

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 2 2016

Volume 3

\* \* \* \* \*

The hearing in the above-entitled matter came on to be heard before ALFRED HERRERA, Independent Hearing Examiner, beginning on the 2nd day of June 2016, from 9:04 a.m. to 12:56 p.m. and from 2:16 p.m. to 8:56 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 9:04 A.M.

3 \* \* \* \*

4 MR. HERRERA: I think it's  
5 Thursday, and the clock says it's 9:04, so let's get  
6 started. I believe we are now -- are there any matters  
7 before we start with the witnesses that folks want to  
8 address?

9 MS. COOPER: Yes, Your Honor. I'm  
10 looking for my exhibits that I wanted to proffer into  
11 evidence.

12 MR. HERRERA: Well, if Mr. Rourke  
13 is ready with his, we'll go with his.

14 MS. COOPER: That would be perfect.

15 MR. HERRERA: And then we'll go to  
16 yours --

17 MS. COOPER: That would be perfect.

18 MR. HERRERA: -- Ms. Cooper. How  
19 about that?

20 MS. COOPER: That would be perfect,  
21 Your Honor.

22 MR. HERRERA: Okay.

23 MR. ROURKE: Thank you, Your Honor.  
24 Jim Rourke for the record. As you know, one of my  
25 requests in this case was for Austin Energy to provide

1 more detail in the, more detail in the Value of Solar  
2 riders to the calculation of the Value of Solar rates,  
3 and we have reached an accommodation on that.

4 The accommodation is described in Austin  
5 Energy witness's Deborah Kimberly's testimony, her  
6 rebuttal testimony. It's at page 12 beginning at line  
7 7 and goes through page 13, ending on line 17. And in  
8 that description on page 12 it refers to a table. We  
9 have provided you and the parties with a copy of that  
10 table. It's marked as Jim Rourke Exhibit No. 3, just  
11 for identification purposes, and so we just wanted to  
12 let you know that we have reached that accommodation.

13 MR. HERRERA: Are you offering that  
14 now, or are you going to wait for Ms. Kimberly to take  
15 the stand?

16 MR. ROURKE: Well, we weren't going  
17 to offer it as evidence. We just wanted it as part of  
18 the record and marked for identification purposes.  
19 That's all.

20 MR. HERRERA: Okay.

21 MR. ROURKE: Is that fine?

22 MR. BROCATO: It's fine with me so  
23 long as -- well, a couple of things. I want to make  
24 sure that no other party has any concerns or problems  
25 with it. We have not gotten any feedback previously;

1 of course, we just handed out this document. I don't  
2 think there was any cross rebuttal or anything along  
3 those lines.

4 MR. ROURKE: No.

5 MR. BROCATO: And then I'm not sure  
6 if we need it as part of the record, but the path  
7 forward as I see it, assuming no one has any concerns,  
8 would be that AE simply include this as part of their  
9 overall tariff package that they're seeking to have  
10 [obscured by coughing] --

11 THE REPORTER: They're seeking to  
12 have what?

13 MR. BROCATO: Approved by council.

14 MR. ROURKE: And that's fine with  
15 me, Your Honor.

16 MS. COOPER: And Your Honor, for  
17 clarification, it's just marked for identification,  
18 it's not asked to be admitted at this time?

19 MR. ROURKE: That's correct.

20 MS. COOPER: All right. Well, we  
21 have no objection right now, Your Honor.

22 MR. BROCATO: And that's my  
23 inquiry, is do we need it to be part of the record in  
24 order to modify the tariff in such a fashion?

25 MR. HERRERA: My sense is --



1                   MR. BROCATO:  If so, I'd like to  
2   offer it.

3                   MR. HERRERA:  My sense is yes,  
4   because otherwise, it's a very nice-looking table.

5                   MR. ROURKE:  Right.

6                   MR. HERRERA:  I don't know if you  
7   want to offer it now or when Ms. Kimberly takes the  
8   stand.  That'll give the parties a chance to look at it  
9   and see if they have an objection or anything like  
10  that.

11                  MR. ROURKE:  Well, again, I'm not  
12  sure how Mr. Thomas was -- how Mr. Brocato was going to  
13  proceed with Ms. Kimberly's testimony, but at this  
14  point we sort of agreed on the fact that this table  
15  would not need to be put into evidence.  As long as the  
16  record is clear, and I believe it is through the  
17  transcript and our discussion here as to what we're  
18  agreeing to, I'm fine with that, and we really don't  
19  need to address it further.  And I believe Mr. Brocato  
20  and Mr. Dreyfus here when they tell me that they will  
21  carry it out.  So I have no problems with that, and I  
22  think just bringing it up at this point in this fashion  
23  is sufficient.

24                  MR. HERRERA:  Okay.

25                  MR. ROURKE:  If that's okay with

1 Your Honor.

2 MR. HERRERA: It's, it's your  
3 presentation, Mr. Rourke.

4 MR. ROURKE: Okay.

5 MR. HERRERA: However you wish to  
6 proceed with this document. If there's an agreement  
7 that you've reached with Austin Energy on certain steps  
8 that they will take going forward, that's between you  
9 and Austin Energy, and then how we deal with it in  
10 terms of my proposal to council, and how council deals  
11 with it is up to council.

12 MR. ROURKE: Okay.

13 MR. HERRERA: All right?

14 MR. ROURKE: And we'll follow up  
15 with briefs on this as well to remind everyone of the  
16 details, but again --

17 MR. HERRERA: Let me, let me pose a  
18 question for you.

19 MR. ROURKE: Okay.

20 MR. HERRERA: Let's say that in  
21 your brief you suggest that the formula that's shown on  
22 this document that's been identified as Jim Rourke  
23 Exhibit No. 3, that you propose that that is the  
24 formula that should be used for whatever this formula  
25 does. Where will be the evidentiary support for that

1     brief?

2                     MR. ROURKE:   Well, again, it's just  
3     the fact that Austin Energy and I have stipulated to  
4     this being included in the tariff, and without  
5     objection from other parties I don't know where there's  
6     a dispute over it.   And this is, this is what  
7     Ms. Kimberly testifies to in her rebuttal testimony at  
8     the point, page 12 and 13, of her rebuttal testimony.  
9     So these same formulas are in her testimony.   Her  
10    testimony refers to a table.   This is the table.   So we  
11    have it as part of her rebuttal testimony.

12                    MR. BROCATO:   And Your Honor, if I  
13    may.   Actually, and perhaps Mr. Rourke is unaware of  
14    this, we are not going to have that testimony.   Because  
15    he designated his presentation as a statement of  
16    position, as we're doing with other witnesses, we will  
17    not be offering that rebuttal testimony, because it's  
18    no longer rebutting evidence.

19                    So my preference, notwithstanding our  
20    prior conversation, would be that Mr. Rourke offer this  
21    just so it's clean and it's clear whether the parties  
22    have objections or not and, and so it's also clean that  
23    we've got an evidentiary basis for Austin modifying  
24    their tariffs in this --

25                    MR. HERRERA:   That would be my

1 preference. When we do it is up to you guys.

2 MR. BROCATO: And I would just  
3 suggest we do it now.

4 MR. ROURKE: Then I offer it, Your  
5 Honor.

6 MR. HERRERA: Are there any  
7 objections to Jim Rourke Exhibit No. 3?

8 MS. COOPER: Your Honor, I don't  
9 know if I have any objections. That's the problem. We  
10 just got this. We do support Mr. Rourke's concern  
11 about transparency in the tariff, but we'd like a  
12 little bit more time. I don't know if you're pressed  
13 for time.

14 MR. HERRERA: Is Ms. Kimberly  
15 taking the stand later today?

16 MR. BROCATO: She is.

17 MR. HERRERA: Let's take it up when  
18 we take up -- when we take Ms. Kimberly up.

19 MR. BROCATO: That's fine.

20 MR. HERRERA: Thank you, and not to  
21 make you wait around all day long, Mr. Rourke. I  
22 apologize.

23 MR. ROURKE: That's fine. Thank  
24 you.

25 MR. HERRERA: Okay. Are we ready

1 to proceed with Mr. Chernick? Or Ms. Cooper, do you  
2 have another matter?

3 MS. COOPER: I did finally find the  
4 evidence, Your Honor. It's early for me. Middle of  
5 the day for most folks, but . . .

6 Your Honor, yesterday we reserved the  
7 right for optional completeness under Rules, I believe  
8 it's, 105 and 106 -- I'm getting there -- when  
9 Mr. Rourke entered into evidence his exhibit that  
10 addressed --

11 MR. HERRERA: My recollection of  
12 Mr. Rourke's exhibit was that it showed a customer that  
13 was using, I believe, about 140kWh and that customer's  
14 relationship to the cost to provide service to that  
15 customer.

16 MS. COOPER: Well, actually, Your  
17 Honor, it says that it exceeds the cost of service  
18 under existing rates and -- I can read it to you if  
19 you --

20 MR. HERRERA: No. I don't need you  
21 to read it for me --

22 MS. COOPER: Okay. So basically --

23 MR. HERRERA: -- Ms. Cooper. I was  
24 just trying to --

25 MS. COOPER: No, no. That's okay.

1                   MR. HERRERA:  -- characterize what  
2   it was in my recollection of it.

3                   MS. COOPER:  That's okay.  So it  
4   was this set number of kilowatt hours per month and  
5   just the bold statement that it's above cost.  The  
6   document that I've placed before you identified as  
7   AELIC Exhibit 35 are two requests for information that  
8   address this very issue.

9                   The first page of the exhibit really  
10   establishes the cost of service and the relationship of  
11   the various tiers into the cost of service, as Austin  
12   Energy has alleged.  And then the second page explains  
13   where you can find this cost of service in the  
14   rate-filing package.

15                  Under the Texas Rules of Evidence, Rule  
16   106, it says, "If a party introduces all or part of a  
17   writing or recorded statement, an adverse party may  
18   introduce at that time any other part or any other  
19   writing or recorded statement that in fairness ought to  
20   be considered at the same time."  And that says writing  
21   or recorded statement includes depositions.

22                  So what was introduced yesterday was  
23   just part of a set of RFIs that were addressing this  
24   issue.  We think that the RFIs that were admitted on  
25   their own are isolated from the relationship of, of

1 rate case in terms of what is the cost and where is it  
2 in the rate case to find the cost. So we think in  
3 fairness these two RFIs should be admitted.

4 MR. HERRERA: Are there any  
5 objections to AELIC 35?

6 MR. BROCATO: No.

7 MR. ROURKE: I object, Your Honor.

8 MR. HERRERA: Go ahead, Mr. Rourke.

9 MR. ROURKE: Thank you. These  
10 additional RFI responses that Ms. Cooper wants to put  
11 in are not optional completeness. They, they relate to  
12 the subject matter generally, but as far as the two  
13 exhibits that I put in yesterday, numbers 1 and 2,  
14 those answers were complete -- those answers were  
15 complete in regards to what the questions asked.

16 This is additional information, but it  
17 has nothing to do with the questions that were asked in  
18 the RFIs. It's, it's additional information. I know  
19 that she wants it in, but this is not optional  
20 completeness. And on top of that, the AELIC RFI  
21 response is not part of this set of RFIs that  
22 I -- AELIC 7-31 is not part of the response that I  
23 requested in my RFI.

24 So this is not optional completeness.  
25 She's just trying to get more evidence in the record,

1     that's all.

2                                 MS. COOPER:   Well, Your Honor,  
3     if I may close.   There's two rules of evidence.   Rule  
4     107 is the rule of optional completeness, which  
5     Mr. Rourke just talked about.   Rule 106 is the  
6     remainder of "or related writings or recorded  
7     statements," and it's in that rule that we are asking  
8     this to be introduced.   And the issue is, is it  
9     something that's fundamentally -- in fundamental  
10    fairness this should be considered in relation to the  
11    writing that was introduced yesterday?

12                               And the answer is clearly yes, because  
13    the RFIs have this isolated number with a statement  
14    that they're above cost, and in fairness we should,  
15    Your Honor and the parties, should know what cost is  
16    and how they came up with the cost.

17                               So in fundamental fairness when we're  
18    going to talk about X kilowatt hours above cost, in  
19    fundamental fairness we should know what that cost is  
20    and how it is, and how it is in the rate-filing  
21    package.   And if you would, note that AELIC 7-31  
22    specifically refers to Mr. Rourke's first set of RFIs.

23                               MR. HERRERA:   I'm going to overrule  
24    the objection and admit the document.   AELIC 35 is  
25    admitted.   Anything else before we start with



1 Mr. Chernick?

2 MS. BIRCH: Just one thing, Your  
3 Honor. We would ask that PC-SC Exhibit 34c be  
4 admitted, which is Mark Kapner's resume.

5 MR. HERRERA: Did you hand these  
6 out to the parties, Ms. Birch?

7 MS. BIRCH: Yes.

8 MR. HERRERA: Any objection to  
9 PC-SC Exhibit 3c? It's admitted.

10 MS. BIRCH: I would state for the  
11 record that the portions of our position statement that  
12 he's sponsoring is issue 7 relating to storage and  
13 demand response issues. And also to clarify, Leslie  
14 Libby, whose resume was admitted previously, is  
15 sponsoring all of the issues related to Value of Solar,  
16 just so it's clear who's sponsoring what portions.

17 MR. HERRERA: What -- that's fine.  
18 I'll go back and look at the transcript. Thank you.  
19 Anything else?

20 MS. BIRCH: No. We're ready to  
21 call Mr. Chernick.

22 MR. BROCATO: Your Honor, I do have  
23 one comment I'd like to make, if I may.

24 MR. HERRERA: Yes.

25 MR. BROCATO: On the document that

1 she just handed out, Mark Kapner's resume, it states  
2 that he's a senior strategy engineer at Austin Energy  
3 from 2003 to present. He is not an employee of Austin  
4 Energy.

5 MS. BIRCH: It should say -- I  
6 mean, if you look, he started his company in 2011, so  
7 it should say 2003 to 2011. That's correct.

8 MR. HERRERA: So is it okay if we  
9 modify this exhibit, cross through "present" and write  
10 in 2011?

11 MS. BIRCH: Yes, Your Honor.

12 MR. HERRERA: Okay.

13 MS. BIRCH: And we're ready to call  
14 Mr. Chernick.

15 MR. HERRERA: Go ahead.

16 PRESENTATION ON BEHALF OF  
17 PUBLIC CITIZEN/SIERRA CLUB

18 DIRECT EXAMINATION

19 BY MS. BIRCH:

20 Q Mr. Chernick, what's been marked as  
21 Exhibit 3b is your resume and summary of publications  
22 and things you've been -- cases you've been involved  
23 in, correct?

24 A Yes.

25 MS. BIRCH: We would offer

1 Exhibit 3b.

2 MR. HERRERA: Any objection to  
3 PC-SC 3b? It's --

4 MR. COFFMAN: No.

5 MR. HERRERA: -- admitted. I'm  
6 sorry, did you have an objection?

7 MR. COFFMAN: No.

8 MR. HERRERA: It's admitted.

9 Q (By Ms. Birch) Mr. Chernick, you're here  
10 today to testify regarding issues related to cost  
11 allocation and rate design, the Fayette debt  
12 defeasement, correct?

13 A Yes.

14 Q Those are identified in the position  
15 statement as issues of 1, 2, and 4 and then all of the  
16 related issues in the cross rebuttal, including reserve  
17 policy, correct?

18 A Yes.

19 MR. HERRERA: Including?

20 MS. BIRCH: Reserve policy. And we  
21 pass the witness for cross.

22 MR. HERRERA: NXP?

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

25 MR. HERRERA: With regard to the

1 sequence of cross examination, I'm indifferent. Does  
2 the Consumer Advocate go last each time, or are we  
3 going in sequence? I'm not skipping over you,  
4 Mr. Hughes.

5 MR. HUGHES: I assume they went  
6 last.

7 MR. HERRERA: Okay. I will go with  
8 the sequence you guys agreed to but always keeping  
9 Independent Consumer Advocate at the end. In that  
10 case, ARMA? Mr. Rourke?

11 MR. ROURKE: No questions, Your  
12 Honor.

13 MR. HERRERA: Mr. Robbins is not  
14 here. Greater, Greater Austin Chamber of Commerce?  
15 Data Foundry? McCollough's not here yet. Bethany  
16 United?

17 MR. WELLS: No comment.

18 MR. HERRERA: Mr. Borgelt for HURF.

19 MR. BORGELT: Yes, I do, Your  
20 Honor.

21 CROSS EXAMINATION

22 BY MR. BORGELT:

23 Q Good morning, Mr. Chernick.

24 A Good morning.

25 Q I'm Roger Borgelt. I'm the legal counsel for

1     Homeowners United for Rate Fairness. We are  
2     essentially the customers, both residential and  
3     commercial, who are outside the city of Austin.

4                     I just have a few questions for you.  
5     First and foremost, the document that I handed to you,  
6     I'm sure you recognize it. Can you identify that it is  
7     an excerpt from the position statement of Sierra  
8     Club/Public Citizen?

9             A     Yes. It's an excerpt. It appears to be a  
10    slightly different version than what's before me as  
11    Exhibit 1, but maybe it's the uncorrected version, or  
12    maybe it just paginated differently on your printer.

13            Q     I think maybe it just paginated differently,  
14    because it is from the corrected version.

15                    At the bottom of the first page, page  
16    14, you essentially make the statement that the  
17    five-tiered rate structure should be applied to all  
18    residential customers and that fairness dictates that  
19    all residential customers should be paying the same  
20    rate; is that correct?

21            A     Yes. I think that the meaning there is  
22    really the same rate structure, but it -- that's  
23    exactly what it says, is the same rate.

24            Q     In conducting your analysis and reaching that  
25    conclusion did you take into consideration that there

1     **is a 105 million dollar currently general fund transfer**  
2     **from Austin Energy to the city of Austin's general**  
3     **fund?**

4           A     Well, again, as I, as I said in the response  
5     to your question, this sentence would have been clearer  
6     if it had said "paying the same rate structure." Your  
7     question has to do with should there be some overall  
8     discount across the residential rate, perhaps, to  
9     reflect a difference not in cost of service but in  
10    benefit received by the customers in various parts of  
11    the service territory.

12          Q     **So if I understand you correctly, then, you**  
13    **do agree that there should be some sort of benefit?**

14          A     No. I hadn't gotten to that part of my  
15    answer yet.

16                   That is conceivably the case, but you  
17    have to look at what is that general fund transfer. Is  
18    that basically a payment to the city of Austin for its  
19    equity in Austin Energy comparable to what you'd have  
20    as a payment to shareholders in a investor-owned  
21    utility? That is, the owner who's responsible for  
22    putting up the capital, sharing the risks, and  
23    potentially taking losses on the utility's operations  
24    gets some return.

25                   If that transfer is of that nature, it's

1 a reasonable part of the cost of capital and applies to  
2 everybody, and if the areas outside the city were  
3 transferred to investor-owned utility, the customers  
4 would be paying in a return on equity to the -- to that  
5 utility as well. If it's something else, then an  
6 argument could be made that some across-the-board  
7 reduction in the five tiers in each of those tiers and  
8 in the customer charge probably would be appropriate.

9 **Q Mr. Chernick, are you aware of any bundled**  
10 **investor-owned utilities in the Austin area?**

11 A What do you mean by the Austin area?

12 **Q Well, someone that's nearby that they could**  
13 **be transferred to.**

14 A They certainly could be purchased by any  
15 number of investor-owned utilities. There are, there  
16 are utility companies that own a little piece in  
17 New Hampshire and a little piece in California. So  
18 there are --

19 **Q Mr. Chernick --**

20 A -- there are a couple of those such as  
21 Algonquin and Liberty that might in the market if  
22 Austin Energy were, were interested in that sale. And  
23 whether Encore or another Texas utility would be  
24 interested in, in picking up a, a remote service  
25 territory, you'd have to talk to them.

1           **Q     That was not my question. My question was**  
2   **what exists currently? Do you know of anything other**  
3   **than co-ops or deregulated area that is in the**  
4   **immediate Austin area?**

5           A     I'm sorry. What do you mean by -- how are  
6   you distinguishing between [crosstalk] --

7           **Q     In the area immediately adjacent to the city**  
8   **of Austin service territory.**

9           A     I'm -- you -- I'm sorry, but you just  
10   confused me by the reference to deregulated area. The  
11   investor-owned utilities in the ERCOT portion of Texas  
12   are restructured and generation supply is regulated,  
13   but -- and was that integral to your question, or were  
14   you talking about investor-owned utilities that are  
15   vertically integrated?

16          **Q     That's what I was talking about.**

17          A     Oh, well, vertically integrated, no. There  
18   aren't any in ERCOT. There aren't any investor-owned  
19   utilities in ERCOT that are vertically integrated.

20          **Q     Mr. Chernick, do the customers outside the**  
21   **city of Austin receive direct city services, such as**  
22   **fire and police protection, from the city of Austin, to**  
23   **your knowledge?**

24          A     I don't expect that that would be true. I  
25   would assume that they pay local taxes for local



1 services as the residents and businesses in Austin pay  
2 to Austin.

3 Q Is it your understanding that the new rate  
4 structure being proposed by Austin Energy as compared  
5 to the old one maintains the same approximate rate  
6 discount of 5.75 million dollars to out-of-city  
7 customers? In other words, the sum amount of the  
8 discount is not changed despite the variation in the  
9 rate structure that's being proposed?

10 A I haven't, I haven't reviewed that myself.  
11 I'm not aware of a change in the overall discount being  
12 in issue in this case. So my suspicion would be that  
13 you're correct, but I can't confirm it.

14 Q Your analysis, Mr. Chernick, did you attempt  
15 to analyze any variations in a the differentials  
16 between the inside- and outside-customer load? For  
17 instance, the average size of housing units or the  
18 number of new customers coming in outside the city  
19 versus the number of new customers coming in inside the  
20 city.

21 A I didn't. One can make an argument that the  
22 areas with the most recent, most expensive distribution  
23 equipment should be charged more. I'm not generally --

24 Q That was not, that was not my question.

25 A Oh. I was just telling you what, what I have

1 thought about in this --

2 Q It was a yes or no question.

3 A Okay. Then the answer is no. I haven't done  
4 any numerical analysis.

5 MR. BORGELT: I'll pass the  
6 witness.

7 MR. HERRERA: Low Income Customers  
8 any questions?

9 MS. COOPER: No, Your Honor.

10 MR. HERRERA: NXP?

11 MR. HUGHES: No questions, Your  
12 Honor.

13 MR. HERRERA: I think I asked you  
14 that already, didn't I?

15 MR. HUGHES: I didn't think of any.

16 MR. HERRERA: Well, you're  
17 consistent. Consumer Advocate?

18 MR. COFFMAN: No questions, Your  
19 Honor.

20 MR. HERRERA: Austin Energy?

21 MR. FAULK: We do have questions,  
22 Your Honor.

23 CROSS EXAMINATION

24 BY MR. FAULK:

25 Q Good morning, Mr. Chernick. My name is Cody

1     **Faulk with Austin Energy. How are you this morning?**

2           A     I'm okay. And yourself?

3           Q     Just fine. In the testimony that's been  
4     provided by PC-SC in this that you're sponsoring you  
5     discussed cost allocation, correct?

6           A     Yes.

7           Q     Okay. And is it PC-SC's position that the  
8     allocation methods that you discuss, particularly the  
9     BIP method, hourly dispatch, and hourly energy cost  
10    methods, is it your recommendation that those should  
11    just be analyzed for purposes of this proceeding, not  
12    necessarily that they should actually be used for  
13    purposes of cost allocation?

14          A     It's my recommendation that the generation  
15    cost allocator take into account the costs that are  
16    driven by energy demand one way or another. Whether  
17    that's using an hourly model or distinguishing between  
18    types of generation, using an equivalent peaker  
19    approach or -- there are probably a half dozen ways you  
20    can approach it, but somehow it's inequitable to assume  
21    that the cost of Fayette and South Texas are driven by  
22    peak loads.

23          Q     Mr. Chernick, I'm just asking simply, has  
24    PC-SC recommended that these methods just be analyzed  
25    for purposes of this proceeding?

1           A     Well, I'd have to review the text in  
2     some -- with a great deal of care to try and parse that  
3     out.  If you're asking me what I --

4           Q     I'll -- well, I can point to specific  
5     portions of your testimony.  Sorry for interrupting  
6     you.

7           A     Yeah.

8           Q     On page 7 it says that given that the BIP  
9     hourly dispatch and hourly energy cost methods,  
10    according to you, are more precise and may all have  
11    significant impacts on cost allocations, they should be  
12    fully examined as options.

13          A     Um-hm.

14          Q     But that is not a recommendation that they  
15    should actually be applied, correct?

16          A     Well, no, but you have to actually -- before  
17    you can apply one you have to do the calculations and  
18    see whether you can do them, whether there's some  
19    impediment to one particular approach.  It's my  
20    position and I believe my client's position --

21          Q     Sure.

22          A     -- that one of those methods as opposed to a  
23    pure peaker approach, pure peak demand approach, be  
24    adopted, and in talking about the options my  
25    understanding was that this -- the position statement

1 was laying out the initial steps, which is, these need  
2 to be on the table, and one of them will be preferable  
3 to a pure peak demand approach.

4 Q Okay. To your knowledge, has the BIP method  
5 been recognized by the Texas Public Utility Commission  
6 as an approved production cost allocation method since  
7 the, since the creation of the ERCOT and nodal market?

8 A I haven't reviewed that issue, that timing  
9 specifically, so I can't tell you.

10 Q Okay. And can you explain to me how the BIP  
11 method would be applied to Austin Energy or another  
12 utility like it that participates in the ERCOT nodal  
13 market?

14 A Yes. You're not charging customers for  
15 the -- in this rate case primarily for the cost of  
16 purchases from the nodal market. You're charging for  
17 the cost of your power plants. So the way that those  
18 power plant costs are allocated should reflect the  
19 reasons that they were built, the reasons that Austin  
20 Energy made the investments in those more expensive  
21 plants rather than less expensive peaking units.

22 Q Okay. You state in your position statement  
23 that Austin Energy's generation profile mirrors the  
24 utility's, the utility's load profile. What is the  
25 basis of that statement? Have you looked exactly at

1     **any data to support that?**

2           A     Well, "mirror" is a pretty vague term there.  
3     The fact that there's, there's some generation that's  
4     economic to operate all the time in, just looking at  
5     conventional generation, South Texas; some that's  
6     economic most of the time, in Fayette; and some that  
7     are cost effective in smaller percentages of the time.

8           Q     **I'm asking a question, was there any data**  
9     **that you looked at for this statement?**

10          A     No. That wasn't a quantitative statement.  
11     That was qualitative statement that --

12          Q     **So it just should mirror it?**

13          A     No, no. Not that it should mirror it but  
14     that there -- that just as Austin Energy's load  
15     has -- can be broken up -- if you look at a load  
16     duration curve, you can break it up into a portion that  
17     is used almost all the time, or even if you go down low  
18     enough, all the time, maybe 40 percent. And then  
19     there's another chunk that's used a lot but not nearly  
20     that much, and then there is a small number of hours  
21     when there's a very much higher load.

22          Q     **But you didn't specifically review any of**  
23     **this data?**

24          A     No. As I said, it wasn't a quantitative  
25     statement about it's a mirror image -- but perhaps it

1 would sound like that -- but as is true for Austin  
2 Energy's load, Austin Energy's supply resources consist  
3 of base, intermediate, peaking units.

4 **Q Are you aware, does Austin Energy actually**  
5 **dispatch to load?**

6 A No. Austin Energy is part of an integrated  
7 system. So the dispatch to its units are -- is  
8 determined by the ERCOT load, by regional load --

9 **Q Okay.**

10 A -- and that's been true for many utilities  
11 for many decades when the kinds of methods we're  
12 talking about have been used. The New England power  
13 pools have --

14 **Q That's all I was just asking.**

15 A Okay.

16 **Q Thank you, Mr. Chernick. As to tiered**  
17 **rates, would you agree with me that just the actual use**  
18 **of an inclining tiered rate structure incorporates**  
19 **conservation signals to customers just by design?**

20 A You mean the fact that there's any increase  
21 at all?

22 **Q Correct.**

23 A Well, you know, if you have a two-block rate  
24 in which the higher block is 5 percent more than the  
25 lower block, I don't think that's going to provide much

1 of a signal or much of a reward for conservation.

2 Maybe it's a very, very modest hint to the customer.

3 Q I'm not talking about the size of the hint.  
4 I'm talking about that that has mark -- has specific  
5 indicators that promote conservation, whether big or  
6 small, correct?

7 A As an empirical matter I don't know that a  
8 small increment would have any discernible effect. If,  
9 if the, if the utility is saying, It's really important  
10 that we use energy wisely and conserve, and therefore,  
11 we're going to charge you 5 percent more if you use  
12 more than 3,000 kilowatt hours a month, most people are  
13 not going to see that as much of an indication that  
14 their usage matters. The effect --

15 Q On what do --

16 A The advertising materials may be more  
17 important in, in getting across a conservation measure  
18 than the actual rate design.

19 Q Would you agree with me that the -- that an  
20 examination of the newly proposed rates in the  
21 new -- that the -- in the tiers, the five tiers that  
22 are being used by Austin Energy, just by looking at  
23 those alone would signal and have those conservation  
24 indicators?

25 A Yes. The proposed rate --



1           **Q     It was just a simple yes or no question.**

2           **A     Well, yes, but -- no. It has to be, In**  
3           **compared to what? And if it's yes compared to a flat**  
4           **rate or a declining rate, it has a signal but not as**  
5           **strong as the preceding signal.**

6           **Q     Sure. As to what I was saying earlier, as I**  
7           **was asking earlier, that the tiered system as a whole**  
8           **has these market indicators for conservation.**

9           **A     Well, again, it's a matter of the shape of**  
10          **the tiers in addition to the mere fact that you say you**  
11          **have tiers.**

12          **Q     Okay. Does PC-SC support Austin Energy's**  
13          **decision to have a seasonal power supply adjustment,**  
14          **which is the PSA?**

15          **A     I would have to check on where they came down**  
16          **on that.**

17          **Q     Did you help prepare this testimony?**

18          **A     No.**

19          **Q     Okay.**

20          **A     It was prepared before I was retained.**

21          **Q     Thank you. Have you examined the power**  
22          **supply adjustment that's being proposed by Austin**  
23          **Energy?**

24          **A     No, I haven't.**

25          **Q     Are you aware that this is portions of your**

1     **testimony?**

2           A     That's why I said I would have to check on  
3     exactly what they said about --

4           Q     Okay.

5           A     -- that.

6           Q     All right.  Going back to the inside versus  
7     outside customers, has PC-SC conducted any rate  
8     analysis that would establish that the elimination of  
9     the summer and winter energy rate differential or the  
10    raising of the lower tiers that we discussed and the  
11    lowering of the higher tiers that Austin Energy is  
12    proposing would actually, in fact, reduce conservation  
13    incentives?  I know that's a lengthy question.

14          A     Okay.  The first part was summer versus  
15    winter.

16          Q     Right.

17          A     So if you're reducing the summer prices,  
18    you're going to be reducing the conservation incentive  
19    for the summer.  You're going to be making an  
20    investment in greater efficiency, have a longer payback  
21    period.  So yes, it will be reducing that.  You may be  
22    increasing -- you would be increasing, depending on how  
23    you did the blocks, you may be increasing the winter  
24    conservation incentive.  And the question is which of  
25    those is more important and which are customers more

1     able to respond to.

2                     The second part of your question had to  
3     do with lowering the steepness of the tiers?

4             **Q     Yes. The raising of the lower tiers and the**  
5     **lowering of the higher tiers.**

6             A     Okay. And yes, that would, that would  
7     definitely reduce the propensity to conserve.

8             **Q     On what basis?**

9             A     A number of econometric studies have found  
10    that the marginal cost of price of energy, the marginal  
11    price of energy has an effect on customer's behavior.  
12    As does the average cost, but for any average cost, to  
13    the extent you put more into the later blocks, the ones  
14    that the customer can avoid, you're giving them a  
15    stronger incentive to avoid using those -- that energy.

16            **Q     But it's still an incentive to conserve,**  
17    **correct?**

18            A     Oh, yeah, as long as you're not giving the  
19    energy away for free there's some incentive to  
20    conserve. We're talking about direction here.

21            **Q     Have you examined your testimony in detail as**  
22    **to the recommendations made by PC-SC regarding outside**  
23    **customers?**

24            A     I have.

25            **Q     And is it PC-SC's contention that outside**

1     **customers have less of an incentive to conserve?**

2           A     Yes. Especially the largest customers would  
3     have less of an incentive, because they have a lower  
4     tail block rate.

5           Q     Do you know exactly what percentage of Austin  
6     Energy's customers are outside of the city limits?

7           A     I believe it's a significant percentage, in  
8     the, in the tens of percents, but I don't remember the  
9     exact number.

10          Q     Well, if I were to represent to you that it's  
11     actually about 13 and a half percent of Austin Energy's  
12     customer base, would the fact that -- and Austin Energy  
13     has testified to this fact -- that outside-city  
14     customers actually represent 22 percent of its energy  
15     efficiency rebates, would that signal to you that  
16     outside-city customers actually are incentivized, still  
17     are incentivized to conserve despite having lower rates  
18     than inside?

19          A     Well, they certainly are -- have an incentive  
20     to conserve, because they're being charged for their  
21     electricity, and that would be true even if you had  
22     flat rates with no inclining block; you still would be  
23     charging them for something. The question is whether  
24     you're giving them a better price signal with a rate  
25     structure that's truncated, that does not rise, the

1 price doesn't rise after the third block. And there I  
2 think the answer is, the signals outside the city are  
3 weaker than inside the city.

4 In terms of where the customers are  
5 participating in the conservation programs, that could  
6 have to do with single family versus multifamily. You  
7 know, could it, could it have to do with all kinds of,  
8 of socioeconomic factors that -- and perhaps the design  
9 of the programs. So you'd have to look at that in more  
10 detail.

11 The thing that rate design -- rate  
12 design does affect the propensity to participate in  
13 conservation programs, but it also affects behavior,  
14 given the stock of equipment that the, that the  
15 customer has so that a program can incent a customer to  
16 put in a setback thermostat and a high-efficiency air  
17 conditioner. But the conservation program does not  
18 encourage them to set the temperature in the house at  
19 76 degrees rather than 72 degrees. Prices have that  
20 effect, and you can't determine whether you're having  
21 that effect, that behavioral effect by looking at  
22 whether customers are participating in DSM programs.

23 THE REPORTER: In what programs?

24 THE WITNESS: In DSM programs.

25 Q (By Mr. Faulk) Did you aid in the

1 preparation and calculation of the multifamily customer  
2 charge that is being recommended by PC-SC?

3 A I was not involved in that, in the particular  
4 recommendation, but I support the lower customer charge  
5 for multifamily.

6 Q Were you -- did you participate in any of the  
7 calculations associated with this testimony?

8 A Not in actually calculating any of the  
9 numbers.

10 Q Did you participate in any of the drafting of  
11 this testimony?

12 A No.

13 Q Did you review this testimony before you  
14 testified today?

15 A Yes. A couple of times.

16 Q When did you receive this testimony? When  
17 did you first receive a copy of this testimony?

18 A Weeks ago. If you want, I can check my email  
19 and see when --

20 Q That's fine.

21 A -- it was sent to me.

22 Q Thank you. Have you completed any studies on  
23 actual costs associated with Austin Energy's customer  
24 charge in how it relates to the service of multifamily  
25 customers?

1           A     No. I haven't done any quantitative  
2 analysis.

3           Q     Okay. So you don't at this -- as you sit  
4 here today, you do not understand -- excuse me.

5                     You do not, you do not have any metrics  
6 or calculations that support the basis for PC-SC's  
7 6 dollar multifamily customer charge?

8           A     No. There are good reasons to believe that  
9 the customer costs, customer-related costs are lower  
10 for multifamily, but --

11          Q     I'm asking specifically about data.

12          A     I don't have a calculation that supports any  
13 specific differential.

14          Q     So this 6 dollar multifamily customer charge  
15 versus a 10 dollar multifamily customer charge is  
16 arbitrary?

17          A     Or it's subjective, which is sort of a nicer  
18 way of saying --

19          Q     Arbitrary.

20          A     Or judgmental.

21          Q     Okay. Thank you.

22          A     When, generally when --

23          Q     Were you aware that --

24          A     -- you are the party doing something, it's  
25 judgmental, and when the other person is doing it, it's

1 arbitrary.

2 Q Okay. Are you aware that in this  
3 tariff-filing package that Austin Energy is  
4 recommending conducting a study on multifamily  
5 dwellings to determine any cost in usage differences  
6 with regards to single and multifamily?

7 A Yes.

8 Q Okay. And wouldn't it be fair to all Austin  
9 Energy customers to wait until such time that that data  
10 is completed before changing this customer charge?

11 A Well, I assume that the reason that Austin  
12 Energy is proposing to undertake a study is because  
13 they believe, reasonably I think, that multifamily  
14 would be less expensive to serve. So saying, well,  
15 we're going to charge you the same amount even though  
16 we think you're going to be less expensive because we  
17 don't know exactly how much less, that doesn't seem to  
18 be fair. It seems to me to be fairer to say, well, you  
19 know, we think it --

20 Q Mr. Chernick, do you have any basis for what  
21 Austin Energy is thinking on this? You can assume,  
22 correct?

23 A I can, I can assume, and I can't -- I, I  
24 actually can't think of a reason for anybody to believe  
25 that multifamily would be more expensive to serve than



1 single family.

2 Q But it could, correct?

3 A Just by being multifamily it's --

4 Q I'm asking, it could. It's possible.

5 A I guess if you had some very strange building  
6 code requirements or something that required very fancy  
7 control equipment in multifamily or something, you  
8 might have -- you might find some way to make it more  
9 expensive, but under normal circumstances it would be  
10 cheaper.

11 Q Okay. Thank you. And did you review the  
12 testimony with regards to the Fayette Power Plant and  
13 the proposed early debt defeasement?

14 A Yes, I did.

15 Q Okay. And are you aware that by implementing  
16 this proposal the -- for the early debt defeasement it  
17 would essentially eliminate the entire rate decrease  
18 that's proposed by Austin Energy?

19 A It's my understanding that that's Austin  
20 Energy's analysis of the values.

21 Q Have you actually looked at that data?

22 A I haven't, I haven't checked, but I think  
23 that somebody could check.

24 Q Okay. Has PC-SC actually conducted any  
25 studies on the financial and operational impact of an

1     **early debt defeasement on the -- of the FPP on AE?**

2           A     Well, the financial impact is pretty  
3     straightforward that if you --

4           Q     **I'm just asking has any -- have any studies**  
5     **actually been conducted?**

6           A     Well, it depends upon what you mean by a  
7     study. We haven't tried to crunch through numbers in  
8     great detail. In the testimony that I drafted that was  
9     not admitted I looked at how much was left to pay off  
10    and how much -- how long it would take to do that and  
11    how much would be left --

12                         MR. FAULK: I'm going to object to  
13    that just from the standpoint he's trying to offer into  
14    evidence that was not admitted.

15                         MR. HERRERA: Mr. Chernick, just  
16    answer the question, please.

17                         THE WITNESS: Yes. I did studies.

18           Q     **(By Mr. Faulk) Okay. Thank you.**

19           A     Would you like me to describe the studies?

20           Q     **No, thank you.**

21                         Do you understand that even if Austin  
22    Energy was to ramp down its operations of the FPP,  
23    there would be certain fixed costs that would still be  
24    required for Austin to pay?

25           A     Are you asking me about the prudence of doing

1 something that city council has decided that you'll do?

2 Q I'm just asking a question. Do you  
3 understand that there are fixed costs associated with  
4 the FPP even if they were to ramp down?

5 A If you ramp down usage, that's my  
6 understanding. Yes.

7 Q Okay. And does PC-SC understand that there's  
8 the possibility that the co-owner of the FPP, LCRA,  
9 would possibly continue operations even after Austin  
10 Energy ramped down its operations?

11 A Yes. I believe that Austin Energy has  
12 committed to negotiations with LCRA to work out the  
13 details of how Austin Energy can withdraw from the  
14 plant.

15 Q My question is, is it a possibility that LCRA  
16 continues operation of FPP even after Austin does not?

17 A Yes. And that would depend upon the nature  
18 of and the outcome of those negotiations.

19 Q Has PC-SC conducted any study on the overall  
20 environmental impact on AE's early ramp-down of  
21 operations of the FPP? On that specific plant  
22 that's --

23 A Well, it depends upon exactly how that's  
24 achieved. So it's very difficult to, to say whether  
25 the environmental effects would be of a very generally

1 defined reduction in AE's usage.

2 Q Okay.

3 MR. FAULK: I'll pass the witness.

4 MR. HERRERA: Redirect?

5 MS. BIRCH: Yes, Your Honor.

6 REDIRECT EXAMINATION

7 BY MS. BIRCH:

8 Q Mr. Chernick, you stated you didn't do any  
9 numerical analysis of the cost of serving in-city  
10 versus LOC customers, right?

11 A That's correct.

12 Q But are you aware of existing studies that  
13 address differences in cost of service for urban versus  
14 suburban areas?

15 A Yes. I conducted a number of those analyses  
16 myself some years ago using all the data that I could  
17 find for what looked like comparable situations, and in  
18 every case I found the suburban distribution cost to be  
19 higher than the urban distribution cost. And I did  
20 that for the three subsidiaries of Nstar in the eastern  
21 Massachusetts area and one that served only the city of  
22 Cambridge, one that served Boston and a big chunk of  
23 the suburbs, and one that served Cape Cod and suburban  
24 areas. And the most expensive was the one that served  
25 the entirely suburban areas, or almost entirely

1 suburban areas, and the least expensive was the one  
2 that served only urban Cambridge.

3 I looked at the TVA customers primarily  
4 in Tennessee and looked at their density, and the  
5 densest ones in the cities were -- had higher rates  
6 than the ones further out, and they all had the same  
7 supply -- power supplier, so they should have had  
8 essentially the same generation costs. The  
9 distribution costs presumably were lower in the cities.

10 I did a similar comparison between the  
11 city of Seattle and Snohomish Public Utility District,  
12 which serves its suburbs, and again Seattle's costs  
13 were lower than Snohomish's. Now, any of these  
14 individual cases could be due to some historical quirk  
15 or accounting detail, but the fact that I did seven or  
16 eight of these comparisons and I came up with the same  
17 result every time indicated to me that there really is  
18 a savings from serving load in urban areas.

19 **Q Okay. Before you were retained were you**  
20 **asked if you could support the positions of Public**  
21 **Citizen/Sierra Club in the position statement and the**  
22 **cross rebuttal?**

23 **A** I'm not sure the question was ever asked  
24 exactly that way, but I was certainly aware of those  
25 documents and the positions that my clients were

1 taking, and I was comfortable with them.

2 Q Let's talk about seasonal PSA for a moment.

3 Would you turn to page 9 of the position statement?

4 And the first full paragraph, would you read that,  
5 please?

6 A Yes. I have read that before.

7 Q So does that help you better answer the  
8 question about what our position is regarding seasonal  
9 PSA as opposed to seasonal rates?

10 A Yes. The seasonal PSA is sort of a blunt  
11 instrument, and the -- and seasonal base rates give you  
12 more control over the seasonality of the rates and in a  
13 way that can follow underlying costs more -- I'm  
14 looking for exactly the right adjective. It's not  
15 necessarily precisely, but at least consistent with.

16 Q So just to clarify, I mean, it's clear to you  
17 that our position on that is that we're asking that the  
18 seasonal rates be maintained as opposed to changing to  
19 the seasonal PSA, correct?

20 A Yes. That's correct.

21 Q With respect to multifamily versus  
22 single-family residences, what are the reasons that you  
23 think multifamily residences generate less -- are  
24 generally less expensive than single family?

25 A Well, for one thing, they, they are denser.

1     So you need less distribution equipment to reach a  
2     hundred multifamily customers than you do to reach a  
3     hundred single-family customers. The distribution of  
4     electricity inside the building is the responsibility  
5     of the building owner, not of the utility. The meters  
6     in multifamily buildings are generally concentrated in  
7     a meter room. The utility has one service drop to the  
8     building. The meter reader can access the meter room  
9     and read 20 or 50 meters at a time without -- obviously  
10    it takes a little time to read each meter, but the  
11    meter reader doesn't have to go from house to house and  
12    get to each meter separately.

13                   Multifamily customers also share  
14    generally larger transformers and have greater  
15    diversity on their transformers than would a  
16    single-family building or even several single-family  
17    buildings sharing a transformer. So there, there are  
18    probably additional benefits.

19                   Oh, and in some cases also the  
20    multifamily buildings have central air conditioning and  
21    heating that's supplied by the building noncommercial  
22    account or perhaps a separate residential account, but  
23    the multifamily customers themselves are on -- are not  
24    using the air conditioning at peak, because that's  
25    being supplied for them.

1                   So for all those reasons the multifamily  
2 tends to be less expensive to serve than single family.

3           **Q     So it is -- is it your opinion that while you**  
4 **don't have a basis for saying that it should actually**  
5 **be 6 dollars as compared to 10 dollars for single**  
6 **people, you do think that a cost of study analysis**  
7 **should have been done or should be done to make, to**  
8 **make -- to determine what the specific amounts should**  
9 **be?**

10           A     Oh, yes. That would be good, and in the  
11 meantime, if you believe that there are savings from  
12 multifamily, they should get some credit. It may have  
13 to be judgmental, but giving them a zero discount for  
14 being multifamily is also a judgment that they save  
15 nothing, which is almost certainly wrong. So a more  
16 cautious view would be to have an 8 or 9 dollar  
17 customer charge for multifamily rather than going all  
18 the way to 6 dollars, but some progress in that  
19 direction should be made even before the details can be  
20 nailed down.

21           **Q     Now would you please look at Exhibit 2, the**  
22 **cross rebuttal presentation?**

23           A     I have that.

24           **Q     And read the "Cost of Service" first**  
25 **paragraph.**



1           A     Um-hm.  Yeah.

2           Q     **Can you go ahead and read it into the record?**

3           A     Read in "In our position"?

4           Q     **Correct.**

5           A     "In our position statement we advocated for  
6     using a cost of service methodology that better  
7     allocated the production costs of generation resources.  
8     We support the use of either a base, intermediate, peak  
9     method or an hourly energy cost method such as  
10    probability dispatch."

11                         MR. HUGHES:  Your Honor.  In the  
12    interest of time I'm going to resurrect our previous  
13    motion to strike at least Mr. Chernick's part of the  
14    statement of position.  It has become clear that he  
15    didn't prepare that portion of the testimony, that he  
16    is really right now more an opinion witness talking  
17    about agreeing with the conclusions that they came up  
18    with.

19                         So, you know, I can go through the whole  
20    history of when all these things were filed and when he  
21    was possibly retained, but he's already admitted that  
22    he did not prepare this testimony.  They are now having  
23    him read portions of it to refresh his memory of what  
24    he may have, may or may not have read.  So I'm going to  
25    resurrect our previous motion to strike at least his

1 portion of the statement of position.

2 MR. FAULK: We second that  
3 objection.

4 MS. COOPER: Your Honor, I find  
5 that experts can adopt other people's testimony. I  
6 don't understand. I thought that was a common thing  
7 that's done in litigation.

8 MR. HERRERA: Mr. Hughes and  
9 Mr. Cody?

10 MR. FAULK: Mr. Faulk.

11 MR. HERRERA: Yeah. Mr. Faulk.  
12 Thank you. William Faulk, I understand.

13 I'm sympathetic to the objection. I am  
14 going to overrule the objection, but I will take  
15 Mr. Chernick's testimony with regard to the position  
16 statement by Public Citizen/Sierra Club into account in  
17 weighing the credibility of the statement of position  
18 and his testimony.

19 MR. HUGHES: Okay. Thank you, Your  
20 Honor.

21 MR. FAULK: Thank you, Your Honor.

22 Q (By Ms. Birch) Well, let me clarify,  
23 Mr. Chernick. I asked you to look at that because you  
24 were asked to identify what our client's position was,  
25 and does that help you clarify what our client's

1     **position is? I mean, we're not just saying you should**  
2     **do a study, right?**

3             A     Oh. Oh, in that particular, yes. I, I, I  
4     believe my answer on cross was no, my clients clearly  
5     believe that the cost allocation in this case should be  
6     based on some method that -- such as the base,  
7     intermediate, peak, or probability of dispatch, that  
8     recognizes the energy driver for investment in  
9     generation capacity --

10            Q     **And do you --**

11            A     -- in the cost of the capacity. I didn't  
12     have any doubt about that. I was explaining a  
13     statement that talked about should be considered,  
14     should be analyzed in the initial statement of  
15     position, and it -- that seemed to be a polite way of  
16     saying that you have to look at this and then pick one.

17            Q     **And you do believe that one of these methods**  
18     **is preferable, then, to the, to the 12CP or 4CP --**

19            A     Oh, absolutely.

20            Q     **-- method, right?**

21            A     There, there's no intellectual basis for  
22     using a 12CP or an average in excess demand allocator  
23     for a generation plant without recognizing the energy  
24     use component in the cost.

25            Q     **Mr. Chernick, can you expand on your answer**

1     **that in other markets even though they dispatch to**  
2     **regional load rather than directly to load, that BIP**  
3     **still makes sense as a cost allocation method?**

4           A     Well, as I was saying in cross, New England  
5     started doing central dispatch for six states in the  
6     mid 1970s, and then the various states restructured in  
7     the late 1990s. In that period a number of states  
8     adopted energy-based or energy-sensitive cost  
9     allocations. Such as Massachusetts, the largest of  
10    the states, used the probability of dispatch for at  
11    least most of its investor-owned utilities, and  
12    because the base load plants were so much more  
13    expensive than the intermediate and peaking plants, the  
14    allocations wound up being very close to a pure energy  
15    allocator.

16                   I don't know whether that would be the  
17    case for Austin Energy or not, but nuclear plants are  
18    very expensive, and they tend to skew the costs towards  
19    energy.

20                           MR. HERRERA: Let me interject  
21    here, and I hesitate doing this, but I'm going to.

22                                   CLARIFYING EXAMINATION

23    BY MR. HERRERA:

24           Q     **As I understand it, Mr. Chernick, you did not**  
25    **prepare the position statement that was filed?**

1           A     That's correct.

2           Q     And as I understand it, you have not done a  
3     detailed analysis of the class cost of service study  
4     submitted by Austin Energy or any other party that  
5     undertook one in this proceeding?

6           A     I haven't done a full analysis of the class  
7     cost of service study. I have looked at the --

8           Q     That was, that was my question.

9           A     -- at the generation side.

10          Q     That was just my question, is whether you'd  
11     done one. And it's my understanding that you have not  
12     conducted a BIP study, a BIP study, in this case on  
13     your own?

14          A     That's correct.

15          Q     And am I correct in understanding that it  
16     wasn't until after Public Citizen/Sierra Club's  
17     position statements were concluded that you reviewed  
18     those?

19          A     I'd have to check to see whether I saw a  
20     draft before the final version went in. I've seen  
21     various versions, as there were corrections and  
22     amendments, so I'm not exactly certain, but yeah, I  
23     didn't write the, the, the position statement.

24          Q     Okay. Thank you.

25

1 CONTINUED REDIRECT EXAMINATION

2 BY MS. BIRCH:

3 Q But it is fair to say, Mr. Chernick, that you  
4 support the positions that are laid out in those  
5 statements, correct?

6 A Yes. And I have supported -- I've made  
7 similar points many times in testimony in Texas and  
8 elsewhere.

9 Q And though you didn't do your own cost of  
10 service study and some of these other studies, you have  
11 looked at other studies, have you not?

12 A Yes.

13 Q Specifically, you were asked a question on  
14 the defeasement, Fayette defeasement, and you began to  
15 answer to describe the studies that you were aware of  
16 or had looked at. Can you tell us what those were?

17 A Well, yes. I looked at the issue of if you  
18 don't start paying for the cost of shutting Fayette  
19 down or buying your way out of it or whatever the  
20 ultimate outcome is, if you don't start paying for that  
21 now, then you're going to be facing more severe  
22 customer impacts later on when you do pay for it.

23 Now, the choice as to how much to pay  
24 now and how much to pay later is one that I guess is  
25 ultimately up to the city council, and it certainly is

1 possible to just wait and pay for shutting it down  
2 after, after it's shut down, but then you're paying for  
3 those costs plus the cost of replacement power and --

4 MR. FAULK: Your Honor, I'm going  
5 to have to object to this. I think this is going well  
6 beyond cross examination, and I'm actually not even a  
7 hundred percent sure that there's any testimony  
8 provided about the increased costs associated with  
9 decommissioning that would be experienced by customers.

10 MR. HUGHES: I think all of it  
11 actually goes to relevance.

12 MR. FAULK: Yeah.

13 MS. BIRCH: Well, Your Honor --

14 MR. HUGHES: At this point.

15 MS. BIRCH: -- he asked the  
16 question and didn't allow the witness to finish --

17 MR. HERRERA: What was the --

18 MS. BIRCH: -- to explain.

19 MR. HERRERA: What was the question  
20 that you're referring to?

21 MS. BIRCH: Well, he was asked if  
22 he had done any studies on that issue, and he started  
23 to explain.

24 MR. HERRERA: I'm going to sustain  
25 the objection.

1           Q     (By Ms. Birch) Okay. This was at the  
2 beginning of your testimony, I believe. Why did you  
3 say that residential rate structures should be the same  
4 for outside the city as inside the city, that both  
5 should have five tiers?

6           A     I was speaking there of the continued upward  
7 slope in the price to encourage conservation even by  
8 the largest customers who have in general the most  
9 opportunities for conservation. And the reason for  
10 having the same kind of structure in and out of the  
11 city is that the price signals that you want to give in  
12 and out of the city are similar, and if there's a  
13 reason to charge a lower overall price out of the  
14 city -- because, for example, customers in the city are  
15 getting an additional service in tax relief or  
16 something, just hypothetically -- then that difference  
17 should not, that differential should not interfere with  
18 the objective of giving conservation prices signals.  
19 That was my point.

20                               MS. BIRCH: Pass the witness.

21                               MR. HERRERA: Any recross on that  
22 redirect?

23                               MR. HUGHES: I have a question,  
24 Your Honor.

25                               MR. HERRERA: Okay.



1 CROSS EXAMINATION

2 BY MR. HUGHES:

3 Q Mr. Chernick, you had mentioned, I think when  
4 Austin Energy was asking you questions with regards to,  
5 I believe it was, inside the city versus outside the  
6 city -- and this is for my curiosity -- you said you  
7 conducted a study, a cost of service study of the  
8 difference between the two for Nstar?

9 A Well, what I did was -- it wasn't cost of  
10 service study. I looked at the rates.

11 Q But is that the correct name of the --

12 A Nstar.

13 Q -- entity?

14 A N, yeah, N-S-T-A-R.

15 Q E-N -- N-S-T-A-R?

16 A Yes. It's now part of Eversource.

17 Q Okay. So, and where is that located?

18 A It's in eastern Massachusetts.

19 MR. HUGHES: Okay. That's all I  
20 had.

21 MR. HERRERA: Before we get to  
22 Austin Energy, any questions --

23 MS. COOPER: I'm sorry. No  
24 questions, Your Honor.

25 MR. HERRERA: Questions by any of

1 the parties before -- Mr. HURF?

2 MR. BORGELT: No questions.

3 MR. HERRERA: Thank you. Mr. HURF.

4 That's twice, isn't it? I'm going to call you Roger.

5 THE WITNESS: That's not bad.

6 MR. HERRERA: All right.

7 MR. FAULK: I just have a few  
8 questions.

9 RECROSS EXAMINATION

10 BY MR. FAULK:

11 Q Mr. Chernick, are you aware of whether or not  
12 the customer charge that Austin Energy charges its  
13 customers is cost-based?

14 A No. I don't believe that Austin Energy has  
15 really done an analysis that would focus just on the  
16 customer-related costs.

17 Q Okay. And do you know of any utilities,  
18 retail electric utilities in the state that have a  
19 bifurcated customer charge?

20 A I haven't researched that.

21 Q Okay. Are you aware of any Texas utilities  
22 at all that use the BIP method that are part of ERCOT?

23 A Again, I haven't read -- reviewed that. The  
24 investor-owned utilities obviously wouldn't, because  
25 they don't own the generation.

1           Q     Okay.  Is -- and to go back to the customer  
2     charge, are you aware that if -- and have you looked at  
3     any data that -- excuse me.  Let me strike that.

4                     Are you aware that analysis was done by  
5     Austin Energy that showed if there was a cost-based  
6     customer charge, it would actually be 22 dollars a  
7     month?

8           A     I don't believe that's cost-based, but I did  
9     look at that --

10          Q     Okay.

11          A     -- part of the cost of service study.

12          Q     So as to going back to what we were talking  
13     about earlier, if we were to implement a cost-based  
14     customer charge, it could well exceed 10 dollars for  
15     both residents -- excuse me, single family and  
16     multifamily; is that correct?

17          A     I think that's unlikely if you really look  
18     at the cost of serving the customer without  
19     including -- averaging in the cost of serving the  
20     larger customers.

21          Q     Okay.

22          A     The customer charge is charged to all  
23     customers, including the very smallest.  So including  
24     the average cost of, say, a service drop for single  
25     family when the smallest customers have 16 amp services

1 and the largest have over 200 amps, that would be  
2 inequitable.

3 Q What I'm asking you a question is, is that  
4 based on Austin Energy's cost of -- cost-based customer  
5 charge analysis of roughly 22 dollars if there was a  
6 actual cost-based customer charge, it could result in a  
7 higher than 10 dollar customer charge even for  
8 multifamily?

9 A Well, I have, still have problems with the  
10 idea that the 22 dollar calculation was cost-based. If  
11 you're asking --

12 Q Do you have a basis for that?

13 A -- theoretically could you have one that  
14 would be possible for urban, suburban utilities that  
15 I've seen real customer-specific customer charge  
16 calculations for, 10 dollars would certainly be on the  
17 high side.

18 Q And my only other question is, have you  
19 provided any other materials while testifying that  
20 supported your testimony during your actual testimony  
21 and cross examination?

22 A You mean while I was on the stand?

23 Q Yes.

24 A You mean did somebody hand me something while  
25 I was on the stand?

1           Q     Or emailed you something?

2           A     No.

3           Q     Okay. Thank you.

4                     MR. HERRERA: Any redirect?

5                     MS. BIRCH: Just one question.

6                     FURTHER REDIRECT EXAMINATION

7 BY MS. BIRCH:

8           Q     Mr. Chernick, you did -- even though you  
9 didn't do your own studies on any of these issues, you  
10 are aware of others and you considered all of those --

11                     MR. FAULK: Your Honor --

12           Q     -- in your opinion?

13                     MR. FAULK: -- this is -- I'm going  
14 to object that this is outside the scope of my  
15 redirect.

16                     MR. HERRERA: I think it's within  
17 the scope of my questions though.

18           Q     (By Ms. Birch) I just want to know that, I'm  
19 asking you if despite the fact that you didn't do your  
20 own studies, you're basing your opinion on a lot of  
21 other information that you either looked at  
22 specifically for this case or that you're aware of from  
23 past cases?

24           A     Yes. My, my position on the generation  
25 allocation is based on the fundamentals, not

1 necessarily on the outcome of specific calculations.  
2 I'm aware of the BIP proposal that I believe was filed  
3 by the ICA, but I'm not supporting any particular  
4 numbers. I'm supporting the idea that a large part of  
5 the cost of generation capacity is driven by energy and  
6 should be allocated on energy or a similar allocator.

7 MS. BIRCH: Thank you.

8 MR. HERRERA: All right.

9 Mr. Chernick, thank you very much.

10 Let's take a very short break, no more  
11 than five minutes. Let's get back at 10:30 and get  
12 started at 10:30.

13 (At 10:25 p.m. the proceedings  
14 recessed, continuing at 10:34 p.m.)

15 MR. HERRERA: Okay. We're back  
16 on the record. Before we move to, I think,  
17 Mr. Mancinelli, Mr. Rourke earlier had offered Jim  
18 Rourke Exhibit No. 3. I provided the parties an  
19 opportunity to review that to see if they have an  
20 objection, and I've been informed that there are no  
21 objections to that. If that is incorrect, somebody  
22 tell me right now. It is admitted. Mr. Brocato?

23 MR. BROCATO: Thank you, Your  
24 Honor. At this time Austin Energy would call Mr. Joe  
25 Mancinelli to the stand.

1 THE WITNESS: There's all these  
2 papers up here, right?

3 MR. BROCATO: I think that prior  
4 witnesses may have just left all that.

5 Your Honor, I think it's most efficient  
6 if we handle the withdrawn portions of Mr. Mancinelli's  
7 testimony in the same fashion that we did yesterday.  
8 I do have a couple of copies that show those  
9 mark-throughs. I don't have enough for all the  
10 parties, so I'll just state it orally.

11 MR. HERRERA: Okay.

12 MR. BROCATO: But did you receive a  
13 redacted copy?

14 MR. HERRERA: I --

15 MR. BROCATO: I'll give you one --

16 MR. HERRERA: -- don't believe I  
17 did.

18 MR. BROCATO: -- and I'll give one  
19 to the witness, and then we'll step through them for  
20 the benefit of the other parties. If you'll turn to  
21 page 9 --

22 MR. HERRERA: Give me a moment.  
23 Okay. Thank you.

24 MR. BROCATO: Page line 9 -- excuse  
25 me. Page 9, line 8 through the remaining, remainder of

1 the page should be stricken. Page 10, lines 1 and 2  
2 should be stricken. Page 29, lines 16 through 23  
3 should be stricken. Page 30, lines 1 and 2 should be  
4 stricken.

5 And on page 43 a couple of typographical  
6 corrections. On line 7 where it says "1NCP," that  
7 should be "4NCP." That same change needs to be made on  
8 line 13 of the same page, and on line 18 of the same  
9 page the word "single" should be changed to "four,"  
10 F-O-U-R, and "1NCP" again should be changed again to  
11 "4NCP."

12 THE WITNESS: Thomas, there's a  
13 change on page 42.

14 MR. BROCATO: Yes. In addition, on  
15 page 42, line 3 the word "responsivity" should be  
16 changed to "responsibility."

17 Mr. Mancinelli, are there any additional  
18 changes that need to be made to this testimony?

19 THE WITNESS: No.

20 MR. BROCATO: I would offer Austin  
21 Energy Exhibit No. 3.

22 MR. HERRERA: Any objections?

23 MR. MCCOLLOUGH: Just a  
24 clarification, Your Honor. Are you withdrawing the  
25 information on page 49, lines -- oh, let's see. The



1 Data Foundry information on page 49? I'd assumed you  
2 were going to.

3 MR. BROCATO: I believe that that  
4 would be correct as well, but let me confirm. I would  
5 ask Mr. Mancinelli to do the same.

6 MR. MCCOLLOUGH: I can tell you  
7 you're going to save 15 minutes if you do.

8 MR. BROCATO: I'm not  
9 looking -- that's a nice additional benefit but not  
10 dispositive. Yes. I believe that would be appropriate  
11 as well if the witness confirms it.

12 THE WITNESS: Yes.

13 MR. BROCATO: So in addition -- and  
14 Mr. Mancinelli, I would ask that you do it on your copy  
15 as well as yours, Your Honor -- page 49, lines 3  
16 through the remainder of the page should be stricken,  
17 and then page 50, lines 1 and 2 should also be  
18 stricken.

19 MR. MCCOLLOUGH: And footnote 18.

20 MR. BROCATO: As well as the  
21 footnote 18.

22 MR. MCCOLLOUGH: And probably on  
23 page 49 footnote 16 and 17.

24 MR. BROCATO: Yes. On page 49  
25 footnotes 16 and 17. Also, on page 18 on line 9 the

1 number "1" should be changed to the number "4." Any  
2 additional changes, Mr. Mancinelli, that you're aware  
3 of?

4 THE WITNESS: Not that I'm aware  
5 of.

6 MR. BROCATO: Again, I would offer  
7 AE Exhibit 3.

8 MR. HERRERA: Any objections to AE  
9 Exhibit 3? It is admitted.

10 MR. BROCATO: And I tenderer  
11 Mr. Mancinelli for cross examination.

12 MR. HERRERA: Any questions by  
13 ARMA? Mr. Rourke? Mr. Robbins isn't here. Greater  
14 Austin Chamber of Commerce? Data Foundry?

15 MR. MCCOLLOUGH: Thank you.

16  
17 PRESENTATION ON BEHALF OF  
18 NXP/SAMSUNG

18 CROSS EXAMINATION

19 BY MR. MCCOLLOUGH:

20 Q Good morning, Mr. Mancinelli.

21 A Good morning.

22 Q First of all, let me apologize to you for not  
23 wearing a jacket. The lack of decorum is not a lack of  
24 respect. I grabbed my son's jacket, and if I was to  
25 put it on this morning, all we'd hear is a big ripping

1     sound.    So please forgive me.

2                     Second of all, we saved some time with  
3     your final adjustments, so I have only a few remaining  
4     questions for you.

5             A     Sure.

6             Q     Could you please turn to page 27 of your  
7     testimony?  Lines 2 or 3 you say, "As a result, AE's  
8     customers are ultimately responsible for some or all of  
9     the generation costs above short-run variable costs."

10                    And I understand that what you're doing  
11    is you're concluding what you said before, but I want  
12    to focus on the assertion there on lines 2 to 3.  All  
13    right?

14             A     Sure.

15             Q     You state that customers are responsible for  
16    all but short-run variable costs as a definite.  Would  
17    you agree with me what you say here is only true  
18    insofar as generation costs above short-run variable  
19    costs are allowed into the revenue requirement?

20             A     Well, the revenue requirement is based on  
21    total system cost, and so to the extent it's a cost of  
22    the utility, it's in the revenue requirement.

23             Q     Well, you are aware that in the rate-making  
24    process a regulator sometimes disallows expenses, don't  
25    they?

1           A     That's a practice that you see with  
2 investor-owned utilities. It's a much more difficult  
3 concept with a municipal utility, because the financing  
4 and the ownership structure is so different.

5           Q     Understood. Nonetheless, it is sometimes the  
6 case that when rates are being made, expenses claimed  
7 by a utility are disallowed for rate-making purposes;  
8 isn't that true?

9           A     In IOU cases I see that. Yes.

10          Q     So there will be ratepayer responsibility for  
11 generation costs above short-run variable costs only if  
12 the Judge here finds that they should be included in  
13 the revenue requirement and city council agrees,  
14 correct?

15          A     To the extent that the, that the revenue  
16 requirement -- the revenue requirement is the basis for  
17 rates, and to the extent there are any adjustments to  
18 that, then it would impact the rates.

19          Q     Thank you. On the other hand, deeming longer  
20 run costs as variables would not -- rather than fixed,  
21 as I think you do, and we're going to get into that in  
22 a second, that change -- or the decision as to whether  
23 it's long run or short run doesn't necessarily preclude  
24 recovery, does it?

25                         For purposes of this case -- and I

1 understand these are two questions, I'll break them  
2 apart if you need me to. But for purposes of this case  
3 the functional effect of treating what I think you call  
4 long-run variable costs and others in this case are  
5 saying are short -- or, or still variable costs, the  
6 difference is that if they are treated as variable  
7 rather than fixed as you propose, they go over to the  
8 PSA and they go out of the base rates, right?

9 A No. No. We're talking about -- the PSA is  
10 an entirely different animal. It's a, it's a  
11 pass-through, and there is a prescribed methodology for  
12 that administration. It's a -- it basically tracks  
13 fuel costs, market, nodal market cost, fuel costs, and  
14 there's a credit for revenues, and it's a dynamic  
15 calculation. And the reason why it's a pass-through  
16 in the first place is because it's dynamic. It,  
17 it -- pass-throughs, one of the primary functions of a  
18 pass-through is to manage costs that are, that are  
19 difficult to manage within rate proceedings, and so,  
20 and so that's the primary function of that.

21 The short-run, long-run discussion that  
22 you're talking about is how certain costs, particularly  
23 production costs, will be classified. They're either  
24 going to be classified as demand-related costs or  
25 energy-related costs. If they're classified as an

1 energy-related cost, then you would have an energy  
2 component to your base rate over and above the  
3 pass-through.

4 Q Let me see if I understand what you're saying  
5 here. If your position does not prevail with regard to  
6 these variable costs that are not short run, if your  
7 position is not accepted, then is it your testimony  
8 that those costs would then fall into the energy  
9 component of base rates?

10 A Right. It'd be an energy charge over and  
11 above the PCA.

12 Q In base rates?

13 A In, in the -- it would be a base-rate  
14 component. Correct.

15 Q I don't know if you have reviewed the cost of  
16 service study here, but would you agree with me that at  
17 present the cost of service study shows that there are  
18 zero energy-related costs for base rates?

19 A The base rate, I think that's a, probably a  
20 pretty fair statement. And remember, there's a  
21 difference between costs and the rate too.

22 Q Yes.

23 A Because once the cost of service is  
24 determined, then the rates are designed. So you can  
25 have energy rates that have fixed costs in them, and

1 that's basically what the residential rate structure  
2 looks like, but I think by and large most of the  
3 variable costs, if not all, in the cost of service are  
4 being recovered through pass-throughs.

5 Q So let's go back to the first part of the  
6 narrative that you gave me two questions ago. I asked  
7 you if classifying this as energy rather than demand  
8 like you want to do would end up sending it over to the  
9 PSA, and I believe you said no.

10 A That's correct.

11 Q Okay. Now, was the answer no because of a  
12 council direction on how the PSA is to be calculated,  
13 or is that due to merely the way that AE has chosen to  
14 do it?

15 A No. The PSA, the costs that are eligible or  
16 recoverable in the PSA are defined, and if it's outside  
17 of those definitions, then it cannot be included in the  
18 calculation. So it has to be recovered through the  
19 base rate.

20 Q Okay. And let's just talk about how it is  
21 defined then. Does the definition say variable cost,  
22 or does it say only fuel?

23 A I don't know. I haven't looked at the  
24 definition in recent weeks. So I'd have to  
25 doublecheck.

1           Q     If the definition said variable costs, then  
2     to the extent this Judge here says, No, they're not  
3     demand, they're variable, then they could go over to  
4     the PSAs, couldn't it?

5           A     I suppose, but it's a highly unusual  
6     practice. I mean, the PS -- again, the PSA is  
7     specifically to handle costs that are variable and  
8     dynamic, and that's why it's set up in the first place.  
9     It enables Austin Energy to adjust it -- I'm sorry, I'm  
10    losing my voice -- it enables Austin Energy to adjust  
11    that when, when the balance gets out of whack. When  
12    it's either too low or too high, they'll make an  
13    adjustment, but the whole idea is, is basically to make  
14    it a net-zero cost. Whatever their cost they incur,  
15    they pass it through.

16                         So there are no, there are no other  
17    overhead allocators or other indirect costs associated  
18    with these, with these items. They're purely costs as  
19    incurred.

20           Q     Well, we can all review what the, what the  
21    council direction has been on how the PSA is to be  
22    calculated, but let's get to what the real debate here  
23    is, if I understand it.

24                         You give a fairly long discussion on  
25    page 23, line 11 all the way over to page 27, line 17,



1 and as I was reading this I took what you were saying  
2 to mean -- and pardon me if I'm characterizing your  
3 testimony wrong, because I'm gonna summarize it --

4 A Um-hm.

5 Q -- you were recognizing that the NARUC Cost  
6 Allocation Manual would treat certain costs that are  
7 longer term as variable rather than fixed.

8 A That's correct.

9 Q But you do not think that is appropriate in  
10 AE's case, given the ERCOT market.

11 A That's correct.

12 THE REPORTER: Given your what?

13 MR. MCCOLLOUGH: Given the ERCOT  
14 market.

15 Q (By Mr. McCollough) So the debate here isn't  
16 over how the NARUC Cost Allocation Manual would treat  
17 it. The debate is whether it is appropriate to follow  
18 what NARUC Cost Allocation Manual says in your  
19 particular circumstances.

20 A That's correct.

21 Q Let's put some numbers to all this if we can.  
22 Would it be fair to say that in this fixed or long-term  
23 variable as opposed to short-term variable, we're  
24 really debating costs associated with production O&M  
25 that's not recoverable fuel, right?

1           A     I think that's correct.

2           Q     And it is some portion of what AE has  
3     calculated as its production O&M that's not recoverable  
4     fuel that some parties are saying is variable and some  
5     are saying is fixed.

6           A     I think that's correct.

7           Q     So not all the production O&M is variable  
8     under the NARUC manual.

9           A     That's right.

10          Q     The NARUC manual basically recommends, and  
11     tell me if I'm wrong, you probably know more about it  
12     than I do, but the NARUC manual basically recommends  
13     that long-run variable costs be determined based on  
14     some labor allocator, isn't it?

15          A     No. Well, let me, let me clarify to -- the  
16     NARUC manual, if you look at the NARUC manual, you're  
17     never going to find short run or long run when you read  
18     the cost allocation methodology. But when you look at  
19     the nature of the costs that they classify as energy  
20     related, there is a short-run, long-run connotation,  
21     which I described in my testimony.

22                     So with that said, can you repeat your  
23     question?

24          Q     Yes, sir. And maybe I can make it a bit more  
25     definite. On pages 36 to 38 of the NARUC manual, and

1    it's Exhibit 1, 4-1 to the NARUC manual -- by the way,  
2    this is part of the official notice materials that I  
3    have already -- so it's merely an excerpt.

4                   The NARUC manual has a series of FERC  
5    accounts related to production and O&M expenses, and  
6    it, and it tells you basically how to allocate them,  
7    doesn't it?

8           A     It gives you some guidelines.  Correct.

9           Q     Some guidelines.

10          A     Correct.

11          Q     And in large part it says prorated [obscured  
12   by coughing] for most of these costs, doesn't it?

13          A     For certain types of plant.  For steam plant,  
14   nuclear plant it does that.  For other types of plant  
15   it does not.

16          Q     Well, how does it treat gas?

17          A     Well, it depends on whether it's a steam unit  
18   or a combustion turbine, but a steam unit it would  
19   prorate probably some of these maintenance costs for  
20   sure and potentially some operations costs, and for a  
21   CT it would all be demand related, I, I believe.

22          Q     Do you know --

23                               MR. HERRERA:  I'm sorry,  
24   Mr. Mancinelli.  I missed the last part of your  
25   response.  For a CT?

1 THE WITNESS: Yeah. A combustion  
2 turbine versus a gas steam unit, they have a different  
3 design and, based on that technical difference, the  
4 NARUC manual treats them differently with respect to  
5 the cost-accounting classification of demand or energy.

6 So if you're looking at this exhibit,  
7 there by FERC accounts, and so for FERC account 500  
8 through 514 that's steam power, which could include  
9 coal or gas, and then you've got 517 through 532, which  
10 is nuclear, and then you've got hydro. And then on  
11 page 38 you've got other power, which is basically  
12 where CTs go, and those are pretty much all demand  
13 related.

14 THE REPORTER: All what related?

15 THE WITNESS: Demand related.

16 Q (By Mr. McCollough) So if Judge Herrera here  
17 were to recommend, and the council were to agree with  
18 the position of some of the parties, that the costs you  
19 say are fixed but they say are variable should be  
20 treated as variable, you could implement that by  
21 following what the NARUC manual says.

22 A Yeah.

23 Q Okay. And that would require some of the,  
24 some changes to the allocation factors that I believe  
25 appear on Schedule F-2, wouldn't it?

1           A     Schedule F-2? Can you point me to that? Is  
2     that what this is?

3           Q     Yes, sir. And I only have one copy, and the  
4     print is very small.

5           A     Oh.

6           Q     Basically what Schedule F-2 is, is the  
7     allocation amounts by your discrete allocators.

8           A     Well, I will say that this, this is so small  
9     that I can't read it, but if these are allocation  
10    factors, meaning that it's the demand in energy  
11    allocators assign to each class, it would not change  
12    the allocators. The allocators would be unchanged.  
13    What would change is how much would be considered a  
14    demand or how much would be considered energy and the  
15    dollar amount that would be allocated, but the  
16    allocators themselves would not change.

17          Q     Let's make sure we understand each other, and  
18    again, I apologize. That's not mine. The print's very  
19    small.

20                         Would you accept my representation that  
21    many of the allocation factors that are stated on  
22    Schedule F-2 for -- that would be used to implement the  
23    NARUC Cost Allocation Manual recommendations on the  
24    FERC accounts, just let me represent to you that there  
25    are zeroes in energy for many of them.

1           A     Okay.  So this, this exhibit, on the top it  
2     has "Demand Related" and "Energy Related," which I can  
3     read, and there's items here.  To the extent that you  
4     adopt the NARUC approach, it would, it would change  
5     these percentages.  There would be higher percentages  
6     in energy, potentially, for certain items and lower  
7     demand.

8           Q     Now, I don't want you to miss -- you or the  
9     record or the Judge, to misunderstand what our position  
10    is on this.  I'm trying to get numbers in the record so  
11    everybody understands.  I can tell you we may very well  
12    come in brief and say, Mancinelli is right, this should  
13    be treated as demand.  Okay?  But I want the record to  
14    be clear so that we have some idea of what needs to  
15    occur to implement the Judge's decision, whatever it  
16    is.  Fair enough?

17          A     Sure.

18          Q     All right.

19                   MR. BROCATO:  Does that make this a  
20    friendly [inaudible]?

21                   MR. McCOLLOUGH:  No, it does not,  
22    because I'm going to get, now I'm going to get into one  
23    other thing that y'all may not like.

24          Q     (By Mr. McCollough)  You agreed with me that  
25    production O&M other than fuel is a good way to talk

1    **about some of the, the costs that are in issue in this**  
2    **dispute.**

3                               MR. HERRERA:   Mr. McCollough,  
4    before you move forward with your next set of questions  
5    I'd like to ask Mr. Mancinelli just a couple of  
6    questions.

7                               CLARIFYING EXAMINATION

8    BY MR. HERRERA:

9               Q     **And we've had discussions throughout the**  
10    **proceedings on demand costs, energy costs, fixed costs,**  
11    **variable cost, and then the mechanisms by which you**  
12    **recover those.**

13            A     Um-hm.

14            Q     **Are all demand-related expenses always a**  
15    **fixed cost?**

16            A     And let me answer it this way, because I  
17    think you asked the question, I think yesterday maybe,  
18    of another witness I thought was really good, and it  
19    has to do with the time, the time you look over it.

20                       Over a long-enough planning or time  
21    horizon everything is variable.  Things wear out.  
22    Power plants come and go over a 30-year time horizon,  
23    so you could say a power plant over a 30 or a  
24    hundred-year planning horizon is almost a variable  
25    cost.  Okay?  But for rate-making what we're doing is

1 we're setting rates that meet Austin Energy's revenue  
2 requirement, and their revenue requirement is set  
3 annually with a budget. So they are trying to meet  
4 their financial obligations with rates.

5                   And so from my perspective, the planning  
6 horizon now becomes much more narrow at this -- it's  
7 daily, monthly, annual. Okay? And within that type of  
8 a horizon the definition of fixed and variable now  
9 becomes -- in my mind, a variable cost is tied to  
10 energy, and as your consumption goes up and down today,  
11 whether you're home or not or over the weekend or over  
12 the summer months, as Austin Energy's underlying costs  
13 change based on the variability of your energy use,  
14 that is a variable cost energy-related.

15                   To the extent that they have production  
16 plants that's in service ready to operate when called  
17 on the market, and the maintenance of that in my mind  
18 is, is a fixed cost. And actually, the way the ERCOT  
19 market works is that it's very similar in that regard  
20 in that people, participants bid into the market using  
21 fuel plus some measure of some -- there is some small  
22 variable O&M. Like variable O&M might be water,  
23 chemicals, things that you use when the power plant is  
24 operating you would use in a very short period of time.

25                   Things that don't vary are labor costs,



1 the day-to-day maintenance, even larger maintenance you  
2 could consider not variable, because they, they are  
3 required day in and day out to keep the units  
4 operating. So in a shorter period of time in the, in  
5 the ERCOT market and what's driving that market right  
6 now, the production non-fuel, non-purchase power costs  
7 are essentially fixed. That, did that help?

8 Q Sort of.

9 A Okay.

10 Q I think it does. And my next question with  
11 regard to a fixed cost, are all fixed costs always  
12 recovered through a fixed charge? Coming back down to  
13 reality here in terms of --

14 A Oh, that depends on, on the rate design,  
15 because the cost of service tells you what's fixed and  
16 various, and then you have to decide how you want to  
17 recover that. So generally speaking for your large  
18 industrial and commercial loads, you, you try to match  
19 as close as you can that relationship, because that  
20 relationship protects the utility, in a sense. A  
21 demand and energy charge is a risk management tool for  
22 the utility, because large loads may come off and on  
23 the system, but the, but the infrastructure that's out  
24 there to serve those loads remain there every day.  
25 They're fixed. And so the demand charge really helps

1 the utility fairly collect costs from your larger  
2 customers.

3 When you get to your smaller customers,  
4 like your residential customers and some of the  
5 smaller, like the S1 class I think, there's not, there  
6 has not been a history in this business of charging  
7 them for demand charges or fixed costs other than a  
8 customer charge, and so all those other costs then get  
9 rolled into your energy right. See?

10 Q Okay. And my next quest is, maybe the flip  
11 side of what you're just telling me, are all  
12 energy-related costs always variable costs?

13 A Yes.

14 Q Okay.

15 A Yes. That's pretty --

16 Q And are all variable costs always recovered  
17 through a what I'll call a usage rate?

18 A On a, on a -- yeah. On a dollar-per-  
19 kilowatt-hour basis, is that what you mean by a usage  
20 rate?

21 Q Yeah.

22 A Yeah. Yes. That's pretty, that's a pretty  
23 uniform treatment of variable costs throughout the  
24 industry. Anything --

25 Q Are any -- are variable costs recovered

1 through a fixed charge that you're aware of?

2 A Not that I'm aware of. It's usually an  
3 energy charge.

4 Q Okay. Thank you.

5 MR. HERRERA: Sorry,  
6 Mr. McCollough. Go ahead.

7 MR. MCCOLLOUGH: That's all right,  
8 Your Honor.

9 CONTINUED CROSS EXAMINATION

10 BY MR. MCCOLLOUGH:

11 Q I'm going to kind of follow up on the first  
12 question that the Judge asked you. ERCOT basically  
13 operates from a pricing basis on a marginal-cost basis,  
14 and specifically a short-run marginal-cost basis,  
15 right?

16 A In the, in the LMP realtime market and short,  
17 the short-run markets, yes.

18 Q Yeah. And there is a difference between, to  
19 some extent there is a difference between how you would  
20 figure out what a short-run marginal cost is and what  
21 even a short-run variable cost is, wouldn't you? One  
22 is actually incremental and forward-looking, the other  
23 is embedded, and you're looking at costs that change  
24 with consumption.

25 A There, there could be a difference.

1           Q     And I don't know the extent to which you have  
2     economics background. I just looked at -- you have an  
3     MBA and you're in engineering. I didn't see economics.  
4     So I won't go too deep into that.

5                     But for purposes of the revenue  
6     requirement here, we're looking at your embedded costs,  
7     aren't we?

8           A     That's right. It's based on an embedded cost  
9     case.

10          Q     And ERCOT really looks at, in a sense,  
11     pricing signals for forward-looking costs, for  
12     incremental costs, doesn't it?

13          A     It's, it's based on supply and demand and  
14     market bids.

15          Q     And specifically, a short-run incremental  
16     cost and what you were trying, I believe, to convey to  
17     the Judge in your answer, and perhaps to me, is that  
18     even long-run incremental costs are not appropriate to  
19     be considered as energy. It's only the short-run  
20     increment costs.

21          A     I'm saying that the short-run costs are the  
22     costs that are the basis of the bids. So if a unit is  
23     being bid and dispatched into the market, Austin Energy  
24     needs to recover its short-run variable costs.

25          Q     Okay. Or short-run incremental costs?

1           A     I'll use variable costs.

2           Q     All right. The reason I keep trying to push  
3     it is, I happen to know that the Judge understands what  
4     a long-run incremental cost is and probably the  
5     difference between short-run incremental and long-run  
6     incremental. I was trying to help him get a grasp on  
7     the difference between that and variable. Okay? All  
8     right?

9           A     Okay.

10          Q     Let's get some more numbers into the record  
11     if we can. I want you to assume, just to save some  
12     time, that production O&M costs as calculated by AE  
13     without the recoverable fuel amount is \$200,778,242.  
14     Just fix that number in your head if you would for a  
15     second.

16          A     Can you --

17          Q     That's production O&M --

18          A     Can you refer --

19          Q     -- minus recoverable --

20          A     -- to me to your reference, where you're,  
21     where you're getting that number?

22          Q     I went through this day before yesterday with  
23     Mr. Dombroski, but if you want to verify, you can  
24     compare the production O&M amount listed on Figure 5-8,  
25     Bate 115, subtract from that the recoverable fuel

1 amount shown on Schedule G-7, Bate 997, lines 11, 16,  
2 and 18. You would be subtracting 411,649,196, one of  
3 them's 612,47 -- 427,438, come up with --

4 A I'm sorry --

5 Q -- 200,778,242.

6 A -- you're way ahead of me.

7 Q I'll give you a minute to catch up.

8 A So it was 9 -- give me the Bates stamps  
9 again, please.

10 Q Yes, sir. Production O&M is listed by AE on  
11 Bate 115, Figure 5-8.

12 A I have that.

13 Q You see that 612 million number? I think I  
14 gave you the right one.

15 A Say the number again, please?

16 MR. BROCATO: I do not see it.

17 Q (By Mr. McCollough) Okay. My apologies. I  
18 may have pulled the wrong -- I'm looking for the  
19 production O&M amount that was listed -- okay. I'm  
20 sorry. 4.7, Bate 103. My apologies.

21 A Okay.

22 Q I gave you the wrong reference.

23 A Okay. And the number is?

24 Q 612,747,438.

25 A Yes. I see that.

1           Q     All right. So that's production O&M, and to  
2     get the nonrecoverable fuel portion we subtract out  
3     recoverable fuel, right? Which would be what you say  
4     is a short run.

5           A     No. I don't think that's, sir, that's the  
6     right calculation, because -- where, and where are you  
7     getting your recoverable fuel number?

8           Q     Let's see. That would be Schedule G-7, Bate  
9     992, lines 11 and 16, and line 18 labeled "Recoverable  
10    Fuel Costs."

11                         MR. BROCATO: Is that G-7?

12          Q     (By Mr. McCollough) G-7, 997 [sic], lines  
13     11, 16, and 18. Should be 411,649,196.

14          A     Give me the line number one more time,  
15     please.

16          Q     My notes say it is on Schedule G-7, lines 11,  
17     16, and 18. 400 -- it should be the 411,649,196  
18     number, and it's labeled as "Recoverable Fuel." I  
19     apologize, this is taking longer than --

20          A     I'm sorry. I'm just trying to find it.

21                         MR. HERRERA: And I was going to  
22     remind you, Mr. McCollough, that based on the time  
23     allotments, you have about 12 minutes left total for --

24                         MR. MCCOLLOUGH: Understood, and I  
25     do apologize. I had established these earlier, and I

1 didn't --

2 MR. HERRERA: Understood.

3 THE WITNESS: Okay. I'll take your  
4 word that that's the number in here. Okay.

5 Q (By Mr. McCollough) Okay.

6 A So what's your question, please?

7 Q Do you have a problem with using whatever the  
8 actual number is, what AE has labeled "Recoverable Fuel  
9 Costs," as the measure of what you are calling  
10 short-run variable?

11 A I think that's a -- captures most of it.  
12 Yes.

13 Q Okay. I just want to make sure we all know  
14 exactly what we are talking about here.

15 A Okay. Sure.

16 Q And put a number to it, and if that 411 isn't  
17 what you think is short-run variable, please tell me.  
18 Okay?

19 A It probably is, I just can't find the number.

20 Q Very well, and I apologize if my references  
21 are wrong.

22 So then let's just assume if we  
23 could -- and if we have to change a number later, do a  
24 correction, we can do that. Let's assume, then, that  
25 the difference between production O&M and recoverable



1     fuel is some 200 million dollars, 700 -- 200,778,242.  
2     Just assume that. What I'm trying to do is subtract  
3     the recoverable fuel from production O&M.

4             A     Okay.

5                     MR. HERRERA: And so I'm on the  
6     same page, Mr. McCollough, that's an O&M, you obtained  
7     that from AE's Exhibit -- I'm not sure what number it  
8     is, but it's page 4-74, Bates 103?

9                     MR. MCCOLLOUGH: Yes.

10                    MR. HERRERA: And which one of  
11     those numbers did you use, fiscal year or test year?

12                    MR. MCCOLLOUGH: It is --

13                    MR. HERRERA: The adjusted number?

14                    MR. MCCOLLOUGH: -- production  
15     operation and maintenance that appears on the far  
16     right-hand side --

17                    MR. HERRERA: Okay. Thank you.

18                    MR. MCCOLLOUGH: -- test-year 2014.

19                    MR. HERRERA: Thank you. You may  
20     want to repeat your question.

21                    MR. MCCOLLOUGH: I may want to. I  
22     apologize.

23             Q     (By Mr. McCollough) What I'm trying to do is  
24     identify as best we can, put a number to what we are  
25     talking about here in terms of the short-run variable

1 costs as opposed to other longer-term variable costs  
2 that you say should be demand and others say should be  
3 energy. Okay?

4 A Okay.

5 Q Would a fair way to do that be to take the  
6 production O&M number and subtract from that  
7 recoverable fuel cost? As a beginning point. I know  
8 there's another step.

9 A The only caveat I put on this is that there's  
10 a, there's a revenue offset that I'm not sure -- it's  
11 in the calculation, but I'm not sure where you're going  
12 with it. So just gotta be -- so far assuming  
13 production O&M as fuel costs in there and those are  
14 fuel costs, then the difference is non-fuel costs.

15 Q Very good.

16 A Okay.

17 Q Now, some of that difference -- start out  
18 with production O&M, subtract out the fuel -- some of  
19 that amount is long-run variable that you want to treat  
20 as demand but others want to treat as energy. Right?  
21 Not all of it.

22 A I think, I think that's a fair statement.

23 Q Okay. I'm sorry it's taken so long, but do  
24 you have an idea in your head which -- how much of  
25 production O&M minus fuel would be assigned as variable

1 under NARUC but is treated as fixed under your  
2 approach? Do you have an opinion?

3 A Off the top of my head I do not.

4 Q Do you know whether it would exceed 81  
5 million dollars?

6 A I can't tell you that.

7 Q Do you know whether it would exceed 48  
8 million?

9 A I cannot tell you that. I, I believe that  
10 there is a work paper somewhere in this filing that  
11 might have that number, but I don't, I don't know what  
12 the work paper number is.

13 MR. HERRERA: And Mr. McCollough,  
14 so I'm understanding what your question is, there's a  
15 production number on the AE document, Bates page 103,  
16 of 612 million, and then on some other page there was a  
17 number 411 million.

18 MR. MCCOLLOUGH: For fuel.

19 MR. HERRERA: For fuel. Leaving a  
20 balance of about 201 million.

21 MR. MCCOLLOUGH: Yes.

22 MR. HERRERA: And your question to  
23 Mr. Mancinelli was whether -- the debate is whether a  
24 portion of that 201 should be recovered -- be treated  
25 as fixed and a portion as variable?

1 MR. MCCOLLOUGH: Yes. Now, Austin  
2 Energy wants to treat all of it as demand, fixed and  
3 demand, others are saying, no, some portion of it  
4 should be energy, and I'm trying to figure out how much  
5 are we talking about.

6 MR. HERRERA: Thank you.

7 Q (By Mr. McCollough) I will represent to you,  
8 sir, I looked in the rate-filing package and could not  
9 locate it. It is entirely possible I missed it. So  
10 then at least you as a sole witness of Austin Energy,  
11 you cannot help us out here in identifying how many  
12 dollars we're talking about with regard to this debate  
13 of short run versus long run and then whether it should  
14 be treated as fixed demand or energy? You just don't  
15 know?

16 A The best I can do is if you want to take a  
17 break or go off the record, I can check with my team.

18 Q No. But I, I will leave an invitation to the  
19 utility if they want to supply that, that's fine.  
20 Okay?

21 One last question, sir. We're still  
22 talking about production O&M, non-fuel. Would you  
23 agree with me that assigning this long-run variable to  
24 demand necessarily means that there is a general fund  
25 transfer amount that comes along with it?

1           A     Well, the general fund transfer, along with  
2     other indirect costs, are basically allocated to the  
3     different functions and the different subfunctions  
4     throughout the study, and so to the extent that it  
5     would be demand or energy, there would be an allocation  
6     associated with it.   Yes.

7           Q     I know you think it shouldn't go, this amount  
8     shouldn't go to the PSA.   We already talked about that.

9           A     Right.   It should not go to the PSA, and it  
10    would not go to the PSA.

11          Q     If it does, okay?   If it does despite your  
12    recommendation and position, if it goes to the PSA,  
13    then there would not be a general fund transfer amount  
14    associated with it, would there?

15          A     I guess I'd have to refer to the PSA language  
16    again, but generally, those costs are pass-throughs.

17          Q     And they don't have general fund transfer  
18    amounts in them, in the PSA?

19          A     I'm pretty sure that's correct, but I'd  
20    have -- that's subject to check, checking the actual  
21    tariff language.

22          Q     Understood.

23                         MR. MCCOLLOUGH:   That's all I have,  
24    Your Honor.

25                         MR. HERRERA:   Bethany United?

1 MR. WELLS: No.

2 MR. HERRERA: HURF?

3 MR. BORGELT: No, Your Honor.

4 MR. HERRERA: Low Income?

5 MS. COOPER: Just one question,  
6 Your Honor. As an attorney I'll probably end up two,  
7 but I'm planning for one.

8 CROSS EXAMINATION

9 BY MS. COOPER:

10 Q On page 9 of your testimony you are referring  
11 to a -- at the very top, a detailed engineering  
12 analysis of the specific facilities surrounding Decker  
13 1 and 2 relating to decommissioning costs; is that  
14 correct?

15 A Yes.

16 Q Now, are you aware --

17 MS. COOPER: I knew it would be  
18 two.

19 MR. BROCATO: Um-hm.

20 Q (By Ms. Cooper) Are you aware that none of  
21 that detailed engineering cost was available to the  
22 Judge, the Consumer Advocate, or any other party in  
23 this rate case?

24 A I cannot answer that. I mean, Austin Energy  
25 was responsible for the material that was considered

1 confidential, and so I cannot answer what the parties  
2 did or did not see.

3 Q So you're not aware? When you wrote your  
4 testimony --

5 A I'm not --

6 Q -- you weren't aware that we did not have  
7 access to that study?

8 A I'm not aware. I wrote, I wrote the  
9 testimony from the information I have.

10 Q Okay. All right. Well, thank you so much  
11 for your patience.

12 MS. COOPER: No more questions,  
13 Your Honor.

14 MR. HERRERA: Public Citizen?

15 CROSS EXAMINATION

16 BY MS. BIRCH:

17 Q Good morning, Mr. Mancinelli.

18 A Good morning.

19 Q It's my understanding that it's your opinion  
20 that the earlier Austin Energy starts the process of  
21 setting aside funds for each generation unit -- I'm  
22 talking about non-nuclear decommissioning -- that the  
23 earlier they start the process of setting aside funds  
24 to do that, the lower the potential rate impact and the  
25 more equitable the recovery of these costs would be; is

1     **that correct?**

2           A     Yes.

3           **Q     Would you please look at PC-SC Exhibit 4?**

4                   MR. BROCATO:  Wait, 4?

5                   MS. BIRCH:  Yes.

6                   MR. BROCATO:  Give me a moment.

7     I'm ready.

8                   MR. HERRERA:  Is this what we're  
9     looking at?

10                  MS. BIRCH:  Yes.

11                  MR. BROCATO:  The gen plan?

12                  MS. BIRCH:  Yes.

13           **Q     (By Mr. Brocato)  Are you familiar with this**  
14 **document, Mr. Mancinelli?**

15           A     Not really.

16           **Q     Well, are you aware that the city council**  
17 **passed the plan in December of 2014?**

18           A     I am, I'm aware of the plan, the general  
19 pieces of the plan, but this document, I don't think  
20 I've ever really read this document.

21           **Q     Well, let's take a moment to look through the**  
22 **plan and talk about a couple of the retirement goals**  
23 **that are in the document which relate to Austin**  
24 **Energy's plan to create a decommissioning reserve.  If**  
25 **you look at the top of page 5 --**



1           A     Okay. I'm there.

2           Q     -- the first sentence, doesn't that reflect  
3     that the plan sets a general goal to retire the two  
4     Decker steam units by 2018?

5           A     Correct.

6           Q     And would you agree that under this plan city  
7     council has also set a goal for AE's portion of the  
8     Fayette Power Project to be retired in 2023? If you  
9     look at page 3 under the "Plan Summary," number 2,  
10    which "The Plan adopts and acts immediately on"?

11          A     I see it, but it's 2022.

12          Q     Okay. To begin the process in 2022, correct?

13          A     Yes.

14          Q     Well, would you agree that city council has  
15    said that an important step toward the retirement  
16    process Austin Energy -- okay. So it is November of  
17    2022.

18                   Are you aware that Austin Energy is now  
19    saying that the outstanding debt associated with that  
20    plant in October of 2022 will be approximately 143  
21    million?

22          A     I think Mr. Dombroski has testified to a  
23    number similar to that.

24          Q     Okay. Well, let me ask you, doesn't your  
25    rationale for starting the process early of setting

1     **aside funds for decommissioning, which was that it**  
2     **lowers the potential rate impact and ensures more**  
3     **equitable recovery, wouldn't that also apply to the**  
4     **defeasement of the remaining debt as a general sound**  
5     **financial practice?**

6           A     Well, I mean, there are, there are -- they've  
7     got different issues surrounding each, each of those  
8     decisions. You can't really commingle them. They're  
9     very different. I mean, decommissioning the Fayette  
10    plant is, is basically recognizing a liability, a  
11    future liability of, of dismantling the plant.

12                   On the other hand, Austin Energy borrows  
13    a lot of money in the market and is an active -- active  
14    in the bond markets and, and defeasing debt has to be  
15    done within the legal restrictions surrounding that  
16    debt. And so they're, they're just very different  
17    things.

18           Q     But you're not suggesting, are you, that it's  
19    a good idea to wait till the debt becomes callable to  
20    take any steps to figure out what you're going to do  
21    about the debt?

22           A     Well, I guess to determine, the answer is  
23    based on the action. I mean, the action, is it  
24    speculative? Is it known? My understanding right now  
25    is that surrounding FPP there are -- there's just a

1 fair amount of uncertainty, and it's really a decision  
2 of Austin Energy to decide as to how they want to  
3 handle that.

4 Q Well, I'm not understanding. I mean, why do  
5 you think it makes good sense to start a fund for  
6 decommissioning?

7 A Well, just to be clear, okay? My firm was  
8 tasked to do a decommissioning study, and we looked at  
9 FPP and we have FPP in that study with estimated costs  
10 and retirement dates, and the decommissioning reserve  
11 has been sized with that in mind. The defeasance of  
12 debt associated with FPP and long-term obligations is  
13 something I haven't looked at.

14 Q But wouldn't you agree if you don't take any  
15 steps before the retirement date, we don't know what  
16 the retirement date will actually be, but the goal is  
17 to begin the process in 2022, correct? I mean, let  
18 me -- well, let me -- let's . . .

19 My question is, if you haven't taken any  
20 steps to figure out how to defease the debt, that could  
21 have an effect on being able to retire the plant, could  
22 it not?

23 A All I can tell you is that I believe in our  
24 study. We've assumed that FPP, the decommissioning  
25 date right now, which is, I think 2025, I believe, plus

1 or minus a year. The debt associated with that I  
2 cannot speak to how Austin Energy plans to handle that,  
3 if, in fact, it is defeased -- I mean decommissioned at  
4 that time.

5 Q Okay. Let's move on to Austin's service  
6 issues. And are you aware that Public Citizen and  
7 Sierra Club has recommended allocation of the  
8 production costs using either a BIP, probability of  
9 dispatch, or on an hourly energy cost?

10 A Yes.

11 Q In your testimony you argue against the use  
12 of the BIP cost method because you claim that in  
13 today's ERCOT deregulated market the concept of base  
14 and intermediate and peak plants doesn't make sense  
15 anymore; is that correct?

16 A Right.

17 Q As an example, the Fayette Power Plant is  
18 often cycled by Austin Energy and used more like an  
19 intermediate or peak plant than a base-load plant; is  
20 that correct?

21 A That's what the -- yes. Not exclusively, but  
22 yes.

23 Q Given that we are operating power plants  
24 differently today than in a traditional, vertically  
25 integrated model, wouldn't it make sense to have used

1     **an hourly energy cost model where the actual use of the**  
2     **plants hour by hour were used?**

3           A     No. Not at all. I think it's exactly the  
4     wrong thing to do.

5           Q     **Did Austin Energy assess other energy models,**  
6     **like probability of dispatch or hourly energy cost**  
7     **models?**

8           A     I believe Austin Energy has looked at the BIP  
9     and they've looked at the AED 4CP and they've looked at  
10    the 12CP. Those are the ones I'm aware of they looked  
11    at.

12          Q     **So to your knowledge, they didn't even**  
13    **consider the other models?**

14          A     Well, the probability of dispatch analysis is  
15    a pretty intensive analysis, and before you want to go  
16    down that path I think a BIP is probably a good proxy  
17    for that. If you think the BIP has merit, then you  
18    might want to refine it with the probability of  
19    dispatch.

20          Q     **Would you please look at PC-SC Exhibit 31?**

21          A     Okay.

22          Q     **Which I will identify as Austin Energy's**  
23    **response to Public Citizen/Sierra Club's second request**  
24    **for information.**

25                           MR. HERRERA: That's 31, Ms. Birch?

1 MS. BIRCH: Yes, Your Honor.

2 Q (By Ms. Birch) And the question, the  
3 specific RFI that we're discussing is 2-7, which asked  
4 for any emails, analysis, discussion by Austin Energy  
5 staff related to the Electric Utility Commission's  
6 request for an analysis of an hourly dispatch cost  
7 allocation method, also referred to as the Jim Lazar  
8 suggested method. Do you see that? That's on the  
9 front page.

10 A On page 5 of 14 or --

11 Q On page 1 of Exhibit 31. That's just the  
12 question that was asked.

13 A Oh, okay. All right.

14 Q If you'll turn to the page 21, which is the  
15 last page.

16 A Okay. I'm there.

17 Q Have you had a chance to look at it? And you  
18 see the email from, I'm sure I'll mispronounce the name  
19 terribly, but Harika Basaran?

20 A Yes.

21 Q To Mr. Dreyfus and others that indicates that  
22 while doing a full three-year hourly study would take a  
23 lot of time, a 15-minute interval in just the test year  
24 could have been done within four days? Is that  
25 correct?

1           A     Well, I mean, I've just seen this, but my  
2     read of this is, this is a series of emails pertaining  
3     to ERCOT's settlement costs, and if all these emails  
4     are, are attached, it's an ERCOT settlement. It's  
5     looking for prices. I don't know see how it has  
6     anything to do with the production cost model.

7           Q     Well, it was -- the request for information  
8     had to do with the EUC's request of Austin Energy to do  
9     an analysis of an hourly dispatch cost allocation  
10    method.

11          A     Well, I guess I'd just go back to the  
12    beginning, because it says NewGen, which is my firm,  
13    has asked for some data that they can develop some  
14    information, and we've never been asked to develop a  
15    hourly production cost analysis. So this can't be  
16    related to that.

17                   MR. BROCATO: Your Honor, obviously  
18    this is an RFI response that we provided, but it is  
19    hearsay as to this witness. I don't mind her having a  
20    discussion with Mr. Dreyfus. He's the sponsor, he's on  
21    the emails. He will be testifying shortly. Maybe that  
22    would be the better way to approach this.

23                   MR. HERRERA: Ms. Birch?

24                   MS. BIRCH: That's fine with us,  
25    Your Honor. We'll wait. Pass the witness.

1 MR. HERRERA: NXP?

2 MR. HUGHES: Thank you, Your Honor.

3 We'll be passing out to Mr. Mancinelli, as well as  
4 yourself and Austin Energy, Exhibits NS-28, 29, 30, 31,  
5 32, and 33, and we also have a package of demonstrative  
6 exhibits as well for convenience. And I would just ask  
7 that those be entered in the record as evidence.

8 MR. HERRERA: Any objections to  
9 Exhibits 28, 32, and 33?

10 MR. HUGHES: 28, 29, 30, 31, 32,  
11 and 33.

12 MR. HERRERA: Sorry.

13 MR. BROCATO: 28, 29, and 32 --

14 MR. HERRERA: We've got 28, 29, 32,  
15 and 33.

16 MR. BROCATO: I don't mind taking  
17 judicial notice of the commission's rules, but I don't  
18 think it's appropriate to admit them, particularly  
19 through this witness, although he can ask him questions  
20 about it. I think that gets him where he wants to get,  
21 but I just don't think it should be included as part of  
22 the record.

23 On 29, you know, again this is obviously  
24 an RFI response, but this witness did not sponsor the  
25 response. So whether he knows anything about it or not



1 I don't know. He can ask him about that. In order to  
2 be cooperative I won't object to including this, but  
3 Ms. Ball was on the stand previously.

4 32 appears to be part of our  
5 application, so that's already in the record. I'm not  
6 sure what the need is to include it again. It's  
7 cumulative, but it's not that lengthy, so -- and then  
8 with respect to Exhibit 33, we've already agreed to  
9 take judicial notice of portions of the NARUC CAM. I  
10 don't mind doing that again, but I don't think it's  
11 appropriate to admit this into evidence through this  
12 witness, because it's hearsay.

13 MR. HERRERA: Okay. So Mr. Hughes,  
14 do you have a response?

15 MR. HUGHES: Well, if we take  
16 judicial notice of it, then I'm not sure that that  
17 makes it hearsay. I mean, it would seem to me that --

18 MR. HERRERA: Let me just --

19 MR. BROCATO: There is a  
20 difference.

21 MR. HERRERA: There is. Let me cut  
22 to the quick. We'll take judicial notice of the  
23 commission's substantive rules. You can use it as a  
24 demonstrative --

25 MR. HUGHES: Okay.

1                   MR. HERRERA:  -- piece of paper  
2   that it's helpful to have separately.  Similarly with  
3   the what you've identified as NS-33, I believe we've  
4   taken official notice of the NARUC manual.

5                   MR. HUGHES:  Okay.

6                   MR. HERRERA:  And we'll do the  
7   same, and we'll use 33 as a tool here to facilitate  
8   review of those provisions.

9                   MR. HUGHES:  Okay.

10                  MR. HERRERA:  With regard to 29, I  
11   see the sponsor as being Ms. Ball.  If Mr. Mancinelli  
12   has knowledge of this document, you can ask him.  If  
13   you can authenticate it through him, that's fine.

14                  MR. HUGHES:  Okay.  I do think the  
15   subject matter goes to, goes to his testimony.  So  
16   it's . . .

17                  MR. HERRERA:  And on 32 it's in  
18   there, but I think it's also easy if we have just these  
19   few pages here.  So I'll admit 32.

20                  MR. BROCATO:  And I should have  
21   noted the same concern on Exhibits 30 and 31 as 29.  I  
22   didn't notice that they were attached.

23                  MR. HUGHES:  They are attached.

24                  MR. BROCATO:  Same issue, though.  
25   Those are RFIs sponsored by Ms. Ball.

1 MR. HERRERA: I don't have those.

2 MR. BROCATO: They're attached to  
3 29 if you have 29.

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

6 CROSS EXAMINATION

7 BY MR. HUGHES:

8 Q Good afternoon -- or good morning, I guess it  
9 still is, Mr. Mancinelli.

10 A For 15 more minutes.

11 Q 15 more minutes of morning. Okay. In your  
12 testimony you recommend the 12CP allocation method and  
13 argue that the A&E 4CP method that is recommended by  
14 Samsung does not reflect enough hours of use to be  
15 representative of cost drivers; is that correct?

16 A Yes.

17 Q Okay. If you'll turn to page 38 of your  
18 rebuttal testimony, I think we've given you a  
19 demonstrative copy of it in the -- do you have that?

20 A I'm on page 38.

21 Q If you would, read the sentence beginning on  
22 line 11 and concluding on 14.

23 A "Based on comments and review by stakeholders  
24 engaged in the process, the AE allocation" -- "the  
25 A&E," average and excess, "allocation method was

1 adopted. When the 2012 study was filed at the PUC the  
2 A&E method was modified to the A&E 4CP method, which  
3 was consistent with PUC precedent."

4 Q So just to repeat, your testimony says that  
5 in 2012 the cost of service study was modified when  
6 filed with the PUC from using the BIP allocation  
7 method, which has been recommended by some parties, to  
8 using the Austin -- excuse me, the A&E 4CP method  
9 approved by the Austin City Council at that time, which  
10 was consistent with PUC precedent. Has that  
11 precedent --

12 A That's not quite right what you just said.  
13 Can I clarify that?

14 Q Sure.

15 A At least from what I heard you say. The BIP  
16 method was never, ever recommended. The recommended  
17 method that was originally done at that time was  
18 average and excess demand method --

19 Q Okay.

20 A -- without the 4CP adjustment.

21 Q Okay. But ultimately, the recommended method  
22 and the method by the city and accepted by the PUC was  
23 the 4CP method, the A&E 4CP method?

24 A Correct.

25 Q Okay. Do you know if that -- has that PUC

1 precedent changed since that time?

2 A Not that I'm aware of, but the precedent has  
3 only recently been dealt with for utilities, not --

4 Q Right.

5 A -- within ERCOT.

6 Q Well, we're within ERCOT, so --

7 A Right. So there's no precedent for ERCOT.

8 Q Well, is the A&E --

9 A Especially after the LMP.

10 Q So is the A&E 4CP still -- so it's still  
11 consistent with PUC precedent as far as you know?

12 A For utilities that are not in ERCOT, yes.

13 Q Okay. So has it changed -- well, I mean, so  
14 let me -- so when you say it's not in ERCOT, so -- but  
15 was used here?

16 A There are, there are utilities out -- Texas  
17 is a big state, and there's --

18 Q Sure.

19 A -- utilities outside of ERCOT that are still  
20 regulated by the Texas PUC and they've gone into  
21 rate-filing, had rate-filings at the PUC, and the PUC,  
22 I think, tends to favor this method.

23 Q Correct. And so you're stating that it's  
24 precedent outside of ERCOT but not inside of ERCOT?

25 A Right. And the big difference is the, is the

1 market. The nodal market is, is, is --

2 Q Sure.

3 A -- not an issue.

4 Q There are far --

5 A Right.

6 Q There are far more -- it's far more relevant  
7 outside of ERCOT than it is inside of ERCOT.

8 A Right.

9 Q But -- okay. But that's the method that the  
10 PUC is using. They're not using the other methods  
11 anywhere, right now?

12 A When you say "the other methods" --

13 Q Well, CP, BIP.

14 A Not, not that I'm aware of.

15 Q Okay. So now, if you would, please refer to  
16 page 41 of your rebuttal testimony, lines 15 through  
17 22. It's a, I think it's also a demonstrative copy for  
18 you if you need it.

19 A What line again?

20 Q 15 through 22.

21 A Okay.

22 Q Is it your position that the existence of  
23 generation capacity that is sufficient to meet,  
24 sufficient to meet peak demand can be used as a hedge  
25 against higher power costs in other hours of the year?

1           A     Yes.

2           Q     Okay.  Is it further your testimony that  
3     because all other hours potentially benefit as a result  
4     of this hedge, that all hours should share in the cost  
5     of generation?

6           A     Not all hours.  No.

7           Q     Which hours specifically?

8           A     Well, the peak, peak hours, but, but the  
9     measurement of peak hours, there's different ways of  
10    measuring that.

11          Q     Okay.  Does AE build its power plants in  
12    order to engage in hedging practices?

13          A     They -- you'll have to -- you're going to  
14    have to ask Ms. Ball how they build them now, but the  
15    why they operate them, my understanding in discussions  
16    with staff and my understanding of how things work  
17    right now, they operate them as a hedge.

18          Q     Do you know whether AE would build a power  
19    plant exclusively to act as a hedge?

20          A     I can, I can tell you from my other work in  
21    ERCOT that other utilities are building plants with --

22          Q     Would Austin Energy?  You can't --

23          A     You'll have to ask Ms. Ball.

24          Q     Okay.  Fair enough.  So while customer loads  
25    in nonpeak hours may benefit from the existence of

1 enough capacity to meet peak demands, these nonpeak  
2 loads don't drive AE's investment in production, do  
3 they? Production in the production plant, do they?  
4 You stated earlier that peak, it's peak hours that  
5 drive the cost, but obviously, other hours it'll  
6 benefit as well. So, but it's the peak that's driving  
7 it.

8 A I think it's, it's fair that when AE looks at  
9 its load resource portfolio they're looking at their  
10 load requirements and they're looking at their peak  
11 load requirements, and they're looking at it --

12 Q Okay.

13 A -- broadly.

14 Q If you'll look now at page 41 again of your  
15 testimony, line 30 through 42 -- through, I'm sorry,  
16 through line -- go to page 41, line 30 and look through  
17 page 42, line 3. I'm not going to ask you to read it.  
18 I just want to direct you there.

19 A Oh, I've got it.

20 Q Okay. Assuming that there are no forced  
21 outages and forgetting about planned maintenance for  
22 the time being, when would ERCOT market prices  
23 typically be the highest?

24 A Well, that's a really good question. You  
25 know, we looked at that, and obviously in the summer



1 prices are high, but they spike all year.

2 Q Well, but I, but I -- that's why the term  
3 "typically" is in there. When are they typically  
4 highest? I'm not talking about anomalies, but when  
5 would, when would they typically be highest?

6 A I would say that probably in general I would  
7 say that during the summer season is when you're  
8 seeing --

9 Q The summer months.

10 A -- very dramatic, you're seeing very dramatic  
11 price spikes in the shoulder months too.

12 THE REPORTER: In the what months?

13 THE WITNESS: Shoulder, like  
14 spring, fall --

15 Q (By Mr. Hughes) And there's -- there could  
16 be, there could be any reason for those, and those  
17 reasons could be as varied as -- they could be varied,  
18 but typically, it's the summer months, correct?

19 A I think that's probably a fair statement,  
20 but --

21 Q Okay.

22 A -- the price is the driver.

23 Q That's --

24 A Whether it's typical or not.

25 Q Do electric utilities normal schedule --

1 normally schedule planned maintenance during the peak  
2 summer months?

3 A Well, that's another good question too. I  
4 think they actually look at it differently. They look  
5 at it from the point of view of commercial  
6 availability, which I mentioned in my testimony. I  
7 think they're trying to maximize the availability of  
8 their units based on prices.

9 Q So again we're talking about ERCOT, and I'm  
10 saying normally schedule their planned maintenance.

11 A I can't -- that's a -- you'd have to ask  
12 Ms. Ball that question.

13 Q So you don't -- do you have any direct, I  
14 mean, experience with how ERCOT generators plan their  
15 maintenance?

16 A Yes.

17 Q And you -- but you don't -- you're not sure  
18 if they normally plan them in the summer months or not?

19 A Well, are you asking me about ERCOT or are  
20 you asking me about Austin Energy?

21 Q Well, Austin Energy is a wholesale provider  
22 at ERCOT. So --

23 A Yeah.

24 Q -- and let's say generators in general.

25 A What I do, well, what I do know is that

1 maintenance, scheduling a maintenance, maintenance  
2 durations are much more critical now than they ever  
3 have been with respect to providing a hedge, and so  
4 those activities, they're trying to compress them and  
5 make them more and more efficient in shorter periods of  
6 time. It's like --

7 Q But that's not my question. That was not my  
8 question. My question is do utilities and -- or let's  
9 say generating companies inside of ERCOT, since they're  
10 not utilities, do they normally plan their maintenance  
11 in the summer months? It's a yes or no. I mean  
12 normally.

13 A Ask the question one more time.

14 Q Do utilities, or in this case in ERCOT as  
15 they're considered generating companies, normally plan  
16 their maintenance in the summer months? Their planned  
17 maintenance, scheduled maintenance.

18 A I would say that they probably try to avoid  
19 it.

20 Q Okay. That's good. So is it fair to say  
21 that an electric utility or generator, like AE,  
22 schedules planned maintenance during periods when the  
23 likelihood of needing the plant is the lowest?

24 A That's, I think, consistent with what I said  
25 earlier about minimizing --

1 Q Okay.

2 A -- down time.

3 Q All right. If large generators with  
4 inexpensive fuel costs are taken out of service for  
5 planned maintenance, is it likely that higher ERCOT  
6 market prices may occur during that maintenance period?

7 A I can't answer that. I mean, I don't know if  
8 any unit, single unit is --

9 Q Didn't this go back to your discussion, your  
10 comment earlier about we see price spikes at shoulder  
11 months and we're seeing them --

12 A It could be weather-related too.

13 Q It could be. Could be.

14 A Yeah. I mean, it could be weather related.

15 Q I agree, and I think --

16 A It's all supply and demand.

17 Q Sure. And that's why I said it could be for  
18 varying reasons, but a number of units or units that  
19 are low cost being taken out of service could also do  
20 it, correct?

21 A If supply was significantly reduced, yes.

22 Q Okay. And so at those times if that occurs,  
23 those costs would be partially, at least in part due to  
24 that planned maintenance that occurred. I think that  
25 just follows the . . .

1           A     In this hypothetical example if there was  
2     enough capacity that was offline, it could influence  
3     the price.

4           Q     Um-hm. Unfortunately, that's how we do  
5     studies, is with a lot of hypotheticals. I think you  
6     understand that.

7                     Planned maintenance period, then, was  
8     selected in order to have enough capacity during the  
9     peak periods, regardless of the price. Even though the  
10    price may have ultimately spiked, they were ultimately  
11    planned to be available during the peak period?

12          A     I would -- I, I'm not going to refute what  
13    you're saying, but I also need to point out, though,  
14    that the observed price spikes now are all year around,  
15    and so I'm not sure there's any comfortable time to do  
16    maintenance anymore.

17          Q     Well, we've gotta do it sometime, so I  
18    mean --

19          A     Right. And so maintenance practices are  
20    changing, I think, and I think Ms. Ball can talk about  
21    that.

22          Q     In terms of being a cost driver of the  
23    production plant, are April demands as important to  
24    Austin Energy or ERCOT in its dispatch as August  
25    demands?

1           A     I think, well, I would answer the price is  
2     the important thing, as far as the generation  
3     portfolio.

4           Q     But didn't earlier you say prices are  
5     normally higher during the summer months?

6           A     But, but the prices could be high any time,  
7     is what I'm saying. So the price is the driver --

8           Q     That's --

9           A     -- of the production, uh --

10          Q     But normally they're higher in the summer.

11          A     -- hedge, I guess is -- the effectiveness of  
12     the hedge.

13          Q     Are prices normally higher in the summer?  
14     Yes or no.

15          A     Probably in most -- for average hours, yeah.

16          Q     Okay. So is April in the summer?

17          A     No.

18          Q     Is August in the summer?

19          A     Yes.

20          Q     Okay. So which month is more important from  
21     a, from a price and a peak demand standpoint, April or  
22     August?

23          A     From a planning point of view?

24          Q     Um-hm.

25          A     I think they're looking at the peak loads

1     that occur.

2           **Q     In?**

3           **A     The summer.**

4           **Q     April or August?**

5           **A     They're probably looking at June through**  
6     **September.**

7           **Q     Is August between June through September?**

8           **A     Yes.**

9           **Q     Is April between June through September?**

10          **A     No.**

11          **Q     Okay.**

12          **A     I'm sorry. I'm just trying to be --**

13          **Q     No, actually, this is kind of fun.**

14                   MR. HERRERA: I now understand --

15                   MR. HUGHES: It's more interesting

16     than --

17                   MR. HERRERA: -- the calendar much  
18     better.

19                   MR. HUGHES: It's more interesting  
20     than others.

21           **Q     (By Mr. Hughes) Okay. If Austin Energy or**  
22     **ERCOT built sufficient capacity to meet system peak**  
23     **demands in April but no more, would Austin Energy**  
24     **and/or the rest of ERCOT have enough capacity to meet**  
25     **system peak demands in August?**

1           A     Well --

2           Q     It's very similar to the previous question.

3           A     Yeah. I mean, I mean, Austin Energy doesn't  
4 necessarily have to build the capacity. They can  
5 always buy it.

6           Q     Let's assume, let's assume ERCOT only  
7 built -- there was only that much capacity to meet the  
8 demands of April in ERCOT and ERCOT did its reserve  
9 margin planning based on April.

10          A     Right.

11          Q     Would they have enough to meet August?

12          A     No.

13          Q     Okay. Generally, if they built enough -- if  
14 there was enough generation built in ERCOT, whether  
15 Austin Energy built it or not, if there was enough  
16 energy to meet the demands in August, would there  
17 generally be enough power, more than enough power to  
18 meet the demands in April?

19          A     If they built the demands to meet the -- if  
20 they built capacity to meet the demands in August,  
21 would they have enough to cover April?

22          Q     Um-hm.

23          A     Yes, based on the current load profile.

24          Q     Thank you. All right. I'm going to -- if  
25 you'll look at -- and I can't remember if it's



1 demonstrative or been admitted as evidence, but it's  
2 Exhibit NS-28, and it's PUC substantive rules.

3 A Okay.

4 Q If you'll read the first sentence of the  
5 Substantive Rule 25.91, "Generating Capacity Reports."

6 A The first sentence? "This section applies to  
7 each person, power generation company, municipally  
8 owned utility, electric cooperative, and river  
9 authority that owns generation facilities and offers  
10 electricity for sale in this state."

11 Q Okay. So based on that passage in the PUC  
12 rules, this rule applies to municipally owned  
13 utilities, correct?

14 A Yes.

15 Q Okay. Now if you'll look at section  
16 25.9(b)(2).

17 A Okay.

18 Q Okay? Why do you think the PUC only defines  
19 summer net dependable capability and does not include  
20 definitions for winter, spring, and fall capabilities?

21 A Because ERCOT is a summer peaking system.

22 Q Okay. Now, I believe we're looking at the  
23 same exhibit. So if you'll now read 25.9(b)(2)(f).

24 MR. HERRERA: And Mr. Hughes, just  
25 to be clear, it's 25.91?

1 MR. HUGHES: Yeah. 91(b) --

2 MR. BROCATO: (f), right?

3 MR. HUGHES: Yeah. Subsection (b),  
4 subdivision (2)(f). Yep, (b)(2)(f).

5 Q (By Mr. Hughes) And if you'll read to us how  
6 the PUC measures generating unit capacity.

7 A "Generating unit capacity will be reported at  
8 the summer net dependable capability rating, except as  
9 follows: (1) Renewable resource generating units which  
10 are not dispatchable will be reported at the actual  
11 capacity value during the most recent peak season, and  
12 the report will include data supporting the  
13 determination of the actual capacity value." Do you  
14 want me to read 2?

15 Q Is there any -- no. Is there any reference  
16 to winter months, spring months, or fall months there?

17 A No.

18 Q Is the PUC wrong in the definitions in  
19 defining its capacity ratings as summer ratings?

20 A No.

21 Q In your opinion?

22 A No. I mean, reliability is a --

23 Q Okay. Mr. Mancinelli, you argue that Austin  
24 Energy's proposed 12NC method is better than the  
25 proposed -- our -- NXP/Samsung's proposed 4NCP

1 allocation method because, (a) the 12NCP method  
2 recognizes the distribution, distribution capacity,  
3 provides value to customers throughout the year, not  
4 just during the peak hours or summer peak months, and  
5 (b) that some customers' peak demands occur during  
6 nonpeak months; is that correct?

7 A Right.

8 Q Okay. Did you or Austin Energy, did you  
9 conduct -- I'll use them interchangeably, you or Austin  
10 Energy -- conduct a cost of service study for this rate  
11 case or a value of service study?

12 A Cost of service study.

13 Q Okay. So the purpose of the cost of service  
14 study is to determine what the cost drivers are for  
15 AE's infrastructure, both generation and distribution,  
16 not if they had value throughout the year or at  
17 different times or -- is that correct? We're trying to  
18 determine what drives the costs.

19 A Well, I mean, the cost of service study, I  
20 mean, as, as obvious by all the intervenors and the  
21 positions in the case --

22 Q But from a rate, but from a ratepayer's  
23 standpoint and in setting rates, isn't that -- isn't  
24 the cost of service and what drives those costs how  
25 we're trying to -- why we're trying to figure out how

1 to calculate them, so we can figure out to -- how much  
2 to charge people?

3 A Right. So it's just a proper interpretation  
4 of what's the reasonable and fair way of --

5 Q Because there can be --

6 A -- [crosstalk] those costs.

7 Q There can be a lot of things that are of  
8 value. I mean, I think Public Citizen and Sierra Club  
9 have made it clear that they think it's valuable to  
10 retire Fayette. We've covered a lot of that.

11 But what we're trying to determine in  
12 the rates is what drives the cost and how those costs  
13 should be allocated, correct?

14 A Correct.

15 Q If you'll refer to page 43 of your rebuttal  
16 testimony where we discuss -- where it discusses the  
17 allocation of the distribution costs, your testimony  
18 says that the distribution infrastructure is sized to  
19 meet the localized maximum demands to the system."

20 Can you describe for me what you mean by  
21 localized maximum demands?

22 A Sure. Let me, let me start with just at the  
23 customer site. The infrastructure that's installed at  
24 the customer location has to meet the customer's  
25 maximum demand, whatever that is. As you move kind of

1 up through the system through the distribution feeders  
2 to the substations and whatnot you, you start serving  
3 communities or neighborhoods or business parks or  
4 whatever, and there is a diversity of use between those  
5 different customers, and, and the infrastructure is  
6 sized giving consideration to the diversity of that  
7 use. And so you, you need to take into consideration  
8 or when Austin Energy designs these systems they take  
9 into consideration these local loads compared to at the  
10 meter.

11 And then, and then to take it to  
12 extreme, as you get to the system level when they're  
13 buying load for the system, there's the coincidence of  
14 the entire system, and so they're able to buy less  
15 demand, if you will, or -- less demand than, than they  
16 ordinarily would otherwise do if they had to -- if  
17 everybody's maximum demand was the requirement.

18 **Q Okay. Do most secondary transformers located**  
19 **in residence -- for instance, residential neighborhoods**  
20 **serve more than a single residence?**

21 **A** I would imagine they do.

22 **Q Okay. Would you know how many residential**  
23 **customers on average are served from a typical**  
24 **transformer? Would it be three to five households?**

25 **A** I don't know. You'd have to ask somebody

1 from Austin Energy on that.

2 Q Okay. And do you know whether the  
3 transformer rating of a typical transformer is equal to  
4 the sum of the maximum demands that those multiple  
5 houses placed on the transformer, or is it often  
6 smaller than that?

7 A I think it depends, actually, but I think  
8 that's another Austin Energy question you'd have to  
9 ask, ask the distribution expert on that.

10 Q Okay. The Austin Energy-proposed 12NCP  
11 allocation assumes that the maximum demands of all  
12 three or four customers happens simultaneously, doesn't  
13 it, or would you know?

14 A No. These are classes. The NCPs are class  
15 demands.

16 Q I'm talking about Austin Energy's proposed  
17 12NCP though.

18 A Right. So all, all the 12NCP is doing is  
19 it's, it's looking at the class maximum demands and  
20 it's looking at them for each month of the year. It's  
21 not an individual. So for, like, the entire  
22 residential class they're NCP. You can express demand  
23 on a per-customer at a, at a, at a sum of max demands,  
24 which is right at the meter, and you can express it at  
25 an NCP, NCP level. So these are class numbers, not

1 customer numbers.

2 Q Okay. Mr. Mancinelli, if you'll look at page  
3 43, lines 12 and 13 of your rebuttal testimony, you  
4 suggest that a customer at a maximum demand occurs  
5 during the nonsummer months -- oh, I'm sorry, a  
6 customer whose maximum demand occurs during the  
7 nonsummer months may not be fully accounted for in a  
8 12NCP calculation. Do you see that?

9 A In a, in a 4NCP, not a 12. On line 13?

10 Q Okay. So it's a 4. So that same customer  
11 will have a summer NCP demand, will they? Will he or  
12 she not, or not?

13 A Yeah. I mean, every, every customer is using  
14 the system all year, but some use -- I mean --

15 Q So but --

16 A -- we did -- when we looked at commercial  
17 customers, for example, there are some groups of  
18 customers that actually peak in the nonsummer season.

19 Q Understood, but, but they'll all have a  
20 summer demand, summer --

21 A Yeah.

22 Q -- NCP demand.

23 A Yeah. It's just --

24 Q Okay.

25 A -- it's all, it's all in relative proportion

1 to each month. Yeah.

2 Q Although for electric heating customers the  
3 summer NCP may be smaller than the winter NCP in some  
4 instances?

5 A Right.

6 Q So is it correct that no customer escapes  
7 from the cost responsibility by the use of a  
8 four-summer-month NCP?

9 A That's right. It's just a question of what  
10 percentage is allocated to that customer, whether it's,  
11 it's reasonable.

12 Q Okay. What is the typical maximum demand of  
13 a residential customer to you?

14 A Oh, boy, I used to know that off the top of  
15 my head, but I haven't looked it. I'd have to, I'd  
16 have to check.

17 Q Want me to give you a hint?

18 A Sure.

19 (Laughter)

20 Q Would it be somewhere between 3 and 7  
21 kilowatts?

22 MR. HERRERA: That's the answer,  
23 Mr. Hughes, not a hint.

24 THE WITNESS: That probably sounds  
25 reasonable, but in some ways it sounds in some ways



1 low.

2 Q (By Mr. Hughes) Let's, let's say 5.

3 A Well, that's within 3 to 7.

4 (Laughter)

5 MR. BROCATO: Nice try.

6 Q (By Mr. Hughes) All right. So does a  
7 5 kilowatt demand, or whatever demand we determine it  
8 is, placed upon a transformer during the coldest days  
9 of the year affect the capacity requirements of a  
10 transformer as much as a 5 kilowatt demand placed upon  
11 the transformer during a hot summer afternoon?

12 A Well, the 5kW load is, I assume, the same  
13 whether it's -- either time. It's just a question of  
14 how much load can the transformer handle, I think.

15 Q So, but do you have an opinion as to whether,  
16 assuming it's the same, it's the same amount of load,  
17 does it have the same effect on the equipment in the  
18 summer months as it does in the winter months?

19 A No. Temperature affects all -- a lot of  
20 utility equipment. It affects the operation of the  
21 power plants too.

22 Q So would it be true that transformers can't,  
23 cannot dissipate heat during higher ambient  
24 temperatures in the summer like they can during the  
25 cold winter days, thus they are much more, much more

1     **efficient in cold weather than they are in hot weather?**

2           A     I can -- I, I agree with the -- can you  
3     please --

4           **Q     In general again, generally.**

5           A     Well, what I'm, what I'm hesitating on is the  
6     second -- the efficiency discussion, I'm not  
7     necessarily an expert enough to comment on the  
8     efficiency, but I can, I can --

9           **Q     Have you ever run across --**

10          A     The first part of that statement I think is  
11     probably fair.

12          **Q     Okay. So winter demands -- well, you're**  
13     **probably not going to -- so you wouldn't, you**  
14     **would -- would you agree that winter demands may have**  
15     **much less impact upon transformer capacity than do**  
16     **summer demands if the previous is true?**

17          A     The temperature does impact --

18          **Q     Okay.**

19          A     -- the amount of kVA [inaudible].

20          **Q     Okay.**

21                         THE REPORTER: The amount of what?

22                         THE WITNESS: K -- kVA.

23          **Q     (By Mr. Hughes) So now if you'll look at**  
24     **Exhibit 29 and 30 and 31, and I think those are the**  
25     **ones that are all attached together, and they're**

1     **responses to NXP's -- excuse me, AE's responses to**  
2     **NXP/Samsung's RFIs 4-43, 4-44, and 4-45.**

3                     **Would you please read the questions and**  
4     **answers aloud?**

5             A     Okay. This is NXP/Samsung 4-43. The  
6     question, "How does the ambient temperature of the air  
7     affect the operation of AE's transformers in terms of  
8     sustained load transformation capability?" Answer,  
9     "Austin Energy assumes the term 'sustained load' as  
10    used in this RFI means the maximum kVA load on the  
11    transformer is a sustained steady state load or that  
12    the load factor is equal to 100 percent.

13                    "In general, a transformer can carry  
14    more sustained load if the ambient temperature is  
15    colder. However, specific changes to available  
16    transformer capacity that might be able" -- "that might  
17    be available due to changes in ambient temperature are  
18    not factored into the initial transformer sizing  
19    decision."

20             **Q     And if you'll do the same for the next RFI**  
21     **response.**

22             A     So this is in NXP/Samsung 4-44. "Are AE's  
23    conductors capable of maintaining a higher continuous  
24    overload of rated capacity during cold weather than  
25    during hot summer peak periods?" Answer, "Austin

1 Energy assumes 'overloading' as used in this RFI has  
2 the same meaning as it is used in NXP/Samsung's RFI  
3 number 4-42 but to relate to conductors and not  
4 transformers. In general, conductors can carry high  
5 continuous overloading rated ampacity if the ambient  
6 temperature is colder."

7 Q And finally, 4-45.

8 A NXP/Samsung 4-45. "How does the ambient  
9 temperature of the air affect the operation of AE's  
10 conductors in terms of sustained load carrying  
11 capability?" Answer. "In general, a conductor can  
12 carry more sustained current load if the ambient  
13 temperature colder."

14 Q So these excerpts or responses from Austin  
15 Energy kind of follow what you just agreed to, that the  
16 winter demands have less impact on the transformer  
17 capacity than the summer demands, correct?

18 A Yes.

19 Q Okay. So now if you'll look at Exhibit 32.

20 A Okay.

21 Q And go to page, go to pages 3-31 and 3-32,  
22 and if you'll read the last two lines on 3-31.

23 A "The distribution planning cycle typically  
24 begins at the start of the new fiscal year in October  
25 after the publication of the ESD plan book. The plan

1 is ESD's strategic document that describes system  
2 improvements needed for successful operation for the  
3 next five years. The planning process begins with a  
4 review of the distribution system performance during  
5 the previous summer's peak load periods. Overhead  
6 distribution feeder circuits and substation  
7 transformers are noted for further study when their  
8 load reaches 85 percent of their normal rating under  
9 normal (i.e. all facilities in service and all loads  
10 being served) conditions. The downtown underground  
11 network feeders are also reviewed in a similar manner."

12 Do you want me to continue?

13 **Q No. That's fine. Now if you'll read the**  
14 **last highlighted sentence on page 3-32.**

15 MR. BROCATO: Your Honor, all of  
16 this is in the record. I don't know how productive it  
17 is to have him [crosstalk] --

18 MR. HUGHES: Well, it's because  
19 it -- because I'm asking him specific questions, and  
20 it's helpful for -- it's helpful to have him read what  
21 we're about to discuss.

22 MR. HERRERA: I'm fine with you  
23 asking him to take a look at it --

24 MR. HUGHES: Okay.

25 MR. HERRERA: -- and read it to

1     himself and then ask him questions about it. I agree  
2     with Mr. Brocato. I'm not sure what we're gaining by  
3     reading text from documents.

4                     MR. HUGHES: We'll get there.

5                     MR. HERRERA: Let's get there  
6     quickly.

7                     MR. HUGHES: All right.

8                     THE WITNESS: So read it out loud,  
9     the highlighted sentence?

10            Q     (By Mr. Hughes) Well, I can read it out loud  
11     too. "To ensure model accuracy they first match and  
12     then test" -- "and then the test the previous summer's  
13     system configuration and peak load conditions." That's  
14     the last one.

15            A     Okay.

16            Q     So does this say that Austin Energy considers  
17     all 12 months when analyzing distribution performance,  
18     or does it say it analyzes distribution performance  
19     during summer peak load?

20            A     During summer peak.

21            Q     Okay. Now if you'll look at an excerpt  
22     from NS-20 -- it should be demonstrative. It should be  
23     an excerpt from NS-25, and it should be Austin Energy's  
24     response to NXP/Samsung's RFI number 1-76, page, the  
25     page numbers in the top right-hand corner would be 8 of

1     **37.**

2           A     I'm trying to find 25. I don't -- I have 33.

3           **Q     It's in the demonstrative, the -- yeah.**

4           A     28, 32, 29 --

5           **Q     Ms. Faconti's coming to assist.**

6           A     -- 31, 33.

7                     MR. HERRERA: Is it this one,  
8     Mr. Hughes?

9                     MR. HUGHES: Yes.

10                    THE WITNESS: Oh, okay. There it  
11     is. All right. It's at the bottom of the stack. All  
12     right.

13                    MR. HUGHES: They're always at the  
14     bottom of the stack.

15                    MR. BROCATO: And I show that this  
16     is not included in the record.

17                    MR. HUGHES: It should have already  
18     been admitted.

19                    MR. HERRERA: 25?

20                    MR. HUGHES: Yesterday, and we used  
21     it yesterday twice.

22                    MR. HERRERA: So go ahead,  
23     Mr. Hughes.

24                    MR. HUGHES: Okay.

25           **Q     (By Mr. Hughes) Looking at attach -- the**

1     **page 8 through 37, if you'll look at the third**  
2     **paragraph that starts with the word "important."**

3             A       Okay.

4                     MR. BROCATO:   What page?

5                     MR. HUGHES:   8 of 37, it's the  
6     NS-25.

7                     MR. HERRERA:   Mr. Hughes, I'm not  
8     where you are.   Could you tell me --

9                     MR. HUGHES:   I'm sorry.   It would  
10    be page -- the bottom of it's 398.   The top of it after  
11    the first page of the response of the RFI, if you look  
12    at the next page it will have --

13                    MR. HERRERA:   Okay.

14                    MR. HUGHES:   -- Austin Energy's  
15    "Residential Electrical Demand Estimation."

16                    MR. HERRERA:   I've got you now.

17             Q       **(By Mr. Hughes)   Okay.   And if you go to the**  
18    **highlighted section that says "Important," if you'll**  
19    **look at that and read it to yourself or out loud,**  
20    **either one.**

21             A       Okay.   I've read it.

22             Q       **Okay.   Mr. Mancinelli, do we often see four,**  
23    **five, or more feeders being served from a single**  
24    **distribution substation?**

25             A       From a substation?



1 Q Um-hm.

2 A I think that's probably reasonable.

3 Q Okay. Is it likely that each and every one  
4 of the feeders being served at a given substation peak  
5 at exactly the same time?

6 A No.

7 Q Okay. In fact, there's a diversity among the  
8 feeder loads, isn't there?

9 A Yes.

10 Q So each feeder takes into account the fact  
11 that all the customers served from that feeder will not  
12 peak at the same time and each substation takes into  
13 account that all feeders will not peak simultaneously,  
14 correct?

15 A I think that's accurate.

16 Q Okay. So now if we go to Exhibit NS-33, and  
17 that's the Cost Allocation Manual, NARUC. Does it not  
18 follow, then, that the individual maximum demands of  
19 customers have a different impact on distribution  
20 transformers than upon distribution substations?

21 A Yes.

22 Q Okay. And that's recognized by NARUC in  
23 their utility -- Electric Utility Cost Allocation  
24 Manual on pages 96 and 97 where it states,  
25 "Distribution facilities, from a design and operational

1 perspective, are installed primarily to meet localized  
2 area loads. Distribution substations are designed to  
3 meet the maximum load from the distribution feeders  
4 emanating from the substance," that correct? Correct?

5 A That's what it says.

6 Q Okay. Doesn't the NARUC Electric Utility  
7 Cost Allocation Manual recommend using a different  
8 allocation factor for substations than for transformers  
9 to reflect different -- differences in load diversity?  
10 That's on -- I think it's more specifically addressed  
11 on page 97, but you -- I think most of them --

12 A I think it takes in -- I think it's, it's  
13 discussing the diversity discussion we had earlier. As  
14 you get farther away from the meter there's more  
15 diversity.

16 Q Okay. And yet Austin Energy is using the  
17 same 12NCP demands after adjusting for secondary  
18 voltage losses to allocate transformers and  
19 distribution substations, correct?

20 A I believe that's right.

21 Q Okay.

22 MR. HUGHES: No further questions,  
23 Your Honor.

24 MR. HERRERA: Thank you.

25 MR. HUGHES: Your Honor?

1 MR. HERRERA: Yes.

2 MR. HUGHES: I just wanted to make  
3 sure, because Mr. Brocato had indicated that perhaps  
4 NS-25 had not been entered, but I thought we entered it  
5 yesterday, because we used it twice.

6 MR. HERRERA: I don't recall  
7 that -- whether it was or wasn't. I'd have to check.

8 MR. HUGHES: Well, just in caution  
9 I'll ask that it be admitted at this time then.

10 MR. HERRERA: Any objections?

11 MR. BROCATO: I object.

12 MR. HERRERA: I'm sorry?

13 MR. BROCATO: I object. It's  
14 hearsay as to this witness. If he can authenticate it  
15 through the witness, that's fine, but . . .

16 MR. HERRERA: I don't recall that  
17 it was offered, but I simply -- it's just that I don't  
18 recall.

19 MR. HUGHES: Okay.

20 MR. HERRERA: It may have been.

21 MR. HUGHES: All right.

22 MR. BROCATO: According to my  
23 record, none of, none of the exhibits yesterday were  
24 offered.

25 MR. HUGHES: Well, those, no. The

1 rest of those that were offered today were offered the  
2 first time today. 25 was yesterday, because we  
3 admitted everything from up to 27 yesterday.

4 MR. HERRERA: Let's to off the  
5 record.

6 (At 12:28 p.m. the proceedings  
7 recessed, continuing at 12:36 p.m.)

8 MR. HERRERA: Okay. Let's go back  
9 on the record.

10 CROSS EXAMINATION

11 BY MR. COFFMAN:

12 Q Hello, Mr. Mancinelli. John Coffman with  
13 Independent Consumer Advocate.

14 A Hello.

15 Q I've handed you a couple of documents labeled  
16 ICA 24 and ICA 36. I'd like you to first take a look  
17 at ICA 24, which has a -- the first page shows the RFI  
18 answer that it came from, which was TLSC 1-2, and the  
19 second page is an excerpt, a page from a very lengthy  
20 2,000-page response, which appears to be an email from  
21 you, and I'd just like to ask you to take a look at  
22 that and see if you recognize that as an email from you  
23 to a Mark Dombroski from Austin Energy.

24 A I recognize it.

25 Q Okay. Dated Monday, November 30th.

1 MR. COFFMAN: Your Honor, I'd like  
2 to offer Exhibit 24 into the record.

3 MR. HERRERA: Any objection?

4 MR. BROCATO: No.

5 MR. HERRERA: It's admitted.

6 Q (By Mr. Coffman) And the second document I  
7 handed you, ICA 36, is an RFI response that you  
8 sponsored, and the RFI question was ICA 8-15,  
9 pertaining to retirements. And do you recall this, and  
10 does that seem to be an accurate copy of your response?

11 A Yes.

12 Q You -- in that you are discussing a case of  
13 the Texas PUC, Docket Number 43695, a Southwestern  
14 Public Service Commission case from last year. Is  
15 that -- do you recall that case?

16 A Yes.

17 Q You did? Did you take a look at the records  
18 in that case, at least the order and the order on  
19 rehearing?

20 A I looked at the sampling, the sampling of it.

21 Q Okay. Do you recall from your sample reading  
22 of that order that the commission found that the  
23 dismantlement study contained assumptions which  
24 overstated the net cost of dismantling, that the -- for  
25 the company's fossil power plants?

1           A     In that particular case the ALJ recommended a  
2     net 2 percent salvage value.

3           Q     **I'm going to get to that, but you don't**  
4     **happen to have a copy of that order with you, do you?**

5           A     No.

6                         MR. COFFMAN: Your Honor, I don't  
7     have a copy of it either except on my computer. Would  
8     it be appropriate to hand my computer copy to have him  
9     read it?

10                        MR. HERRERA: Show Mr. Brocato what  
11    you're going to show Mr. Mancinelli, then we can  
12    determine whether it's okay.

13                        MR. COFFMAN: I apologize for not  
14    having a copy. Hopefully, this will go easily.

15           Q     **(By Mr. Coffman) Do you recall reading that**  
16     **order on rehearing from that case?**

17                        MR. HERRERA: Mr. Coffman, he's  
18    looking at the final order in which document?

19                        MR. COFFMAN: The order on  
20    rehearing in Case Number -- Docket Number 43695.

21                        MR. HERRERA: Thank you.

22           Q     **(By Mr. Coffman) And if you can, I'd like to**  
23     **direct you to page 30 --**

24           A     Okay.

25           Q     **-- finding of fact 116.**

1           A     Yeah. Thank you. This is consistent with my  
2 understanding.

3           Q     So the Texas PUC found that the company had  
4 overstated the net cost of dismantling its plants; is  
5 that correct?

6           A     Yes.

7           Q     And if you'd just go down to finding 118,  
8 information that the commission had found that SPS had  
9 not proven its production plants had a net salvage  
10 value larger than negative 2 percent; is that right?

11          A     Right.

12          Q     Okay. And do you recall SPS had actually  
13 proposed negative 5 percent?

14          A     I think so, but it has no bearing on Austin  
15 Energy's situation.

16          Q     Okay. Thank you.

17                   MR. COFFMAN: Your Honor, I'd like  
18 to offer ICA Exhibit 36.

19                   MR. HERRERA: Any objection?

20                   MR. BROCATO: No.

21                   MR. HERRERA: Admitted.

22          Q     (By Mr. Coffman) I'm going to take you to  
23 your rebuttal testimony, Mr. Mancinelli, page 19, 19  
24 and 20.

25          A     Okay.

1           Q     In there you're discussing the  
2     functionalization of the 311 call center, and I'm going  
3     to ask you, is the disaster recovery center activated  
4     for a storm or weather-related emergency? That is, if,  
5     if it's activated for a storm or weather-related  
6     emergency, is it reasonable to assume that a large  
7     proportion of the calls would involve outages that  
8     require repair of a distribution facility?

9           A     It could. I mean, it's hypothetical. I  
10    don't know.

11          Q     Do you recall a data request response that  
12    Austin Energy provided, it was actually sponsored by  
13    Mr. Dombroski, but it attributed 90, over 90 percent of  
14    the value of the 311 call center to disaster recovery?

15          A     I don't know. You'd have to show me that  
16    RFI.

17                         MR. COFFMAN: Permission to  
18    approach. I believe this exhibit's already been  
19    offered into the record.

20                         MR. HERRERA: What's the exhibit  
21    number?

22                         MR. COFFMAN: 37, ICA 37.

23                         THE WITNESS: Okay.

24          Q     (By Mr. Coffman) Is that what it appears to  
25    show, 90 --



1           A     It's an allocation of the call center between  
2     two categories.

3           Q     Between call volume and the value -- on one  
4     hand and on the other hand value as a backup call  
5     center?

6           A     Right.

7           Q     And Austin Energy would attribute 90.5  
8     percent of the value to being a backup call center for  
9     disaster recovery?

10          A     It is a backup. I mean, it truly is a backup  
11     call center, but it still functions as a call center.

12          Q     Let me take you to page 22 of your rebuttal  
13     testimony where you're discussing account 920, O&G  
14     labor. It's correct that labor expense is included  
15     within non-fuel O&M expense, right?

16          A     Yes.

17          Q     Do you have a sense of how much contract  
18     labor is used by Austin Energy?

19          A     Not off the top of my head. I'm sure it's in  
20     the cost -- or the RFP model.

21          Q     Good. An estimate of the percentage or  
22     proportion --

23          A     I'm not that close to that number.

24          Q     But contract labor is included within the  
25     payroll expense that makes up the labor allocator that

1     **you use?**

2           A     I'm not sure that's true. I think contract  
3     labor is accounted for separately, but I -- that's a  
4     Mark Dombroski question.

5           Q     **Okay. So it's not included. You don't**  
6     **believe it is included; is that right?**

7           A     That's my -- I'm not the expert, but I would,  
8     I would think it's not, but you need to ask that of  
9     witness Dombroski.

10          Q     **Do you know whether Austin Energy's**  
11     **executives would be interested and focused on the cost**  
12     **effectiveness of the contract labor expenses?**

13          A     Well, I, you know, they -- ask the question  
14     again, please.

15          Q     **Would you expect that Austin Energy**  
16     **executives are interested in the cost effectiveness of**  
17     **contract labor expenses? In other words, would they be**  
18     **managing those and focused on those expenses?**

19          A     I think the executives are managing each of  
20     their functions and each of their duties, and to the  
21     extent there's contract labor in there, I'm sure that  
22     they're looking at that like any other, any other  
23     aspect of the labor force.

24          Q     **Contract labor is included in, included in**  
25     **O&M expense rather than non-fuel O&M expense?**

1           A     I don't know the difference between the O&M  
2     expense and the non-fuel O&M expense.

3           Q     Well, would you, would you agree that  
4     **executive and administrative personnel whose salaries**  
5     **are included in account 920 are not directly involved**  
6     **in the supervising, distribution, transmission, and**  
7     **generation workers?**

8           A     Well, there's, there's a whole management  
9     structure, and the management team, members of the  
10    management team manage different functions of the  
11    utility, and then, and then with the -- as you get into  
12    the field and stuff there's different managers,  
13    different levels of, and their costs are recorded in  
14    different accounts.

15          Q     And the O&M expenses for each of those  
16    **functions contains accounts for recording the**  
17    **supervisory personnel over each of those functions; is**  
18    **that fair?**

19          A     Right. Supervision is usually an account.

20          Q     In your testimony here on page 22 it states  
21    **that the primary administrative function of the utility**  
22    **is the management of the labor force.**

23          A     That's correct.

24          Q     And are you suggesting by that that Austin  
25    **Energy's executives should be more concerned about**

1     **dollars expended on labor than dollars expended on**  
2     **other O&M expenses?**

3           A     It's more proportional. That's -- it's a  
4     widely accepted. It's consistent with the PUC.

5           **Q     What --**

6           A     And so I mean, it's -- you know, we have a  
7     model that has four functions: Production,  
8     transmission, distribution, and customer. The  
9     transmission function is not in this case, but the cost  
10    allocation methodologies have to, have to be consistent  
11    so that everything is treated properly.

12                   And so the answer is yes, the management  
13    team is, is worried about managing the labor force, and  
14    whether you're buying a, a, you know, a company car or  
15    a bucket truck, I don't think that influences the  
16    amount of management time in a particular function. I  
17    think it's related to labor.

18           **Q     My question was should they be more concerned**  
19    **about labor than other expenses. Is your answer that**  
20    **they should be equally concerned about all categories**  
21    **of O&M expense?**

22           A     As far as the proper allocation of those  
23    costs, they should be concerned about labor.

24           **Q     More than other expenses?**

25           A     The, the, the labor costs are managing the

1 expenses.

2 Q Okay. Let me ask you about page 23 of your  
3 rebuttal. Do you agree that customers must pay a  
4 service initiation fee in order to have access to  
5 electric service?

6 A Yeah. They pay a fee to connect to the  
7 system.

8 MR. COFFMAN: Your Honor, I have  
9 one more series of questions, and they relate to Austin  
10 Energy's annual performance report in the year end  
11 September 2013. You wouldn't happen to have a copy of  
12 that here, would you?

13 MR. BROCATO: I don't.

14 MR. COFFMAN: I have a copy on my  
15 computer again, if that's appropriate to have him  
16 review it.

17 MR. HERRERA: Show it to  
18 Mr. Brocato and we'll take it from there. You say  
19 2014, Mr. Coffman?

20 MR. BROCATO: No. '13.

21 MR. HERRERA: '13?

22 Q (By Mr. Coffman) Mr. Mancinelli, I'm handing  
23 you my computer that has what I believe is an accurate  
24 copy of the annual report, and I'll --

25 MR. BROCATO: Just to be clear,

1 it's not the annual report.

2 Q (By Mr. Coffman) Annual performance report.

3 A This is entitled the "Austin Energy Annual  
4 Performance Report Year End September 2013."

5 Q And in your testimony, I believe it's on page  
6 42, you discuss the Fayette Power Plant, and you say it  
7 has a reduction of capacity factor to 60 percent due to  
8 the nodal market and that this is barely base load.

9 A On which page again?

10 Q I may have the wrong page. Do you recall  
11 that testimony that the Fayette Power Plant is barely  
12 base load?

13 A There's a graph, on page 35 is a graph.

14 Q There it is, page 35. Do you say that you  
15 would expect a base load unit to run at 80 to 90  
16 percent of capable output?

17 A I mean, yes, I mean, that's what Fayette was  
18 running at back in 2007 and '8.

19 Q In the pre-nodal market of ERCOT?

20 A Right.

21 Q What is an equivalent availability factor,  
22 and how does that differ from capacity factor?

23 A Availability factor is the availability of  
24 the unit to operate when called upon. A capacity  
25 factor is the amount of output the unit produces over

1 time, different times.

2 Q The equivalent availability factor shows the  
3 capability of a generating unit adjusted for outages  
4 and deratings; is that fair?

5 A I think that's probably okay.

6 Q Okay. And do you know whether the equivalent  
7 availability factor declined 12 points for the Fayette  
8 Power Plant after 2009?

9 A No. I haven't cal -- I haven't look at those  
10 numbers.

11 Q Can you find that in the, the performance  
12 report that I handed you?

13 A If you can help me what page, or I can go  
14 through all the pages, but I've never seen this report.

15 Q Check page, I think it's page 42 of that  
16 document, if you can check. Great, I don't have it in  
17 front of me now.

18 A I'm working at it. Okay. I'm there.

19 Q Do you see the equivalent availability factor  
20 for the Fayette plant --

21 A Yes.

22 Q -- after 2009? Do you see that it declined  
23 12 points after 2009?

24 A Yes.

25 Q Does that mean that the maximum expected

1     **capacity factor declined that much due to outages?**

2           A     Well, I think, I think we responded to that  
3     in our RFI, and Ms. Ball, I think Ms. Ball's the proper  
4     witness for that question.

5           Q     Okay. Now, the nodal market began in  
6     December of 2010, correct?

7           A     I think so. Yes.

8           Q     And if the nodal market didn't begin until  
9     after the last -- or until the last month of 2010, does  
10    this suggest that the nodal market didn't cause the  
11    decreased equivalent availability factor?

12          A     Could you please ask that question one more  
13    time?

14          Q     If the nodal market for ERCOT didn't begin  
15    until the last month of 2010, does this suggest that  
16    the nodal market wasn't the cause of the decreased  
17    equivalent availability factor? It should --

18          A     I can't --

19          Q     -- begin earlier?

20          A     -- answer that. I have no idea. You'd have  
21    to ask Austin Energy that question.

22          Q     That will do it for me. That's all the  
23    questions I have. Thank you very much.

24          A     Thank you.

25                           MR. HERRERA: Mr. Brocato, are you



1 going to have redirect?

2 MR. BROCATO: I do.

3 MR. HERRERA: Let's take our lunch  
4 break. It is 1 -- it's 12:55. Let's come back at  
5 1:10.

6 MR. BROCATO: 1:10?

7 MR. HERRERA: I'm sorry, no. 2:10.  
8 I apologize. And we're off the record.

9 (At 12:56 p.m. the proceedings  
10 recessed, continuing at 2:16 p.m.)

11 MR. HERRERA: Before we go to  
12 redirect, Mr. Brocato, of Mr. Mancinelli, I think  
13 Mr. Hughes had an issue to raise with regard to  
14 exhibits that we were discussing before the break,  
15 whether they had been admitted or not. In particular  
16 we were talking about 25, but there was a series of  
17 exhibits that Mr. Hughes discussed with Mr. Johnson on  
18 cross that the transcript, or at least the draft of the  
19 transcript the court reporter has, does not show were  
20 admitted. So I'd like to deal with that first.  
21 Mr. Hughes?

22 MR. HUGHES: Okay. Your Honor, we  
23 talked to the -- I talked to Mr. Coffman and  
24 Mr. Brocato. I think that Mr. Coffman can stipulate to  
25 NS-18, 19, 20, and 21 as to being part of their RFI

1 responses, and we will, we will just withdraw as and  
2 just say that they were demonstrative, was 22, 23, 24,  
3 and 27, I believe.

4 MR. COFFMAN: Yes.

5 MR. BROCATO: That's correct.

6 MR. HUGHES: And then 25  
7 Mr. Brocato had raised an objection, but I think he's  
8 now dropped his objection as well. So 25 would be  
9 admitted as well. So that would be 18 --

10 MR. HERRERA: So there was no  
11 objection to 18, 19, 20 and 21; is that correct?

12 MR. HUGHES: Correct.

13 MR. COFFMAN: That's correct.

14 MR. HERRERA: Those are admitted.

15 MR. HUGHES: And 25.

16 MR. COFFMAN: I might have a  
17 problem if you cite to 25 as being an admission or --

18 MR. HUGHES: Well --

19 MR. HERRERA: Let me --

20 MR. HUGHES: -- I'm done with it  
21 right now.

22 MR. COFFMAN: But I'm okay. Right.  
23 It's Austin Energy's RFI.

24 MR. HERRERA: With regard to -- so  
25 18, 19, 20, and 21 are admitted. Next we have 24, 25

1 and 26 or just 24 and 25?

2 MR. HUGHES: 24, 26, and 27 we  
3 withdraw. Well, they're just demonstrative, so we're  
4 not asking for them to be admitted. 25, that's the  
5 one we specifically used with Mr. Mancinelli, and  
6 I'm -- Mr. Brocato has indicated he's fine with it, as  
7 it is, it is an Austin Energy response and it is their  
8 manual. So --

9 MR. HERRERA: So no objection to  
10 25?

11 MR. BROCATO: Right.

12 MR. HERRERA: It's admitted.

13 MR. HUGHES: Thank you, Your Honor.

14 MR. HERRERA: Thank you, guys.

15 MR. HUGHES: Thank you, gentlemen.

16 MR. HERRERA: Before we continue,  
17 we turned the A/C down, now I'm burning up. So I am  
18 going to take my jacket off, and feel free to do the  
19 same. Or I'm going to try to take my jacket off.

20 MR. DREYFUS: Do you need help with  
21 that?

22 MR. HERRERA: I may. I may need  
23 someone to tug on it. I got it. I suppose that should  
24 have gone off the record. I apologize.

25 MR. BROCATO: Because it gets hot

1 in the summer.

2 MR. HUGHES: It's hot in the  
3 summer. It's not April.

4 MR. BROCATO: But sometimes it's,  
5 right, and spring --

6 MS. BIRCH: It's not summer.

7 MR. BROCATO: -- gets hot in the  
8 spring as well.

9 MR. HUGHES: You know that Texas  
10 summer begins a month earlier than the rest of the  
11 country.

12 MR. REED: Is that all on the  
13 record?

14 MR. BROCATO: Interesting, right.  
15 (Laughter)

16 MR. HERRERA: That was all on the  
17 record, by the way. Thank you, guys. All right.  
18 Let's proceed.

19 REDIRECT EXAMINATION

20 BY MR. BROCATO:

21 Q Hello, Mr. Mancinelli.

22 A Hello.

23 Q I mean, he's right, right?

24 A Yeah. He's good with months. Yes.

25 Q But he's right that it can get hot in the

1     **shoulder months; isn't that right?**

2           A     Yes.

3           Q     **It could result in price spikes; isn't that**  
4     **also correct?**

5           A     Price spikes can happen at any time of the  
6     year. I think it's pretty well documented.

7           Q     **And let me just kind of jump forward with**  
8     **respect to that issue that you discussed with**  
9     **Mr. Hughes.**

10                   **Why do you believe it's more appropriate**  
11     **to use a 12CP allocator versus a 4CP allocator in this**  
12     **proceeding?**

13           A     Well, the 12CP allocation method -- well,  
14     before I answer that let me just clarify something.  
15     There's an AED 4CP methodology which is -- which was  
16     used in the last Austin Energy rate case several years  
17     ago, and I think it's being recommended by some of the  
18     parties in the case. That methodology and the way it's  
19     actually applied is, is similar to a 4CP methodology,  
20     and so in my mind the comparison is a, is a 4CP versus  
21     a 12CP, and a 4CP is basically looking at the peak  
22     demand or the peak demand in the four months of June  
23     through September, where a 12CP looks at the peak hour  
24     in the -- in each of the months of the year.

25                   And in looking at, at the way Austin

1 Energy is concerned about meeting load requirements,  
2 the fact that their units are dispatched into the  
3 market based on price signals, not load -- I mean, I  
4 think it's been well documented that the units are  
5 dispatched on prices and not load. When you look at,  
6 when you look at the combination of, of a hedge, which  
7 has to cover load, and prices which spike during the  
8 entire year, there's really value outside of the summer  
9 months. The generating assets provide value outside of  
10 the summer months directly related to price protection.

11 And I think as you mentioned earlier, if  
12 you look at price spikes, you see price spikes through  
13 every month of the year. And so in consideration of,  
14 of that combination of load, hedge, hedging, serving  
15 load, and, and, and protecting customers from price  
16 spikes, it was pretty clear that a reasonable  
17 allocation methodology is a 12CP.

18 **Q Now, Data Foundry and NXP have relied upon**  
19 **the NARUC CAM. And what does the NARUC CAM say about**  
20 **the use of the A&E 4CP method for allocation of**  
21 **production cost?**

22 **A** Yes. The A&E method in and of itself is  
23 called average and excess demand method, and the way it  
24 was intended to be applied was basically using a class  
25 non-coincident peak. It basically looks at the class

1 load factors and allocates cost between the classes  
2 looking at the relative difference in load factors.

3 When you take the NCP and you, and  
4 you -- and so there's a demand component and an energy  
5 component to that. When you take the demand component  
6 and you say, well, it should be equal to the coincident  
7 peak demand, the system peak, and you make that change,  
8 essentially what it does is it, is it changes the  
9 allocation methodology, in some cases dramatically, and  
10 it turns it into a 4CP allocator.

11 The NARUC CAM recognizes this and says  
12 it's a mistake to do that, make that change -- in other  
13 words, take the A&E, average and excess demand method,  
14 and change the NCP to a CP, it's a mistake to do that  
15 if you're still intending to use it as an average and  
16 excess demand allocator.

17 Q All right. You said -- is that your word  
18 that it's a mistake?

19 A No. That's the actual words in the CAM  
20 manual.

21 Q And is there any precedent in Public Utility  
22 Commission with respect to generation-owning utilities  
23 within ERCOT on this point?

24 A No.

25 Q Have there been any cases at all?

1           A       Within ERCOT or outside of ERCOT?

2           Q       In ERCOT.

3           A       Not that I'm aware of.

4           Q       Thank you, Mr. Mancinelli. Those are the  
5 only questions I have. Oh, I'm sorry. I do have one  
6 more question.

7                       In response to questioning by NXP, you  
8 were asked some questions about transformers, and I  
9 believe you stated that you failed to make an  
10 additional point. Would you please make that comment  
11 now?

12          A       Yeah. When I was asked about the allocation  
13 of transformers in the, in the rate-filing package I  
14 believe I answered the question saying that we had  
15 allocated transfers using the 12NCP, but that, that was  
16 incorrect. I should have checked before I answered.

17                       If you go to the rate-filing package on  
18 Bates-stamp page 991, if you go to line 42, line number  
19 42, in that document you'll see transformers and the  
20 allocation method used for transformers, and it's  
21 labeled "SMD Excluding Primary and Secondary" -- I  
22 mean, excuse me, it's "SMD Excluding Primary and  
23 Transmission," and what that is, is it's the sum of  
24 maximum demands allocator, which is the allocation  
25 of -- at the, at the customer load. So it's not



1 coincidized as it would be at the NCP level. So we did  
2 properly allocate that component of the distribution  
3 system in alignment with the NARUC manual.

4 **Q I'm sorry. I couldn't hear the last part.**

5 A We did properly allocate the transmission --  
6 the transformer component of the distribution revenue  
7 requirement along the lines suggested by the CAM.

8 **Q Thank you, Mr. Mancinelli. Those are the**  
9 **only questions I have.**

10 MR. BROCATO: I do have a copy,  
11 however, of the page from the NARUC CAM that  
12 Mr. Mancinelli was referring to. [Inaudible] the  
13 parties, I don't know if we need to take official  
14 notice of or not, but . . .

15 MS. COOPER: What does CAM stand  
16 for?

17 MR. BROCATO: Cost Allocation  
18 Manual.

19 MR. HERRERA: We'll treat this like  
20 we've had the NARUC manual before [inaudible] --

21 MR. BROCATO: Fine.

22 MR. MCCOLLOUGH: I believe this is  
23 included in the package that we submitted, but  
24 certainly if it's not, then I don't have any objection  
25 on optional completeness.

1 MR. HERRERA: Any other objections?

2 Thank you.

3 CLARIFYING EXAMINATION

4 BY MR. HERRERA:

5 Q I have a couple questions, Mr. Mancinelli.  
6 You stated that units are dispatched on price and not  
7 load; you emphasized that. Well, are you familiar with  
8 the fully bundled utilities in Texas outside of ERCOT?

9 A Yes.

10 Q With SPC, SWEPCO --

11 A I mean, generally, yes.

12 Q -- [crosstalk] El Paso Electric? They  
13 dispatch based on load, I'm assuming?

14 A They're in and out of the market, but, but  
15 their load is the primary driver that supports the, the  
16 dispatch to the units.

17 Q So when you say that Austin Energy dispatches  
18 based on price, what I'm understanding that to mean,  
19 and correct me if I'm misunderstanding it, please, is  
20 that let's say Austin Energy has three units. Unit 1  
21 is the least expensive to dispatch, 2 is the next more  
22 expensive, and 3 is the most expensive. And let's say  
23 that the load, the demand on the system requires the  
24 use of all three units.

25 Are you saying that Austin Energy may

1   not dispatch Unit 3 if it can obtain power supply  
2   elsewhere? Is that what you mean by dispatch by  
3   pricing instead of load?

4           A     Yeah. They may -- I mean, ultimately, they  
5   may not dispatch any of the three units, because what  
6   they do is, is they, they, they serve their load from  
7   the market, and so they're, they're buying the demand.  
8   The system demand is -- and serving that demand is  
9   being purchased from the market on sub-hourly intervals  
10  over the course of the year, and they pay the market  
11  price. Okay? If the market price is low, very low,  
12  then potentially, none of their units could be running  
13  and all the customers achieve the benefit of getting  
14  low, really cheap power from the market.

15                   Another extreme example would be,  
16  let's say there's a price spike, a huge event, which I  
17  think in ERCOT, you know, can be several thousand  
18  dollars an hour. In the event of a price spike if all  
19  the units are available to run, then Austin -- and  
20  Austin Energy had enough units, enough capacity to meet  
21  its load -- let's say it happened in the middle of the  
22  summer -- then all their units would operate and they  
23  would be buying at these very high prices, but they  
24  also would be selling the market at very high prices.  
25  Okay? And so the revenue they get from the sale

1 essentially reduces the cost down to the effective  
2 price of the unit.

3                   So let's say you have a unit that's,  
4 that's producing at \$50. Under a scenario the  
5 customers would never pay more, under that scenario  
6 where they're being dispatched into the market and  
7 selling at these very high prices, the customer would  
8 never pay more than the \$50 because that's the hedge.  
9 That's the protection that they're getting. The  
10 customer always pays the less of the market or Austin  
11 Energy's unit's actual cost.

12                   Now, let's say they had no capacity, no  
13 generation, and they were just basically buying from  
14 the market with no hedge. So they would be completely  
15 subject to these, these large fluctuations in the  
16 market price, and if there was a significant event, it  
17 could cost the utility tens of millions of dollars in a  
18 very short period of time, which they would have to  
19 pass on to customers, because they can't, just can't  
20 absorb it to some degree.

21                   And so, and so that's when we talk about  
22 this hedge. It's what you -- you need to have enough  
23 available capacity, capacity that you can tap at a  
24 moment's notice to react to the market, and by doing so  
25 you're ensuring that your customers are always getting

1 the best deal possible. They're either getting the low  
2 available market prices, or they're not paying any more  
3 than they would have paid under the old world where you  
4 were a vertically integrated monopoly and all of their  
5 assets were dedicated to serving the load without any  
6 of these other external transactions going on.

7 Q So, and maybe this was my misreading of the  
8 rate-filing package, but are all of Austin Energy's  
9 production costs recovered through the PSA?

10 A The PSA only recovers fuel, it recovers any  
11 purchase power contracts that they have, and -- well,  
12 let me, let me back up. In some ways --

13 Q And here's where I'm --

14 A -- it's more complicated.

15 Q Let me --

16 A These are the --

17 Q Let me interject. Let me --

18 A Okay.

19 Q Here's where I'm a bit confused with your  
20 answer, is if there is a huge spike and you didn't have  
21 the ability to go to the market and you've got your  
22 units right in here and it's costing you whatever those  
23 units may cost, if it's not through a pass-through  
24 charge, then how is the ratepayer subjected to the  
25 spike?

1           A     In that question you were saying you did not  
2     have any capacity or you do not have any generation to  
3     protect you --

4           **Q     Yes.**

5           A     -- Austin Energy?  So if you're, if you're  
6     not protected with your own generation, there's a price  
7     spike, it gets, it gets passed right through --

8           **Q     The power supply adjustment.**

9           A     -- the power supply --

10          **Q     Okay.**

11          A     -- clause, and so your monthly bill could  
12     dramatically increase for that reason.  So it causes a  
13     lot of volatility and subjects the customers to risk.  
14     It's, it's very akin to having, like, health insurance  
15     or any kind of insurance you want to have on a personal  
16     basis to protect you from a, a expensive unpleasant  
17     event, essentially.

18          **Q     Well, another question on that.  Any, any**  
19     **power that Austin Energy obtains through the market, is**  
20     **the cost of that passed through the PSA?**

21          A     Yeah.  So this is, this is what's in the PSA.  
22     All the power, the purchase power costs from buying in  
23     the market, the fuel costs, if their power plants are  
24     running right now, the fuel costs, and then that's  
25     offset by all the revenue that they -- all the, all the

1 revenue sells in the market from those power plants.

2 Q Okay.

3 A And so the net is really what's, what's, what  
4 is in the PCA.

5 Q And that was going to be my next question.  
6 If the price of energy -- the price of power is such  
7 that for Austin Energy to dispatch its own units to  
8 serve its what I'll call its native load is such that  
9 they wouldn't dispatch their native load and the  
10 customers are paying for the market-based price through  
11 PSA, what happens to the cost associated with the  
12 plants that aren't running?

13 A So the, the -- there's the --

14 Q Can you imagine --

15 A This is the, this is the --

16 Q -- that scenario?

17 A -- fixed and variable thing. If the plants  
18 aren't running, there are no variable costs.

19 Q Thank you.

20 A And so you don't have to worry about that,  
21 but there are fixed costs because they have to maintain  
22 them, they have to keep them ready to run because they  
23 don't know when they need, need them next, and so they  
24 maintain them, they operate them, and they keep them in  
25 a, in a kind of a state of readiness to serve, and

1 those ultimately are fixed costs and then they end up  
2 in basically the base rates. The base rates are  
3 covering those costs.

4 Q Could there be a situation where the market  
5 prices are so much more attractive than the dispatch of  
6 the Austin Energy's own plants that -- the plants that  
7 they're ready to serve but aren't doing anything, so  
8 your variable costs are low, they're not --

9 A Yeah. I mean, that happens all the time.  
10 Yeah.

11 Q But you still have the what I'll call the  
12 fixed costs associated --

13 A Yeah.

14 Q -- with the units being available?

15 A Yeah. You've got, you've got staff at the  
16 units, you've got, you've got the debt service  
17 associated with them, you know, the depreciation, the  
18 staffing, the labor, the materials and supplies to keep  
19 it there ready to go even though you're not using it.  
20 So those, those are costs that are fixed, and they're  
21 required in order for your fleet to be effective by  
22 that effective hedge, and they're fixed. So they're in  
23 the, in the -- they end up in the base rates.

24 Q Okay. Thank you.

25 MR. HERRERA: And we'll go to



1 recross, and I think we're -- Data Foundry?

2 MR. MCCOLLOUGH: Thank you, Your  
3 Honor.

4 RECROSS EXAMINATION

5 BY MR. MCCOLLOUGH:

6 Q Well, sir, in your redirect you called my  
7 client's name, and it wasn't in the context of darling,  
8 but I'm going to leave the A&E 4CP issue to NXP, in the  
9 interest of time.

10 What I would like to visit with you a  
11 little bit more about was your --

12 MR. HERRERA: Mr. McCollough, you  
13 have five minutes.

14 MR. MCCOLLOUGH: Yes, sir.

15 Q (By Mr. McCollough) -- was, was your  
16 discussion with the Judge just a moment ago.

17 A Um-hm.

18 Q If I understand AE's position here, it is  
19 that the ratepayers benefit by owning generation  
20 because the wholesale revenues that it gets from that  
21 generation and the hedging benefit that is available  
22 serves to reduce the PSA flow-through amounts? In  
23 other words, the PSA is lower than it would otherwise  
24 be if AE did not have its own generation. Is that a  
25 fair characterization?

1           A     Well, it depends on what's going on in the  
2     market.

3           Q     I understand, and I'm trying to get at a high  
4     level here. I think I heard you say that your purchase  
5     power costs go through the PSA and if there's a spike,  
6     that cost is going to go in the PSA and flow through to  
7     ratepayers, right?

8           A     Not quite. What I was saying is that if  
9     there's a spike, the generation assets that are  
10    operating on the system right now, assuming they're  
11    available and can be dispatched, would protect  
12    customers from that spike. So you wouldn't -- you'd be  
13    insulated from it to some degree.

14          Q     That is the hedging benefit.

15          A     Yes.

16          Q     Okay. So when there's a spike you have  
17    generation, you can turn it on and sell to the market  
18    at a price that is at that elevated level, and  
19    therefore, under AE's position, the ratepayers are made  
20    far less subject to the whims of these spikes.

21          A     Yes.

22          Q     And over time that serves to -- and that is  
23    because it keeps the PSA lower than it would otherwise  
24    be. If y'all didn't have generation, you would have to  
25    buy it wholesale all the time, and the PSA rate passed

1 through to ratepayers would include these high  
2 wholesale costs that AE incurs during the spikes.

3 A If you didn't have PSA, the actual price of  
4 the market would be passed through.

5 Q Very good.

6 A Without any adjustments.

7 Q On the other hand, the variable costs of  
8 production of AE's generation also is sent over to the  
9 PSA revenue requirement, if I can use that term?

10 A Just to be clear, so the example you just  
11 gave me --

12 Q When you dispatch.

13 A -- there was no generation.

14 Q Yes, sir. And I'm changing it.

15 A All right. So now you're changing.

16 Q I am. When you do dispatch, since you do  
17 have generation and when you do dispatch --

18 A Right.

19 Q -- you turn on your generators and you incur  
20 variable costs.

21 A Right.

22 Q And those costs are also sent over to the PSA  
23 revenue requirement?

24 A The fuel component.

25 Q The fuel component.

1 A Yeah.

2 Q In that respect it increases the PSA revenue  
3 requirement, but it is then offset by the wholesale  
4 revenues that you get --

5 A Right. Because --

6 Q -- when you sell it.

7 A -- you wouldn't, you wouldn't operate them  
8 unless you could make a margin on it.

9 Q One of the last questions the Judge asked you  
10 was, though, what happens to these fixed costs, where  
11 are they? And you agreed, well, those aren't in the  
12 PSA, they're over in base rates.

13 A Correct.

14 Q So I guess the real question here is, are  
15 ratepayers better off by AE owning generation,  
16 dollarwise, than they are if you did not have that  
17 generation, right? You say there're benefits;  
18 presumably the benefits outweigh the cost.

19 A Are you asking me the question or --

20 Q Yes, sir. Yes, sir.

21 A Well, I didn't --

22 Q Isn't that really the question? Don't we  
23 have to look at whether the benefits outweigh the cost?

24 A Yeah. And I guess the question is a  
25 complicated one, because it's, it's, it's a function

1 of the market and it's a function outline of what  
2 you value -- how you value having a security or a  
3 hedge. I mean, you could -- there are times when  
4 market prices are very low and you could probably do  
5 really well in the market if you had no generation, but  
6 you'd be completely at risk of extreme price  
7 volatility, and that's probably something that most  
8 customers don't want. Price certainty is very  
9 important.

10 And so, you know, on any given day or  
11 any given year, you know, it could look really good or  
12 it may not look so good, but the, but the strategy, the  
13 long-term strategy and the long-term objective I think  
14 is sound. It's sound rate-making from the perspective  
15 that you're, you're providing your customers a stable  
16 source of, of power at a stable cost.

17 Now, some customers may not want that,  
18 but, but right now Austin Energy offers that service to  
19 its customers, and to stabilize the price over a  
20 variety of different market conditions they have, they  
21 have generation capacity. And to be fair, this  
22 generation capacity is -- was developed in a completely  
23 different time, in a completely different market, but  
24 it's still there. It's still useful and it's still  
25 valuable.

1           Q     In order to really assess whether the  
2     benefits of having this generation outweigh the cost we  
3     need to look at the, the costs that are sent to the  
4     PSA, the variable costs, but we also have to look at  
5     the fixed cost that AE is trying to recover in  
6     production-related costs in base rates, right?

7           A     You know, I mean, you can do that  
8     comparison, but I don't know what you're really  
9     comparing it to.

10          Q     Well, let's just say some people might want  
11     to try to decide whether they want Austin to still have  
12     generation in terms of whether it is worth spending  
13     700 and some odd million dollars a year in order to  
14     recover 98 million dollars' worth of benefits.

15          A     That, I mean, that's -- those are your  
16     numbers. I don't know. I can't opine to them one way  
17     or the other, but those numbers probably change -- you  
18     know, are pretty fluid depending on what's going on in  
19     the market.

20          Q     Sure. Maybe two years from now there'll be a  
21     lot of spikes and the benefits might be higher, but  
22     based on the numbers in this case, that would be the  
23     choice. And I know you're not --

24          A     I, I --

25          Q     -- buying any of my numbers.

1           A     I have no opinion on that.

2           Q     But in order to fully assess the benefits,  
3     don't you agree with me that the fixed costs have to be  
4     taken into consideration?

5           A     Well, each function -- I mean, it's an  
6     unbundled study. You can look at the cost of each  
7     function and you can benchmark it against anything  
8     you'd like to benchmark it against.

9           Q     Thank you.

10                   MR. MCCOLLOUGH: Thank you, Your  
11     Honor.

12                   MR. HERRERA: Low Income Customers?

13                   MS. COOPER: No, Your Honor.

14                   MR. HERRERA: Public Citizen?

15                   MS. BIRCH: No questions.

16                   MR. HERRERA: NXP?

17                   MR. HUGHES: Just a couple, Your  
18     Honor.

19                   REXCROSS EXAMINATION

20     BY MR. HUGHES:

21           Q     On redirect Mr. Brocato asked you about why  
22     you chose 12CP, the 12CP method of cost allocation. In  
23     the response you reference the value of generation  
24     throughout the year as opposed to the cost of  
25     generation during peak demand. Again, we talked about

1     this when you and I just talked.

2                     What's conducted here is a cost of  
3     service study, not what the value -- not a value of  
4     service, not what the value of generation is. It's  
5     what the cost drivers were and what the cost was and  
6     how that applies to setting rates. Do you agree?

7             A     I already answered that. It's a cost of  
8     service study.

9             Q     I'm just following back up after Mr. Brocato  
10    has -- okay.

11                    And Mr. Brocato also had you discuss,  
12    you -- and you discussed the NARUC manual and some of  
13    the things it said about the 4CP method. Are you  
14    familiar with what it says about the 12CP method?

15             A     Yeah. I think it's an acceptable method.  
16    The 4CP is acceptable, the 12CP is acceptable. The  
17    reference to a mistake was, referred to the AED using  
18    4CP as the demand component.

19             Q     Are you familiar with, in using a 12CP  
20    formula, what the -- where a recommendation -- where it  
21    says that that's more recommended than not and what  
22    type of market it is, what type of utility market it  
23    is?

24             A     I'm, I'm not sure the manual is that specific  
25    on recommendations. It's more of a general --



1           Q     Well, maybe when it's usually used.

2           A     12CP?

3           Q     Yes.

4           A     12CP, I think, actually I think it's used a  
5     lot across the country, I think partly for the very  
6     reason that I think a lot of regulatory agencies  
7     understand and realize that there is value to  
8     generation capacity all year around. I know FERC  
9     pretty much is wedded to 12CP. I mean, you have to  
10    really make a strong argument to get off 12CP with  
11    FERC, and so there are a lot of, there are a lot of,  
12    you know, there are a lot of precedent for that. I  
13    mean, but basically --

14          Q     And would you agree that --

15          A     Well, go ahead.

16          Q     -- not all the markets are constructed alike  
17    and that the characteristics of each market are not,  
18    are not the same either, whether it's weather or  
19    whether they're a competitive versus a regulated  
20    market? I mean, there's a lot -- there are variables  
21    in each market. So, you know, so would it -- can I  
22    read to you what it says about the [obscured by  
23    coughing] --

24                               THE REPORTER: About the what?

25                               MR. HUGHES: The 12CP method.

1           Q     (By Mr. Hughes) "This method is usually used  
2     when the monthly peaks lie within the narrow range,  
3     i.e., when the annual load shape is not spikey. It may  
4     be appropriate when the utility plans its maintenance  
5     as to have equal reserve margins, LOLPs, or reliability  
6     index values in all months."

7                     So taking into account that equal  
8     reserve margins and the narrow range of spikes, are you  
9     familiar with how ERCOT does its resource adequacy or  
10    reserve margin planning and what methods they use?

11           A     Generally.

12           Q     And do they not -- do they use a summer peak  
13    analysis to determine?

14           A     Yes.

15           Q     Okay.

16           A     I mean, again, it's -- I mean, I'm not  
17    arguing that there's a strong summer --

18           Q     I know, I know. I'm just trying to correlate  
19    it with this market.

20                     MR. HUGHES: That's all I got, Your  
21    Honor.

22                     MR. HERRERA: ICA?

23                     MR. COFFMAN: No further questions.

24                     MR. HERRERA: Any re-redirect, on  
25    either my questions or the recross?

1 MR. BROCATO: No, Your Honor.

2 MR. HERRERA: Mr. Mancinelli,  
3 you're excused.

4 THE WITNESS: Thank you.

5 MR. HERRERA: Thank you. Let's go  
6 off the record just briefly.

7 (At 2:48 p.m. time the proceedings  
8 went momentarily off the record.)

9 MR. HERRERA: All right,  
10 Mr. Brocato. Your next witness, please.

11 MR. BROCATO: Thank you, Your  
12 Honor. At this time we would call Mr. Greg Canally.

13 MR. HERRERA: Yes.

14 MR. BROCATO: And as with our other  
15 witnesses, there's some testimony that we are going to  
16 withdraw as a result of your rulings. I've given a  
17 copy to the court reporter and I've given a copy to  
18 Your Honor, and I will identify the stricken portions  
19 for the convenience of the parties.

20 You'll start at page 11, line 14 through  
21 the end of page 19, all of that should be stricken.  
22 Page 11, line 14 through the end of page 19, basically  
23 what's included in the table of contents as Roman  
24 numeral V.

25 Are there any additional edits that you

1     need to make today to your testimony, Mr. Canally?

2                     THE WITNESS:   I do not.

3                     MR. BROCATO:   Then I would

4     tender -- excuse me, I would offer Exhibit AE-5 into  
5     the record.

6                     MR. HERRERA:   Any objections?

7     Admitted.

8                     MR. BROCATO:   I tender Mr. Canally  
9     for cross examination.

10                    MR. HERRERA:   Data Foundry?

11                    MR. MCCOLLOUGH:  No questions, Your  
12     Honor.

13                    MR. HERRERA:   Bethany United?

14                    MR. WELLS:   No questions, Your  
15     Honor.

16                    MR. HERRERA:   HURF?

17                    MR. BORGELT:   No questions, Your  
18     Honor.

19                    MR. HERRERA:   Low Income Customers?

20                    MS. COOPER:   Yes, Your Honor.   Just  
21     a couple.   That's attorney-talk for four or five, so be  
22     prepared.

23                    CROSS EXAMINATION

24     BY MS. COOPER:

25             **Q     Mr. Canally, earlier when we were talking**

1 with Mr. Dombroski we found out that Austin Energy  
2 received 4.5 million dollars in proceeds relating to  
3 the sale of land on West Avenue, which was a control  
4 center.

5 Are you familiar -- in fact, you wrote  
6 some rebuttal testimony on that; is that correct?

7 A That's correct.

8 Q All right. And you would agree that you said  
9 that the 14.5 million dollars was directed by the  
10 council to help fund the new control center on  
11 Riverside; is that correct?

12 A Those funds were transferred to Austin Energy  
13 in November of this year related to the sale of the  
14 former ECC in accordance with the master development  
15 agreement that the city council approved.

16 Q All right. This is your question, because I  
17 don't think you answered that one. So I get credit for  
18 this one.

19 It's my understanding, based on reading  
20 your rebuttal testimony, that it was Austin Energy's  
21 position that the 14.5 was directed -- that they were  
22 directed by the council, "they" meaning Austin Energy,  
23 to help fund the new control center.

24 A I would say that the funds were transferred  
25 over to Austin Energy, again, in accordance with the,

1 with the MDA. Those funds, I think Austin Energy would  
2 have to speak to how those funds were used. I do know  
3 that the funds were transferred this fiscal year,  
4 fiscal year '16. They are, according to some of  
5 the -- they are being used to help fund the debt  
6 service associated with the --

7 Q I'm going to interrupt you right now, because  
8 that's not responsive to the, to the question.

9 MS. COOPER: May I approach the  
10 witness, Your Honor?

11 MR. HERRERA: Yes, you may.

12 Q (By Ms. Cooper) You are Greg Canally,  
13 correct?

14 A Yes.

15 Q And this is a copy of your testimony?

16 A Yes, it is.

17 Q And if you could turn to page 8, please.

18 A Sure.

19 Q And on line 7 --

20 A Yes.

21 Q -- you would agree that there is a question  
22 that says, "What was done with the proceeds from the  
23 sale of the 301 West Avenue property?" Did I correctly  
24 reflect that question?

25 A Correct.

1           Q     All right. And the sale of the property is  
2 involving the 14.5 million dollars; is that correct?

3           A     Yes. Correct.

4           Q     And wasn't the answer saying, "Pursuant to  
5 the MDA, the city received 14.5 million for the sale of  
6 the 301 West Avenue property. Of that, 14.4 million  
7 was directed to Austin Energy to help fund the new ECC  
8 on Riverside Drive." Did I --

9           A     Correct.

10          Q     -- correctly --

11          A     Correct. Yes.

12          Q     All right. Is it your understanding that the  
13 city of Austin already -- this control center is  
14 already operating?

15          A     It's my understanding it is.

16          Q     And it's been operating since January of  
17 2013?

18          A     I wouldn't know the date it was operated,  
19 began operating.

20                       MS. COOPER: All right. Just take  
21 a minute, I want to talk to Thomas.

22                       MR. BROCATO: Oh, good.

23          Q     (By Ms. Cooper) The control center is  
24 functioning; is that correct?

25          A     Yes. It's functioning.

1           Q     And to your knowledge, do you know whether  
2     any of the 14.5 million dollars has been included as an  
3     offset to any of the costs in the test year as a known  
4     and measurable adjustment?

5           A     Not to my knowledge. Again, the funds were  
6     transferred this fiscal year. My understanding, and  
7     Mr. Dombroski testified to this, I believe, yesterday,  
8     that the test year is prior to this fiscal year.

9           Q     Right. Are you aware that Austin Energy has  
10    made known and measurable adjustments to the test year  
11    that go out as far as even the proposed fiscal year  
12    2017 budget?

13          A     I would not be familiar with how they, how  
14    they did those adjustments.

15          Q     All right. But we do know -- but you do, and  
16    we now know, that the control center is operating; is  
17    that correct?

18          A     Yes. It's operating.

19          Q     All right. And it's incurring expenses,  
20    operating expenses, and do you know how the building  
21    was funded?

22          A     I'm not, I'm not familiar with how they, how  
23    Austin Energy funded -- their source of funding for  
24    their -- for the construction of that, of the control  
25    center.



1 MS. COOPER: All right. I have no  
2 more questions, Your Honor.

3 MR. HERRERA: Public Citizen?

4 MS. BIRCH: No questions, Your  
5 Honor.

6 MR. HERRERA: NXP?

7 MR. HUGHES: Judge, just one.

8 CROSS EXAMINATION

9 BY MR. HUGHES:

10 Q Mr. Canally, how are you?

11 A Good, thank you.

12 Q That wasn't it, but two.

13 Does the city of Austin -- does the city  
14 treat transfers from enterprise funds differently than  
15 it treats transfers from non-enterprise, enterprise  
16 funds?

17 A Transfers of?

18 Q Any property or anything of value.

19 A I think each transfer is -- of, of value or  
20 properties, are determined mostly on a case-by-case  
21 basis.

22 Q So there's no difference? It's -- there's  
23 not a difference in whether it's an enterprise fund or  
24 not an enterprise fund?

25 A I guess I'd ask you to clarify "difference"

1 in terms of?

2 Q Treatment, whether one's weighted more than  
3 the other or given greater preference.

4 A I guess I would --

5 Q Or accounted for differently.

6 A In terms of, in terms of land transfers?

7 Q Let's say land, since that's what we're  
8 talking about mostly here.

9 A I think there are cases where in some  
10 instances the city council has approved land transfers.  
11 In other cases the city, one department, Austin Energy  
12 as a department of the city, can work with other  
13 departments to look at transfers.

14 MR. HUGHES: No further questions.

15 MR. HERRERA: Independent Consumer  
16 Advocate?

17 MR. COFFMAN: No questions, Your  
18 Honor.

19 MR. HERRERA: Redirect?

20 MR. BROCATO: No redirect.

21 MR. HERRERA: You are excused,  
22 Mr. Canally.

23 MR. BROCATO: We need more  
24 witnesses like him.

25 MR. HERRERA: Your next witness,

1 Mr. Brocato?

2 MR. BROCATO: Thank you, Your  
3 Honor. At this time Austin Energy would call Mr. Kerry  
4 Overton. And just in case anyone's curious,  
5 Mr. Canally was Exhibit 5. There was no Exhibit 4. It  
6 was previously Mr. Van Eenoo's testimony. We're not  
7 offering that testimony. He was a stipulated witness,  
8 but the entirety of his testimony was in response to  
9 the ARMA statement of position.

10 We had this problem last time.

11 MR. HERRERA: Did we lose the  
12 witness?

13 MR. BROCATO: Pardon me?

14 MR. HERRERA: Did we lose a  
15 witness?

16 MR. BROCATO: We better not.  
17 Actually, if the parties don't mind --

18 MR. ENGLISH: Here he comes.

19 MR. BROCATO: -- I'll go and begin  
20 going through his testimony.

21 MR. HERRERA: Okay. That'd  
22 be -- you're consistent, Mr. Overton.

23 THE WITNESS: I know. I apologize.  
24 These allergies have been working on me.

25

1 REBUTTAL PRESENTATION ON BEHALF OF  
2 AUSTIN ENERGY

3 DIRECT EXAMINATION

4 BY MR. BROCATO:

5 Q Good afternoon, Mr. Overton.

6 A Good afternoon.

7 Q The court reporter should be handing you a  
8 copy of Exhibit AE-6, your rebuttal testimony.

9 MR. BROCATO: And for the benefit  
10 of the parties, I'll identify the portions that we are  
11 not offering, given the prior rulings. At page 5, line  
12 7 and 8 should be stricken. The entirety of pages 12,  
13 13, and 14 should be stricken.

14 Q (By Mr. Brocato) Are there any other edits  
15 that you need to make to this testimony today,  
16 Mr. Overton?

17 A No.

18 MR. BROCATO: Move for admission of  
19 AE-6.

20 MR. HERRERA: Any objections? It's  
21 admitted.

22 MR. BROCATO: I tender Mr. Overton  
23 for cross examination.

24 MR. HERRERA: Low Income Customers?

25 MS. COOPER: Thank you, Your Honor.

1 Over lunch Mr. Brocato and I entered into an agreement  
2 to enter some exhibits into evidence through  
3 stipulation to avoid time authentication. I'm going to  
4 go ahead and read them into the record, Your Honor.

5 AELIC Exhibit 33A is a -- AELIC  
6 Exhibit 33A we're asking the Court to take official  
7 notice, Your Honor. This is a portion of the Customer  
8 Protection Statute under the Public Utility Regulatory  
9 Act of the Texas Utility Code, and we did admit almost  
10 the same proportion through Mr. Overton, but  
11 unfortunately, when I looked through the exhibit a page  
12 was missing, the sections that I wanted to refer to.  
13 So for completeness, Your Honor, we're including that  
14 and adding it as a supplement as Exhibit 33A.

15 MR. HERRERA: Any objection to  
16 that?

17 MR. BROCATO: No, Your Honor.

18 MS. COOPER: Exhibit 13A -- Oh, I'm  
19 sorry, Your Honor.

20 MR. HERRERA: I'm going to do them  
21 one by one so that we don't have --

22 MS. COOPER: Okay. No. That's a  
23 good idea.

24 MR. HERRERA: -- any  
25 misunderstandings. Go ahead.

1 MS. COOPER: Yes, Your Honor.

2 AELIC Exhibit 13A is a complete copy of an email as  
3 part of Austin Energy response to AELIC's first RFI  
4 1-2(c). The description on the exhibit does refer to  
5 TLSC, but TLSC is the organization that's representing  
6 AELIC. The email, stipulate that it's an email  
7 between, a copy of an email, a series of emails between  
8 Austin Energy employees and a consultant relating to  
9 the rate case issues.

10 MR. HERRERA: You're offering 13A?

11 MS. COOPER: Yes, sir. I am.

12 MR. HERRERA: Any objections?

13 MR. BROCATO: Is Dreyfus the  
14 sponsor?

15 MS. COOPER: Yes.

16 MR. BROCATO: Okay.

17 MS. COOPER: Here's the original.

18 MR. BROCATO: Fine. Just, we  
19 reserve optional completeness. I'm not sure if this is  
20 the right witness to do this with, but otherwise, I  
21 have --

22 MS. COOPER: I'll show you the --

23 MR. BROCATO: -- no objections.

24 MR. HERRERA: It's admitted subject  
25 to optional completeness.

1 MS. COOPER: All right. Your  
2 Honor, we would also like the Court to take official  
3 notice of what's been marked for identification as  
4 AELIC Exhibit No. 36. It is a copy of the deferred  
5 payment agreement section of the current city of  
6 Austin's Utility Code as well as an ordinance that  
7 relates to the deferred payment agreements that was  
8 passed by the council in December of 2013. We're  
9 asking the Court to take judicial notice of those two.

10 MR. HERRERA: Any objections?

11 MR. BROCATO: No, Your Honor.

12 MR. HERRERA: It's admitted.

13 MS. COOPER: Your Honor, we also  
14 are asking to take official notice of what's been  
15 marked for identification as AELIC Exhibit No. 37. We  
16 received this in response to a request for discovery in  
17 our 10th set just this last Tuesday. In it is a copy  
18 of a city ordinance that amended the deferred payment  
19 section of the city's Utility Code as well as the  
20 backup that was given to the council relating to the  
21 deferred payment agreements. I think it's also  
22 referred to as "payment arrangement" in the body of the  
23 exhibit. So we move for admission of this exhibit as  
24 well.

25 MR. HERRERA: Any objection?

1 MR. BROCATO: No.

2 MR. HERRERA: Admitted.

3 MS. COOPER: And the last one, Your

4 Honor, is the document marked for identification as

5 AELIC Exhibit No. 38. This also was a copy of a

6 document that we received in response to discovery this

7 week, and it is a portion of an Austin Energy

8 presentation to the city council in June 23, 2014

9 relating to customer debt. If you recall, there was

10 some discussion about this earlier this week through

11 the cross examination of the Independent Consumer

12 Advocate. So with that, we move for admission what's

13 been marked for identification as AELIC Exhibit No. 38.

14 MR. HERRERA: Any objection?

15 MR. BROCATO: What was 37?

16 MS. COOPER: 37 was the most recent

17 city ordinance that was passed for the 2015 ordinance.

18 MR. BROCATO: No, Your Honor.

19 MR. HERRERA: It's admitted.

20 Ms. Cooper, do you have questions?

21 MS. COOPER: I have just a couple.

22 I tried to ask all I needed on direct, but of course as

23 usual --

24 MR. HERRERA: That's fine. Let's

25 get going.



1 CROSS EXAMINATION

2 BY MS. COOPER:

3 Q Mr. Overton, you were listening to the  
4 introduction of those exhibits, and you realize that  
5 the council has passed, within, within a year or two  
6 they've passed two ordinances addressing the payment  
7 arrangement; is that correct?

8 A That's correct.

9 Q All right. And you would agree that the one  
10 in, that was passed in 2013 -- that's in evidence, I  
11 think as AELIC Exhibit No. 36 if you need to take a  
12 look-see at it -- added certain provisions that were  
13 discussed yesterday with Mr. Dombroski in which they  
14 had put in the ordinance statutory language that there  
15 was a presumed reasonableness of the 24-month payment  
16 period for outstanding balances; is that correct?

17 A That's correct.

18 Q But isn't it also true that since then the  
19 city council has, in fact, passed another ordinance in  
20 which they essentially removed that section from the  
21 Utility Code?

22 A I'm not familiar with that.

23 Q If you could look at Section -- AELIC  
24 Exhibit 37.

25 A Okay.

1           Q     Are you there?

2           A     I'm looking at the entire report.

3           Q     Okay. No, go ahead.

4           A     Is there a specific --

5           Q     Yeah. Go ahead.

6           A     I'm familiar that it changed. What I'm not  
7 familiar with is the specific section that you're  
8 saying was removed versus what's in here. If you want  
9 to walk me through, I can -- I'm very familiar with  
10 the --

11          Q     Well, I tell you what, I think the ordinances  
12 will speak for themselves.

13          A     Okay.

14          Q     I would if we had more time, I really would.  
15 I think it would help everybody, but time is of the  
16 essence, and I appreciate your offer.

17          A     Okay.

18          Q     But if you could turn to the last couple of  
19 pages in AELIC Exhibit 37, which is the cover page --

20          A     Um-hm.

21          Q     -- for the "Recommended" --

22          A     I'm on it.

23          Q     -- "for Council Action," and if you could go  
24 down to the very bottom, doesn't it say, "The attached  
25 ordinance provides staff with greater flexibility to

1    work with community stakeholders in developing  
2    administrative policies to address the growing amount  
3    of customer debt"? Isn't that correct?

4                   MR. BROCATO: I don't have any of  
5    this.

6                   THE WITNESS: I am, yeah. I'm  
7    looking at --

8                   MS. COOPER: It's, it's AELIC  
9    Exhibit 37.

10                  THE WITNESS: Yeah.

11                  MR. BROCATO: My 37 I thought was  
12    just three pages. It was the ordinance itself. It was  
13    actually stapled to 36 --

14                  MS. COOPER: Well --

15                  MR. BROCATO: -- that was the  
16    deferred payment agreements language.

17                  MS. COOPER: If you want to go  
18    back, it's a response to an RFI, and I'll be happy to  
19    go through a more formal thing. I apologize if it was  
20    mis-stapled. Here you go.

21                  MR. BROCATO: I show that --

22                  MR. HERRERA: Ms. Cooper, could  
23    you --

24                  MR. BROCATO: -- as 38.

25                  MR. HERRERA: Could you describe --

1 MS. COOPER: 38 is the partial --

2 MR. HERRERA: Ms. Cooper, could you  
3 describe what Exhibit 37 is?

4 MS. COOPER: Yes, Your Honor. I  
5 just got -- let me -- 37 I asked the Court to take  
6 official notice. This was a response, a discovery  
7 response Austin Energy provided us this past Tuesday,  
8 and it starts with the cover page containing the RFI  
9 that shows how it's related to --

10 MR. HERRERA: Is it AELIC RFI  
11 10-12, Ms. Cooper?

12 MR. BROCATO: Yes, Your Honor, it  
13 is, 10-12. And then 10-13 is the follow-up, and then  
14 the very next page after the page that says 10-13  
15 starts the ordinance, ordinance number 20150623,  
16 that -- and it's the 2015 ordinance. The next page  
17 shows that it's been executed and signed into law by  
18 the mayor, and the next page are the backup to the  
19 agenda items leading to the passage of the ordinance.  
20 And this was all received through discovery.

21 MR. HERRERA: Okay. I know what  
22 AELIC Exhibit 37 is. Where are we?

23 MS. COOPER: I don't know.  
24 Thomas -- I mean Mr. Brocato --

25 MR. BROCATO: I think I figured it

1 out. Got two different exhibits with the same RFI  
2 response with two different attachments. I get it.  
3 Let's go.

4 MS. COOPER: Okay.

5 MR. HERRERA: Thanks, Ms. Cooper.

6 MS. COOPER: I have the worst  
7 secretary in the world, myself.

8 Q (By Ms. Cooper) So Mr. Overton, if you could  
9 look, and correct me if I misquote this part of the  
10 action agenda item, at the very bottom of the agenda  
11 item -- the title of the page says "Agenda," and it's  
12 "Recommended for Council Action." Are you there? It's  
13 on Exhibit 37.

14 A Um-hm.

15 Q Okay. And if we go down to the bottom of  
16 that page, doesn't it say, "The attached ordinance  
17 provides staff with greater flexibility to work with  
18 community stakeholders in developing administrative  
19 policies to address the growing amount of customer  
20 debt"?

21 A The statement sounds reasonable, but I'm  
22 going to the bottom of this page --

23 Q Right.

24 A -- and what I'm seeing is "2011815 EUC  
25 Minutes" of the Electric Utility Commission meeting in

1 the bottom of this page, and I am on AELIC Exhibit  
2 No. 37.

3 Q All right. And where do you see the --

4 MR. BROCATO: He's looking on the  
5 first page. She wants you to look at the next to last  
6 page, right?

7 THE WITNESS: Okay. Go to the  
8 back?

9 MR. BROCATO: The "Recommendation  
10 for Council Action."

11 MS. COOPER: Thanks, Mr. Brocato.

12 THE WITNESS: Okay. I'm on the  
13 second to the last now?

14 MR. BROCATO: Correct.

15 Q (By Ms. Cooper) Right.

16 A All right.

17 MR. BROCATO: Page 264 of 265 in  
18 the top right --

19 MS. COOPER: Yes.

20 MR. BROCATO: -- is that right?

21 MS. COOPER: Yes.

22 Q (By Ms. Cooper) Are you there?

23 A I am.

24 Q Okay. And you would agree that this is a  
25 copy of the page of the agenda item "Recommendation for

1 Council Action"?

2 A Yes.

3 Q All right. And if you could go down to the  
4 very bottom, doesn't it say, "The attached ordinance  
5 provides staff with greater flexibility to work with  
6 community stakeholders in developing administrative  
7 policies to address the growing amount of customer  
8 debt"?

9 A Yes.

10 Q All right. Now, page 10 of your rebuttal  
11 testimony, Mr. Overton, and I did want to spend a  
12 couple of minutes addressing this, you mentioned  
13 that -- let me see. It's been stricken.

14 On page 10 of your testimony at the very  
15 top Q and A you were asked a question about if it would  
16 be feasible to require Austin Energy customers to fall  
17 within two of the qualifying categories before being  
18 able to participate in the CAP program?

19 A Yes.

20 Q Could you explain to the Court what that  
21 means?

22 A Well, this question is tied to a series of  
23 questions that are before it, not just that one, and  
24 what it's referring to is regarding a question that  
25 came up as to whether there was open enrollment in the

1 feasibility [obscured by coughing].

2 THE REPORTER: Feasibility what?

3 THE WITNESS: Feasibility, open  
4 enrollment.

5 Q (By Ms. Cooper) When you say "open  
6 enrollment" do you mean people who --

7 A Automatically.

8 Q -- are eligible to qualify?

9 A Yes.

10 Q All right. And, but what do you mean by  
11 qualifying for two programs? I'm not clear. What does  
12 that mean?

13 A In the qualifying, the qualifying factors  
14 would be those that we've already accepted, as  
15 mentioned in paragraphs before that, who are on  
16 Medicaid, SSI, SNAP, CHIP, other, other entitlement  
17 programs.

18 Q So are you -- what I hear you saying, and  
19 please correct me, is that one suggested change is to  
20 say that a person couldn't qualify for the CAP program  
21 if they were only just, say, a Medicaid customer? They  
22 would also have to be not only a Medicaid client, but  
23 they would also have to maybe qualify for SNAP?

24 A That's not always. I mean, it's evolved over  
25 time. They can qualify for multiple programs, or they



1 can qualify for one of the programs.

2 Q What I'm asking, Mr. Overton, is this Q and A  
3 on page 10 of your testimony -- let's back up -- and it  
4 says, "Do you believe that it would be feasible to  
5 require Austin Energy customers to fall within two of  
6 the qualifying categories before being able to  
7 participate in the CAP program?" All right. And I've  
8 been trying to understand exactly what you mean by  
9 that.

10 A Of the qualifying programs that we already  
11 have, which is mentioned on a previous page, I'm saying  
12 that yes, it's feasible, it is feasible that we require  
13 customers to fall in any one of the categories. Yes.

14 Q It says two of the qualifying categories. I  
15 want to understand, because to me that's a significant,  
16 that would be a significant change.

17 Did you mean to say that, that Austin  
18 Energy is considering changing its enrollment criteria  
19 to where a customer to be eligible for the program  
20 would have to fall within two of the categories and not  
21 just one?

22 A I'll answer your first question. No. We're  
23 not changing the enrollment requirements.

24 Q Okay. All right. So that's not what this  
25 question intended?

1           A     That is not what it intended.

2           Q     Okay. That makes me feel much better,  
3     Mr. Overton. Thank you so much.

4                     Okay. And then I just wanted to  
5     spend -- we did talk a little bit about the  
6     late-payment penalty fee, and I'm not going to spend a  
7     lot of time about it, but do you know how much of  
8     Austin Energy's uncollectible expense is comprised of  
9     the late-payment penalty fee?

10          A     Not. Not, not specifically, but I'll help  
11     you work through this so I can give you --

12          Q     Okay.

13          A     -- information you need.

14          Q     That would be good.

15          A     I mean, it's a fairly small amount in terms  
16     of total dollars, but if we had the accounting charts,  
17     I could verify that if you had presented that to me.

18          Q     And 5 percent is 5 percent of the uncollected  
19     balance, right?

20          A     That's correct.

21          Q     All right. But there are also some  
22     collection costs in addition to the balance?

23          A     No.

24          Q     When you do the uncollected debt that -- you  
25     don't include cost connected to collection agencies?

1           A     Well, it is, it's part of the allocation, but  
2     not directly to the customer --

3           Q     Oh, I --

4           A     -- at that time.

5           Q     No. I understand that. I understand that,  
6     but we're looking at the bad-debt expense that's been  
7     placed in the cost of service.

8           A     Yeah.

9           Q     But there is within the bad-debt portion of  
10    the cost of service amounts contributed to the  
11    late-payment penalty fee; is that correct?

12          A     That, that would be included. Yes.

13          Q     All right. And we also know that Austin  
14    Energy has not done a cost study to verify the cost  
15    underlying the late-payment fees; is that correct?

16          A     That's correct.

17          Q     All right.

18                         MS. COOPER: No more question, Your  
19    Honor. Thank you.

20                         MR. HERRERA: Thank you.

21                         MS. COOPER: Thank you,  
22    Mr. Overton.

23                         THE WITNESS: Okay.

24                         MR. HERRERA: Public Citizen?

25                         MS. BIRCH: No questions.

1 MR. HERRERA: NXP?

2 MR. HUGHES: No, Your Honor. No  
3 questions.

4 MR. HERRERA: Independent Consumer  
5 Advocate?

6 MR. COFFMAN: Yes.

7 CROSS EXAMINATION

8 BY MR. COFFMAN:

9 Q Good afternoon, Mr. Overton.

10 A Good afternoon.

11 Q Is it true that you struck everything on  
12 pages 12 to 14 of your prefiled rebuttal testimony?  
13 And I'm, I'm concerned right now about page 14. Has  
14 that, has that testimony been stricken?

15 A Yes.

16 Q Including the part about being able to pick  
17 your own due date?

18 A It is part of that page 14.

19 Q Okay.

20 MR. BROCATO: Did you all  
21 say anything on that?

22 MS. COOPER: Yes.

23 MR. COFFMAN: Yeah. It was, it was  
24 a [crosstalk] --

25 MS. COOPER: I didn't say anything.

1           Q     (By Mr. Coffman) Did you mean just to strike  
2 it up until that point? I mean, I'm just asking now,  
3 if that's okay.

4           A     We can take it out.

5                     MR. BROCATO: You mean you can put  
6 it in.

7                     THE WITNESS: I mean put it back  
8 in, put it back in.

9           Q     (By Mr. Coffman) Guess we could unstrike it  
10 by asking you the question now. I mean, are you  
11 familiar with the proposal and the suggestion of  
12 allowing customers to pick their own date within the  
13 month that --

14          A     I am.

15          Q     -- the bill will be received? Yes.

16          A     I am.

17          Q     And has Austin Energy examined the  
18 feasibility of that recently?

19          A     We have just started it. We're six months  
20 into a review of that process.

21          Q     And I understand from your testimony from  
22 Ms. Kimberly that there are -- that you've identified  
23 some feasibility issues. Is that, is that with this?

24          A     That would be correct.

25          Q     And are those feasibility issues of a

1     **technical nature?**

2           A     We have not concluded, so I don't want to  
3     overly speculate and get ahead of the assessment, but  
4     the kinds of things is, is both. Some of them are  
5     technical in nature, others wanted to also make sure we  
6     understand the audience and our customers who are  
7     requesting, you know, for that in terms of what it  
8     would mean in terms of operations.

9           Q     But again, is it still true that  
10    you -- Austin Energy anticipates being able to allow  
11    some of its customers to pick their own due date by  
12    October of this year?

13          A     We are. Yes.

14          Q     All right. And that specifically you plan to  
15    offer it to those that receive monthly assistance from  
16    a government program or who are able to demonstrate a  
17    hardship?

18          A     Yes.

19          Q     That's good to hear. And you're working with  
20    your billing, your billing software vendor to finalize  
21    the specifics?

22          A     We are.

23          Q     So are the feasibility issues with regard to  
24    the billing system? Are there issues with the billing  
25    system, or do you think that can be programmed to allow

1     **this as other utilities have done?**

2           A     Well, we have to -- there's a lot of, a lot  
3     of pieces to it. One of the things is when we -- right  
4     now we're set up in a geographical area to read by  
5     cycles, and that ties to the bill. When you pick your  
6     due date we do need some billing systems modifications  
7     in order to make sure we understand when a customer  
8     fits into the program but they're outside of the  
9     geographical cycle.

10                  So yes, there are some systems issues  
11     that we need to address. They're in the review that  
12     we're doing right now to understand what it would take  
13     to do it successfully.

14           Q     **And has Austin Energy reached out to other**  
15     **utility providers that have this type of program to**  
16     **learn from them?**

17           A     I'm going to give you a two-part answer. No,  
18     in the sense that I know of directly. But we do have  
19     business analysts on our team, and through working with  
20     our vendor I'm almost certain that they have contacts  
21     with other utilities, and it's part of their review.  
22     I'm just not involved in that discussion.

23           Q     **Have you heard from folks in Austin who have**  
24     **suggested this idea before?**

25           A     Yes.

1           Q     All right. Let me move on to the issue of  
2     customer satisfaction, which starts on the next page,  
3     page 15. It's true that an overall satisfaction survey  
4     conducted by Austin Energy came up with the result  
5     that, overall, customer satisfaction was at 59 percent;  
6     is that right?

7           A     That's correct.

8           Q     Do you consider that to be a passing grade?

9           A     It's not a grade where we desire to be, but  
10    what we've done is we initiated a lot of the  
11    J.D. Powers review, and we initiated it because we want  
12    the feedback. We want to know what our customers --

13          Q     Mr. Overton --

14          A     Yeah.

15          Q     -- I was asking about your own internal  
16    survey first.

17          A     Okay.

18          Q     And that was the one that came back with the  
19    59 percent result, correct?

20          A     Yes.

21          Q     And when we asked questions of Austin Energy  
22    for backup and kind of breaking that down and  
23    understanding what was behind that 59 percent, Austin  
24    Energy objected and didn't give us information, and I'm  
25    not sure I understand exactly why.



1                   But is there anything you can tell us  
2 here on the record as to what were the -- what you  
3 thought were the key findings? What, what was  
4 the -- what were the key areas of dissatisfaction that  
5 came out of that survey?

6           A     Again, Deborah, Deborah Kimberly can answer  
7 some of the specifics in terms of her group. Her group  
8 initiated the review, the study, but I can give you  
9 high level.

10           Q     You've read it, I assume?

11           A     Yeah, I have. I mean, I understand what our  
12 customers tell us. Our customers, for an example, they  
13 want, when they call they want a live person to answer  
14 the phone. Our customers, they want sort of what we  
15 call a quick response or closure to their inquiry. I  
16 mean, there's several things that they've given us  
17 feedback on.

18           Q     Were the level of electric rates one of the  
19 concerns that came out of --

20           A     I don't know specifically how it was  
21 incorporated into that report, but customers do, when  
22 they talk to us they speak of the rates being high.  
23 But in that sense most of the customers that give us  
24 that feedback, they don't have a -- they don't know  
25 relative to what.

1                   So what we do is we do provide them  
2 data in their monthly bill to show them where we  
3 compare in our rates on a, pretty much on a monthly  
4 basis. At least quarterly we provide them information  
5 to actually let them know where they actually, you  
6 know, are, where we are in our rates in relationship to  
7 comparative utilities. So we do provide data to  
8 respond to that.

9           **Q     Now, I know you were wanting to answer with**  
10 **regard to the J.D. Power & Associates satisfaction**  
11 **survey, and I know in your testimony you talked about**  
12 **outages and response, communication about outages being**  
13 **a key finding of that --**

14           A     Yes.

15           **Q     -- that study. Are there any other findings**  
16 **from that J.D. Powers & Associates survey that --**

17           A     No. That was the main, that was the main  
18 issue in terms of customers asking for more improved  
19 and quicker responses or communications during  
20 outages.

21           **Q     Were the level of electric rates part of that**  
22 **survey as well, can you agree?**

23           A     It probably was part of the survey, but I  
24 don't know if that came out as one of the outstanding  
25 issues that customers complained about.

1           Q     Did you share the results of these surveys  
2     with your council, with the Electric Utility  
3     Commission?

4           A     Austin Energy did. I did not.

5           Q     Okay. Moving on to the pilot programs. You  
6     had a little bit of testimony with regard to the, with  
7     regard to the ICA recommendations, but I didn't -- I  
8     wasn't sure exactly to what degree you agreed with our  
9     recommendations.

10                     The Independent Consumer Advocate  
11     recommends that Austin Energy has firm time limits to  
12     its pilot programs. Do you agree with that as  
13     something that the pilot programs should have, a firm  
14     time limit and termination date?

15          A     We agree, and the pilot we're running does  
16     have a specific time limit.

17          Q     Now, of course, that then begs another  
18     question. What happens when it terminates? Is it your  
19     understanding that Austin Energy has the ability to  
20     then implement the pilot program as a full-scale  
21     program at the termination of a pilot, or is  
22     that -- would, would Austin Energy then take that  
23     program back to the, to the public, to the Electric  
24     Utility Commission and -- for further analysis of that  
25     pilot before it was implemented as a full-scale

1     **program?**

2           A     We'd take a look at that data and see what it  
3     tells us and analyze it to see what actions we could  
4     take, but we would do what we have done with all of our  
5     programs, that is continue to open up communications  
6     with the community groups and to our EUC and council.

7           Q     So I note in your -- in answer to some of the  
8     data requests, and in here, there's mention of full  
9     deployment. Is -- so is that possible? Is it possible  
10    that the current pilot programs that are in place now  
11    at their termination date might then be turned into a  
12    full-scale program without any further public  
13    involvement in the evaluations?

14          A     Can you point me to the line you're referring  
15    to?

16          Q     Well, let me look -- take you to page 18,  
17    lines 15 and 16. There you're specifically referring  
18    to the prepayment pilot program.

19          A     Um-hm.

20          Q     You say, "Once the pilot program is complete,  
21    Austin Energy will evaluate its success and determine  
22    whether or not to expand it."

23                         Would that be a decision to expand the  
24    program with or without more public involvement and  
25    collaboration?

1           A       We would have more public involvement.

2           Q       **Would, would that issue come back before the**  
3       **Electric Utility Commission and the city council before**  
4       **being fully implemented? Can you provide us that**  
5       **assurance?**

6           A       I think the heart of your question is will we  
7       enact a major program, a major change without the  
8       council input, and my answer to that would be no, we  
9       would not. We'd bring it back, particularly to our  
10      oversight committee.

11                   What I don't want to say is if there's  
12      something we learn in that process that we're tweaking  
13      something in the system or tool or the way we do our  
14      daily business, I couldn't agree to that.

15          Q       **But what about the three programs that**  
16       **we've -- that have been discussed in the -- do you**  
17       **consider those to be large-scale programs?**

18          A       No. the program you mentioned, and you  
19      specifically talked about the pilot and the, uh --

20          Q       **Prepayment?**

21          A       -- and the prepayment program, we would bring  
22      those back, communicate that out to our council, and  
23      more than likely, it might be through the oversight  
24      committee before we implement them.

25          Q       **Then on the top of page 18 you state,**

1     **"Requiring Austin Energy to participate in a**  
2     **stakeholder process before even determining if a**  
3     **large-scale implementation is possible would limit the**  
4     **utility's ability to gather data and develop an**  
5     **internal understanding."**

6                     Do you -- is Austin Energy opposed to a  
7     collaborative process to better flesh out the  
8     prepayment program issues before coming back with a  
9     proposal to fully implement such a program?

10            A     Can you restate the question?

11            Q     **Is Austin Energy opposed to a collaborative**  
12     **process on the prepayment pilot program?**

13            A     We are open for collaborative discussion.

14            Q     **I assume that would also include the Electric**  
15     **Utility Commission in that process too, correct?**

16            A     Yes. Let me, let me share with you, though,  
17     again my response. Oftentimes the program adjustments  
18     and changes we're making are programs resulting because  
19     we're responding to customers' inquiry, and we don't  
20     bring those back to council when we are making  
21     improvements to our operations. The specific ones  
22     you've asked about, yes, we are open for collaborative  
23     discussion before those are implemented in a  
24     full-scale.

25            Q     **Another pilot program that we -- that's**

1     discussed in testimony is the electric vehicle public  
2     charging program pilot which has been in effect for  
3     about four years and I believe Austin Energy has  
4     described as being in the early stages; that right?

5           A     Deborah Kimberly's going to be the best to  
6     answer that fully.

7           Q     Okay. So you don't know whether or not  
8     Austin Energy has examined whether there are any  
9     subsidies created by that program within the customers?

10          A     I'm going to refer that to Ms. Kimberly.

11          Q     I can ask her? Has Austin Energy worked with  
12     low-income advocates in the development of its CAP and  
13     the arrearage management programs?

14          A     We have. Yes.

15          Q     What was the -- when was the last time that  
16     you had that interaction or feedback?

17          A     Well, we meet with them monthly and weekly.  
18     I would imagine the last actual data we had could have  
19     been within the last three weeks or four weeks --

20          Q     Okay.

21          A     -- having discussion.

22          Q     And does Austin Energy also work with the  
23     environment community in the development of solar  
24     tariffs and environmental-related programs?

25          A     We do.

1           Q     Okay. Well, I'll just, I'll just end with  
2     this request, is can you, can you commit to a  
3     stakeholder process, at least on the prepayment  
4     program, and, and so you can better flesh that  
5     particular program out with public groups?

6           A     And you call it a stake -- tell me the name  
7     of what you gave it.

8           Q     A stakeholder process.

9           A     We can commit to continuing to collaborate  
10    with all the stakeholders who are interested in that  
11    prepayment program.

12          Q     I mean, I understand there have been many  
13    meetings over a long period of time internally within  
14    Austin Energy, but I'm not -- we're not aware from the  
15    information we've seen that there has been a process  
16    where outside groups, including low-income groups, have  
17    been invited to sit down and discuss the issues and  
18    come up with some solutions on the -- I'm sorry, on the  
19    prepayment pilot program.

20                   Is that something that you can commit to  
21    as a -- you know, coming out of this particular rate  
22    review?

23          A     We will.

24          Q     And would you agree with the two issues that  
25    we have identified as being particularly difficult



1 issues that should be worked out, including the health  
2 and safety disconnection rules? Is that an issue that  
3 you're -- that Austin Energy is willing to work on with  
4 other groups to develop solutions to and --

5 A I'm not familiar at all when you're  
6 mentioning disconnect programs.

7 Q Would you agree that with prepayment-type  
8 billing that, that it's sometimes difficult to take the  
9 disconnection rules and health and safety protection  
10 rules and apply them in the same way to those customers  
11 as you do the traditional customers?

12 A Let me maybe help you answer it, what I think  
13 you might be getting at. The program that we're  
14 speaking of is going to be completely a voluntary  
15 program. Customers can choose to opt into that  
16 program. We're offering it as a choice to them,  
17 because customers have told us in our feedback in our  
18 surveys that they want a prepaid program, from what  
19 they understand it to be, and we want to offer it.

20 So I guess to get to the heart of your  
21 question, we have no mechanism or interest to force it  
22 upon a particular customer group.

23 Q Would you agree that there should be some  
24 equivalent health and safety protections regarding  
25 disconnection for those customers that agree to be in

1     **that pilot -- under that service as traditional**  
2     **customers?**

3           A     My best answer is I think we have very solid  
4     protections for all of our customers when it comes to  
5     disconnects. We have programs for the very vulnerable,  
6     the medically vulnerable, our low income, and all of  
7     our customers. I think that those programs are very  
8     sufficient to apply to every program we would put in  
9     place.

10          Q     **So would the weather-related moratorium --**

11          A     Yes.

12          Q     **-- apply as well to prepayment customers?**

13          A     Again, you're speaking of something very  
14     specific that you want into the prepaid program. That  
15     program is not -- that data is not in. We don't have  
16     that program in place.

17          Q     **Um-hm.**

18          A     What I would say is, but everything you're  
19     mentioning -- we have weather moratoriums, we have very  
20     protective measures in our disconnect programs. None  
21     of those will go away. We're, we're going to continue  
22     to run our operation with those high standards that  
23     we've been using, and many of them are in some of the  
24     regs that was pointed out earlier.

25          Q     **Would Austin Energy commit to something,**

1     **protections that are equivalent to the weather-related**  
2     **protections for the prepayment program?**

3           A     I don't, I don't mean to be difficult.  
4     You're asking me to make a commitment into a program  
5     that's not created. But I would give you some  
6     assurance.

7           Q     I mean, I understand that some of these  
8     **protections can't technically be exactly the same, but**  
9     **I'm looking for a commitment to similar protections**  
10    **that are equivalent to what are currently in place for**  
11    **traditional customers.**

12          A     We have very solid programs in place to  
13    protect the interests that you just mentioned, and  
14    we're committing to continue to have that level of  
15    excellence in our programs and our disconnects.

16                    To answer something very specific about  
17    what would be in the prepaid program, that data is not  
18    in. We don't, we don't understand anything about what  
19    it's going to tell us that we need to do.

20          Q     But you're open-minded to listening to the  
21    **public and suggestions --**

22          A     Absolutely.

23          Q     -- as to --

24          A     Yes.

25          Q     -- how that might be --

1 A Yes.

2 Q -- worked out?

3 A Yes.

4 Q That's all I have. Thank you.

5 MR. HERRERA: Any redirect,

6 Mr. Brocato?

7 MR. BROCATO: Yes, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. BROCATO:

10 Q Good afternoon, Mr. Overton. Just a few  
11 questions. Do pilot programs occasionally impact the  
12 tariff schedules?

13 THE REPORTER: Would you repeat  
14 that, please?

15 Q (By Mr. Brocato) Do pilot programs  
16 occasionally impact the tariff schedules?

17 A Immediately? No.

18 Q At any point?

19 A Well, if a certain pilot if it's in, if it's  
20 in place, it will impact -- it could impact the tariff  
21 schedule.

22 Q And if it does, are those tariffs included in  
23 the budget?

24 A Yes, they are.

25 Q And is the public allowed to make comments on

1     those?

2           A     Yes, they are.

3           Q     And does council have to approve the pilot,  
4     then, before it would go into effect?

5           A     They would have to approve it.

6           Q     Now, if you would, look back at AELIC 37.  
7     That's that RCA that Ms. Cooper asked you to look at.

8           A     Yes.

9           Q     And turn to page 264 of 265, the next to the  
10    last page.

11                         So did the city modify the deferred  
12    payment arrangement policy in 2013? Is that what this  
13    says?

14          A     Yes, we did.

15          Q     And did that lead to more, the execution of  
16    more deferred payment arrangements?

17          A     Yes.

18          Q     And what is the date of this "Request for  
19    Council Action"?

20          A     This is the meeting date of 6/23/2015.

21          Q     So that was less than a year ago; is that  
22    right?

23          A     That's correct.

24          Q     And at that time there was growing amount of  
25    customer debt; is that what this says?

1           A     That's correct.

2           Q     And are these increased number of payment  
3 arrangements resulting in more bad debt?

4           A     Can you rephrase the question?

5           Q     Are these increased number of payment  
6 arrangements that have been executed over the last two  
7 years leading to this greater amount of bad debt?

8           A     It has.

9           Q     And why is that?

10          A     Well, from a general rule of collections, the  
11 more you defer collections on a debt owed to you, the  
12 likelihood of you recovering a great portion of that  
13 lessens.

14          Q     And do you expect those, those -- that  
15 increase to continue as a result?

16          A     They could possibly continue with the  
17 policies in effect. However, because we did at least  
18 come to some agreement in regards to when a disconnect  
19 is defined, that could have a positive impact on it.

20          Q     Thank you, Mr. Overton. Those are all the  
21 questions I have.

22                         MR. HERRERA: Any recross based on  
23 that redirect?

24                         MR. HUGHES: No, Your Honor.

25                         MR. COFFMAN: I have one.

1 RECROSS EXAMINATION

2 BY MR. COFFMAN:

3           Q       Mr. Overton, you suggest the budget process  
4       is a place where the public can testify and comment on  
5       pilot program changes, and isn't it true that during  
6       the budget process there are hundreds, maybe thousands  
7       of issues, and it's a very congested time for public  
8       comment?

9           A       I don't, I don't know if I'd call it  
10 congested. There is a -- if I heard your question  
11 properly. The budget process does allow for the input  
12 of the public.

13 Q Okay.

14           A       They do have an opportunity to weigh in their  
15    issues, and I think the ending part of it is, are there  
16    multiple issues during a budget process?   Yes.

17 Q Would you agree with me that it might be a  
18 better time for the public to convey their concerns if  
19 the issue is isolated and brought at a time and  
20 interested and advocacy groups and other stakeholders  
21 have an opportunity to weigh in and focus together on  
22 these issues than having to, to fight for time in the  
23 budget, during the budget process to get attention on  
24 these issues?

25           A     Well, in my opinion, I think the fact that we

1 do have a very involved and open budget process, that's  
2 the way in which the public will always see what we're  
3 proposing for that year, what we're communicating with  
4 council. So I think that is a good process, and I  
5 think it should remain in place.

6 There are some occasions where we have  
7 other reasons to cull out programs and have very  
8 specific studies that involve the community on those as  
9 well. So I think both of them should occur.

10 Q All right, sir. Thank you.

11 MS. COOPER: Your Honor, I got  
12 skipped. I think I was a little bit too silent, I  
13 guess. I didn't say no, but I should have spoken up.  
14 I just have one quick question, Your Honor.

15 MR. HERRERA: Go ahead.

16 RECROSS EXAMINATION

17 BY MS. COOPER:

18 Q Relating to AELIC Exhibit No. 38, you should  
19 still have that in front of you, Mr. Overton. Do you  
20 have it there sir?

21 A I do.

22 Q Could you turn to the very last page?

23 A I have it.

24 Q And it's a, it's a -- it appears to be a  
25 graph that is supposed to be addressing the "Total



1     **Active A/R Over 30 Days."**    Could you tell us what A/Rs  
2     **mean?**

3             A     Accounts receivables.

4             Q     All right.   And then just one -- there's a  
5     bubble.   There's two bubbles, but I'm looking at the  
6     one that's on top where it says "CIS was implemented."  
7     Could you tell us what CIS stands for?

8             A     Customer information system.

9             Q     Is that, like, a billing system?

10            A     It's a billing system.   Yes.

11            Q     All right.   So there was some type of billing  
12     system in October of 1999?

13            A     That's correct.

14            Q     All right.   Thank so much, Mr. Overton.

15                               MS. COOPER:   I have no more  
16     questions, Your Honor.

17                               MR. HERRERA:   Any re-redirect on  
18     that?

19                               MR. BROCATO:   No, Your Honor.

20                               MR. HERRERA:   Mr. Overton, you're  
21     excused.   Thank you.   All right.   Next witness,  
22     Mr. Brocato?

23                               MR. BROCATO:   At this time Austin  
24     Energy would call Ms. Deborah Kimberly.

25                               MS. BIRCH:   Your Honor, can we just

1 take a short break? It's been quite awhile since the  
2 last one.

3 MR. HERRERA: Sure. If the parties  
4 want to take a break now, we --

5 MS. BIRCH: Doesn't need to be very  
6 long, but --

7 MR. HERRERA: Yes. Take a  
8 five-minute break.

9 (At 3:48 p.m. the proceedings  
10 recessed, continuing at 3:54 p.m.)

11 MR. HERRERA: Are we up to your  
12 next witness?

13 MR. BROCATO: We are.

14 MR. HERRERA: Go ahead and proceed.

15 MR. BROCATO: Oh, thank you, Your  
16 Honor. At this time we would call Ms. Debbie Kimberly.

17 DIRECT EXAMINATION

18 BY MR. BROCATO:

19 Q Good afternoon, Ms. Kimberly.

20 A Good afternoon.

21 Q You should have a copy of your direct  
22 test -- excuse me, your rebuttal testimony that's  
23 marked as Austin Energy Exhibit No. 7.

24 MR. BROCATO: Again for the  
25 convenience of the parties who don't have a redacted

1 version, I'll go through the portions that we will not  
2 be offering. Beginning at page 5, lines 10 through 13  
3 should be stricken. At page 11, line 9 through the  
4 remainder of that page, and then all of pages 12, 13,  
5 14 should be stricken, and on page 15, line 1 through  
6 14 should be stricken.

7 Q (By Mr. Brocato) Ms. Kimberly, are there any  
8 additional edits that you need to make to this  
9 testimony?

10 A No, sir.

11 MR. BROCATO: Okay. I move for  
12 admission of Exhibit AE-7.

13 MR. HERRERA: Any objections?

14 MS. BIRCH: Your Honor, I didn't  
15 hear the last portion of it. I'm up through page 13,  
16 and then I missed what you said after that.

17 MR. BROCATO: Page 14 is stricken  
18 in its entirety. Page 15, lines 1 through 14 are  
19 stricken.

20 MR. HERRERA: Any objections?

21 MS. BIRCH: Give us a second. Back  
22 on page 5, Mr. Brocato, number 4, the proposal to  
23 increase has been stricken but not the proposal to  
24 expand to other, what is it, voltage? High-voltage --

25 MR. BROCATO: Yes.

1 MS. BIRCH: -- customer classes?

2 MR. BROCATO: So thank you. On  
3 page 5 the only part of lines 12 and 13 that should be  
4 stricken are the words "to increase and" on line 12.  
5 I'm sorry.

6 MR. HERRERA: Just "increase and"?

7 MR. BROCATO: Correct. So then it  
8 would now read, "PC-SC's proposal to expand the energy  
9 efficiency services fees and."

10 MR. HERRERA: Any objections?

11 MS. BIRCH: No, sir.

12 MR. HERRERA: AE Exhibit 7 is  
13 admitted.

14 MR. BROCATO: I would tender  
15 Ms. Kimberly for cross examination.

16 MR. HERRERA: Bethany United?

17 MR. WELLS: No, Your Honor.

18 MR. HERRERA: Mr. Borgelt is no  
19 longer with us, not permanently. Low Income Customers?

20 MS. COOPER: Yes, Your Honor. Just  
21 a couple.

22 CROSS EXAMINATION

23 BY MS. COOPER:

24 Q Good afternoon, Ms. Kimberly. In your  
25 rebuttal testimony you comment at page 17 you

1     were -- you asked, you were asked in your prefiled  
2     testimony why high-load-factor primary voltage  
3     customers weren't charged the EES charge, and isn't it  
4     correct that you responded -- getting paper-poor here.  
5     Part of your response, and I'm trying to find it in  
6     your testimony, the first 14 and 15 it says, "This  
7     decision was made to ensure that Austin Energy's rates  
8     became more competitive when compared to the  
9     deregulated market, where these customers do not pay  
10    this charge." Is that correct?

11           A     Excuse me, Ms. Cooper. Are you referring  
12    to --

13           Q     On page 17.

14           A     Okay.

15           Q     Page 17 of your rebuttal testimony.

16           A     Okay. At line 14?

17           Q     Yes, ma'am.

18           A     Yes. That's what I stated.

19           Q     Okay. And you still, and you still say so  
20    today too, correct? You, you're not amending that  
21    statement?

22           A     Customers that take service enhancements and  
23    do not pay that charge in the competitive market, and  
24    indeed some that take -- distribute service at primary  
25    levels do not pay that charge.

1           Q     And that -- the decision Austin Energy made  
2     to not charge the high-load-factor customers the energy  
3     efficiency rate by Austin Energy was based on  
4     competition? That's --

5           A     Let me correct.

6           Q     -- what became more competitive?

7           A     The decision was made by council.

8           Q     All right. Did Austin Energy recommend the  
9     change and provide competition issues as a, as a reason  
10    to -- for the council to support your recommendation?

11          A     We recommended that high load factor, over 85  
12    percent of load-factor customers that take service  
13    above 20 megawatts and at transmission levels do not  
14    pay the EES tariff. However, they could pay into the  
15    CAP fund.

16          Q     All right. Okay. Now, do these  
17    high-load-factor customers pay the street area lighting  
18    rate?

19          A     No. I do not believe they do.

20          Q     And is that also because that's to ensure  
21    that their rates will be more competitive?

22          A     I don't know the answer to that question.

23          Q     All right.

24                         MS. COOPER: I have no more  
25    questions, Your Honor. Thank you, Ms. Kimberly.

1 MR. HERRERA: Public Citizen?

2 MS. BIRCH: May we proceed, Your  
3 Honor?

4 MS. WHITE: Just so everybody can  
5 be prepared, Exhibits 14 and 15 are also going to be  
6 discussed, but they were previously [inaudible] up.

7 MS. BIRCH: May I proceed, Your  
8 Honor?

9 MR. HERRERA: (Nods head.)

10 CROSS EXAMINATION

11 BY MS. BIRCH:

12 Q Good afternoon, Ms. Kimberly.

13 A Good afternoon.

14 Q I'd like to talk a little bit about the Value  
15 of Solar tariff. Would you agree that the Value of  
16 Solar tariff is superior to net metering as a means of  
17 compensating customers for energy produced by on-site  
18 solar energy installations?

19 A Yes.

20 Q Would you also agree that distributed solar  
21 should be a more significant contributor to Austin  
22 Energy's generation portfolio as time goes on?

23 A I believe we have targets to meet, and I  
24 believe we will meet those targets.

25 Q So is that a yes?

1           A     It's a qualified yes.

2           Q     Would you look at what's been marked as  
3   PC-SC's Exhibit 19? Which I will represent is Austin  
4   Energy's second supplemental response to our first  
5   request for information, and you sponsored this --

6           A     Yes, I did.

7           Q     -- response, right?

8           A     Yes, I did.

9           Q     Would you turn on -- the attachments are  
10  numbered -- page 12.

11                   MR. BROCATO: Are you looking at  
12  Exhibit 17?

13                   THE WITNESS: 19.

14                   MS. BIRCH: 19.

15                   THE WITNESS: Yes. I've got it.

16                   MS. BIRCH: I was waiting on your  
17  attorney to --

18                   MR. BROCATO: I'm ready. I'm  
19  there. Thank you.

20                   MS. BIRCH: Okay.

21           Q     **(By Ms. Birch) And this lists the benefits**  
22  **of the Value of Solar tariff.**

23           A     Correct.

24           Q     Would you state what those are?

25           A     Well, it's stated on the side. They -- the



1 Value of Solar tariff ensures that we recover fixed  
 2 costs, it avoids one of the inherent problems with net  
 3 energy metering, especially when you have an inclining  
 4 block rate structure such as Austin Energy has. It  
 5 does ensure equity in terms of ensuring that customers  
 6 who don't have solar are not paying for solar for those  
 7 customers. It represents the value of local generation  
 8 and, as I said, relative to the inclining block rate  
 9 structure. It promotes conservation and energy  
 10 efficiency.

11 Q So I'm assuming that you agree with these  
 12 benefits as listed, correct?

13 A I do.

14 MS. BIRCH: Your Honor, would it be  
 15 easier to offer each exhibit as I go? Do you have a  
 16 reference?

17 MR. HERRERA: It's entirely up to  
 18 you.

19 MS. BIRCH: I offer --

20 MR. HERRERA: So long as we know  
 21 that each exhibit is offered.

22 MS. BIRCH: We offer PC-SC  
 23 Exhibit 19.

24 MR. HERRERA: Any objections?

25 THE WITNESS: If I might, it should

1 be important to note that this applies to residential  
2 customers, not to commercial customers who pay a  
3 different form of tariff than residential customers.

4 MR. BROCATO: No objection.

5 MS. BIRCH: We're not to that issue  
6 yet.

7 MR. HERRERA: PC-SC Exhibit 19 is  
8 admitted.

9 Q (By Ms. Birch) And now if you'd look at  
10 Exhibit 17.

11 A I've got it.

12 Q Which has a front and back, which is the  
13 Value of Solar rider and the non-residential rider,  
14 correct?

15 A Correct.

16 Q Do you agree that these documents, which were  
17 taken from the tariff pack -- from the current tariff,  
18 excuse me, are the current policy for compensating  
19 customers for on-site solar generation?

20 A Yes, I do.

21 MS. BIRCH: We offer Exhibit 17,  
22 PC-SC Exhibit 17.

23 MR. HERRERA: Any objection?

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

1 MR. HERRERA: It's admitted.

2 MS. COOPER: Nor have I.

3 Q (By Ms. Birch) Please look at PC-SC

4 Exhibit 23.

5 A I have it.

6 Q Which is Austin Energy response to our fourth  
7 request for information, correct?

8 A Correct.

9 Q Can you confirm that you prepared these  
10 responses?

11 A Yes. They were prepared by me or under my  
12 supervision.

13 MR. HERRERA: Which number was  
14 that, Ms. Birch?

15 MS. BIRCH: 23.

16 Q (By Ms. Birch) On page 2 in response to  
17 question 4-1 you stated that Austin Energy has a  
18 process to determine proper transformer sizing and is  
19 working to develop constraints and possible new  
20 procedures, correct?

21 A That's correct.

22 Q Does this need arise from any anticipated  
23 change to how commercial or residential solar customers  
24 will be compensated?

25 A No. It does not. It has to do only with the

1 concentration of solar systems on a distribution  
2 feeder.

3 THE REPORTER: On a distribution  
4 what?

5 THE WITNESS: Feeder. I'm sorry.

6 Q (By Ms. Birch) And on page 3, which is in  
7 response to question 4-2, you stated that in some cases  
8 the transformer was required to be upgraded at the  
9 requesting customer's cost. I want to make sure my  
10 question makes sense.

11 A That's correct. It is at the cost of --

12 Q In order to prevent potential power quality  
13 impacts to local infrastructure.

14 A That is correct.

15 Q How long has this policy been in place, do  
16 you know?

17 A I don't know.

18 Q Does Austin Energy intend to maintain this  
19 policy?

20 A To the best of my knowledge.

21 Q Under current policy are there any exceptions  
22 where Austin Energy does pay for any infrastructure  
23 upgrades needed to accommodate commercial solar  
24 installations?

25 A I'm not aware of those.

1           Q     When multiple commercial customers are served  
2     by the same transformer is it possible that one  
3     customer's solar energy production can serve one or  
4     more of those other commercial customer's loads without  
5     any impact on the transformer?

6           A     I don't know the answer to that question.  
7     I've not seen that yet.

8           Q     What was the last part of your answer?

9           A     I've not seen that.  Simply put, a solar  
10    system should serve the load of the customer who has  
11    purchased the solar system and should be sized  
12    accordingly.

13          Q     My question was is it possible.  Can you  
14    answer that?

15          A     That's an engineering question, and I really  
16    can't --

17                   THE REPORTER:  It's a what  
18    question?

19                   THE WITNESS:  An engineering  
20    question.  I'm sorry.  I can't answer that.

21                   THE REPORTER:  Could you speak  
22    closer to the microphone?

23                   THE WITNESS:  I was -- yeah.  I'm  
24    sorry.  I was -- I'll move the microphone so it's in  
25    your direct line of sight.  Sorry.

1 MS. BIRCH: We offer PC-SC  
2 Exhibit 23, Your Honor.

3 MR. HERRERA: Any objection?

4 MR. BROCATO: No.

5 MR. HERRERA: It's admitted.

6 Q (By Ms. Birch) Turn to Exhibit 21.

7 A I have the exhibit here.

8 Q Are the Commercial Solar -- I'll try to  
9 pronounce this right -- Photovoltaic Performance-Based  
10 Incentive Program Guidelines in this exhibit the  
11 current policy at Austin Energy?

12 A Yes.

13 Q Would you please turn to page 3 of the  
14 guidelines and read subsection K?

15 A Subsection K reads, "All PV systems must be  
16 interconnected to Austin Energy's electrical grid at  
17 customer's expense, in accordance with Austin Energy's  
18 "Distribution Interconnection Guide for Customer Owned  
19 Power Production Facilities less than 10 megawatts,"  
20 which can be found at the Electric Service Design &  
21 Planning Section of the Austin Energy website."

22 Q Would you please look at Exhibit 20? And is  
23 that the document referred to in letter K in --

24 A Yes. I believe it is.

25 Q -- this exhibit?

1           A     Yes. I believe it is.

2           Q     **Okay. Are the policies contained in this**  
3 **interconnection guide current?**

4           A     I'd have to read through all the policies  
5 that are set forth here, and as you can see -- are you  
6 talking about Exhibit 20, Ms. Birch?

7           Q     **Yes.**

8           A     Exhibit 20 is 63 pages long, and I am not,  
9 unless you want me to go through each and every one of  
10 these pages page by page, I'm frankly not able to  
11 respond to that. I can tell you that there have been  
12 some recent changes in our policies.

13                         So for example, in looking at  
14 Exhibit 20, page 8, we have recently modified the  
15 requirements for a DGPA -- this is a form, a  
16 distribution generation planning application -- and so  
17 I cannot attest to the fact that these are the most  
18 complete policies that govern the installation of  
19 systems and the approvals required.

20           Q     **Are there any other changes that you can**  
21 **recall?**

22           A     Off the top of my head right now I can't, but  
23 there may have been.

24           Q     **Could you tell me who would know or where we**  
25 **can get that information?**

1           A     My staff, Danielle Murray of my staff would  
2     know. There've been recent changes.

3           Q     Would they be posted anywhere? I mean, if  
4     they're changes to the policy --

5                     MR. BROCATO: Your Honor, perhaps  
6     they can indulge me. I'm not sure what this is  
7     relevant to, a specific recommendation that they've  
8     made in the presentation that this relates to?

9                     MR. HERRERA: Ms. Birch? Your  
10    objection is relevance?

11                    MR. BROCATO: Yes, Your Honor.

12                    MS. BIRCH: We're talking about the  
13    policies relating to applying the Value of Solar to  
14    commercial customers, which is one of our issues we've  
15    raised.

16                    MR. HERRERA: I'll overrule the  
17    objection.

18           Q     **(By Ms. Birch) Let me ask you this,**  
19    **Ms. Kimberly. To the extent these policies are the**  
20    **current policies, does Austin Energy intend to maintain**  
21    **them?**

22           A     Yes. But policies are always subject to  
23    change based on engineering circumstances and other  
24    factors.

25           Q     But as you testified today, it's your



1     **understanding that the intent is to maintain these**  
2     **policies?**

3           A     Yes. Subject to change as may be needed to  
4     maintain the reliable operation of the system.

5           Q     **Are the policies and the guide working well**  
6     **to protect utility infrastructure while allowing**  
7     **customers to use on-site solar energy?**

8           A     At present, yes.

9                     MS. BIRCH: Your Honor, we'd offer  
10    PC-SC Exhibits 20 and 21.

11                    MR. HERRERA: Any beyond a  
12    relevance objection, your -- Mr. Brocato?

13                    MR. BROCATO: It looks like these  
14    are AE documents. I'm not sure if these are the  
15    current ones or not. I'm not sure. The witness hasn't  
16    been able to really authenticate these. If she can do  
17    that, then I won't have an objection.

18                    MR. HERRERA: Ms. Birch, do you  
19    want to take the witness through questions to see if  
20    you can get her to authenticate these documents?

21                    THE WITNESS: I can tell you these  
22    were, these were current as of December 15th, 2015.

23                    MS. BIRCH: Thank you.

24                    MR. BROCATO: No objection.

25                    MR. HERRERA: They're admitted.

1           Q     (By Ms. Birch) Would you please look at  
2     PC-SC Exhibit 22? Which is titled "Distributed  
3     Generation Planning Application," correct?

4           A     Correct.

5           Q     Do you know if this document is current?

6           A     I don't know. As I stated a moment ago, we  
7     recently revised some of our procedures related to  
8     DGPAs, and so I do not know.

9           Q     Would the revised versions of these be on the  
10    website?

11          A     I believe they would.

12                   THE REPORTER: What's that word  
13    you're saying, DIG-buh's?

14                   THE WITNESS: Oh. It's  
15    Distribution General Planning Application.

16                   THE REPORTER: (Nods head.)

17                   MR. HERRERA: It's an acronym,  
18    DGPA.

19                   THE REPORTER: Thank you.

20          Q     (By Ms. Birch) Would you please look at  
21    Exhibit 23?

22          A     Okay.

23          Q     Which I will identify as Austin Energy's  
24    response to our fourth request for production.

25          A     Yes.

1           Q     Looking at page 2, it appears from your  
2     response that Austin Energy does not pay for any  
3     transformer upgrades needed to accommodate on-site  
4     solar; is that correct?

5           A     That's correct.

6           Q     And you sponsored this response, correct?

7           A     I did.

8                     MR. HERRERA: Did you say 23,  
9     Ms. Birch?

10                    MS. BIRCH: Yes, Your Honor. 23.  
11     We offer PC-SC Exhibit 23.

12                    MR. HERRERA: Which one?

13                    MS. BIRCH: 23.

14                    MR. HERRERA: I thought you had  
15     offered that earlier. Maybe I missed it. Any  
16     objection to 23?

17                    MR. BROCATO: I have no objects to  
18     23, 24, or 25. These are all RFIs sponsored by  
19     Ms. Kimberly. If you want to just do that now, we can  
20     dispense with going through each one.

21                    MR. HERRERA: Were you going to  
22     offer 22, Ms. Birch?

23                    MS. BIRCH: No, Your Honor. And  
24     Mr. Brocato, you have no objection to 24, 25?

25                    MR. BROCATO: No.

1 MR. HERRERA: 24 and 25 are  
2 admitted.

3 Q (By Ms. Birch) Let's move on to Exhibit 25,  
4 which is Austin Energy response to our second request  
5 for information --

6 A Okay.

7 Q -- question 2-6, and in your response you  
8 make several statements. You indicate that the  
9 performance-based incentive, or the PBI, will be phased  
10 out by 2020 at the latest, correct?

11 A That is correct.

12 Q And that the next rate case isn't scheduled  
13 to take place until 2021; is that correct?

14 A If rate proceedings are held every five  
15 years, that is correct. I might also add that the  
16 phase-out of performance-based and residential  
17 incentives is consistent with the Generation Resource  
18 Plan, which stipulated that upon reaching a set level  
19 of capacity, incentives would be eliminated.

20 Q Do you agree that according to the current  
21 policy the PBI will be phased out before the next rate  
22 case takes place?

23 A Depending on market conditions, that may  
24 happen.

25 Q Does that mean the rate, the next rate case

1     **could occur before 2021, or you might change it outside**  
2     **of a rate case?**

3           A     What it means is this, the next rate  
4     proceeding could occur before or after 2021. It could  
5     also mean that solar cost may change, in which case  
6     uptake of solar systems or installation of solar  
7     systems may change. And so it's a function of various  
8     factors, not simply the timing of the next rate  
9     proceeding.

10          Q     But according to the anticipated rate case  
11     **schedule, it would be phased out, correct, before the**  
12     **next rate hearing?**

13          A     If we achieve the targeted amount of solar  
14     installations and if we adhere to an every-five-year  
15     rate proceeding, that would be the case.

16          Q     We're handing you what's previously admitted  
17     **PC-SC Exhibit 4.**

18          A     Another exhibit. Okay.

19          Q     **As soon as I find my copy.**

20                         MR. HERRERA: Are we finished with  
21     25, Ms. Birch?

22                         MS. BIRCH: I'm not sure. I'm not  
23     sure, Your Honor.

24          Q     **(By Ms. Birch) Would you turn to page 5 and**  
25     **look at the first paragraph under "Solar," please? And**

1     **this is the generation plan, correct, for 2025?**

2           A     Okay.

3           Q     I mean, this is the generation -- you're  
4     **familiar with this document?**

5           A     Yes, I am.

6           Q     In the last sentence do you see the phrase  
7     **"by 2025 absent further incentives"?**

8           A     Yes, under the first paragraph under the  
9     heading "Solar" I do.

10          Q     **Can you explain what that means?**

11          A     Well, it's stated in the document. I can  
12     read into the record. "To ensure affordability, the  
13     plan recommends implementing a phase down of  
14     residential and commercial incentive programs to  
15     achieve the first 110 megawatts of the local solar goal  
16     by 2020, including at least 70 megawatts of  
17     customer-sited solar. Current projected cost declines  
18     of solar, technology improvements, and financing  
19     alternatives and the implementation of supportive solar  
20     policies shall be utilized to enable the city to  
21     achieve the 200 megawatt goal -- including at least 100  
22     megawatts of customer-sited local solar -- by 2025  
23     absent further incentives."

24          Q     **Doesn't that mean that solar installed**  
25     **between 2020 and 2025 would be without incentive?**

1           A       What it means is including at least 100  
2   megawatts of customer-sited local solar by 2025,  
3   assuming there are no further incentives.

4                   Let me make clear that during the course  
5   of the resource plan it was agreed upon by all parties  
6   that incentives would go away as the cost of solar  
7   declined and that at the point where the cost of solar  
8   became low enough, there would no longer be a need to  
9   pay incentives in order to incentivize that, that  
10   technology.

11           **Q       Do you believe this paragraph indicates that**  
12   **there could be incentives after 2020?**

13           A       I can tell you I was not involved in all of  
14   the discussions, but I can tell you that at the time  
15   this was developed -- which, by the way, presumed that  
16   tax incentives would not be continued -- it was  
17   expected even with the expiration of those tax  
18   incentives that incentives would not be required beyond  
19   a certain point in time because the technology would  
20   become cost-effective and would no longer require an  
21   incentive to motivate customers to install solar.

22           **Q       So is that a no? The question I asked called**  
23   **for a yes or no response. So I'm not sure what your**  
24   **response is.**

25           A       My response is once Austin Energy achieves 70

1 megawatts of customer-sited solar, incentives would go  
2 away, in accordance with the Generation Resource Plan.

3 Q Well, if you haven't achieved the goals by  
4 2020, will the incentives continue?

5 A Yes. Because it's all a function of  
6 achieving a certain level of capacity.

7 Q Okay. Other than PBI, do commercial  
8 customers with on-site solar larger than 20 megawatts  
9 receive any benefit from energy produced that is fed  
10 onto the grid?

11 A The customers receive the benefit of the  
12 solar systems they install by reducing their reliance  
13 on energy delivered from the grid, and thus, they pay a  
14 lower bill as a result.

15 Q That wasn't my question, Ms. Kimberly. I'm  
16 asking about energy produced that is fed onto the grid.

17 A It is not the intent of our, of our policies  
18 to encourage customers to feed energy onto the grid.  
19 In the case of a commercial installation, it is  
20 intended to be sized to meet that customer's daytime  
21 load.

22 Q So is that a no?

23 A Restate your question, please, Ms. Birch.

24 Q Other than PBI, do commercial customers with  
25 on-site solar larger than 20 megawatts receive any



1     **benefit from energy produced that is fed onto the grid?**

2           A     I would say yes, but I don't believe you're  
3     accurately stating the manner in which the solar system  
4     operates.

5           **Q     Well, what is the benefit then?**

6           A     They lower their electricity bills. They are  
7     producing energy on site, which means they use less  
8     grid-fed energy, thus lowering their kWh consumption  
9     from grid-fed energy.

10          **Q     Well, I don't believe that's responsive to my**  
11     **question, because what I'm asking about is when they**  
12     **produce energy beyond what they use so that it's fed**  
13     **back onto the grid.**

14          A     There's generally no incentive -- incentive,  
15     and I don't mean that in the sense of a PBI  
16     incentive -- for a customer to oversize their system.  
17     You would size your system to meet your daytime load.  
18     Why would I invest more money in a larger system than  
19     what I need to, frankly, serve my daily operations?  
20     That does not make economic sense.

21          **Q     So I just, I can't keep up with your answers.**  
22     **I'm asking again, is that a no?**

23          A     I'm saying that it's a yes. They receive a  
24     benefit, but your question was do they receive a  
25     benefit from energy that is fed onto the grid?

1           **Q     Yes.**

2           A     Okay. The answer, Ms. Birch, quite simply  
3 put, would be no. And in fact, if they have oversized  
4 a system, it could cause problems on the grid. Do you  
5 follow my --

6           **Q     I understand that.**

7           A     -- line of reasoning?

8           **Q     I was just --**

9           A     But it -- okay.

10          **Q     -- [crosstalk] asking.**

11                         MS. BIRCH: Before I forget, Your  
12 Honor, I offer PC-SC Exhibit 25.

13                         MR. HERRERA: I think it was  
14 already admitted.

15                         MS. BIRCH: Oh, he stipulated to  
16 that one.

17          **Q     (By Ms. Birch) If a customer's energy demand**  
18 **skews more toward evening hours, would you expect**  
19 **on-site solar to be an attractive option without PBI or**  
20 **net metering?**

21          A     If it skews towards nighttime consumption?  
22 No. They should size, as I just stated, their solar  
23 system to meet their daytime load. It would be  
24 inappropriate to size a system that relies on energy  
25 from the sun to meet your nighttime load.

1           Q     So your answer is no?

2           A     That's correct.

3           Q     Okay. Is the same true for a commercial  
4     entity that's closed one or more days in a week?

5           A     Again, the customer should size their system  
6     accordingly. So the answer would be the same.

7           Q     On average, is it more costly to serve  
8     nighttime or daytime load?

9           A     On average, it's more costly to serve daytime  
10    load.

11          Q     Does Austin Energy encourage its customers to  
12    shift their load from daytime to nighttime hours?

13          A     Yes, it does.

14          Q     Approximately what percentage of Green Choice  
15    revenue comes from commercial customers?

16          A     I don't know the answer to that question off  
17    the top of my head.

18          Q     Do you know who would?

19          A     You could probably ask Mr. Maenius or  
20    somebody in the finance group that question.

21          Q     What about the number of customers?

22          A     I don't know if I have the number of  
23    customers off the top of my head, Ms. Birch.

24          Q     Would it be technically feasible to implement  
25    the Value of Solar tariff for commercial customers

1     **while maintaining existing demand charges through**  
2     **proper configuration of the various meters?**

3           A     No. Not necessarily.

4           **Q     Can you explain why?**

5           A     As stated in my response to the request for  
6     information, Austin Energy is open to considering a  
7     Value of Solar for commercial customers in the larger  
8     context of a review of our solar offerings, and I would  
9     not conflate incentives such as the PBI with something  
10    like the Value of Solar. Keep in mind that commercial  
11    customers pay a lower energy charge, because we charge  
12    a separate fee for demand or for fixed charges.

13                   In the case of residential customers,  
14    they pay very little in terms of a fixed charge, but  
15    predominantly, all of the -- or a large portion of  
16    their fixed costs are recovered in volumetric rates,  
17    and that was one of the primary reasons for  
18    implementing the Value of Solar.

19           **Q     So can you tell us what the technical**  
20    **barriers are?**

21           A     For implementing the commercial Value of  
22    Solar?

23           **Q     Yes.**

24           A     So as I state it again, it would need to be  
25    viewed more holistically. Would you look at

1 implementing a Value of Solar in lieu of a  
2 performance-based incentive? That's a question that  
3 needs to be asked and answered. Would you look at, for  
4 example, a modified calculation? Keep in mind that the  
5 Value of Solar is structured based on a residential  
6 customer as opposed to a commercial customer. As I  
7 stated in my request -- response to your request for  
8 information, a commercial customer can be 200 to 500  
9 times the size of a residential customer's  
10 installation, and so it is not a fair assumption to  
11 assume that the residential Value of Solar tariff would  
12 translate into the same tariff for a commercial  
13 customer.

14 **Q So do you believe that the question that you**  
15 **said should be asked and answered hasn't -- I mean,**  
16 **shouldn't it be asked and answered?**

17 **A** As I believe Austin Energy has alluded to and  
18 stated publicly, we would welcome an opportunity to  
19 look at all of our solar offerings in a more holistic  
20 fashion. That may include looking at incentives for  
21 orientation or for the installation of smart inverters.  
22 But as I stated, directly applying a Value of Solar  
23 tariff as is currently structured for residential  
24 customers which pay their fixed charges in a volumetric  
25 rate would not transfer into a commercial Value of

1 Solar that is the same as our current residential.

2 Q Do you remember meeting with representatives  
3 from Solar Austin in July of 2015 to discuss the  
4 possible expansion of the Value of Solar tariff to  
5 commercial customers?

6 A Yes, I do.

7 Q And didn't you state in that meeting that you  
8 believed that such a change should be addressed in the  
9 upcoming rate case?

10 A I don't recall.

11 Q Well, this is the rate case.

12 A I don't recall making that statement,  
13 Ms. Birch.

14 Q If commercial customers were compensated for  
15 energy produced by on-site solar energy systems with  
16 the Value of Solar tariff, do you believe that the  
17 performance-based incentive could be reduced or  
18 eliminated for most commercial solar installations  
19 without making solar less attractive to customers?

20 A I believe it needs to be evaluated in the  
21 context of the -- in the, excuse me, in the context of  
22 an alternative to a PBI, or performance-based  
23 incentive.

24 Q If more of the solar incentive budget were  
25 allocated to residential customers, would you expect

1    **more such customers to be able to benefit from solar?**

2           A     It already is predominantly allocated to  
3    residential customers. Keep in mind the commercial PBI  
4    is paid out over a period of 10 years. We have a 7 and  
5    a half million dollar annual incentive budget.  
6    1.4 million of that is directed to annual PBI payments  
7    to commercial customers and the balance to residential  
8    customers.

9           Q     **My question was if more of the solar**  
10    **incentive budget were allocated to residential**  
11    **customers.**

12          A     I don't think it would change it at all. We  
13    already, we already allocate a significant portion to  
14    residential customers.

15          Q     **With respect to Exhibit 24, would you confirm**  
16    **that you prepared that response and that it's accurate?**

17                       MR. BROCATO: It's already in the  
18    record, Your Honor.

19                       THE WITNESS: Yes.

20          Q     **(By Ms. Birch) Would you look at Exhibit 26?**

21          A     Okay.

22          Q     **On page 7 in the right-hand column it**  
23    **indicates that Austin Energy intends to present a**  
24    **proposed community solar subscription model to council**  
25    **sometime between May and June. Is that still your**

1     **current plan?**

2           A     No.  It is not.

3           **Q     What's the current plan?**

4           A     The current plan is to -- for the community  
5     solar offering is to have a better assurance as to when  
6     the system will be operational, and we expect that that  
7     will be by the end of the calendar year.  Ideally, we  
8     will be able to take that forward this summer, but it  
9     may not be as early as May or June.  It may be a bit  
10    later.

11                   I mean, we are already through with May.  
12    We are in June.  The solar installation has yet to  
13    proceed through the planning review process at the  
14    Development Services Department, and so I cannot  
15    predict when that will be complete, but it is our hope  
16    that by no later than the August timeframe, hopefully  
17    no later than the very first few days of September, we  
18    would have that tariff developed.

19           **Q     I refer you to page 8.**

20                   MR. BROCATO:  Of what?

21                   MS. BIRCH:  Of Exhibit 26.

22                   THE WITNESS:  Okay.

23           **Q     (By Ms. Birch)  The first community solar**  
24    **program model option presented is described as a**  
25    **capacity-based subscription in which the participant**



1 receives solar credits on his or her bill, correct?

2 A That's correct.

3 Q Can you confirm that such a model would rely  
4 on either the existing Value of Solar tariff or a new  
5 Value of Community Solar tariff?

6 A Yes. I believe so.

7 Q Are you familiar with the community solar  
8 survey that Austin Energy recently conducted?

9 A We are in the process of conducting a survey  
10 now. We held focus groups, but we are in the process  
11 of fielding a survey now. We do not have the results  
12 of the survey.

13 Q So it's currently --

14 A In the field.

15 Q -- being done?

16 A That correct.

17 Q So my questions aren't about the results. My  
18 next question is, did Austin Energy provide  
19 descriptions of the options for community solar program  
20 models along with estimated costs and savings for  
21 participants?

22 A In focus groups or in the survey? Could you  
23 please clarify?

24 Q In the survey. I understand you don't have  
25 the results.

1           A     Right.  Yes.  I believe so.

2           Q     For the capacity-based subscription options  
3     presented in the survey did Austin Energy present that  
4     the benefits were calculated based on the existing  
5     Value of Solar rate?

6           A     I don't know.  I can't -- I honestly do not  
7     have that information in front of me.

8           Q     Does Austin Energy intend to utilize the  
9     existing Value of Solar tariff for the community solar  
10    program if the capacity-based subscription model is the  
11    one ultimately chosen?

12          A     I can't answer that question.

13                         MS. BIRCH:  Your Honor, I offer  
14    PC-SC Exhibit 26, which I'll identify for the court  
15    reporter as "Community Solar Update."

16                         MR. HERRERA:  Any objection?

17                         MR. BROCATO:  It's obviously marked  
18    as an AE presentation, but I'm not sure if the witness,  
19    whether -- I'm still not sure it's been fully  
20    authenticated.

21                         MR. HERRERA:  I didn't hear that  
22    either, Ms. Birch.

23          Q     (By Ms. Birch)  Ms. Kimberly, can you  
24    identify what this is?

25          A     Yes.  But it does not have a date on it,

1 and -- oh, maybe it is at the very bottom. Oh, the  
 2 date at the bottom, this is a very old presentation,  
 3 it's dated August 27th, 2014. Is that correct? It  
 4 doesn't have a date that's printed on it from my staff,  
 5 so I don't know the date on which this was presented.

6 Q Well, if I represent to you that it came from  
 7 the recent -- the resource -- the recent resource  
 8 management --

9 A Can you give me a date of the resource  
 10 management committee meeting?

11 Q We can get that date. Well, in the interest  
 12 of time we'll --

13 A Okay.

14 Q -- move on --

15 A That's fine.

16 Q -- and come back to that one so we can have  
 17 that answer for you.

18 A Okay. So let's talk --

19 MR. HERRERA: I couldn't hear you,  
 20 Ms. Birch.

21 MS. BIRCH: I said we need to find  
 22 the date of the meetings so she can --

23 MR. HERRERA: So you're withdrawing  
 24 your offer of Exhibit 25 --

25 MS. BIRCH: At this time.

1 MR. HERRERA: -- at this point?

2 MS. BIRCH: At this time.

3 THE WITNESS: I'm sorry. I'm up  
4 here every single month, and I can't remember what was  
5 presented when.

6 Q (By Ms. Birch) Well, let's talk about the  
7 energy efficiency services fee for awhile.

8 A Thank you.

9 Q When Austin Energy first introduced the 2016  
10 rate tariff package you were proposing to charge all  
11 customer classes who currently pay a uniform rate with  
12 a slight reduction for primary voltage and transmission  
13 classes, correct?

14 A I believe that's the case. Yes.

15 Q Would you turn to Austin Energy's Exhibit 1  
16 in the notebook, the tariff package itself, page number  
17 169?

18 A Okay.

19 Q And under 6.7.3, the third paragraph, it  
20 says, "Austin Energy recommends designing and applying  
21 the EES rates on a system basis without class  
22 distinction," correct?

23 A That's what it states.

24 Q And weren't Public Citizen and Sierra Club in  
25 general support of this approach to charge all classes

1     **a uniform fee?**

2           A     I don't know. I haven't had discussions with  
3     Public Citizen and Sierra Club about the energy  
4     efficiency services fee. There may be others at Austin  
5     Energy that have had that dialogue, but I personally  
6     have not.

7           Q     **I'm talking about in this rate case.**

8           A     That would call for me to speculate. I don't  
9     know.

10          Q     **Well --**

11                         MS. BIRCH: I apologize. Documents  
12     keep disappearing from this table.

13          Q     **(By Ms. Birch) Ms. Kimberly, have you seen**  
14     **the position statements filed by Austin -- by Public**  
15     **Citizen and Sierra Club in this case?**

16          A     If you can show it to me, I can look at it.  
17     Okay. I've got it in front of me now.

18                         MR. BROCATO: Your Honor, if I may,  
19     what are they showing the witness?

20                         MR. HERRERA: Ms. Birch, could you  
21     tell us what you're showing -- what the point of --

22                         MS. BIRCH: I'm sorry.

23                         MR. HERRERA: -- your question is,  
24     please?

25                         MS. BIRCH: PC-SC Exhibit 1.

1 MR. HERRERA: That doesn't tell me  
2 anything, Ms. Birch.

3 MS. BIRCH: I'm sorry. It's our  
4 position, corrected position statement.

5 MR. BROCATO: Is there a page  
6 you're showing?

7 MS. BIRCH: I'm looking for it,  
8 Mr. Brocato.

9 Q (By Ms. Birch) Could you turn to page 30?

10 A I'm there. So I'll help you out here. Are  
11 you looking at the bottom of the page?

12 Q Yes.

13 A Okay. Okay. I'm there.

14 Q I mean, doesn't it say we support the effort,  
15 meaning Austin Energy's effort, to simplify the EES to  
16 have fewer different rates among the customer classes?

17 A Yes. That partial statement is what is  
18 before me. Yes.

19 Q Okay. But Austin Energy is now offering a  
20 new proposed structure for the EES tariff, correct?

21 A That is correct.

22 Q When did you become concerned that the  
23 proposed structure originally presented in the rate  
24 package wouldn't meet Austin Energy's objectives?

25 A Is this a question directed at me personally

1 or --

2 Q Yes. You personally.

3 A I believe I read the proposal, all 179 pages,  
4 probably around January 30th or 31st. It was a  
5 weekend.

6 Q Which proposal?

7 A This is the cost of service filing. So your  
8 question is when -- if I, if I could state your  
9 question. Your question is, when did I personally  
10 become concerned, was that the question, that the  
11 tariff was not in alignment with cost causation? Was  
12 that the question?

13 Q Yes.

14 A Okay. So the tariffs were filed January  
15 25th. I believe I read through the tariffs towards the  
16 end of January. Following that period of time there  
17 was a fair amount of effort to just absorb all of the  
18 information, and then once the process began, and so I  
19 would say into the spring, various intervenors,  
20 including Public Citizen and Sierra Club, noted that  
21 there were issues relative to cost causation, and in  
22 that effort my staff, as well as the staff of Russell  
23 Maenius, looked at historically the collection of  
24 revenues and the payment of rebates to commercial and  
25 residential customers and determined that the, the

1 revenues that were collected based on consumption  
2 skewed more towards commercial customers but that  
3 rebates that were paid skewed more towards residential  
4 customers.

5                   And so I believe the line of questioning  
6 that you are going after is probably best deferred to  
7 Mr. Maenius, who is the manager of our finance group  
8 who did much of the work to look at the cost causation  
9 system issue and smooth out variances that we see year  
10 over year. And so it is my assumption that the  
11 original proposal was made to try to smooth out  
12 inter-year changes in that tariff, which is a  
13 pass-through. It is not a base rate charge, but the  
14 effect was to increase the subsidization of residential  
15 customers by commercial customers, one of the very  
16 issues that we are trying to address relative to cost  
17 of service.

18           **Q     Ms. Kimberly, my question was just when, and**  
19 **your answer to that was the end of January?**

20           A     As I stated in my response to your request  
21 for information, that period of time ran from February  
22 1st to I believe May 20th. So it was not a single  
23 date. It was a period of time.

24           **Q     Well, there was a single date when you began**  
25 **considering, and that's what I asked.**



1           A     I don't have a single date.

2           **Q     It's not a trick question.**

3           A     I can only tell you that I first was briefed  
4     on the tariff package on February 1st, the tariff  
5     package which is 180 pages long. So I cannot tell you  
6     a specific date.

7           **Q     Would it be fair to say that the newly**  
8     **proposed structure would double the proposed fee for**  
9     **residential customers from the proposal you filed in**  
10    **the rate package?**

11          A     I need to refer to the chart. It would  
12    increase the proposed rate from 2.46 mills -- a mill is  
13    a tenth of a cent -- to 4.7 mills for residential  
14    customers.

15          **Q     So that's approximately double?**

16          A     Approximately double.

17                         MR. HERRERA: What were those  
18    numbers again, please, Ms. Kimberly?

19                         THE WITNESS: 2.46 as initially  
20    proposed, 2.46 mills increasing to 4.7 mills.

21          **Q     (By Ms. Birch) And it would also reduce by**  
22    **roughly half the proposed fee on all other customer**  
23    **classes; is that correct?**

24          A     Yes.

25                         MR. HERRERA: Ms. Kimberly, do you

1 know what the average consumption is for a residential  
2 customer?

3 THE WITNESS: The average  
4 consumption for a residential is roughly 930kWh per  
5 month.

6 MR. HERRERA: Is that an annual  
7 number?

8 THE WITNESS: Yes. Yes, sir.

9 MR. HERRERA: Do you know what it  
10 is based on a summer/winter differential? If you  
11 don't, that's fine. Don't look at me like that.

12 THE WITNESS: I'm awash in exhibits  
13 here, Your Honor. No. I don't know, and it's --

14 MR. HERRERA: That's fine.

15 THE WITNESS: No. I don't know.  
16 I'm sorry.

17 MR. HERRERA: That's fine.

18 Q (By Ms. Birch) I believe you have PC-SC  
19 Exhibit 15 in your packet, Ms. Kimberly. It's already  
20 been admitted, but it should be in yours.

21 A Right. I do.

22 Q And it's Austin Energy's response to our  
23 first request for information?

24 A Correct.

25 Q Would you look at page -- well, the third

1     **page of the exhibit.**

2           A     Page --

3           Q     **It's number 24 at the bottom.**

4           A     Yes. I've got it.

5           Q     **So it is page 24 of your response.**

6           A     Right. I've got it.

7           Q     **And that shows that in 2012, 2014, and 2015**  
8     **residential customers paid roughly half the revenues of**  
9     **the EES fee; is that correct?**

10          A     Yes.

11          Q     **Do you still believe those numbers are**  
12     **accurate?**

13          A     The statement you just made I want to  
14     clarify. This is FY13 through '15, correct? That's  
15     what you said? I thought I heard 2012. You said FY13  
16     through '15, correct?

17          Q     **You're right. It's 2013 through 2015.**

18          A     Yes, with the provision that FY15 is  
19     unaudited.

20          Q     **In your -- the recent analysis that found**  
21     **that commercial customers are receiving 40 percent of**  
22     **the rebate and incentive budget, did the analysis**  
23     **consider the administrative costs for rebates and**  
24     **incentives?**

25          A     I believe it considered only the rebates, but

1 I would have -- that would be subject to check.

2 Q Is there any way to get that information for  
3 this proceeding?

4 A You may want to direct that question to  
5 Mr. Maenius when -- because his group was the one that  
6 performed the analysis that supported the calculation  
7 of the tariffs. Obviously, I don't have all of these  
8 numbers at my fingertips.

9 Q Well, we're looking for an exhibit, but you  
10 did say that you believed it only -- that it did not  
11 consider the administrative cost?

12 A I don't believe it did.

13 Q So let's make that assumption.

14 A Okay.

15 Q Let's assume that's correct for the moment.  
16 Shouldn't they have been considered?

17 A I don't know.

18 Q Who would know?

19 A Even if you were to assume the administrative  
20 cost associated with those programs, quite honestly, I  
21 believe you would find that the benefits would accrue  
22 more to residential customers. Take for example the  
23 low-income weatherization program. There are high  
24 administrative costs that are associated with that  
25 program, whereas, with commercial customers the

1 administrative costs can be quite [inaudible].

2 THE REPORTER: Quite what?

3 THE WITNESS: Less, lower. Again,  
4 without the, without the spreadsheets in front of me,  
5 and I am not trying to be obtuse here, I really don't  
6 have the ability to pull those numbers out. So I  
7 apologize for that, but I don't have those spreadsheets  
8 in front of me.

9 Q (By Ms. Birch) In that analysis that we're  
10 talking about, the one that found commercial customers  
11 are receiving only 40 percent of the budget for  
12 incentives and rebates, how did you classify  
13 multifamily rebates, as residential or commercial?

14 A Residential.

15 Q Would you look at Exhibits, PC-SC Exhibits 29  
16 and 30? Can you identify Exhibit 29?

17 A Yes, I can.

18 Q Would you?

19 A Exhibit 29 reads, "Customer Energy Solution  
20 Program Progress Report 2014 through 2015." Exhibit 30  
21 is the same report for the period 2015 through 2016.  
22 In other words, fiscal year '15 versus fiscal year '16.

23 Q Would you look at the back of each of those?

24 A Yes.

25 Q And would you agree that the summary tables

1 from those two customer service reports show that  
2 Austin Energy classifies multifamily programs as  
3 commercial projects?

4 A For the purposes of the entity receiving the  
5 rebate that is correct.

6 Q Who, who do those multifamily rebates get  
7 issued to?

8 A The property owner. The benefit, however,  
9 accrues to the occupants of those properties.

10 Q How can you ensure that? Isn't it up to the  
11 property owner?

12 A No. The measures that are undertaken serve  
13 to lower the energy consumption at those properties.  
14 The occupants of those properties, residential  
15 customers, pay into the energy efficiency services  
16 tariff, and when those homes are improved they receive  
17 the benefit in terms of having an improved building  
18 that results in lower energy consumption, all else  
19 being equal.

20 Q How do you know the property owner doesn't  
21 raise the rent?

22 A Because we conduct a study every six months,  
23 and to date we've done that now since 2013 and we have  
24 never found a positive correlation between rent  
25 increases and adoption of the program.

1 MS. BIRCH: Your Honor, I offer  
2 PC-SC Exhibits 29 and 30.

3 MR. HERRERA: Any objections?

4 MR. BROCATO: Well, again, Your  
5 Honor, it looks like an AE document, it most likely is,  
6 but I'm not sure this witness has done anything to  
7 authenticate it in any way, whether it's a draft,  
8 whether this is something she was involved with or can  
9 verify. And so that's the concern. So if you do that,  
10 fine.

11 Q (By Ms. Birch) Ms. Kimberly, can you --

12 A Yes, ma'am. I can.

13 Q -- tell me --

14 A I can --

15 Q -- did you --

16 A -- authenticate this.

17 Q -- participate in the preparation?

18 A Yes, I did. This is a portion of the report.

19 MR. HERRERA: I missed your  
20 question. You were talking over each other.

21 MS. BIRCH: I'm sorry. I asked her  
22 if she -- when her answer -- she said she participated  
23 in the preparation of these reports.

24 THE WITNESS: I would also add for  
25 the record these reports are prepared based on

1     unaudited numbers, and I believe the documentation that  
2     was provided in response to several of your RFIs was  
3     provided based on audited numbers. So there would be a  
4     difference between the two documents.

5                     MR. HERRERA: I overrule the  
6     objection. 29 and 30 are admitted.

7             **Q     (By Ms. Birch) Let's go back to PC-SC**  
8     **Exhibit 26, and I'll represent to you that the date of**  
9     **the meeting was April 19th, 2016. Does that . . .**

10            A     That sounds right. I don't have my calendar  
11     in front of me. So . . .

12                     MR. REED: If it's helpful, I can  
13     show you on the computer screen just so you see what it  
14     was.

15                     THE WITNESS: I trust you, Cyrus.

16                     MR. REED: You trust me? That's  
17     your mistake.

18                     THE WITNESS: Probably so.

19             **Q     (By Ms. Birch) And you were at that meeting,**  
20     **correct?**

21            A     Actually, I'm not sure I was at that meeting.  
22     I honestly would have to check. There was an RNC  
23     meeting that I missed.

24             **Q     Well, were you involved in --**

25            A     Yes.



1           **Q     -- preparation of this presentation?**

2           **A     Yes. Yes. It was all sent to me for my**  
3           **approval before it was given.**

4           **Q     Thank you.**

5                         MS. BIRCH: We offer PC-SC  
6           **Exhibit 26.**

7                         MR. HERRERA: Any objections?

8                         MR. BROCATO: No.

9                         MR. HERRERA: It's admitted.

10          **Q     (By Ms. Birch) Would you agree,**  
11          **Ms. Kimberly, that -- well, let me rephrase that.**

12                         **Do all Austin Energy customers receive a**  
13          **benefit from demand reduction programs in the sense**  
14          **that reducing energy use and peak energy use in Austin**  
15          **lowers the PSA paid for by all customers?**

16          **A     As stated yesterday, yes. I believe they do.**

17          **Q     So you agree with that?**

18          **A     (Nods head.)**

19                         MR. BROCATO: Your Honor?

20                         MR. HERRERA: Yes.

21                         MR. BROCATO: I've been informed  
22          that we have four minutes before we run out of tape,  
23          and so I think that means I'm supposed to request a  
24          brief recess so that the audio folks can do whatever  
25          they need to do to make that change happen.

1 MR. HERRERA: Okay.

2 MR. BROCATO: I don't know how long  
3 that takes. I didn't even know we used tape anymore.

4 MR. HUGHES: Like, actual tape?

5 MR. BROCATO: May we go off the  
6 record?

7 MR. HERRERA: Let's go off the  
8 record.

9 (At 5:09 p.m. the proceedings went  
10 momentarily off the record.)

11 MR. HERRERA: Ms. Birch, you may  
12 continue.

13 MS. BIRCH: We are finished with  
14 our initial cross and pass the witness.

15 MR. HERRERA: Pass the witness?

16 MS. BIRCH: Yes.

17 MR. COFFMAN: It's my turn finally?

18 THE WITNESS: Do you have any  
19 exhibits?

20 MR. COFFMAN: No. I do not, not at  
21 this time. I don't think so.

22 CROSS EXAMINATION

23 BY MR. COFFMAN:

24 Q Ms. Kimberly, I guess I will start my  
25 questions with the topic of customer satisfaction.

1           A     Okay.

2           Q     In your testimony, I believe on page 19, you  
3     claim that the ICA ratings were not accurately  
4     summarized by the ICA, is that --

5           A     That's correct.

6           Q     And what exactly was not accurate?

7           A     Well, as I stated in -- I'm sorry. I did --

8           Q     I just want to know specifically what you  
9     thought was not accurate about our statements.

10          A     The ICA referred to a point-in-time rating  
11     and did not take into account other customer  
12     satisfaction ratings that affect direct interactions  
13     with customers. So as I stated in my testimony,  
14     satisfaction with our walk-in service centers is 80  
15     percent, satisfaction with our rebate programs is 80  
16     percent or higher.

17          Q     Well, we listed -- was any of the -- that was  
18     listed in our recommendation, was it not? I mean, I'm  
19     trying to get a -- which, which of those numbers were  
20     not accurate?

21          A     59 percent refers to an aggregate  
22     satisfaction rating sir.

23          Q     And so, and you just thought that we should  
24     point out that Austin Energy had higher ratings on the  
25     walk-in center and the residential rebate program?

1           A     Not necessarily. So may I elaborate?

2           Q     Well, no, I just would like to know exactly  
3 what you thought was inaccurate.

4           A     What was inaccurate was that it was a  
5 point-in-time estimate based on Austin Energy which  
6 could also relate to other factors, including bills  
7 that Austin Energy produces for other city utilities.  
8 Am I clear?

9           Q     Oh, so you thought -- you think the 59  
10 percent includes other utilities other than the  
11 electric utility?

12          A     When we field these surveys, yes, the, the  
13 participants in the surveys will also -- often respond  
14 based on their total bill.

15          Q     I see.

16          A     That includes other city services.

17          Q     And Austin Energy refused to give any  
18 background behind the 59 percent when we asked that  
19 question, right?

20          A     I'm not as familiar with that. I believe,  
21 let me say, that it is standard industry practice to  
22 release only the high-level ratings.

23          Q     Is that -- is -- and Austin Energy's  
24 objection was based on a claim of confidentiality? Is  
25 that right?

1           A     That's correct.

2           Q     But the information about the 88 percent  
3     walk-in center satisfaction and 80 percent residential  
4     rebate program is not confidential?

5           A     The ratings themselves we're happy to share  
6     those with you.

7           Q     Is, is --

8           A     The underlying detail is confidential.

9           Q     And why is that confidential?

10          A     Because customers will provide verbatims  
11     that, frankly, can be very sensitive information.

12          Q     Okay. Is there any other information that  
13     you can provide that's not confidential that would help  
14     us understand the 59 percent?

15          A     Are you asking me what could contribute to a  
16     59 percent rating? I just want to make clear.

17          Q     Yes.

18          A     If you ask me --

19          Q     Sure. Answer that question.

20          A     So what you're asking is what could drive a  
21     customer satisfaction rating, right?

22          Q     Yeah. This, this specific 59 percent.

23          A     It could be a function of several things. It  
24     can be a function of the weather. Oftentimes customers  
25     don't focus on rates, they'd rather focus on their

1 aggregate bill, and that aggregate bill can include  
2 bills for water --

3 Q I'm asking --

4 A -- for example.

5 Q And I'm asking you this specific number. Can  
6 you tell me anything about this particular survey, any  
7 high-level information that would help us understand  
8 that particular result?

9 A I don't have that in front of me right now,  
10 sir. So I can't go into the specific details. I'm  
11 only trying to provide illustrative examples of what  
12 drives the satisfaction rating.

13 Q Was part of it dissatisfaction with electric  
14 rates?

15 A Not to my knowledge.

16 Q You don't remember that?

17 A Customers tend not to focus on bills -- their  
18 rates. They tend to focus more on bills, a dollar  
19 amount.

20 Q Well, part of that might have been  
21 dissatisfaction with the overall electric bills that  
22 they receive?

23 A During a hot summer, yes.

24 Q Let's turn to your proposal to increase the  
25 residential energy efficiency charge.

1           A     You're referring to page 16, I assume?

2           Q     Yes. Now, I believe you just said recently  
3     that you reviewed the 2015 tariff package in this case  
4     after it was filed?

5           A     That's correct.

6           Q     Are you not listed as a sponsor of at least a  
7     part of this study? Did you not review it before it  
8     was filed?

9           A     The entire tariff package? No.

10          Q     A portion of it?

11          A     The portion that relates to a description of  
12     the services that I provide.

13          Q     And you are -- you testified in rebuttal  
14     regarding cost allocation for this particular charge  
15     though; is that right?

16          A     Yes, I did.

17          Q     Did you have any input into what the level of  
18     this charge should be before the tariff package was  
19     filed?

20          A     No. I did not.

21          Q     Were you asked to?

22          A     No.

23          Q     That's not -- that wasn't your, that wasn't a  
24     part of your responsibility as vice president of the  
25     customer solutions as the --

1           A     No.  Because that's a financial matter.  It's  
2     not something that I would do.  It falls to the finance  
3     folks to do that.

4           **Q     Did you develop the rates that are shown in**  
5     **the table on page 16 in your rebuttal testimony?**

6           A     No.  I did not.  Our finance folks did it,  
7     just as they developed the other rates that are  
8     contained in Austin Energy's cost of service proposal.

9           **Q     Someone gave you these and told you to put**  
10    **them in your rebuttal testimony?**

11          A     These were a function of the work that was  
12    provided by, as I stated just a moment ago, by Russell  
13    Maenius and his staff, the finance folks that develop  
14    the rates.

15          **Q     So if I ask him questions, he'll be able to**  
16    **tell me how they were developed?**

17          A     He should.  Yes.

18          **Q     But you didn't have any input into how they**  
19    **were developed?**

20          A     No.

21          **Q     But you're -- but they are -- you are**  
22    **sponsoring this as part of your testimony, right?**

23          A     I am sponsoring it, but it is also, as we've  
24    stated in other testimony, that it is a collaborative  
25    effort among various departments.  My staff deals with



1 the expenses associated with our energy efficiency and  
2 solar programs, and so we track the rebates and the  
3 administrative costs associated with those programs.  
4 But when it comes to the tariff design that is in  
5 alignment with cost recovery, that is a function of  
6 finance staff.

7 MR. BROCATO: Your Honor,  
8 Mister -- if I may. Mr. Maenius, of course, is the  
9 next witness, and if Mr. Coffman would like to ask  
10 Mr. Maenius about these illustrative numbers, he  
11 certainly can do that.

12 MR. COFFMAN: I mean, I just  
13 assumed that if these particular rates are in a  
14 particular witness's testimony, that I could ask her  
15 about them --

16 MR. HERRERA: Mr. Coffman, I think  
17 the witness --

18 MR. COFFMAN: -- as long as I'll  
19 have the opportunity to --

20 MR. HERRERA: I think what the  
21 witness has said is that the numbers are in there, but  
22 they're from Mr. Maenius' testimony or some other  
23 witness's testimony, and they --

24 MR. COFFMAN: He's the next  
25 witness.

1 MR. HERRERA: I'm not sure who.

2 MR. BROCATO: Yeah. He is next.

3 And I'm not trying to cut him off. He can still ask  
4 this witness. It's just she's already --

5 MR. HERRERA: I think she's going  
6 to continue to telling him, I didn't create those  
7 tables.

8 MR. COFFMAN: No. You know, I want  
9 to make sure I don't ask that and then the next witness  
10 says --

11 MR. HERRERA: Just --

12 MR. COFFMAN: -- well, you should  
13 have asked her.

14 (Crosstalk among several people.)

15 THE REPORTER: Could you one at a  
16 time, please?

17 Q (By Mr. Coffman) Well, Ms. Kimberly, you  
18 understand that by proposing this in rebuttal testimony  
19 that the intervening parties didn't have time to  
20 analyze and develop their own response to it in written  
21 testimony? You understand that?

22 A I have no idea how much it takes to analyze  
23 that.

24 Q I mean, you understand there's no, there was  
25 no other chance for other parties to respond in the

1     **process after, after your Austin Energy rebuttal?**

2           A     Well, if I understand the question, we  
3     offered rebuttal testimony, and then subsequently,  
4     there were a number, if I recall correctly, a number of  
5     RFIs that were filed by various entities, including the  
6     ICA, to enable you to ask more questions.

7           Q     **And this is, this is my chance to ask**  
8     **questions about that, and my only chance I assume, and**  
9     **you're passing the buck to the next witness, right?**

10          A     I am deferring to the gentleman who has the  
11     ability to answer your questions. I would not typify  
12     it as passing the buck.

13          Q     **But I mean, forgive me for pressing you on**  
14     **this. When you put, but when you put numbers in**  
15     **testimony I assume that, you know, you might have done**  
16     **the calculations or at least had the backup information**  
17     **for it.**

18                         **Did you -- when you put this in your**  
19     **rebuttal testimony did you know the actual dollar**  
20     **impact of the residential class from this?**

21          A     No. I did not.

22          Q     **Do you think that perhaps it might have been**  
23     **a better public process to have this included in the**  
24     **overall cost of service study?**

25          A     I think the same question was asked of

1 Mr. Dombroski yesterday, and he stated that ideally  
2 this would have been introduced. However, I would want  
3 to go on record again as saying that subsequent to the  
4 comments received from intervenors that spoke to cost  
5 causation, staff -- and by staff I mean finance staff  
6 and others -- reviewed their original recommendations  
7 and thus made a change to better align with costs.

8 **Q Does it surprise you that the impact here is**  
9 **an 18 million dollar shift onto residential customers?**

10 A I don't believe -- I don't have a way of  
11 speaking to the 18 million dollars. Again, I believe  
12 yesterday Mr. Dombroski cited a much lower number, and  
13 the 18 million dollars that you refer to is comprised  
14 of energy efficiency services, CAP, and the changes  
15 associated with the discount for low-load-factor  
16 secondary customers.

17 **Q Did you review the data request responses on**  
18 **the -- on this issue showing the dollar impact for a**  
19 **thousand-kilowatt-hour customer and 2000-kilowatt-hour**  
20 **customer?**

21 A Yes.

22 **Q But did it surprise you to know that a**  
23 **thousand-kilowatt-hour bill, this would translate to**  
24 **\$2.24?**

25 A No. Not as a function of the math.

1           Q     And a customer, a typical customer in a  
2     summer month might have considerably more than that,  
3     might they?

4           A     They might, but you're referring to an  
5     average amount.

6           Q     Well, I understand you don't -- you're not  
7     really the numbers person, but you do oversee the  
8     energy efficiency programs.

9           A     Yes.

10          Q     And you point out that, that commercial  
11     customers only receive 40 percent, I guess, of the  
12     current rebates and --

13          A     It varies.

14          Q     -- incentives.

15          A     Year to year it varies, but I believe when  
16     staff did look at a three-year average it was roughly  
17     40 percent. Audited numbers I think it even dropped to  
18     35 percent, if memory serves.

19          Q     But that number can change, and in fact,  
20     several rebates and incentives are available to  
21     commercial customers that they don't, they don't  
22     necessarily take advantage of; is that fair?

23          A     If they have the opportunity to take  
24     advantage of them.

25          Q     Do they have the opportunity?

1           A     Not all customers. So for example, if I am  
2 already in a highly efficient building, I don't have  
3 the opportunity to take advantage of a rebate, because  
4 there's nothing I can do to make my building more  
5 efficient.

6           Q     Isn't that also true of many residential  
7 customers?

8           A     It's true.

9           Q     And would it be fair to say that the overall  
10 system benefit of energy efficiency programs accrue to  
11 all the customers?

12          A     Yes, as I stated on the record yesterday.

13          Q     Okay. Do you recall yesterday when  
14 Mr. Dombroski told me that he, he deferred to you and  
15 asked -- told me that I should be asking questions  
16 about this rate of you?

17          A     Yes, I do.

18          Q     And you know that Mr. Maenius does not have  
19 these rates in his written testimony.

20          A     They appear in my testimony.

21          Q     But you're assuring me he will have the  
22 answers?

23          A     I can't speak for Mr. Maenius, but I have no  
24 doubt that he is fully equipped to answer your detailed  
25 questions.

1           **Q     All right. Well, I'll leave you alone then.**  
2           **Thank you very much.**

3                           MR. HERRERA: Are you passing the  
4           witness?

5                           MR. COFFMAN: Yes, I am.

6                           MR. HERRERA: Redirect,  
7           Mr. Brocato?

8                           MR. BROCATO: Thank you, Your  
9           Honor. Just a little.

10                           REDIRECT EXAMINATION

11           BY MR. BROCATO:

12           **Q     Good afternoon, Ms. Kimberly.**

13           A     Good afternoon.

14           **Q     Do high load factor greater than 20 megawatt**  
15           **customers or transmission-level customers subscribe to**  
16           **AE's energy efficiency programs?**

17           A     So the high load factor being 85 percent  
18           above?

19           **Q     Yes.**

20           A     No. They do not.

21           **Q     Okay. So do they receive any direct benefit**  
22           **from those programs?**

23           A     No. They do not.

24           **Q     Okay. Now, with respect to the change in the**  
25           **EES tariff that we've had a lot of discussion about,**

1     **Mr. Coffman asked you about the overall dollar impact**  
2     **on the classes and you stated that you weren't aware of**  
3     **that impact --**

4           A     No.

5           Q     -- is that right?

6           A     That's correct.

7           Q     Were you trying to reach a particular outcome  
8     **when making this adjustment?**

9           A     Yes. The intent was to have this be revenue  
10    neutral. In other words, there would be no overall  
11    increase.

12          Q     I meant with respect to any particular class.

13          A     No.

14          Q     Okay. And are residential customers  
15    **currently being subsidized under the EES?**

16          A     Yes.

17          Q     And is this proposal intended to eliminate  
18    **that subsidy?**

19          A     Yes.

20          Q     Okay. And did you state that you received  
21    **discovery questions from parties on this proposal?**

22          A     Yes. That's correct.

23          Q     And you provided responses to those  
24    **questions?**

25          A     Yes.



1           **Q     Okay. And were those received from just the**  
2 **ICA?**

3           **A     No. They were also received from Public**  
4 **Citizen/Sierra Club.**

5           **Q     Okay. Thank you, Ms. Kimberly. Those are**  
6 **the only questions I have.**

7                       MR. HERRERA: Any recross based on  
8 that redirect?

9                       MS. COOPER: I just have a couple  
10 questions.

11                      MR. HERRERA: Okay.

12                               RECROSS EXAMINATION

13 BY MS. COOPER:

14           **Q     Mr. Brocato -- I won't keep you long, I**  
15 **promise. Mr. Brocato asked you some questions about**  
16 **the over -- the high-load-factor customers that are**  
17 **exempt from the energy efficiency rate, but isn't it**  
18 **also true that at least one of those customers has**  
19 **received energy efficiency benefits, not since the rate**  
20 **has been in service but, say, in the last five years?**

21           **A     I believe that's correct, but they were**  
22 **paying a tariff that also included some allowance for**  
23 **an energy efficiency tariff that, frankly, didn't exist**  
24 **until 2012.**

25           **Q     Well, what you're saying is that this**

1 customer was a special, was considered a special  
2 contract customer; is that correct?

3 A They were called long-term contract  
4 customers.

5 Q Long-term? And their base rates had been set  
6 in 1995 and were frozen; is that correct?

7 A I don't recall the exact date, but it was  
8 some time ago.

9 Q So they were not -- their rates were not  
10 affected by the fiscal year 2012, the test year 2009  
11 rate case; is that correct?

12 A I believe that's the case.

13 Q Now, some of the -- when you have made the  
14 statement that residential customers are being  
15 subsidized by other customers in the energy efficiency  
16 cost, you have also assumed that some -- you know, you  
17 have made classification of what costs relate to  
18 residential and what costs relate to commercial; isn't  
19 that correct?

20 A That's correct.

21 Q And one of them, and you may have talked to  
22 Ms. Birch about this but I'm not going to go on about  
23 this, is the multifamily; is that correct?

24 A That's correct.

25 Q Now, the multifamily, the rebates you provide

1 is the rebates provided to the, to the owner of the  
2 multifamily complex or to the residential tenant?

3 MR. BROCATO: Objection, Your  
4 Honor. Beyond the scope of my cross -- excuse me, on  
5 redirect I didn't ask anything about multifamily  
6 customers.

7 MS. COOPER: We're talking about  
8 the rates are being subsidized, and so we're getting to  
9 the point --

10 MR. HERRERA: I'm going to sustain  
11 the objection.

12 Q (By Ms. Cooper) Isn't one of the reasons why  
13 the rates are subsidized is because of how the costs  
14 are classified, be it classified as residential or  
15 commercial?

16 A I'm not sure I understand your question.  
17 Could you please explain?

18 Q Surely. When you identified in your  
19 testimony that the residential customers were being  
20 subsidized you looked at the energy efficiency programs  
21 and you have classified them as either residential or  
22 commercial; isn't that correct?

23 A That's correct.

24 Q Right? And certain of the programs you've  
25 classified as residential are multifamily commercial;

1     **isn't that correct?**

2           A     Yes.

3           Q     And so if you classify those as residential  
4     and you shift those rebates onto the residential class,  
5     doesn't that increase any subsidy that you're finding  
6     in your rate distribution among the customer classes?

7           A     No. To be honest with you, if you go back,  
8     what staff did was to look at a three-year period.  
9     There were periods where residential customers received  
10    75 percent of the rebates.

11          Q     That's not the question I asked you,  
12    Ms. Kimberly. Ms. Kimberly, I asked you that you  
13    looked at these energy efficiency programs --

14          A     I believe -- if your question is if we were  
15    to classify -- may I --

16          Q     Go ahead.

17          A     -- ask if this is the question you're -- if  
18    we were to classify multifamily incentives as  
19    commercial --

20          Q     Right.

21          A     -- would it change the results? And my  
22    answer would be yes, but only slightly.

23          Q     I hear what you're saying. All right.

24                   Now, also isn't it true that for fiscal  
25    year 2014 and 2015 Austin Energy over-recovered?

1           A       Would you please elaborate on your question?

2           Q       **Isn't it true that in fiscal year 2014 and**  
3           **2015 Austin Energy over-recovered in their energy**  
4           **efficiency rates?**

5           A       Are you saying that we recovered -- could you  
6           describe -- could you define how you're describing  
7           over-recovered?

8           Q       **Over-recovery means that the revenues**  
9           **generated from the energy efficiency rates exceeded the**  
10          **costs Austin Energy incurred for that time period.**

11          A       That's correct, and as a result, we reduced  
12          the energy efficiency services tariff in part during  
13          the last budget proceeding.

14          Q       **All right. And did you reduce -- and**  
15          **did -- is any of that cost, over-recovery, also**  
16          **factored in, in your proposed rate?**

17          A       No, it's not. That would always be addressed  
18          during the budget proceeding.

19          Q       **All right. No more questions. Thank you,**  
20          **Ms. Kimberly.**

21          A       You're welcome.

22                               MR. HERRERA: Public Citizen?

23                               MS. BIRCH: No more questions.

24                               MR. HERRERA: NXP?

25                               MR. HUGHES: NXP has no questions,

1 Your Honor.

2 MR. COFFMAN: No, Your Honor.

3 MR. HERRERA: Mr. Brocato?

4 MR. BROCATO: No, Your Honor.

5 MR. HERRERA: Ms. Kimberly, you're  
6 excused. Thank you.

7 Let's -- we took a very short break a  
8 little while ago. Let's take about a 15-minute break.  
9 Let's make that 10 minutes, because folks are going to  
10 make it longer anyway, so please.

11 (At 5:35 p.m. the proceedings  
12 recessed, continuing at 5:46 p.m.)

13 MR. HERRERA: Mr. Brocato, before  
14 we go to your next witness I believe Ms. Birch has  
15 something to bring up.

16 MS. BIRCH: At this time we'd like  
17 to move to strike Deborah Kimberly's testimony relating  
18 to the proposed modifications to the EES charge  
19 structure. She testified that even though she  
20 purported to sponsor that portion of the rebuttal  
21 testimony and she was proffered as a witness on that  
22 issue, she now says she cannot actually sponsor it  
23 because she does not have knowledge of that testimony.  
24 That testimony, she can't sponsor it; it's in her  
25 rebuttal testimony only, and it's not her testimony,

1 and we move that it be stricken from the record.

2 MR. COFFMAN: Your Honor, the  
3 Independent Consumer Advocate would like to join that  
4 objection. On the witness stand Ms. Kimberly could not  
5 back up the numbers, did not calculate them, and after  
6 having struck the one and a half pages before that is  
7 not -- is no longer responsive any other intervenor  
8 testimony.

9 MR. HERRERA: Anyone else?  
10 Mr. Brocato?

11 MR. BROCATO: Yes, Your Honor. I  
12 heard the question she is referring to, and I think it  
13 was out of context at the time. Ms. Kimberly, although  
14 she can testify, certainly is aware and familiar with  
15 the testimony in question. She prepared her rebuttal  
16 testimony in response to that testimony, and so, you  
17 know, I think that that's a mischaracterization of what  
18 her testimony was a moment ago.

19 The level is not the issue. Indeed, we  
20 have argued all along that the amounts of these  
21 pass-throughs are beyond the scope of this proceeding.  
22 The numbers are illustrative, and she states that in  
23 the testimony, and illustrative only. And indeed, and  
24 I say this for the benefit of the other parties, what  
25 actually -- the actual numbers that get plugged in

1 during the budget process may be different with respect  
2 to this pass-through as well as the other  
3 pass-throughs. This was provided back in January as  
4 well as in this rebuttal testimony simply to help  
5 people get an idea of the overall impact on their  
6 bills.

7                   Moreover, Mr. Maenius will be taking the  
8 stand in a moment and did do those -- that calculation,  
9 or his, his department, and can speak to that. And  
10 this is actually no different than the pass-through  
11 calculations for any other witness that has those  
12 numbers in their testimony. I mean, the five witnesses  
13 who sponsored the direct case and the various parts of  
14 the pass-throughs may not have been the individuals who  
15 actually calculated those numbers, but I don't think  
16 that that presents any evidentiary issue.

17                   Specifically also I would note with  
18 respect to the ICA, I mean, they already filed a  
19 written motion to strike that has been thoroughly  
20 vetted and ruled upon. So that would be our reaction,  
21 our response to the, the --

22                   MR. HERRERA: I'm going to deny the  
23 motion to strike. Thank you.

24                   MS. COOPER: Clarification, Your  
25 Honor, based on what Mr. Brocato has said. We should



1 be considering the evidence that Ms. Kimberly presented  
2 in her testimony more demonstrative than actual  
3 evidence?

4 MR. BROCATO: With respect to the  
5 actual numbers, the actual rate, yes. Again, she  
6 states -- I've got it right here.

7 MR. HERRERA: No. I can see it on  
8 page 16, line 8, the illustrative rate impacts.

9 MR. BROCATO: And while there I  
10 think has been some level of confusion throughout this  
11 proceeding about the numbers that were provided with  
12 respect to the pass-throughs, I think we have  
13 consistently made it clear that these are illustrative  
14 rates that were provided simply because we as a -- you  
15 know, recognize that the customers want to see the  
16 overall impact of these changes on their, their overall  
17 bill. But again, this was a base rate case.

18 MR. HERRERA: Does that answer your  
19 question, Ms. Cooper?

20 MR. BROCATO: Yeah. Page 16, line  
21 8.

22 MS. COOPER: It's clear that it's  
23 demonstrative evidence that has no probative value in  
24 terms of the final decision. The Judge will not be  
25 making a decision on --

1                   MR. HERRERA: I think now you  
2    changed your request, Ms. Cooper.

3                   MS. COOPER: Well, if it's  
4    demonstrative, I guess what I'm saying, and it goes to  
5    the amount of the rate, the only logical thing that can  
6    flow from it is that Your Honor couldn't make a  
7    decision based on demonstrative evidence.

8                   MR. BROCATO: We are not asking  
9    him to approve a specific rate. We are, we are  
10   proposing a change to the allocation. I think we've  
11   gone through this at the time that Public Citizen  
12   provided testimony on this issue, that when they wanted  
13   to increase the rate, you may recall, and that the  
14   testimony was stricken and the -- their proposal with  
15   respect to the allocation was left in. This testimony  
16   is responsive to that. We do not agree with their  
17   allocation.

18                  But as the witnesses have stated, this,  
19   this was an issue that, that -- in fact, I think she  
20   said in February, March, April we began to see that  
21   there was a subsidy and a problem with the allocation.

22                  MR. HERRERA: Thank you. You ready  
23   to call your next witness?

24                  MR. BROCATO: I am, Your Honor. At  
25   this time we'd call Mr. Russell Maenius.

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PRESENTATION ON BEHALF  
OF AUSTIN ENERGY

DIRECT EXAMINATION

BY MR. BROCATO:

Q Good afternoon, sir. Would you please state  
your name for the record?

A Russell Maenius.

Q And you should be handed a copy of Austin  
Energy Exhibit No. 8, which should be your rebuttal  
testimony. While she does that --

THE REPORTER: Wait, wait.

Q (By Mr. Brocato) Do you have that,  
Mr. Maenius?

A I do.

Q All right.

MR. BROCATO: And again I will go  
through the portions that are no longer being offered  
as a result of prior rulings. If you will turn to page  
12, line 7, the words "Lanetta Coper with AELIC,  
[comma]" should be deleted, or stricken, I should say.  
And then on page 12, lines 10 through the remainder of  
that page should be stricken. All of page 13 should  
also be stricken. On page 16, lines 3 through 24  
should be stricken, and on page 17, lines 1 through 5  
should be stricken.

1           Q     **(By Mr. Brocato) Mr. Maenius, are there any**  
2     **additional edits or corrections that you need to make**  
3     **to this testimony?**

4           A     No.

5                         MR. BROCATO: Move for Austin  
6     Exhibit 8.

7                         MR. HERRERA: Any objections? It's  
8     admitted.

9                         MR. BROCATO: And I tender  
10    Mr. Maenius for cross examination.

11                        MR. HERRERA: Bethany United?

12                        MR. WELLS: No, Your Honor.

13                        MR. HERRERA: HURF?

14                        MR. BORGELT: No, Your Honor.

15                        MR. HERRERA: Low Income Customers?

16                        MS. COOPER: Yes, Your Honor.

17                        CROSS EXAMINATION

18    BY MS. COOPER:

19           Q     **Good afternoon, late afternoon/early evening.**  
20     **I wanted to ask you a couple of questions about the**  
21     **14.5 million dollars in sales proceeds that Austin**  
22     **Energy received in November of 2015 flowing from the**  
23     **sale of the land that had the old control center.**

24           A     Okay.

25           Q     **All right? And you would agree that the new,**

1     that the new control center is already up and running?

2           A     That's correct.

3           Q     And do you know how long -- do you know when  
4     it opened up, the new control center?

5           A     There was an RFI on that, I believe, late  
6     '12, '13, something like that.

7           Q     All right. And do you know how the control  
8     center was funded?

9           A     I believe it was a hundred percent debt  
10    funded.

11          Q     All right. And now, even though it was debt  
12    funded -- I'm no financial expert, so -- did Austin  
13    Energy use CIP funds to pay for the new control center?

14          A     All construction goes through CIP.

15          Q     All right. So you did use CIP funds? Even  
16    though it was debt funds, it was still through the CIP?  
17    Is that what you're saying?

18          A     CIP in the sense of, like, was it  
19    construction work in progress? Is that what you're  
20    asking?

21          Q     Right.

22          A     Yes.

23          Q     Okay. And you would agree that there are  
24    costs related to the control fund -- the new control  
25    system, there were costs in test year 2014; is that

1     **correct?**

2             A     That's correct.

3                             MS. COOPER:  No more questions,

4     Your Honor.

5                             MR. HERRERA:  Public Citizen?

6                             CROSS EXAMINATION

7     BY MS. BIRCH:

8             Q     Well, I didn't think I had any questions for  
9     you -- how do you pronounce your last name?

10            A     Maenius [MAIN-yus].

11            Q     Maenius -- but apparently I do.

12                             Did you classify multifamily rebates for  
13     your cost causation analysis for the EES fee as a  
14     residential program?

15            A     That is correct.  Multifamily was included in  
16     as a, as a residential cost.

17            Q     Well, are you aware that in Austin Energy's  
18     annual report multifamily is considered a commercial  
19     program?

20            A     No.  I'm not aware of it.  I don't deal with  
21     EES.  I -- my staff did calculate the proposed rate.

22            Q     Would you look at PC-SC Exhibits 29 and 30 on  
23     the tables?

24                             MR. REED:  Those were the ones you  
25     had, sir.  The ones you just --

1 THE WITNESS: These?

2 MR. REED: Those. Yes.

3 Q (By Ms. Birch) Those. Yes.

4 A Okay. They're --

5 Q Are those labeled?

6 A Oh, okay. Yes, ma'am. I have them.

7 Q Are they marked?

8 A Yes. I see. Which document, 29 or 30?

9 MS. BIRCH: Which one's the most  
10 recent?

11 MR. REED: 30.

12 Q (By Ms. Birch) Let's look at the 30. So do  
13 you see under "Programs" that for "EES-Multifamily,  
14 Multifamily Ratings, Multifamily Energy Code" are all  
15 listed under "Commercial"?

16 A I see that on this document. Yes.

17 Q So you took the commercial programs and put  
18 them into the residential class for your analysis?

19 A That's correct. Ms. Kimberly addressed the  
20 reason why.

21 Q Did you include administrative costs in your  
22 analysis?

23 A To what extent?

24 Q To any extent.

25 A No, ma'am.

1           Q     Do you know if the Green Choice building  
2     program includes any incentives or rebates?

3           A     Can you point me to a line item?

4           Q     Look at the "EES/Green Building" -- "GB  
5     Commercial Projects" under "Commercial."

6           A     Okay.

7           Q     Oh, I'm sorry. The next one down,  
8     "Multifamily Ratings." Does it show any incentives or  
9     rebates?

10          A     It does not. If you're asking does -- in the  
11     column called "Incentive/Rebates" for the line "Green  
12     Building-Multifamily Ratings," that number is zero.

13          Q     Okay. And what about administrative costs  
14     for that? I mean, there are, there are administrative  
15     costs associated with that in the next column, the  
16     total O&M cost.

17          A     Okay.

18          Q     Shouldn't you have included administrative  
19     costs in your analysis?

20          A     If they're a part of the rebate programs that  
21     are -- the costs that were included were any costs that  
22     were subject to the pass-through. So in that sense,  
23     yes. If, if, if those costs were included in the costs  
24     that are included in the pass-throughs, that's what was  
25     evaluated.



1 (Sotto voce exchange between  
2 Ms. Birch and Mr. Reed.)

3 MR. HUGHES: Your Honor, perhaps it  
4 might be faster if Mr. Cyrus asks the question.

5 MR. REED: Is that okay?

6 MR. HERRERA: I am perfectly fine  
7 with that if it's more efficient. That would be fine.

8 Q (By Mr. Reed) So sir --

9 MR. BROCATO: Wait, wait.

10 MR. REED: Sorry.

11 MR. BROCATO: Actually, Your Honor,  
12 is he going to -- I mean --

13 MR. REED: I'm going to ask one  
14 question.

15 MR. BROCATO: Okay.

16 MR. HERRERA: It's up to you,  
17 Mr. Brocato.

18 MR. BROCATO: Well, I mean, there's  
19 a --

20 MR. HERRERA: I'm okay with it --

21 MR. BROCATO: -- one witness one  
22 lawyer is the normal rule, but if it's just one and it  
23 makes it easier, go ahead.

24 Q (By Mr. Reed) So just to confirm,

25 Mr. Maenius --

1           A     Maenius.  Yes.

2           Q     Maenius.  What you're saying is if the energy  
3   efficiency tariff fee pays for administrative costs  
4   currently, then they should be considered in an  
5   analysis that looks at cost causation?

6           A     What I'm saying is that, (a) I'm not an  
7   expert in energy efficiency programs.  If the costs  
8   that should be recovered through the EES rate that was  
9   included in the test year, we looked at those costs to  
10  directly assign them.

11                         MR. REED:  Can I ask a second  
12  question?

13          Q     (By Mr. Reed)  Did you not state earlier,  
14  Mr. Maenius -- I like this role.  Did you not state  
15  earlier, Mr. Maenius, that you only looked at rebates  
16  and incentives and did not look at administrative costs  
17  in your analysis?

18          A     I did, I did say that, but there are multiple  
19  forms of administrative costs, correct?  And some of  
20  those I did not include, certain 920 costs perhaps.

21                         But if you're asking me what costs were  
22  included, they were those costs that were presented in  
23  the cost of service study, and, and I am not an expert  
24  as to what's all incorporated into the EES programs,  
25  but my staff and I did develop the rates.

1                   MR. REED: Well, we'll put in our  
2 closing brief that I think they did not consider the  
3 administrative costs in this analysis.

4                   MR. BROCATO: Wait, wait a minute,  
5 Your Honor. I would move to strike the sidebar.

6                   MR. REED: Okay. Yes. Sorry.

7                   MR. BROCATO: If he has a question  
8 for the witness, he can ask and confirm, but --

9                   MR. REED: Sorry. No further  
10 questions.

11                  MR. BROCATO: That's the danger of  
12 letting . . .

13                  MS. BIRCH: Well, I'll just say, I  
14 will just say that he's been dying all hearing to be  
15 able to ask, "Are you lying now or were you lying  
16 then." And so consider yourself [obscured by  
17 laughter].

18                  MR. HERRERA: You pass the witness?

19                  MS. BIRCH: Pass the witness.

20                  MR. HERRERA: NXP?

21                  MR. HUGHES: Yes, Your Honor. I've  
22 got questions. I'm going to take some care here with  
23 these exhibits. We're going to be offering exhibits  
24 number NS-39, NS-40, and NS 41, and I will be moving to  
25 have these entered into the record.

1                   MR. HERRERA: Are you moving now,  
2 or you're just telling me you're going to?

3                   MR. HUGHES: It's -- I'll -- I'm  
4 moving now. I'm quickly moving now.

5                   MR. HERRERA: Any objections to 39,  
6 40, and 41?

7                   MR. BROCATO: While I appreciate  
8 his attempt to move quickly, I mean, obviously, there's  
9 no questioning or authentication in any way, but that  
10 aside, with respect to 40 we would object as to  
11 relevance, and on 41 and 42 these appear to be  
12 commissioner orders. They can certainly take notice of  
13 them, but again, I would argue that these are not  
14 relevant.

15                   MR. HUGHES: They are -- all three  
16 of them are relevant in the fact that in his rebuttal  
17 testimony from pages 5 to pages 10, the entire  
18 Section III, he testifies as to transmission costs and  
19 revenues. All three of these filings are related to  
20 Austin Energy's transmission costs and revenues both in  
21 their test years and those most recent costs and  
22 revenues that have been approved by the Public Utility  
23 Commission. So I'm not sure how they're relevant  
24 [sic]. In fact, most of them have provisions  
25 specifically addressed in his testimony. So . . .

1 MR. BROCATO: I'm not sure if he  
2 just said, "I'm not sure how they're relevant," but --

3 MR. HERRERA: Well, that's what I  
4 heard you say, Mr. Hughes.

5 MR. HUGHES: No. I'm not sure how  
6 they're not relevant --

7 MR. BROCATO: Oh.

8 MR. HUGHES: -- how they're not  
9 relevant, because they go directly to what he's, what  
10 he's testified to in his rebuttal testimony.

11 MR. BROCATO: And if I --

12 MR. HUGHES: And in the rate-filing  
13 package.

14 MR. HERRERA: Mr. Brocato?

15 MR. BROCATO: We left the -- okay.  
16 Let me just step back. We included the testimony on  
17 pages 5, 6, 7 that you reference -- and 8 and I guess 9  
18 as well -- because, again, our motion to strike had not  
19 been ruled upon, as we discussed previously. We left  
20 it in for now simply because it's not clear to us how  
21 broad or narrow the ruling in IHE memo 17 is, and so  
22 out of an abundance of caution, we left it in. But  
23 our --

24 MR. HUGHES: So --

25 MR. BROCATO: -- our fundamental

1 position is that all of this with respect to  
2 rebuttal -- excuse me, with respect to transmission is  
3 not relevant and beyond the scope. Indeed, as we've  
4 said, council doesn't have jurisdiction over T rates.

5 MR. HERRERA: And my recollection  
6 of where we started on Tuesday was that, and my memo  
7 17, was that to the extent that there was a doubt as to  
8 whether Austin Energy's base rates were just and  
9 reasonable, globally, the overall, the ultimate  
10 question we're dealing with, that evidence showing that  
11 they were over-collecting -- and I think the number is  
12 7 or 9 million, I forget the exact number, 62 versus  
13 69 -- that that was relevant toward that point.

14 But again, it doesn't go to the base  
15 rates and --

16 MR. HUGHES: With all due --

17 MR. HERRERA: -- and all these  
18 exhibits seem to be just what their TCOS rates are at  
19 the PUC or --

20 MR. HUGHES: Well, let me --

21 MR. HERRERA: -- [crosstalk] showed  
22 to the PUC.

23 MR. HUGHES: Well, if I may,  
24 Your Honor, the city of Austin has asked for a  
25 proposed base rate revenue of 674 million dollars

1 and -- \$614,404,165. Based on the filings that -- or  
2 the documents that you've got and based on the  
3 testimony, those filings and the testimony and what  
4 we've already put in our testimony, we believe that  
5 they are underrepresenting what the TCOS revenue is,  
6 which would reduce that base rate revenue and therefore  
7 reduce their proposed base rate requirement by, by,  
8 based on the latest filings, 14 million dollars, which  
9 would reduce their base rate revenue requirement to  
10 600,836,644, which goes directly to what their base  
11 rate requirement is and what their -- whether those  
12 rates, the rates that they're proposing are reasonable.

13 We believe that they should be reduced  
14 by 14 million and they should state correctly what  
15 their actual TCOS revenue is going to be. It's an  
16 accounting, it's an accounting issue. While the city  
17 council may not have jurisdiction over TCOS, they  
18 should have jurisdiction over how Austin Energy  
19 accounts for those costs and revenues.

20 MR. BROCATO: Respectfully, I  
21 think, to Mr. Hughes, I think that represents a  
22 fundamental misunderstanding of how transmission and  
23 distribution generation revenues flow, but if he would  
24 like to ask the witness that, those questions, and  
25 confirm that, he can -- he may do so.

1                   MR. HERRERA: Why don't you do that  
2   Mister -- and maybe you would -- I don't know if you  
3   can take these one at a time or --

4                   MR. HUGHES: We can take them one  
5   at a time.

6                   MR. HERRERA: -- or whether you go  
7   through them.

8                   MR. BROCATO: But whether Austin  
9   Energy has stale, outdated transmission numbers,  
10   whether they are over-earning on transmission, just as  
11   we have in the -- with other IOUs, it has no impact on  
12   the reasonableness of their nontransmission-based  
13   rates.

14                  MR. HERRERA: Go ahead, Mr. Hughes.

15                  MR. HUGHES: All right.

16           **Q     (By Mr. Hughes) All right. Mr. Maenius, if**  
17 **you'll have a look at Exhibit 40, do you recall when**  
18 **that application was filed, or can you see it there?**  
19 **Is there a stamp on it?**

20           **A     April 11th, 2014.**

21           **Q     Okay. Let me refer you to page 17 of your**  
22 **testimony.**

23                  MR. BROCATO: Well, your under, my  
24   understanding was that he was going to ask the  
25   questions that we just talked about. If he's just



1 going to basically do the same thing, try to get it in  
2 through, you know, reading this document, I mean, it's  
3 no different than offering it.

4 MR. HERRERA: I thought you were  
5 trying to --

6 MR. HUGHES: I'm not asking him  
7 to --

8 MR. HERRERA: -- you were going to  
9 establish the foundation for this document, Mr. Hughes.

10 MR. BROCATO: Fair enough.

11 MR. HUGHES: I thought I had. The  
12 foundation for the document is that it's a fair  
13 representation of what their TCOS revenue is, and their  
14 TCOS revenue goes directly to what their revenue  
15 requirement is.

16 MR. BROCATO: It's not the revenue  
17 requirement that's at issue in this case.

18 MR. HUGHES: Well, it is at issue.  
19 I mean, you're, you're acting as though the parties  
20 have stipulated to what the revenue requirement is.

21 MR. BROCATO: What I'm acting like  
22 is that there are two -- there's a transmission revenue  
23 requirement and a nontransmission revenue requirement,  
24 and the two are kept separate. But again, if he wants  
25 to ask the witness that and verify how it works, I'm

1     okay with him doing that, but . . .

2                     MR. HUGHES:   The base revenue  
3     requirement and their base rates are based on a cost of  
4     service which they've done a cost of service study on.  
5     Within those -- that cost of service are transmission,  
6     is the transmission cost of service.  They also receive  
7     revenues for their transmission services that in this  
8     case and based on publicly filed -- the documents that  
9     have been approved by the Public Utility Commission,  
10    and some of these were actually approved, you know,  
11    during the test year.

12                    So what we're trying to show is that  
13    they're going to over-recover by about 14 million  
14    dollars, and that has already been approved by the  
15    Public Utility Commission, and it goes to their base  
16    revenue requirement that they're setting rates on, that  
17    they're attempting to set rates on in this case.  So  
18    I'm -- we're showing, we're trying to show where they  
19    need to make accounting adjustments.

20                   MR. HERRERA:  Mr. Brocato, I'm  
21    going to overrule your objection, and I expect the  
22    parties to brief this very carefully in your briefs.  
23    And Mister --

24                   MR. HUGHES:  I'm happy to do that,  
25    and --

1                   MR. HERRERA: Mr. Hughes, and I am  
2     sympathetic to the argument that the city doesn't have  
3     jurisdiction over transmission rates. I understand the  
4     argument you're making that, in your view, Austin  
5     Energy is over-collecting its transmission costs by  
6     some amount --

7                   MR. HUGHES: Um-hm.

8                   MR. HERRERA: -- and that that  
9     should be taken into consideration in establishing  
10    Austin Energy's base rates. That's what I understand  
11    the -- I see Mr. Bartley behind you shaking his head no  
12    vigorously. So maybe he wants [crosstalk] --

13                  MR. HUGHES: Well, he can, he can  
14    talk more in, he can talk more during briefing.

15                  But again, and I'm not disputing whether  
16    the Austin -- I'm not arguing that the Austin City  
17    Council has jurisdiction over setting transmission  
18    rates. I'm just saying that our argument is how Austin  
19    Energy is accounting for those that have been set by  
20    the Public Utility Commission. That's, that's what I  
21    was --

22                  MR. HERRERA: Go ahead.

23                  **Q     (By Mr. Hughes) Okay. Back to -- sorry,**  
24    **Mr. Maenius. Back to Exhibit 40.**

25                  **A     Okay.**

1           Q     Do you know -- so yeah, you know. So this  
2     was filed in April of 2014, and I believe I want to  
3     refer you to page 7 of your testimony.

4           A     Page 7 of my testimony?

5           Q     Yes, sir.

6           A     Okay.

7           Q     Which is Exhibit 40, and that's in Docket  
8     Number 42385 at the Public Utility Commission.

9           A     Okay.

10          Q     About midway down the page there is a Table 2  
11     that summarizes an increase in AE's transmission  
12     revenue requirement.

13          A     I'm sorry. Could you tell me what page  
14     again?

15          Q     Page 7 of your testimony.

16          A     In --

17          Q     The page -- I'm sorry. The pages in the top  
18     right-hand corner.

19          A     Thank you.

20          Q     7 of 10, because there are a lot of page  
21     numbers.

22          A     Okay.

23                         MR. HERRERA: Mr. Hughes, you've  
24     lost me.

25                         MR. HUGHES: Top right-hand corner

1 of Exhibit 40 would be page 7 of 10 at the --

2 MR. HERRERA: Okay.

3 MR. HUGHES: Okay.

4 Q (By Mr. Hughes) That table shows that Austin  
5 Energy's total revenue requirement as of fiscal year  
6 ending September 30th, 2013 was 75,697,440. That table  
7 also shows that the increase in revenue requirement  
8 from the previously approved Austin Energy transmission  
9 rate case was primarily based on an increase in return  
10 on rate base of approximately 14 million.

11 We often use terms "revenue requirement"  
12 and "cost of service" interchangeably, so is it correct  
13 to say that Austin Energy's total wholesale  
14 transmission cost of service request in Docket Number  
15 328385, this docket that you're looking at, was  
16 75,697,440?

17 A Yes. The wholesale transmission revenue  
18 requirement in this docket was 75 million.

19 Q Thank you. So in that interim transmission  
20 proceeding AE was requesting an increase in Austin  
21 Energy's wholesale transmission rate to an amount of  
22 1.160111 per kilowatt based on the total revenue  
23 requirement of 75,697,440 divided by the average ERCOT  
24 4CP of 65,258,196.8 kilowatts, as shown on Table 3 of  
25 your testimony on page 9; is that correct?

1           A     Table 3 shows an updated wholesale  
2     transmission rate of \$1.16.

3           Q     Okay. And some change.

4           A     Yes.

5           Q     Okay. Let me -- now if you'll go to  
6     Exhibit 41, and that's the Notice of Approval in Austin  
7     Energy's interim Docket 42385, the same one that we  
8     just, we just looked at your testimony in, and I want  
9     to refer you to page 3 of that notice of approval.

10                     Is it true that on June 3rd, 2014 the  
11     PUC approved both Austin Energy's total revenue  
12     requirement of 75,697,440 and Austin Energy's requested  
13     transmission rate of roughly \$1.16, as shown in  
14     ordering paragraph number 1 of the notice of approval?

15           A     That's correct.

16           Q     So it appears that you filed testimony in  
17     Docket 42385 in April of 2014 stating that Austin  
18     Energy's wholesale transmission cost of service was 75,  
19     roughly 75 million. In this proceeding you're  
20     testifying that as of fiscal year 2014 Austin Energy's  
21     wholesale transmission cost of service is approximately  
22     62 million. Can you explain the inconsistency?

23           A     Yes. The -- in the cost of service for the  
24     transmission function, every transmission cost was  
25     allocated. So, for example, on Schedule A to the far

1 right-hand side, those costs functionalized to  
2 transmission included both wholesale transmission costs  
3 appropriately recovered through wholesale transmission  
4 revenue and the single retail transmission cost, or  
5 matrix expense if you will, that's recorded in FERC  
6 565.

7                   The adjustment to revenue, matrix  
8 revenue if you will, the 75 million that you alluded  
9 to, was adjusted to equally offset all transmission  
10 wholesale costs so that in this retail base rate case  
11 no wholesale transmission costs would be included.  
12 Those belong in a TCOS setting in front of the PUC.

13                   MR. HERRERA: I want to make sure I  
14 understand. So no wholesale transmission cost was  
15 included in the rate-filing package, in --

16                   THE WITNESS: In this --

17                   MR. HERRERA: -- the rate-filing  
18 package in this case?

19                   THE WITNESS: That is correct.  
20 That was the whole purpose of adjusting the revenue.

21                   MR. HERRERA: Okay.

22           **Q        (By Mr. Hughes) Well, both the numbers,**  
23 **though, if you look back, as I discussed before, your**  
24 **wholesale transmission cost of service was 62 million**  
25 **in fiscal year 2014, but then the increase you're**

1     requesting is 75 million. I mean, that, that -- how  
2     does that -- I don't understand what that's got to do  
3     with retail transportation cost. I mean --

4           A     It, it has --

5           Q     -- those are both --

6           A     -- absolutely nothing --

7           Q     -- wholesale numbers.

8           A     -- to do with retail transmission cost.

9           Q     But the --

10          A     Retail transmission costs are in FERC 565.  
11     In this case that, that dollar figure was approximately  
12     116 million. If you're asking why the, the wholesale  
13     transmission revenue of 75 million dollars wasn't  
14     included in here -- I'm assuming you're asking me why  
15     you're -- we should ask our wholesale transmission  
16     customers to subsidize this retail base rate case.

17          Q     No. I'm asking why in fiscal year it  
18     was -- in fiscal year you testified it's -- you've got  
19     it 62 million in fiscal year -- in your test year in  
20     the case that's before us, yet in the Public Utility  
21     Commission you're asking for 75 million 697. Both of  
22     those are wholesale transmission numbers. That's the  
23     inconsistency I'm asking about.

24                     Why is it, why is the -- was your  
25     request in 2014 75 million 697, yet in this case you're



1     **testifying that it was 62 million in wholesale**  
2     **transmission cost? That's what I'm asking.**

3           A     Wholesale transmission costs?

4           Q     **Yes.**

5           A     Or wholesale --

6           Q     **No. Those --**

7           A     -- transmission revenues?

8           Q     **Revenues.**

9           A     So I already --

10          Q     **They're the same.**

11          A     I already explained that.

12          Q     **They're the same. You --**

13                         MR. BROCATO: Your Honor, I would  
14     ask that the witness be allowed to answer the question.

15                         MR. HERRERA: And speak one at a  
16     time, please.

17          Q     **(By Mr. Hughes) Okay. You take to the**  
18     **commission your costs --**

19          A     The wholesale transmission costs.

20          Q     **-- and then they, and then they approve what**  
21     **your revenues will be.**

22          A     That's correct.

23          Q     **And the revenues that were ultimately**  
24     **approved were actually 76,609,599 -- which I have not**  
25     **gotten to yet -- and that's to take care of the**

1     **expenses that --**

2                     MR. BROCATO: Your Honor, again, I  
3     would ask that he follow a question and answer format  
4     instead of just --

5                     MR. HERRERA: Mr. Hughes --

6                     MR. BROCATO: -- testifying.

7                     MR. HERRERA: -- if you would ask  
8     your question, I would understand --

9                     MR. HUGHES: Sure. Okay.

10                    MR. HERRERA: -- better also --

11                    MR. HUGHES: All right.

12                    MR. HERRERA: -- what your point.

13             **Q     (By Mr. Hughes) Okay. You made a**  
14     **request -- or you filed with the commission that your**  
15     **cost, in 2014 that your wholesale, wholesale**  
16     **transmission costs were \$75,697,000.**

17             A     Okay.

18             **Q     In this case you're stating that your**  
19     **wholesale transmission costs for test year 2014 were**  
20     **62 million.**

21             A     That's correct.

22             **Q     There's a discrepancy there.**

23             A     That is correct.

24             **Q     And then in the, then in the --**

25                     MR. BROCATO: Again, Your Honor, if

1 he would ask a question and allow the witness to answer  
2 it, this would go better.

3 Q (By Mr. Hughes) Explain to me again the  
4 discrepancy in those two wholesale transmission  
5 numbers.

6 A Okay. Bear with me one moment.

7 Q And if there's something you can refer me too  
8 to look at, that would be -- that might be helpful too.  
9 Maybe I'll, I'll better understand it.

10 A So our test year was test year 2014, the  
11 historical test year '14, which ended September 30th,  
12 2014. These rates were approved in June 2014. So  
13 first, these rates would not have been in effect for a  
14 full year. In fact, they would have only been in  
15 effect three or four months prior to the year-end  
16 close.

17 The original TCOS revenue that Austin  
18 Energy receives from distribution service providers to  
19 pay for transmission wholesale costs was approximately  
20 69 million dollars. That was adjusted to 62 million  
21 dollars. That number was, as responded to in an RFI,  
22 was the precise amount to offset all wholesale  
23 transmission costs embedded in the test year, leaving  
24 only the retail transmission cost of 116 million as  
25 afforded in FERC 565. That can be proven if you look

1 at Schedule A. After all the adjustments in the  
2 transmission column at the very bottom it equals  
3 116 million dollars.

4 Those are the only costs in a retail  
5 base rate -- or in this retail case that are applicable  
6 to the retail customers, the \$116,000, the matrix  
7 expense.

8 Q Okay. Mr. Maenius --

9 A And, and --

10 MR. HERRERA: Let him finish his  
11 answer, please.

12 A -- consequently, that adjustment was made so  
13 that no wholesale transmission costs got included in  
14 this retail trans -- in this retail case.

15 Q Why?

16 A Are you asking me why, why --

17 Q Well, let me, let me back up.

18 A -- Austin Energy did not intentionally  
19 subsidize?

20 Q Well, let me back up. Well, but are the  
21 wholesale transmission costs included in the revenue  
22 requirement that this retail --

23 A No. I just told you that. I made the  
24 adjustment to ensure that they weren't included.

25 Q When are these retails rates going into

1     **effect that we're -- that are the subject of this case?**

2           A     It depends --

3           Q     **20 --**

4           A     -- on when city council approves them.

5           Q     **But roughly 2017?**

6           A     Yes. I would hope so.

7           Q     **Okay.**

8           A     I would assume our customers would hope so.

9           Q     **So is it your contention that you will not**  
10   **be -- you are not collecting or will not be collecting**  
11   **roughly 14 million dollars more than what your -- in**  
12   **wholesale transmission revenues to what your wholesale**  
13   **transmission costs are that are in this case?**

14          A     We'll be collecting revenue at a rate of  
15   \$1.16 --

16          Q     **And --**

17          A     -- wholesale, wholesale transmission revenue.

18          Q     **-- which would result in roughly 70 -- a**  
19   **little over 76 million dollars?**

20          A     Whatever the math is.

21          Q     **But your wholesale --**

22          A     Depending on the billing determinants.

23          Q     **But your whole -- and your wholesale**  
24   **transmission cost that's in this rate case is 62?**

25          A     That's correct.

1           **Q     Okay.**

2                           MR. HUGHES:  No further questions,  
3   Your Honor.

4                           MR. HERRERA:  Mr. Coffman?

5                           MR. COFFMAN:  Thank you.  I hope to  
6   be brief.

7                           CROSS EXAMINATION

8   BY MR. COFFMAN:

9           **Q     Good evening, Mr. Maenius.**

10          A     Close enough.  Good evening.

11          **Q     I'm sorry.  The only thing I want to ask you**  
12 **about is to see if you can help me where other**  
13 **witnesses haven't on the proposal regarding**  
14 **reallocations within the EES rate, and I assume you're**  
15 **familiar with Ms. Kimberly's testimony and the rates**  
16 **that were proposed there?**

17          A     I've heard them.  Yes.  I haven't reviewed  
18 her testimony, but I maybe able to assist you in --

19          **Q     So you didn't calculate these rates?**

20          A     My staff did.  Yes.

21          **Q     Okay.  Is there anyone --**

22          A     The rates.

23          **Q     Is there anyone that's going to take the**  
24 **witness stand in this hearing who can tell me how these**  
25 **were calculated?**

1           A       Certainly if you'll ask me the question, I  
2       will do the best I can to answer you, sir.

3           Q       Do you know how they were calculated?

4           A       I do know.

5           Q       Okay. And how were they calculated?

6           A       In this, in this iteration Austin Energy took  
7       a three-year history for fiscal year '14, '15, and '16,  
8       directly assigned who -- directly assigned the, the,  
9       the dollars subject to the re -- subject to the rate to  
10       residential and nonresidential classes and developed  
11       that over a three-year period and determined an  
12       allocation on that basis.

13          Q       Okay. And that was -- and that calculation  
14       was performed regardless of the overall system benefit?  
15       It was --

16          A       It is simply three years of, of, of dollars  
17       that were subject to recovery, allocate it to  
18       residential and nonresidential.

19          Q       Okay. Are you familiar with the discovery  
20       responses that were provided earlier this week on  
21       Tuesday that ask about the updates to the overall case  
22       that Austin Energy is making here and the impacts of  
23       those?

24          A       Can you direct me to a --

25          Q       Yes, I can. I'm going to ask you -- I want

1 to ask you about, I guess, ICA Exhibits 34 and 35.

2 A Are those up here?

3 Q I've got copies I can show you.

4 MR. COFFMAN: If I may approach.

5 Q (By Mr. Coffman) I'm showing you a copy of  
6 ICA Exhibit 34, already in the record, which purports  
7 to show the impact on a customer with a thousand-  
8 kilowatt-hour usage and one with 2000-kilowatt-hour  
9 usage.

10 A Okay.

11 Q Are you familiar with those calculations?  
12 Did you -- do you know who calculate --

13 A My staff calculated them.

14 Q Okay. All right. And would -- can you  
15 confirm that that shows essentially \$2.24 to a customer  
16 with a thousand-kilowatt-hour usage and maybe twice as  
17 much for one that used twice as much?

18 A Approximately 2 dollar change.

19 Q And if the proposed change that Austin Energy  
20 is making in this case is adopted and going forward  
21 after this case is over more -- a greater number of  
22 energy efficiency rebates and incentives are adopted by  
23 customers and used, that -- those numbers might go up?

24 A Well, certainly the program costs that are  
25 subject to the pass-through increase, then yes.



1           Q     So this might be the impact if, if your  
2     proposal was adopted? That would be the immediate  
3     impact, but assuming the energy efficiency programs  
4     would continue to grow, those numbers would continue to  
5     grow for the residential -- I mean, assuming,  
6     assuming --

7           A     Yes. I would qualify that: Depending on the  
8     kWh consumption.

9           Q     Okay. And can you confirm what's been said  
10    earlier, that the average per-kilowatt usage for a  
11    residential customer is around, was it, 930 or --

12          A     I believe that's about right.

13          Q     And do you happen to know what the average  
14    residential usage is in a summer month?

15          A     I do not.

16          Q     Okay. Let me then quickly just show you the  
17    ICA Exhibit 35, which was purporting to show the  
18    relative dollar impact of the updated case here  
19    and -- I need my glasses. You see there on the  
20    residential line the dollar change of the updated case?

21          A     Yes, sir.

22          Q     Of the approximately 18.3 million dollars?

23          A     Yes, sir.

24          Q     And are you able to break that down to the  
25    various changes that have been made in the updated

1     **case?**

2           A     Well, without actually digging into all the  
3     background but speaking in general, an approximately  
4     half of that 18 million is attributed to the CAP change  
5     and the other half, approximately 9 million, is subject  
6     to the EES.

7           Q     So is -- wasn't the CAP change a reduction to  
8     **the overall revenue requirement?**

9           A     It shows these are revenues, and so CAP, CAP  
10    revenues would flow to residential and increase  
11    revenues.

12          Q     So that's a -- that 18 million dollars --

13          A     These are revenues. These are a revenue  
14    comparison.

15          Q     Okay.

16          A     So yes, CAP revenues would increase  
17    residential revenues.

18          Q     Okay. Would that, would that then impact  
19    **residential rates in a, in a lower direction?**

20          A     Well, the CAP, are you asking me about CAP  
21    revenues?

22          Q     Yes. The CAP revenue.

23          A     CAP revenues --

24          Q     My understanding was the CAP --

25          A     -- would decrease the under-recovery shown in

1     our, in our cost of service.

2           **Q     Would the CAP revenue update to the Austin**  
3 **Energy case tend to raise residential rates or lower**  
4 **them?**

5           A     They, they wouldn't have any impact on the,  
6 on the -- they wouldn't have any impact on the cost of  
7 service, class cost of service for residential rates.  
8 What they will do is they will move that class closer  
9 to cost of service.

10          **Q     But without changing the actual base rates?**

11          A     Well, they would, they would have to be  
12 reduced. Well, a portion, a portion of it would be.  
13 7 million dollars would flow to base rates.

14          **Q     And that's a good thing for the residential**  
15 **class.**

16          A     Yes.

17          **Q     Okay. And the other -- but you don't know**  
18 **the exact number --**

19          A     Approximately half.

20          **Q     -- breakdown? Approximately half of the**  
21 **18.3 million? Okay. Can you provide a more definitive**  
22 **number as to the breakdown of those two issues?**

23          A     Other than saying roughly half, and not off  
24 the top of my head.

25          **Q     And then the -- and those are the only two**

1 **issues that would account for 18.3 million?**

2 A I think roughly speaking. You know, it ran  
3 through the model.

4 Q Um-hm.

5 A And so to a certain extent, and as you're  
6 well aware, it's a big model, there're lots of moving  
7 parts. But in general, I would say that the change is  
8 attributed to those two factors.

9 Q And the only other update in the, in the case  
10 was the reallocation between S1 and S2 --

11 A That's correct.

12 Q -- classes, correct? And that did not impact  
13 the rate?

14 A It should not have.

15 Q So my next question is, and my understanding  
16 is that these updated changes were not included in any  
17 update to the cost of service study; that right? The  
18 cost of service, the class cost of service study of  
19 Austin Energy was not updated based on these changes?

20 A We have not, we have not fully vetted  
21 that -- I'm not even sure to what extent those models  
22 have been fully loaded, but those entries have been  
23 made into that model.

24 Q Okay. In response to another question in  
25 that group, ICA Exhibit 33, the answer we got was,

1     **"Austin Energy has not updated its class cost of**  
2     **service study to reflect the change in EES cost**  
3     **assignments by customer class."**

4           A     That is correct.

5           Q     Okay. Now, if that's the case, then how, how  
6     do you know on Exhibit ICA 35 that the class  
7     responsibility -- or the under- or over-recovery has  
8     changed for the residential class from 12 percent to --

9           A     Well, I believe the original RFI asked  
10    specifically just for the EES, and so the table  
11    reflects all, all three changes --

12          Q     Um-hm.

13          A     -- which could be -- which could have a  
14    compounding effect. I, I have not sat down and  
15    analyzed the driver of every individual change.

16          Q     So is this answer that I showed you on ICA  
17    35, then, just sort of a rough, back-of-the-envelope --

18          A     It, it is --

19          Q     -- impact?

20          A     It is the cumulative effect of all three  
21    entries.

22          Q     Okay. So based on the answers we got this  
23    week from Austin Energy, none of these three changes  
24    have been updated through the class cost of service  
25    study; is that correct?

1           A     The three changes have been, as reflected in  
2     that table, have been run through the model.

3                         MR. HERRERA:   Have or have not?

4                         THE WITNESS:   Have.   I believe the  
5     specific RFIs that you requested focused on, on  
6     incremental changes for each element, and that we  
7     didn't do.   We didn't take the model and just put one  
8     EES in and run the model and see its impact and then  
9     take the model and run --

10           Q     **(By Mr. Coffman)   So in other words, you**  
11     **didn't identify the change in revenues to each class?**

12           A     Not for --

13           Q     **You didn't identify the tabs, columns, dollar**  
14     **amounts, and line numbers?   Is that . . .**

15           A     The information that you have on the table it  
16     shows the cumulative effect of all three entries made  
17     into, into a single model run.

18           Q     **But this, this chart is not the result of an**  
19     **update to the cost of service study?**

20           A     Yes.   I'm not sure that all the changes,  
21     perhaps, for rates have been done, but certainly enough  
22     of it has been run through the model to, to ascertain  
23     that information, revenues.

24           Q     **So would it be fair to say that this is sort**  
25     **of a rough calculation?**

1           A     It certainly has not been fully vetted yet by  
2 my --

3           Q     Okay.

4           A     -- my staff.

5           Q     Well, maybe you can just answer one more  
6 question that I've not been able to get a straight  
7 answer from any other witness yet, and that is, how did  
8 this decision process work inside Austin Energy as to  
9 propose this change to the EES rate? Was that, was  
10 that not under consideration when the, the overall  
11 tariff packet was being put together?

12          A     I guess I would defer to the responses that  
13 you've asked for all the other witnesses, for  
14 Ms. Kimberly and Mr. Dombroski. The original package  
15 did not have it in, obviously.

16          Q     Was there a decision, was there a specific  
17 decision not to include it in the direct package?

18          A     No.

19          Q     Did it just result from conversations  
20 internally that occurred after that?

21          A     I believe Ms. Dombroski --

22                         MS. COOPER: It's late, it's late.

23                         THE WITNESS: I believe

24 Ms. Kimberly has addressed that in her testimony.

25          Q     (By Mr. Coffman) I'm, I'm afraid she

1     deferred to you. Did this, did this change in the EES  
2     rate originate from within your department?

3           A     We would have certainly run the numbers.  
4     Yes.

5           Q     And did someone direct your department to run  
6     the numbers?

7           A     Well, it certainly would have come up -- we  
8     wouldn't have run them on our own. There was  
9     discussion at some point in time.

10          Q     Okay. Who, who brought, who brought the  
11     issue to you and asked you to run it?

12          A     I don't recall.

13          Q     Okay. All right. Well, maybe you can help  
14     me reconcile things. If I'm looking at the, the  
15     schedule that, the rough schedule that has been put  
16     together in ICA 35 -- which is Austin Energy's response  
17     to ICA 8-14 -- and I'm looking at this 18.3 million  
18     dollars, is there a schedule elsewhere in the package  
19     or anywhere else in the record that I can compare that  
20     to? Is there a line-item schedule that I can replace  
21     this --

22          A     In, in what schedule is that?

23          Q     That's what I'm asking you, is that --

24                         MR. HERRERA: Mr. Coffman, I want  
25     to make sure I -- Mr. Coffman, I want to make sure I



1 understand your question. Are you asking him whether  
2 there is a schedule in the rate-filing package where  
3 you can find the 18 million dollars?

4 MR. COFFMAN: Or something to  
5 compare it to. Yes. It's an . . .

6 All right. I'll just give up at that  
7 point. Thank you.

8 MR. HERRERA: Pass the witness?

9 MR. COFFMAN: I have one more  
10 witness I can try.

11 MR. HERRERA: Are you passing the  
12 witness?

13 MR. COFFMAN: I pass the witness.

14 MR. HERRERA: Mr. Brocato?

15 MR. BROCATO: Thank you, Your  
16 Honor.

17 REDIRECT EXAMINATION

18 BY MR. BROCATO:

19 Q Hello, Mr. Maenius. Mr. Coffman was asking  
20 you about how the allocation for the EES rate was  
21 calculated, and I believe you stated or he asked you if  
22 it was based on a three-year average using '14, '15,  
23 and '16. Do you remember that question?

24 A I remember that.

25 Q Did you mean to say '13, '14, and '15?

1           A     Yes, I did.

2           Q     Is it your understanding that NXP is  
3     proposing that wholesale transmission customers  
4     subsidize AE's retail base rates by about 14 million  
5     dollars?

6           A     Yes. That is correct.

7           Q     Do you know if that's legal?

8           A     Well, it certainly doesn't meet a cost  
9     causation. I certainly wouldn't expect Austin Energy's  
10    retail customers to pay for wholesale transmission  
11    costs, no more than I would expect the wholesale  
12    transmission customers, the distribution service  
13    providers to pay retail costs.

14                   Cost causation dictates that retail  
15    customers pay for the costs that they incur and that  
16    wholesale customers pay for the costs they incur. The  
17    number, the revenue that NXP is proposing is that  
18    revenue that comes to Austin Energy to pay its  
19    wholesale transmission costs should be used to buy down  
20    retail trans -- retail distribution rates.

21          Q     Are you aware of the Public Utility  
22    Commission ever approving such a subsidy between  
23    transmission and retail rates?

24          A     Absolutely not. In fact, they go to great  
25    lengths to make sure there is no cross-subsidization.

1           Q     All right. Does Austin Energy file any  
2 monitoring reports with the Public Utility Commission  
3 with respect to their transmission services?

4           A     Yes, they do.

5           Q     No further questions. Thank you,  
6 Mr. Maenius.

7                     MR. HERRERA: Low Income Customers?

8                     MS. COOPER: No. Thank you, no.

9                     MR. HERRERA: Public Citizen?

10                    MS. BIRCH: We have no questions.

11                    MR. HERRERA: NXP?

12                    MR. HUGHES: Yes. I've got a  
13 couple questions, Your Honor.

14                    CROSS EXAMINATION

15 BY MR. HUGHES:

16           Q     Mr. Maenius, are you familiar with the work  
17 papers you got -- that Austin Energy filed in this  
18 rate-filing package?

19           A     In this rate-filing package?

20           Q     Um-hm. Yes, sir.

21           A     Yes.

22           Q     Would it be correct to say that the total  
23 Austin Energy cost of service in this rate-filing  
24 package was 1,298,929,899?

25           A     If you'll give me just a moment.

1           **Q     No problem.**

2                           MR. BROCATO:   For those of us not  
3   as familiar with the work papers, what page are you  
4   looking at?

5                           MR. HUGHES:   It would be work  
6   paper -- it would be Schedule, actually Schedule A,  
7   column J, line 30.

8                           THE WITNESS:   Say your number  
9   again?   These are really small numbers here.

10           **Q     (By Mr. Hughes)   Yeah.   Schedule A, column J,**  
11 **line 30.**

12           A     And the amount?

13           **Q     1,298,929,899.**

14           A     That is the cost of service?

15           **Q     The total cost of service.**

16           A     Found on line 30?

17           **Q     Yes, sir.**

18           A     That is correct for, for this test year.

19           **Q     Okay.   And on work paper G-10.2, column A,**  
20 **line 4 --**

21                           MR. HERRERA:   What was that work  
22   paper again, Mr. Hughes?

23                           MR. HUGHES:   It's G-10.2, Your  
24   Honor, column A, line 4.

25           **Q     (By Mr. Hughes)   Did you find it?**

1           A     Yeah. And I apologize for standing up, but  
2     the glare is such that I can't --

3           Q     No problem. Okay. On work paper G-10.2,  
4     column A, line 4, that, that's the, that's a proposed  
5     base rate revenue number that Austin Energy has asked  
6     for and which is 614,404,165; is that correct?

7           A     164. Yes.

8           Q     4? Okay. So from the 1., or almost 1.3  
9     billion dollars of total cost of service we discussed  
10    before to the proposed base rate revenue of 614, there  
11    are a number of deductions made. Is the 62,129,919  
12    part of those deductions to get you from the 1.3  
13    billion to the 614 million, your 62,129,919 in  
14    transmission, wholesale transmission revenue?

15          A     That 62 million dollars was applied to  
16    completely eliminate all the wholesale transmission  
17    costs so that no wholesale transmission costs were  
18    included in the 614 million dollars.

19          Q     Okay. So the answer, well, the answer would  
20    be yes, that you deducted it from the 1.3 billion,  
21    along with other things, to get to that 614, correct?  
22    Okay?

23          A     (Nods head.)

24          Q     So if your revenue is 76 -- your wholesale  
25    generation revenue is 76 million and you've told the

1     **commission that your cost is over 75 million instead of**  
2     **62, if your cost was 75 million would you have put it**  
3     **in that line instead of 62 to eliminate all the**  
4     **wholesale costs from retail electric rates?**

5           A     Now, ask your question again? I'm sorry.

6           Q     **So if the actual number that you asked for**  
7     **was 75,697,440 --**

8           A     The revenue requirement in docket?

9           Q     **Um-hm. If that's the number, why is that not**  
10    **in the 62 million place?**

11          A     Oh, the return function.

12          Q     **The return function again?**

13          A     Right. On Schedule B of this rate-filing  
14    package the rate of return, the return Austin Energy is  
15    requesting results in a rate of return of 5.8 percent.  
16    The return that Austin Energy gets on its transmission  
17    function is 15 percent of rate base. If you were to  
18    take that 15 percent and multiply it by the  
19    transmission rate base that's included in this case,  
20    results in over 50 million dollars. Actually, you  
21    would show that we are under-recovering if you use  
22    these numbers.

23          Q     **So you're not, you are not -- you did not**  
24    **add -- you're not going to receive the 75?**

25          A     Yes.

1           Q     You will receive it?

2           A     We will receive whatever revenue is  
3     attributable to a \$1.16 access fee for Austin Energy.

4           Q     Which was roughly 76 million?

5           A     In the test year.

6           Q     Yeah. Okay. Which is 14 million more than  
7     62 million.

8                     Did I suggest, when we were questioning  
9     did I suggest that Austin retail ratepayers subsidize  
10    wholesale transmission costs? Did I make that  
11    suggestion?

12          A     Say that again?

13          Q     When I -- when we were having a discussion  
14    earlier did I suggest that retail ratepayers subsidize  
15    wholesale transmission costs?

16          A     No. I believe you, you --

17          Q     No. I'm just -- what I'm trying to do is get  
18    you --

19          A     You recommended that --

20          Q     I'm trying to figure out the right number  
21    of --

22          A     -- wholesale transmission customers subsidize  
23    retail rates.

24          Q     You're, you're taking -- okay. Are you  
25    taking the total AE cost of service and

1     **reducing -- trying to back out all of the wholesale**  
2     **transmission costs --**

3           A     That's exactly what Austin Energy did.

4           Q     Okay. Well, what I'm saying, I'm just  
5     **suggesting is, that wholesale transmission cost is**  
6     **actually 70 -- over 76 million dollars. That's what**  
7     **your revenue is.**

8           A     Can you show me --

9                     MR. HUGHES: No further questions,  
10    Your Honor.

11          A     -- can you show me in the --

12                     MR. BROCATO: No, no, no, no.

13                     MR. HERRERA: I'm sorry. You asked  
14    a question, Mr. Hughes, and you didn't let the witness  
15    answer.

16                     MR. HUGHES: No. I've asked him a  
17    question. He's already mischaracterized, or  
18    Mr. Brocato, either one of them, mischaracterized the  
19    question that --

20                     MR. HERRERA: Tell you what, ask  
21    him your questions and wait for the answer.

22          Q     **(By Mr. Hughes) Mr. Maenius?**

23          A     Yes, sir.

24          Q     **The city of Austin, Austin Energy, is**  
25    **likely -- has asked for and will recover somewhere in**



1     **the neighborhood of 76 million dollars for wholesale**  
2     **transmission, correct?**

3           A     They received a rate, and they're, and  
4     they're --

5           Q     **Will they receive that amount, yes or no?**

6           A     They -- the PUC has approved an access fee of  
7     1.16 and some odd cents. What revenue we receive will  
8     simply be the product of that and the ERCOT.

9           Q     **What did you ask for in your rate filing, in**  
10    **your filing, your wholesale transmission --**

11          A     The revenue requirement --

12          Q     **-- interim requirement?**

13          A     The revenue requirement in that TCOS filing  
14    was approximately 75 million. The rate was set on that  
15    amount.

16          Q     **And what have you put in this test year to**  
17    **reduce the total cost of service and get it down to**  
18    **614? What's your wholesale transmission number there?**

19          A     The wholesale transmission revenue that was  
20    included in this retail case was 672 million.

21                         MR. HUGHES: No further questions.

22                         MR. HERRERA: Mr. Coffman, do you  
23    have any further questions?

24                         MR. COFFMAN: No more.

25                         MR. HERRERA: Mr. Brocato?

1 MR. BROCATO: No questions.

2 MR. HERRERA: Mr. Maenius, you're  
3 excused. Thank you. Whenever you're ready,  
4 Mr. Brocato.

5 MR. BROCATO: At this time Austin  
6 Energy would call Mr. Mark Dreyfus to the stand.

7 MR. HERRERA: Before we start with  
8 Mr. Dreyfus let's go off the record just very, very  
9 briefly.

10 (At 6:54 p.m. the proceedings went  
11 off the record, continuing at 6:57 p.m.)

12 MR. HERRERA: Let's go back on the  
13 record, and thank you.

14 MR. BROCATO: Are you ready?

15 MR. HERRERA: Yes.

16 MR. BROCATO: At this time we would  
17 call Mr. Mark Dreyfus.

18  
19 REBUTTAL PRESENTATION ON BEHALF OF  
AUSTIN ENERGY

20 DIRECT EXAMINATION

21 BY MR. BROCATO:

22 Q Good afternoon. Please state your name for  
23 the record.

24 A Mark Dreyfus.

25 Q And have you been handed what's been marked

1 as Austin Energy Exhibit No. 9? Should be your  
2 rebuttal testimony.

3 A I have a clean copy of my rebuttal testimony.

4 Q The court reporter has a redacted version, or  
5 you can make the corrections as I state them.

6 MR. BROCATO: Like the other, other  
7 witnesses, I'll go through those. Page 25, lines 5 and  
8 6 should be stricken, and on line 7 it should be  
9 stricken through the footnote 29.

10 MR. REED: Can you remind us what  
11 page you're on? Sorry.

12 MR. BROCATO: Certainly. Page 25.  
13 Really the sentence that begins on line 5 and the  
14 associated footnote should be stricken. Page 42 on  
15 line 5 --

16 MR. WELLS: Just a minute, please.  
17 Okay.

18 MR. BROCATO: On line 5 of page 42  
19 beginning with the word "and" and going through the end  
20 of that sentence on line 6 should be stricken,  
21 including footnote 50.

22 THE REPORTER: 60?

23 MR. BROCATO: 50, 5-0. Page 42,  
24 line 7 the words "Mr. McCollough and" should be  
25 stricken.

1 MS. FACONTI: Can you repeat that?

2 MR. BROCATO: Yes. Page 42, line 7  
3 the words "Mr. McCollough and" should be stricken. And  
4 then on page 48 beginning at line 19 and continuing to  
5 page 64 at line 12 should be stricken.

6 MR. WELLS: Could you repeat that,  
7 please?

8 MR. BROCATO: Yes, sir. Page 48  
9 beginning with the Q on line 19 --

10 MR. WELLS: Yes.

11 MR. BROCATO: -- and continuing  
12 through page 64 at line 12, including line 12.

13 MS. COOPER: Mr. Brocato, on  
14 line -- on page 53, for instance, there's a statement  
15 involving Mr. Johnson.

16 MR. BROCATO: That's correct.

17 MS. COOPER: I'm not trying to give  
18 you a hard time on these.

19 MR. BROCATO: No, no, and I  
20 appreciate it. This gets a little tedious at times.  
21 And Mr. Dreyfus can correct me if I'm wrong, but my  
22 understanding is here he is still rebutting Data  
23 Foundry but stating that Mr. Johnson either agreed or  
24 in some -- to some degree it's still a rebuttal of Data  
25 Foundry.

1           **Q     (By Mr. Brocato) Is that correct?**

2           A     That's correct. At that point in my  
3 testimony I was citing to the cross rebuttal of  
4 Mr. Johnson --

5                         MS. COOPER: Okay.

6           A     -- in a point that supported my point  
7 regarding Data Foundry's testimony.

8                         MR. BROCATO: But again, I  
9 appreciate that.

10                        MR. WELLS: So it ended where  
11 again?

12                        MR. BROCATO: On page 64 --

13                        MR. WELLS: Okay.

14                        MR. BROCATO: -- at line 12.

15           **Q     (By Mr. Brocato) Mr. Dreyfus, are there any**  
16 **additional edits that you need to make to this**  
17 **testimony?**

18           A     No. There are not.

19                        MR. BROCATO: Move for admission of  
20 Austin Energy Exhibit No. 9.

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

23                        MR. BROCATO: And I tender the  
24 witness for cross examination.

25                        MR. HUGHES: Low Income Customers?

1 MS. COOPER: Yes. Nobody else is  
2 ahead of me? I think Bethany.

3 MR. WELLS: I --

4 MR. HERRERA: I'm sorry. Did you  
5 have questions, Mister --

6 MR. WELLS: I certainly do.

7 MR. HERRERA: I apologize. I'd  
8 gotten used to our routine.

9 MS. COOPER: You just got out of  
10 the habit.

11 MR. WELLS: I just haven't been  
12 here much, you know?

13 MR. HERRERA: Well, you've been  
14 here all along.

15 MR. WELLS: Well -- I have other  
16 copies for those who are interested.

17 MS. COOPER: Yes.

18 CROSS EXAMINATION

19 BY MR. WELLS:

20 Q Happy early evening, Mister -- Mr. Dreyfus.

21 A Good evening.

22 Q Please refer to BC1.

23 A Yes. I have it.

24 Q Okay. Actually, I'm wrong. Refer to BC,  
25 BC -- go to BC2. I'll get to 1 later.

1           A     I have that in front of me.

2           Q     Okay. Will you recognize that this document,  
3     which was sponsored by Mr. Dombroski, has some base  
4     data on bills and basically a division of the houses of  
5     worship by rate class and by relevant other usage and  
6     all those kind of things?

7           A     That does appear to be so, though I would  
8     note that there are divisions for the existing  
9     secondary rate classes, so prior to our recommended  
10    change for the secondary rate classes. And then  
11    there's a call-out of, of bills in the 200-to-300-  
12    kilowatt, and that does not conform with any particular  
13    rate class. That does fall into the S3, the S3 class  
14    during this time period. But yes.

15          Q     That's fine. The purpose of getting this  
16    data was to define the scope and breadth of the classes  
17    and the number of customers that we have in these. So  
18    this provides data that is not necessarily -- it just  
19    kind of shows the current situation. This is a  
20    situation analysis.

21                         Please refer to BC3.

22          A     Yes.

23          Q     BC3 was taken from my party presentation and  
24    basically took that data and added -- made a summary of  
25    the customers and made a summary of the percentage of

1 the total groups.

2 Will you note, please, the first two  
3 columns, column 1 -- by the way, this is based on 2015  
4 data. The first two columns, one is rate class, and  
5 those are current rate classes and I understand that,  
6 and the second is what we call the rate classes.

7 Could you note here the number of  
8 customers that we have based on this current situation  
9 that are S1 rate classes?

10 A If I may, I do detect an error --

11 Q Okay.

12 A -- in this table as it was translated from  
13 the document that you just, you just handed me --

14 Q All right.

15 A -- BC2, if I could just point it out.

16 Q Sure.

17 A So in the second to last row there is, again,  
18 the identifier "Secondary Voltage" greater than 50kW  
19 from 200 to 300kW.

20 Q Yes.

21 A And as it is presented in this table, those  
22 are present as if they are unique bills. However, I  
23 believe based on BC2, that those are actually a subset  
24 of secondary voltage greater than 50kW so that the  
25 totals are a little bit off for those customer bills



1 that are in the "Secondary Voltage" 200 to 300kW row,  
2 if I was clear on that.

3 Q Would you agree that the total number of HOW  
4 customers is somewhere in the range of 440?

5 A Based on this table and the prior table, I  
6 would say it's a, it's around 440. These, these  
7 customers were taken from total customers bills and  
8 dividing by 12. So it's approximately the number of  
9 customers.

10 Q Would you agree that in -- well, I won't, I  
11 won't go into that. Because in some presentations I've  
12 heard it's as high as 500, but I was trying to get a  
13 number that went back to data, because I'm looking more  
14 for general gross numbers but also percentages.

15 A I would accept that, based on the data in  
16 BC2, that it is around 440 customers.

17 Q Okay. When you look through what this tells  
18 you, you can see, would you agree, the number of S1  
19 customers based on this way of classifying is 58?

20 A That is what is in the table. Yes.

21 Q Okay. Would you agree that the number of  
22 S2-rate customers are 240?

23 A That is what is in the table.

24 Q And that S3 are 138?

25 A That is what is in the table.

1           Q     Okay.  Would you agree, then, that what this  
2     shows is that the percentage of customers -- and the  
3     percentages are a calculation.  The percentage of  
4     customers that are in the S1 and S2 rates are 67.6  
5     percent of the total number?

6           A     That is not precisely accurate because of the  
7     item that I pointed out previously, that there's  
8     overlap between the two, the two rows that are stated  
9     as S3.  So it's a little bit smaller than that.

10          Q     What I'm trying to get at is a gross number  
11     of who is our constituency and audience and how  
12     difficult or not difficult are they to communicate  
13     with.  So call it 65, whatever.

14          A     It's a little below 67 percent.

15          Q     All right.  Fine.  And the 31 percent are in  
16     the S3.

17          A     Again, it would be a little smaller than --

18          Q     Okay.

19          A     -- 31 percent.

20          Q     As you go across, will you note that the  
21     column says kilowatt hours used and the percent of  
22     kilowatt hours?

23          A     Yes.

24          Q     And later on revenue, which is -- and then  
25     finally what the discount is.

1                   So what I'm trying to show is that a  
2   large number of these 441, or whatever it is -- I'll  
3   just keep using that number, recognizing it as probably  
4   overstated or understated.

5           A     Certainly.

6           Q     For the purposes of comparison, there are a  
7   large number in those rates. Also note that the  
8   percentage of kilowatt hours used by that 67.6 is 21.7  
9   and that the total revenue is 21, or 22 basically, and  
10   that the discount is 33.

11                   So there, there are a lot of people, but  
12   they're not providing either the revenue or the usage  
13   or the discounts. Would you agree with that general  
14   overlook?

15           A     I would agree that larger customers have  
16   typically more usage and larger bills and thus larger  
17   discounts so that for the little bit less than 67  
18   percent of the customers in S1, and in S2 they do have  
19   a smaller proportion of the total revenue and the total  
20   discount.

21           Q     Do you note that the title that I used was  
22   "Demographics and Communication"?

23           A     That is the title that is listed on the  
24   exhibit.

25           Q     One of the reasons for this is, this

1 illustrates a topic that I'll bring up later about  
2 difficulties in communication to smaller groups. We're  
3 trying to -- I can attest for myself that -- well,  
4 that's all right, that's all right.

5 All I'm trying to point out is this is  
6 the cast of characters that we are either working with  
7 to -- or the ones that we have to communicate with.  
8 Okay.

9 I want to refer you back to BC1. BC1 on  
10 page -- actually, it's after page 4 there is a chart  
11 which is titled "Demand Related Charges" -- or  
12 "Analysis of HOW Bills Noting Percentage of Charges by  
13 Demand" and "(kW) Related Charges." And it shows and  
14 identifies the HOWs that I used in my party  
15 presentation. And in the final column would you note  
16 that it has -- it's titled "Percent Demand Charges as a  
17 Percent of Total Charges"? Now, let me explain.

18 A That is the title of the final column.

19 Q Okay. Fine. When I say "demand-related,"  
20 these are related to cost, because electric delivery,  
21 demand charge, regulatory charge, and power factor  
22 adjustment, or as you proposed, a load factor  
23 adjustment, all are based on a rate times the kilowatt  
24 usage, the demand usage.

25 The point I'm trying to make here, these

1 percentages say that on the individual bills when I add  
2 those three or four things that are involved, this is a  
3 percentage of the bill. So the first one, which  
4 happens to be the church that I personally represent,  
5 it turns out that in the winter my bill is 59 percent  
6 demand-related. In the summer it's 49. Is that a  
7 higher number than you would expect?

8 A I would expect that the share of  
9 demand-related charges would be a result of the rates  
10 and the usage --

11 Q Okay.

12 A -- for that particular facility.

13 Q What I'm trying to point out is, one of the  
14 favorite topics that's come up, which is called rate  
15 shock, and what this means is that part of the rate  
16 shock is that every kilowatt of demand is a very  
17 important thing here, because it turns out on every  
18 bill -- and by the way, these are large churches, small  
19 churches, medium churches, a small sampling, but a  
20 sampling of where they are. On a few of the small  
21 churches it's as high as 71 percent.

22 So my point is trying to say demand is  
23 very important. Would you agree that demand is very  
24 important --

25 A I agree --

1           Q     -- in the bills that we have?

2           A     -- demand is very important for all  
3 commercial customer bills.

4           Q     And particularly commercial customers in  
5 these, in these different rate groups, S2 and S3.

6           A     Yes. Demand, there's no demand charge in S1.  
7 So demand --

8           Q     Yeah.

9           A     -- is particularly important for all S2, S3,  
10 and primary customers.

11          Q     Okay. And S1 we only have 58, so it turns  
12 out that's not a very large number. Okay.

13                     Let's move, then, to BC4, and BC4, which  
14 was a RFI that I turned in -- and thank you very much,  
15 I got that Tuesday. It was, you know, and it was only  
16 25 pages, so that was pretty good. I want to say one  
17 compliment, and I think you need to compliment whoever  
18 J.L. is, whoever he or she is.

19          A     I would be happy --

20          Q     I feel that person's pain.

21          A     I would be happy to pass that on.

22          Q     Though seriously --

23          A     Consider it passed on.

24          Q     Because the one thing that I did like was you  
25 took the time and trouble to take my submission of the

1 various bills, which ended up being 105 pages my total  
2 response to you, and at least -- and the moral of the  
3 story was he did the calculations.

4 Okay. I want to say on this, please  
5 note up here on the, on the last sentences it says,  
6 "Show the calculations that would be made on the bill  
7 to qualify this benefit," and we'll look at attachment  
8 1 and 2, but it also says, "Please include all the  
9 formulas and elements included in the calculation."

10 Now, the formulas and elements were not  
11 included. Would you provide that?

12 A I did review this last night and I did find  
13 that the -- let me say, I find the formulas in here,  
14 but I do recognize that this is a rate calculation  
15 which can be sometimes complicated, and so the -- there  
16 is not an equation written that lays out the formula,  
17 though I'm able to trace the formula through the  
18 examples.

19 Q Well, I'm able to trace it too backwards, but  
20 I believe that for the benefit of my people who have to  
21 do some of this -- I'm talking about my other HOWs -- I  
22 would like to have the formulas, because I requested  
23 them and they're kind of important.

24 And other thing which I don't  
25 know -- and in that also I don't really know the

1     **formula for power factor. I was very interested to**  
2     **note that if you have a load factor, you don't have a**  
3     **power factor, and that would be important too. Can you**  
4     **provide that?**

5                     MR. BROCATO: If I may, I normally  
6     wouldn't interject myself like this on this, but we  
7     provided an Excel file. It's in the native format that  
8     contains the formulas. I'm not sure if you got that,  
9     looked at it, were able to fully understand it. I  
10    mean --

11                    MR. WELLS: Okay, okay.

12                    MR. BROCATO: -- but I think that  
13    we did provide it in that way.

14                    THE WITNESS: And I only reviewed  
15    the paper copies. I did not review --

16            Q     **(By Mr. Wells) Okay. I haven't reviewed the**  
17    **other --**

18            A     The native file.

19            Q     **On the other hand, I'd still like the**  
20    **formula, because it's pretty easy when you have 10 and**  
21    **15 percent, but it turns out the percentages on the**  
22    **actual ones are not quite so easy. But all those are**  
23    **Excel? Okay.**

24                    MR. BROCATO: J.L. says yes.

25                    THE WITNESS: J.L. says yes.



1 MR. WELLS: I thank you very much.  
2 I appreciate it.

3 Q (By Mr. Wells) Now let's go to BC4-2, BC4-3.  
4 Well, they're attached. I have B -- it's a sub, a sub  
5 deal. And in here the other question that I have is I  
6 see there's a rate called a power factor adjustment  
7 rate, which is \$12.98. Is that somewhere in the tariff  
8 that I didn't find?

9 A Yes. The power factor adjustment rate is in  
10 the tariff.

11 Q Interesting.

12 A It's --

13 Q Where?

14 A It's in the commercial tariffs.

15 Q Okay. Okay. If you say it is, it is.  
16 That's fine. This is the rate, and is that one that  
17 gets changed every once in awhile or what?

18 A The power factor rate has been in place since  
19 2012 --

20 Q Okay.

21 A -- to the best of my knowledge.

22 Q Anybody else have an idea of where in the  
23 tariff or just -- just aim me in the right direction?

24 A If you look under the tariff for secondary  
25 and primary commercial customers, I think it's toward

1 the end of those tariffs there is --

2 Q Okay.

3 A -- the power factor adjustment.

4 Q Okay. Okay, fine. So these two were the two  
5 I requested. Thank you very much, because it did show  
6 a 10 -- it showed the way that you did it and it showed  
7 how you adjusted to the floor.

8 And the reason I ask this is, when I  
9 went through all of your presentations, whether it was  
10 the one that was made on the 23rd of January to the  
11 city council or other places or even in the  
12 information, I didn't find how you were going to  
13 calculate that. So this was helpful. All right.

14 Now, please turn to BC5-1 and BC5-2.  
15 BC5-1 applied that ability to do that calculation, and  
16 you took the list of the houses of worship that I had  
17 and you compared, it looks like -- is it true you  
18 compared the analysis that I made about the increase  
19 that would be seen if, you know, if and when this HOW  
20 discount will be done and then you did your analysis  
21 including the load factor floor?

22 A Yes. In your testimony you had an estimated  
23 rate, a rate change analysis for each one of these --

24 Q Yes, I did.

25 A -- houses of worship. In response to your,

1 to your testimony I pointed out that, that you had not  
2 adjusted for the 20 percent load factor floor, and then  
3 you proffered these discovery questions and --

4 Q Right.

5 A -- I asked J.L. to perform those calculations  
6 using our model to see what we believed the impacts  
7 were, taking into account the load factor floor and  
8 any -- and the power factor and any other provisions.  
9 And so the, the third column and the sixth column are  
10 the impacts that came out of that analysis that we did,  
11 and then they're compared to the numbers that you had  
12 in your testimony.

13 Q And the reason I said no, if I took it into  
14 account, I couldn't find anywhere where the  
15 calculations were. So this provided it, and I guess  
16 that's what discovery is for.

17 Let's go to BC2, because BC2 had the  
18 same chart that's on BC2, but it also shows the  
19 dollars.

20 A This is --

21 MR. BROCATO: BC5.

22 A -- BC5-2.

23 Q BC5, I didn't say it right. Excuse me.

24 A Yes.

25 Q BC5-2. So how would you conclude the

1     **results?**

2           A     I'm not sure I understand the question.

3           Q     Okay. I'll rechange it. Is it true that the  
4     **results, particularly on the winter increases, showed a**  
5     **great change? And particularly note the ones for the**  
6     **small churches, the small Christian --**

7           A     You know, I --

8           Q     -- small UMC, Episcopal, and the small, they  
9     **were the ones that had egregious numbers, like 93.9.**

10          A     Mr. Wells, I looked at these calculations,  
11     and I need to point out that while you have labeled  
12     them small, if I look at what you've offered me as BC6  
13     and I go through each one of these congregations, I  
14     don't find that all of these customers are what I would  
15     call small, because some of them have -- I don't have  
16     the, I don't have the detailed results for each one of  
17     the, of the ones that you have labeled small, but when  
18     I reviewed the detailed calculations I found that some  
19     of them had demand that was over a hundred kilowatts.  
20     So I just want to point out that I don't consider those  
21     small. To me, small would be more like the S1 category  
22     below 10 kilowatts. So I would consider those medium  
23     myself.

24          Q     Okay. That's not the way it works. In a  
25     **church, and this is characteristic of churches, they**

1    have to turn the lights on. And for example, I can  
2    give you an example of the small UMC, which is the one,  
3    two, three, four, five, sixth one down. They had about  
4    50kW, but it turns out that on demand you turn the  
5    lights on and you would have to demand. Well, one of  
6    the reasons they were so high is that they don't have  
7    many kilowatt hours, and the way the discount is done  
8    they -- you take the total bill, divide it by the  
9    kilowatt hours. Well, the kilowatt hours are a  
10   thousand kilowatt hours, they're gonna be, they're  
11   gonna be hurt.

12                   So let me come back. You may not  
13   classify them that way, but with regard to size, and  
14   you look at my party's presentation, you get four of  
15   those people who are -- we consider small and they will  
16   tell you the situation that they have.

17       A     So, so let me just conclude by saying, from a  
18   rate-making perspective I do not consider them small,  
19   though from a -- you know, from the perspective of a,  
20   of an organization you may consider them small.

21       Q     Well, the reason I -- from a rate-making, I  
22   think the small and also a low load factor is probably  
23   the best way to define it, and your NexGen [sic] and  
24   these other studies you did said that this is a problem  
25   when you have people with the, you know, the low load

1 factor.

2 So one thing that does happen, this load  
3 factor with a, with a, with a floor has helped them out  
4 and has been a -- I believe is a step towards a way  
5 that we can get all the small ones -- I call them  
6 small, but let's call it people with less than 20  
7 percent load factor -- it's going to help them out.

8 A Yes.

9 Q And that would -- but it does not solve the  
10 whole problem, but it does help them out and I think  
11 shows both in dollars and percentages that's the case.

12 A Yes. I think it is well known that the house  
13 of worship, the group of all houses of worship is a  
14 very diverse group, and some of them do have low load  
15 factors. And so the 20 percent load factor floor will  
16 provide a significant benefit to the houses of worship  
17 with low load factors.

18 Q Well, I'm a large church --

19 MR. BROCATO: Your Honor, I want to  
20 be respectful of Mr. Wells. I know he may not be as  
21 familiar with this process as some, but I would ask  
22 that he try to ask questions of Mister --

23 MR. WELLS: I'll do that.

24 MR. BROCATO: -- Dreyfus or at  
25 least pause occasionally so he can interject something.

1                   MR. HERRERA: Mr. Wells, I would  
2 ask you to ask the witness a question in a way --

3                   MR. WELLS: Okay.

4                   MR. HERRERA: -- he can answer, and  
5 also I'll leave this up to the parties, you had 23  
6 minutes left, and right now you're at 22 -- 22 minutes  
7 and some seconds.

8                   MR. WELLS: So I better finish  
9 quick.

10                  MR. HERRERA: I suspect that the  
11 parties would indulge you taking a bit more time, but  
12 I'll leave that up to the parties.

13                  MR. BROCATO: Do you know how much  
14 more approximately you have?

15                  MR. WELLS: Yes. I would say less  
16 than 10 minutes.

17           Q     **(By Mr. Wells) All right. What I, what I**  
18 **want to say, even large churches, and mine's the top**  
19 **one, benefit from this, because in the winter our load**  
20 **factor was at 17. So --**

21                  MR. HERRERA: Mr. Wells, question  
22 and answer, please.

23                  MR. WELLS: Oh, okay. All right.

24           Q     **(By Mr. Wells) I'll just move quickly on to**  
25 **BC6 and 7, because that was an extension of this**

1     **analysis, and what were you trying to show here on**  
2     **those two?**

3           A     BC6 and 7 show the rate impact for the  
4     non-summer and summer period of moving to the new rates  
5     and --

6                     THE REPORTER:   Of what rates?   I'm  
7     sorry.

8                     THE WITNESS:   Of moving to the  
9     proposed rates, and they also show the calculation that  
10    you provided.

11           Q     **(By Mr. Wells)   Yes.**

12           A     And then the changes from J.L.'s analysis.

13           Q     **When you look at these, you've listed on the**  
14    **left side all the charges that show up on a typical**  
15    **bill, which are about 9 or 10.   How many are**  
16    **kilowatt-related?**

17           A     The ones that are kilowatt-related are the  
18    delivery charge, the demand charge, the power factor  
19    adjustment, which I would note will be zero, I'm told  
20    will be zero for any customer that has a load factor  
21    adjustment.   The load factor adjustment is a kilowatt  
22    charge, and currently the regulatory charge is a  
23    kilowatt charge.

24           Q     **Okay.   Thank you.   Please note that the total**  
25    **of those charges in dollars is 63 percent and 56.**



1     **Thank you for the examples.**

2                     **Let's move to BC8. BC8 refers to -- I**  
3     **guess my question there is, one of the studies that is**  
4     **proposed but not done is this study of commercial**  
5     **accounts experiencing demand peaks on weekends, which**  
6     **churches or houses of worship are one of those.**

7                     **Do you have a proposed schedule? Are**  
8     **you going to run those this month or this year?**

9             A     We don't have a proposed schedule at this  
10    time. First we'll have to get through this process.

11            Q     **Yep.**

12            A     And I would anticipate that at the end of  
13    this process we'll, we'll look at all the studies that  
14    might be helpful in a future rate-setting. We'll set  
15    some priorities on those, and those that we do in house  
16    we'll kick off sometime this year, and those that we  
17    seek outside support for we'll issue a solicitation to  
18    bring in the expertise to conduct those studies.

19                     So those studies could be done as early  
20    as the end of this year or sometime next year, but as  
21    you say and as I responded to this BC8, we do not have  
22    a current schedule for those studies.

23            Q     **Thank you. Please refer to your rebuttal,**  
24    **page 29. And can you summarize in a sentence or so**  
25    **what you replied on lines 14 through 6? And this**

1     **refers, I believe, to after the 2012 rate case.**

2           A     So the question is, "What actions has Austin  
3     Energy taken to inform HOW customers of the transition  
4     policy and to assist HOW customers with their energy  
5     management?"

6           **Q     Right.**

7           A     So shortly after the rate proceeding we  
8     reached out to, to Austin Interfaith, the Diocese, the  
9     Texas Impact, and -- I don't know the organization, it  
10    was a Baptist organization represented by an attorney  
11    in our last proceeding. We reached out to all of those  
12    organizations and to, to hold a meeting, which was held  
13    in this room, to discuss how to read your bill, what  
14    the bill proposals were, and how we might assist  
15    companies, houses of worship with energy management.

16                   We also contacted every single house of  
17    worship directly, because we had to install a new meter  
18    for those customers because it became commercial  
19    accounts, and so in those conversations we were able to  
20    tell them that we were available to assist them with  
21    energy management.

22                   In, in the meeting and in the follow-ups  
23    we offered a free energy audit by our staff, free  
24    access to our load profiler service, which allows -- I  
25    believe you're a subscriber -- which allows an

1 institution to have a closer look at their bill and  
2 interval data, and we offered that for free for one  
3 year, and we offered energy efficiency -- you know, to  
4 help work with these customers directly on access to  
5 our energy efficiency services.

6 I believe some 70 customers took us up  
7 on some energy efficiency rebate issues, and I don't  
8 know how many conversations we had. We've also put  
9 together a, an email list that we use as part of our  
10 key accounts program --

11 Q Yes.

12 A -- to communicate with houses of worship.  
13 And I believe that covers everything that is in my  
14 response to that question --

15 Q Right.

16 A -- in the testimony.

17 Q Right. Thank you very much.

18 On 37, basically, I don't think we need  
19 to recite everything, but on line 15 through 19 you  
20 note that we're unfamiliar with the recommendations,  
21 and I said have -- you said that we're generally  
22 inefficient -- I think it's more ineffective -- and  
23 you're offering still to provide those same services  
24 now; is that right?

25 A Well, first off, I would note that, as you

1 said in your testimony, sometimes houses of worships  
2 are, are difficult to get them to pay attention. We  
3 have attempted to get them to pay attention. We have  
4 provided energy efficiency services to over 70 houses  
5 of worship --

6 Q Right.

7 A -- that took us up on our outreach, and we  
8 continue to offer that outreach.

9 Q You took part of my quote. Why do you think  
10 I said it's difficult to get churches' attention?

11 A That is your quote, not mine.

12 Q Why did I -- okay. I'll tell you why I did  
13 it, because I'm experienced with churches. And what I  
14 said before, perhaps Austin Energy could have done it  
15 better in getting the word out, but part of the problem  
16 is it's difficult to get churches' attention,  
17 especially with the smaller churches where the staff is  
18 very small.

19 And what I'm doing as a customer is  
20 providing a little bit of communication to an audience  
21 that is difficult. They're more heart people, not head  
22 people, and I believe that we recommend a collaboration  
23 on that.

24 A Understood.

25 Q I guess the final thing that I want to say on

1 communication has to be that it isn't working, but  
2 we're offering to assist to get the word out, because  
3 it is going to be a hard job, and that's what I was  
4 trying to get across.

5 MS. COOPER: You need to introduce  
6 the exhibits.

7 MR. WELLS: Oh, yeah. I will. I'm  
8 looking through my list, since everybody seems to do  
9 that.

10 MR. REED: That was directed to us.

11 MR. WELLS: I will tell you this --

12 MR. HUGHES: Some better than  
13 others.

14 MR. WELLS: -- you made the long  
15 summary of all the things that were done, and number  
16 one, I participated. I was in this room, but it really  
17 only had about 60, 70 people, and three are 410.

18 Okay. The other point I want to make is  
19 that I went back through and I actually have the  
20 PowerPoint presentation, and there's some really good  
21 stuff on demand. I really do believe that that's  
22 important. Demand is important. Rate shock to us is  
23 primarily due to the demand, and I think you can talk  
24 to engineers and other people. Demand is very hard to  
25 solve. I have three profilers, two of our other

1 buildings which are commercial ones that we have  
2 profilers too. I don't have any other testimony.

3 Oh, wait. Yes, I do. My friend has  
4 reminded me. I would like to --

5 MR. BROCATO: Nice  
6 characterization.

7 MR. WELLS: Yeah. She's a friend.

8 MR. BROCATO: No. I mean your  
9 testimony. Please go ahead.

10 MR. WELLS: Sorry about that. I  
11 would like to ask that BC1 through BC8 be entered as --

12 MR. HERRERA: You're offering  
13 those? Any objections, Mr. Brocato?

14 MS. COOPER: And your testimony.

15 MR. WELLS: Oh, yeah. And the, and  
16 the --

17 MS. COOPER: And your testimony,  
18 has it been introduced?

19 MR. WELLS: Yes. I turned my  
20 testimony in the other day.

21 MS. COOPER: Your Honor, Mr. Wells  
22 wanted to make sure. His testimony, has it been  
23 introduced into evidence as an exhibit?

24 MR. WELLS: I turned it in.

25 MR. BROCATO: I think so.

1 MS. COOPER: Okay.

2 MR. WELLS: Party presentation?

3 MS. COOPER: Okay. I just wanted  
4 to doublecheck on your behalf.

5 MR. WELLS: Thank you.

6 MR. HERRERA: Mr. Brocato, if it  
7 hasn't, do you have an objection to Mr. Wells'  
8 presentation being presented as his, as his testimony?

9 MR. BROCATO: I do not.

10 MR. HERRERA: It will be admitted.  
11 If it hadn't been admitted, we admit it.

12 MR. WELLS: Thank you.

13 MR. BROCATO: With respect to his  
14 offer, Exhibit 1 are his own discovery responses to  
15 Austin Energy's question. We asked some of him. I  
16 haven't really thoroughly looked at them, they're  
17 pretty extensive. For now I would say we object as  
18 supplemental testimony. I do not object to BC2. BC3  
19 I'm not sure what that came from.

20 MR. WELLS: It came from my party  
21 presentation.

22 MR. BROCATO: So to the extent it's  
23 already in the record --

24 MS. COOPER: To be demonstrative.

25 MR. BROCATO: Okay.

1 MR. WELLS: It's demonstrative.

2 MR. BROCATO: And, yes, I don't  
3 have an objection to that. 4-1 is our RFI response.  
4 4-2 is the attachment, and I have no objection. 5-1 no  
5 objection. 5-2, again, is the attachment to 5-1, no  
6 objection. 6 looks to be an attachment to an RFI  
7 response that I think Mr. Dreyfus provided, as is 7, no  
8 objections, and no objection to 8.

9 MR. WELLS: Could I make a comment  
10 on BC1?

11 MR. HERRERA: So the only one you  
12 have an objection to, Mr. Brocato, is BC1?

13 MR. BROCATO: Correct. I would  
14 reserve optional completeness on really all of them.  
15 There's several that have multiple-page attachments and  
16 he has only one or two pages.

17 MR. HERRERA: Okay. I am admitting  
18 2, 3, 4-1, 4-2, 5-1, 5-2, 6, 7, and 8.

19 MR. WELLS: Your Honor, on BC1 I  
20 would like to say the only reason I put that in was  
21 that it had this summary which showed this chart, which  
22 showed the value of how important in the cost the  
23 demand charges are.

24 MR. HERRERA: And B1 is the one  
25 that you have an objection to, Mr. Brocato?



1 MR. BROCATO: Yes, Your Honor.

2 MR. HERRERA: We sustain that  
3 objection.

4 MR. BROCATO: I would note too that  
5 I was informed that his testimony was admitted  
6 yesterday as BC1. So now there are two BC1s, but you  
7 struck this one he just offered. So --

8 MR. WELLS: Okay.

9 MR. BROCATO: -- we'll call that  
10 BC-1.

11 (Exchange Between Ms. Cooper and  
12 Mr. Wells.)

13 MR. WELLS: Is that what you mean,  
14 did I call BC1 my --

15 MR. BROCATO: Yeah. Actually,  
16 that's a good idea, Lanetta. I would just --

17 MR. WELLS: Okay. That's good.

18 MR. BROCATO: -- in your list of  
19 exhibits I would just strike the description of BC1 and  
20 put "Direct Testimony."

21 MS. COOPER: Does that sound okay?

22 MR. WELLS: Yes. As long as it's  
23 in.

24 MS. COOPER: (Inaudible.)

25 MR. WELLS: Thank you, Your Honor.

1 MR. BROCATO: So this is not in.

2 MR. WELLS: That's fine.

3 MR. BROCATO: Okay.

4 MR. WELLS: Well, wait. Wait a  
5 minute.

6 MR. BROCATO: Do you feel tricked?

7 MR. WELLS: A little bit.

8 MR. BROCATO: We don't want you to  
9 feel that way.

10 MR. HUGHES: You're in the big time  
11 now.

12 MR. WELLS: Well --

13 MR. BROCATO: I would ask that you  
14 explain your ruling on BC1.

15 MR. HERRERA: Mr. Wells, typically  
16 a party is not allowed to offer as their own exhibit  
17 their own responses to discovery, which is what you had  
18 done with your -- what was BC1.

19 MR. WELLS: Okay.

20 MR. HERRERA: Which is why I  
21 sustained the object to that. Mr. Dreyfus was not able  
22 to authenticate your document. That is something that  
23 you put on, and since no one cross examined you, you  
24 didn't take the stand --

25 MR. WELLS: I understand. Fine.

1 MS. COOPER: Clarification for the  
2 record, BC1 will now be known as Mr. Wells' testimony?

3 MR. BROCATO: Correct.

4 MR. HERRERA: Yes.

5 MR. WELLS: Okay.

6 MR. HERRERA: HURF?

7 Are you finished, Mr. Wells? I'm sorry.

8 MS. COOPER: Mr. Wells, I don't  
9 [inaudible]. Are you through?

10 MR. WELLS: I am finished.

11 MR. BORGELT: No questions, Your  
12 Honor.

13 MR. HERRERA: Low Income Customers?

14 MS. COOPER: Yes, sir. Just a,  
15 just a few.

16 CROSS EXAMINATION

17 BY MS. COOPER:

18 Q You would agree, Mr. Dreyfus, that -- I'm  
19 going to talk to you a little bit about street area  
20 lighting, and I'm going to call it SAL, not to be  
21 confused with my gal Sal, just plain SAL.

22 You would agree that Austin Energy  
23 customers whose services are located outside the city  
24 limits of Austin are not charged the SAL rate; is that  
25 correct?

1           A     That is correct.

2           Q     All right. And you would also agree that  
3     Austin Energy has taken the position that Austin Energy  
4     can increase the SAL rate to recover costs that  
5     not -- that were not reimbursed by the rate in the  
6     previous fiscal year?

7           A     As I think we discussed on direct, and even  
8     if we didn't discuss on direct, the pass-through  
9     charges, with the exception of the CAP charge, are  
10    adjusted for under- and over-collection, and that  
11    applies to SAL for inside-city customers.

12          Q     And the CAP charge, though, can you adjust it  
13    for under-recovery? Can you --

14          A     The --

15          Q     -- surcharge the rate to recover an  
16    under-recovery from a previous fiscal year, the CAP  
17    rate?

18          A     You know, I don't know the answer to that.  
19    I'd have to look back at the record from 2012 --

20          Q     Yes, sir. Okay.

21          A     -- to see how that came about, but I do know  
22    that if we over-collect, we're directed to maintain  
23    those costs in order to fund additional benefit for CAP  
24    customers.

25          Q     And that's on public policy reasoning. So --

1                   Now, is it -- isn't it true that the SAL  
2     rate for fiscal year 2017 that Austin Energy is  
3     proposing is seeking to also recover an under-recovery?

4           A     Yes.

5           Q     Now, you -- earlier in our talk with  
6     Ms. Kimberly she said that some industrial and large  
7     commercial customers, I think referred to as P-4 and  
8     T-2 classes, do not pay the SAL rate; is that your  
9     understanding?

10          A     That is correct.

11          Q     And could you tell us for the record what  
12     P-foo -- P-foo; it's late, I'm sorry -- P-4 and T-2  
13     are?

14          A     Those are tariffs that for high-load-factor  
15     customers. So the P-4 tariff is for primary customers  
16     greater than 20 megawatts who have very high load  
17     factors, and the T-2 tariff is for transmission voltage  
18     customers who have very high load factors. It's 80 or  
19     85 percent. I'd have to doublecheck with the tariff,  
20     but it's a very high load factor.

21          Q     All right. And you would agree that at least  
22     some or maybe even all of these P-4 and T-2 tariff  
23     customers take their service within the city limits of  
24     Austin?

25          A     That is my understanding, subject to check.

1           Q     Okay. Now, would you also agree, sir, that  
2     Austin Energy is charging cities within Austin Energy  
3     service territory a street area lighting fee, a SAL  
4     rate; isn't that correct?

5           A     There is a street area lighting tariff for  
6     lighting services that we provide, and we, we charge  
7     that tariff to jurisdictions outside the city limits of  
8     Austin for street area lighting services. Yes.

9           Q     Okay. And when you say "jurisdiction,"  
10    you're referring to cities --

11          A     Yes.

12          Q     -- correct? And what would be one of the  
13    cities? Westlake? Does Westlake have a tariff?

14          A     I think there's 15 of them.

15          Q     Okay.

16          A     So Pflugerville, Westlake, Sunset Valley,  
17    et cetera.

18          Q     All right. So why aren't you charging, for  
19    instance, Westlake citizens the SAL rate instead of the  
20    city?

21          A     That is an outcome of the settlement in PUC  
22    Docket 40627.

23          Q     Now, isn't it also true that Austin Energy  
24    will not increase the SAL rate for cities like Westlake  
25    to recover any under-recoveries that might occur?

1           A     Well, the, the SAL tariff is a cost of  
2     service-based tariff. So we would adjust the tariff  
3     based on the cost of providing street area lighting  
4     services.

5           Q     But that would be, the rate would be set  
6     going forward. You would not look backwards to recoup  
7     costs that you didn't recover in the, in the rates in  
8     the previous fiscal year? In other words, it's not a  
9     pass-through rate; isn't that correct?

10          A     No. It's, it's, it's a cost-based tariff.

11          Q     And that means that if you under-recover in  
12     one fiscal year, you can't adjust it upward to recover  
13     that loss the next fiscal year?

14          A     I believe that is correct.

15          Q     All right. Now I want to spend just a few  
16     minutes on inside/outside. Sounds like a movie, but  
17     could be just how late it is.

18                     And I understand Austin Energy's  
19     position in terms of the discount for the residential  
20     and other customers who take service outside the city  
21     limits, but what I wanted to talk with you about is  
22     that shouldn't that, though, at the very least be  
23     considered a factor when you're looking at the range of  
24     reasonableness of a cost to serve to residential  
25     customers?

1           A     I'm not sure I understand your question.

2           Q     Well, in other words, a hundred percent cost  
3 of service may not be an appropriate concept of a  
4 cost-based rate for the residential class if you take  
5 into consideration that there's a discount provided  
6 within the class cost. Is --

7           A     I'm still not sure --

8           Q     Okay. Let me --

9           A     -- I, I --

10          Q     -- strike that.

11          A     -- understand your question.

12          Q     You would agree that if you imputed revenues  
13 from -- to make up for the revenues that you are not  
14 receiving due to the discount being provided to  
15 residential customers outside the city limits, taking  
16 service outside the city limits, that the cost of  
17 service would be improved; that is, residential  
18 customer class would be moved closer to cost.

19          A     If, if I take revenue from outside-city  
20 customers -- and by the term "impute," I presume you  
21 mean reallocate to other customers -- then I think we  
22 would within the customer class, I think we'd be  
23 revenue neutral -- or neutral to the cost of service --

24                   MS. COOPER: May I approach the  
25 witness, Your Honor?



1           A       -- as a, as a class.

2           Q       (By Ms. Cooper)  It's on page [inaudible] of  
3   the rate-filing package.

4           A       I have a copy of the rate-filing package.

5                         MS. COOPER:  Okay.  And page 1005  
6   of the rate-filing package.  Your Honor, I have --

7           Q       (By Ms. Cooper)  You would agree that I have  
8   placed before you a copy of a page from your  
9   rate-filing package, and let's identify it for the  
10  record.  You would agree that it's that WPG-10.2?

11          A       Yes.

12          Q       And that stands for working paper; is that  
13  correct?

14          A       Yes.

15          Q       And that if we look in the bottom right-hand  
16  corner, we see a number, and that refers to where it is  
17  in the total rate-filing package, and that number is,  
18  that page number is 1005; is that correct?

19          A       That is the Bates-stamp number for this page.

20          Q       All right.  So having looked -- looking at  
21  this page we can see that this page, the purpose of  
22  this page was to identify the amount of residential  
23  revenues that are within the residential customer class  
24  base revenues; is that correct?

25          A       The title of this schedule or this work paper

1 is "Comparison of Cost of Service Current Base Rates  
2 and Proposed Base Rates."

3 Q All right. I can't see, I'm so blind here.  
4 If we look at under Schedule B and line 2, what does  
5 line -- the horizontal line 2 say?

6 A It says, "Base rate revenue after billing  
7 adjustment."

8 Q Okay. And then we look at B, you would agree  
9 that that is the amount of base rate revenues that have  
10 been attributed for purposes of the determining whether  
11 the residential class is above or below the cost of  
12 service?

13 MR. HERRERA: Ms. Cooper, it would  
14 help if you spoke into the microphone.

15 MS. COOPER: Okay. I'm sorry.

16 Thank you.

17 MR. BROCATO: That's why he gave it  
18 to you.

19 THE WITNESS: I'm not personally  
20 familiar with this schedule. So what I see in column B  
21 under "Residential" on row 2 --

22 Q (By Ms. Cooper) Right.

23 A -- is "Base Rate Revenue after Billing  
24 Adjustment" of 257 million dollars.

25 Q All right. And then wouldn't you agree

1     that -- excuse me, sorry about this -- that if we look  
2     on horizontal line 4, it says "Base Rate Cost of  
3     Service," and if we look under vertical column B, it's  
4     got an amount of around 310 million, right?

5           A     Row 4 is titled "Base Rate Cost of Service."

6           Q     Right.

7           A     And under column B "Residential," it's 310.7  
8     million.

9           Q     Okay. And then you would agree that there's  
10    a difference there? And what's the difference?

11          A     That difference is 53 million dollars.

12          Q     And isn't that the amount you told us when  
13    you opened it up, a presentation at the EUC, that  
14    that's how much the residential class was below cost of  
15    service, 53 million dollars?

16          A     53 million dollars --

17          Q     There you go.

18          A     -- is the amount of the residential class is  
19    below cost of service in the cost of service study that  
20    was presented in our direct.

21          Q     There you go. And this is from the  
22    rate-filing package, is it not?

23          A     This is a document from the rate-filing  
24    package.

25          Q     Okay. Now, if we were to impute, let's say,

1     3 million dollars -- and I'm just assuming, I don't  
2     know it a fact -- 3 million dollars, impute 3 million,  
3     that would be adding 3 million to the 257 to impute the  
4     revenues from outside the city limits, wouldn't that  
5     increase the amount of revenues?

6           A     No. I don't believe it would.

7           Q     If you don't --

8           A     Because there's a, a missing offset from  
9     your, your question, because there's a reduction to the  
10    outside-city customers and that revenue is imputed  
11    back. So there's, there's --

12          Q     Outside what?

13          A     -- an adjustment on both sides of the ledger.

14          Q     Okay. What would be the other adjustment if  
15    we impute 3 million dollars of revenues that should  
16    have been realized but for the discount?

17          A     Then we are neutral with respect to this  
18    number, this 53 million dollars.

19          Q     I'm not following you. If we're imputing the  
20    revenue --

21          A     If I have a revenue requirement of 310  
22    million dollars --

23          Q     Right.

24          A     -- and I reduce revenue from one party and I  
25    allocate that revenue to another party, then I'm

1 neutral.

2 Q When I say "impute" I mean we take it from,  
3 from under -- from the shareholders if we were an  
4 investor-owned utility, or from surplus if we were a  
5 municipally owned utility. In other words, it's below  
6 the line.

7 A Well --

8 Q And if we just --

9 A -- by, by that definition, which -- and I  
10 established when you asked the question, by "impute"  
11 you mean allocate to another customer within the class.  
12 So I thought that's what we were discussing.

13 Q No. That's okay. So --

14 A So if you'd change the definition, then --

15 Q Well, I didn't change it. I think --

16 A -- it would change the --

17 Q -- we had a miscommunication.

18 THE REPORTER: One at a time,  
19 please?

20 MS. COOPER: I'm sorry.

21 Q (By Ms. Cooper) You would agree it was a  
22 miscommunication?

23 A Sure.

24 Q All right. So using this new definition  
25 where we're imputing from surplus to get to the

1 additional revenue, we increase it to 260, and so you  
2 would notice that the difference between the cost and  
3 the newly adjusted revenue would be less.

4 A If I reduce the revenue collected by  
5 3 million dollars and I do not collect that revenue  
6 from any other source, then yes, there would be a  
7 change in the amount of under-recovery. Under-recovery  
8 would go up by 3 additional million dollars to  
9 56 million dollars.

10 Q I, you know, I thought we had had an  
11 understanding that the revenue imputation would come  
12 from surplus.

13 A Well, that's still not related to these cost  
14 of service numbers. That comes from somewhere out  
15 here -- for the record I stuck my hand way out to the  
16 left --

17 Q Let's just --

18 (Laughter)

19 Q -- let's just, let's just assume -- I'll tell  
20 you what, let's just assume that the revenues and  
21 the -- are 3 million dollars more. If we add the  
22 3 million dollars more, all else being equal it's going  
23 to be a lesser cost under --

24 A That's right.

25 Q Okay.

1           A     If you, if you increase the revenues by  
2   3 million dollars --

3           Q     All right.

4           A     -- then it would be 50.4 --

5           Q     And how --

6           A     -- million dollars instead of 53 million  
7   dollars.

8           Q     And however we get those revenues, whether  
9   it's imputed from surplus, assume to take from surplus,  
10   or a surcharge from some other customer class, there  
11   would be these additional revenues. Okay.

12                   MS. COOPER: Where does this thing  
13   go?

14                   MR. BROCATO: Here.

15                   MS. COOPER: Thank you. I think  
16   I'm almost through. You've been very patient,  
17   Mr. Dreyfus. We took a long time.

18                   THE WITNESS: I've got all night.

19                   MS. COOPER: You've won your  
20   [obscured]. All right. I have no more questions, Your  
21   Honor. Thank you.

22                   MR. HERRERA: Public Citizen?

23                   MS. BIRCH: I'll say before I start  
24   we're going to refer to our Exhibit 31, which we passed  
25   out, I don't know, yesterday, this morning, and I was

1 told to ask questions of Dr. Dreyfus. So --

2 MR. HERRERA: Would you speak into  
3 the microphone, please?

4 MS. BIRCH: Do you have your copy  
5 of Exhibit 31, Your Honor, or do you need another?

6 MR. HERRERA: If you have another  
7 one handy, that'd, that'd be better. If not, I'll  
8 improvise. Thank you.

9 MR. BROCATO: We're looking at 31  
10 and what other?

11 MR. HERRERA: 31.

12 MS. BIRCH: Just, just 31.

13 MR. HERRERA: PC-SC 31.

14 MS. BIRCH: Do you need a copy?

15 MR. BROCATO: No. I've got it. Go  
16 ahead.

17 CROSS EXAMINATION

18 BY MS. BIRCH:

19 Q Good evening, Dr. Dreyfus.

20 A Good evening.

21 Q You can thank me, because I eliminated about  
22 five pages of Cyrus' questions.

23 MR. REED: What?

24 Q (By Ms. Birch) I only have about seven and  
25 one exhibit. So are you aware that in February of this



1     year the EUC received a presentation from Jim Lazar,  
2     who recommended that Austin Energy run a production  
3     cost analysis based on hourly cost and production data?

4           A     I am aware that Mr. Lazar made a  
5     presentation. I don't recall specifically that he  
6     recommended that Austin Energy do an hourly production  
7     cost analysis, but I do recall his presentation.

8           Q     At their meeting on March 2nd didn't the EUC  
9     ask Austin Energy to run that model and report back to  
10    them?

11          A     That is not my recollection of what, what I  
12    was asked to do by the EUC.

13          Q     What were you asked to do?

14          A     So at the Electric Utility Commission, I  
15    presume it was in March -- that seems right -- there  
16    was a discussion -- I gave a rates update, as I have  
17    every month, and there was a discussion of the  
18    presentation from Mr. Lazar and a discussion about  
19    energy cost production models, and I did suggest that  
20    we had already run a POD example and provided that  
21    information and that that was perhaps similar to an  
22    energy-weighted model, and Mr. Lazar had said that they  
23    were kind of in the, in the same area.

24                   And I was asked if -- I was asked about  
25    producing an energy-weighted model, and I said to the

1 commission that I was not familiar with the method and  
2 I did not understand the resource need for that and  
3 that I was hesitant to commit to doing it. There was  
4 follow-up discussion that it would be a one- to  
5 two-hour effort and that Mr. Lazar had said that it was  
6 rather straightforward if you had the data. And so  
7 what I was asked at the end of the day was to go back  
8 and determine the resource commitment to do it and  
9 whether it was a one- to two-hour effort or if it was a  
10 much more extensive effort.

11                   So I went back to our team and had some  
12 discussions with them about the model. We spent some  
13 time trying to figure out what was meant by, by an  
14 energy-weighted model. We had a few staff discussions  
15 about that, and when I returned to the Electric Utility  
16 Commission the following month to give them my update I  
17 let them know that it was not a one- to two-hour  
18 effort, that we had spent already two hours of staff  
19 time just discussing what it was.

20                   There was some information about what it  
21 would take to collect the data. I think you provided a  
22 piece of that in your discovery response and your  
23 exhibit, and I did inform the Electric Utility  
24 Commission that it seemed to be a significant resource  
25 effort, that it was not part of our case, and no party

1 in the, in the proceeding had issued any discovery  
2 requests on that. So I let them know it would be a  
3 significant resource effort and that we were not  
4 inclined to conduct one.

5 So I think the request to me was not to  
6 do one, it was to evaluate the resource load for doing  
7 one.

8 Q Well, would you look at Exhibit 31?

9 A I have it.

10 Q And it's Austin Energy's response to our  
11 second request for information, question 2-7, and you  
12 sponsored this response?

13 A Yes, I did.

14 Q And what we were asking for were emails,  
15 analysis, discussion of Austin Energy's staff that were  
16 related to the request made by the Electric Utility  
17 Commission for an analysis of an hourly dispatch cost  
18 allocation method, also referred to in the discussions  
19 as the Jim Lazar suggested method. What --

20 A Yes. That was your, your request.

21 Q And the attachments -- I mean, it  
22 says -- your answer was "Please see Attachment 1,"  
23 right?

24 A [Obscured by coughing] is the answer.

25 THE REPORTER: What, I'm sorry? I

1 didn't hear you.

2 THE WITNESS: I replied "That is  
3 the answer."

4 THE REPORTER: Thank you.

5 Q (By Ms. Birch) And would you go through and  
6 briefly identify what you attached in response to that  
7 request?

8 A Sure. Page 1 is a series of emails that  
9 provided notice. Let's see, there's an email to me  
10 that says that Commissioner Hadden had requested a  
11 briefing on -- just I'm, I'm paraphrasing -- on types  
12 of cost of service modeling, and then I relied and  
13 forwarded -- I replied to that email and said that I  
14 had been told -- "Shannon told me today that Smitty  
15 told her that Lazar might do a call in the meeting."  
16 So that's number one.

17 The next piece of this is -- that, that  
18 was pages 1 and 2. Page 3 and 4 is an email from  
19 Michael Osborne to Jeff Vice asking that a Word  
20 document be placed in their packets -- I presume this  
21 is a conversation about Mr. Lazar's document -- and  
22 then I forwarded that to the rates team and to some  
23 members of the rate team and to legal counsel and noted  
24 that, "The EUC has invited Jim Lazar of the Regulatory  
25 Assistance Project to participate in the EUC meeting on

1 Monday. He provided this critique" -- yes, I'm sure I  
2 attached the document. "He provided this critique of  
3 our filing package. At the EUC, we will not respond to  
4 his comments, sticking strictly to the observation that  
5 the EUC is not the appropriate forum for us to engage  
6 in this type of dialogue. Nevertheless" --

7 THE REPORTER: Could you slow down,  
8 please?

9 THE WITNESS: I'm sorry.

10 A "Nevertheless, these are arguments that we  
11 should be prepared for down the road. Thanks." Then  
12 page 5 is a -- it's kind of written like a letter. I  
13 presume it was an email from Mr. Lazar to Michael  
14 Osborne, who was then the chairman of the Electric  
15 Utility Commission, and the members of the commission  
16 discussing his appearance on February 22nd.

17 And then pages 6 through 14 appear to be  
18 his -- I'm sorry, pages 6 through 12 appear to be his  
19 document, and then pages 13 and 14 are the discussion  
20 that we -- I think has already been covered about  
21 acquiring the pricing data to support an hourly  
22 production cost model run.

23 Q Well, so I'm confused because what we asked  
24 for were all of this information relating to the  
25 request by Electric Utility Commission for an analysis

1 of an hourly dispatch cost allocation method, and in my  
2 previous answer you said that's not what you were asked  
3 to do, but you didn't say that in this response. You  
4 attached all these documents --

5 A Well --

6 Q -- that --

7 A -- perhaps I was --

8 Q -- appear to be -- I mean, that you sponsored  
9 as being responsive to that request.

10 A Well, we've tried to be very transparent in  
11 this proceeding. We've answered over a thousand  
12 discovery questions, and we've tried to interpret these  
13 broadly. You asked for information about an analysis;  
14 we looked for everything that we had that might  
15 possibly be related, and I think these are responsive  
16 to your question.

17 MR. BROCATO: Your Honor --

18 MS. BIRCH: I think so too.

19 MR. BROCATO: -- if she was  
20 unsatisfied with the response, she certainly could have  
21 filed a motion to compel.

22 MS. BIRCH: Oh, we weren't  
23 dissatisfied with the response, Your Honor. What  
24 I -- what he's saying is he -- they were not asked to  
25 do an hourly dispatch cost allocation method. We asked

1 in our request for documents relating to just that,  
 2 exactly that, and they attached all of these documents.  
 3 And now he's telling me that they weren't asked to do  
 4 that, so I'm confused by -- I mean, why did they  
 5 produce these documents --

6 MR. HERRERA: You shouldn't be  
 7 asking me that question.

8 MS. BIRCH: Well, I'm --

9 MR. HERRERA: You should ask  
 10 Mr. Dreyfus that question.

11 MS. BIRCH: I did, I did.

12 MR. HERRERA: And --

13 MS. BIRCH: And he's objecting, so  
 14 I'm explaining what the prob -- my dilemma is here. I  
 15 mean, these are the documents responsive to the request  
 16 to do an analysis of an hourly dispatch cost allocation  
 17 method.

18 MR. HERRERA: As I understood the  
 19 question you asked him today, not in the RFI, was, Why  
 20 didn't you do the probability of dispatch cost of  
 21 service run that the EUC asked you to do, and what I  
 22 understood Dr. Dreyfus to respond was, I didn't  
 23 understand that to be the task I was given by the EUC.  
 24 It said I should -- I understood the task was to  
 25 evaluate the level of resources it would take to

1     undertake such a study, and then we told him we would  
2     not -- "we" being Austin Energy -- would not commit to  
3     undertaking that study because of the level of  
4     resources.

5                     Now I understand your complaint to be  
6     about the discrepancy that you see between the response  
7     you got today and the answer you got to the RFI. Am I  
8     missing it? If I'm missing it, please correct me.

9                     MS. BIRCH: Well, I might be  
10    missing it, but I mean, they provided documents in  
11    response to that, to the study we said was an hourly  
12    dispatch cost allocation method, and what Dr. Dreyfus  
13    said earlier was that's not what he was asked to do.  
14    So I'm confused that these documents were provided to  
15    us in response to that specific request if that request  
16    wasn't made.

17                    MR. BROCATO: And Your Honor, if I  
18    may?

19                    MR. HERRERA: Yes, please.

20                    MR. BROCATO: It's very clear,  
21    based upon Mr. Dreyfus' interpretation of what he was  
22    instructed to do, there were a number of emails that  
23    went back and forth. This questions says, Give me  
24    everything you have related to the request to go about  
25    exploring this, and that's what we provided.



1 MR. HERRERA: Ms. Birch --

2 MR. BROCATO: What was provided is  
3 consistent with Mr. Dreyfus' stated testimony today as  
4 to his understanding of what was requested of him.

5 MR. HERRERA: I'm --

6 MR. BROCATO: She thinks, as I  
7 understand it, that he was instructed to do something  
8 different, and so when she looks at these documents  
9 she's expecting to see something else.

10 MS. BIRCH: No. I'm not expecting.  
11 This is exactly what I was expecting to see by my  
12 request.

13 MR. BROCATO: Okay.

14 MS. BIRCH: What he's saying is  
15 that's not what he was requested to do.

16 MR. BROCATO: And she may not like  
17 that, but it's --

18 MR. HERRERA: What do you want me  
19 to do, Ms. Birch?

20 MS. BIRCH: I just -- nothing.  
21 I'll just ask another question. I mean --

22 MR. HERRERA: I'm trying to address  
23 your concern, but I'm not, I'm not sure I understand  
24 it, because when I look at the RF --

25 MS. BIRCH: My concern is that --

1 MR. HERRERA: May I finish,

2 please --

3 MS. BIRCH: Yes.

4 MR. HERRERA: -- Ms. Birch? When I  
5 look at the RFI that asked for "any emails, analysis,  
6 or discussions by Austin Energy staff related to the  
7 request by the EUC for an analysis of an hourly  
8 dispatch cost allocation method, also referred to in  
9 the discussion by" -- Mr. LAZZ-er, La-ZAR?

10 MS. BIRCH: La-ZAR.

11 MR. HERRERA: -- and then I see the  
12 attachments -- and I'm presuming that this is all  
13 Austin Energy had related to that request. And then I  
14 heard Dr. Dreyfus' response to be his understanding of  
15 the request by the EUC was to evaluate what it would  
16 take to undertake this analysis.

17 MS. BIRCH: Actually, Your Honor,  
18 what he said was that this analysis was not what they  
19 were requested to do. He's disagreeing with me that  
20 they, that they were -- that the EUC asked them for an  
21 analysis of an hourly dispatch cost allocation method,  
22 and in our request that's -- we asked for documents  
23 that related to that request by the EUC to Austin  
24 Energy. But now he's saying that's not what they were  
25 requested to do.

1                   So I'm confused, because I mean, I'm not  
2   complaining about the attachments, the response. I  
3   mean, it was responsive to what we were asking for, but  
4   now today he's saying they weren't asked to do what  
5   these documents were sent to us to show, that relate to  
6   what we're saying he was asked to do.

7                   MR. HERRERA: And I think what it  
8   boils down to is that you have a disagreement with  
9   regard to what the phrase "related" -- let me get my  
10   glasses on -- "related to the request made by the EUC  
11   for an analysis of an hourly dispatch cost allocation  
12   method."

13                  MS. BIRCH: And Your Honor, I mean,  
14   from what he's saying now I would have expected his  
15   response to be, We weren't requested to do an analysis  
16   of, an analysis of an hourly dispatch cost allocation.

17                  MR. HERRERA: And again, the word  
18   "related" is a fairly broad word. Dr. Dreyfus and AE  
19   staff seem to have done some type of analysis related  
20   to the EUC's request for an analysis of an hourly  
21   dispatch cost allocation. It may not have done the  
22   cost allocation study itself, but they did undertake  
23   some steps related to that request. That's what I  
24   understood him to say, and that's how I understood the  
25   RFI, not knowing anything beyond this paper and

1 Dr. Dreyfus' discussion.

2 MS. BIRCH: Well, I'll just ask a  
3 different question.

4 Q (By Ms. Birch) I mean, we can -- we agree  
5 that you were asked by the EUC to undertake some study,  
6 right?

7 A Well, you know, the EUC acts by voting on  
8 motions, and there was no motion. So it was more on  
9 the order of a conversation, and my recollection, at  
10 least, is at the conclusion of the conversation there  
11 was not a request to do -- to perform this study.  
12 There was a request to evaluate the study because of  
13 the contention that it's a one- to two-hour effort to  
14 do the study.

15 I think if you would review the archive  
16 of the meeting, that one- to two-hour statement was  
17 made many times, and so I interpreted the conclusion of  
18 the dialogue to be that I would agree to go back and  
19 evaluate whether or not the study was feasible for us  
20 to do within this timeframe.

21 Q Okay. And if you look at the last page of  
22 the attachment --

23 A Yes.

24 Q I'm sorry, the front of that page. I forgot  
25 there was something on the back of it.

1                   I mean, the email from -- I'm not sure I  
2   can pronounce this name.

3           A     Harika Basaran.

4           Q     Was that doing the full three years and  
5   converting it to an hourly rate would take a lot of  
6   time, right?

7           A     This was to acquire the pricing data as an  
8   input to the study.

9           Q     Right.

10          A     And per the email, she -- where is it? Yes.  
11   She, she says that, that converting the hourly data  
12   will take lots of time.

13          Q     But she says three years in converting to  
14   hourly will take lots of time?

15          A     Collecting -- I presume that that is  
16   referring to collecting three years' worth of  
17   hourly -- three years' worth of data and converting it  
18   to hourly will take lots of time.

19          Q     That's how I --

20          A     I presume that's what that says.

21          Q     That's how I interpret it too. But in the  
22   next sentence doesn't she say that if you only -- if  
23   you modify what you -- the information you collected to  
24   just the test year in 15-minute intervals without  
25   converting to hourly, they can probably do it by the

1     **end of that week?**

2           A     It does say that if they collect different  
3     data, it may be as short as four days.   Yes.

4           **Q     So do you consider four days --**

5           A     In the middle of answering a thousand RFIs  
6     for a rate proceeding, I consider four days an enormous  
7     time commitment and a lot more than one to two hours.

8                     MS. BIRCH:   Your Honor, we would  
9     offer PC-SC Exhibit 31.

10                    MR. HERRERA:   Any objections?

11                    MR. BROCATO:   No.

12                    MR. HERRERA:   Admitted.

13                    MS. BIRCH:   Let me just look.   I  
14     didn't hear you, Your Honor.   Did you say it was  
15     admitted?

16                    MR. HERRERA:   I said it's admitted.

17                    MS. BIRCH:   That's all we have.

18                    MR. HERRERA:   NXP?

19                    MR. HUGHES:   I have permission to  
20     pass.

21                    MR. BROCATO:   I don't know who gave  
22     it to you, but --

23                    MR. COFFMAN:   So it's all down to  
24     me?

25                    MR. HERRERA:   Now to you.

1 MR. COFFMAN: All right. Great. I  
2 can, I can be fairly quick.

3 MR. HUGHES: You weren't ready,  
4 were you?

5 MR. HERRERA: He was still working  
6 on his cross.

7 MR. COFFMAN: I have two exhibits.

8 CROSS EXAMINATION

9 BY MR. COFFMAN:

10 Q Good evening, Dr. Dreyfus. The first  
11 document that I handed you I've labeled ICA 25, and it  
12 has a cover sheet of which is also from a very large  
13 response to TLSC 1-9, and then a couple pages after  
14 that pages 2604 and 2605. Do you recognize this  
15 particular Austin Energy response?

16 A Well, I don't recognize the particular pages  
17 which were in the middle of a lengthy attachment, but I  
18 do recognize them as presumably responsive to TLSC 1-9.

19 Q Does it appear to include an email that you  
20 received?

21 A There is an email dated August 27th, 2015,  
22 and I am on the cc: list.

23 Q Okay. And you are listed as a sponsoring  
24 witness for this response. Is there -- can you  
25 authenticate this?

1           A     I am, I am the sponsoring witness for this  
2 collection of information. Yes.

3           Q     Okay. Then I don't need to ask you any  
4 questions about that, and I'll move on to the next  
5 document I showed you, which doesn't have a cover  
6 sheet. It's identified as ICA Exhibit 26.

7           A     Yes.

8           Q     And it's some pages from a PowerPoint  
9 presentation that I believe you gave. I don't know if  
10 you recognize it or not, but it was also provided in a  
11 response, and you can see it's in the head there in the  
12 blue and may be hard to read, but it was Austin  
13 Energy's response to TLSC RFI No. 1-2(c), pages 1135 to  
14 1138. Is the -- do these slides from this presentation  
15 appear familiar to you?

16          A     Well, I don't know what specific presentation  
17 these were drawn from, but these, these slides are  
18 generally familiar to me. Yes.

19          Q     Great. Well, let me first just go to the  
20 last three slides, and in those they show monthly bill  
21 comparisons, impacts on, or potential impacts, of the  
22 Austin Energy rate proposal in this case, the -- to the  
23 S1 class, the S2 class, and the S3 class, I think.

24          A     That is correct. I would note that these  
25 were demonstrative, demonstrative examples drawn from



1 actual customers to show the range of impacts. There's  
2 no claim here that these are representative of any  
3 specific customers, customer groups or impacts. These  
4 were just some representative customers that we pulled  
5 out because we thought they looked interesting.

6 Q Some -- they were -- would it be fair to say  
7 that they were presented as roughly potential impacts  
8 of the rate --

9 A For these individual customers, yes.

10 Q And the -- most of the customer classes show  
11 a rate decrease, but you have a handful that are rate  
12 increases in the 20, 23 percent, 28 percent, 34  
13 percent.

14 And are those example customers -- and  
15 that's on the "Percentage Change" line, which is about  
16 four lines down on each three of, each of these three  
17 pages, and those are all to house of worship example  
18 customers, correct?

19 A The examples you've just cited are listed as  
20 house of worship customers. Yes.

21 Q And do you recall, was the audience for this  
22 the city council, the Electric Utility Commission, or  
23 some other audience?

24 A I don't know from which presentation this  
25 specific document was drawn. I did make this

1 presentation -- I did make a presentation with this  
2 material to the city council, perhaps to the Electric  
3 Utility Commission. I just have to doublecheck what  
4 was in the breadth of that presentation. I did present  
5 these numbers to city council, and I did point out the  
6 HOW numbers to them.

7 Q And I won't hold you to any precision to  
8 these numbers, but just I'm trying to get a sense of  
9 the overall impact as Austin Energy understood it, at  
10 least as this -- as the onset of this rate review  
11 commenced.

12 And was that generally the timeframe of  
13 this presentation, was in early 2016?

14 A If this is drawn from the, the opening  
15 presentation that I gave to council when we produced  
16 our rate-filing package, this would be in January of  
17 this year.

18 Q All right. That's what I -- would January  
19 25th likely be the date?

20 A That could well be the date.

21 Q That's what we presume. And let me take you  
22 to the front page, which is page 1135, entitled  
23 "Residential Customer Impacts." And does this show  
24 roughly what Austin Energy's proposal was in the  
25 initial tariff package to the various tiers to the

1     **residential rates?**

2           A     Again, I would note that these are example  
3     customers drawn from these tiers, and you can see what  
4     the kWh is of each of those customers, but these are  
5     results from real customers that we pulled out and  
6     estimated what the impact of the, the rate-filing  
7     proposal would be on those customers.

8           Q     So if I am understanding you, the second  
9     column which shows a dollar -- a monthly -- it says  
10    "Change in Average Monthly Bills." Is that not, then,  
11    Austin Energy's calculation of the average monthly  
12    impact on a, on a customer that falls within each of  
13    the tiers? Rather, these are just examples of a  
14    customer within the tier?

15          A     These are drawn from actual customers  
16    and -- I'm sorry. Could you repeat the question?

17          Q     The title above the first two columns is  
18    "Change in Average Monthly Bill."

19          A     Yes.

20          Q     So am I to believe that you took a -- you  
21    took customers who fell within the first tier, second  
22    tier, third tier, fourth tier and so forth and averaged  
23    them, or did you -- you just took a selection of  
24    customers within each of these categories?

25          A     This, this would be the average monthly bill

1 under the proposal compared to the average monthly bill  
2 currently for a particular customer who had this  
3 characteristic, electric heat and 416kWh per month, and  
4 we just loosely estimated, even though it's to the  
5 hundredths, that that represents about 7 percent of our  
6 total residential customers fall within that tier with  
7 electric heat to give a demonstration of what the  
8 impacts would be and how many customers might be  
9 impacted similarly.

10 Q And so you presented to the city council that  
11 roughly customers who had very little usage in, say,  
12 the first tier might see \$1.43 increase per month?

13 A That is what that chart says.

14 Q And then each of the other, the customers in  
15 each of the other four tiers, tier 2, tier 3, tier 4,  
16 tier 5, would see a decrease?

17 A That is what the chart says.

18 Q So roughly --

19 A Except for the gas heat tier 2. That's not  
20 tier 1, that's tier 2.

21 Q So you were generally presenting the package  
22 as being a rate decrease for most residential  
23 customers?

24 A Well, the, the residential proposal is  
25 neutral for residential customers as a class, but there

1 are differing impacts to different customers depending  
2 on their summer/winter profile, whether they -- which  
3 would account for the gas heat, electric heat, and  
4 which tier they fall into. Yes.

5 Q Okay. So my -- the final question or series  
6 of questions are, considering the change in Austin  
7 Energy's case, namely the reallocation of EES revenues,  
8 from other customer classes to the residential class,  
9 could you roughly calculate what these numbers would  
10 change when you add, when you add the additional EES?

11 A Well, all else equal, if there were no other  
12 changes to the revenue requirement -- and that's a,  
13 that that is a neutral shift to the revenue requirement  
14 but not a neutral shift to the residential  
15 customer -- yes, you could calculate that.

16 Q And so Austin Energy did calculate that for  
17 us for, say, a customer that used a thousand per  
18 kilowatt hours in a month?

19 A I, I did hear discussion about that in  
20 testimony earlier today.

21 Q And do you, do you recall us discussing the  
22 numbers \$2.24 for a customer with a thousand-per-  
23 kilowatt-hour usage?

24 A I would take your word for that, subject to  
25 check.

1           Q     And where would that cust -- which tier would  
2     that customer fall into?

3           A     That's, that's the boundary between tier 2  
4     and tier 3. 0 to 500, so that would be tier 2.

5           Q     So based on the updated case in rebuttal  
6     testimony, the tier 2 customer now on the average would  
7     not see a 90-cent reduction but would rather see the  
8     difference between that and the \$2.24, right?

9           A     All else equal if nothing else changed.

10          Q     And then a tier 3 customer would -- we would  
11     see at least \$2.24 more, and so tier 2 and tier 3 would  
12     be an -- would see an increase as a result of the new  
13     updated case?

14          A     Well, that particular --

15          Q     For sure?

16          A     -- tier 3 customer with 1175kWh would see an  
17     increase. Yes.

18          Q     And a tier 4 customer, do you have a sense of  
19     what -- if -- what is, what is the cut-off for a tier 4  
20     customer? What's the rough --

21          A     I think it's 2500kWh.

22          Q     Well, if we just take the calculation for a  
23     2000-kilowatt-hour customer, we calculated that was  
24     essentially double, so \$4.48, 48 cents. So a tier 4  
25     customer will now not see is a \$3.41 decrease but

1 would, rather, see a rate increase as a result of the  
2 updated case here, correct?

3 A Again, for a customer with 1877kWh average  
4 usage, all else equal, if nothing else were to change,  
5 that would be correct.

6 Q And so going into this case you were able to  
7 say to the city council that most residential customers  
8 would probably see a rate reduction, and now it's  
9 likely that only customers in the very highest tier  
10 would see a rate reduction, based on the reallocation  
11 of EES charges. Would you --

12 A Well, I'm not sure I agree with that. For  
13 example, if you look at the gas heat tier 3 customer,  
14 that customer would continue to see a decrease.

15 So it depends on the customer's  
16 particular usage pattern, whether -- where they were  
17 summer, winter. I think what this chart points out is  
18 that electric heat customers have higher relative  
19 winter usage to summer usage. Gas heat customers have  
20 higher relative summer usage, and so those gas heat  
21 customers would get a larger decrease. So it would not  
22 be reserved just to the highest tier.

23 Q But would, would it seem likely, though, with  
24 the new proposal to the EES class allocations that it  
25 would tip this case -- that is, Austin Energy's

1     **proposed case -- from, from a reduction to most**  
2     **customers to now being an increase to most customers?**

3           A     I don't know that I would say most, but I  
4     think it's clear, again, all else equal, that in our  
5     proposal we held the revenue -- the residential class  
6     neutral, and were this proposal adopted there would be  
7     some shifting towards the residential class.

8           Q     **In your rebuttal testimony, page 16, I**  
9     **believe, you testified that outside-the-city customers**  
10    **receive a disproportionate amount of the EES rebates.**

11          A     You know, we discussed this the day before  
12    yesterday, and I do not agree to your term  
13    "disproportionate." I would say that -- I've spoken to  
14    that in the testimony, that they during the test year  
15    received 22 percent of the energy efficiency rebates.

16          Q     **So on average, they received more rebates**  
17    **than customers on the inside of --**

18          A     They're --

19          Q     **As a percentage. A greater percentage of**  
20    **those --**

21          A     The percentage of the rebates received was  
22    indeed larger than the percentage of customers who were  
23    served outside the city limits.

24          Q     **Well, does that differential create any**  
25    **justification to recognize that in, in the way the EES**



1 charge is applied to customers inside and outside the  
2 city?

3 A I don't think so.

4 Q You wouldn't, you wouldn't propose to, to  
5 reallocate the EES charge to be higher in the outside  
6 than inside the city because they are receiving more of  
7 the EE -- the EES benefits?

8 A Not based on one year's worth of data.

9 Q Okay. Shifting to the house of worship  
10 issues, there was a lot of discussion about the  
11 proposed change and eliminating the floor on the demand  
12 charge for what I'll call the transition discount for  
13 the houses of worship, but we -- there wasn't much  
14 discussion with Mr. Wells earlier about the other part  
15 of the transition accommodation provision, and that is,  
16 the weekend hours are not included in considering the  
17 bill peak demand; is that --

18 A Under the current tariff the house of worship  
19 discount for the demand-related charges for houses of  
20 worship are charged only on weekday demand and not on  
21 weekend demand. That is correct.

22 Q And is there any just -- is one of the  
23 justifications for that provision the fact that  
24 the -- that Austin Energy does not have a system peak  
25 generally on the weekend?

1           A     I think the justification for that provision  
2     was to provide rate relief in 2012 to house of worship  
3     customers who were transitioning from a residential  
4     rate, which was not appropriate for commercial  
5     buildings, to the commercial rate.

6                     Now, we recognize that there is a great  
7     deal of diversity among house of worship customers,  
8     but, but I'll tell you there's a perception that all  
9     house of worship customers peak on weekend or Wednesday  
10    night. We know it, it's much more complex than that,  
11    but there is that perception, and so that provision was  
12    added in 2012 as part of the rate relief. And it  
13    applies to those customers who do peak on the weekend.

14           Q     **So it was based somewhat on that perception,**  
15    **though, or that general assumption?**

16           A     Well --

17           Q     **That's, that --**

18           A     -- certainly there are houses of worship that  
19    peak on the weekend, there's no doubt about that. They  
20    are quite diverse. There is sometimes a perception  
21    that all of them peak on the weekend, which we know is  
22    not correct, but I just think that the, the policy was  
23    adopted strictly as a measure for rate relief and not  
24    because of load coincidence particularly.

25           Q     **Well, isn't it a fact, though, that Austin**

1     **Energy is less likely to peak on the weekend as a**  
 2     **utility?**

3           A     Austin Energy is less likely to peak on the  
 4     weekend than a weekday. That is correct.

5           Q     **So based on that fact, isn't it reasonable**  
 6     **to, to apply some exemption or exception to demand**  
 7     **charges on the weekend?**

8           A     You know, that, that is an interesting  
 9     question, and that is why we have proposed to study  
 10    that question, to see what the facts are, see who are  
 11    the full range of customers that might peak on the  
 12    weekend and see if a policy change might be in order in  
 13    the future.

14          Q     **Well, might it be a good idea to study that**  
 15    **before eliminating the current HOW provision about**  
 16    **weekend hours exemption?**

17          A     I think that, that the opportunity to study  
 18    that is sometime in the future, and council has, has  
 19    set this transition policy in place until this rate  
 20    proceeding. And so now's the appropriate time for the  
 21    sunsetting of the provision, and, and as soon as we can  
 22    is an appropriate time to kick off that study.

23          Q     **Well, wouldn't it also be reasonable, given**  
 24    **the fact that we know that some customers are likely to**  
 25    **face increases at least in the 20 percent range or**

1     **higher as a result of --**

2           A     You know --

3           **Q     -- eliminating that?**

4           A     -- those, those increases are an artifact of  
5     the discount, and I think we've, we've set a transition  
6     policy in place. We've provided mechanisms to help  
7     houses of worship customers manage their energy use,  
8     though some of them are hard to reach, as we -- as has  
9     been suggested, and so now is an appropriate time to  
10    roll off the discount as council intended when this  
11    transition policy was adopted.

12          **Q     Now, we've had some discussion at this**  
13    **hearing about various definitions of rate shock and all**  
14    **those different quantity and quality-type definitions.**

15                   Do you have a personal definition  
16    **yourself of a percentage that gets into the range of --**

17          A     No, I don't.

18          **Q     -- rate shock? You wouldn't say that a 20**  
19    **percent rate increase is a --**

20          A     Well, what I did say on -- what's today,  
21    Thursday? So what I did say on Tuesday in the direct  
22    is that as a class if we were to move up the entire  
23    residential class, the 11.3 percent, which would be  
24    53 million dollars to cost of service, I would probably  
25    consider that rate shock for a class. But I have to

1 tell you when considering what is rate shock and what  
2 isn't, I really -- and I, and I think rate-making  
3 drives us to look at customer classes and what is the  
4 impact on a class, and any individual customer could  
5 have a higher or lower impact.

6 And so my definition of a rate shock  
7 would really be class-related and not related to some  
8 individual customer.

9 Q So in your role you real -- you don't see a  
10 need to look at how a particular policy change appears  
11 likely to affect individual customers? You feel  
12 constrained to look merely at the class?

13 A I did not say that.

14 Q Okay. I mean, are there particular policy  
15 changes where it would be a good idea to consider how  
16 individual customers might be adversely affected?

17 A Yes.

18 MR. COFFMAN: That's all I have.  
19 I'll end it there.

20 MR. HERRERA: Any redirect?

21 MR. BROCATO: No, Your Honor.

22 MR. HERRERA: I have about 25 or 30  
23 minutes of questions. Dr. Dreyfus, you're excused.

24 THE WITNESS: Thank you, sir.

25 MR. HERRERA: Let's take a short

1 break and then come back and talk schedule and next  
2 steps. Off the record.

3 (At 8:40 p.m. the proceedings  
4 recessed, continuing at 8:52 p.m.)

5 MR. HERRERA: Well, thanks,  
6 everyone for your presentations and the testimony, and  
7 now the fun part starts. Briefs, I think we'll stick  
8 to the schedule we sent out earlier with the briefs due  
9 on the 10th, and someone during the break had asked is  
10 that -- what time. I'm indifferent. Noon, 1, 3, 5.

11 MS. COOPER: 5.

12 MR. BROCATO: I would request that  
13 we stick to the schedule that we've always had. Well,  
14 that we stick to the filing time, which is at noon.  
15 The briefs are actually due pursuant to the schedule at  
16 Thursday at noon, but we're willing to go the next day  
17 till noon but not the next day till 5. So seven days  
18 from the conclusion of the hearing.

19 MR. HERRERA: So June 10th by noon.

20 MR. BROCATO: Yes.

21 MR. HERRERA: And then Austin  
22 Energy's brief on the 17th.

23 MR. BROCATO: Also at noon.

24 MR. HERRERA: Also at noon, and my  
25 final recommendation by the 15th of July, because

1     there's a EUC meeting on the 18th of July.

2                     MS. COOPER:   Yes, sir.

3                     MR. BROCATO:   And you can have  
4     till 5.

5                     MR. HERRERA:   That's what we said.

6                     MS. COOPER:   All right.   And Your  
7     Honor, it will be hard for the, for the Austin Energy,  
8     if they just get it served, it would be hard for them  
9     to turn around and send it to the EUC on Friday.   Do  
10    you think you could give the Judge the EUC members'  
11    emails so they can, so they can get it the same time  
12    you get it?

13                    MR. BROCATO:   I'm sorry.   I don't  
14    know what you're talking about.

15                    MS. COOPER:   You want the Judge's  
16    order --

17                    MR. ENGLISH:   Lanetta, we'll get  
18    it, we'll get it [crosstalk].

19                    MS. COOPER:   -- to go to the EUC  
20    before -- pardon?

21                    MR. ENGLISH:   Excuse me.   I forgot  
22    we're on the record.

23                    MS. COOPER:   I'm just asking, you  
24    know, to consider --

25                    MR. HERRERA:   I'm going to, I'm

1 going to assume that Austin Energy will get it to the  
2 EUC as soon as they can. I mean, they have dealt with  
3 them for a few years.

4 MS. COOPER: Historically, Your  
5 Honor, the EUC gets their stuff on Friday. Generally,  
6 that's kind of their pattern and practice.

7 MR. BROCATO: Noted, and we'll  
8 visit about it, but I expect [crosstalk] --

9 MR. HERRERA: Is there anything  
10 else we need to discuss on the record? We need to, we  
11 need to talk about what it is -- Ms. Cooper? Thank  
12 you. The outline, the parties are going to get me the  
13 outline by Tuesday; close of business is fine on that.

14 Anything else? I think Mr. Reed or  
15 somebody has their hands up over there.

16 MR. REED: I'm not a lawyer.

17 MR. HERRERA: Yeah.

18 MS. BIRCH: I'm not sure if we need  
19 to do this on the record, but I just wanted to ask the  
20 court reporter --

21 MR. HERRERA: Let's go off the  
22 record then.

23 (At 8:56 p.m. the proceedings  
24 adjourned.)

25



REPORTER'S CERTIFICATION

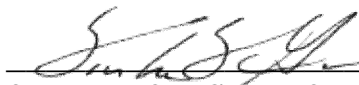
THE STATE OF TEXAS )  
COUNTY OF TRAVIS )

I, Sandra S. Givens, Certified Shorthand Reporter  
in and for the State of Texas, do hereby certify that  
the above and foregoing 441 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 3 of this  
transcription of my notes truly and correctly reflects  
the exhibits offered into evidence, if any.

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