've got equity, you've got debt, and  
17   you've got contribution in aid of construction. So the  
18   remaining would be debt. This is the portion that's  
19   funded by cash and by contribution in aid of  
20   construction.

21           **Q       So the answer would be yes?**

22           A       Well, yes, because there's three lines. One  
23   we deducted, and then we add it back in. So which --

24           **Q       So yes?**

25           A       -- are you referring to?

1           Q     You did --

2           A     Yes.

3           Q     Okay. Now, not related to this excerpt, but  
4 going back to outside services. In her testimony do  
5 you recall whether Ms. Fox eliminated cost of federal  
6 compliance initiatives, maintenance activities, and IT  
7 from the -- her recommendations with regard to outside  
8 IT services?

9           A     Maybe it's getting late, but this has nothing  
10 to do with this section?

11          Q     No. No, no.

12          A     Okay.

13          Q     No. I said that at the beginning.

14          A     Okay. So this was --

15          Q     It has nothing to do with this excerpt.

16          A     All right. So this is in relation to my, my  
17 rebuttal where I -- about outside services --

18          Q     Correct.

19          A     Okay. Can you restate the question then?

20          Q     She made recommendations with regards to  
21 outside services and the expenditures that were in the  
22 budget, Austin Energy's budget for outside services,  
23 but do you recall whether she recommended eliminating  
24 federal compliance initiatives, maintenance activities,  
25 and IT security from those costs?

1           A     She did not recommend removing the entire  
2     cost. She recommended a portion of the cost.

3           Q     But specifically to those I actually -- she  
4     did not recommend removing entire cost, but I think as  
5     it relates to those specific categories she did not; is  
6     that correct? She did not eliminate any -- the funding  
7     for them?

8           A     Subject to check, but I don't believe so.

9           Q     Okay.

10                   MR. HUGHES: No further question,  
11     Your Honor.

12                   MR. HERRERA: Thank you.

13                   MR. COFFMAN: My turn?

14                   MR. HERRERA: Yes.

15                   MR. COFFMAN: First thing I'd like  
16     to do is --

17                   MR. HERRERA: About how much do you  
18     have, Mr. Coffman, do you know?

19                   MR. COFFMAN: I'd say 15 to 30  
20     minutes.

21                   MR. HERRERA: Folks want to take a  
22     break?

23                   THE WITNESS: Yes.

24                   MR. BROCATO: You mean for the  
25     evening or for the moment?

1                   MR. HERRERA: For the, for the  
2 moment, and I thought we'd finish probably with  
3 Mr. Coffman. I'll leave it up to the parties on how  
4 late they want to stay.

5                   MR. BROCATO: I'd say to press on,  
6 if that's [crosstalk] --

7                   MR. COFFMAN: I'm ready.

8                   MR. HUGHES: Well, I wouldn't go  
9 past Mr. Dombroski, but I would get through with him  
10 tonight.

11                  MR. HERRERA: Let's take a  
12 five-minute break.

13                  MS. COOPER: All right.

14                  (At 5:46 p.m. the proceedings  
15 recessed, continuing at 5:54 p.m.)

16                  MR. HERRERA: Mr. Coffman, you may  
17 start with your --

18                  MR. COFFMAN: Okay. The first  
19 thing I'd like to do is offer into the record exhibits,  
20 and they are marked in our exhibit list as ICA Exhibits  
21 27, 28, 29, 30, 31, 32, 33, 34, 35, 37, and 38. So  
22 that's everything from ICA 27 to ICA 38, with the  
23 exception of ICA 36. These are all sponsored by  
24 Mr. Dombroski, and I believe they've been stipulated by  
25 Austin Energy.

1 MR. HERRERA: Mr. Brocato, no  
2 objections?

3 MR. HUGHES: No objections.

4 MR. HERRERA: Those are admitted.

5 MR. COFFMAN: Thank you.

6 CROSS EXAMINATION

7 BY MR. COFFMAN:

8 Q I just have a couple questions. Most of  
9 these I won't be asking questions on, because they  
10 relate to other folks even though you sponsored them,  
11 but with regard to the first one, ICA Exhibit 27, it's  
12 your response to ICA request for information 8-2, and  
13 it relates to the impact of changes on the  
14 inside-the-city houses of worship.

15 And if you'll just take a look at the  
16 last sentence there, I am looking for a clarification.

17 A Yes.

18 Q Is it, is it correct that your rebuttal  
19 testimony changes the billing determinants for the  
20 less-than-20-percent-load-factor customers so that  
21 2.2 million less revenue is collected in the S2 class  
22 and 1.149 million less revenue is collected from the S3  
23 rate?

24 A That is correct.

25 Q Does this adjustment affect the rates for

1 other nonload-factor-floor customers within the S2 or  
2 S3 classes?

3 A No. It does not.

4 Q Thank you. So I think we've already touched  
5 on this, but if you'll look at ICA Exhibit 33, which is  
6 your answer to ICA 8-9, you have -- you said you have  
7 not updated your class cost of service study to reflect  
8 the change in the EES cost assignments that you  
9 recommended in your rebuttal testimony.

10 A That's correct.

11 Q And I believe your answer was you didn't do  
12 that because you're just waiting to see what other  
13 adjustments need to be made throughout this case?

14 A That's part of it. Yes.

15 Q Would you agree with me that this new EES  
16 charge that you propose in your rebuttal testimony is a  
17 relatively significant reallocation of cost?

18 A I don't know if I agree with your  
19 characterization it's significant, but's a reallocation  
20 of cost.

21 Q You think that 18 million dollars more being  
22 paid by residential customers is a significant amount  
23 of money?

24 A Over the entire class of customer?

25 Q Yeah.

1           A     18 million dollars I just don't agree with  
2     your characterization that it's significant.

3           Q     Would you agree with me that significantly  
4     less residential customers are going to see a rate  
5     decrease under your proposal now that you've changed in  
6     this charge?

7           A     I think in our allocation of that revenue to  
8     the customer classes I think we will -- as we proposed,  
9     is to use the same approach we did originally, which  
10    was to keep residential customers to a minimum or to no  
11    increase.

12          Q     Is that, and is that considering the EES  
13    charge, or is that excluding the EES charge -- change?

14          A     Well, that was the goal when we did the first  
15    17 and a half million, and now we have 24 and a half  
16    million. So I think that we'll try to maintain that  
17    same goal.

18          Q     Well, how much of that 24 million reduction  
19    is a reduction to the residential class?

20          A     We have not done that allocation yet, but  
21    Mr. Mancinelli will be testifying to how we allocate  
22    that 24 million dollars.

23          Q     And whatever, whatever proportion of that  
24    24 million now has to be netted against an 18 million  
25    dollar increase to the residential class?

1           A     (Inaudible.)

2                         THE REPORTER:  What'd you say?

3                         THE WITNESS:  I said I understand.

4           Q     (By Mr. Coffman)  And I continue to be  
5  confused about when the idea to make this 18 million  
6  dollar shift occurred.

7                         When, when -- even though I tried to  
8  listen to your answers to the Public Citizen/Sierra  
9  Club questions, but can you tell me what was the date  
10 that you first heard about this idea within your  
11 company?

12          A     I don't know the date.  It would have been  
13 within the last 30 days, but I can't tell you.

14          Q     Would, would you agree with me that it would  
15 have been a more ideal process that customers heard  
16 about this when you filed your original tariff package?

17          A     Correct.  It would always, always be ideal if  
18 we could have this type of arrangement up front, but we  
19 don't think it was too late to present it.

20          Q     And based on your rebuttal testimony on page  
21 10, you characterize this change as being a  
22 modification to address cost causation concerns.

23          A     Yes.

24          Q     Not necessarily in response to any other  
25 intervenor testimony?



1           A     That's correct.

2           Q     Did any of the, the communications you  
3     received from this come out from outside of the company  
4     and from outside any other intervenors?

5           A     Regarding the cost causation?

6           Q     Yeah. The change in the EES --

7           A     No. I spoke with no one outside of the  
8     utility on that.

9           Q     And we really have not had an opportunity to  
10    analyze the impact of this through the cost of service  
11    study, and I assume if you're updating your cost of  
12    service study, the intervenors will not have a chance  
13    to comment on that new updated cost of service study,  
14    correct?

15          A     That's correct. After the conclusion of the  
16    hearing, based upon the recommendations from the  
17    hearing examiner, we will, we will run our cost of  
18    service for a final run.

19          Q     Still staying on this topic, I'd refer you to  
20    ICA Exhibit 35, which shows the various percentage  
21    changes as far as at least the over- and under-recovery  
22    as a result of your updated case; is that fair?

23          A     That's correct.

24          Q     And I guess based on this, I know it's not a  
25    cost of service study update, but you are projecting

1     that this would change what you see as a 12 percent  
2     under-recovery from the residential class to an 8  
3     percent under-recovery?

4           A     That's correct.

5           Q     And that is -- and that change from 12  
6     percent to 8 percent is due exclusively to the  
7     18.3 million dollar shift in the EES charge, correct?

8           A     That's correct. That's . . .

9           Q     I think that's all --

10          A     I would add -- may I qualify that answer?

11          Q     Yeah. Go ahead.

12          A     The 18 million dollars is a net effect of  
13     several changes. So that includes the CAP revenue that  
14     was omitted in our, one of our revenue sources, our  
15     original model; includes the change in EES in an amount  
16     that it impacts the residential customer, but it also  
17     includes the 20 percent load factor change. So this is  
18     the net effect of all of those changes on the revenues.

19          Q     But as far -- did the CAP, CAP revenue change  
20     affect residential customer class?

21          A     Yes, it does.

22          Q     And the 20 percent?

23          A     No. It does not.

24          Q     That doesn't affect the residential customer  
25     class.

1                   To clarify, the change that you're  
2   making in the CAP revenue adjustment does not affect  
3   the actual residential rate?

4           A     That's correct.

5           Q     Whereas, the EES change will affect the rate  
6   and will wind up changing monthly bills if it's adopted  
7   by a noticeable amount?

8           A     That's correct.

9           Q     More than 2 dollars for some customers and  
10   about 4 and a half dollars for others? Based on  
11   Exhibit --

12          A     Are you looking at a specific --

13          Q     Yes. I'm referring to ICA Exhibit 34.

14          A     Yes.

15          Q     So roughly, looking at the thousand-kilowatt-  
16   hour customer, it's a \$2.24 increase, and to the  
17   2,000-kilowatt-hour customer a 4. -- a \$4.48 increase.

18          A     That's correct. Inside or outside because of  
19   the tier structure, but yes.

20          Q     And apart from the inclusion of this in your  
21   rebuttal testimony, the public hasn't been notified of  
22   this change yet, have they?

23          A     No.

24          Q     I've just got a question about the -- your  
25   testimony on page 12 and 13 dealing with imputing

1     **revenues for discounts.**

2                             THE REPORTER: Did you say  
3     computing or imputing?

4                             MR. COFFMAN: Imputing,  
5     I-M-P-U-T-I-N-G.

6                             THE WITNESS: Yes.

7             **Q     (By Mr. Coffman) You acknowledge that the**  
8     **differential between inside and outside customers is**  
9     **not a, not a cost-based differential.**

10            A     That's correct.

11            Q     But that you believe it is reasonable to  
12     **avoid significant financial risk.**

13            A     That's correct.

14            Q     And that significant financial risk is  
15     **litigation expense --**

16            A     That's correct.

17            Q     -- is that right? Is there anything else  
18     **other than litigation expense?**

19            A     Potentially, but sitting here today I can't  
20     quantify or qualify more than what will come out of the  
21     litigation.

22            Q     Have you calculated the potential litigation  
23     **expense on this issue and compared it against the cost**  
24     **and rate impact to inside-the-city customers?**

25            A     No, I haven't.

1           Q     Shifting now to the issue of the non-nuclear  
2 decommissioning fund.

3           A     Yes.

4           Q     In your rebuttal testimony you only refer to  
5 the ICA recommendation in that you agree or note that  
6 we agree that it's reasonable to have a fund, but you  
7 didn't offer any criticism of Mr. Johnson's  
8 recommendation regarding the proper level to set that  
9 non-nuclear decommissioning fund at; is that --

10          A     Can you tell me which page you're reading  
11 from?

12          Q     Your discussion of the issue is -- starts on  
13 page 13, and I would say page 16 is where you discuss  
14 the ICA position.

15                     And correct me if I'm wrong, but I don't  
16 see any disagreement with the -- I mean, you note that  
17 you disagree in the amount of decommissioning expense  
18 that our team is recommending, but did you have any  
19 particular rationale for your disagreement? Just --

20          A     Do you mind if I read this to refresh myself?

21          Q     Go ahead.

22          A     Can you restate your question now?

23          Q     Yes. What is the reason for disagreement  
24 with our lower -- our suggestion that this'd be lower  
25 based on --

1           A     Okay.

2           Q     -- factors related to net salvage and  
3     retirement --

4           A     Okay. I don't --

5           Q     -- projections?

6           A     -- recall your specific amount or your  
7     calculation while I sit here.

8           Q     Would it be fair to say that Austin Energy  
9     would just like to err on the high side with this fund?

10          A     Austin Energy relied upon the expertise of  
11     NewGen strategies to develop our decommissioning  
12     [inaudible] and the engineering from that retained. So  
13     we adopted their . . .

14          Q     Would you agree with me that this type of  
15     decommissioning fund, the goal of such fund should be  
16     to kind of hit the right balance?

17          A     Obviously, you'd like to hit exactly at exact  
18     cost if possible.

19          Q     Right. And you have other parties saying  
20     that it's not high enough.

21          A     That's correct. And sometimes projects run  
22     over also.

23          Q     Well, moving along to the uncollectible  
24     expense issue, and I'm looking at page 25 of your  
25     rebuttal testimony.

1           A     Um-hm.

2           Q     You note there in -- on line 14 to 15 that  
3     the policies that contributed to your ballooning  
4     bad-debt problem have since been revised; is that  
5     correct?

6           A     Yes.

7           Q     Are you familiar with a presentation that  
8     Austin Energy made to the council committee dated June  
9     23, 2014 on utility customer debt?

10          A     I remember several presentations along this  
11     before council. I . . .

12                     MR. COFFMAN: May I approach the  
13     witness? I'm afraid I don't have copies of this.

14                     MR. HERRERA: Yeah.

15          Q     (By Mr. Coffman) Let you take a look at it.

16          A     Okay. I recall the subject. Yes.

17          Q     That look familiar to you?

18          A     Yes, it does.

19          Q     Could I refer you to page 4 and ask you what  
20     Austin Energy projects to be the 2016 -- or rather,  
21     2017, 2016 to 2017 forecast for bad-debt expense?

22          A     For the electric for 2017 our forecast was  
23     11.7 million and about 9 million for 2017.

24          Q     8. --

25          A     8.96.

1           Q     And what actually has been the experience,  
2     what was the experience for FY 2015?

3           A     Our actual?

4           Q     Yes.

5           A     I don't recall the actual today.

6           Q     Okay.

7           A     Here it says calendar year end is  
8     what -- this was a forecast for 2014, 17.2, and for '15  
9     the forecast was 14.4.

10          Q     Is it, is it fair to say that in that  
11     presentation Austin Energy was projecting that the  
12     level of uncollectible expense would trend downward?

13          A     That's correct.

14          Q     Okay. I'd like to refer to one more page --

15          A     Okay.

16          Q     -- that's also labeled as the next page.

17          A     Yes.

18          Q     And could you just summarize those four items  
19     that were listed as a causation for the ballooning  
20     bad-debt problem?

21          A     Sure. It says four drivers for current state  
22     of outstanding debt levels --

23                     MR. HERRERA: Mr. Dombroski, if you  
24     could --

25                     THE WITNESS: Yes, sir.



1 MR. HERRERA: -- break for just a  
2 moment. Mr. Coffman, would you grab this microphone  
3 that's standing there on the -- thanks. And would you  
4 sing a song for us now?

5 MR. COFFMAN: I like to work the  
6 room.

7 THE WITNESS: As I stated, it says  
8 four drivers for current state of outstanding debt  
9 levels: One, summer weatherization disconnection  
10 moratorium in 2011; system conversion or preparation  
11 conversion and stabilization 2011 to 2012; collection  
12 module implementation 2012 and '13. And I might add,  
13 these are referring to our CC&B billing system.

14 Q (By Mr. Coffman) Right.

15 A Number four, summer and winter weatherization  
16 disconnection moratoriums 2013 and '14. What that  
17 means is, during bad weather, hot summers, we do not  
18 disconnect customers. So --

19 Q So those, those are the four things that  
20 occurred that contributed to the spike in uncollectible  
21 expense?

22 A That's correct.

23 Q And of those four, all four of those events  
24 have since ended; is that fair?

25 A Well, we still do not disconnect customers

1 during the hot summer months.

2 Q Okay. That's fine.

3 A But correct, other periods have ended.

4 Q Right. I think I can finish from my seat.

5 Do you recall that the actual  
6 uncollectible expense for FY 2015 was 8.4 million, in  
7 that neighborhood?

8 A That sounds approximately correct.

9 Q I believe that's unaudited, but --

10 A Yes.

11 Q -- does that indicate to you that the  
12 uncollectible expense has actually begun to trend  
13 downward?

14 A It has, but there's an offset to that that I  
15 would note, which is we've also changed our policy on  
16 payment arrangements. And so the amount of  
17 consumer-owed debt contained in those payment  
18 arrangements we've now gone to four payment  
19 arrangements. It was up 48 months, up to, and we at  
20 last count, we had more than 11 million dollars in  
21 payment arrangements. So if a customer ceases payment  
22 on those payment arrangements, we have a risk of debt,  
23 consumer debt converting to bad debt very quickly.

24 Q Do you disagree that 8, a little over  
25 8 million dollars is roughly a five-year average over

1 the last five years, including very high 2013, 2014  
2 years?

3 A I have not calculated the average.

4 Q Did you review Clarence Johnson's direct  
5 testimony on this issue?

6 A Yes, I did.

7 Q I'm going to ask you a question about page 47  
8 of your rebuttal testimony, and this is -- you might  
9 want to refer to the last question on page 46. This is  
10 relating to customer charges --

11 A Yes.

12 Q -- the nonresidential class, and you state on  
13 page 47 that, "Austin Energy declines to commit to  
14 future handling of individual rate components" -- here  
15 we're talking about the customer charge -- "since cost  
16 elements could change significantly in the future rate  
17 case, therefore influencing how treatment should be  
18 implemented."

19 And I'm just trying to get some  
20 reassurance from you that no matter what happens at the  
21 end of this rate case, that Austin Energy is not  
22 planning to make any piecemeal changes or isolated  
23 changes to the customer charge between now and the next  
24 rate review down the road. Can you give me any such  
25 reassurance?

1           A     Are you asking me to promise I won't  
2     [obscured by coughing] -- a recommendation to council?

3           **Q     Yes.**

4                         THE REPORTER:   You won't what?

5                         THE WITNESS:   Promise.  It's a bit  
6     unconventional.  I have no intent at this time.  We  
7     only change base rates every five years.

8           **Q     (By Mr. Coffman)  I don't know if I can take**  
9     **that to the bank.  But is there any plan to implement**  
10    **some gradual or stepped change after this rate case?**

11          A     No.  This rate case is set in one set of  
12    rates.

13          **Q     Um-hm.**

14          A     There was discussion about how we can reduce  
15    the risk of the utility by recovering more of our fixed  
16    costs and fixed revenues, and that is one source.  And  
17    so we are listing options for city council to consider  
18    but not necessarily for Austin Energy to propose.

19          **Q     So you weren't proposing them but you were**  
20    **suggesting them?**

21          A     It's as stated in our, in our report, that  
22    those are the various options for our council to  
23    consider.  As far as I know, we will not have another  
24    rate review to set base rates for another five years.

25          **Q     So is it Austin Energy's plan to not initiate**

1     **another rate review proceeding for five years, to go to**  
2     **a shorter period?**

3             A     I certainly hope so.

4             Q     **Let me just doublecheck here for a minute,**  
5     **make sure I haven't left something. That's all I have.**  
6     **Thank you.**

7                     MR. HERRERA: Are we to redirect?

8                     MR. BROCATO: Thank you, Your  
9     Honor.

10                    REDIRECT EXAMINATION

11     BY MR. BROCATO:

12             Q     **Mr. Dombroski, if Austin Energy were to**  
13     **defease the amount of FPP debt when the bonds are**  
14     **callable, how much would AE need to have in trust?**

15             A     Can't give you a specific amount, but it  
16     would have to be enough to cover the principal plus  
17     future interest payments, and it's usually done in two  
18     ways. You can either put enough cash in there and then  
19     calculate out what the interests are, or you can buy  
20     risk-free treasury, treasury notes to cover the total  
21     cost. So unless you know what the exact return on  
22     those treasuries is, you can't calculate the amount,  
23     but it would be in excess of the 144 million dollars or  
24     so plus interest for the next 20 years.

25             Q     **Thank you, Mr. Dombroski.**

1 MR. BROCATO: Those are all the  
2 questions I have, Your Honor.

3 MR. HERRERA: Mr. Rourke?

4 MR. ROURKE: No questions.

5 MR. HERRERA: Data Foundry?

6 MR. MCCOLLOUGH: No, sir.

7 MR. HERRERA: Bethany United?

8 MR. WELLS: No.

9 MR. HERRERA: HURF?

10 MR. BORGELT: No.

11 MR. HERRERA: Low Income Customers?  
12 Public Citizen?

13 MS. BIRCH: No questions.

14 MR. HERRERA: NXP?

15 MR. HUGHES: Not unless I can get  
16 some promises or on a list for council to consider, no.

17 (Laughter)

18 MR. COFFMAN: Or suggestions.

19 MR. HERRERA: Mr. Coffman?

20 MR. COFFMAN: No more questions,  
21 Your Honor.

22 MR. HERRERA: Mr. Dombroski, I  
23 believe you're excused.

24 What is the parties' wish?

25 MS. BIRCH: Call it a day.

1 MR. HUGHES: Yeah.

2 MR. BROCATO: I'm all right  
3 stopping, but I'd like to go through --

4 MR. HERRERA: What's left?

5 MR. BROCATO: -- what we've got  
6 tomorrow. I assume we would start with Chernick and  
7 then Mancinelli, Canally, Overton, Kimberly, Maenius,  
8 and Dreyfus.

9 MR. HUGHES: And we can confirm  
10 that Chernick is in Austin as of about 10 ago. So he's  
11 here.

12 MR. BROCATO: All right.

13 MR. HERRERA: Mr. Brocato, could  
14 you repeat that, please? I'm a little --

15 MR. BROCATO: Sure.

16 MR. HERRERA: -- slow here.

17 MR. BROCATO: Chernick, Mancinelli,  
18 Canally, Overton, Kimberly, Maenius, and Dreyfus.

19 MS. COOPER: Last but not least.

20 MR. HUGHES: So Dreyfus is last?

21 MR. BROCATO: Correct. And I  
22 think, based upon how things have gone, we may be able  
23 to, and hopefully can, finish tomorrow. I suspect I'm  
24 not the only one who wants to avoid Saturday, but we'll  
25 do what we need to.

1                               MR. HERRERA: I suggest we try to  
2 finish tomorrow if we can. Anything else that we need  
3 to take up on the record?

4                               MR. BROCATO: If we need to start a  
5 little earlier?

6                               MS. COOPER: I'd rather have a  
7 shorter lunch.

8                               MR. BROCATO: Fine.

9                               MR. HERRERA: All right. Let's go  
10 off the record.

11                              (At 6:22 p.m. the proceedings  
12 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 321 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 2 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  
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SANDRA S. GIVENS, CSR  
 Certification No. 5000  
 Certificate Expires 12/31/17

# sg-1541

