

<b>AUSTIN ENERGY’S TARIFF PACKAGE:</b>	<b>§</b>	
<b>2015 COST OF SERVICE</b>	<b>§</b>	<b>BEFORE THE AUSTIN</b>
<b>STUDY AND PROPOSAL TO CHANGE</b>	<b>§</b>	<b>CITY COUNCIL</b>
<b>BASE ELECTRIC RATES</b>	<b>§</b>	

**JOINT RECOMMENDATION TO THE AUSTIN CITY COUNCIL**

This Joint Recommendation to the Austin City Council (“Recommendation”) is entered into by Austin Energy (“AE”), Independent Consumer Advocate, Applied Materials, Austin Apartment Association, Austin Energy Low Income Customers, Austin Regional Manufacturers Association, Bethany United Methodist Church, Building Owners and Managers Association of Austin, Coalition for Clean Affordable Reliable Energy, Crown Castle, Cypress Semiconductor, Homeowners United for Rate Fairness, Goodwill, Greater Austin Chamber of Commerce, James Rourke, NXP Semiconductors, Public Citizen, Samsung Austin Semiconductor, Seton Healthcare, St. David’s HealthCare, and Sierra Club and through their duly authorized representatives (collectively, the “Signatories”). The Signatories agree that a negotiated resolution of this matter on the basis set forth in this Recommendation and related tariffs is in the public interest, provides just and reasonable rates, and will conserve resources and eliminate controversy. Accordingly, the Signatories request approval of this Recommendation by the Austin City Council (“City Council”). In addition, the Signatories request the City Council issue a rate ordinance and approval of the tariffs applicable to customers throughout AE’s service area consistent with this Recommendation.

## **I. BACKGROUND**

1. Austin Energy is a municipally owned utility under the Public Utility Regulatory Act,<sup>1</sup> which is owned and operated by the City of Austin. On January 25, 2016, Austin Energy filed a Tariff Package: 2015 Cost of Service and Proposal to Change Base Electric Rates.
2. For the Test Year 2014, the adjusted revenue requirement was \$1,217,227,310. This revenue requirement is 1.4% less than the revenue that would be generated by current base rates. Based on this reduced revenue requirement, Austin Energy proposed to reduce its base rates by \$17,474,299. Subsequently, Austin Energy modified its filing and proposed to reduce base rates by \$24,559,000.
3. Twenty-five stakeholders, representing all customer classes, filed motions to intervene.
4. Following an 85-day discovery period, intervenors filed their direct testimony and statements of position on May 3, 2016. On May 10, 2016, intervenors were allowed to file cross rebuttal testimony.
5. Austin Energy filed its rebuttal testimony on May 20, 2016 in response to intervenor testimony.
6. A hearing was held before an Independent Hearing Examiner (“IHE”) on May 31, 2016-June 2, 2016.
7. Intervenor briefs were filed on June 10, 2016. Austin Energy filed its closing brief on June 17, 2016.
8. On July 15, 2016, the IHE issued a 299-page Report summarizing the evidence and making recommendations on the disputed issues.

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<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-66.016 (West 2016, West 2007 & Supp. 2015) (PURA).

9. On July 22, 2016 intervenors were allowed to file Exceptions to the Report seeking reconsideration of issues by the IHE. Replies to Exceptions were filed on August 1, 2016 followed by the issuance of a Supplemental Report on August 5, 2016.
10. At the conclusion of a series of negotiations, the Signatories reached an agreement in principal on August 15, 2016.
11. The Signatories believe that a negotiated resolution of this matter is desirable and in the public interest because the result is reasonable under the circumstances, is supported by the evidence, will conserve the public's and the Signatories' resources, and will eliminate controversy.

## II. SETTLEMENT PROVISIONS

The Signatories have reached agreement on the issues as set out below and agree that the City Council should adopt a rate ordinance consistent with this Recommendation.

12. **Application of Recommendation:** The terms of this Recommendation apply to rates charged by Austin Energy to customers throughout its service area. The provisions of this Recommendation shall become effective on January 1, 2017 unless stated otherwise below.
13. **Revenue Requirement:** The Signatories agree that base rates should be reduced by \$42,500,000 effective January 1, 2017.
14. **Cost Allocation/Revenue Spread:** Signatories agree that the \$42,500,000 base rate reduction is to be allocated in approximately the following manner:
  - \$5,500,000 to the Primary Voltage 4 ("P4") class;
  - \$5,000,000 to the Residential class;
  - \$1,000,000 to the Secondary Voltage 1 ("S1") class;
  - \$31,000,000 allocated to the remaining customer classes according to the revenue distribution proposed by Austin Energy in its direct and rebuttal case;

- \$15,700,000 to Secondary Voltage 2 class;
  - \$5,300,000 to Secondary Voltage 3 class;
  - \$4,500,000 to Primary Voltage 1 class;
  - \$5,300,000 to Primary Voltage 2 class;
  - No change to Transmission Voltage 1 class; and
- No increase to the Transmission Voltage 2 (“T2”) class.
15. **Residential Base Rates / Customer Charge:** Austin Energy agrees to not initiate a change in residential base rates or the residential customer charge until its next base rate review.
16. **Residential Tiers:** The Signatories agree that the \$5,000,000 base rate reduction for the Residential class will be applied to reducing the Tier One rate for residential customers within the City of Austin. The remaining residential rate tiers will be designed by Austin Energy to ensure compliance with the remaining terms of the agreement.
17. **Energy Efficiency Commitment:** Austin Energy agrees to dedicate an additional \$2,000,000 in energy efficiency benefits and free high bill audits to residential and small commercial customers without increasing the fiscal year (“FY”) 2017 Energy Efficiency Services (“EES”) tariff.
18. **Houses of Worship (“HOW”) Discount:** Austin Energy agrees to extend the HOW discount transition period for four years and to adjust the rate cap as follows:
- The following rate caps will apply during the four year transition of the discount:
    - Year 1 (FY 2017) cap: 13.25¢
    - Year 2 (FY 2018) cap: 13.75¢
    - Year 3 (FY 2019) cap: 14.25¢
    - Year 4 (FY 2020) cap: 14.75¢
  - Subject to the provision below, the rate cap for HOW customers will end at the conclusion of FY 2020 (i.e. September 30, 2020).

- Austin Energy will continue to measure demand charges based on weekday usage through the next base rate case. Prior to the next rate case, Austin Energy will prepare a study examining non-coincident peak usage of commercial customers, including HOWs.
- 19. **P4 Class Customers:** Austin Energy and P4 customers agree to bilaterally modify the base rates for the P4 class according to the terms contained herein and the regulatory charge according to the FY 2017 budget. All other terms contained in the P4 tariff and the separately executed, negotiated terms of any applicable service contract will continue according to their terms. In addition, Austin Energy is willing to discuss the reliability concern raised by NXP Semiconductors following City Council’s adoption of a rate ordinance in this matter.
- 20. **Seasonality:** The Signatories agree with Austin Energy’s proposals to remove seasonality from base rates and include seasonality in the Power Supply Adjustment (“PSA”) tariff.
- 21. **Customer Assistance Program (“CAP”):** The CAP program continues without adjustments:
  - Future adjustments to CAP program’s eligibility procedures will incorporate stakeholder input and consideration by the Electric Utility Commission (“EUC”);
  - The CAP tariff set in FY 2017 will be frozen until the next rate case—any studies done in relation to the CAP tariff will incorporate public comment, including comment from low income customer advocates in addition to service agency input; and
  - Qualified applicants shall be enrolled within 60 days of the application or automatic data match.
- 22. **Outside City of Austin Customers:** The Signatories agree that the discount from inside city rates for residential customers outside the City of Austin remains approximately \$5,500,000. This proposal keeps the differentials in the rates between customer classes

approximately the same as those established in the PUC Docket No. 40627 settlement. The discount from inside city rates to outside commercial customers of approximately \$325,000 is also maintained.

23. **Future PSA Adjustments:** Austin Energy's request for a change to its PSA tariff rates will be accompanied with background information that will be provided in a format similar to the July 21, 2014 FY 2015 budget presentation made by AE staff to the Electric Utility Commission, as set out in Austin Energy Low Income Customers' Exhibit No. 5.
24. **Prepayment Pilot Program:** Austin Energy agrees to allow the Prepayment Pilot Program to expire as of the end of FY 2016. If Austin Energy chooses to implement a full Prepayment program, Austin Energy will seek stakeholder input for tariff development and agrees to not present a proposed tariff any earlier than in the FY 2018 budget.
25. **EES Charge:** Austin Energy agrees to withdraw its proposal to re-allocate recovery of the EES charge contained in its rebuttal testimony until the next base rate case.
26. **Late Fees / Choose Your Own Due Date Program:** Austin Energy is currently working on developing a "Choose Your Own Due Date" program (the "Program"). Beginning January 1, 2017, Austin Energy will waive late fees for CAP customers in the event the Program has not been implemented. Irrespective of when the Program is implemented, there will be a 90 day transition period following the implementation of the Program for CAP customers during which Austin Energy will not charge late fees to CAP customers. Ninety days after the program launch and public outreach effort begins, Austin Energy will assess late charges on CAP customers and, at the customer's request, will waive the late fee charge one time per annum for CAP customers.

27. **Financial Policies:** The Signatories agree to support the adoption of the modifications proposed to the City’s financial policies contained in the Tariff Package (i.e. rate filing package) filed on January 25, 2016 subject to the following modifications:
- Austin Energy will agree to collect decommissioning costs for Decker over three years rather than two years.
  - Austin Energy agrees to set the power supply stabilization fund at 90 days of power supply costs.
  - Austin Energy will not credit the power supply stabilization reserve with PSA over-collections. AE will credit or debit all PSA over and under-collections over a 12 month period consistent with its current practice.
28. **Future Studies:** Austin Energy agrees to conduct the Residential and Non-Residential studies included in Appendix E of the January 25, 2016 Tariff Package (Bates pages 372-373), incorporating public and stakeholder participation (such as HOWs, residential, low income and small business ratepayers) subject to future funding approval by the Austin City Council. Austin Energy will include public and stakeholder participation (such as HOWs, residential, low income and small business ratepayers) in the evaluation of rate-related pilot projects.
29. **Value of Solar Tariff:** Austin Energy agrees to modify the residential Value of Solar tariff rider to include the information contained in Jim Rourke Exhibit No. 3 and attached to Jim Rourke’s Closing Brief (Appendix B).
30. **Resource Plan Issues:** As part of the upcoming biennial update to the Austin Energy Resource, Generation and Climate Protection Plan to 2025 (“Resource Plan”) and in recognition of Public Citizen/Sierra Club’s (“PC/SC”) positions on the Fayette Power Project (“FPP”) raised in the review of cost of service and base electric rates, Austin Energy and PC/SC agree to the following terms:

- Austin Energy will utilize internal funding to hire outside expertise as needed to address technical and legal issues related to FPP and its retirement process;
- As a component of the upcoming update of the Resource Plan, Austin Energy will present a full update on steps they have taken with regard to FPP-related objectives in the Resource Plan;
- Austin Energy agrees to meet with stakeholders in the upcoming update of the Resource Plan to review goals and objectives, exchange information, review the resource plan update in detail, and discuss planning steps in meeting the Resource Plan goals for FPP;
- With broad stakeholder input, Austin Energy will develop for Council review and discussion options for a roadmap describing possible paths to meet the City Council's goals for FPP as reflected in the Resource Plan, which establishes a process for ending the use of coal by starting the retirement of Austin Energy's share of the Fayette Power Plant by the end of 2022. Austin Energy will present to Council no later than the end of January 2017 an update with a report and timeline on development of the options and roadmap, including an assessment of legal considerations. Austin Energy will target the end of June 2017 to present options to Council and recommend a preferred path, including anticipated budgetary impact for FY18 associated with the options and preferred path. Considerations in the development of options for the roadmap may include:
  - Legal considerations with respect to the participation agreement;
  - Operational requirements, challenges, and opportunities;
  - Economic challenges and opportunities;
  - ERCOT regulatory requirements;
  - Financial obligations, including debt service requirements;
  - Council's affordability goal; and
  - Council's climate goals.
- Provide the Electric Utility Commission with regular updates on steps and/or actions taken on FPP-related objectives following the approval of the 2016 Resource Plan update and continuing until the next Resource Plan update; and
- Agree to an ongoing dialogue with stakeholders on achieving the objectives of the Resource Plan related to FPP.
- In FY2017, Austin Energy will earmark \$5 million from the existing Contingency Reserve to be used to manage debt service at FPP, should the roadmap conclude that such an option is appropriate. These funds will not be used for any other purpose without Council approval.



- With regard to the commercial value of solar (VOS), Austin Energy agrees to pursue an examination of the commercial VOS, as part of a comprehensive solar program review (i.e. - elements of VOS, differential incentives for smart inverters/orientation, PBI vs. VOS, etc.) and will address compensation for solar production by commercial customers and any other related changes into the FY18 budget, incorporating customer, contractor and stakeholder engagement. The target for completion of all needed studies to develop the Commercial VOS and publicly release results shall be the end of February 2017.
- Public Citizen/Sierra Club will participate in the resource planning process to update the Austin Energy Resource, Generation and Climate Protection Plan;
- Public Citizen/Sierra Club agrees that some information and action steps regarding FPP must remain confidential due to competitive matters concerns, due to AE's obligations to the Lower Colorado River Authority, and in recognition of the cost consequences of public disclosure of certain information relevant to negotiations. However, AE will endeavor to share as much information as reasonably possible with stakeholders;
- Public Citizen/Sierra Club acknowledges that any definitive action taken on FPP-related objectives are subject to the Council's affordability requirements, as well as climate goals; and

Nothing in this provision shall be construed to affect or impair any other provision in this Joint Recommendation to the Austin City Council. In the event of a conflict between this provision and a provision of the Joint Recommendation, the other provision shall prevail.

31. **Support of Recommendation:** The parties agree to support the terms of the proposal before the Austin City Council and to not seek, fund, or support an appeal of this rate review before any oversight body including the Public Utility Commission of Texas. The parties further agree not to seek any statutory changes related to Austin Energy before the Texas Legislature until the next Austin Energy rate review or December 31, 2020, whichever comes first.

32. **Effect of Joint Recommendation:** A Signatory's agreement to entry of a rate ordinance of the City Council consistent with this Recommendation should not be regarded as an agreement to the appropriateness or correctness of any assumptions, methodology, or legal or regulatory principle that may have been employed in reaching this Recommendation. Except as otherwise noted above, the Signatories acknowledge and agree that the provisions of this Recommendation have been entered into as a matter of compromise and are not intended to create a precedent for resolving such issues in any future matter and are not binding or precedential on any Signatory or its representatives in any other matter before the City of Austin, Public Utility Commission, or any court, tribunal, or similar authority. The Signatories agree that their request that the City Council adopt a rate ordinance consistent with the Recommendation is the result of negotiation, and is not intended to have precedential value with respect to any particular principle, treatment, or methodology that may underlie the Recommendation.
33. **Severability:** The Signatories agree that the terms and conditions herein are interdependent and not severable, and no Signatory shall be bound by any portion of this Recommendation outside the context of the Recommendation as a whole. If the City Council does not accept this Recommendation as presented, or issues a rate ordinance inconsistent with any term or provision of this Recommendation, the Signatories agree that any Signatory adversely affected by that modification or inconsistency has the right to withdraw its consent from this Recommendation, thereby becoming released from all commitments and obligations, and to proceed to exercise all rights available under law.
34. **Statements:** The Signatories agree that neither oral nor written statements made during the course of the settlement negotiations, nor the terms of this Recommendation may be

used as an admission or concession of any sort or as evidence in any matter. This obligation shall continue and be enforceable, even if this Recommendation is terminated.

35. **Entire Recommendation:** This Recommendation contains the entire understanding and agreement of the Signatories, supersedes all other written and oral exchanges, or negotiations among them or their representatives with respect to the subjects contained herein; and neither this Recommendation, nor any of the terms of this Recommendation, may be altered, amended, waived, terminated, or modified, except by a writing properly executed by the Signatories.
36. **Execution:** Each signing representative warrants that he or she is duly authorized to sign this Recommendation on behalf of the Signatory he or she represents. Facsimile and PDF copies of signatures are valid for purposes of evidencing execution. The Signatories may sign individual signature pages to facilitate the circulation and filing of the original of this Recommendation.

**AGREED:**

**AUSTIN ENERGY**

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Thomas L. Brocato  
State Bar No. 03039030

**APPLIED MATERIALS**

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Bryan Stevenson

**INDEPENDENT CONSUMER  
ADVOCATE**

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John Coffman

**AUSTIN APARTMENT ASSOCIATION**

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Paul Cauduro

**AUSTIN ASSOCIATION OF FACILITY  
AND MAINTENANCE ENGINEERS**

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Nathan Simpson

**AUSTIN INDEPENDENT BUSINESS  
ALLIANCE**

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Rebecca Melancon

**BETHANY UNITED METHODIST  
CHURCH**

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Clifford G. Wells

**COALITION FOR CLEAN  
AFFORDABLE RELIABLE ENERGY**

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Trey Salinas

**CUSTOMERS CONCERNED ABOUT  
AFFORDABLE RATES IN  
ELECTRICITY (CUSTOMER CARE)**

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Laurie Barker

**DATA FOUNDRY**

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W. Scott McCollough  
Texas Bar No. 13434100

**AUSTIN ENERGY LOW INCOME  
CUSTOMERS**

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Lanetta Cooper  
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**AUSTIN REGIONAL MANUFACTURERS  
ASSOCIATION**

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Ed Latson

**BUILDING OWNERS AND MANAGERS  
ASSOCIATION OF AUSTIN**

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John M. Sutton

**CROWN CASTLE**

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Kirk Wampler

**CYPRESS SEMICONDUCTOR**

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Barry Dreyling

**HOMEOWNERS UNITED FOR RATE  
FAIRNESS**

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Roger B. Borgelt  
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**GOODWILL**

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Gerald L. Davis

**JAMES ROURKE**

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James Rourke

**SAMSUNG AUSTIN SEMICONDUCTOR**

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J. Christopher Hughes  
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**PUBLIC CITIZEN**

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Kaiba White

**SETON HEALTHCARE**

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Geronimo Rodriguez  
State Bar No. 00798468

**GREATER AUSTIN CHAMBER OF  
COMMERCE**

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Michael W. Rollins

**NXP SEMICONDUCTORS**

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J. Christopher Hughes  
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**PAUL ROBBINS**

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Paul Robbins

**SIERRA CLUB**

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Carol S. Birch  
State Bar No. 02328375

**ST. DAVID'S HEALTHCARE**

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Michael J. Whelan  
State Bar No. 21265550

## **Appendix E: Proposed Future Research Items**

### **(Referenced in Section 28)**

The electric industry—and, in particular, the distributed energy segment of retail electric service—is evolving rapidly, as are the regulatory policies that guide the industry. Traditional rates and rate structures must keep up with those changes. While AE is recommending preserving most components of the rate structure in this proceeding, AE recognizes that more comprehensive changes may be needed in future rate adjustments to keep up with industry changes.

Therefore, in anticipation of future COS analysis and rate adjustments, and to help ease the disparity of each customer class's revenue recovery and reduce inter-class rate subsidies, AE proposes conducting interim studies to help prepare for a dynamic future. Among the issues anticipated to be studied are the following:

#### **Residential Studies**

- *Review tier structure of residential rates:* Austin Energy will study whether and to what extent the residential rates tier structure promotes the Council's goals for energy efficiency.
- *Lifeline study of minimum residential energy uses:* Minimum residential energy consumption can be used to help determine the boundaries of the lower residential tiers. The study will review minimal residential usage and the factors that determine that level.
- *Study customer-related cost recovery charges for multi-family, single-family, and solar-installed residences:* Austin Energy will investigate whether certain components of the Cost of Service vary by type of residence to improve allocation of costs within the residential sector.
- *Charges for three-phase residential customers:* Data will be collected on residential customers receiving three-phase electric service to determine whether certain components of the Cost of Service vary by service type to improve allocation of costs within the residential sector.

#### **Non-Residential Studies**

- *Rate structure for Secondary Voltage Service 1:* Unlike residential customers, with which S1 customers most closely share usage characteristics, the S1 class is billed on a simple uniform energy rate without the benefit of a demand charge to incentivize efficiency. Austin Energy will study alternative rate structures, including a tiered structure for the S1 class that is more similar to the structure of the Residential Class.

- *Downtown Network Rates:* Non-Residential customers on the downtown network are currently charged the same rates as comparable non-Residential customers in each rate class receiving conventional service. Austin Energy will study the Cost of Service to provide network service to determine if there are sufficient differences in non-Residential service costs to warrant separate rates for customers on the downtown network to improve allocation of costs within the non-Residential sector.
- *Peak Usage Measurement:* Under Austin Energy's tariffs, a non-residential customer recording its highest usage outside of the peak hours for Austin Energy's system-wide peak will incur demand charges equivalent to a customer with highest usage during Austin Energy's system peak. Austin Energy will study the characteristics and determinants of non-residential customers' peak usage, including the extent to which individual customers' peaks are coincident with Austin Energy's system peak, and whether the customers' peaks should be banded for certain afternoon hours. Banding the measurement of the peak hours could preclude customers whose highest demand occurs in non-peak hours from assessment of certain demand charges.
- *Power Factor Charges:* Austin Energy assesses charges for customers with monthly Power Factor below 90 percent according to the Power Factor Correction found in the non-residential tariffs. Austin Energy will assess whether a reactive power charge, also known as kilovolt-ampere reactive ("kvar"), is a feasible and appropriate alternative to the Power Factor Correction.