



**ELECTRIC UTILITY COMMISSION**  
**REGULAR MEETING MINUTES – Approved September 16, 2013**  
**AUGUST 19, 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 6:02 p.m. Commissioners in attendance: Bernie Bernfeld, Chair; Karen Hadden, Vice Chair; Shudde Fath, Dr. Varun Rai, and Linda Shaw. Clay Butler was absent. (There is one vacant position on the Commission.) Staff in attendance: Larry Weis, Cheryl Mele, Kerry Overton, Ann Little, J.J. Gutierrez, Mark Dreyfus, Jim Collins, Jeff Vice, David Kutach, Pat Sweeney, Ronnie Mendoza, Fred Yebra, Liz Jambor, Joe Guerrero, Carlos Cordova, and Toye Goodson Collins of Austin Energy; Edward Campos of the Contract Management Department; and Rosemary Ledesma of the Purchasing Department.
2. **APPROVAL OF MINUTES** – **The motion to approve the minutes of the July 15, 2013 meeting, by Commissioner Fath and seconded by Commissioner Shaw, passed on a vote of 5-0.**
3. **CITIZEN COMMUNICATIONS:** David Dixon – (Item 20) support increased budget for solar energy; Paul Robbins – (Item 23) support franchise fees; Charlie Hemmeline – (Item 20) support increased budget for solar energy; Barbara Day – (Item 20) scrutinize proposed budget; Tom “Smitty” Smith – (Item 21) support line extension fees; Matt Weldon – (Items 20 and 23) – support reinstating prior budget for solar energy and support franchise fees; Scott Burton – (Item 20) support increased budget for solar energy; Greg Chobin – (Item 20) support increased budget for solar energy; Climate Buddies goal to increase use of renewable energy, reduce fossil fuels.

**NEW BUSINESS – CONSENT ITEMS**

**Commissioners pulled Items 11, 12, 13 and 15 for discussion and recommended approval of Items 4-10, 14, 16, and 18 on consent. Votes are noted below.**

4. Authorize negotiation and execution of a nine-month lease agreement with Girard Diversified Interests for approximately 4,500 square feet located at 318 East 5th Street to support construction and installation of chilled water transmission piping by Austin Energy, in an amount not to exceed \$112,500, with two three-month extension options, in the amount of \$80,000 for the first extension option and \$45,000 for the second extension option, for a total amount not to exceed \$237,500. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Commissioner Fath, passed on a vote of 5-0.**
5. Approve an ordinance authorizing the negotiation and execution of a Developer Agency Agreement with TC Green Water Master Developer, LLC, for design and construction of chilled water utilities to serve planned facilities in the Green Water Treatment Plant Redevelopment Project, in an amount not to exceed \$69,960 for design phase services. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Commissioner Fath, passed on a vote of 5-0.**
6. Authorize execution of a 24-month construction contract with Mechanical and Process Systems, LLC, for construction and installation of chilled water piping and associated equipment in Austin Energy's District Cooling Plants and customers' mechanical rooms, in the amount of \$3,953,797, with an optional two-year extension, for a total contract amount not to exceed

\$7,907,592. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Commissioner Fath, passed on a vote of 5-0.**

7. Approve issuance of a rebate to Seton Healthcare for the installation of energy efficient equipment at its facility, Seton Medical Center Austin, 1201 West 38th Street, Austin, Texas 78705, in an amount not to exceed \$70,029. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Commissioner Fath, passed on a vote of 5-0.**
8. Authorize negotiation and execution of an agreement with Cinemark USA Inc., to provide a performance-based incentive for the generation of solar energy at its facility located at 9900 South IH 35, Austin, Texas 78748, for an estimated \$35,821 per year, for a total amount not to exceed \$358,210 over a 10-year period. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Commissioner Fath, passed on a vote of 5-0.**
9. Authorize negotiation and execution of an agreement with Congregation Beth Israel, to provide a performance-based incentive for the generation of solar energy at its facility located at 3901 Shoal Creek Blvd., Austin, Texas 78756, for an estimated \$6,309 per year, for a total amount not to exceed \$63,090 over a 10-year period. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Commissioner Fath, passed on a vote of 5-0.**
10. Authorize negotiation and execution of an agreement with Whole Foods Market, to provide a performance-based incentive for the generation of solar energy at its facility located at 11920 Domain Drive, Austin, Texas 78758, for an estimated \$31,172 per year, for a total amount not to exceed \$311,720 over a 10-year period. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Commissioner Fath, passed on a vote of 5-0.**
11. Authorize award and execution of Amendment No. 1 to a contract with SOLIX, INC. for administrator services related to the qualification and automatic enrollment for Austin Energy's Utility Discount Program, to increase the contract amount for the current contract period in an amount not to exceed \$61,433, and the three remaining extensions in an amount not to exceed \$112,620 each, for a revised total contract amount not to exceed \$1,975,083. Carol Biedrzycki spoke against approval. **The motion to recommend approval, by Chair Bernfeld and seconded by Commissioner Fath, passed on a vote of 4-0-1 with Commissioner Rai abstaining.**
12. Authorize negotiation, award, and execution of Amendment No. 22 to the contract with IBM CORPORATION for implementation services for the development of a meter data system software interface with the Customer Care and Billing System, in an amount not to exceed \$700,000, for a total revised contract amount not to exceed \$61,739,728. Lanetta Cooper spoke against approval. **The motion to recommend approval, by Chair Bernfeld and seconded by Commissioner Fath, failed on a vote of 3-2 with Vice Chair Hadden and Commissioner Fath voting no.**
13. Authorize award, negotiation, and execution of a contract with WOOD GROUP POWER PLANT SERVICES, INC., or the other qualified offeror to RFP No. GAL0012, for the purchase of a replacement control system for the turbine and generator Units 1-4 at Austin Energy's Sand Hill Energy Center, in an amount not to exceed \$1,230,000 and maintenance and support services for 60 months in an amount not to exceed \$130,000, for a total contract amount not to exceed \$1,360,000. **The motion to recommend approval, by Commissioner Fath and seconded by Commissioner Shaw, passed on a vote of 5-0.**

14. Authorize award and execution of a contract with POWER SUPPLY INC., for the purchase of 15kV circuit breakers for Austin Energy in an amount not to exceed \$327,085. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Commissioner Fath, passed on a vote of 5-0.**
15. Authorize award and execution of a nine-month requirements supply contract with GT DISTRIBUTORS, INC., for the purchase of Arc-Rated pants for Austin Energy personnel exposed to energized equipment and arc flash hazards, in an amount not to exceed \$107,157. **The motion to recommend approval, by Chair Bernfeld and seconded by Commissioner Fath, passed on a vote of 5-0.**
16. Authorize award, negotiation, and execution of a contract with TSE INTERNATIONAL, INC., for a trailer-mounted underground cable puller for Austin Energy, in an amount not to exceed \$150,000. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Commissioner Fath, passed on a vote of 5-0.**
17. Authorize award and execution of a contract through the Texas Local Government Purchasing Cooperative (BuyBoard) with GRAPEVINE DODGE CHRYSLER JEEP, LLC for the purchase of three light-duty vehicles in an amount not to exceed \$66,139. Shared contract; AE's share is \$21,552. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Commissioner Fath, passed on a vote of 5-0.**
18. Authorize award and execution of fifteen contracts through the Texas Local Government Purchasing Cooperative (BuyBoard) with: KIRBY-SMITH MACHINERY, for the purchase of 10 Multiquip V304EH Walk-Behind Rollers and one Multiquip Power Buggy WBH-16EF in an amount not to exceed \$134,782; RDO EQUIPMENT, for the purchase of one John Deere 670G Motor Grader, one John Deere 35D Mini Excavator, one John Deere 410TJ T/L/B, Cab/Air, Wain Roy Swinger Coupler w/ 24" Bucket, one John Deere 333DT Rubber-Track LDR, Cab/Air, 84" BKT, Backhoe, Shredder, and one John Deere 85D Excavator Quick-Attach Bucket in an amount not to exceed \$633,487; WAUKESHA-PEARCE INDUSTRIES, INC., for the purchase of one Gradall XL3100 IV 4X2 Truck Mounted Excavator and one Gradall XL4100 IV 6X4 Truck Mounted Excavator in an amount not to exceed \$676,776; KINLOCH EQUIPMENT & SUPPLY, INC., for the purchase of one Vactor RamJet F-Series Sewer Cleaner, one Vactor 2103 Sewer Cleaner Body, and one Vactor 2100 plus Combination Sewer Cleaner Body in an amount not to exceed \$492,678; COOPER EQUIPMENT, for the purchase of four Schwarze A8000CNG Freightliner M2 112 High Dump Street Sweeper, one HAMM HD 12 VT Combo Roller, two HAMM HD 12 VV 47" Double Drum Asphalt Rollers, and one Schwarze A7000 FREIGHTLINER M2 Street Sweeper in an amount not to exceed \$1,800,585; RUSH TRUCK CENTER, for the purchase of one Peterbilt/MRL Striper in an amount not to exceed \$266,202; LONGHORN INTERNATIONAL, for the purchase of 13 Crane Carrier LET2-45 Cab & Chassis for Commercial Body (brown) and two Crane Carrier LET2-45 Cab & Chassis for Commercial Body (blue) in an amount not to exceed \$2,896,831; TEXAN WASTE EQUIPMENT, dba HEIL OF TEXAS, for the purchase of 15 Heil Commercial 25 Yard High Compaction Rear Loaders and two Heil F-4000N Narrow 11 Yard High Compaction Rear Loaders in an amount not to exceed \$2,591,884; CHASTANG ENTERPRISES, INC., for the purchase of two Autocar Diesel-Powered Cab & Chassis for Dead End Refuse Bodies in an amount not to exceed \$201,100; VERMEER EQUIPMENT OF TEXAS, INC., dba VERMEER TEXAS-LOUISIANA, for the purchase of two Vermeer BC1000XL 12" Brush Chippers and one Vermeer BC1500 15" Brush Chipper in an amount not to exceed \$94,299; AUSTIN TRUCK & EQUIPMENT, INC. LTD, dba FREIGHTLINER OF AUSTIN, for the purchase of one Freightliner/ALTEC M2-106 Tree Truck and one Freightliner/ALTEC M2-106 Service Truck in an amount not to exceed \$379,959; CENTRAL TEXAS EQUIPMENT, DBA CENTRAL TEXAS HEAVY EQUIPMENT, for the purchase of six Doosan P185WJD-T41 185 Portable Air Compressor and one Doosan P250@JD-T41 250 Portable Air Compressor in an amount not to exceed \$159,729; EQUIPMENT SOUTHWEST, for the purchase of one PD L-150-CT Loader attachment in an amount not to exceed \$59,527; JOHN DEERE COMPANY, for the purchase of one 6X4, Diesel, John Deere TH Gator, one 4x2,

Electric, John Deere TE Gator, one John Deere 6115D Tractor, one John Deere CX20 Batwing Cutter, one John Deere 5055E Tractor with John Deere MX8 Shredder, and one John Deere 5045E with attachments in an amount not to exceed \$152,110; CLARK EQUIPMENT COMPANY, dba BOBCAT COMPANY, for the purchase of one Bobcat S750 Skid Steer Loader in an amount not to exceed \$97,457. Shared contract; AE's share is \$153,775. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Commissioner Fath, passed on a vote of 5-0.**

## **OLD BUSINESS**

19. Discussion and possible action regarding recommendations for topics of discussion by the Council Committee on Austin Energy – Larry Weis, General Manager, provided a summary of the first meeting of the Council Committee on Austin Energy and answered questions from Commissioners who commented on topics related to the Resource Plan and fuel hedging. No action was taken. Carol Biedrzycki requested to speak and urged the Commission to suggest adding the Customer Assistance Program to the list of topics.

At 7:30 p.m., the Commission recessed the meeting for a short break. At 7:39 p.m., Chair Bernfeld reconvened the meeting.

20. Discussion and possible action regarding Austin Energy's Proposed Fiscal Year 2013-2014 Budget, including proposed rate and fee changes – Ann Little, Chief Financial Officer, and David Kutach, Director, Financial Planning & Budget, provided a presentation and answered questions regarding fees, rates, and program funding in the proposed budget. Cheryl Mele, Chief Operating Officer; Kerry Overton, Deputy General Manager; J.J. Gutierrez, Vice President, Customer Care; Fred Yebra, Manager, Energy Efficiency Services; and Joe Guerrero, Manager, Low-Income Weatherization Program also answered questions. Paul Robbins requested to speak regarding GreenChoice subscriptions. Chair Bernfeld also recognized the following speakers on budget-related topics: Lanetta Cooper (over/under recovery figures), Carol Biedrzycki (CAP funding), and Tom "Smitty" Smith (solar program funding). **Commissioner Fath introduced two motions she said would result in increased revenue for Austin Energy. The motion to approve the resolution (stated below) regarding franchise fee collection, by Commissioner Fath and seconded by Vice Chair Hadden, passed on a vote of 4-0-1 with Commissioner Rai abstaining.**

**"Whereas, almost all public and private utilities in Texas pay franchise fees to governments of cities that they serve; and**

**Whereas, Austin Energy pays a franchise fee of 3% of gross revenues to six small cities in its service area (Bee Cave, The Hills, Lakeway, Rollingwood, Sunset Valley, and West Lake Hills); and**

**Whereas, the revenue lost to Austin Energy from this practice amounted to about \$1.2 million in fiscal year 2012; and**

**Whereas, franchise fees charged by most other utilities serving customers in the city limits of Austin, including Texas Gas Service, Pedernales Electric Coop, Bluebonnet Electric Coop, and AT&T, are charged to the specific customers served and not paid for out of these utilities' general revenue;**

**Therefore, Be It Resolved, that the Austin City Council direct Austin Energy to charge this 3% franchise fee directly to the bills of customers in all affected cities and thereby recoup as much of the fees as possible from the customers in the cities**

to whom Austin Energy pays lump sum franchise fees, and that this policy be implemented on October 1, 2013.”

The motion regarding line extension fees (stated below), by Commissioner Fath and seconded by Commissioner Shaw, failed on a vote of 3-1-1 with Chair Bernfeld voting no and Commissioner Rai abstaining.

“In lieu of AE’s proposal to begin implementing new line extension fees in October 2014, I move that Council reinstate the August 1985 “hookup” fees effective October 1, 2013, and then use FY 2014 to plan and implement revised fees effective October 1, 2014.

As described in my 4-page July 15, 2013 memo regarding Contribution In Aid of Construction (CIAC), the first hookup fees were implemented on 11-01-81. The fee structure was designed by licensed electrical contractors serving on the Electrical Board and was based on Connected Load (the ampere capacity) of each new customer.

Because of updated costs, the EUC later recommended updated fees, and Council passed the EUC recommendation in August 1985. The fees range from \$400 to \$34,120 for 31 separate Connected Loads.

Because of concerns about inability to compete with TXU (Dallas) in the 10-square mile dual service area, the August 1985 fees were foolishly abolished in the late 1980s or early 1990s.

Should Council be concerned about the fees effect on affordable housing, it could adopt some sort of reduced fees for new affordable housing construction.”

The motion regarding reconnection fees (stated below), by Vice Chair Hadden and seconded by Commissioner Fath, was withdrawn following a decision by the Commission to continue the discussion next month. Kerry Overton, Deputy General Manager; J.J. Gutierrez, Vice President, Customer Care; and Ann Little, CFO, answered questions from Commission members. Chair Bernfeld recognized two speakers: Tom “Smitty” Smith urged action on the reconnection fee policy and Carol Biedrzycki spoke and distributed a handout on the cost for reconnections.

“WHEREAS, Austin Energy has a reconnection fee of \$25, but also has a same day service fee of \$55, that most other utilities do not have, and

WHEREAS, the high same day service fee imposes unwarranted punitive economic strain on low income customers;

WHEREAS, of the 10 utilities examined in the Austin Energy/Lloyd Gosselink July 12, 2013 memorandum to the Electric Utility Commission, only Pedernales Electric Cooperative, Oncor and CenterPoint had any same day service fee. It is only \$3.10 to reconnect with Oncor and \$5.30 for same day reconnection, for a total of \$8.40, nearly 10 times less than Austin Energy’s fees, and similarly, same day reconnection with CenterPoint Energy was much less expensive, with a standard reconnection at \$9, but a same day reconnect fee of \$34,

NOW THEREFORE, BE IT RECOMMENDED BY THE ELECTRIC UTILITY COMMISSION TO CITY COUNCIL THAT:

The City Council and City Manager direct Austin Energy to immediately discontinue the \$55 same day service reconnection fee, and establish that same day reconnections will be made if payment is posted by 5:00 p.m. Written information

**must be provided to customers at the time of payment regarding the timeframe in which they can expect power to be restored. Payments posted after 5:00 p.m. will be reconnected as soon as possible the following day. For customers who pay after 5:00 p.m., an option to pay an extra \$25 fee to expedite reconnection would be available, with reconnection to be provided by 10:00 a.m. the next morning.”**

Vice Chair Hadden submitted questions regarding the South Texas Plant to Ms. Mele and requested that answers be provided to the Commission in a written report prior to the next meeting.

A motion by Chair Bernfeld to recommend approval of Austin Energy’s Fiscal Year 2014 budget as presented was seconded by Commissioner Shaw. Vice Chair Hadden offered the following friendly amendment: The EUC recommends approval of the budget with the recommendation that City Council look at ways to fully fund the solar budget and include additional funding of \$7.5M for low income weatherization. Commissioner Fath said she could not support the increase in the solar program budget. Vice Chair Hadden revised her friendly amendment to recommend approval of the budget with consideration by Council to add \$7.5M for low-income weatherization. **The motion, including the revised friendly amendment, failed on a vote of 1-1-3 with Vice Chair Hadden voting for, Commissioner Fath voting no, and Chair Bernfeld and Commissioners Rai and Shaw abstaining.** Commissioner Fath read the following statement, “I cannot vote for an AE budget proposal that includes two items from above (above AE) that unfairly dump costs onto AE: 1) An inequitable allocation formula for shared administrative support. This budget proposal is \$21,602,536, which is a \$2.6 million increase over FY 2013; and 2) Millions of dollars for economic development when the Chamber of Commerce’s Greater Austin Economic Development Corp. does a better job than the City and uses private funds rather than public funds.”

#### **STAFF BRIEFING**

21. Line Extension Policy and Fees – Cheryl Mele, Chief Operating Officer provided a presentation and answered questions. Commissioners will continue discussion of this topic at future meetings.

**In accordance with their Bylaws, the Commission voted to extend the meeting past 10:00 p.m. The motion by Commissioner Fath and seconded by Commissioner Shaw passed on a vote of 4-0-1 with Chair Bernfeld abstaining.**

#### **ITEMS FROM COMMISSIONERS**

22. Discussion and possible action regarding the Customer Assistance Program (Bernfeld) – Due to time constraints, this item was not discussed.
23. Discussion and possible action regarding franchise fees (Fath, Bernfeld) – Action regarding franchise fees occurred during discussion of Item 20, the proposed FY 2014 Budget.

#### **FUTURE AGENDA ITEMS**

24. Request agenda items, including information related to the Upcoming Procurements Report – Chair Bernfeld requested continuation of the discussion on disconnection and reconnection fees and Vice Chair Hadden reiterated her request for answers to questions regarding the South Texas Plant.
25. **ADJOURN** – Chair Bernfeld adjourned the meeting at 10:10 p.m. without objection.