



**ELECTRIC UTILITY COMMISSION
REGULAR MEETING MINUTES – Approved January 27, 2014
DECEMBER 16, 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; Clay Butler, Shudde Fath, Brent Heidebrecht, Dr. Varun Rai, and Linda Shaw.

Staff in attendance: Larry Weis, Cheryl Mele, Debbie Kimberly, Mark Dreyfus, Khalil Shalabi, Pat Sweeney, Jeff Vice, Jim Collins, Adrienne Brandt, Todd Shaw, Kurt Stogdill, Leslie Libby, Jamie Mitchell and Toye Goodson Collins of Austin Energy; and Imane Mrini of the Public Works Department.

Chair Bernfeld welcomed Brent Heidebrecht who was recently appointed by Mayor Pro Tem Cole to the Electric Utility Commission. Citing a recent utility newsletter stating that Austin Energy was considering requiring linemen wear fall protection gear in light of three recent fatalities in the industry, Vice Chair Hadden voiced her support for such a requirement.

2. **APPROVAL OF MINUTES** – **The motion to approve the minutes of the November 18, 2013 regular meeting, by Commissioner Fath and seconded by Commissioner Shaw, passed on a vote of 6-1 with Commissioner Heidebrecht abstaining.**
3. **CITIZEN COMMUNICATIONS:** Marion Mlotok spoke against relicensing Units 1 and 2 of the South Texas Project; Jere Locke of the Texas Drought Project spoke against adding natural gas generation due to high carbon emissions; Elliott Johnson, architect and solar customer, spoke in support of the proposed Value of Solar resolution (Item #10); David Dixon, solar installer and customer, criticized the revision of the Value of Solar (Item #10); Paul Robbins urged members to recommend changing the franchise fee collection method for suburban cities served by Austin Energy (Item #11).

NEW BUSINESS – CONSENT ITEMS

Commissioners recommended approval of Items 4-7 on consent. The votes are detailed below.

4. Authorize execution of a construction contract with S J LOUIS CONSTRUCTION OF TEXAS, LTD., for the East 5th Street Chilled Water Piping Extension from San Jacinto to Red River Phase II Project, in the amount of \$4,290,938 plus a \$429,093.80 contingency, for a total contract amount not to exceed \$4,720,031.80. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Commissioner Fath, passed on a vote of 7-0.**
5. Approve issuance of a rebate to EDR Austin LLC, dba 2400 Nueces, for the installation of energy efficient equipment at its facility located at 2400 Nueces St., Austin, Texas 78705, in an amount not to exceed \$170,705. **The motion to recommend approval on consent, by Chair Bernfeld and seconded by Commissioner Fath, passed on a vote of 7-0.**
6. Authorize negotiation and execution of an agreement with Crystal Mountain, to provide a performance-based incentive for the generation of solar energy at its facility located at 9433 Bee Cave Road, Austin, Texas 78746, for an estimated \$36,419 per year, for a total amount not to exceed \$364,190 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 7-0.**

7. Authorize negotiation and execution of an agreement with Woodmark Apartments, to provide a performance-based incentive for the generation of solar energy at its facility located at 1735 Rutland Drive, Austin, Texas 78758, for an estimated \$24,645 per year, for a total amount not to exceed \$246,450 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 7-0.**

STAFF BRIEFINGS & REPORTS

8. Briefing on Austin Energy's risk management program, including hedging policies and fuel management by Pat Sweeney, Director, Energy & Market Operations.
9. Briefing regarding changes to Austin Energy's solar rebate and incentive levels and the Value of Solar, the solar credit provided to customers under the residential solar tariff by Debbie Kimberly, Vice President, Customer Energy Solutions; Leslie Libby, Project Manager, Solar Program; and Pat Sweeney.

ITEM(S) FROM COMMISSIONERS

10. Discussion and possible action regarding a proposed resolution regarding the Value of Solar (Butler, Bernfeld) – **The discussion began with a motion by Commissioner Butler to approve the following draft resolution. Commissioner Shaw seconded the motion.**

“WHEREAS, the algorithm used to calculate the current Value of Solar (VoS) rate was originally developed in 2006 in a study commissioned by Austin Energy. That algorithm by design was to be run annually and the result would be the adjusted VoS rate for the following calendar year;

WHEREAS, there was much public debate regarding the development of the algorithm used to calculate the VoS rate including what values would be used and what would be excluded. Both sides of the public debate eventually agreed the algorithm in the 2006 study was fair and should be adopted. As such, the algorithm was approved by city council in the 2012 rate case;

WHEREAS, Austin Energy undoubtedly treated the VoS algorithm as part of the overall residential rate design process and did not oppose its inclusion in the 2012 rate case. In fact, Austin Energy from the beginning treated the VoS as residential rate design and was the party who introduced it in the rate case. Evidence of such exists in the attached report produced by Austin Energy leading up to the 2012 rate case. As shown in the report, the payback period for a solar customer and the credit they receive on their bill, or in other words, what they pay for their electricity on their Austin Energy bill, is governed by the VoS rate;

WHEREAS, this year Austin Energy at its own behest commissioned a new study to revise and change the current VoS algorithm resulting in a 20% drop in the VoS rate. The algorithm revision was completed without any public input or direction from city council. Further, the full results of that study and the underlying report have not been produced by Austin Energy. Only a power point presentation has been released and it was not released until the day of its presentation to the EUC on October 21, 2013, providing EUC members no time to evaluate the abbreviated findings;

WHEREAS, from what can be gathered in the power-point presentation, the new algorithm is calculated differently from the current algorithm including by using the levelized cost of wholesale power prices on the ERCOT market from 2011 and 2012 and a price quote on natural gas futures contract from an undisclosed source. In calculating additional solar values the report fails to provide source data for calculating savings from (i) transmission and distribution losses, (ii) avoided environmental costs, and (iii) operations and maintenance costs of Austin Energy's traditional generation resource fleet;

WHEREAS, notwithstanding the validity of the study, the unilateral change by Austin Energy to the current VoS algorithm, which was approved by city council in 2012 in a publicly held rate case, results in a discriminatory rate change for certain Austin Energy customers who have adopted solar;

WHEREAS, the Electric Utility Commission believes the adoption of the changes to the VoS algorithm should be postponed until such time as a legal opinion can be had on whether or not Austin Energy has the unilateral authority without city council approval to change the methodology for how the residential solar rate is calculated;

WHEREAS, until such time as the legal opinion is obtained, and potentially a public hearing held, solar customers and solar professionals need clarity and regularity in the solar programs of Austin Energy; and

WHEREAS, the only way to provide solar customers and solar professionals clarity and regularity in the program is to allow customers to opt-out of the Value of Solar regime and return back to traditional net metering.

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 postpone the adoption of the 2013 residential solar rate design by Austin Energy and request until such time as a legal opinion can be received on whether or not Austin Energy has the unilateral authority or discretion to revise the methodology used to calculate the residential solar rate without public input and a hearing. FURTHER BE IT RESOLVED that beginning January 1, 2014 and from thenceforth, all residential solar customers be allowed the opportunity to opt out of the Value of Solar program and be able to return back to the standard net metering program utilized by Austin Energy prior to the Value of Solar rate adoption in 2012.”

Commissioner Butler amended the last paragraph to read: “The City Council and City Manager direct Austin Energy to immediately postpone the adoption of the 2013 residential solar rate design by Austin Energy and request until such time as a legal opinion ~~can be received~~ on whether or not Austin Energy...”

Vice Chair Hadden offered the following friendly amendment, which was accepted by Commissioner Butler: “The City Council and City Manager direct Austin Energy to immediately postpone the adoption of the 2013 residential solar rate design by Austin Energy and request until such time as there has been public input in a City Council hearing and...

Commissioner Rai offered an amendment to delete the last sentence of the resolution: ~~“FURTHER BE IT RESOLVED that beginning January 1, 2014 and from thenceforth, all residential solar customers be allowed the opportunity to opt out of the Value of Solar program and be able to return back to the standard net metering program utilized by Austin Energy prior to the Value of Solar rate adoption in 2012.”~~ Commissioner Butler reluctantly accepted.

The motion to approve the resolution, as amended, failed on vote of 3-1-3 with Commissioners Butler and Rai and Vice Chair Hadden voting in favor; Commissioner Heidebrecht voting against; and Chair Bernfeld and Commissioners Fath and Shaw abstaining.

11. Discussion and possible action regarding the collection of municipal franchise costs (Hadden, Bernfeld) – Commissioner Fath read the following draft resolution and moved approval. Vice Chair Hadden seconded the motion.

“WHEREAS, the Public Utility of Texas has no jurisdiction over rates within the City Limits of Austin and therefore cannot require that Austinites pay the franchise fees of ratepayers living outside of the City Limits; and

WHEREAS, almost all other franchise fees collected in the Austin City Limits are collected from specific customers, and not from the general revenue of the utility;

THEREFORE BE IT RESOLVED that the Electric Utility Commission recommends that the Austin City Council renegotiate franchise fees as soon as possible, to the extent that this is contractually allowed, with all outlying cities in its service territory so that the franchise fees are collected from ratepayers in these cities and not ratepayers living inside the Austin City Limits; and

FURTHER BE IT RESOLVED that the savings from these franchise renegotiations be used to lower Austin Energy electric rates.”

Following discussion and additional testimony from Paul Robbins, the motion passed on a vote of 4-1-2, with Commissioners Fath, Heidebrecht and Shaw and Vice Chair Hadden voting in favor; Commissioner Rai voting against; and Chair Bernfeld and Commissioner Butler abstaining.

FUTURE AGENDA ITEMS

12. Request agenda items, including information related to the Upcoming Procurements Report - Chair Bernfeld requested continued discussion of hedging and the value of solar in February.

ADJOURNMENT - Chair Bernfeld adjourned the meeting at 9:34 p.m. without objection.