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Late Backup

STATEMENT

OF

TEXAS LEGAL SERVICES CENTER ON BEHALF OF

TEXAS LEGAL SERVICES CENTER, TEXAS RATEPYER'S ORGANIZATION, AND GRAY PANTHERS OF TEXAS

TO THE

CITY COUNCIL OF AUSTIN

ON MARCH 1, 2012

My name is Lanetta Cooper and I am testifying on behalf of TLSC, Texas ROSE, and Gray Panthers of Texa . We are here in support of the Morrison-Tovo-Martinez resolution and to talk with you about the frustration I and others feel when access to relevant data is hindered or sidestepped by the utility. One example is a 2007 study done on AE's operations that I asked for in discovery on September 16th and just received this past Monday after I had to do an Open Records Request.. Placing unnecessary prerequisites to obtain information AE has conceded is not confidential hinders and delays the ability to adequately review the rate case for reasonableness. The report information is relevant because it raises AE operating efficiency concerns believed to be imposing additional operating costs on the system. I've provided the council relevant portions of the the report that discuss savings of $24.7 million that could be made in the short

term and an additional $20.6 million in savings over the long term. A reasonable expense to be passed onto ratepayers is one that has been efficiently and prudently incurred. Consequently, whether AE is operating efficiently goes to the heart of whether AE's expenses are reasonable and justify a rate increase.

A more invidious form of obstruction is obfuscation. Obfuscation can be likened to a magician's sleight of hand or a business engaging in bait and switch tactics where in this case the real issue is obscured by the presenting of information not responsive to a request. One example occurred this Monday at the Electric Utility Commission's meeting. On the agenda was a request to review AE's recent fuel factor increase. A specific request for the underlying calculations and the work papers was made. Instead of responding to this request AE provided colored pie and bar charts and broke the fuel factor down by type of fuel. This information provided no information about the assumed billing units AE relied upon in calculating its fuel factor or the amount of refunds to AE's operating balance included in the fuel surcharge to repay AE for its operating funds used to cover extraordinary fuel costs in 2011. This information is important to see if AE's fuel factor adjustment was reasonable. It is also important to this rate case in deciding whether AE needs emergency rate relief. The one-half a cent residential fuel charge is returning cash, $35-50 million cash,

to Austin Energy's fund balance over and above current fuel costs which responds to a stated concern by council.. $35 million in operating fund refunds coupled with the proposed $35 million temporary rate represents the lion's share of AE's most recent rate request. I have provided you the information the EUC received from AE on the fuel factor. I would also like to point out a couple of additional items in the exhibit. At page three is the 1st quarter FY 2012 financial update. For the first three months, AE made about $15 million more in base revenues than assumed and spent $10 million less than assumed in the FY 2012 budget resulting in $24 million more in overall revenues for calculating the operating fund balance. In other words, if AE's operations are simply consistent with the assumptions used in the budget for the rest of the FY 2012, AE's fund balance would increase from $38 million to $62million. And this is not considering the 2011 actual financials which would further increase the FY2012 ending balance amount. The second item is at page 8 which shows that the rate stabilization fund is a fuel rate issue; not a base rate issue. Since this rate case is only setting base rates, the rate stabilization fund is an irrelevant factor to this proceeding.

Another example of obfuscation by AE is its presentation that it's A&E production plant cost allocator model is used by the Texas PUC. This is not true. The A&E model that has been used by the PUC is different and would shift

significant costs away from the residential customer class onto other customer classes.

The most important part of the resolution before the council today addresses the hiring of a residential consumer advocate who with his/her expertise, knowledge and experience would provide the council with important input concerning the reasonableness of AE's revenue requirement, its COS and its rate design proposals. Consumer advocates play valuable roles in rate proceedings. They help identify issues that will substantially impact residential consumers and provide much needed recommendations on those issues. Their recommendations are often chosen by the regulator. For instance, the city's W/WW COS was modified based on recommendations by the consumer advocate.