

**NOTICE OF DECISION ON APPEAL
OF AN ADOPTED RULE**


ADOPTION DATE: July 13, 2021

By: Spencer Cronk,
City Manager

The City Manager has reached a decision regarding the appeal of Austin Energy Rule R161-21.13 by Conor Kenny on behalf of Civiltude Group and Capital A Housing. The adoption of the R161-21.13 was posted on May 14, 2021. An appeal of the adopted rule by Mr. Kenny on behalf of Civiltude Group and Capital A Housing was conveyed to the City Clerk on June 14, 2021 (Attachment 1). This Notice of Decision on an Appeal of an Adopted Rule is issued under Chapter 1-2 of the City Code.

After considering the rulemaking record, which includes the rule, the appeal, the response of City personnel (Attachments 2 and 3), and the Affordability Impact Statement (Attachment 4), the City Manager hereby affirms the rule and adopts the justification as outlined by City personnel in Attachments 2 and 3, which are hereby incorporated by reference.

REVIEWED AND APPROVED



Spencer Cronk,
City Manager

Date: 7.13.2021

OCC RECEIVED AT
JUL 13 '21 PM 12:15

This NOTICE OF DECISION ON APPEAL OF AN ADOPTED RULE is posted on the City Clerk's Notices webpage with the time and date stamp are on the front of the Notice.

ATTACHMENT 1

From: Conor Kenny
To: Clerk, City
Subject: Appeal of adopted Austin Energy rule R161-21.13
Date: Monday, June 14, 2021 11:33:32 PM

FILED IN THE OFFICE OF CITY CLERK
ON 14 DAY OF June 20 21
AT 11:33 AM
nr
CITY CLERK

*** External Email - Exercise Caution ***

Please notify the city manager that I wish to appeal the adoption of Austin Energy rule R161-21.13.

To Whom It May Concern,

Civiltude and Capital A Housing are leading Austin civil engineering and affordable housing development/consulting firms, respectively, responsible for hundreds of units of income-restricted housing either already built or in the pipeline. We are writing to request that changes to two sections, 1.3.12 and 1.10.3, be modified as specified below.

In Section 1.3.12, the Austin Energy Line Extension fee waivers are revised to no longer tied to the SMART housing fee waiver schedule, and now have their own independent schedule of fee waivers, with the substantially reduced level of fee waiver compared for developments that incorporate non-residential uses or use a mix of market-rate and income-restricted units.

We are concerned that any such reduction in the value of fee waivers should only be made in consultation with the city's Housing and Planning Department and the Housing and Planning committee of the City Council, as they negatively impact the ability of the SMART housing program to generate income-restricted units. The changes cite Austin City Council Resolution No. 20140612-057, but that resolution does not direct Austin Energy to reduce the value of affordable housing waivers. We are also not aware of any other direction from Council to reduce the value of the Line Extension Fee waivers.

The City of Austin has also taken recent efforts to harmonize affordable housing policies, and this takes us in the other direction by complicated fee waivers while also lowering their value. While the SMART Housing fee waiver ordinance could be revised, we request that the rule be modified so that Austin Energy continues to schedule Line Extension Fee waivers per the SMART housing ordinance and abandon the contrary revisions proposed for section 1.3.12.

Secondly, the changes in section 1.10.3 that expand the clear distance from powered wires from what appears to be the OSHA standard of 10' to a new, Austin Energy-specific clear distance of 15' and now the inclusion of neutral wires, which are not included in OSHA standards, should be modified to conform to national standards. We are unaware of Austin-specific conditions that would require a greater clear distance from national standards that have gone through a rigorous, evidence-based and public process. This expansion of the no-build area on a lot will severely constrain new infill development, especially development under the Affordability Unlocked program, which reduces setbacks.

Such a drastic departure from current and national standards merits a more rigorous process by Austin Energy that presents the justifying evidence. The AE response to comments that AE is making this change in response to service requests to de-energize lines for maintenance appears to be a massive reduction in potential housing in order to reduce an AE service issue

of undetermined size, and should not be made without substantial evidence of the cost to AE.

Power lines are omni-present in central Austin and this new rule will substantially reduce the amount of buildable area, thus reducing the number of affordable units that can be built in Austin, which is of particular concern as Council and the Housing and Planning Department look towards multi-story infill housing for our affordable housing needs. Indeed, one of our Affordability Unlocked developments, A at Lamppost, would have lost between 2-4 income-restricted homes under the changes currently proposed.

We note that AE's response to critical comments regarding the impact on buildable floor area was that taller poles can be installed. This is a simply infeasible cost for any small-scale or affordable project to bear, and will result in projects not getting built or ultimately put upon the city as affordable housing projects grow in cost. We believe such a transfer of costs from AE to the city's affordable housing funding programs should be undertaken with more consultation and evidence, and should at least offer waivers of costs for installing taller poles for affordable housing projects per the SMART Housing fee waiver schedule. We also note that for multi-family infill projects in the city core, installing a pole to clear a 3-5 story building is not physically possible, and thus this rulemaking would most impact affordable housing in some of our highest opportunity areas along transit corridors. Accordingly, we request that the rule be modified to adopt national OSHA standards for clear distance.

Respectfully submitted,
Conor Kenny
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Attachment 2

Austin Energy Response to the Appeal of Rule R161-21.13 (Design Criteria Manual)

Austin Energy Line Extension Cost Waivers for Affordable Housing

Summary and Requested Action

Rule No. R161-21.13 includes clarifications and enhancements to Austin Energy's Line Extension Policy (Section 1.3.12 of the Utilities Criteria Manual) to ensure that its line extension cost waivers for affordable housing developments meeting S.M.A.R.T. Housing Program affordability requirements are consistent with the City's requirement for full cost recovery of line extensions with exceptions for certain affordable housing. These clarifications include the following:

- Provides a 100% waiver of line extension costs associated with the residential portion of the project, including residential amenities, service and common areas, and accessory spaces, when 75% of the residential portion of a project meets the income-restricted affordability requirements of the City of Austin's S.M.A.R.T. Housing Program.
- Addresses the calculation of cost waivers for specific project circumstances such as mixed-use development, live/work units, and Planned Urban Developments (PUDs) to ensure waiver amounts are only applied to portions of development that meet affordability requirements.
- Clarifies that Austin Energy's fee waivers are limited to costs associated with standard service and, consistent with its existing policy, developers must pay in full any incremental costs associated with requests exceeding standard service (e.g., undergrounding of power lines when adjacent areas have overhead power lines).

Austin Energy provides line extension cost waivers for the percentage of the development that is certified as affordable. Line extension cost waivers are not a S.M.A.R.T. Housing waiver but are a standalone waiver administered by Austin Energy. Lack of clarity in the existing language on line extension cost waivers for affordable housing found in Austin Energy's Design Criteria Manual (Section 1 of the Utilities Criteria Manual) has periodically led to confusion as to the proper waiver amount and whether other S.M.A.R.T. Housing waiver percentages applied. The clarifying edits found in this rule change will help minimize confusion and provide improved certainty to developers on anticipated costs of their projects.

Austin Energy worked closely with Housing and Planning on this rule change, including reaching agreement on the appropriate threshold criteria for percentage of affordable housing units needed to receive a 100% waiver of residential project costs. This included several meetings held between the departments on this and related issues between 2019 and early 2021.

Requested Action: *Austin Energy respectfully requests the City Manager affirm the changes to Section 1.3.12 of the Utilities Criteria Manual found in Rule No. R161-21.13 without any further modification for the reasons stated above.*

Overview of Issue and Background Information

All land development projects, including affordable housing projects, incur costs for the extension of electricity service to the development. These out-of-pocket costs incurred by Austin Energy for contractors, labor, infrastructure, equipment, and materials are referred to as

line extension costs and can vary significantly depending on the existing electric infrastructure in the vicinity of the project and the specific needs of the development. Line extension costs are recovered through the City of Austin fee schedule as “line extension fees.” A review completed in late 2019 of 16 affordable housing projects that received a line extension cost waiver showed a range of total line extension costs per project prior to the waiver of \$25,000 to \$430,000 depending on the size of the project, type of service, number of transformers, and other factors. On a per housing unit basis, the range was \$50-\$2,000, with an average of \$618 per housing unit.

Prior to 2014, Austin Energy did not recover all of the costs of line extensions directly from developers. Rather, developers paid a portion of those costs with the remaining costs recovered through the electric utility rates borne by all Austin Energy ratepayers. This resulted in customers subsidizing developers and creating upward rate pressure due to amount of development being experienced in Austin Energy’s service area. A stakeholder and Electric Utility Commission-led effort resulted in a new policy of full line extension cost recovery from developers. In 2014, City Council passed Resolution No. 20140612-057 requiring Austin Energy to collect 100% of the line extension costs from the project developer with an exemption for “certain affordable housing.” The Council Resolution did not specify the calculation of the affordable housing cost waiver, leaving that up to Austin Energy to determine in support of “fair utility rate policies” and noting that “recovering only partial fees for line extensions shifts those costs to other ratepayers”.

Since Council passed this resolution in 2014, Austin Energy’s policy has been to waive line extension costs based on the percentage of the development that met the affordability criteria of the S.M.A.R.T. Housing Program. That is, if a project is 50% affordable housing, a waiver of 50% of the line extension costs is applied. Austin Energy seeks to continue this policy under this rule change while providing additional clarification on unique project circumstances such as mixed-used development, live/work units, and PUDs and also providing an increase in the waiver received by projects that meet a 75% threshold criteria of affordable housing units.

Rationale for Austin Energy’s Calculation of Line Extension Cost Waivers

When considering Austin Energy’s policy for applying line extension cost waivers to affordable housing it is important to balance affordable housing policy objectives with impacts to Austin Energy ratepayers, including lower income customers and customers located outside of City of Austin limits, who ultimately incur those costs. This is consistent with language found in Council Resolution No. 20140612-057 that states City Council “strives to create fair utility rate policies” and notes that “recovering only partial fees for line extensions shifts those costs to other ratepayers”. Austin Energy’s policy of applying line extension cost waivers in amounts proportionate to new affordable housing constructed is intended to achieve the following objectives:

- Operate consistent with the utility ratemaking principles of designing fair and equitable rates and minimizing cross-subsidization among ratepayers. The approach used by Austin Energy is similar to that used for Austin Water’s capital recovery fees subject to State law with regulatory oversight by the Public Utility Commission of Texas.

- Encourages developers to build more affordable housing units to receive a larger waiver of line extension costs.
- Minimizes the subsidization by Austin Energy ratepayers, including lower income and outside City of Austin customers, for market-rate housing units and commercial space.
- Minimizes the impact of line extension costs on the need for future rate increases and supports Austin Energy's ongoing ability to meet the City of Austin's affordability goals for electric rates.

The clarifications provided in this rule change ensure that its line extension cost waiver is defensible in regulatory proceedings while advancing the City of Austin's affordable housing objectives.

Engagement with the Housing and Planning Department and Other Stakeholders

Austin Energy staff worked closely with the Housing and Planning Department, specifically with staff in the former Neighborhood Housing and Development (NHCD) Department, to create a threshold condition of 75% affordable housing to receive a 100% line extension cost waiver for the residential portion of the development. This advances affordable housing waivers beyond where the program had been.

Austin Energy also reviewed these proposed changes with stakeholders representing housing development interests in Austin, consistent with the requirements of the City of Austin rules posting process and in the same manner followed by Austin Energy for all proposed changes to its Criteria Manual. Specifically for this rule change, Austin Energy conducted the following external stakeholder engagement activities in addition to opportunities for public review and comment during the rule notice process:

- January 12, 2021 – Stakeholder groups notified and invited to meeting to review proposed changes to Design Criteria Manual, including language changes related to the Line Extension Policy for Affordable Housing
- January 22, 2021 – Customer meeting held to discuss proposed changes to Design Criteria Manual
- February 9th, 2021 – Presentation in AGC meeting to review proposed changes, including language changes related to the Line Extension Policy for Affordable Housing.

No external stakeholder concerns were raised regarding the language changes to Austin Energy's Line Extension Policy prior to the concerns raised in the appeal received on June 14, 2021 from Civiltude and Capital A Housing, most likely because the new clarification benefits affordable housing through a 100% waiver for developments that are 75% or more affordable.

Response to Appeal from Civiltude and Capital A Housing

The appeal from Civiltude and Capital A Housing misrepresents the existing application of line extension fee waivers for S.M.A.R.T. Housing projects by Austin Energy and the anticipated impacts of the rule change. The appeal asserts that Austin Energy's line extension fee waivers

are “no longer tied to the S.M.A.R.T. Housing fee waiver schedule” with a “substantially reduced level of fee waiver compared for developments that incorporate non-residential uses or use a mix of market-rate and income-restricted units”. Neither of these statements are accurate. The application of line extension cost waivers by Austin Energy has never been tied to the S.M.A.R.T. Housing fee waiver schedule. Further, fee waivers for projects with substantial affordable housing (i.e., 75% affordable housing) will receive *increased* waivers compared to the application of Austin Energy’s policy for affordable housing absent the rule change. Fee waivers for projects that do not meet this threshold will remain at the same level as provided prior to incorporation of these calculation formula clarifications.

The rule change clarifies that market-rate housing units and commercial space are ineligible for line extension cost waivers, consistent with Austin Energy’s past practice, while creating a new threshold condition in which a project that includes 75% affordable housing receives a 100% waiver for the line extension costs attributed to the residential portion of the development. Counter to the claims made in the appeal, this will *increase* fee waivers for qualifying projects and further incent affordable housing development. Based on these considerations, Housing and Planning included neutral findings on the impact of these changes to affordable housing, development cost, and land use/zoning impacts on housing costs in their Affordability Impact Statement (AIS) associated with this rule change. The AIS states: “Minimal direct impacts are anticipated to Affordable Housing as a result of these amendments. The added specificity and descriptive calculation are anticipated to add clarity and consistency to implementation of this cost waiver for many affordable developments improving customer and staff experience.”

The appeal further states: “The changes cite Austin City Council Resolution No. 20140612-057, but that resolution does not direct Austin Energy to reduce the value of affordable housing waivers. We are also not aware of any other direction from Council to reduce the value of the Line Extension Fee waivers.” This statement incorrectly implies that the addition of this citation was intended to reduce the value of affordable housing waivers. This citation was included solely to ensure the correct citation to the enabling Council resolution for Austin Energy’s line extension waivers for affordable housing is provided. Existing language in Austin Energy’s Design Criteria Manual incorrectly includes a citation to the 2007 Council Resolution that initially established the S.M.A.R.T. Housing Program and associated waivers, but did not include Austin Energy’s line extension cost waivers within scope. Austin Energy’s line extension cost waivers were brought into scope in the 2014 resolution cited in the revised language found in the rule change.

Austin Energy Response to the Appeal of Rule R161-21.13 (Design Criteria Manual)

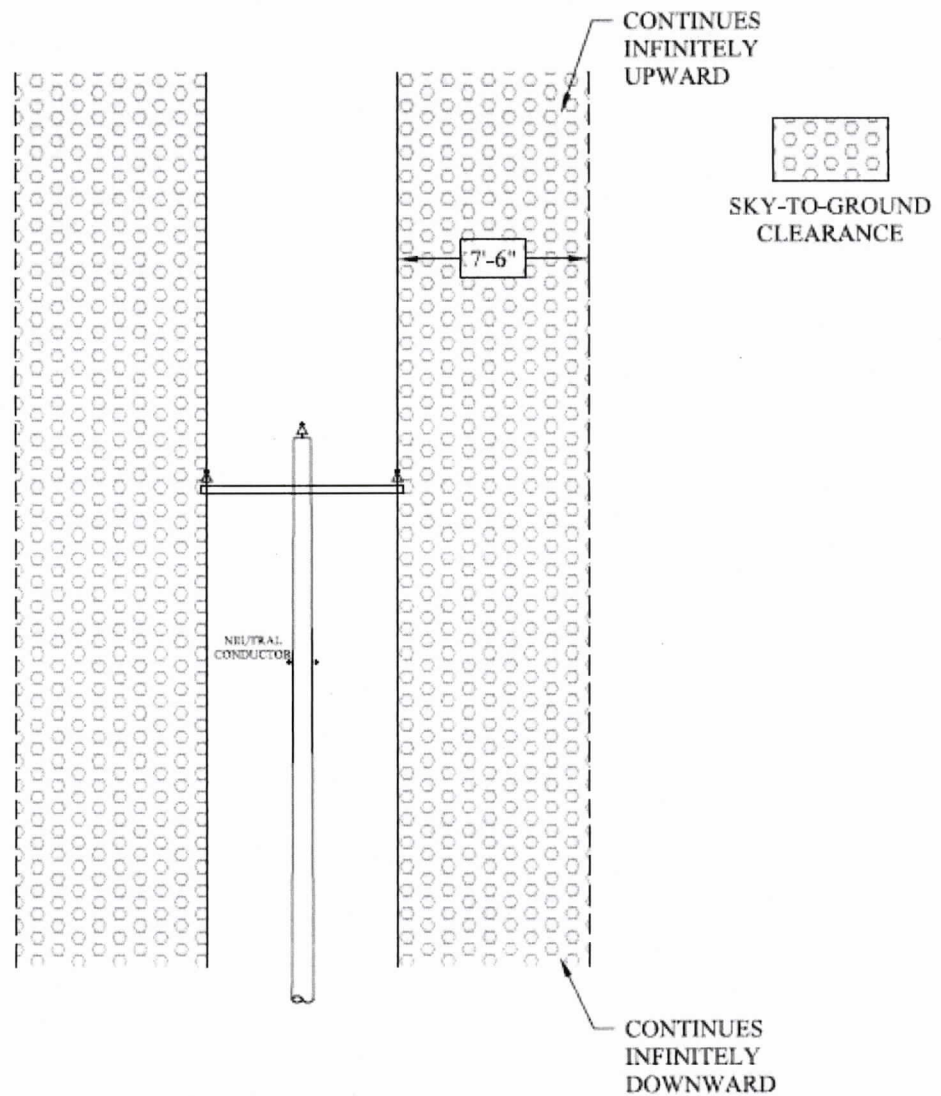
Austin Energy Permanent Clearances from AE Overhead Distribution Lines

Summary of 1.10.3

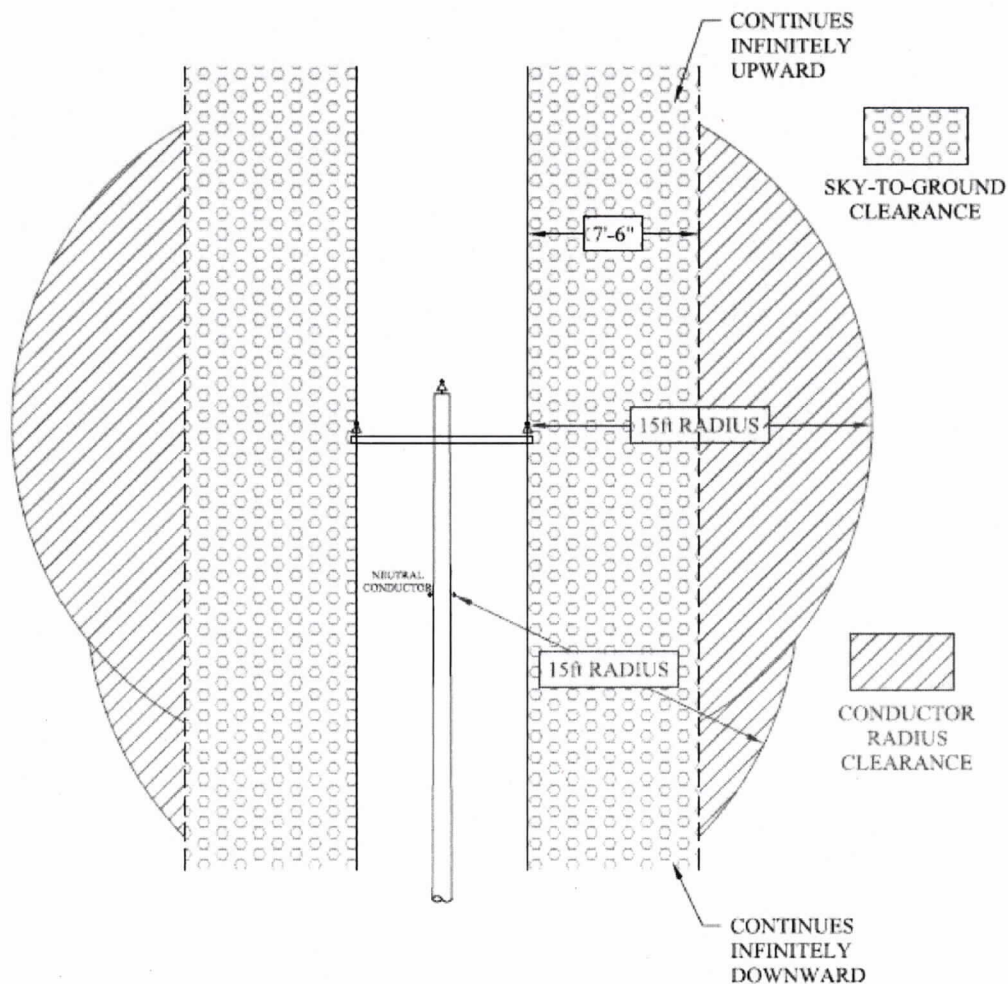
Overview of Issue and Background Information

- Background: Austin Energy adopted an increased clearance from 7.5ft sky-to-ground to include a 15ft radius around a primary-voltage (7.2kV) and neutral conductor.

Current Clearance



Proposed Clearance



Rationale for Austin Energy's Change in Clearance from Overhead Distribution Lines

- Reason for Change: The change is required to ensure customers have sufficient clearance from energized conductors to safely build and maintain their structures. Austin Energy has seen many instances of non-compliance to OSHA standards that requires unqualified workers to stay out of a 10ft-radius zone around energized primary conductor. One incident of non-compliance resulted in an electrocution fatality. Austin Energy is mindful that buildable space is limited and valuable, and we would not pursue this change unless absolutely necessary for safety of workers and the public.

Engagement with Stakeholders

- History of Engagement: Austin Energy, in compliance with the COA Rules Posting process, met with stakeholders to review the changes and received comments.
 - 1/12/21 - Customers notified and invited to DCM proposed changes meeting
 - 1/22/21 - Customer meeting and discussion of DCM proposed changes
 - 2/9/21 – AGC (Associated General Contractors, Austin Chapter) Meeting included a presentation regarding upcoming clearance update to attendees.
 - 5/3/21 - Received and replied to customer comments.

AE Response to Appeal of Clearance Increase

- **Comments and Responses:** Austin Energy responded to customers via online meetings and emails. Some responses were attached to the Notice of Adoption. Highlights included the following:
- Extra clearance reduces buildable property, especially on ADU's and developments that are creating more availability of affordable housing.
 - Austin Energy is mindful of the need for more housing within our city, including the need for more affordable housing. This is why Austin Energy waives line extension costs for affordable housing meeting SMART Housing certification requirements. However, development in proximity to high voltage power lines must be done safely. Austin Energy will continue to explore ways to remove barriers to income-restricted housing, and we look forward to continuing to examine this issue with stakeholders, particularly as related to ADUs.
 - How will architects/developers get specific measurements when planning and determining whether purchase of properties is feasible, not knowing the pole heights?
 - Customers will need to consult with Austin Energy on clearance requirements.
 - Austin Energy has created drawings that show clearance requirement examples for each pole height. Therefore, Austin Energy would only need to look up the pole height on GIS and provide the appropriate drawing to the customer.
 - What about line sag? Do builders and designers have to account for line sag in between poles?
 - Yes, line sag is a consideration, same as when customers need to meet OSHA requirements. Customers must use the same method that they use for determining OSHA when considering line sag. If customer is not already doing so, they may not be in compliance with worker safety requirements.
 - It will impact not just impact second-story structures. A single-story house has to move back an additional 3' to maintain the proposed line clearances.
 - It depends on the pole size and dimensions of the single-story building. A common 50ft pole is usually set about 8ft deep. The braces holding the primary line is usually set about 2ft below the top of the pole, and the neutral about 9ft-6in below that, leaving you with a ground level clearance to the neutral of about 30.5ft, and to the primary lines about 40ft. That puts the 15ft radius well above the eaves of most single-story buildings. However, we are aware that there are many variations of that in the field. For our next-typical 45ft pole, the measurements are typically 27.5ft ground-to-neutral and 35ft to the upper primary lines. Agreed that with your drawing showing 20ft to the neutral, and with the pole set 7.5ft back laterally from the structure to the upper primary lines (about 9ft laterally from the pole), the structure could be impacted by the 15ft radius from the neutral, depending on the exact structure dimensions.
 - It will significantly impact 2nd story structures. A 2-story house would need to be set back an additional 7'-3" to maintain the proposed line clearances.
 - It is correct that 2-story and taller structures have the most risk of being within an unsafe distance of energized conductors.
 - The idea that customers would pay to raise poles is not practical. It is time consuming for AE and the customers. It is expensive. The cost for a new pole is around \$4K from AE.

I would assume that taller poles cost even more. You can't replace just 1 pole. Likely it will be a 2 minimum. The cost to the client would be around \$10K in AE fees plus the cost for someone to manage and oversee this effort, for an additional \$2.5K. Housing is already expensive enough in the city of Austin. \$12.5K is a significant and meaningful cost.

- We are sympathetic to the cost impact on developers, but we have given much thought to this and consider that the safety hazard reduction warrants this increase in clearance.
- The proposed language for permanent clearances greatly exceeds the OSHA provisions. Most distribution lines are 7.2kV or 14.4kV. The required OSHA clearances while working near lines less than 50kV is either 10' for unqualified contractors or just 2' for qualified contractors.
 - 15' is required for structures in order to maintain 10' OSHA clearances for those performing work. A 10' clearance for the structure would provide no clearance for workers to allow construction and maintenance of structures within a safe (OSHA) working distance. Most persons working on these structures are not qualified to work near power lines and are thus unfamiliar with their particular hazards. The 15' permanent clearance is required to be consistent with 10' OSHA because the person as well as scaffolding, ladders, etc. must remain outside the 10'. If the building is at 10', that leaves no space for the worker.
- The proposed AE requirements appear to incorporate OSHA standards into the permanent clearance requirements. Aren't the OSHA standards related to working, not permanent facilities?
 - Yes, OSHA requirements are working clearance. Where Austin Energy is sometimes unable to insulate or de-energize lines to allow nonqualified persons to enter the approach distance to maintain or work on their structures, Austin Energy is providing the minimal space to assist customers in safely working on their structures within OSHA standards.
 - We are concerned about the number of electrical hazard notices we have placed and the ones we didn't catch that could have led to injuries or fatalities.
- What is the need that is driving this change? The 7'6" sky to ground clearances + the OSHA rules have been in place for a few years. Have there been any documented issues with what is currently written?
 - Yes, there have been many conflicts where customers were unable to safely construct and maintain structures near energized lines. In one instance, scaffolding erected by contractors using 2x4's to push the primary out of the way. Customer's contractors worked within the minimum approach distance which resulted in an electrocution fatality. We have issued 70 Notices of Electrical Hazard since 2017.
- If we get a permit application submitted and in review prior to May 14th, we are grandfathered in under the existing rules, correct? Or is it the June 2nd appeal date?
 - Yes, if you get permitted before May 14th then we will honor it under our existing code.
- What if it is already in permit review on May 14th? Normally, that is how the city handles it. If you get your application before rules go into effect that is the date that matters.
 - Correct, as long as you have something that shows when it was formally submitted.
- What are other utilities requiring in order to alleviate this concern?

- Utilities vary in their approach. Some have larger easements, which are essentially sky-to-ground clearances, and some have larger sky-to-ground clearances. Austin Energy benchmarked other utilities and determined that we are within range of what other utilities require in areas with a high density of development.

➤ **Additional Concerns Raised on Appeal of Permanent Clearance Rule:**

- Regarding the appeal reason asserting that the rule seeks to address an uncommon safety risk:
 - There have been numerous conflicts where customers were unable to safely construct and maintain structures near energized lines. Austin Energy has seen evidence of this hazard via electric hazard notices and a fatality. Any reduction to the proposed clearance would be a safety risk.
 - After a history of non-compliance to OSHA standards that require unqualified workers to maintain a ten-foot radius from primary conductors, including a number of Notices of Electrical Hazard, Austin Energy made these changes to ensure customers have sufficient clearance from conductors to install scaffolding and maintain their buildings.
 - The new rules explicitly require a 15-foot radius from primary and neutral conductors to allow for OSHA working clearance of ten feet by including five feet for scaffolding or other equipment needed to construct or maintain the siding of structures (Section 1.10.3 of the Utilities Criteria Manual).
- Regarding the appeal reason asserting that Austin Energy should focus on inspection, maintenance, and enforcement:
 - Austin Energy prioritizes inspection, maintenance, and enforcement as necessary and important components of safety.
 - For this reason, new projects go through site plan review. Enforcement happens on many levels, including Austin Energy employee enforcement, as well as enforcement by inspectors, and code enforcement officers.
 - Where Austin Energy is sometimes unable to insulate or de-energize lines such that nonqualified persons can enter the approach distance to maintain or work on their structures, Austin Energy seeks to ensure the minimal space is available to allow customers to safely working on their structures while complying with OSHA standards.
 - In addition to inspection, maintenance, and enforcement, it is imperative to increase permanent clearance in order to reduce the safety hazard to customers. While Austin Energy maintains lines, customers must be able to safely maintain their structures.
- Regarding the appeal reason asserting that the rule is inconsistent with other utilities and nationally recognized safety standards:
 - Other utilities have a variety of ways to alleviate this concern, including larger sky-to-ground clearances and larger easements, for example. Each utility is obligated to prioritize addressing safety concerns.
- Regarding the appeal reasons asserting that the rule conflicts with the City's stated housing and affordability goals; that the new rule is expensive and difficult for new construction to comply with; that Accessory Dwelling Units will be more difficult to build; that neighborhoods with alleys will be affected by this new rule; that missing middle housing will be more difficult to build; and that the new rules make it more difficult to build affordable housing via Affordability Unlocked:
 - Austin Energy is mindful of the need for more housing, including the need for more affordable housing, within the City of Austin. For this reason, Austin Energy waives line extension costs for affordable housing meeting SMART Housing certification requirements.
 - However, development in proximity to high voltage power lines must be done safely. The documented safety hazard warrants increased clearance.

- Regarding the appeal reason asserting that the rule amounts to a regulatory taking of private property:
 - The updated clearance requirement does not amount to a regulatory taking of private property under Section 212.904 of the Texas Local Government Code. Rather, Austin Energy has authority to regulate clearance under the Texas Utilities Code, which specifically refers to the NESC (National Electrical Safety Code).
- Regarding the appeal reason asserting that the new rule is expensive and difficult for new construction to comply with.
 - We are sympathetic to the cost impact on developers, but we have given much thought to this and consider that the safety hazard reduction warrants this increase in clearance.
- Regarding the appeal reason asserting that the new rule conflicts with the City's tree preservation efforts:
 - The requirements for trees vary from the requirements for structures.
 - Section 1.10.3-4 clarifies that some utility-compatible trees are allowed within a closer range to utility lines.
 - While Austin Energy recognizes many lots face numerous building constraints between trees and overhead lines, single-story structures with clearance issues may be resolved with taller poles.
 - Austin Energy Design can work with customers where appropriate to create needed clearance and troubleshoot solutions.
- The new rule calls for unnecessary clearances around the neutral line.
 - Neutral wires have the potential to carry the same electrical hazard as energized primary lines, so the same clearance for neutral wires should apply.
 - Many individuals working on structures near overhead power lines are not qualified to work near power lines and are thus unfamiliar with their particular hazards.
 - Including neutral wires is necessary to protect customer safety.
- Project Connect and the Austin Strategic Mobility Plan will be impacted by the new rule.
 - Austin Energy recognizes the challenges that safe clearance requirements present to affordable housing. However, development in proximity to high voltage power lines must be done safely.
 - Austin Energy is dedicated to removing barriers to affordable housing and is dedicated to working with stakeholders with the goal of attaining a balance between restricting barriers to housing and maintaining safe conditions. Austin Energy Design can work with customers where appropriate to troubleshoot solutions.

➤ ***Requested Action: Austin Energy respectfully requests the City Manager affirm the changes to Section 1.10.3 of the Utilities Criteria Manual found in Rule No. R161-21.13 without any modification in order to ensure public safety around energized lines. Austin Energy has seen evidence of this hazard via electric hazard notices and a fatality. Any reduction to the proposed clearance would be a safety risk, and the proposed clearance should have been adhered to prior to it being a requirement.***



Affordability Impact Statement
Housing and Planning Department
Affordable Housing Line Extension Waiver

Attachment 4

Proposed Regulation	This proposed amendment would amend the Utilities Criteria Manual Section 1.3.12 to clarify and specify the Austin Energy Affordable Housing waiver calculation and policy for recovering line extension costs from developers in accordance with Austin Energy's fee schedule and Council Resolution No. 20140612-057. A new exception would grant a 100% fee waiver to developments with at least 75% income-restricted affordable housing per SMART Housing guidelines. Additional guidance for affordable live/work units and PUDs is provided.
Land Use/Zoning Impacts on Housing Costs	<input type="checkbox"/> Positive <input type="checkbox"/> Negative <input checked="" type="checkbox"/> Neutral <i>No direct impacts to housing costs are anticipated as a result of these amendments.</i>
Impact on Development Cost	<input type="checkbox"/> Positive <input type="checkbox"/> Negative <input checked="" type="checkbox"/> Neutral <i>Minimal direct impacts are anticipated to development costs as a result of these amendments.</i>
Impact on Affordable Housing	<input type="checkbox"/> Positive <input type="checkbox"/> Negative <input checked="" type="checkbox"/> Neutral <i>Minimal direct impacts are anticipated to Affordable Housing as a result of these amendments. The added specificity and descriptive calculation are anticipated to add clarity and consistency to implementation of this cost waiver for many affordable developments improving customer and staff experience.</i>
Proposed Alternative Policy Language	As discussed with Chris Smith via email communications, HPD recommends addition of language to specify extension of fee waiver for accessory spaces in predominantly affordable developments (75% or greater). Proposed addition: <i>"For these projects, residential amenities, service and common areas, and accessory spaces are considered part of the residential portion of the development."</i>
Date Prepared	3/5/2021
Manager's Signature <u> Matt Dugan 3/8/2021 </u>	