

**AUSTIN ENERGY**  
**2022 BASE RATE REVIEW**

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**BEFORE THE CITY OF AUSTIN**  
**IMPARTIAL HEARINGS EXAMINER**

**NXP Semiconductors' Request to Participate**

NXP Semiconductors ("NXP"), pursuant to Procedural Guidelines Section B.2(b), files this Request to Participate in the above-referenced proceeding, respectfully showing as follows:

1. The name, address, and telephone number of the movants are:

NXP Semiconductors  
6501 William Cannon Drive West –OE31  
Austin, Texas 78735  
512-895-3599

2. The names address, and telephone number of NXP's authorized representatives are:

J. Christopher Hughes  
State Bar No. 00792594  
Chris Reeder  
State Bar No. 16692300  
Maria Faconti  
State Bar No. 24078487  
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All documents related to this proceeding should be served upon NXP's authorized representatives.

3. On April 18, 2022, the City of Austin's municipally owned electric utility, Austin Energy, made their Tariff Package available to the public, therefore indicating the beginning of this rate review process.

4. NXP owns and operates semiconductor fabrication facilities in the Austin Energy service territory and therefore receives electric service from Austin Energy. NXP is among Austin Energy's largest customers in terms of energy usage and demand, and pays a significant amount to the City of Austin for electric utility charges. As a significant employer and business, NXP also has a vital interest in the Austin community and economy, and actively participates in related community pursuits. This proceeding will affect these broader interests as well. Accordingly, NXP will be impacted by the Impartial Hearing Examiner's recommendation to Austin City Council as well as Austin City Council's final determination regarding rates. NXP therefore has a significant stake in this rate review and are intervening to assert their interests in the subject matter of this proceeding. Thus, NXP has a justiciable interest in the outcome of this proceeding and requests that it be granted an opportunity to be heard.

5. NXP has reviewed Austin Energy's Base Rate Filing Package and pursuant to the Procedural Guidelines Section B.2(b)(1)(E), believes the Impartial Hearing Examiner should address the issues found in **Attachment 1**. NXP reserves the right to raise additional questions and issues after further review and investigation of Austin Energy's application.

For the above stated reasons, NXP respectfully requests that the Impartial Hearing Examiner grant this Request to Participate and admit NXP as a participant in this proceeding for all purposes, and for such other relief to which it may be justly entitled.

Date: May 12, 2022

Respectfully submitted,

By: /s/ J. Christopher Hughes

J. Christopher Hughes

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**ATTORNEYS FOR NXP SEMICONDUCTORS**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of this document was served on all parties of record in this proceeding, in accordance with Austin Energy Instructions, on the 12th day of May,

/s/ J. Christopher Hughes

J. Christopher Hughes

## ATTACHMENT 1

AUSTIN ENERGY	§	BEFORE THE CITY OF AUSTIN
	§	
2022 BASE RATE REVIEW	§	IMPARTIAL HEARINGS EXAMINER

### NXP Semiconductors' List of Issues

NXP Semiconductors ("NXP"), propose the following issues be addressed in the Austin Energy rate proceeding. Though the following list is extensive, it is based on the List of Issues adopted by the Public Utility Commission (PUC) on November 16, 2012 in the Preliminary Order for PUC Docket No. 40627, *Petition by Homeowners United for Rate Fairness to Review Austin Rate Ordinance No. 20100607-055* (Docket 40627). In Docket 40627, Homeowners United for Rate Fairness, residential customers of the City of Austin d/b/a Austin Energy who were served outside the municipality, appealed Austin Energy's rates to the PUC. Docket 40627 was the first time the Commission reviewed the rates of a bundled municipally owned utility in the Electric Reliability Council of Texas (ERCOT) that has not elected to provide customer choice. Though Docket 40627 was ultimately settled, the Proposed Order and the List of Issues it contains should guide this proceeding as these would be the same issues the PUC would address upon an appeal. Therefore, NXP recommends the adoption of the List of Issues adopted by the PUC in Docket No. 40627 with additional issues that speak to items that are unique to this proceeding. The following List of Issues to be Addressed includes those issues adopted in Docket No. 40627 that are still relevant as well as other issues that are currently implicated. These issues are all germane issues that Parties should be free to question and that the Impartial Hearing Examiner should be allowed to consider when evaluating Austin Energy's Base Rate Filing Package and proposed rates. Additionally, these questions should be considered by the Austin City Council when they ultimately make their determination as to the proper rates to be set.

Though all the issues presented here are important, NXP perceives four issues to be of the utmost importance and therefore urges the Impartial Hearing Examiner to give extra consideration to these issues. Primarily NXP would like to focus the discussion on the following: (1) rate base and return; (2) rate design and tariffs; (3) fuel and wholesale market costs not recovered in the Power Supply Adjustment; and (4) expenses other than fuel and wholesale market. Though these four issues have been identified by NXP as the most important issues in this Proceeding, the

remaining issues are also important and need to be considered and discussed to provide for the best recommendation to the Austin City Council.

### **I. Issues to be Addressed**

The Impartial Hearing Examiner should address the following issues in order to make a final recommendation to the Austin City Council.

#### **Rate-change request**

1. What revenue requirement will give the utility a reasonable opportunity to earn a reasonable return on its net assets (“invested capital”) used and useful in providing service to the public in excess of its reasonable and necessary operating expenses?
2. What is the reasonable and necessary cost of providing electric service calculated in accordance with Public Utility Regulatory Act (PURA)?
3. What adjustments, if any, should be made to the utility’s proposed test-year data?
4. What adjustments, if any, are necessary to anticipate any changes in Austin Energy’s costs or revenues between 2019 and 2022 to determine the appropriate rates to be charged to contract customers in 2023?

#### **Invested capital – rate base and return**

5. What is the appropriate method to calculate the return component for the utility’s rates?
6. What other revenue sources besides rates does Austin Energy have? Were other revenue sources used to offset the requested base rate?
7. Is it necessary to calculate an effective return for the utility to be used for other purposes? If so, what is the appropriate effective return and what is the original cost of the property used and useful in providing service to the public at the time the property was dedicated to public use and the accumulated depreciation on that property that should be used to calculate this return?
8. Which method, cash-flow or debt service coverage, is more appropriate for determining just and reasonable base rates for Austin Energy? Explain why.

9. Under the cash-flow method, what are the utility's reasonable and necessary cash needs for the provision of utility services in the following categories:
  - A. Debt service (including principal and interest) for long-term and short-term debt;
  - B. Funding of reserve requirements on both long-term and short-term debt as set forth in revenue bond and debt ordinances;
  - C. Annual payments for transfers to the city's general fund at rates established by the utility's governing authority, to the extent such amounts are not recovered through other elements of the cost of service;
  - D. Capital lease payments and finance lease payments;
  - E. Annual payments to provide internally generated funds for construction, system improvements, and repair and replacement; and
  - F. Any other appropriate category?
10. Was all of the utility's invested capital that was the basis for any part of the utility's reasonable cash needs used and useful in the provision of utility service?
11. How, if at all, should the factors specified in PURA § 36.052 impact the utility's reasonable cash needs?
12. What is the appropriate debt-to-equity capital structure for the utility?
13. What assets are funded by equity and what assets are funded by bonds, used and useful in providing electric service? Were these assets prudently acquired?
14. What amount, if any, of the utility's invested capital used to determine the utility's reasonable cash needs has not previously been subject to a prudence review? If there are any such amounts, what are the amounts, for what facilities, property, or equipment was the investment made, and were the amounts prudently incurred? What amount, if any, of allowance for funds used during construction (AFUDC) is being transferred to invested capital in this proceeding? If AFUDC is being transferred, for what facilities and at what rate was the AFUDC accrued? If Austin Energy does not record AFUDC, does Austin Energy capitalize interest to invested capital?

15. Did any of the utility's invested capital arise from payments made to a non-electric utility operation or other City fund? If so, for each item or class of items, would the payment conform to the requirements in PURA § 36.058?
16. Is the utility seeking the inclusion of construction work in progress in its reasonable cash needs? If so,
  - A. What is the amount sought and for what facilities; and
  - B. Has the utility proven that the inclusion is necessary to the financial integrity of the electric utility and that major projects under construction have been efficiently and prudently planned and managed; or
  - C. For transmission investment required under PURA § 39.203(e), do conditions warrant the inclusion of construction work in progress for such transmission investment?
17. Does the utility have a self-insurance plan? If so, what is the target amount for the reserve account and is it appropriate to change that amount? In addition, what is the amount, if any, of any shortage or surplus for the reserve account for the plan and what actions, if any, should be taken to return the reserve account to the target amount?
18. Is the buy-back of solar energy properly treated? Is this properly an "avoidable cost"? If so, should all locally produced power be treated as an avoidable cost?
19. What is the reasonable and necessary amount, if any, of the utility's contingency reserves, property insurance reserves, contributions in aid of construction, customer deposits, and other sources of cost-free capital? How, if at all, should these amounts impact the utility's reasonable cash needs?
20. What regulatory assets, if any, should be accounted for in determining the utility's reasonable cash needs? If included, what is the appropriate treatment of such regulatory assets?
21. Are the number and funding level of Austin Energy's operating, contingency, rate stabilization and strategic reserves necessary and reasonable or should the metric be 150 days average cash on hand?

22. How should Austin Energy collect revenue to comply with the City of Austin's financial and reserve policies? Should Austin Energy collect revenue through rates or fund from excess revenue from operations?
23. What post-test-year adjustments for known and measurable changes to the utility's reasonable cash needs in its historical test-year data as a result of changes in its invested capital, if any, should be made?
  - D. Does each addition comprise at least 10% of the electric utility's requested rate base, exclusive of post-test-year adjustments and construction work in progress?
  - E. Will each plant addition be in service before the rate year begins?
  - F. Have the attendant impacts on all aspects of the utility's operations (including but not limited to, revenue, expenses and invested capital) been identified, quantified, and matched?
  - G. For any post-test-year adjustments, what future filings, if any, should the utility be required to make to verify that the plant was placed in service before the rate year begins?
  - H. What is the appropriate cut-off date for considering post-test-year adjustments?

**Expenses other than fuel and wholesale market expenses**

24. What are the utility's reasonable and necessary operations and maintenance expenses excluding fuel and wholesale market expenses addressed in issues 40-56?
25. Are all of the operations and maintenance expenses necessary and reasonable to provide electric service to Austin Energy's rate payers?
26. What are the reasonable and necessary administrative and general expenses?
27. What are the reasonable and necessary costs for shared services?
28. What are the reasonable and necessary costs for economic development?
29. What are the reasonable and necessary energy-efficiency program costs? Have these costs been properly allocated?



30. What are the utility's reasonable and necessary rate case expenses? Does this amount include any anticipated expenses to appeal this docket?
31. What is the reasonable and necessary amount for assessments and taxes, if any?
32. What is the reasonable and necessary amount for the utility's advertising expense, contributions, and donations?
33. What is the reasonable and necessary amount for nuclear decommissioning expenses, if any, how is it calculated? Should it be calculated in accordance with Public Utility Commission of Texas (PUC) rules?
34. Is the utility seeking approval of a self-insurance plan or changes to an existing plan? If so,
  - I. Is the coverage provided by the plan in the public interest?
  - J. Does the plan provide a lower-cost alternative to purchasing commercial insurance? Will ratepayers receive the benefits of the savings?
  - K. What is the reasonable and necessary target amount for the utility's self-insurance reserve account?
  - L. What is the reasonable and necessary amount of annual accruals to properly fund the self-insurance reserve account?
35. What are the reasonable and necessary post-retirement benefits, if any, calculated in accordance with PURA § 36.065 and 16 Tex. Admin. Code § 25.231(a)(1)(H)?
36. Has the utility made any payments for expenses to non-electric utility operations or other City funds? If so, for each item or class of items, does the payment conform to the requirements in PURA § 36.058?
  - M. Are costs appropriately assigned to the utility and its non-electric utility operations?
  - N. Has the utility met the standard of recovery of costs under PURA § 36.058?
37. Are any expenditures unreasonable, unnecessary, or not in the public interest, including but not limited to executive salaries, advertising expenses, legal expenses, penalties and interest on overdue taxes, criminal penalties or fines, and civil penalties or fines?

38. What post-test-year adjustments for known and measurable changes to historical test-year data for expenses, other than fuel and wholesale market expenses, if any, should be made? For any such adjustments, have all the attendant impacts on all aspects of a utility's operations (including but not limited to, revenue, expenses and invested capital) been identified with reasonable certainty, quantified and matched?
39. How does Austin Energy fund the District Cooling program? Are these district cooling plants self-sufficient or do they use cash from rates?

**Fuel and wholesale market**

40. Did Austin Energy's power supply adjustment (PSA) charge properly account for all reasonable fuel (including transportation and hedging) and wholesale market (including power sales, power purchases, revenues and expenses resulting from ERCOT market instructions or reliability directives, and ERCOT and Texas Reliability Entity (TRE) fees and charges) expenses and revenues?
41. Did the PSA charge properly account for over- and under-recoveries from prior periods?
42. Will the costs to serve commercial customers taking service under contracts with fixed base rates be properly addressed by continuing to charge those customers a PSA charge instead of a power supply adjustment?
43. Does Austin Energy's power supply adjustment properly account for all reasonable fuel (including transportation and hedging) and wholesale market (including power sales, power purchases, revenues and expenses resulting from ERCOT market instructions or reliability directives) expenses and revenues?
- O. What is the proper allocation of these amounts to rate classes?
- P. What is the proper line-loss factor to use for each rate class?
- Q. Does the power supply adjustment properly account for over- and under-recoveries from prior periods that used the PSA charge?
- R. Will the power supply adjustment properly account for over- and under-recoveries from prior periods that used the power supply adjustment? How will any over or under recovery be handled?

- S. Does the Power Supply Adjustment only include variable costs associated with producing and purchasing electricity and exclude all fixed operational costs?
44. How should Austin Energy's Power Supply Adjustment review be conducted? Should each cost component be included by line item?
45. Will Austin Energy's regulatory charge properly account for ERCOT and TRE fees and charges?
46. Were the utility's fuel and fuel transportation contracts prudently incurred and managed?
47. Were the utility's fuel inventories prudently managed?
48. Were the utility's hedging contracts prudently incurred and managed?
49. Was the utility's maintenance of its generation facilities prudently managed?
50. Did the utility take advantage of opportunities in the fuel and purchased-power markets to reduce costs, lessen price volatility, and enhance reliability?
51. Were the utility's purchased power and fuel contracts prudently incurred and managed?
52. Did the utility pay non-electric utility operations or other departments for fuel or purchased-power and, if so, did such payments for each item or class of items meet the requirements of PURA § 36.058?
53. Did the utility record revenues and expenses from off-system sales in a manner consistent with the Commission's rules?
54. Has the utility properly accounted for all fuel-related and wholesale market revenues?
55. What post-test-year adjustments for known and measurable changes to historical test-year data for fuel and wholesale market expenses and revenues, if any, should be made? For any such adjustments, have all the attendant impacts on all aspects of a utility's operations (including but not limited to revenue, expenses, and invested capital) been identified with reasonable certainty, quantified and matched?
56. In what ways has Austin Energy maximized the benefits of ERCOT's economic dispatch?

**Rate design and tariffs**

57. What are the just and reasonable rates calculated in accordance with PURA? Do the rates comport with the requirements in PURA § 36.003?
  - A. How has Austin Energy demonstrated that the requested test-year expenses and post-test-year adjustments are just and reasonable?
  - B. How has Austin Energy demonstrated that it has only included prudent, reasonable and necessary costs in the test-year revenue requirement calculations, including post-test-year adjustments?
58. What is the best mechanism to appropriately match costs and revenues for ratemaking purposes for the period rates will be effective?
59. Were Austin Energy's customer class realignments appropriate and reasonable?
60. What are the appropriate rate classes for which rates should be determined?
61. How did Austin Energy appropriately allocate Economic Growth and Redevelopment Services Office (EGRSO) costs to commercial and industrial customers?
62. What is the appropriate rate treatment for those commercial customers taking service under contracts with fixed base rates?
63. What are the appropriate billing and usage data for the utility's test year? What known and measurable changes, if any, should be used to adjust the test-year data? What changes, if any, are necessary to reflect abnormal weather conditions?
64. What are the appropriate allocations of the utility's revenue requirement to functions and rate classes?
  - T. What are the appropriate allocations of the utility's reasonable cash needs identified in response to issue 6 to functions and rate classes?
  - U. Are costs for shared services reasonably assigned between Austin Energy and other city departments?
  - V. How has Austin Energy demonstrated that its rates do not result in inter-class rate subsidies?

- W. What is the proper allocation of the fuel and wholesale market expenses and revenues to rate classes?
  - X. Has Austin Energy made any direct assignments to its large customers that should have been allocated instead of directly assigned, such as substations and/or transmission facilities?
65. Is the elimination of the municipal street lighting tariff and allocation of service area lighting to all other rate classes appropriate?
  66. What is the proper line-loss factor to use for each rate class?
  67. Are all rate classes at unity (*i.e.*, at cost of service)? If not, what, if anything, should be done to address the lack of unity?
  68. Do the rates, terms, and conditions in each of the utility's proposed tariffs comply with PURA?
  69. Does the utility have any existing rate riders that should be modified or terminated? What regulatory assets or other items are currently being recovered through rate riders?
  70. Does the utility have any discounted rates? If so, for which customers or customer classes do the discounts apply and do the discounted rates comply with PURA § 36.007?
  71. What are the appropriate just and reasonable cost-based rates for Austin Energy's State of Texas tariff?
  72. Do Austin Energy prices reflect those prices available in the competitive market of ERCOT? Should Austin Energy be required to unbundle its costs into Generation, Transmission and Distribution, and Retail functions to allow a comparison to prices in the competitive market of ERCOT?
  73. Would a prudent utility in Austin Energy's position implement a standby power tariff?
  74. Does Austin Energy appropriately account for its PUC approved transmission cost of service?