

**AUSTIN ENERGY
2022 BASE RATE REVIEW**

**§ BEFORE THE CITY OF AUSTIN
§ HEARING EXAMINER
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§**

**NON-AUSTIN ENERGY PARTICIPANTS' JOINT MOTION TO MODIFY
PROCEDURAL SCHEDULE**

Pursuant to the 2022 Austin Energy Base Rate Review Procedural Guidelines, Sections C. and F, the Independent Consumer Advocate, Texas Industrial Energy Consumers, Homeowners United for Rate Fairness, NXP Semiconductors, Paul Robbins, Coalition for Clean Affordable and Reliable Energy, Austin Regional Manufacturers Association, Solar Storage Coalition, Sierra Club, Public Citizen, and Solar United Neighbors (“Non-Austin Energy Participants” or “Participants”) respectfully move to modify the procedural schedule. Specifically, the Non-Austin Energy Participants request that the current deadlines for discovery and the Participants’ Position Statements each be extended by 14 days, along with a commensurate extension of all other remaining deadlines. If the motion is granted, the deadline for discovery would be extended to Wednesday, June 15, 2022, the deadline for the Participants’ Position Statements would be June 29, 2022, and all subsequent dates/deadlines in the procedural schedule would also be extended by 14 days. The Participants’ proposed modified schedule, redlined against the existing schedule, is attached to this motion as Exhibit A. Participants have conferred with Austin Energy regarding this proposed extension, and request that Austin Energy agree to this motion.

In support of the request, the Non-Austin Energy Participants state as follows:

1. On April 18, 2022, the City of Austin’s municipally owned electric utility, Austin Energy, made their Tariff Package available to the public, thereby initiating the 2022

base rate review process. In its filing, Austin Energy proposes, among other things, to increase base revenue by \$48 million through an overall base rate increase of 7.6%. Among other proposed changes, Austin Energy proposes to change its residential and business base rate structures by reducing the number of ratepayer tiers from five to three, and increasing the fixed customer charges for residential, business, and large and industrial customers. Austin Energy has also proposed a series of changes to its “Value of Solar” credit, including updates to the societal benefits calculation, changes to the community benefits charge, and modifications to the avoided cost methodology. Austin Energy also seeks to continue recovery of certain capital and operations and maintenance costs at the Fayette coal plant.

2. In support of its proposed rate changes, Austin Energy filed an approximately 753-page Base Rate Filing Package, which includes multiple technical and voluminous appendices.

3. Several parties representing diverse residential, business, and industrial consumers, and commercial and conservation interests, timely requested to participate and intend to file Position Statements: the Coalition for Clean Affordable and Reliable Energy, Victor Martinez, Paul Robbins, the Independent Consumer Advocate, Texas Industrial Energy Consumers, NXP Semiconductors, Homeowners United for Rate Fairness, Data Foundry LLC, 2WR, Austin Regional Manufacturers Association, National Instruments, Sierra Club and Public Citizen, Solar United Neighbors, and Solar and Storage Coalition.

4. Under the current procedural schedule, the deadline for discovery is June 1, 2022, and the deadline for the Participants’ Position Statements is June 15, 2022. Under the Procedural Guidelines, Austin Energy has 14 days to respond to requests for information.

5. According to the procedural guidelines, the current procedural schedule was

posted on April 18, 2022, contemporaneously with the submission of the Base Rate Filing Package and before any party had submitted a notice of intent to participate.

6. Discovery is ongoing, and several Participants have submitted detailed requests for information. Austin Energy has begun responding to those requests, providing technical and voluminous responses to many of them. The utility has objected to certain requests, however, and has raised concerns over producing information it considers confidential that is typically available to parties in rate cases. While the Participants are working with Austin Energy to resolve those issues, some of the utility's objection may need to be resolved by the Impartial Hearing Examiner. In other instances, Austin Energy's responses warrant reasonable additional, follow-up clarifications or requests.

7. In this proceeding, the City of Austin has a fundamental obligation to ensure the development of substantial evidence in the record that ultimately supports just and reasonable rates for each class of electric customer.

8. To that end, the Participants respectfully request that the Impartial Hearing Examiner extend the deadlines for discovery and the Participants' Position Statements by two weeks, until June 15 and June 29, 2022, respectively. The Participants further request that the subsequent procedural deadlines be extended accordingly.

9. Given the complex nature of Austin Energy's proposed rate changes, the technical and voluminous discovery responses thus far, and the need for additional discovery, a brief extension of the procedural schedule will serve the interests of City of Austin and consumers in developing a robust record that supports any ultimate rate change. It will also preserve Austin Energy's right to a timely hearing and decision.

10. Due to the technical complexity of Austin Energy's proposed rate changes,

the impact those changes will have on customer bills and the City's energy policies and goals, and the volume of information at issue, additional time is required to allow all of the Participants sufficient time to vet the proposed rate changes, fully develop and prepare their Position Statements, and provide the Impartial Hearing Examiner and the City Council with a robust evidentiary record upon which to base their decisions in this case. By comparison, the Public Utility Commission of Texas routinely provides parties with several months to develop the record and testimony in analogous base rate proceedings. Indeed, the schedule adopted in this proceeding provides Participants with significantly less time to develop their positions than under the schedule adopted in Austin Energy's 2016 base rate review. For example, under the revised schedule in the 2016 proceeding, Participants had 99 days to file their Position Statements after Austin Energy made its proposed tariff package available and initiated that review.¹ Under the current schedule in this base rate review, Participants only have 58 days to submit their Position Statements after Austin Energy made its proposed Tariff Package available to the public.

11. While Participants are not requesting an extension commensurate with the schedule adopted in the 2016 proceeding, a modest two-week extension of the procedural schedule will provide the Participants and their technical experts with time to develop a more fulsome record while also ensuring that Austin Energy's interest in a timely decision is not prejudiced.

12. The Participants further request that the subsequent procedural deadlines be extended accordingly, allowing Austin Energy and the Participants adequate time to conduct

¹ Austin Energy, Revised Procedural Schedule (Mar. 4, 2016) (<https://www.austintexas.gov/edims/document.cfm?id=249780>) (Showing that Austin Energy released its Tariff Package on January 25, 2016 and Intervenor Presentations were due May 3, 2016).

discovery on Participant Position Statements and file rebuttal or cross-rebuttal materials.

13. This case has no mandatory schedule, and the Participants submit that a brief 14-day extension will not materially delay the City of Austin's ultimate decision or the implementation of just and reasonable rates.

For the reasons discussed above, the Non-Austin Energy Participants respectfully request that the Impartial Hearing Examiner extend the deadline for discovery and the Participants' Position Statements by 14 days, until June 15, 2022, and June 29, 2022, respectively, and adopt the proposed modifications to the procedural schedule shown on Exhibit A. The Participants further request any additional relief to which they are entitled.

Dated this 27th day of May, 2022.

Respectfully submitted,

/s/ Joshua Smith

Counsel for Sierra Club and Public Citizen

/s/ John Coffman

Independent Consumer Advocate

/s/ Benjamin Hallmark

Counsel for Texas Industrial Energy
Consumers

/s/ Chris Hughes

Counsel for NXP Semiconductors

/s/ Roger Borgelt

Counsel for Homeowners United for Rate
Fairness

/s/ Ed Latson

Executive Director, Austin Regional
Manufacturers Association

/s/ Trey Salinas

Counsel for Coalition for Clean Affordable
and Reliable Energy

/s/ Paul Robbins

Paul Robbins

/s/ Hannah Mitchell

Solar United Neighbors

/s/ Eric Goff

Solar Storage Coalition

CERTIFICATE OF SERVICE

I, Joshua Smith, certify that a copy of the foregoing submission was served upon all parties of record in this proceeding on May 27, 2022, by electronic mail, as permitted by the presiding officer.

A handwritten signature in blue ink, appearing to read 'Joshua Smith', is positioned above a horizontal line.

Joshua Smith
Sierra Club Environmental Law Program

EXHIBIT A: Participants Proposed Procedural Schedule

| 2022 Austin Energy Base Rate Review Procedural Schedule | | | | |
|--|-------------------------------|--------------------|--|--|
| <u>Event</u> | <u>Date</u> | <u>Time</u> | | |
| File Rate Filing Package, Schedules, Narrative | Monday, April 18, 2022 | | | |
| Discovery Begins | Monday, April 18, 2022 | | | |
| Public Outreach Meeting (Commercial / Virtual) | Tuesday, April 19, 2022 | 4:30-5:30 | | |
| Public Outreach Meeting (Residential / Virtual) | Thursday, April 21, 2022 | 7:00-8:00 | | |
| Public Outreach Meeting (Residential / North Austin YMCA) | Tuesday, April 26, 2022 | 6:00-7:00 | | |
| Public Outreach Meeting (Residential / Virtual) | Thursday, April 28, 2022 | 12:00-1:00 | | |
| Public Outreach Meeting (Residential / Turner-Roberts Recreational Center) | Saturday, April 30, 2022 | 2:00-3:00 | | |
| Technical Conference No. 1 (Shudde Fath Conf. Room) | Thursday, May 5, 2022 | 9:00-12:00 | | |
| Public Outreach Meeting (Commercial / Virtual) | Wednesday, May 4, 2022 | 11:00-12:00 | | |
| Public Outreach Meeting (Commercial / Virtual) | Tuesday, May 10, 2022 | 6:30-7:30 | | |
| Public Outreach Meeting (Residential / Dove Springs Recreation Center) | Thursday, May 12, 2022 | 7:00-8:00 | | |
| Technical Conference No. 2 (Shudde Fath Conf. Room) | Wednesday, May 18, 2022 | 9:00-12:00 | | |
| Deadline for Requests to Participate | Wednesday, May 18, 2022 | | | |
| Discovery Deadline | Wednesday, June 15, 2022 | 12:00 | | |
| Participant Position Statements | Wednesday, June 29, 2022 | 12:00 | | |
| Discovery on Participant Position Statements Begins | Wednesday, June 29, 2022 | | | |
| Discovery on Participant Position Statements Ends | Friday, July 8, 2022 | 12:00 | | |
| Participant Cross Rebuttal | Wednesday, July 13, 2022 | | | |
| Discovery on Participant Cross Rebuttal Begins | Wednesday, July 13, 2022 | | | |
| Discovery on Participant Cross Rebuttal Ends | Wednesday, July 20, 2022 | 12:00 | | |
| AE Rebuttal | Wednesday, July 20, 2022 | 12:00 | | |
| Discovery on AE Rebuttal Begins | Wednesday, July 20, 2022 | 12:00 | | |
| Discovery on AE Rebuttal Ends | Friday, July 22, 2022 | 12:00 | | |
| Settlement Discussion (Shudde Fath Conf. Room) | July 25-26, 2022 | | | |
| Preliminary Conference (Shudde Fath Conf. Room) | Tuesday, July 26, 2022 | | | |
| Final Conference (Shudde Fath Conf. Room) | July 27-29, 2022 | | | |
| Participant Closing Briefs | Friday, August 5, 2022 | 12:00 | | |
| AE Closing Brief | Monday, August 15, 2022 | 12:00 | | |
| IHE Recommendation | Wednesday, September 14, 2022 | | | |
| Response to IHE Recommendation ("Exceptions") | Thursday, September 29, 2022 | | | |
| Council Work Sessions / Public Hearings (City Hall) | November 10 / November 17 | | | |
| Council Public Hearing (City Hall) | Thursday, December 1, 2022 | | | |
| Effective Date | Sunday, January 1, 2023 | | | |