

**AUSTIN ENERGY'S
2022 BASE RATE REVIEW PROCESS
AND PROPOSAL TO CHANGE BASE
ELECTRIC RATES**

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

**Independent Consumer Advocate's Motion to Compel
Responses to ICA 5-5 and ICA 5-6**

The Independent Consumer Advocate ("ICA") hereby moves that Austin Energy be compelled to produce answers to the ICA's discovery, specifically Requests for Information ("RFI") ICA 5-5 and ICA 5-6:

ICA 5-5: Provide the Excel schedules/workpapers to Mr. Murphy's filing on behalf of AE in PUC Docket No. 53235.

ICA 5-6: Please explain how (with reference to schedule/workpaper) the Cost of Service Study incorporates the \$7.6 million in additional return on AE's transmission invested capital referenced in Mr. Murphy's testimony in PUC Docket No. 53235.

On June 1, 2022, the ICA served its fifth set of data requests upon Austin Energy ("AE"). On June 13, 2022, AE served objections regarding RFIs ICA 5-5 and ICA 5-6 ("Objection").¹

AE and the ICA have engaged in discussions regarding these requests, and continue to negotiate, but have thus far reached no resolution that would allow the ICA to see the important data and information that is being requested. Therefore, this motion to

¹ For reference, AE's Objection document is Item 103 on the City Clerk's "Austin Energy 2022 Base Rate Review Asc" website.

compel is being submitted to preserve this dispute, and ultimately allow the ICA to review the requested information as part of its mandate to fully investigate the proposal to raise rates from the perspective of residential and small business customers.

AE claims that the data and information requested by ICA in this instance is not relevant, because the utility did not propose changes to its transmission rates in this base rate review matter, and thus any information that relates to its purported transmission cost of service should be off limits to discovery.² AE's objections to each RFI are essentially identical.

Despite the fact that the procedural rules (written by AE) do not mention the typical standard for discovery, it is universally understood that discovery questions are allowed, provided that they are *reasonably calculated to lead to* relevant or admissible evidence. This is the standard that the ICA urges the Independent Hearing Examiner ("IHE") to use in this matter. To merely say that the requested information is not relevant because it was not included in the rate base review package that initiated this base rate review is a circular and nonsensical argument. The ICA, and the other parties to this proceeding, should be allowed to search beyond the confines of the requested rate increase in order to clarify the boundaries between transmission costs and the costs that are at issue in the base rate review. If transmission costs cannot even be reviewed, then there is little assurance that AE properly allocated its costs between these categories of cost.

Furthermore, among other valid purposes, parties to this proceeding should be allowed to investigate AE's approach in other cases (including other Texas PUC proceedings) in order to determine if there are prior inconsistent statements, allocations,

² Summarizing AE's objections. See Objection document, pp. 1-2.

or other positions that could undermine the credibility of AE's approach in this base rate review.

AE also claims in its Objection statements that the requested information from PUC Docket No. 53235 is not even reasonably calculated to lead to the discovery of admissible evidence. The ICA strongly disagrees. Reasons the requested information could be relevant (or reasonably calculated to lead to relevant information) include the following:

(1) Transmission Costs and Revenues are indeed included in the rate filing package for purposes of identifying/separating that function (Work Paper D-1.2.8.1 and Work Paper D-1.2.8). Determining transmission costs and return filed by AE at the PUC may be relevant to determining whether the Cost of Service workpapers are consistent with the data underlying AE's rate request at the PUC. At the very least, inconsistencies should be identified (and any such differences should be explained by AE, as requested in ICA 5-6).

(2) Potentially the information requested is likely to be relevant to AE's cash flow requirement and internal generation of cash for construction, which are the subject of this base rate review.

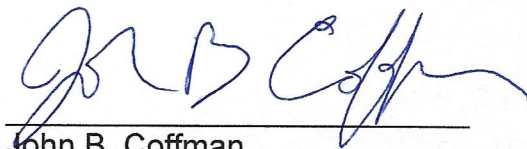
(3) Throughout the Cost of Service computer model relied upon by AE in this proceeding, costs are functionalized to either *production / transmission / distribution / customer*. A higher or lower functionalization to *transmission* will affect costs assigned to the other three functions. The data filed at the PUC may be relevant to evaluating the functionalization of costs. Without confidence as to the total functionalization of costs to

each of these categories, there will be little confidence that AE has properly accounted such costs without double-counting costs or otherwise “keeping two sets of books”.

The schedules and workpapers for Mr. Murphy’s testimony at the PUC (which is the subject of ICA 5-5) are electronic and were not uploaded to the PUC interchange in that PUC case, and thus cannot be obtained in any other way than an RFI to AE. This is type of information that would be routinely requested and reviewed in a PUC rate case.

WHEREFORE, the ICA respectfully requests that AE be directed to respond to ICA 5-5 and ICA 5-6 as soon as possible in order to allow the ICA’s review to continue.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "John B. Coffman", written over a horizontal line.

John B. Coffman
Independent Consumer Advocate

Date filed: June 16, 2022

Certificate of Service

I, John B. Coffman, hereby certify that a copy of this document was served on all parties of record in this proceeding on this 16th day of June, 2022 by electronic mail, facsimile, and/or First Class, U.S. Mail.

/s/ John B. Coffman
