AUSTIN ENERGY 2016 RATE REVIEW

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

NXP SEMICONDUCTORS AND SAMSUNG AUSTIN SEMICONDUCTOR, LLCS' REPLY TO AUSTIN ENERGY'S EXCEPTIONS TO THE IMPARTIAL HEARINGS EXAMINER'S REPORT

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I. INTRODUCTION

NXP Semiconductors (NXP) and Samsung Austin Semiconductors, LLC (Samsung) file this reply to Austin Energy's Exceptions to the Impartial Hearing's Examiner's (IHE) Final Report. NXP and Samsung filed its own exceptions to certain findings in the IHE's Final Report and continue to urge the IHE to modify the Report consistent with those exceptions. This reply however will address issues NXP and Samsung have with the Exceptions Austin Energy (AE) has filed.

Based on NXP and Samsungs' calculations, and making certain assumptions, the recommendations of the IHE call for a reduction in the base rate revenue requirement for AE of approximately $71 million. By contrast, NXP and Samsung have proposed a base rate revenue reduction of approximately $115 million, while AE has proposed only a $24.5 million in revenue reductions. While NXP and Samsung believe there are considerable savings for ratepayers not included in the IHE Report, we believe the IHE's Report and recommendations were thoughtful and provide confirmation that AE's revenue requirement is significantly overstated and calls into question many of AE's accounting methods.

The transmission cost and revenue issue that NXP and Samsung have addressed aggressively is probably the best example of how AE's accounting is not transparent and is misleading. In defense of these accounting practices, AE continues to offer legal arguments and rationale that are alarming in their misapplication. After several attempts to have AE account for approximately $14 million it will receive over its stated cost through its Transmission Cost of Service (TCOS) tariff approved by the Public Utility Commission of Texas (PUC), AE has still not disclosed where they are accounting for this excess revenue.

In their Closing Brief and in their Exceptions, AE tries to convince stakeholders that NXP, Samsung, and the IHE have a fundamental misunderstanding of ratemaking principals and law. AE continues to mischaracterize the arguments presented by NXP and Samsung, and the finding of the IHE, by framing those conclusions as subsidizing retail customers with wholesale transmission revenue instead of recognizing it as a question of why AE has reported different revenue amounts, that cover the same year, to different administrative bodies. As we discuss in more detail below, AE's argument is false and not supported by the evidence or the law. NXP, Samsung, and the IHE simply want AE to transparently account for all of its wholesale transmission revenue and provide AE ratepayers with the entire financial benefit they deserve. If ratepayers were truly "shareholders" in AE, as AE argues, they would experience the benefit of any and all excess revenue, likely in terms of a dividend, or shareholder payback. Instead, AE refuses to transfer these benefits back to shareholders, instead claiming that it is in the accounting records, without demonstrating such, or stating how they will use the revenue. Instead they appear to argue that it does not exist.

Unfortunately this is just one example of how AE's operational and accounting practices are designed to collect as much money as possible from ratepayers regardless of the necessity or a nexus to the actual cost of providing electric service.

II. REVENUE REQUIREMENT

B. Decommissioning Funding

The IHE has recommended a decommissioning amount that is only $3.8 million less than AE's request despite some troubling facts. At this time, AE has no clear direction from City Council as to when any of its non-nuclear Units will be decommissioned, yet AE wants to begin collecting money in a reserve for this future non-nuclear decommissioning, stating that they are attempting to correct the mistake of not collecting decommissioning expenses at the outset. AE commissioned a consultant, NewGen, to create a non-nuclear decommissioning study to help them determine what amount is a reasonable prediction of non-nuclear decommissioning expense, yet AE does not appear to have used the report when making its recommendation. AE characterizes the recommendations made by others as being "subjective" without also recognizing the fact that their judgements are no less subjective. AE has the legal burden to prove the reasonableness of the rates they propose with evidence beyond their own

unsubstantiated statements that they are reasonable and an assumption that the City Council and intervenors will defer to AE.

On non-nuclear decommissioning, throughout their Closing Brief AE claims that they are following their Financial Policy, which requires them to start accumulating non-nuclear decommissioning funds no later than four years prior to decommissioning, without providing any support or assessment as to how reasonable this policy is. They refuse to recommend an alternative policy or address arguments made by others as to why their policy does not fit with prudent utility practice or cost causation principles. Additionally, AE did not update their recommendation based on the fact Decker Units 1 & 2 will no longer be retired at the time assumed by NewGen when making their recommendation.

AE makes claims that their reserve requirements are based on benchmarks and the actual costs of decommissioning specific plants, without providing support outside of a study that they have chosen to ignore on other matters;[1] claiming, as if it was a factual statement, that their results are reasonable estimates, despite contrary actual evidence presented by other parties. They also claim that collecting the maximum amount that could be predicted to be the cost of decommissioning is reasonable. How is over collection reasonable? AE argues it is reasonable because they get to keep the over-collected amount as a "future" funding source.[2]

Like many things, AE has hidden factors about NewGen's decommissioning report by stating the material is competitively sensitive. Regardless of whether material might be competitively sensitive, AE had a legal responsibility to prove their inputs to support their recommendations. They have not done this and expect parties to accept analysis without knowing exactly the foundation of the analysis. NXP and Samsung did not oppose AE's decommissioning request because of displeasures with how the Public Information Act works, NXP and Samsung based their recommendation on hard numbers provided by AE; the only evidence that could be reviewed and thus the *only evidence* that should be considered. AE claims their recommendations regarding some units are based on "site-specific information" and

[1] It should be noted that many of the factors considered in the study were kept confidential, further adding to frustration with analysis. Parties received results of a study without receiving the considerations, site specific factors, etc. the study was founded on.

[2] Future funding source resembles a slush fund for AE to use when they miscalculate future needed reserves.

"detailed engineering cost estimate[s]," however, this information was not provided to intervenors, and therefore cannot be a basis for deeming their request reasonable.

NXP and Samsung used the information that was provided to assess the reasonableness of allowing AE to begin non-nuclear decommissioning; however, NXP and Samsung, unlike AE, took into account the fact that at this time there are no established or approved plans to decommission any of AE's units making any assessment as to costs or potential cost offsets completely uncertain. This is especially troubling considering AE's solution to over collect – that they will just keep the over collected amount indefinitely until they can spend it on something else, therefore customers who are paying this amount would never see the full benefits of their payment.

All parties have acknowledged that AE should have followed the Federal Regulatory Uniform System of Accounts and captured the decommissioning costs over the full life of the units; but due to AE's own choices this is impossible. Because of this the only prudent way to ensure that the funds will be available is to set up dedicated reserve accounts funded by existing excess reserve funds so that the accumulation of ratepayer money for this purpose is transparent and subject to tracking.

If any reserves should be set aside at all they should be limited to the Decker Units as those at least have some plans in place that City Council has taken action on. There are no plans in place for Sand Hill Energy Center, and Fayette Power Project has a multitude of substantial legal and financial barriers to decommissioning that have not been addressed and are not currently being addressed. The stark reality is that these barriers will likely not be overcome for years, and it is imprudent and unjust to force ratepayers to pay now for what amounts to nothing more than special interest wishes and desires. It would be better to determine decommissioning costs when a true analysis of actual costs can be conducted, which at this point can only happen when decommissioning is certain.

D. Transmission Costs and Revenues

In their Brief and Exceptions AE ignores the basic fact that they are a fully integrated utility without separately managed affiliates, and therefore the revenue generated from participation in wholesale transmission belongs to the ratepayers of AE. NXP and Samsung applaud the IHE for recognizing that it is inappropriate for AE to allocate additional costs to

ratepayers but not revenues, despite the fact AE is not running a for profit business, but instead is a steward of the electric utility for the residents of Austin.

In their closing Brief and their exceptions AE cites legal authority that does not apply to them in order to defend their diversion of transmission revenue. AE cites 16 Tex. Admin Code § 25.275(o)(1)(C) (TAC) as rationale for why it should keep the additional profit received from wholesale transmission.[3] This statute prohibits the subsidization of the competitive activities of retail electric or generation companies by their regulated affiliates. The problem with this argument for AE is that they do not have competitive activities and/or competitive risk that need to be shielded from regulated activities; they have not chosen to offer customer choice. While their generating plants may participate in the Electric Reliability Council of Texas (ERCOT) wholesale generation market, they do so without any competitive risk since captive ratepayers will pay for any losses through regulated rates and have no opportunity to seek new, more affordable providers.

In addition, a close look at the statutory language of § 25.275 indicates that this rule is only applicable to a Municipally Owned Utility (MOU) that has chosen to participate in customer choice. 16 TAC § 25.275(b)(1)(A) is quite specific:

(b) **Application.**

(1) **General application.** This section applies to the TDBU of a municipally owned utility or an electric cooperative (collectively referred to as MOU/COOP) operating in the State of Texas, and the transactions or activities between the TDBU and its competitive affiliates, and to an MOU/COOP that is conducting the activities of a TDBU and of a competitive affiliate on a bundled basis, provided that each of the following conditions is met:

(A) The MOU/COOP has chosen to participate in customer choice pursuant to PURA §40.051(b) or PURA § 41.051(b).

This language reflects the requirement found in Public Utility Regulatory Act (PURA) § 39.002 – Applicability – which states "[section] 39.157(e)… apply only to a municipally owned utility or an electric cooperative that is offering customer choice."

[3] AE fails to note that the purpose of 16 TAC § 25.275 is "[t]o protect against anticompetitive practices, consistent with the provisions of the Public Utility Regulatory Act (PURA) §39.157(e)…." Section 39.002 of PURA specifically states that "[s]ections 39.157(e)… apply only to a municipally owned utility or an electric cooperative that is offering customer choice" which AE is not doing.

AE and the City of Austin have not chosen to participate in customer choice. Despite their stubborn assertions about competitive activities and retail vs. wholesale operations and revenues, the simple fact remains that AE is a vertically integrated utility with regulated rates and no customer choice, and therefore, the one attempt at citing a rule to prove their accounting is proper is misleading due to its complete inapplicability. AE owns the retail, generation, and transmission assets and operations. These three functions are not separate subsidiaries of one holding company; they are one business with one management team and one board of directors (the City Council). Therefore, they cannot and do not subsidize one electric activity with another. The costs and revenues of all of these functions are part of a consolidated accounting as evidenced by AE's own rate filing package. The AE ratepayers are saddled with the cost of all of it and are legally entitled to any benefits from any of it. If AE and the City Council want to offer customer choice, they can unbundle their assets and operations into three separate and distinct companies with separate management, establish a code of conduct for transactions among their affiliates, and submit that code of conduct to the PUC for approval, and therefore be covered by 16 TAC § 25.275.

It seems absurd for AE to protest about transmission subsidization that does not exist, but ignore their own requested subsidization of economic development, the customer care duties of other utilities, and their own generation activities, which are all a detriment to AE ratepayers. The IHE did a great job in cutting through the confusion and maze of numbers offered by AE in defense of its wholesale transmission proposal. As the IHE correctly noted, AE included the total cost of owning and operating its transmission system for the benefit of ERCOT loads and offset such costs by the equivalent amount of wholesale revenues; $62.1 million. Further the IHE noted that the $62.1 million in transmission revenues was included by AE in "Other Revenues" on AE RFP Schedule A as an offset to AE's total cost of service in determining AE's base rate revenue requirement of $614 million (Page 60 of IHE Report). NXP/ Samsung have provided evidence and the IHE recognized that if indeed AE was understating its "Other Revenue" (which includes transmission revenue) this had the effect of *over*-stating the base rate revenue requirement. The question then is whether, AE's transmission revenue is $62 million as asserted by AE or $74.3 million as recognized by the IHE. The answer has a direct and offsetting effect on base rate revenues.

AE wants it both ways. AE would have us ignore what it has included in this proceeding for transmission revenue ($62 million) citing the PUC as the sole authority to review and set transmission rates, but when NXP/Samsung identifies and the IHE approves an amount for transmission revenue directly impacted by a PUC Order (Docket 42385) in the middle of AE's test year (June 2014), AE would also have us disregard that outcome as well.

AE also attempts to dismiss the IHE Report by stating that AE's transmission assets were not built for the benefit of AE ratepayers, but were instead built for the benefit of ERCOT. ERCOT might benefit from the system, however, it is AE ratepayers who paid for the system and it is those ratepayers who should benefit from excess revenue from their investment. AE does not own their transmission investment, and neither does ERCOT; it is the ratepayers of AE that truly own the system because as AE characterizes them, they are the "shareholders" of AE. Though it is true AE is both a transmission service provider and a load serving entity, it is also true that it is a vertically integrated utility owning all portions of the supply chain. In their exceptions, AE seems to use the rationalization that they could divest itself of the transmission assets as a reason to prove the IHE's proposal results in cross-subsidization. However, what AE fails to expand upon is the fact that if AE divested its transmission assets, ERCOT would not see the profits from the sale, instead the profits would be seen by the City of Austin itself, and logically the AE ratepayers. This demonstrates how backwards AE's argument is relating to the IHE's recommendation regarding transmission. Despite numerous attempts to have AE explain why in the same reporting year, 2014, they reported drastically different TCOS revenues, AE has failed to provide any kind of rationalization.

Finally, AE's argument that this change is an improper post-test-year adjustment is baffling. It is a basic utility accounting fact that the recommendation to adjust the transmission cost/revenue accounting represents a known and measurable change, which is a type of change allowed in rate cases like this. AE knows how much it will be receiving and collecting related to its wholesale transmission because these are set by the PUC, yet they refuse to use the PUC rate as it would detrimentally affect them. Why would AE use a stale 2014 analysis of this cost/revenue when a 2016 concrete amount is known? If AE really has a problem using the 2016 rate, why did they not update the rate to reflect the 2015 postage stamp rate, something that was set months before the filing of their tariff package? If AE really has a problem making adjustments to their tariff package after the date it was submitted, then why did they make the S2

and S3 20% Load Factor Billing Determinant Adjustment or the adjustment to their Energy Efficiency Service Charge? NXP and Samsung urge the IHE to maintain his position regarding transmission revenue.

H. Economic Development and Community Programs

In its Exceptions, AE requests the IHE reverse his decision to exclude from rates $9,090,429 associated with AE's share of the City's Economic Development Department. NXP and Samsung would reiterate their support for the IHE's exclusion of this amount as it is not used or useful in the provision of electric services.

AE states that the IHE did not provide an explanation or justification for the exclusion of this amount from rates. However, NXP and Samsung disagree with this characterization of the IHE's Report. As demonstrated throughout the proceeding and very clearly pointed out by NXP and Samsung, this transfer is not used or useful in the provision of electric service as required by sound utility accounting. Additionally, neither AE nor the City Council has bothered to develop or implement a quantifiable cost/benefit metric to prove whether the transfer is a just and reasonable cost to force electricity customers to pay. Why should electric customers be required to pay for non-electric activities? If those activities are worthwhile then they should be paid for with revenue that has a direct relationship to the activity.

AE claims that Economic Development and Community Programs benefit AE ratepayers through creating diversity in the system load. However, this argument does not seem to account for the fact that with additional customers brings additional cost, congestion, and constraint on the system. As more people use the system, like the roads, more repairs will need to be made; the City's infrastructure will have to grow with the new population and AE has provided no analysis as to what these costs could be or if they are justifiable when compared to the benefits.

NXP and Samsung would like to make clear they never stated that there were no benefits associated with AE's expenditures to these programs, NXP and Samsung merely argued that ratepayers should not be responsible for costs that are not associated with any concrete study or analysis as to how they benefit the utility. This is another example of AE wanting everyone to trust them that their $9,090,429 expenditure is reasonable without providing evidence that it is reasonable, or that it benefits the provision of electric service instead of causing its degradation.

Additionally, NXP and Samsung would urge the IHE not to be persuaded by the cases AE references as PUC support and approval of economic development measures. NXP and

Samsung would note AE has only cited cases between 1990 and 2001 to show PUC support for this type of transfer, despite the fact the dynamics of the Commission have changed a lot since 2001. It is also telling that with all the rate cases currently going through the Commission, the most recent docket found by AE supporting their proposition was in 2001, over 15 years ago. Since 2001, not only has the market changed, but the population growth in Texas and Austin itself has changed. For these reasons, the "authority" AE cites should be taken as history at best. Finally, even if the Commission decisions were taken as persuasive, they do not show a cost of over $9 million would ever be approved by the Commission. As AE states, "[m]ore recently, in Docket No. 38339 [2010], the Commission approved $3.395 million in economic development expenditures by CenterPoint."[4] However, $3.395 million is very different from AE's requested $9.09 million. Additionally, CenterPoint has a much larger service territory with more customers than AE, therefore this comparison is unreasonable and misleading.

K. Rate Case Expense

In AE's Exceptions to the IHE's Report, AE takes issue with the IHE's recommendation to use a five year amortization period for rate case expenses. AE argues that costs associated with rate case expenses should be spread over the period the rates are to be in effect. AE further argues that a three year amortization would be more appropriate and is the typical period over which other utilities collect rate case expenses. AE also states that their three year proposal avoids expense recovery from one proceeding overlapping with recover of expenses from a subsequent proceeding. AE argues that although the Financial Policy states they must conduct a cost of service study at least every five years, it does not prohibit AE from conducting one on a shorter time frame. AE's arguments in this section seem to allude to AE conducting another rate review before the five year mark, and thus a shorter amortization period would be warranted. What is frightening is how misleading this is, especially when compared to Footnote 6 of their Exceptions where AE indicates their plan is to not have another rate review until 2020. Under this context the IHE should continue to recommend a five year amortization period for rate case expenses as this period most accurately reflects the time period these rates will be in effect.

[4] *Austin Energy's Exceptions to the Impartial Hearing Examiner's Report* at 21.

M. Reserves

In its Brief AE states that it needs enough cash on hand to meet annual cost obligations, debt service requirements, and infrastructure investment needs, however, it does not justify how or why they set the amount of cash that will cover these needs, instead their support was that they said they needed this amount of cash. In a process where utilities must show that their costs and rates are just and reasonable this approach is unacceptable.

AE uses circular logic and argues that no party disagreed with the revenue requirement associated with funding reserves under the current Financial Policies, despite the fact parties repeatedly stated AE is collecting too much in reserves. If this is not a direct attack on AE's Financial Policies, then what would constitute a direct attack? In fact, NXP and Samsung have been arguing against the method AE uses for determining reserves since before the List of Issues was finalized. NXP and Samsung have consistently argued that AE's use of the Cash Flow method, which is the method used in part to determine the amount necessary for reserves is unreasonable because it is self-prophetic. The method inherently results in whatever amount that is stated as being needed is needed because it is said it is needed. This again is an example of AE wanting everyone to "trust" that their methods and recommendations are ideal, despite the lack of any credible evidence proving such reasonableness.

Throughout the process AE accuses NXP and Samsung of only subjective reasons for recommending changes to the financial policies. Yet the recommendation to eliminate the rate stabilization fund is solely based on the ratemaking principle AE so often refers to – today's ratepayers should not be charged more than the cost to provide electricity service. Creating funds that can be manipulated by failing to charge the cost when it is incurred to artificially demonstrate achievement of the affordability goal should not be allowed or encouraged. Furthermore, AE wants to keep any over-collection of the PSA to fund the rate-stabilization fund, which is better characterized as a political cushion for AE to use to claim that rates are affordable by being a future subsidization of rates, which is contrary to AE's vehement claims related to their transmission argument that they "shall not create significant opportunities for cross subsidization." The creation of a slush fund for the sole purpose of keeping rates artificially low is the ultimate opportunity for cross-subsidization that must be recognized and disallowed.

AE also fails to address the fact that NXP and Samsung recommended that AE follow the one/eight of O&M rule for working cash, which was PUC precedent until utilities were required to prove up the need for working cash by submitting a lead/lag study, which AE has never done. Had the City Council addressed the policy issues prior to the rate case many of NXP/Samsungs' concerns would have been eliminated. However, the Council has yet to determine how the 150 days cash on hand is calculated, and which reserves will be counted in the calculation.

For its review NXP/Samsung used the calculation proposed by NewGen that begins with AE's total O&M, including fuel, to establish what is required to meet the 150 day policy. Under this reasonable proposal, one can clearly see that AE's reserve balances as of September 30, 2015 were adequate, thus no additional amounts would need to be collected from ratepayers at this time.

AE's claims that their judgment regarding reserves should be adopted because they conducted a detailed analysis, and therefore, the recommendations of other parties should be rejected. This implies that other parties, like NXP and Samsung did not conduct an analysis of AE's proposals to the reserve policies. This assessment is unfounded and unsupported. Merely because AE stated they conducted a detailed analysis does not mean they did so and it certainly does not mean the analysis was any good. AE is trying to lead the reader to the assumption that AE conducted a more detailed analysis than other parties without a shred of supporting evidence. In fact, NXP/Samsung witness Ms. Fox has been analyzing AE's reserves for several years.

N. Property Transfers

AE objects to the IHE's recommendation that Council should consider $14.5 million that AE received as a result of the sale of the Energy Control Center "as funds available to fund either Austin Energy's operations or its reserves." AE argues that this fund is a one-time, non-recurring, out-of-test-year receipt of monies that should not be considered in this proceeding. AE argues that because this amount was received during the current fiscal year, which NXP and Samsung would note is part of the current budget process, its consideration would result in a rolling test year. NXP and Samsung object to this characterization. AE seems to think a concrete, known and measurable amount of money received should in some way not be considered. This is unreasonable and would lead to $14.5 million being unattributed to ratepayers. AE continues to argue that these funds should be reflected during the next rate review proceeding. This again is unreasonable as the next rate review proceeding will not occur

until 2020. Ratepayers should see the immediate benefit of this asset sale that is currently known. It would be unreasonable to have any benefit associated with the sale not received by the "shareholders" for five years, if then, because in five years who knows what AE's policies will be. This is truly the best time to account for this revenue and NXP and Samsung applaud the IHE for recognizing this as a proper post-test year adjustment and continues to urge the IHE to remain confident in his recommendation and continue to support it to Council. It is troubling that AE uses every opportunity to hide behind "city policy" without making any recommendation as to whether the city policy is reasonable. Intervening parties however have clearly demonstrated why the city policy is completely unreasonable and should not be continued.

III. COST ALLOCATION

D. Classification and Allocation of Distribution Costs

Once again, as demonstrated on page 26 of AE's Exceptions, in an effort to find what they believe is politically prudent, AE continues to ignore its own engineering design guidelines, planning studies, and operating processes when defending its novel allocation of Distribution Costs.

Despite its own clear and uncontroverted statements that distribution costs are driven by summer NCP demands, AE recommends that distribution costs be allocated using a 12 month NCP demand factor. AE witness Mr. Mancinelli makes this recommendation because it "is more equitable than the 4NCP." By equitable he must mean it is slightly less discriminatory to large customers than other recommendations or preferential to residential customers. Mr. Mancinelli's assessment of what is **"equitable" is not evidence** and does not reflect what NXP and Samsung or other parties consider "equitable" – no other party recommended this with great support demonstrating a reasonable presumption that no party viewed this method as equitable. This method may be politically expedient, but it is far from equitable. A weak statement of equity is not evidence to support a cost allocation methodology, which is supposed to reflect the Texas market and be politically neutral in nature.

AE further attempts to justify the use of the 12 month NCP allocation method because "distribution capacity provides value to customers throughout the year not just during the peak hour or the summer peak months." This rate review is *allegedly* about allocating costs to

customers based on how and where those costs are created. It is not about where, when, or how some "value" may occur. What exactly is value? How is it measured? Is there a cost? How could the value be exactly the same in every month? AE certainly provides no evidence to answer these questions. Even assuming one could somehow answer these questions, the fact remains that "value" is not what drives AE's distribution costs. The tool used to measure the costs of providing service to customer classes is a cost of service study, not a value of service study. Assigning costs based upon current notions of values is subjective and subject to manipulation. According to AE's own engineering and planning guidelines, summer NCP demands drive AE's distribution costs. This cost should be used to drive AE's determination of allocation methodology.

Items that are not subjective nor subject to manipulation are AE's own planning processes for distribution plant. As reflected in AE's distribution planning process, AE recognizes the greater importance of **summer demand**. In its Tariff Package, AE states:

> [t]he [distribution] planning process begins with a review of distribution system performance during the previous *summer's peak load periods.* Overhead distribution feeder circuits and substation transformers are noted for further study when their loading reaches 85 percent of their normal rating under normal (i.e. all facilities in service and all loads being served) conditions.[5] (emphasis added)

AE also states that the feeder modeling software used to analyze the distribution system uses summer load conditions "[t]o ensure model accuracy, [AE distribution planners] first match and then test the previous summer's system configuration and peak load conditions."[6] AE seems to forget that substations, transformers, and conductors are heat sensitive. Because temperatures during the hot summer peak months are so much higher than the temperatures during the non-summer months, customer demands placed upon distribution equipment during the high temperature, summer peak periods, effect the capacity requirements of the substations, transformers, and conductors more than during cooler months, due to their heat sensitivity; as NXP and Samsung demonstrated this equipment is less efficient during higher temperatures. Therefore, customers' NCP demands during cooler periods do not drive the costs of this distribution equipment and should not be used for cost allocation. The 4NCP allocation method

[5] *Id.* at 3-32 (Bates 061).

[6] *Id.*

specifically matches AE's distribution planning processes and should be approved. For these reasons and for reasons previously provided by NXP and Samsung, NXP and Samsung urge the IHE to adopt a 4NCP allocation method because the evidence clearly demonstrates that this method best reflects the ERCOT market.

IV. REVENUE DISTRIBUTION / ALLOCATION / SPREAD

In its Brief, AE seems to indicate that parties proposed further reductions in AE's revenue requirement "for the self-serving purpose" of reducing the rates those classes will pay next year. AE does not consider that parties might have an interest in being the customer of a prudently operated utility that is competitive in Texas. NXP and Samsung made great strides to identify apparent ways AE could reduce the revenue requirement without causing a reduction in service. NXP and Samsung in no way attempted to pit itself against any other class, which can be seen through its various recommendations that are based on sound policy and PUC precedent. Is the PUC only concerned about large industrial customers? Is the PUC not capable of determining just and reasonable rates? Are the PUC rules not created after a thorough analysis of the arguments of all stakeholders? Is the PUC biased? AE is correct that there is no MOU in ERCOT specific precedent that can be looked to, however, as seen through the PUC appeal of AE's last rates, the PUC witnesses looked to PUC rules when determining just and reasonable rates. The PUC in that case made a determination that PURA and PUC rules/precedent should govern and be a guiding light when determining the reasonableness of AE's actions. NXP and Samsung used this guiding light when making its recommendations. NXP and Samsung continue to urge the IHE to use this proceeding to recommend and encourage the City Council to adopt rates that bring all classes to their respective cost of service.

IX. CONCLUSION

Based on the evidence presented during the case, in closing briefs and in their exceptions, NXP and Samsung urge the IHE to affirm the recommendations he has already made and re-consider others, especially those related to Loss on Disposal and Production Cost Allocation.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of this pleading has been forwarded by fax, e-mail, U.S. first class mail, hand-delivery, or by courier service to all parties and filed with the City Clerk on the 1st day of August, 2016.

Maria C. Faconti