

**AUSTIN ENERGY
2022 BASE RATE REVIEW**

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**BEFORE THE CITY OF AUSTIN
IMPARTIAL HEARING EXAMINER**

**INITIAL BRIEF OF SIERRA CLUB, PUBLIC CITIZEN, AND SOLAR UNITED
NEIGHBORS**

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I. INTRODUCTION

On behalf of its Texas members, including many members who are customers of Austin Energy, Sierra Club, Public Citizen, and Solar United Neighbors (“the Conservation Organizations” or “SC-PC-SUN”) respectfully request that the Independent Hearing Examiner and the City Council reject aspects of Austin Energy’s proposed rate design and revenue requirement changes, which the Company requests as part of its 2022 Base Rate Review.

In this proceeding, Austin Energy proposes to increase total base rate revenue by 4.2%, or \$48.2 million to fully fund its expected revenue requirements, including its continued operation of the Fayette Power Plant.¹ Although Austin Energy had committed as part of the City’s 2030 Generation Resource Plan to retire Fayette by the end of 2022, the Company reversed course and now seeks recovery of \$30.6 million in non-fuel O&M costs, \$1.9 million in capital costs, and \$17.8 million in depreciation costs at the plant.²

Austin Energy also proposes to dramatically redesign its residential rates, resulting in an overall increased recovery from residential customers of approximately by \$76.5 million, to match the purported cost of service for those customers.³ To achieve that result, Austin Energy proposes to increase its monthly fixed residential service charge by 150% per customer. The Company also proposes to flatten its five-tiered, ascending variable energy rate structure (which is tied to monthly kWh usage) to three tiers, with the vast majority of customers falling into a single tier, constraining those customers’ ability to reduce their energy usage.

In addition, Austin Energy proposes to slash its Value of Solar rate for rooftop solar owners, crediting those customers with only the “avoided cost” of energy, calculated based on the previous year’s average day-ahead price for ERCOT system energy and a fixed, nominal credit for transmission and ancillary services. Despite widely-recognized and quantifiable *additional* benefits associated with rooftop solar—such as avoided generation capacity costs, avoided reserve

¹ Austin Energy Ex. 1 at 4.3.1 (2022 Base Rate Filing Package). Total base revenue requirements would be \$686.8 million as proposed, compared to \$638.6 million under current rates.

² Response to Data Request SCPC 2-1.

³ *Id.* at 73, Table 5-O. The overall proposed increase is 4.3%, so the “needed” increase for residential customers of 15.2% is about 3.5 times as large.

capacity costs, avoided distribution capacity costs, avoided air pollution and environmental impacts, and local economic benefits—the restructured tariff ignores providing credit for these valuable services, instead relying on a future proceeding to arrive at those benefits. Austin Energy also proposes to recover a portion of the Value of Solar credit through the Energy Efficiency Service fee, while also exempting high energy industrial customers from contributing to that fund.

Taken together, Austin Energy’s continued investment in the Fayette Power Plant and its proposed restructuring of its residential electric rates—including its proposal to more than double the monthly fixed charge per customer, its proposed modification of its five-tiered rate structure, and its reduction of the Value of Solar credit—would be detrimental to the City’s energy efficiency, distributed solar, and climate goals and harmful to customers, particularly low-income customers. In addition, in creating a new rate customer class for high-load commercial customers that would be exempt from contributing to the Energy Efficiency Service fee, Austin Energy would be further limiting the base of customers paying the fee, thus reducing budgets for these important programs.

The City Council should reject Austin Energy’s flimsy rationales for its proposed spending and its changes to residential customer charges, rate design, and the Value of Solar tariff, for several reasons. *First*, the City Council should deny Austin Energy’s proposed test year spending at the Fayette power plant because there is no evidence in the record supporting the prudence of the utility’s continued investment in that plant. Despite seeking approval of millions of dollars of capital and operations and maintenance costs, Austin Energy refused to provide the City Council with any evaluation showing that customers benefit from the continued investment in, and operation of Fayette. Instead, Austin Energy apparently relies on the spending decisions of the co-owner of Fayette, the Lower Colorado River Authority, an entity that is not subject to any oversight by the City Council. In doing so, Austin Energy has failed to meet its burden of proof under Texas law, which requires a regulated utility to justify the expenses it seeks to charge to customers.⁴

Austin Energy ultimately has the burden of demonstrating the prudence of those costs, and the Council must closely scrutinize every dollar of the Company’s proposed spending to protect

⁴ Public Utility Regulatory Act, Tex. Util. Code Ann. § 36.006 (amended 2019) (PURA).

customers from wasteful spending.

In addition, despite repeatedly assuring the City Council of its intent to retire Fayette, decreasing the dispatch of the unit, and acknowledging that the continued operation of the plant is inconsistent with the City's climate goals, Austin Energy has not independently evaluated whether Austin ratepayers would benefit from adjusting downward the level of spending at the plant. Austin Energy has similarly failed to demonstrate that it has set aside sufficient funds to decommission Fayette, as it committed to doing in its most recent resource plan, in which it made commitments to end our use of coal by the end of 2022. In fact, it is not clear how much Austin Energy has set aside for the Fayette decommissioning specifically as part of its existing non-nuclear decommissioning fund, or whether that amount is sufficient to meet the Council's retirement goal because Austin Energy refused to provide information relating to the economics or retirement date for the plant.

Second, the City Council should reject Austin Energy's proposed 150% increase in the residential fixed charge and its proposed elimination of the five-tiered energy rate structure. As discussed below and in the testimony of Dr. Ezra Hausman, those proposed rate design changes would be detrimental to the City's energy efficiency goals and harmful to customers, particularly to low-income customers. Indeed, by increasing the fixed customer charge and flattening its energy consumption tiers so that many energy users fall into the same rate, Austin Energy effectively limits the ability of customers to control their own energy usage and costs, thereby reducing the incentive to adopt and implement energy efficiency measures and distributed generation. After all, why would any customer invest in energy efficiency measures or solar generation if those investments will have little to no impact on their energy costs?

Instead of increasing fixed costs for all residential customers, thereby discouraging conservation, the City Council should direct the Company to retain its existing residential base rate schedule until it can develop and file an alternative rate plan that retains these benefits and is less harmful to customers. Austin Energy's current structure has lower costs at lower usage levels, but imposes increased rates and more strongly encourages energy efficiency as usage increases. The idea of such a structure is to have a minimum bill for all customers that covers the cost of being connected to the system, but to also charge customers for the energy they use in a way that encourages conservation.

Third, the City Council should reject Austin Energy’s proposed changes to the Value of Solar tariff because those changes are unjust, unreasonable, and discriminatory to customers that own generation, which provides valuable system benefits for all users. The proposal also effectively eliminates societal benefits, including avoided emissions, distribution, capacity, and other costs from the Value of Solar calculation. Coupled with its proposals to increase customer fixed charges and flatten its rate tiers, which encourage increased customer consumption of utility-provided electricity, Austin Energy’s Value of Solar changes will economically disadvantage customer generation in favor of utility generation, increasing Austin Energy revenues and effectively subsidizing non-solar customers.

Finally, the City should reject Austin Energy’s proposal to exempt high energy industrial customers from contributing to the Energy Efficiency Service fee, which funds important energy efficiency programs for low- and moderate-income customers. By exempting high energy users from the fee, Austin Energy effectively reduces the funds available for low-income energy efficiency measures and, by extension, reduces those customers’ ability to reduce their electricity bills. The proposed changes to the Energy Efficiency Service Fee will also reduce funding for energy conservation, demand response, and onsite energy generation, thereby critically undermining the City’s long-term energy efficiency goals.

II. REVENUE REQUIREMENT

A. Approach

With the exception of non-nuclear decommissioning and capital, operation and maintenance, and depreciation costs at Fayette, the Conservation Organizations do not take a position on Austin Energy’s proposed approach to its revenue requirement or cash flow methodology, but reserve the right to oppose Austin Energy’s or the other parties’ briefs on this issue.⁵ Although the Conservation Organizations did not take a position on the appropriate amount for the General Transfer Fund, it is worth noting that the amount being proposed in the City of Austin’s 2023 budget—\$115 million—is well below the calculated amount of \$121 million in

⁵ In the interest of space, this brief omits outline headings that the Conservation Organizations do not dispute.

Austin Energy’s filing. The Independent Hearing Examiner should consider this when determining an appropriate revenue requirement.

B. Cash Flow Methodology

1. Operation and Maintenance Expense

d. Non-nuclear decommissioning

Austin Energy’s current non-nuclear decommissioning costs do not reflect the reality that Austin Energy and the City of Austin have committed to shutting down the Fayette Power Plant by the end of 2022.⁶ While Austin Energy will clearly not meet this commitment, it remains the City of Austin’s policy. In addition, the current decommissioning costs—determined in 2015—do not reflect their new ownership of the biomass plant in Nacogdoches. With those factors in mind, Austin Energy’s proposal to invest \$8 million in 2023 in the non-nuclear decommissioning fund should be approved. But the Company should also be required to update its decommissioning study during 2023, so that new requirements can be determined.

Contrary to the Independent Consumer Advocate’s suggestion, reducing the non-nuclear decommissioning fund to \$2 million annually is not justified and could result in significant harm and increased costs to ratepayers whenever Fayette is retired, be it in 2022 or as soon as possible. Setting the requirement to only \$2 million would put future ratepayers on the hook for significant costs when Fayette, Sandhill and the Nacogdoches plants are retired.

h. Other Expenses

As discussed more fully below, the City Council should deny Austin Energy’s proposed test year capital, operations and maintenance, and depreciation spending at the Fayette power plant because there is no evidence in the record supporting the prudence of the utility’s continued investment in that plant.

⁶ See Austin Energy Resource, Generation and Climate Protection Plan to 2030 [hereinafter “2030 Resource and Climate Plan”] (attached as Exhibit EDH-3 to Sierra Club Ex. 3 (Hausman Direct)).

2. Capital Expenditures: Austin Energy Has Failed to Demonstrate the Prudence of Its Continued Costs at the Fayette Power Plant.

The City Council has a fundamental obligation to set just and reasonable retail rates, but a rate “cannot be deemed just and reasonable unless the utility was prudent in incurring the operating expenses it seeks to pass through to consumers.”⁷ Austin Energy similarly has the burden of proof to make a “convincing showing that the amounts that it has charged to operating expenses for depreciation have not been excessive.”⁸ Thus, the City Council has authority—and indeed, the obligation—to review and determine whether Austin Energy’s spending decisions at the Fayette plant were prudent, and how much of the utility’s approximately \$50.3 million in capital, non-fuel operations and maintenance, and depreciation costs should be borne by Austin Energy customers.⁹

Austin Energy enjoys no presumption of prudence by “simply opening its books to inspection.”¹⁰ Rather, the utility bears the burden of demonstrating the prudence and reasonableness of “each dollar” of its expenditure.¹¹ To demonstrate that an expense was reasonable and necessary, Austin Energy generally must present “contemporaneous documentation of its decision-making process, thereby enabling the [Council] to review the actual investigations and analyses leading to the utility’s decision,”¹² and determine whether those test year expenses are within a “range of options which a reasonable utility manager would exercise or choose in the same or similar circumstances given the information or alternatives available”¹³

Here, the City Council should disallow recovery of Austin Energy’s test year spending at

⁷ *Gulf States Utilities Co. v. Pub. Util. Comm’n of Tex.*, 841 S.W.2d 459, 465–66 (Tex. App. Austin 1992) (footnote omitted).

⁸ *Lindheimer v. Illinois Bell Tel. Co.*, 292 U.S. 151, 169 (1934).

⁹ Austin Energy’s rate package includes \$441 million in “Production” costs in its test year revenue requirement, *see* Filing Package Table 4-C, which includes \$30.6 million in non-fuel O&M costs, \$1.9 million in capital costs, and \$17.8 million in depreciation costs associated with FPP. *See* SC-PC-SUN Ex. 3 at 18 (Hausman Direct) (citing Austin Energy Response to Data Request SCPC 2-1 (attached to Hausman Direct as Exhibit EDH-4)).

¹⁰ *Entergy Gulf States, Inc. v. Pub. Util. Comm’n of Tex.*, 112 S.W.3d 208, 214 (Tex. App. Austin 2003).

¹¹ *Id.*; *see also* *Coalition of Cities for Affordable Util. Rates v. Pub. Util. Comm’n of Tex.*, 798 S.W.2d 560, 563 (Tex. 1990), *receded from on other grounds by Barr v. Resolution Trust Corp. ex rel. Sunbelt Federal Sav.*, 837 S.W.2d 627, 629 (Tex. 1992); *see also* July 13, 2022 Hearing Tr. at 44-45 (Q: “The utility bears, the burden of proving the reasonableness of all its rates.” A: “Correct”).

¹² *Gulf States*, 841 S.W. 2d at 476.

¹³ *Entergy Gulf States, Inc. v. Pub. Util. Comm’n of Texas*, 112 S.W.3d 208, 210 (Tex. App. Austin 2003).

Fayette for three fundamental reasons. First, Austin Energy failed to submit *any* evidence that would allow the Council to independently assess the reasonableness of the Company’s test year capital or O&M investments at Fayette. Indeed, Austin Energy’s rate package does not even mention, let alone provide any evaluation addressing the prudence of the utility’s approximately \$50.3 million test year capital, O&M and depreciation expenses.¹⁴ In fact, Austin Energy has not performed or has refused to provide any studies of the economics of continued operation vs. retirement of the Fayette plant and claims that “there are no current studies with regard to current or impending environmental regulations” as they may affect the plant.¹⁵ The Company has also refused to provide any information regarding future costs and operations¹⁶ or future capital expenditures at the plant.¹⁷ As a result, Austin Energy has effectively precluded the Council and the Participants from reviewing the utility’s decision-making process or “the *actual investigations and analyses* leading to the utility’s” spending decisions.¹⁸ The Council should reject Austin Energy’s spending on that basis alone.

Instead of conducting its own evaluation of the prudence of its proposed test year spending at Fayette, Austin Energy apparently defers to the analyses of the operator of the plant, the Lower Colorado River Authority. But under Texas law, *the regulated utility* bears the burden of demonstrating the prudence of its proposed capital and O&M expenses; and the Council has a right and an obligation to Austin residents and ratepayers to independently evaluate the prudence of those investments. Austin Energy neither cites, nor is Sierra Club aware of any precedent that would allow the Council to simply defer to the investment decisions of a non-jurisdictional utility. Because Austin Energy failed to submit any evidence supporting its test year spending at Fayette, the utility should not be allowed to include those costs in rates.

Second, Austin Energy has failed to evaluate the potential costs of, and alternatives to, bringing Fayette into compliance with imminent environmental regulations, including EPA’s

¹⁴ See Austin Energy Ex. 1 (2022 Base Rate Filing); see also July 15, 2022 Hearing Tr. at 23-24.

¹⁵ See Austin Energy Response to SCPC 2-3 (attached to SC-PC-SUN Ex. 3, Hausman Direct, as EDH-4).

¹⁶ See Austin Energy Response to SCPC 2-5 (attached to SC-PC-SUN Ex. 3, Hausman Direct, as EDH-4).

¹⁷ See Austin Energy Response to SCPC 2-8 (attached to SC-PC-SUN Ex. 3, Hausman Direct, as EDH-4).

¹⁸ *Gulf States*, 841 S.W. 2d at 476 (emphasis added).

proposed Good Neighbor Rule or EPA’s Regional Haze Rule, either of which could require installation of expensive additional nitrogen oxide control equipment at the plant or the purchase of emission credits.¹⁹ Specifically, under the Clean Air Act’s Regional Haze Rule, Unit 1 is potentially subject to installing selective catalytic reduction technology or other reasonable nitrogen oxide controls to protect visibility in national parks.²⁰ And under EPA’s recently-proposed Good Neighbor Rule, designed to protect against harmful ground-level smog pollution, Fayette would be required to install selective catalytic reduction pollution controls by 2026, or procure pollution credits commensurate with the pollution reductions achievable with those controls.

In response to Sierra Club and Public Citizen’s concerns about the risks associated with continuing to operate Fayette, Austin Energy asserts that those potential rules have “not been adopted.”²¹ But that facile response does not excuse Austin Energy from evaluating its continued \$50.3 million investment in Fayette against the backdrop of increasingly stringent environmental regulations and associated costs. Given that nitrogen oxide control technology could cost as much as \$100 million, it is not reasonable for Austin Energy to continue to invest tens of millions of dollars annually into Fayette without evaluating that risk and the potential alternatives. Indeed, utilities across the country engage in resource planning processes—which necessarily require the evaluation of numerous uncertain fuel, energy price, and environmental forecasts—precisely to better understand the potential risks and benefits with continuing to invest in a particular generation resource. Given the potential risk—and the costs that Austin Energy customers will ultimately bear—it is not reasonable for Austin Energy to invest \$50.3 million in Fayette without some evaluation of alternatives.

Finally, even if Austin Energy had demonstrated that some of its test year spending at Fayette was necessary, the utility unreasonably failed to evaluate opportunities for reducing its capital and O&M spending at the plant to reflect its remaining useful life. Austin Energy maintains

¹⁹ 87 Fed. Reg. 20,036 (Apr. 6, 2022); *see also* SC-PC-SUN Ex. 3 at 23 (Hausman Direct) (citing Austin Energy Response to SCPC 3-3 and 3-4 (attached to Hausman Direct as EDH-4)).

²⁰ *See* 42 U.S.C. § 7491(b)(2), (g).

²¹ SC-SUN-SUN Ex. 14 (Austin Energy Response to SCPC 3-3).

that its goal is to retire its share of Fayette by the end of 2022—a policy objective that the City Council has expressly adopted as necessary to achieve the City’s climate goals.²² Despite that still-effective City policy goal and Austin Energy’s efforts to “exit” Fayette Power Plant,²³ the utility failed to evaluate opportunities for reducing spending at Fayette to avoid expenses that are not necessary to maintain the City’s share of the plant through its useful life. Instead, Austin Energy appears to take the position that it was not required to evaluate any reduction in spending because the operator of the plant made those investment decisions, and the costs are reasonable and necessary. But that is not correct. Where, as here, a utility has accelerated the retirement of a generation resource, the utility should likewise reduce capital and O&M spending to reflect its shortened useful life.²⁴

In sum, the record demonstrates that Austin Energy wholly failed to support its continued capital and O&M investments at Fayette. The utility’s failure to submit any evidence in its direct case in support of its proposed test year spending at the plant reveals Austin Energy’s apparent belief that the City Council would rubber-stamp its asserted revenue requirement, or defer to the operational decisions of Fayette’s co-owner. The Council should find that Austin Energy failed to satisfy its burden of demonstrating the prudence of its proposed test year spending at Fayette. Moreover, the Council should make clear that, once Austin Energy decided to accelerate the planned retirement of Fayette to 2022, the utility should have reduced capital and O&M spending at the plant to reflect its shortened useful life.

At a minimum, the City Council should direct Austin Energy to immediately provide project justification analyses for all capital expenditures at Fayette in excess of \$100,000, and these analyses should be available for Participants in this case to review under appropriate non-disclosure agreements. Austin Energy should also be directed to evaluate the risks and cost implications of all proposed or likely future environmental regulations at Fayette, including the Good Neighbor Rule, the Regional Haze Rule, and other environmental control requirements, and

²² See SC-PC-SUN Ex. 3 at 22-23 (Hausman Direct) (quoting Austin Energy 2030 Resource and Plan, attached as Exhibit EDH-3 to Hausman Direct); see also July 13, 2022 Hearing Tr. at 40.

²³ Austin Energy Ex. 3 at 22 (Dombrowski Rebuttal).

²⁴ *In re DTE Elec. Co.*, No. 349924, 2021 WL 743782, at *4 (Mich. Ct. App. Feb. 25, 2021) (concluding that continued capital and O&M investment in a power plant that was no longer economic to operate was imprudent).

provide that evaluation to the City Council by the end of 2022.

III. RATE DESIGN

A. Introduction: Austin Energy's Proposed Changes to Existing Rate Structure

For decades, Austin Energy has been a leader in aggressive policies promoting conservation and energy efficiency.²⁵ Austin Energy has consistently maintained rates that have created strong incentives for customers to conserve energy, and rate designs that provide customers with strong price signals for energy efficiency,²⁶ and worked to keep rates affordable.²⁷ As a result of these related policies, demographic trends have moved toward more energy efficient homes and buildings, customer energy consumption has steadily and rapidly declined.²⁸ As a result of that decline, Austin Energy claims, its revenue from the residential class has become insufficient to cover the cost of service.²⁹

As a result of that purported shortfall, Austin Energy claims its overall recovery from residential customers should be increased by about 15%, or by \$76.5 million, to match the cost of service associated with these customers.³⁰ Although Austin Energy's revenue deficiency is \$76.5 million, the utility proposes, under the principles of gradualism, to make only half of the readjustment among classes at this time—a proposed revenue increase of \$48.2 million, which, after adjustments suggested by the Participants in this proceeding, Austin Energy has reduced to \$35.7 million.³¹

Austin Energy proposes to recover this \$35.7 revenue shortfall by drastically changing its existing residential rate design in the following ways:

1. Austin Energy proposes to increase the fixed charges for revenue re stability by increasing the residential customer charge from \$10 to \$25 per month;

²⁵ Austin Energy Ex. 1 at 78-87, 114-115 (2022 Base Rate Filing Package).

²⁶ *Id.*

²⁷ *Id.* at 114-115.

²⁸ *Id.* at 78-85.

²⁹ *Id.* at 5, 45.

³⁰ *Id.* at 73, Table 5-O.

³¹ *Id.* at 75.

2. Austin Energy proposes to reducing the number of Residential tiers from five to three and flatten the tiers;
3. Austin Energy proposes to eliminate the base rate differential between inside and outside City of Austin customers, as well as eliminating the billing unit adjustment that currently benefits, low load factor commercial customers.

B. Austin Energy’s Proposed Rate Design Changes Are Unreasonable and Unjustified.

Despite Austin Energy’s asserted revenue deficiency, the utility’s proposed rate design will result in a significant reallocation of costs to residential customers, and is not justified. Austin Energy’s proposed increase in the \$10 customer charge from \$10 to \$25 is against public policy and antithetical to the City’s goals of providing strong incentives for conservation and sending price signals supporting energy efficiency and of preserving affordability. Austin Energy’s elimination of its steep, five-tiered rate blocks will put an end to the strong price signals inherent in that design encouraging conservation and supporting energy efficiency. By moving revenue recovery out of per kWh energy charges into a fixed customer charge, Austin Energy would shift revenue from rate elements that send price signals for conservation and energy efficiency to rate elements that send no such signals.

The City Council should reject Austin Energy’s proposed changes. Instead of abruptly and radically altering residential rates, the City Council should direct Austin Energy to retain its existing residential base rate schedule until it can develop and file an alternative rate plant that retains the current plans benefits but is less disruptive and harmful to customers.

As explained by the Conservation Organizations’ witness, Dr. Ezra Hausman, Austin Energy should be focusing on rate designs that increase flexibility and help customers make beneficial energy choices.³² Moving away from a steep tiered rate design and increasing the monthly charge will undermine Austin Energy’s position as the leading utility in Texas in promoting energy efficiency, demand response, and distributed solar generation. It would instead lead to perverse disincentives that could contribute to higher energy use, more fossil fuel emissions, and higher costs for consumers. Austin Energy’s past success in promoting energy

³² SC-PC-SUN Ex. 1 at 4.

efficiency, and the beneficial usage trends it cites in its filing package,³³ cannot be separated from a rate design that has effectively promoted energy efficiency and distributed generation by providing a strong price signal for reducing energy use, especially at higher monthly usage levels. Indeed, Austin Energy’s current tariffs are consistent with good rate design to promote energy efficiency³⁴ as well as protection for vulnerable customers.³⁵ In fact, Austin Energy’s current structure has promoted energy efficiency so well an Austin Energy witness acknowledged that the reason for the load shift and the residential class being below its cost of service is due to energy efficiency successes.³⁶ Austin Energy has not presented any evidence in this case that the change in rate structure would benefit anyone other than Austin Energy’s bottom line.

Without any support, Austin Energy claims that its current rate design with five relatively steep tiers has not led to any change in behavior on rate design, and that changing it to the proposed rate will not impact energy use. In fact, this claim is contrary to the evidence in the record. Indeed, the significant success of the current rate design in lowering per customer demand and incentivizing customers’ energy efficiency responses proves that the current rate design was very effective. As Mr. Robbins stated in his presentation, and as statements from the ICA make clear, Austin Energy could not account for the sharp decline in average residential usage based only on federal appliance standards, smaller newer buildings, and new Austin building codes implemented over the past few years. As evidenced by Mr. Robbins presentation, “in 2020, Austin Energy’s average consumption of 10,212 kWh was 25% lower than the ERCOT average. Only 1% of ERCOT’s 9.6 million Residential customers had lower average consumption than Austin.”³⁷ Indeed, as Mr. Robbins presented evidence in the record that Austin Energy’s consumption data has declined approximately 13% since 2013 when the city first implemented a steep five-tier rate design. There is no evidence from Austin Energy that energy efficiency programs, home size and

³³ SC-PC-SUN Ex. 1 at 7-10 (Reed Direct).

³⁴ SC-PC-SUN Ex. 3 at 21 (Hausman Direct) (citing Baatz, B., 2017: “Rate Design Matters: The Intersection of Residential Rate Design and Energy Efficiency.” Published by the American Council for and Energy Efficient Economy (ACEEE)).

³⁵ SC-PC-SUN Ex. 3 at 21 (citing National Consumer Law Center states that “High Utility Fixed Charges Harm Low Income, Elders and Households of Color.”).

³⁶ July 13, 2022 Hearing Tr. at 41:21-25.

³⁷ Robbins Ex. 1 at 6 (Position Statement of Paul Robbins).

building codes or even federal appliance standards can alone account for this low use. Instead, our tiered rate structure must drive some of this lower overall energy use. The principles of price elasticity indicate that a certain set of customers has reacted to higher prices by lowering their energy use.³⁸

As explained by Dr. Hausman, moving away from Austin Energy’s current five-tiered rate design to a flattened three-tiered rate design, coupled with increasing the monthly charge to \$25, sends price signals that discourage customer conservation and energy efficiency, and disincentivize customer investment in distributed generation. Austin Energy should be focusing on rate designs that increase flexibility and help customers make beneficial energy choices. The utility’s proposed rate structure will undermine Austin Energy’s position as the leading utility in Texas in promoting energy efficiency, demand response, and local customer-sited solar generation. In fact, it will provide a perverse disincentive to continue that leadership role, leading to higher energy use, more fossil fuel emissions, and higher costs for consumers.

1. Austin Energy’s Proposed \$25 Customer Charge is Extreme and Harmful to Customers

As noted, Austin Energy proposes to increase its customer charge from \$10 per customer to \$25 per customer, a 150 percent increase in this rate element. Austin Energy currently has a \$10 per month fixed charge for all residential customers which, along with its five-step ascending block rates tiers, was initially adopted by the City Council in 2012.³⁹ Austin Energy claims its proposed increase is required to promote what Austin Energy refers to as “revenue stability.”⁴⁰ This 150 % increase in the customer charge is a very large shift in the rate design from recovery of revenue in a suite of per kWh scaled energy sensitive charges to recovery in fixed charges.⁴¹

The Conservation Organizations strongly oppose Austin Energy’s proposed change. The proposed \$25 customer charge is extreme by any ratemaking standards and will create rate shock in Austin Energy’s Residential customer class. Moreover, the proposed increase in fixed customer

³⁸ *Id.* at 7.

³⁹ SC-PC-SUN Ex. 3 at 6.

⁴⁰ Austin Energy Ex. 1, Chapter 7.

⁴¹ SC-PC-SUN Ex. 3 at 17-21.

charges would go against the hard work that Austin Energy has put in to become a leader on energy efficiency, local solar generation, and moving towards a carbon-free future, as outlined in the City of Austin’s Resource Plan.⁴² The proposed increase should be rejected for the following reasons.

- a. The proposed increase in fixed charges is higher than investor-owned utilities in Texas, and therefore, unreasonable.

The record reflects that Austin Energy’s \$25 customer charge would be significantly higher than customer charges for other utilities in Texas.⁴³ As ICA witness Clarence Johnson testified, Austin Energy’s proposed \$25 customer charges is outside the range of residential fixed charges for the other two largest municipal electric utilities in Texas (San Antonio and Lubbock).⁴⁴ Mr. Johnson also testified that Austin Energy’s proposed charge is more than 2.7 times higher than the average customer charges in Texas investor owned electric utilities.⁴⁵ Based on these findings, Mr. Johnson opined that Austin Energy’s proposed \$25 charge is flatly unreasonable.⁴⁶ Austin Energy’s protests aside, Mr. Johnson is correct. The proposed \$25 customer charge is far outside the norm of customer charges for utilities in Texas, proof that the proposed charge is excessive and patently unreasonable, so excessive and unreasonable that it causes rate shock among customers. The \$25 proposed charge should be rejected.

- b. The proposed shift of revenue recovery from the per kWh energy-based charges to recovery through the fixed charge impairs and harms the rate design’s effectiveness as an incentive and source of price signals promoting conservation.

As the testimony reflects, moving revenue recovery from the current per kWh energy based five-tiered rate to the customer charge decreases the portion of the revenue recovered from usage-sensitive rate elements (the five-tiered block rates) to non-usage sensitive rate element (the fixed charge) decreasing the portion of the revenue produced from rate elements that send the strong price signals for conservation.⁴⁷ As Dr. Hausman testified, this shift will diminish the price signals

⁴² SC-PC-SUN Ex. 10.

⁴³ Independent Consumer Advocate Ex. 3 at 6-8 (Johnson Direct).

⁴⁴ *Id.*

⁴⁵ *Id.* at 8.

⁴⁶ *Id.* at 8.

⁴⁷ SC-PC-SUN Ex. 3 at 6-10.

provided by the usage-sensitive part of the rate, creating a disincentive for conservation and investment in energy efficiency.⁴⁸ Austin Energy's response is that it has been unable to detect any real relationship between rate structure and changes in conservation.⁴⁹ Austin Energy's claim rests on its failure to see the obvious proof of the relationship: the success of Austin Energy's conservation and energy efficiency efforts that have resulted from the existing low fixed charge, five-tiered block rates in its current Residential rate structure. The very rate design it now proposes to discard.

The IHE and the Commission should deny Austin Energy's request to replace its current Residential rate design with its poorly-conceived, badly-crafted proposed design.

c. The proposed increase in fixed charges would not promote stability and financial health

As Dr. Hausman explained, Austin Energy's proposed fixed rate would not promote stability and financial health as Austin Energy claims.⁵⁰ By reducing the incentive for customers to save energy and relying more heavily on fixed customer charges, Austin Energy risks transferring the risks and burdens of cost of the utility onto customers for improved revenue stability. Austin Energy is attempting to get the assigned portion to unity, but Austin Energy has not laid out a cost of service for each of the five tiers – rather for the tiers as a whole.⁵¹ It is focusing its recovery of cost of service from residential class customers,⁵² a class that has consistently shown measurable increases in energy efficiency, while still allowing industrial class customers to benefit from generous rebates and money savings tools on the unfounded belief that as an industrial customer they will take care of their own energy efficiency because it makes businesses sense to do so. Austin Energy should instead find other ways of ensuring revenue adequacy, such as carefully modeling customer behavior and asking the City Council for rate adjustments as needed.

⁴⁸ SC-PC-SUN Ex. 3 at 12.

⁴⁹ Austin Energy Ex. 9 at 28 (Murphy Rebuttal).

⁵⁰ See generally SC-PC-SUN Ex. 3 (Hausman Direct).

⁵¹ July 13, 2022 Hearing Tr. at 48:6-13.

⁵² *Id.* at 55:25-28.

- d. The proposed increase in fixed charges will lead to a significant increase in rates for customers with lower monthly usage and more energy efficient homes.

Austin Energy's proposal is unfair to those with lower monthly usage, and a benefit to those who use more energy. The new increased charge will mean that while the per-kWh charge is likely lower for most customers, the total bill will increase for many customers, and more of the cost will be unavoidable.⁵³ The effect of the fixed portion of the bill increasing while the variable portion decreases would be a large rate increase for customers who use little energy every month and a rate decrease for those who use a larger volume of energy.⁵⁴ In its bill increase for lower usage customers, it is also likely that many low-income customers will be detrimentally affected by this change.

Austin Energy witnesses confirmed that this change would result in an increase as high as 50% for customers who use 500kWh per month or less and a decrease of up to 25% for customers who consume at the highest levels.⁵⁵ Further, the proposal would also mean that the highest marginal cost for energy would be 4.8 cents per kWh, compared to 10.81 cents per kWh today.⁵⁶ This would effectively double the payback time for an energy saving or on-site generation investment meaning that many investments may no longer be economically beneficial to the customer.⁵⁷ Regardless of intent, this would penalize users with smaller or more energy efficient homes.

2. Austin Energy's Proposed Changes to Its Rate Tiers Eliminates Conservation Incentives.

Besides increasing its customer charge by 150 percent, Austin Energy also seeks to change their current five tier system to a three-tier system for both in-and out of city residents. The current five-tiered rate structure has been in place since 2012,⁵⁸ and during the time that the utility built a reputation for being a leader in energy efficiency. The five-tiered rate structure incentives energy

⁵³ Austin Energy Ex. 1, Section 7.3 and Figure 7-31.

⁵⁴ July 13, 2022 Hearing Tr. at 50.

⁵⁵ Austin Energy Ex. 9 at 49:10 (Murphy Rebuttal); *see also* Austin Energy Ex. 1, Schedule H-3.

⁵⁶ SC-PC-SUN Ex. 3 at 16.

⁵⁷ *Id.*

⁵⁸ July 13, 2022 Hearing Tr. at 39.

conservation in a way that the current proposed three-tier system would not.

- a. Austin Energy's proposed three-tiered design, flattened tiers, and broad middle tier will not send price signals to customers promoting conservation and energy efficiency.

Austin Energy's proposed three-tiered rate design is very close to a flat rate schedule because 60 percent of Austin Energy's customers would be in the broad, low, central tier and all of them including those with the highest usages would have very weak price signals to conserve.⁵⁹ At 4.8 cents per kWh, even the highest-priced tier is 18 percent below the current price in Tier 2 of 5.8 cents per kWh.⁶⁰ Under Austin Energy's proposed rate design, the price signals that are designed to encourage conservation under the current rate structure would effectively be eliminated.⁶¹

In short, Austin Energy's proposed rate design would throw out the current highly successful five-tiered block design and its strong price signals and replace it with a low, flat tiered system and a very high customer charge, as a result trading in Austin Energy's aggressive pursuit of conservation and replacing it with a design crafted for the pursuit of revenue. The IHE and the City Council should reject this unfortunate trade off.

- b. Austin Energy's proposed three-tiered design will cause extreme disparate impact on customers, imposing large increase on low use customers and significant decreases on high use customers

As Dr. Hausman testified, Austin Energy's rate design would cause the fixed portion of the bill to increase and the variable portion to decrease, producing a large rate increase for customer who use little energy and a large rate decrease for those who use a large volume of energy.⁶² This would reward customers with large inefficient homes and penalize users with smaller or more efficient homes.⁶³ Austin Energy has acknowledged this differential effect in its Rate Filing Package in Schedule H-3.⁶⁴ This impact is contrary to the City's policies and principles of

⁵⁹ SC-PC-SUN Ex. 3 at 16-21.

⁶⁰ *Id.* at 17.

⁶¹ *Id.*

⁶² SC-PC-SUN Ex. 3 at 8.

⁶³ *Id.*

⁶⁴ *Id.*

providing just, equitable, affordable service while providing price signals supporting conservation and energy efficiency.

c. Austin Energy has not shown that the change in tiers would be beneficial to customers.

Austin Energy's proposed adoption of a flattened three-tier rate structure, together with the Company's increased fixed charge, would dramatically disincentivize conservation measures and residential adoption of solar energy because there would be little, if any, ability for customers to reduce overall electricity costs. Notably, Austin's proposed three-tiered structure is still broken down into five different tiers on the schedule, but the three middle tiers are all set at the same price.⁶⁵ From Austin Energy's own data, even within the new tiered system the majority of customers will be situated between the first two tiers.⁶⁶ Further, there are few, if any, differences in price between the separate tiers. As Dr. Hausman explains, under the proposal, over 60% of Austin Energy's customers would be in the central tier leading to less incentives for energy conservation.⁶⁷

d. The proposed rate structure eliminates strong price signals.

Austin Energy's witnesses acknowledged during the hearing that the logic of tier rate making is that as prices change, price signals are sent to customers for energy efficiency and conservation.⁶⁸ However, with the proposed rate structure the price signals that are designed to encourage conservation under the current rate structure would be effectively eliminated.⁶⁹ As an example, at 4.8 cents per kWh, even the highest-priced tier under the proposal is 18% below the current price at Tier 2 (5.8 cents per kWh.)

Although Austin Energy argues that a change in tier does not have an effect on customers⁷⁰, the fact that a significant increase in energy use would lead to a less significant rate increase would necessarily disincentivize energy conservation in a way that a more significant rate

⁶⁵ July 13, 2022 Hearing Tr. at 49.

⁶⁶ SC-PC-SUN Ex. 3 at 9 (Austin Energy's Schedule H-3).

⁶⁷ SC-PC-SUN Ex. 3 at 16.

⁶⁸ July 13, 2022 Hearing Tr. at 50.

⁶⁹ *Id.*

⁷⁰ *Id.* at 51-52.

increase between tiers would not. The proposed tier structure would mean that customers will receive less value for their conservation than they would under the current rate structure. The change in tier structure would significantly decrease any benefits customers with high energy usage currently have to reduce energy use.

3. Conclusion: The City Council Should Reject Austin Energy's Fixed Charge and Rate Design Proposals.

For the reasons stated, the Conservation Organizations oppose Austin Energy's proposed changes to the rate design for residential customer class, including Austin Energy's proposed increase of the Residential customer charge from \$10 to \$25, and Austin Energy's modification of its current five-tier declining rate blocks with a flatter, three-tier structure that essentially eliminates the incentive for customers to adopt efficiency measures or distributed solar generation. Indeed, as Austin Energy witness Genece candidly admits, with the Company's proposed fixed rate changes together with the flattened rate design tiers, the average distributed solar generator's bill will essentially double.⁷¹ That proposed increase will dramatically undermine Austin's efficiency and solar adoption goals. After all, why would a ratepayer adopt efficiency measures or rooftop solar when they are effectively unable to reduce their overall electricity costs.

Instead of the unreasonable \$25 per customer charge, the Conservation Organizations agree with the Independent Consumer Advocate that the mixed customer fee should remain at \$10 per month, which is similar to the price that other public vertically-integrated municipal utilities charge.⁷² Or, in the alternative, a smaller change in the fixed charge- such as a monthly increase between \$1-\$3-- that would still reflect the slight increases in fixed costs born to Austin Energy.

To be clear, the Conservation Organizations are not opposed to tweaks in the residential rate design which would lower the risk to Austin Energy and provide more financial stability. It may be reasonable, for example, to review the number of tiers, the structure and breaks between tiers, and the amount of the monthly fixed charge to make reasonable and necessary changes that still preserve the underlying purposes of the current rate design. But the changes Austin Energy

⁷¹ Austin Energy Ex. 7 at 11.

⁷² CPS Energy, Denton Municipal Electric, and the private entity El Paso Electric have similar charges.

has proposed are extreme and shocking, destroy the purposes of the current rate structure, eliminate the price signals the current five-tiered system, and send bad price signals to customers that revenue is more important than conservation and energy efficiency.

The Conservation Organizations ultimately support the Independent Consumer Advocate's proposal to leave the current five-tiered rate design in place, and defer any changes until Austin Energy can develop and file an alternative that retains the benefits of the current structure and is less harmful to customers. The Conservation Organizations similarly support the Independent Consumer Advocate's recommendation to lower the number of tiers from five to four for in-city customers, and maintain the three-tier system for out-of-city customers, and to increase the customer charges by no more than \$3.00 from \$10 to \$13.

IV. VALUE OF SOLAR

As the proponent of new and changed rates for customer-generators, Austin Energy bears the burden of demonstrating with substantial and competent evidence that its proposed rate structure is just and reasonable. With respect to its proposal to completely restructure its Value of Solar tariff, Austin Energy failed to meet that burden. In fact, the Company's proposal departs from best practices and transforms the tariff for distributed solar generators from a forward-looking calculation to a backward looking one, based primarily on wholesale avoided costs without any accounting for several recognized and quantifiable benefits, such as reductions in harmful pollution from fossil generation and distribution system savings. Moreover, Austin Energy developed its proposed tariff without input from key stakeholders. In fact, Austin Energy did not even present its proposed tariff revision to Austin Energy's Resource Management Commission for discussion.⁷³

For the reasons discussed below, and as explained in the expert testimony of Karl Rábago, the City Council should reject Austin Energy's proposed changes to the Value of Solar tariff. First, the City should instead maintain the current tariff through 2023, to provide for regulatory certainty for existing solar customers. Second, instead of implementing an abrupt and uncertain tariff with

⁷³ SC-PC-SUN Ex. 2 at 16-17 (Rábago Direct) (Austin Energy responses to SUN 1-3, 1-5, 1-6, 1-7).

potentially significant “volatility,”⁷⁴ Austin Energy should initiate a transparent stakeholder process that includes a robust cost-benefit analysis to guide any changes to the Value of Solar tariff. As part of that process, the Council should also conduct a Request for Qualifications or a Request for Proposal to identify and retain a new consultant with experience on Value of Solar issues, and that is familiar with the best practices in Benefit-Cost Analysis for distributed energy resources. That stakeholder process should also include a transparent evaluation of how customer-sited generation rates impact solar generation investment in Austin, including whether customer generators cross-subsidize certain non-solar customers. The analysis should also identify barriers and challenges to solar adoption by economically-disadvantaged customers and communities. Finally, the City should establish a concrete and actionable plan, with specific performance metrics for achieving the Austin Energy Resource, Generation and Climate Protection Plan to 2030 objective of 200 MW of customer-sited local solar capacity.⁷⁵

A. Background and Approach

In this proceeding, Austin Energy proposes to fundamentally change its Value of Solar tariff from a forward-looking rate originally designed to capture the present value of energy and capacity from customer investments in long-lived solar generation facilities into a short-term backward-looking rate calibrated against energy prices for the previous year.⁷⁶ Austin Energy proposes to characterize a limited set of costs—including only ERCOT energy savings, transmission savings, and ancillary service savings—as “avoided costs.”⁷⁷ All other benefits—such as avoided generation capacity costs, avoided distribution costs, avoided air and environmental costs, health benefits, and local economic or resiliency benefits—are accounted for as “policy-driven incentives” or “societal benefits” through the Community Benefits Charge.

Austin Energy’s proposal is not accompanied by a Value of Solar study; nor is it based on

⁷⁴ Austin Energy Ex. 1 at 143; *see also* SC-PC-SUN Ex. 2 at 22 (Rábago Direct) (Noting that Austin Energy’s proposed Value of Solar structure will be “tied to highly volatile and unpredictable wholesale market rates.”).

⁷⁵ Austin Energy 2030 Resource and Climate Plan, attached as Exhibit EDH-3 to SC-PC-SUN Ex. 3 (Hausman Direct).

⁷⁶ SC-PC-SUN Ex. 2 at 5 (Rábago Direct).

⁷⁷ Austin Energy Ex. 1 at 141.

a cost of service study specific to customer-generators.⁷⁸ Instead, Austin Energy developed its proposed Value of Solar changes based on input from its consultant, NewGen, and without soliciting input or feedback from any stakeholders, including the Electric Utility Commission, the Resource Management Commission, solar installers, or current or potential solar customers.⁷⁹

B. Austin Energy’s Proposed Changes to the Value of Solar Tariff Are Flawed.

Austin Energy has failed to meet its burden of demonstrating that the proposed changes to the Value of Solar tariff are just and reasonable, and the City Council should reject those proposed changes and maintain the current tariff.

1. Austin Energy’s development of a new Value of Solar tariff was procedurally defective and fundamentally unfair.

The Company’s process for adopting the proposed changes for the Value of Solar tariff was flawed in multiple respects.

First, as noted, Austin Energy developed its proposed tariff changes without soliciting input or feedback from any stakeholders, including the Electric Utility Commission, the City’s own Resource Management Commission, solar installers, or current or potential solar customers.⁸⁰ That lack of transparency, and the Company’s refusal to engage with stakeholders in an open and iterative process is contrary to best practices for a publicly-owned municipal utility. The Council should reject Austin Energy’s proposed Value of Solar changes on that basis alone.

In response, Austin Energy suggests that the Conservation Organizations’ filing of testimony in this proceeding is “evidence of the fact that stakeholders have the opportunity to provide input” on the Value of Solar tariff. That post hoc rationalization for excluding the public from the development of a new tariff fails for at least two reasons. First, and most fundamentally, participation in a contested case hearing—one where the utility has taken a firm, litigation posture in support of its own proposal—cannot substitute for the kind of transparent, iterative process that Austin Energy should have followed before announcing significant changes to the Value of Solar

⁷⁸ Austin Energy Ex. 1, Ch. 9.

⁷⁹ SC-PC-SUN Ex. 2 at 5 (Rábago Direct) (citing Austin Energy responses to SUN 1-3, 1-5, 1-6, 1-7).

⁸⁰ *Id.*

tariff. Given Austin Energy’s litigation posture and the extremely compressed case schedule for this proceeding, Austin Energy plainly was not (and is not) genuinely open to stakeholder input.

Second, ordinary customers and solar installers should not (and cannot) be expected to formally intervene in a litigated process as a prerequisite to voicing their concerns about a proposed tariff. Those stakeholders should not be penalized because Austin Energy opted to develop its proposed tariff behind closed doors, and then present the revised tariff as part of a litigated proceeding. In any event, the Conservation Organizations’ participation is not a substitute for including the system operator or the City’s own Resource Management Commission in the process. By developing its proposed tariff behind closed doors and then announcing the changes as part of a contested case, Austin Energy effectively precluded stakeholders from having any meaningful input at the outset of the process, where they might actually be able to influence the outcome.

Third, the study underlying the Company’s Value of Solar tariff was flawed in multiple respects. Specifically, Austin Energy’s consultant, NewGen, never conducted a Value of Solar study,⁸¹ and Austin Energy failed to conduct a transparent solicitation process, instead selecting a consultant that has no experience with the development or objectives of City of Austin’s current Value of Solar rates.⁸² Austin Energy’s proposed changes also disregard the utility’s obligations under the 2030 Climate Plan, or the City’s still-effective customer-sited solar target.⁸³ Indeed, Austin Energy admits that, as a result of its changes to the Value of Solar tariff and other rate design changes, the average distributed solar customer’s energy bill will *double*.⁸⁴ That abrupt rate change will not only discourage customers from installing solar generation that benefits the system, but unfairly and arbitrarily disrupts current solar customers’ settled financial expectations. Indeed, many customers finance or invest in solar with the expectation that the investment will yield savings over the life of the project that will offset the costs. Austin Energy’s proposal turns

⁸¹ SC-PC-SUN Ex. 2 at 5 (Rábago Direct) (citing Austin Energy responses to SUN 1-10, 1-12).

⁸² SC-PC-SUN Ex. 2 at 5 (Rábago Direct) (citing Austin Energy response to SUN 1-8).

⁸³ SC-PC-SUN Ex. 2 at 17 (Rábago Direct) (Austin Energy responses to SUN 1-26, 1-32).

⁸⁴ Austin Energy found that for a customer consuming 860 kWh and generating 725 kWh in a month, the bill would increase from \$14.23 to \$28.18. SC-PC-SUN Ex. 2 at 17 (Rábago Direct) (citing Austin Energy response to SUN 1-32); *see also* Austin Energy Ex. 7 at 11 (Genece Rebuttal).

that expectation on its head, and violates fundamental ratemaking principles of fairness, efficiency, and gradualism.

Fourth, Austin Energy failed to conduct a benefit-cost analysis, a bill impacts study,⁸⁵ or a cost of service analysis specific to customer generators.⁸⁶ As a result, there is no objective way to determine whether Austin Energy’s proposal properly captures the costs and benefits of solar adoption, or whether the tariff advances inter-class rate equity.

Moreover, Austin Energy ignored widely-recognized best practices guidance relating to benefit-cost assessment for DERs available in the NSPM.⁸⁷ A growing number of jurisdictions have used true Value of Solar analysis to inform and support net metering and related customer generation rate decisions,⁸⁸ including Austin Energy, though it now proposes to end that practice. Best practices across jurisdictions countenance the undertaking of value analysis under a common analytical framework that can also incorporate utility-specific facts and circumstances. Applying a common framework for a cost benefit analysis (which is the industry norm) would help ensure that the Value of Solar tariff aligns with tenets of sound rate making, including ease of understandability and application, and provides greater confidence that rates will track cost causation and fairly apportion costs. And importantly, a common framework approach to evaluating costs and benefits will support efficient and rational market development for DG and other DERs. Austin Energy’s failure to follow those best industry practices is, by itself, reason to reject the proposed tariff. The Conservation Organizations urge the City to press the “pause” button on any changes to the Value of Solar tariff until Austin Energy conducts a transparent, iterative process—one in which stakeholders have a meaningful opportunity to engage in, and influence,

⁸⁵ SC-PC-SUN Ex. 2 at 17 (Rábago Direct) (citing Austin Energy response to SUN 1-25).

⁸⁶ SC-PC-SUN Ex. 2 at 17 (Rábago Direct) (citing Austin Energy response to SUN 1-37).

⁸⁷ SC-PC-SUN Ex. 2 at 17 (Rábago Direct) (citing Austin Energy responses to SUN 1-34, 1-35).

⁸⁸ SC-PC-SUN Ex. 2 at 32 (Rábago Direct). Many states have conducted Value of Solar studies of one form or another. States that have existing studies include: Arizona (2016 and 2013); Arkansas (2017); California (2016, 2013, 2012, 2011, 2010, 2005); Colorado (2013); Florida (2005); Hawaii (2014); Iowa (2016); Louisiana (2015); Massachusetts (2015); Maine (2015); Mississippi (2013); North Carolina (2013); Nevada (2017, 2014); New Jersey and Pennsylvania (2012); New York (2012 and 2008); South Carolina (2015); Texas (2014), including for the cities of San Antonio (2013) and Austin (2006); Utah (2014); Vermont (2014); Virginia (2014); and Wisconsin (2016). Other states have conducted dockets and processes for establishing a Value of Solar methodology or framework, such as: Minnesota (2014); Rhode Island (2015); and New York (2016). Solar Energy Industries Association, *Solar Cost-Benefit Studies*. Available at: <https://www.seia.org/initiatives/solar-cost-benefit-studies>.

the process.

2. Austin Energy’s proposed Value of Solar tariff is discriminatory and unreasonable.

In addition to the procedural flaws in Austin Energy’s proposed tariff, the Value of Solar tariff is *substantively* unjust and unreasonable and impermissibly discriminatory. First, Austin Energy proposes to shift to quantification of customer solar generation avoided cost benefits based on historical market costs, without regard for value of future avoided energy, capacity, transmission, and distribution costs resulting from customer investments in distributed generation. Austin Energy’s consultant recognized that “the presence of PV installations on the system can result in avoided distribution costs or increased distribution costs,” but fails to offer a reasonable explanation for excluding those benefits from the Value of Solar calculation.⁸⁹ Austin Energy does not dispute that customer-sited generation can result in additional avoided distribution benefits for the system;⁹⁰ the Company simply failed (or refused) to do the work to quantify those benefits, despite operating its current Value of Solar tariff for ten years, during which it could have collected data and performed analysis to determine fair compensation rates to customer-generators for avoiding these costs. Austin Energy’s failure to assess the impact of distributed generation on distribution system costs is on its face unreasonable. Moreover, Austin Energy’s failure to understand its distribution costs and the impacts of distributed generation on those costs suggests that Austin Energy is incurring unnecessary costs and adversely impacting electricity affordability.

Second, Austin Energy’s proposal to eliminate a credit for avoided O&M costs for generation is similarly unreasonable. O&M costs lead to capital replacement costs; savings on O&M can defer or avoid capital replacement costs. Customer-generators create added benefits by avoiding O&M costs—benefits that are quantifiable through a cost of service study. Austin Energy’s proposal to ignore those benefits is unfair and discriminatory.

Austin Energy’s avoided cost metric similarly excludes the benefits related to: increased system resiliency, reductions in non-CO2 air emissions, water, solid waste, other environmental

⁸⁹ SC-PC-SUN Ex. 2 at 31 (Rábago Direct) (quoting NewGen VOS Review at M-11).

⁹⁰ Austin Energy Ex. 7 at 10 (Genece Rebuttal).

impacts, incremental economic development and job impacts, health, productivity, environmental justice, reduced foreclosures, home maintenance, energy imports, and energy independence. In doing so, Austin Energy proposes to treat such benefits as unrelated to the generation, transmission, and distribution of electric energy. That approach arbitrarily discounts the benefits of customer-sited solar significantly. As explained by expert Karl Rábago, the true value of avoided environmental emissions of carbon dioxide, methane, nitrogen oxides, and sulfur dioxide is almost *double* Austin Energy’s estimate. Mr. Rábago estimates conservatively that the inclusion of those environmental benefits in the Value of Solar tariff would increase the solar credit by \$0.0365 per kilowatt-hour, which for the average solar customer generating 725 kWh per month would be a significant reduction in costs.

Fourth, Austin Energy’s proposal would result in uneconomic rates and customer-generators unfairly subsidizing other customers. As discussed above, and as more fully explained in the testimony of Karl Rábago, Austin Energy’s proposed Value of Solar tariff unreasonably and arbitrarily excludes the full range of benefits and avoid costs provided by customer generators, thereby artificially suppressing the credit those customers receive. Where, as here, a utility artificially suppresses the production credit for customer-sited solar generation by excluding recognized and quantifiable benefits, the utility effectively creates an uneconomic subsidy in which customer-generators are required to subsidize other non-solar customers (especially large users of electricity) and the utility. Whenever customer-generators are forced to subsidize other customers, they will be less likely to invest in solar generation, frustrating policy and economic goals for the community.

Austin Energy takes the position that “societal benefits do not reflect actual reductions in operating costs for Austin Energy,”⁹¹ and therefore, the “VoS [sic] credit is greater than the economic savings enjoyed by Austin Energy and its customers.”⁹² From Austin Energy’s mistaken perspective, crediting customer-generators for the societal benefits provided by distributed generation is somehow a subsidy to those customer-generators.⁹³

⁹¹ SC-PC-SUN Ex. 2 at 23 (Rábago Direct) (citing Austin Energy response to SUN 1-23a).

⁹² *Id.*

⁹³ *Id.*

There are, in fact, subsidies inherent in Austin Energy’s current and proposed Value of Solar rate, but as explained by Karl Rábago, they flow in the opposite direction. Specifically, Austin Energy’s proposal ignores avoided costs associated with system capacity, reserve generation, and distribution capacity that customer-sited solar defrays. Excluding VOS credit for these values, as well as additional environmental benefits provided by customer-sited generation, means that solar customers are providing significant subsidies to Austin Energy and other customers. In fact, solar customers are allowing Austin Energy to avoid costs that it would otherwise have to charge customers for.

Finally, Austin Energy’s Value of Solar tariff is fundamentally inconsistent with Austin Energy’s obligations under the AE 2030 Climate Plan, and the City’s still-effective goal of 200 MW of customer-sited local solar capacity by 2030.⁹⁴ The remedy for these problems is for Austin Energy to approach the customer-generator market opportunity holistically, through a concrete and actionable plan that starts with the current 2030 goal of achieving 200 MW of customer solar generation, and developing, through a transparent and meaningful stakeholder process, the policy incentives and solar credits necessary and appropriate for achieving that goal.

C. The Conservation Organizations’ Recommendations

Austin Energy seeks to alter the fundamental structure of the Value of Solar tariff by suppressing the production credit for customer-sited solar generation. In so doing, Austin Energy unreasonably and unjustly ignores the full range of avoided costs and benefits created by customer-sited generation, and creates an uneconomic subsidy under which customer-generators are required to subsidize non-solar customers and the utility. Moreover, whenever customer-generators are forced to subsidize other customers, they will be less likely to invest in solar generation, frustrating policy and economic goals for the community.

The remedy for this uneconomic approach is to evaluate and establish a Value of Solar production credit based on a comprehensive and transparent Value of Solar study, including a benefit cost analysis developed in accordance with the industry’s best practices guidance, reflected in the National Standard Practice Manual for Benefit-Cost Analysis of Distributed Energy

⁹⁴ Austin Energy Ex. 1 § 9.5.1.

Resources. As noted, numerous jurisdictions have used true Value of Solar analyses to inform and support net metering and related customer generation rate decisions. An open and transparent process of investigating the benefits and costs of customer-sited generation can provide all stakeholders with meaningful opportunity for engagement. In addition to providing cost-based analytical support for customer-generator compensation, such a framework can also provide broad and future benefits in supporting the development of other tariffs relating to DERs, evaluation of grid modernization investments including those relating to advanced metering infrastructure, and transmission, distribution, and generation planning.

As explained in the un rebutted testimony of Karl Rábago, Austin Energy should develop a cost benefit analysis framework based on the principles and National Standard Practice Manual, which is widely accepted in the utility industry; Austin Energy should further report on assumptions, methods, and results in a transparent and comprehensive manner; and provide the interested public and stakeholders with a meaningful opportunity for stakeholder comments and suggestions. Any subsequent proposal for new rates relating to DERs should be grounded in the methods and evaluation of impacts established in a transparent benefit cost analysis framework. Finally, Austin Energy should adopt a schedule for updating the impacts quantification in the benefit cost framework on a regular interval—such as once every one or two years—in order to take advantage of evolving experience and best practices in the industry in general.

Until Austin Energy completes a transparent cost benefit study, which includes meaningful stakeholder input, the City Council should reject Austin Energy’s proposed modifications to the Value of Solar tariff. The City Council should also reject paying for any part of the VOS through the EES fee as Austin Energy has proposed, which could impact the budgets and goals contained in the Resource Plan. The proposed tariff revisions have not been demonstrated to be fair, just, and reasonable and in the public interest. Austin Energy should leave the existing VOST in effect until it develops and proposes a tariff that will result in fair, just, and reasonable rates.

V. OTHER ISSUES

A. Energy Efficiency Service

1. **The City Council should reject Austin Energy’s proposed changes to the Energy Efficiency Service fee, including the proposed exemption for “High Load Factor” customers.**

In its rate filing, Austin Energy proposes changes to the Energy Efficiency Services Fee (“EES”) that would materially affect the revenue available to support the important energy efficiency programs for which Austin Energy is known as a leader. Austin Energy proposes to continue to leave Primary and Transmission tariff customers exempt from any obligation to pay an EES fee, but would also expand the exemption by approving a new primary rate class, the PRI II High Load Factor (“HLF”) tariff, applicable to customers with loads equal to or over 3,000 kW and less than 20,000 kW. In addition, Austin Energy has proposed paying for a portion of the Value-of-Solar payments out of the EES fee, which could impact the budgets and goals contained in the Resource Plan.

While the Conservation Organizations do not oppose the creation of a new high load tariff per se, Austin Energy’s proposal unreasonably exempts those customers from EES charges while allowing them to enjoy the benefits the EES fees produce on the entire system. Instead, the Conservation Organizations assert that all customers and customer classes, including current high load factor customers, should be required to pay an “equivalent” EES charge on a per kWh basis and be expressly permitted to benefit from the energy efficiency programs.⁹⁵ Such an approach would be “equitable” and nondiscriminatory because it would allow some variation in the EES charges to account for differences in class line losses. In short, all customers should be required to pay an EES charge, adjusted to consider the impact of losses, and, by the same token, all customers should be expressly permitted to benefit from the energy efficiency programs.

The City Council should reject the claims of high load factor industrial customers that they should be exempt from paying EES charges because they make private investment in energy

⁹⁵ SC-PC-SUN Ex. 1 at 11 (Reed Direct).

efficiency.⁹⁶ As an initial matter, none of the high load factor customers could identify or quantify the energy efficiency benefits they provide to the system.⁹⁷ In any event, these industrials receive the same system benefits from Austin Energy’s energy efficiency programs as other customers, yet they do not paying the EES.⁹⁸ In other words, they receive all the *public* benefits from the EES programs but are not paying their fair share.⁹⁹ By not paying their fair share of the EES charges, they are impairing the *public* programs that they benefit from.¹⁰⁰ The high load customers’ claim that they should be exempt from EES charges is not just and reasonable and is discriminatory to residential and commercial customers and preferential to the high load factor customers.¹⁰¹

The high load factor industrials’ claim that their private investment entitles them to exemption from EES charges fails to recognize that the purpose of the EES charges is to support and advance Austin Energy’s public energy efficiency programs.¹⁰² While it may be that their *private* programs benefit them, their private benefits do not support and advance the *public* programs that benefit the system as a whole.¹⁰³ It is fundamentally unfair to require all other Austin Energy customers to pay to support Austin Energy’s public programs but to give the industrials a pass for their share of the very same programs those industrial customers benefit from, without any proof they merit such an exemption.¹⁰⁴ Any and all customers can make private efficiency investments, but because all customers, including the industrials, use and benefit from the investments that all other customers pay into, the industrials should likewise be required to support those public programs.¹⁰⁵

Finally, City Council should also reject the proposal to pay for a portion of the VOS using the EES fee, which could undermine budgets and support for the programs supported by the EES.

⁹⁶ Data Foundry Ex. 1 (Statement of Position); TIEC Ex. 3 at 11-15 (Pollack Cross-Rebuttal).

⁹⁷ SC-PC-SUN Ex. 6 (RFI TIEC Response to SC-1).

⁹⁸ SC-PC-SUN Ex. 1 at 7-10 (Reed Direct).

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ SC-PC-SUN Ex. 1 at 6-10.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

2. The Conservation Organizations' Direct Case (Dr. Cyrus Reed's Direct Testimony).

As explained in the direct pre-filed testimony of Dr. Cyrus Reed, Ph.D., Austin Energy's exemption of Primary and Transmission high load factor customers and proposed exemption of new Primary II HLF customers from the EES fee would damage, impair, or impede existing energy efficiency programs.¹⁰⁶ EES charges generate revenues that are used to fund energy efficiency programs that help Austin Energy customers reduce peak demand, save energy, and lowering reliance on fossil fuels, while supporting system reliability, promoting rate stability, and reducing overall system costs.¹⁰⁷ The EES fee not only funds customer investments in energy efficiency programs, but has been critically important that Austin Energy have implemented to meet the energy efficiency savings, demand reduction, and local solar goals established by the City in the Austin Energy Resource, Generation, and Climate Protection Plan to 2030 (the "2030 Resource Plan").¹⁰⁸ Austin Energy's EES programs have historically been successful, making Austin Energy one of the leading utility in Texas for energy efficiency savings, advanced building codes, demand, reduction, onsite solar generation, and other energy efficiency conservation programs.¹⁰⁹

Austin Energy's request to exempt the Primary II high load factor rate class from EES charges, however, will leave \$1.4 Million in otherwise recovered energy efficiency program revenue unrecovered—revenue that, had it been charged, would have applied to and supported the energy efficiency programs. There is no dispute that high load factor Primary and Transmission customers receive benefits from the EES-funded programs, and, therefore, requiring residential, commercial, and other small customers to pay the entirety of the EES charges while exempting high load primary and transmission customers is preferential and discriminatory.¹¹⁰ Moreover, the tariff is a "slippery slope" where an expanding list of customers are given exemptions from EES charges, depriving the energy efficiency program of funds that would support the program and

¹⁰⁶ *Id.*

¹⁰⁷ *Id.* at 2, 4.

¹⁰⁸ *Id.* at 3-4.

putting the entire burden of funding energy efficiency programs increasingly on the shoulders of small customers.

As Dr. Reed explains, Austin Energy claims that high load industrial customers should be exempt from EES charges is without merit. Indeed, neither Austin Energy nor the high load customers in this proceeding have provided any evidence that these customers are implementing energy efficiency programs or actually lowering their energy use or demand.¹¹¹

Despite their lack of contribution to the EES fee, high load customers would nevertheless receive the benefit of the reduced need for purchased power, the deferral of transmission and distribution upgrades, and the reduced fees paid to ERCOT. Thus, high load customers would receive an undeserved benefit subsidized by all remaining customers, who, unlike the high load customers, are required to pay the EES fee to support Austin Energy's energy efficiency programs.

Moreover, as Dr. Reed explains, Austin Energy's proposal to exempt high industrial load customers from the EES fee further exacerbates discriminatory cross subsidies because under Austin Energy's proposed new rates, a portion of the Value of Solar credit would be paid out of the EES fee. Paying for a portion of the Value of Solar credit out of the EES could undermine budgets and support for other solar incentive programs, as well as energy efficiency and demand response programs, and administration of the Customer Energy Solutions division of Austin Energy. It is important to note that certain transmission and primary frequency high-load factor customers do not pay the EES tariff but could receive a benefit from VOS payments if they are receiving commercial VOS payments. In other words, those customers would be receiving a VOS payment that would be partially supported by funds from the EES fees, even though they don't pay into the program. Instead, as Dr. Reed explained, the Value of Solar credit should continue to be paid through the Power Supply Adjustment, which all customers pay, and is not set until November 1st, 2022.

As Dr. Reed concludes, the fairest and most effective way to assess EES fees is to do so evenly on a per kWh basis with slight differences in rates based on distribution and transmission losses. Classes that are currently exempt would be assessed an EES charge, as would customers in

¹¹¹ SC-PC-SUN Ex. 1 at 7-8.

the new proposed PRI II HLF rate class. Transmission and high voltage customers, who have lower losses, would pay a slightly lower fee. This would broaden demand reduction and energy efficiency programs. All customer classes would have access to the programs supported by these fees, including energy efficiency, demand response, onsite solar, and electric and thermal storage. Requiring all customer to pay EES charges would spread the costs and benefits of the EES programs sustaining the programs and achieving the City's efficiency and conservation goals.

Alternatively, if the City Council approves Austin Energy's proposed high load class (it should not), the City should, at a minimum, impose a reporting requirement to ensure that high-load customers are actually entitled to any exemption from EES charges to provide assurance that customers seeking exemptions from EES charges have in fact engaged in energy efficiency investment and have realized documentable energy efficiency savings that benefit the System.¹¹²

3. Industrial Customers' Claims.

Two of Austin Energy's high load factor industrial customer class, Data Foundry and TIEC, submitted testimony and statements asserting that industrial customers and high load factor customers should not be required to pay the EES charges that all other customers pay.¹¹³ As noted below, their claims are based on two main propositions: first, that high load factor, large volume, industrial customers in the Primary and Transmission classes are sophisticated customers that make their own private decision to invest in energy efficiency; and second, that requiring such customers to pay EES charges amounts to a requirement for those customers to pay twice for energy efficiency, forcing them to subsidize other customers. They further assert that any proposed reporting requirement is unacceptable because the investments are private and should not be divulged and reporting will reveal confidential and trade secret information and cost them their competitive advantages.

4. Conservation Organizations' Response

Data Foundry and TIEC's claims are without merit. All customers, including high load

¹¹² July 14, 2022 Hearing Tr. at 31-36, 44.

¹¹³ TIEC Ex. 3 at 11-15 (Pollock Cross Rebuttal).

factor customers, should participate in Austin Energy’s energy efficiency programs and pay the EES assessment because all customers benefit from the savings provided by the programs.¹¹⁴ As the leading Texas-based utility on energy efficiency, demand response, and distributed energy resources, Austin Energy should charge all customers, including high-load factor primary and transmission-level customers a similar EES.¹¹⁵ Moreover, all customers should have access to the programs, and in broad terms, the amount of money generated from those customers should be used to design programs that assist those customers.

As discussed high load factor primary and transmission class customers benefit from the public energy efficiency programs that improve and perfect the public utility system and that private investment in energy efficiency, while beneficial to the customer, does not provide public benefits. The revenue from EES charges support and promote the public energy efficiency programs and, because those programs benefit all customers, including the high load factor customers, all customers, including the high load factor customers should pay their fair share.

The Conservation Organizations recognize that, currently, high-load factor primary and transmission customers with loads equal to or over 20,000 kW do not pay the EES fee and are not eligible to participate in the programs, although they still benefit from the programs. And Austin Energy filed a late amendment that adds a new category of user - a high-load factor, primary voltage, industrial-commercial customer class with demand equal to or over 3,000 kW and less than 20,000 kW. This new PRI II HLF tariff is a new proposed rate that arrived more than 30 days after the rate package was filed. Moreover, it is clear that this new category was in response to requests from customers that would benefit from this new rate category. Under the proposed new rate class, these customers would not pay an EES fee even though they would benefit from the EES-funded energy efficiency programs and could even receive payment for rooftop solar installations under the Value of Solar Program.

Exempting these high load factor customers would negatively impact revenue recovered under the EES, revenue needed to fund Austin Energy’s energy efficiency programs. Austin

¹¹⁴ SC-PC-SUN Ex. 1 at 5, 8 (Reed Direct).

¹¹⁵ *Id.* at 4, 5, 8, 11.

Energy acknowledges that if all eligible customers participate and opt to join this new rate category, the loss in EES revenues in the first year would be approximately \$1.4 million. Austin Energy claims that high-load factor customers are sophisticated energy users and will invest in their own energy efficiency programs, but the evidence presented in the case does not support this claim. In fact, Austin Energy reported that fully half of the customers that could be eligible for this new rate class had in fact participated in Austin Energy-funded programs, leading to reduction in peak demand and reductions in overall energy use.¹¹⁶ Indeed, one of the customers participating in the rate case—Data Foundry—itself received an energy efficiency incentive of roughly \$100,000 in 2018, in direct contrast to their statement that such entities do not need to participate in programs since they would invest on their own.¹¹⁷

While the Conservation Organizations maintain that all customers receiving special treatment under the PF1-2 new rate class, and other transmission-level and primary-level customers should pay the EES (and be able to participate in the programs), as an alternative, it is reasonable for the City to consider an EES opt-out provision that would allow high-load factor customers to opt-out in return for an annual public report on their efforts to reduce energy use, lower peak demand and take actions to generate power locally. The report could be designed to prevent the revealing of confidential information and could require simply listing customer projects and the results. Austin Energy could then aggregate the results and highlight the good efforts of high-load factor customers.

Contrary to Data Foundry’s and TIEC’s assertions, requiring industrial high load customers to report their energy efficiency investments would not require disclosure of trade secrets or other confidential information.¹¹⁸ Nor would it be overly costly or difficult to collect and submit, and would not impair the customers’ ability to compete.¹¹⁹

Although the Texas Legislature has recognized that, in general, energy efficiency programs implemented by utilities relate to smaller customers, like residential and small commercial

¹¹⁶ See SCPC Ex. 15.

¹¹⁷ SC-PC-SUN Ex. 16.

¹¹⁸ July 14, 2022 Hearing Tr. at 30-46 of 92.

¹¹⁹ *Id.* at 43, 44.

customers,¹²⁰ payment of EES fees by large industrial customers is nevertheless appropriate. And while it may be true that high load factor industrial customers like Data Foundry invest in energy efficiency technology, it is still be appropriate for them to submit some reasonable form of reporting confirming those investments and achievements in support of any claim of entitlement to exemption from payment and participation in energy efficiency programs.¹²¹

Neither Data Foundry nor TIEC have submitted any evidence demonstrating that such a reporting requirement would have any negative impact on local economic development. Nor would an appropriate EES charge make any industrial customers less competitive.¹²² To the contrary, a reporting requirement would facilitate greater transparency and could, in fact, be an economic benefit for companies that actually invest in popular energy efficiency measures. Moreover, consumers like Data Foundry have already chosen to locate in Austin, regardless of any pressure to force them to pay energy efficiency charges.¹²³

VI. CONCLUSION

For these reasons, the Conservation Organizations respectfully request that the City Council:

1. Find that Austin Energy failed to satisfy its burden of demonstrating the prudence of its proposed test year spending at Fayette. Moreover, the Council should make clear that, once Austin Energy decided to accelerate the planned retirement of Fayette to 2022, the utility should have reduced capital and O&M spending at the plant to reflect its shortened useful life. Alternatively, and at a minimum, Austin Energy should be required to immediately evaluate all future capital investments in the Fayette Power Plant in excess of \$100,000, including potential costs associated with proposed environmental regulations, and show that continued investment in and operation of the units remain in customers' interests. The Council should further direct Austin Energy to oppose all life-extending capital investments in the units starting immediately, and should continue in or redouble its efforts to close the plant permanently in favor of cleaner generation sources.
2. Reject Austin Energy's proposal to increase its fixed per-customer charge from \$10 to \$25, along with its proposed revisions to its current five-tier residential rate structure.

¹²⁰ *Id.* at 41.

¹²¹ *Id.* at 42.

¹²² *Id.* at 39-40.

¹²³ *Id.*

In doing so, the Council should leave the current customer charge and rate design in place.

3. Reject Austin Energy's proposed changes to the Value of Solar tariff, and direct the Company to conduct a comprehensive study, with an independent and impartial consultant and including engagement with customers, solar technology and service providers, and other key stakeholders to evaluate how customer-sited generation rates impact current and prospective solar customers. Austin Energy should also conduct a comprehensive and transparent Value of Solar analysis using a Benefit-Cost Analysis framework developed in accordance with industry-standard guidance.
4. Require all high load factor customers should be required to pay equitable EES charges, adjusted for line losses, to fund Austin Energy's energy efficiency programs. Alternatively, if the City approves Austin Energy's proposed high load exemption from the EES charge, customers seeking exemption from EES charges to report and quantify their energy efficiency savings and/or submit an opt-out request with quantified data justifying the request is reasonable and appropriate.

Dated: July 28, 2022

Respectfully submitted,

/s/ Joshua Smith

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CERTIFICATE OF SERVICE

I, Joshua Smith, certify that a copy of the foregoing Sierra Club submission was served upon all parties of record in this proceeding on July 28, 2022, by electronic mail, as permitted by the presiding officer.

/s/ Joshua Smith
Joshua Smith
Sierra Club Environmental Law Program