



**ELECTRIC UTILITY COMMISSION**  
**REGULAR MEETING MINUTES** – *Approved June 17, 2013*  
**MAY 20, 2013**

**The Electric Utility Commission (EUC) convened in a regularly scheduled meeting in the Shudde Fath Conference Room at 721 Barton Springs Road in Austin, Texas.**

1. **CALL TO ORDER** – Chair Bernie Bernfeld called the meeting to order at 6:00 p.m.  
Commissioners in attendance: Bernie Bernfeld, Chair; Karen Hadden, Vice Chair; Shudde Fath, Phillip Schmandt, Linda Shaw, Steve Smaha and Dr. Michael Webber.  
Staff in attendance: Kerry Overton, Ann Little, Mark Dreyfus, Pat Alba, Debbie Kimberly, J.J. Gutierrez, David Wood, Jim Collins, David Kutach, Jeff Vice, Fred Yebra, Jamie Gomez, Cathy Foster, Gerard MacCrossan, Liz Jambor, Kathleen Garrett, Adrienne Brandt, Sandra Strauss-Jones, Vince McGlone, Brian Kennedy, Patricia Alofsin, Ronnie Mendoza and Toye Goodson Collins of Austin Energy; Jamie Atkinson of the Budget Office; Rolando Fernandez and Cyrenthia Ellis of the Contract Management Department; Andy Perny of the Law Department; and Rosemary Ledesma of the Purchasing Department.
2. **APPROVAL OF MINUTES** – **The motion to approve the minutes of the April 15, 2013 meeting, as corrected, by Commissioner Fath and seconded by Vice Chair Hadden, passed on a vote of 6-0 with Commissioner Webber off the dais.** A correction was made to the last sentence on Item 25, the discussion and action regarding governance of Austin Energy, as follows: “Vice Chair Hadden respectively disagreed with the premise of the resolution, that an unelected ~~appointed~~ board should govern Austin Energy.”
3. **CITIZEN COMMUNICATIONS**  
Gwen Rowling – disconnection policy and customer service processes  
Charlie Hemmeline, Solar Austin – Item 28  
Dr. Al Armendariz, Sierra Club – Item 24  
Lanetta Cooper, Texas Legal Services Center – Item 5  
Paul Robbins – rates for customers living outside the city and franchise agreements  
Kaiba White, Public Citizen – Item 28  
Scott Johnson – sustainable practices on City contracts like the Holly decommissioning project  
Rachel Fischer, Austin Apartment Association – Item 22

**NEW BUSINESS – DISCUSSION ITEM**

As a courtesy to Council Member Tovo, the Commission considered Item 22, a resolution she sponsored with Council members Spelman and Martinez, which will be considered by Council on May 23, 2013.

22. Discussion and possible action on a proposed Council resolution directing the City Manager to collect data on multi-family units participating in Austin Energy’s Multi-Family Energy Efficiency Program – Council Member Tovo, addressing the Commission, said the reasoning behind the proposed resolution was to try to determine whether energy efficiency rebates affected affordability for households in multi-family complexes. In response to her request for input, Commissioners suggested a longer timeline for the collection and reporting of data. In addition, they suggested #6 of the resolution be altered to address whether participation in the rebate program might be a function of the Energy Conservation and Audit Disclosure (ECAD) Ordinance or vice versa. Commissioner Schmandt asked about the rebate program in relation to ECAD. Debbie Kimberly, Vice President, Distributed Energy Services, and Fred Yebra,

Director, Energy Efficiency Services, addressed questions regarding the two programs. In addition, Chris Herbert of the Resource Management Commission provided clarification. At the Commission's request, Austin Energy staff will provide an update on ECAD in three to four months. They also suggested that staff develop a marketing strategy, aimed at multi-family properties, on the social benefits of the energy efficiency program. **The following motion by Commissioner Schmandt and seconded by Commissioner Smaha, passed on a vote of 7-0: "The EUC recommends approval of the draft resolution subject to minor changes and recommends that City Council receive from the City Manager, the reporting outlined in the recommendations from the ECAD Task Force in 2008."** The minor changes included two suggestions listed above.

#### **NEW BUSINESS – CONSENT ITEMS**

**Commissioners pulled Items 4, 5, 8, 17, 18 and 19 for discussion and recommended approval of Items 6, 7, 9, 10, 11, 12, 13, 14, 15 and 16 on consent.**

4. Authorize award and execution of a 24-month requirements service contract with SIEMENS INDUSTRY, INC., for wooden utility pole inspection services for Austin Energy in an estimated amount not to exceed \$517,440, with three 12-month extension options in an estimated amount not to exceed \$258,720 per extension option, for a total estimated contract amount not to exceed \$1,293,600. **The motion to recommend approval, by Commissioner Schmandt and seconded by Commissioner Smaha, passed on a vote of 7-0.**
5. Approve an ordinance amending City Code Chapter 15-9 regarding utility service, billing and adjustments, and administrative reviews and hearings.  
Lanetta Cooper addressed the Commission and made suggestions for revisions to the ordinance. Commissioners noted that the draft ordinance incorporated proposed changes to the ordinance including the 'repeal and replacement' of Article 12, but did not show the language being replaced. Andy Perny, Assistant City Attorney, explained that when a whole section of an ordinance is recommended to be repealed and replaced, only the proposed language is shown. Commissioners declined to take action until they could compare the proposed language with the current language. **The motion to postpone consideration of this item to the next meeting, by Chair Bernfeld and seconded by Commissioner Webber, passed on a vote of 7-0.**
6. Authorize award and execution of a contract with CHAMBERLIN ROOFING & WATERPROOFING LLC, for wet glazing and resealing of all exterior windows, trim and granite panels at Town Lake Center, in an amount not to exceed \$174,893. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Vice Chair Hadden, passed on a vote of 7-0.**
7. Authorize use of the Design-Build method for design and construction services, in accordance with Government Code Chapter 2267 Subchapter G, for the development of an office building and parking structure for Austin Energy. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Vice Chair Hadden, passed on a vote of 7-0.**
8. Authorize award and execution of a 12-month requirements service contract with CIRRO ENERGY SERVICES, INC., to provide peak load forecasting in an estimated amount not to exceed \$28,000, with four 12-month extension options in an estimated amount not to exceed \$28,000 per extension option, for a total estimated contract amount not to exceed \$140,000. **The motion to recommend approval, by Commissioner Schmandt and seconded by Commissioner Smaha, passed on a vote of 7-0.**

9. Authorize negotiation and execution of an agreement with Seton Healthcare, to provide a performance-based incentive for the generation of solar energy at its facility located at 4900 Mueller Blvd., Austin, Texas 78723, for an estimated \$7,325 per year, for a total amount not to exceed \$73,250 over a 10-year period. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Vice Chair Hadden, passed on a vote of 7-0.**
10. Authorize negotiation and execution of an agreement with St. David's Episcopal Church, to provide a performance-based incentive for the generation of solar energy at its facility located at 308 E. 8th St., Austin, Texas 78701, for an estimated \$26,969 per year, for a total amount not to exceed \$269,690 over a 10-year period. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Vice Chair Hadden, passed on a vote of 7-0.**
11. Approve issuance of a rebate to Arts Apartments South Austin, LLC, for performing comprehensive energy efficiency upgrades at the Arts Apartments at South Austin located at 400 West St. Elmo Rd., Austin, Texas 78745, in an amount not to exceed \$99,000. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Vice Chair Hadden, passed on a vote of 7-0.**
12. Approve issuance of a rebate to Arts Apartments at Turtle Creek, LLC, for performing comprehensive energy efficiency upgrades at the Arts Apartments at Turtle Creek located at 714 Turtle Creek Blvd., Austin, Texas 78745, in an amount not to exceed \$71,500. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Vice Chair Hadden, passed on a vote of 7-0.**
13. Approve issuance of a rebate to H&H Texas Partners, LTD, for performing comprehensive energy efficiency upgrades at the Timbercreek Apartments located at 614 South 1st St., Austin, Texas 78704, in an amount not to exceed \$132,000. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Vice Chair Hadden, passed on a vote of 7-0.**
14. Approve issuance of a rebate to Capri Capital, for performing duct diagnostics and improvements at the Stonegate Apartments located at 10505 South IH-35, Austin, Texas 78747, in an amount not to exceed \$146,974. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Vice Chair Hadden, passed on a vote of 7-0.**
15. Authorize award and execution of a 12- month requirements service agreement through the Texas Multiple Award Schedule (TXMAS) with Johnson Controls, Austin, TX, for the preventative and corrective maintenance services and upgrades on 17 chillers in an estimated amount not to exceed \$415,774, with four 12-month extension options in estimated amounts not to exceed \$418,086 for the first extension option, \$433,599 for the second extension option, \$436,269 for the third extension option and \$438,995 for the fourth extension option, for a total estimated contract amount not to exceed \$2,142,723. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Vice Chair Hadden, passed on a vote of 7-0.**
16. Authorize reimbursement of costs to Austin 18 Hotel, LLC, an Indiana Limited Liability Company, for the purchase of heat exchangers required to interconnect the JW Marriott Hotel to the Austin Energy District Cooling System, in an amount not to exceed \$295,000. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Vice Chair Hadden, passed on a vote of 7-0.**
17. Approve an ordinance amending the Fiscal Year 2012-2013 Capital Budget of Austin Energy (Ordinance No. 20120910-002) to increase appropriations by \$7,000,000 for the Holly Street Power Plant Decommissioning Project and amending the Fiscal Year 2012-2013 Operating

Budget of Austin Energy (Ordinance No. 20120910-001) to increase the Transfers Out by \$7,000,000 for the Holly Street Power Plant decommissioning account and decrease the Austin Energy Operating Fund ending balance by \$7,000,000. Related to Items 18 and 19. **The motion to recommend approval, by Commissioner Schmandt and seconded by Commissioner Smaha, passed on a vote of 7-0.**

18. Authorize award, negotiation, and execution of a 60-month requirements service contract with CLEAN HARBORS ENVIRONMENTAL SERVICES, GRUENE ENVIRONMENTAL COMPANIES, EFFECTIVE ENVIRONMENTAL, INC., WESTON SOLUTIONS, INC., and PROGRESSIVE ENVIRONMENTAL SERVICES dba SWS ENVIRONMENTAL SERVICES for soil remediation, equipment, and surface decontamination services for Austin Energy in an amount not to exceed \$7,500,000 combined. Related to Items 17 and 19. **The motion to recommend approval, by Commissioner Schmandt and seconded by Commissioner Smaha, passed on a vote of 7-0.**
19. Authorize execution of a supplemental amendment #7 to the professional services agreement with WESTON SOLUTIONS, INC., Austin, TX, for completion of Phase 3 construction services and Phase 4 remediation services for the Holly Street Power Plant Decommissioning Project in an amount not to exceed \$3,800,000 for a total contract amount not to exceed \$10,807,626.30. Related to Items 17 and 18. **The motion to recommend approval, by Commissioner Schmandt and seconded by Commissioner Smaha, passed on a vote of 7-0.**

#### **BRIEFINGS & REPORTS**

20. GreenChoice® Program Report by Debbie Kimberly, Vice President, Distributed Energy Services, and Liz Jambor, Sr. Manager, Market Research Planning & Development. Paul Robbins addressed the Commission and suggested that less expensive wind energy, online a few months ago, be offered to GreenChoice® customers.
21. Presentation of Austin Energy's Five-Year Financial Forecast by Ann Little, Chief Financial Officer, and David Kutach, Director, Financial Planning & Budget.

#### **NEW BUSINESS – DISCUSSION ITEMS (continued)**

One motion to approve Items 23, 25, 27, 29 and 30 as corrected below passed on a vote of 7-0. Separate motions were made on Items 24, 26, 28 and 31 as noted below.

23. ~~Discussion and possible action on a resolution recommending~~ The EUC recommends that the City Council request the City Manager to develop a plan to return Austin Energy to compliance with all City Council mandated finance and reserve policies or provide recommendations to revise those finance and reserve policies. The plan should include a current assessment of all City Council mandated finance and reserve policies that are not being observed by Austin Energy. (Sponsors: Commissioners Schmandt, Smaha, Webber) **The motion to approve as corrected by Chair Bernfeld and seconded by Commissioner Smaha, passed on a vote of 7-0.**
24. ~~Discussion and possible action on a resolution recommending~~ The EUC recommends that the City Council request the City Manager to develop a plan to eliminate coal from Austin Energy's portfolio by the end of ~~2013~~ 2015, with the plan to be presented to City Council no later than ~~July 1, 2013~~ December 31, 2013, subsequent to negotiations with the LCRA. (Sponsors: Commissioners Schmandt, Smaha, Webber) **A motion to approve with corrected dates was made by Commissioner Schmandt and seconded by Commissioner Smaha. A friendly amendment to add "subsequent to negotiations with the LCRA" was made by Vice Chair**

**Hadden and accepted. The motion passed on a vote of 6-1 with Commissioner Fath voting against.**

25. ~~Discussion and possible action on a resolution asking~~ The EUC recommends that the City Council ~~to~~ require the City Manager to produce a list of all transfers or payments from Austin Energy to the City of Austin, including costs absorbed by Austin Energy for the benefit of the City, whether absorbed entirely or disproportionately by Austin Energy, and develop a recommendation as to whether it is appropriate or not to have such costs paid by rate payers. This report should include an analysis of whether using utility bills to pay for such costs is a regressive form of raising revenues inconsistent with this Community's notions of fairness and fair play and whether eliminating those transfers would allow Austin Energy to return to historic policies of charging out of city customers the same rates as in city residents. (Sponsors: Commissioners Schmandt, Smaha, Webber) **The motion to approve as corrected by Chair Bernfeld and seconded by Commissioner Smaha, passed on a vote of 7-0.**
26. ~~Discussion and possible action on a resolution recommending~~ The EUC recommends that the City Council request the City Manager to evaluate whether the Austin Energy hedging program should be discontinued or altered in light of possible new stability in natural gas prices, including an evaluation of the costs since inception of the hedging program including its impact on fuel costs versus the expected ongoing benefits of the hedging program. (Sponsors: Commissioners Schmandt, Smaha, Webber) **A motion to approve with corrections was made by Commissioner Smaha and seconded by Chair Bernfeld. A friendly amendment to add "since inception" and "including its impact on fuel costs" by Commissioner Fath was accepted. The motion passed on a vote of 7-0.**
27. ~~Discussion and possible action on a resolution recommending~~ The EUC recommends that City Council ask the City Manager to develop a plan to increase the non-nuclear decommissioning reserve of Austin Energy, which is currently at zero despite the fact that Decker power plant is 40 years old and Fayette is 30 years old, including an analysis on the impact on future ratepayers if the decommissioning must take place without any money in the reserve fund. (Sponsors: Commissioners Schmandt, Smaha, Webber) **The motion to approve as corrected by Chair Bernfeld and seconded by Commissioner Smaha, passed on a vote of 7-0.**
28. ~~Discussion and possible action on a resolution recommending~~ The EUC recommends the City Council ask the City Manager to develop a plan to address the impact of distributed energy on Austin Energy including an analysis of who should pay the fixed costs of serving distributed energy customers. The plan should determine the actual cost borne by Austin Energy in serving distributed energy customers, the amount of that cost that is paid by the distributed energy customer and the amount of that customer's costs that are being subsidized by other rate payers. The plan should analyze whether not requiring the distributed energy customers to pay their actual costs amounts to a subsidy of wealthier Austin Energy customers by other lower income customers in a manner that is inconsistent with this Community's notions of fairness and fair play. The plan should also address projected rates of adoption of distributed generation and the expected impact on the utility and its non distributed energy rate payers in the future. (Sponsors: Commissioners Schmandt, Smaha, Webber) **The motion to approve as corrected by Commissioner Schmandt and seconded by Commissioner Smaha, passed on a vote of 6-1 with Vice Chair Hadden voting against.**
29. ~~Discussion and possible action on a resolution recommending~~ The EUC recommends that the City Manager develop an analysis of the feasibility of installing combined cycle natural gas

generators on the land at the Decker facility that is not now currently used and was formerly used for oil storage tanks. (Sponsors: Commissioners Schmandt, Smaha, Webber) **The motion to approve as corrected by Chair Bernfeld and seconded by Commissioner Smaha, passed on a vote of 7-0.**

30. ~~Discussion and possible action on a resolution recommending~~ The EUC recommends that the City Manager develop an analysis on the impact on Austin Energy's goal of saving 800 MW of energy by 2020 that will be caused by out of city customers being exempted from the two highest tiers of rates and to develop a plan to return the city to a policy of charging all customers the same rates. (Sponsors: Commissioners Schmandt, Smaha, Webber) **The motion to approve as corrected by Chair Bernfeld and seconded by Commissioner Smaha, passed on a vote of 7-0.**
31. ~~Discussion and possible action on a resolution recommending~~ The EUC recommends that City Council direct the City Manager to allow the Electric Utility Commission (EUC) to resume meeting in executive session in accordance with the Texas Open Meetings Act and direct Austin Energy management to coordinate such sessions as requested by the EUC as has historically been done since its inception. This resolution is put forward in order for the EUC to properly perform its role of advising City Council on competitive and other matters that should be evaluated in executive session under the Texas Open Meetings Act. (Sponsors: Chair Bernfeld and Commissioner Schmandt) **The motion to approve as corrected, by Chair Bernfeld and seconded by Vice Chair Hadden, passed on a vote of 7-0.**

#### **FUTURE AGENDA ITEMS**

32. Request agenda items, including information related to the Upcoming Procurements Report – Vice Chair Hadden requested an update on the South Texas Project and a discussion item on disconnections and disconnection fees.
33. **ADJOURN** – Chair Bernfeld adjourned the meeting at 8:50 p.m. without objection.