

**AUSTIN ENERGY'S RESPONSE TO INDEPENDENT CONSUMER ADVOCATE'S
MOTION TO COMPEL**

Austin Energy files this Response to the Independent Consumer Advocate's ("ICA") Motion to Compel Responses to ICA 5-5 and ICA 5-6, and respectfully shows as follows:

I. PROCEDURAL HISTORY

The ICA served his Fifth Request for Information ("RFI") to Austin Energy on June 1, 2022.¹ Austin Energy reviewed these RFIs and determined that two requests sought irrelevant information. Counsel for Austin Energy and the ICA conducted good faith negotiations that failed to resolve issues related to ICA 5-5 and 5-6, so Austin Energy filed an Objection on June 13, 2022. The ICA filed a Motion to Compel Austin Energy to respond to ICA 5-5 and 5-6 on June 16, 2022. Pursuant to the 2022 Austin Energy Base Rate Review Procedural Guidelines § F(2)(h), this Response to the ICA's Motion to Compel is timely filed.

II. RESPONSE TO ICA'S MOTION TO COMPEL

Austin Energy objected to ICA 5-5 and 5-6 because these requests seek information that is neither relevant to the issues presented nor is reasonably calculated to lead to the discovery of admissible evidence in the 2022 Austin Energy Base Rate Review. The ICA is correct that "discovery questions are allowed, provided that they are *reasonably calculated to lead* to relevant or admissible evidence."² Austin Energy requests that the Impartial Hearing Examiner sustain Austin Energy's Objection to ICA 5-5 and 5-6 for the following reasons.

a. ICA 5-5 Seeks Irrelevant but Publically Available Information

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

Austin Energy objected to this Request because it seeks information that is neither relevant to the issues presented in this matter nor is reasonably calculated to lead to the discovery of

¹ The ICA's Fifth Request for Information was submitted to the Rate Review Administrator after 12:00 pm on May 31, 2022, so it is considered submitted the following business day, on June 1, 2022.

² Independent Consumer Advocate's Motion to Compel Responses to ICA 5-5 and ICA 5-6 (June 16, 2022).

admissible evidence. Pursuant to the 2022 Austin Energy Base Rate Review Procedural Guidelines § F(1)(a), “[d]iscovery is limited to relevant information that is not unduly prejudicial. In other words, Participants can ask for information related to the Rate Filing Package.” Pursuant to the 2022 Austin Energy Base Rate Review Procedural Guidelines § A(1)(e), the scope of the 2022 Austin Energy Base Rate Review is limited to reviewing Austin Energy’s base rates. Issues related to Austin Energy’s rates or costs that are not in base rates are beyond the scope of the 2022 Austin Energy Base Rate Review. Public Utility Commission of Texas (Commission or PUC) Docket No. 53235, *Application of City of Austin dba Austin Energy for Interim Update of Wholesale Transmission Rates*, concerns Austin Energy’s transmission cost of service. Pursuant to the 2022 Austin Energy Base Rate Review Procedural Guidelines § A(1)(e), “issues that are outside the City of Austin’s jurisdiction such as transmission cost of service are outside the scope of the 2022 Austin Energy Base Rate Review.” Therefore, the Excel schedules/workpapers to Mr. Murphy’s filing on behalf of AE in PUC Docket No. 53235 are outside the scope of the 2022 Austin Energy Base Rate Review. All of the information needed to develop the return component for Austin Energy’s base rates is in Austin Energy’s Base Rate Filing Package. Therefore, the Excel schedules/workpapers to Mr. Murphy’s filing on behalf of Austin Energy in PUC Docket No. 53235 have no relevance to the 2022 Base Rate Review. Thus, this request seeks information outside the scope of this proceeding.

Notwithstanding Austin Energy’s relevancy objection, Austin Energy has informed the ICA that the information requested in ICA 5-5 is already publically available and accessible. All of the requested information was filed on the PUC’s Interchange in PUC Docket No. 53235 and can be downloaded and viewed in native format. Therefore, Austin Energy expects that the ICA will withdraw its Motion to Compel a response to ICA 5-5.

a. ICA 5-6 Seeks Irrelevant Information

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.

Austin Energy objected to this Request because it seeks information that is neither relevant to the issues presented in this matter nor is reasonably calculated to lead to the discovery of admissible evidence. Pursuant to the 2022 Austin Energy Base Rate Review Procedural Guidelines § F(1)(a), “[d]iscovery is limited to relevant information that is not unduly prejudicial. In other

words, Participants can ask for information related to the Rate Filing Package.” Pursuant to the 2022 Austin Energy Base Rate Review Procedural Guidelines § A(1)(e), the scope of the 2022 Austin Energy Base Rate Review is limited to reviewing Austin Energy’s base rates. Issues related to Austin Energy’s rates or costs that are not in base rates are beyond the scope of the 2022 Austin Energy Base Rate Review. PUC Docket No. 53235, *Application of City of Austin dba Austin Energy for Interim Update of Wholesale Transmission Rates*, concerns Austin Energy’s transmission cost of service. Pursuant to the 2022 Austin Energy Base Rate Review Procedural Guidelines § A(1)(e), “issues that are outside the City of Austin’s jurisdiction such as transmission cost of service are outside the scope of the 2022 Austin Energy Base Rate Review.” Therefore, the transmission invested capital referenced in Mr. Murphy’s testimony in PUC Docket No. 53235 is outside the scope of the 2022 Austin Energy Base Rate Review. All of the information needed to develop the return component for Austin Energy’s base rates is in Austin Energy’s Base Rate Filing Package. Therefore, the transmission invested capital referenced in Mr. Murphy’s testimony in PUC Docket No. 53235 has no relevance to the 2022 Base Rate Review. Thus, this request seeks information outside the scope of this proceeding.

To explain further, the determination of the return component of transmission invested capital is different in an interim TCOS proceeding, such as PUC Docket No. 53235, and a comprehensive review of TCOS. Following either methodology for the determination of the return component, Austin Energy’s Cost of Service Study reflects an appropriate amount for the return component of the revenue requirement. Austin Energy’s Cost of Service Study in the 2022 Base Rate Review follows the methodology that Austin Energy uses in a comprehensive TCOS proceeding. Under that methodology, the return component developed using the cash-flow methodology can be seen by reviewing the return assigned to the transmission function in the Cost of Service Study filed in this Base Rate Review. The transmission functional revenue requirement in the Cost of Service Study for this Base Rate Review includes updated amounts for transmission O&M expenses, and an appropriate share of A&G expenses assigned to the transmission function. Additionally, transmission invested capital in the Cost of Service Study for this Base Rate Review includes an appropriate share of general plant and other rate base items appropriately allocated to the transmission function.

Austin Energy’s interim wholesale transmission revenue requirement in PUC Docket No. 53235 is appropriately developed following a different methodology. The return component is developed following the imputed rate of return methodology provided in the Commission’s rate

filing package. For the purpose of an interim update to TCOS, invested capital that falls outside the narrow definition provided in the transmission rules governing interim updates, such as incremental general plant and other rate base items that have changed since the last full TCOS, are frozen at the level from the Test Year in the last full TCOS. Similarly, transmission O&M expense amounts and A&G expense amounts are not updated in interim TCOS proceedings.

Consequently, both the Cost of Service Study in this proceeding and the schedules in PUC Docket No. 53235 reflect an appropriate amount of return on transmission. However, because by Commission rule the methodologies for the determinations of the revenue requirements differ between an interim TCOS proceeding and a comprehensive TCOS proceeding, the individual components of the revenue requirements under the two different methodologies will not match. Therefore, the information requested in ICA 5-6 is not necessary and is irrelevant to the analysis needed for the purpose of this Base Rate Review.

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, Austin Energy requests the Impartial Hearing Examiner sustain Austin Energy's Objection to ICA 5-5 and 5-6. Austin Energy also requests any other relief to which it may show itself justly entitled.

Respectfully submitted,

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**ATTORNEYS FOR THE CITY OF AUSTIN
D/B/A AUSTIN ENERGY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this pleading has been served on all parties and the Impartial Hearing Examiner on June 21, 2022, in accordance with the 2022 Austin Energy Base Rate Review Procedural Guidelines.



THOMAS L. BROCATO