

**ERRATA TO NXP SEMICONDUCTORS, INC.'S POSITION STATEMENT AND EXHIBITS**

COMES NOW NXP Semiconductors, Inc. (“NXP”),<sup>1</sup> to submit the following Errata to the Position Statement and Exhibits of NXP Semiconductors (“Errata”).

On June 22, 2022 NXP timely filed its Statement of Position and Exhibits. The following errata are necessary to correct minor errors in the Statement of Position and Exhibits and are also reflected in the attached Exhibits A (redline pages) and B (clean pages). None of the changes reflected herein constitute new argument or analysis not included in the original filing:

- Page 2 – Table of Contents, add section numbering to Part II
- Page 3, following Exhibit NXP-JWD-6 – add footnote a
- Page 3, following Exhibit NXP-JWD-7 – add footnote b
- Page 18, Line 15 – add footnote 5a
- Page 26, Line 16 – add clarifying statement regarding Exhibit JWD-2
- Page 42, Line 18 – Page 43, Line 3 – delete text
- Pages 47-62 – add pagination and section numbering
- Page 55, Line 19 – add footnote 14a
- Page 61, Line 9 – add footnote 18a
- Page 181 – add page for workpapers statement

For hearing purposes, NXP will introduce its Statement of Position incorporating the “clean pages” attached herein, such that the exhibit position statement will reflect the changes made in this Errata. The redline pages will not be submitted into evidence.

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<sup>1</sup> NXP USA, Inc. is participating in this proceeding as NXP Semiconductors, Inc.

Respectfully submitted,

By: /s/ 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 24th day of June, 2022.

/s/ J. Christopher Hughes  
J. Christopher Hughes

**EXHIBIT A**  
**(Redline)**

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## **EXHIBITS**

NXP-JWD-1	List of Testimony, Affidavits, and Expert Reports
NXP-JWD-2	Austin Energy's Base Review, Appendix C-178, WP F-6.1
NXP-JWD-3	Austin Energy's Response to TIEC 1-3
NXP-JWD-4	Austin City Council Ordinance No. 20120607-055
NXP-JWD-5	Austin Energy's Supplemental Response to NXP Third RFI 3-11
NXP-JWD-6	Adjusted Cost of Service Study <sup>a</sup>
NXP-JWD-7	NXP Revenue Distributions Using NXP's COSS <sup>b</sup>
NXP-CEL-8	Resume and List of Testimony Filed
NXP-CEL-9	PUC Non-IOU TCOS – RFP Instructions

<sup>a</sup> This model could be created by revising the following components of AE's model: Schedule G-6 Cell G23 changed to "1NCP Primary"; WP F-6.1 Excel Row 168, rows F through U to Add Average Demand Portion of AED/4CP Calculation based on 1CP Load Factor; WP F-6.1 Excel Row 169, rows F through U to Add Excess Demand Portion of AED/4CP Calculation based on 1CP Load Factor; WP F-6.1 Excel Row 170, rows F through U to Calculate "AED/4CP (1CP Load Factor)" allocation factor as sum of rows 168 and 169; Schedule G-6 Excel Cell G8 changed to "AED/4CP (1CP Load Factor)" as calculated above; Schedule G-4 Excel Row 159, Excel Columns G through N, change values to equal those shown on Excel Row 517 within same Schedule; Schedule G-6 Excel Row 154, Excel Columns G through N, reallocate values based on depreciation expense shown on Row 159; Schedule G-5 Excel Row 159, Excel Columns G through N, change values to equal those shown on Excel Row 517 within same Schedule; Schedule G-6 Excel delete values in Excel cells F55 and F56 to eliminate the redistribution of costs associated with the Service Area Street Lighting Service rate class.

<sup>b</sup> See *id.*

1 Based on the above, I recommend that AE's production demand-related costs be  
2 allocated using the average and excess with the average four summer month CP  
3 demands (A&E w/4CP).

4 **Q. PLEASE EXPLAIN THE A&E W/4CP DEMAND ALLOCATION**  
5 **METHODOLOGY.**

6 A. The average and excess methodology considers both average demands and peak  
7 demands of the customer classes. The average demand is usually determined using  
8 customer class energy usage and the excess demand is typically determined using the  
9 customer class critical monthly CP demands. For AE, the use of the four summer  
10 month CP demands reflects the importance AE's summer peaking system.

11 The average demand is determined by dividing the class's annual energy usage  
12 by 8760 hours. The excess demand is determined by subtracting the average demand  
13 from the class's 4CP demand. The average demand component is weighted by the  
14 system load factor with the excess demand weighted by one minus the system  
15 load factor. <sup>5a</sup>

16 **Q. WHY DO UTILITIES AND REGULATORY AGENCIES UTILIZE THE A&E**  
17 **W/4CP METHODOLOGY?**

18 A. It is used for allocating costs to retail customer classes. The methodology uses the  
19 critical monthly system peak demands during the summer months. The average demand  
20 component also ensures that costs are allocated to classes, such as outdoor lighting, that  
21 may not be on during the times of system CP demands.

<sup>5a</sup>The system load factor should be calculated using AE's peak demand for the test year rather than the average 4CP demand used by AE.

1 A. AE's own system planning, and demand side management programs continue to  
2 reflect the importance of AE's demands during the summer. On August 12, 2019,  
3 Austin's Electric Commission ("EUC") created the Resource Plan Working Group  
4 ("Working Group") to provide recommendations and strategic goals to Austin  
5 Energy and the Austin City Council on technical and market issues to meet  
6 environmental efficiency and affordability goals established by the Austin City  
7 Council. On March 5, 2020, the Working Group finalized the "Austin Energy  
8 Resource, Generation and Climate Protection Plan to 2030" Vision Plan based  
9 on analysis of the risks, costs and opportunities to meet the future demand for  
10 electricity. The AE Vision Plan states "Austin Energy will maintain an energy  
11 supply portfolio sufficient to offset customer demand while eliminating carbon and  
12 other pollutant emissions from its electric generation facilities as rapidly as  
13 feasible within the limitations set by the Austin City Council"he Vision Plan further  
14 highlights that the retirement of the Decker Prairie Steam gas-fired units was  
15 delayed until after the summer peaks of 2020 and 2021 .<sup>10</sup> The Vision Plan also  
16 states that "Austin Energy will sponsor energy efficiency and demand response  
17 initiatives aimed to reduce overall system load and reduce peak demand."<sup>11</sup>  
18 AE's 2022 Austin Energy Base Review, Appendix C-178, WP F-6.1 documents the  
19 fact that the largest AE Coincident Peaks and AE Peaks Coincident with the ERCOT  
20 Peaks occur during the four summer months of June through September of the test  
year (October 2020 - September 2021) and is being provided as my Exhibit JWD-2.

19 Q. DO YOU HAVE ANY ADDITIONAL COMMENTS REGARDING AE'S  
20 PROPOSED USE OF A 12CP ALLOCATION FACTOR FOR DEMAND-  
RELATED PRODUCTION COSTS?

<sup>10</sup> See Austin Energy's Response to NXP 1-6

<sup>11</sup> See Austin Energy's Response to NXP 1-6

1   **Q.    HAVE YOU EVER SEEN A UTILITY PROPOSE A SIMILAR CLASS**  
2   **REVENUE DISTRIBUTION METHODOLOGY?**

3   A.    No. While steps 2 and 3 are not unusual, I have never seen AE's step 1 used by any  
4       other utility.

5   **Q.    HOW DOES AE SUPPORT STEP 1 OF ITS REVENUE DISTRIBUTION**  
6   **METHODOLOGY?**

7   A.    AE claims step 1 is needed "to align all customer classes in comparison to cost of  
8       service." However, for some customer classes, this step moves them further from cost  
9       of service in opposition to AE's stated goal of moving class revenues towards cost of  
10      service. For example, the Secondary Voltage Greater Than 300 kw customer class's  
11      current revenues are already above the class's cost of service. By increasing the class's  
12      current revenues by the overall percent revenue increase needed of 7.6%, this class is  
13      moved further above its cost of service. However, as stated on page 75 of the Base Rate  
14      Filing Package, AE wants to disregard the system movement in step 1 so that their  
15      methodology can be described as moving halfway to cost."

16

17   **Q.    WHAT IS YOUR RECOMMENDED CLASS REVENUE DISTRIBUTION?**

18   A.    ~~Based on my adjusted cost of service study, I recommend a different revenue~~  
19   ~~distribution methodology to limit the base rate percentage increases for some customer~~  
20   ~~classes. I recommend limiting the increase to any customer class to the residential~~  
21   ~~increase should be capped to avoid rate shock by capping the residential increase by~~  
22   ~~approximately 8%". This still leaves a significant revenue shortfall from these capped~~



~~1 customers classes that needs to be recovered from the other customer classes. As a~~  
~~2 result, the revenue decreases for the customer classes that should receive significant~~  
~~3 decreases were limited to 0.2% decreases.~~

4 As shown on Table 2 above, the current rate revenues of some customer classes are  
5 substantially below their cost of service. Moving those customer classes' revenues to  
6 cost service would result in large percentage increases. I propose moving these  
7 customer classes 1/3 of the way to their cost of service in order to alleviate those  
8 impacts. This will still result in some of the customer classes receiving significant  
9 subsidies from the other customer classes which are currently over-recovering their  
10 cost of service. The remaining customer class subsidies after the 1/3 move to cost of  
11 service will need to be assigned to the other customer classes. I propose to do this by  
12 proportionately spreading to the other classes the "net" over-recovery (their cost of  
13 service over-recovery less the subsidies) based on their cost of service so that some of  
14 the subsidy they currently pay is reduced. These classes will also receive small rate  
15 decreases.

16 This revised revenue distribution is provided as my Exhibit NXP-JWD-7/ As shown on  
17 this exhibit, the residential customer class will still receive a substantial subsidy under  
18 my proposed revenue distribution.

19 **Q. DO YOU HAVE ANY OTHER COMMENTS REGARDING AE'S**  
20 **DISTRIBUTION OF ITS PROPOSED REVENUE INCREASE AMONG THE**  
21 **CUSTOMER CLASSES?**

# TESTIMONY OF CHUCK E. LOY

1 **PART II**

2 **I. INTRODUCTION**

3 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

4 A. My name is Charles E. Loy. My business address is 919 Congress Avenue, Suite 1110,  
5 Austin, Texas 78701.

6 **Q. PLEASE OUTLINE YOUR FORMAL EDUCATION.**

7 A. I received a Bachelor of Business Administration degree with a concentration in accounting  
8 from the University of Texas at Austin. I am a Certified Public Accountant in the State of  
9 Texas.

10 **Q. WHAT IS YOUR PRESENT POSITION?**

11 A. I am a Principal for GDS of GDS's office in Austin, Texas.

12 **Q. PLEASE STATE YOUR PROFESSIONAL EXPERIENCE.**

13 A. Prior to joining GDS in June of 2001, I was General Manager of Rates and Regulatory  
14 Affairs of AquaSource, Inc. ("AquaSource"). AquaSource is a wholly-owned water and  
15 wastewater subsidiary of DQE, Inc., a publicly traded electric utility located in Pittsburgh,  
16 Pennsylvania. My responsibilities included the organization, preparation, and management  
17 of various rate filings and proceedings on rate requests and other regulatory matters in the  
18 twelve states where AquaSource provided water and wastewater utility service. Prior to  
19 joining AquaSource, I was a Manager of Regulatory Affairs for Citizens Utilities  
20 Company, Public Services Sector ("Citizens"). At Citizens, I was responsible for various  
21 regulatory matters, including rate cases for water/wastewater, gas, and electric services in  
22 eight states. Prior to joining Citizens, I was a Rate Manager with Southern Union Gas  
23 (now Texas Gas Service Company) where I prepared rate filings, cost of service studies,

1 and testimony for their various operations in Texas and Oklahoma. My utility regulation  
2 experience began with Diversified Utility Consultants as a Senior Analyst, where I assisted  
3 in the review and analysis of various gas, electric, and water company rate filings. My  
4 professional resume is included as Exhibit NXP-CEL-8.

5 **Q. HAVE YOU TESTIFIED BEFORE ANY REGULATORY COMMISSIONS?**

6 A. I have testified many times before regulatory commissions. I have submitted testimony  
7 before the following state regulatory authorities: the Public Utility Commission of Texas  
8 (“PUC” or the “Commission”), the Texas Commission on Environmental Quality, the  
9 Texas Railroad Commission, El Paso Public Utilities Board, the Arkansas Public Service  
10 Commission, the Arizona Corporation Commission, the Connecticut Department of Public  
11 Utility Control, the Delaware Public Service Commission, the Federal Energy Regulatory  
12 Commission, the Hawaii Public Utilities Commission, the Idaho Public Utilities  
13 Commission, the Illinois Commerce Commission, the Indiana Regulatory Commission, the  
14 New Jersey Board of Public Utilities, the Public Service Commission of Montana, the New  
15 Mexico Public Service Commission, the New York Public Service Commission, the Public  
16 Utilities Commission of Ohio, the Oklahoma Corporation Commission, the Pennsylvania  
17 Public Utility Commission, the Public Service Commission of South Carolina, and the  
18 West Virginia Public Service Commission. A list of regulatory proceedings in which I  
19 have presented expert testimony is provided as Exhibit NXP-CEL-8.

20 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

21 A. I am appearing and providing testimony on behalf of NXP.  
22

## **II. PURPOSE OF STATEMENT OF POSITION**

**Q. WHAT IS THE SUBJECT OF YOUR STATEMENT OF POSITION IN THIS PROCEEDING?**

A. I was engaged to review and analyze the portions of AE's base rate filing package related to the proposed revenue requirements. In particular, I have set forth recommendations concerning AE's application of the Cash Flow Methodology in calculating the return component of its revenue requirement.

**Q. WOULD YOU PLEASE SUMMARIZE THE RESULTS OF YOUR REVIEW AND ANALYSIS?**

A. Based on my review and analysis, I have reached the following conclusions and recommendations regarding AE's application of the Cash Flow Methodology for the return component of its total revenue requirement:

1. I do not agree with the presentation of the cash flow return calculation. I believe it should follow more closely the Non-IOU Transmission Cost of Service Rate Filing Package instructions utilized at the PUC. As a result of applying a corrected methodology, the revenue requirement stays the same, but the imputed rate of return changes and more closely reflects the actual cash flow return requested in AE's rate filing package. This results in a higher imputed rate of return of 13.8% but does not change the revenue requirements.

2. I disagree with the 50% assumption used to determine the Internally Generated Funds for Construction ("IGFFC") level. I recommend a percent level that falls within the City's financial policy and closer to the City's actual average utilization of IGFFC over the last three years of 22%.

1           3. The level of General Fund Transfer ("GFT") requested is unsupported and its  
2           inclusion in rates does not concur with longstanding rate-making principles. As an  
3           alternative to AE's proposal I recommend a GFT based on AE's budgeted amount.

4           4. My recommended adjustments result in a reduction to revenue requirements of  
5           \$21.79 million, or 1.8%.

6  
7       **III. ADJUSTMENTS TO AE'S CASH FLOW METHOD RETURN REQUEST**

8       **Q. PLEASE DESCRIBE AE'S USE OF THE CASH FLOW APPROACH TO**  
9       **DETERMINE ITS PROPOSED REVENUE REQUIREMENT AND RETURN.**

10      A. The cash flow approach is intended to provide adequate revenue requirements for a MOU  
11      to meet its financial needs for ongoing operations and construction of plant. For an  
12      investor-owned utility ("IOU"), reasonable and necessary test year operating costs plus a  
13      return on the capital investment found to meet the "prudence" standard set forth in statute  
14      and Commission rule, based on the application of the utility's weighted average cost of  
15      capital to investment in rate base, is used to determine the level of revenue required to  
16      attract reasonably cost capital and allow the utility to provide continuous and reliable  
17      service. A MOU, having no equity investors, must use a different methodology for this  
18      determination. In this case, AE has chosen the cash flow approach.

19      Under the cash flow method, a MOU's revenue requirement is determined by the sum of  
20      operating and maintenance costs, debt service requirements, cash outlays from revenues  
21      for capital additions, working capital requirements, bond defeasance costs, and payments  
22      to the City for services provided and/or to secure the payment of bonds, less interest income  
23      and other income from miscellaneous services the utility provides. These cash needs are

generally met by three main funding sources: base rates collected from customers, contributions and payments to the utility from specific customers to fund plant, and the proceeds of debt issuances. The PUC has allowed Non-IOWs to utilize the Cash Flow Method of determining returns. The specific methodology is set forth in the Non-IOW Transmission Cost of Service Rate Filing Package

**Q. PLEASE DISCUSS AE'S USE OF THE CASH FLOW APPROACH TO DETERMINE RETURN.**

A. AE's proposed cash flow methodology calculation consists of the following components as it appears on Schedule C-3 of AE's rate filing package: Debt Service, Non-Nuclear Decommissioning, GFT, and IGFFC. These items are reduced by Depreciation and Amortization, Interest Income, and Contributions in Aid of Construction ("CIAC").

**Q. DO YOU AGREE WITH HOW AE APPLIED THE CASH FLOW METHODOLOGY?**

A. While I believe the overall revenue requirement calculated by AE is computationally correct, I disagree with the presentation of the cash flow return. AE includes \$146,765,700 in depreciation and amortization ("D&A") expense in the calculation of its revenue requirement on Line 7 of schedule A since D&A expense is not reflected in AEs rates it is not a source of cash and does not affect cash flow. Therefore it should not be included in the calculation of a revenue requirement utilizing a cash flow return. But applying it in the manner AE has proposed departs from that rationale. Accordingly, AE should remove the amount of D&A expense from its calculated return to arrive at the computationally correct revenue requirement.

AE's approach leads to a significant understatement of the true cash flow return that is being requested by the City, and would be embedded in the rates AE is proposing in this proceeding. As shown below on Tables 1 and 2, the actual amount of cash flow being requested by the City is \$344,034,416, not the \$197,268,716 shown on Line 29 of Schedule A.

**Table 1**  
**IOU Cash Flow Using AE Revenue Requirement**

1	Requested Revenue Requirement (excludes D&A & before Pass-throughs applied)	\$1,337,575,011
2	Total Expenses (Includes D&A & Pass through costs)	\$1,140,306,295
3	Cash Flow Return Requested (Line 1 minus Line 2)	\$197,268,716
4	Add Back Non-Cash D&A	\$146,765,700
5	Cash Flow Method Reflected In AE Request	<b>\$344,034,416</b>

**Table 2**  
**Alternative PUC Non-IOU Cash Flow Return Method**

	<u>AE Request</u>	<u>Adjust</u>	<u>As Adjusted</u>
	(a)	(b)	(c)
<b><u>Overall Revenue Requirement</u></b>			
1 Total Expenses	\$1,140,306,295	(\$146,765,700)	\$993,540,595
2 Requested Return (Calculated below)	\$197,268,716	\$146,765,700	\$344,034,416
3 Total Rev Req (before Pass-throughs)	<u>\$1,337,575,011</u>		<u>\$1,337,575,011</u>
<b><u>Cash Flow Return Calculation</u></b>			
4 Debt Service	\$143,115,070		\$143,115,070
5 Non-Nuclear Decommissioning	\$8,000,000		\$8,000,000
6 General Fund Transfer	\$121,000,000		\$121,000,000
7 Internally Generated Funds for Construc	\$119,817,642		\$119,817,642
8 Depreciation & Amortization	(\$146,765,700)	\$146,765,700	\$0
9 Interest and Dividend Income	(\$4,270,316)		(\$4,270,316)
10 Contribution in Aid of Construction	<u>(\$43,627,981)</u>		<u>(\$43,627,981)</u>
11 Total Return	<u>\$197,268,716</u>		<u>\$344,034,416</u>
12 Rate Base	\$2,488,130,769		\$2,488,130,769
13 Rate of Return - Line 11/Line 12	<b>7.9%</b>		<b>13.8%</b>



1 **Q. TABLE 2 ABOVE SHOWS A TRUE PROPOSED RATE OF RETURN OF 13.8%.**  
2 **DO YOU HAVE ANY ADDITIONAL COMMENTS ON THIS AMOUNT?**

3 A. I would note that the imputed 13.8% is a cash flow return and is not comparable to a return  
4 that would be granted to a regulated IOU, as it excludes the effect of depreciation and  
5 amortization (as noted above). However I believe that this measure is a better indicator of  
6 the amount of the cash that AE is actually requesting, above that which is needed to fund  
7 ongoing non-capital operations.

8  
9 **IV. ADJUSTMENTS TO AE'S CASH FLOW RETURN COMPONENT**

10 **A. *Internally Generated Funds for Construction (IGFFC)***

11 **Q. PLEASE EXPLAIN THE SIGNIFICANCE OF INTERNALLY GENERATED**  
12 **FUNDS.**

13 A. Internally generated funds are the amount of revenue collected from customers that is used,  
14 in conjunction with funds received from issuances of debt, for construction, improvements,  
15 and replacements. The AE financial policy on IGFFC characterizes it as an equity  
16 contribution. Capital policy No. 14 found in Appendix B of the rate filing package states:

17 "Capital projects should be financed through a combination of  
18 cash, referred to as pay-as-you-go financing (equity contributions  
19 from current revenues), and debt. An equity contribution ratio  
20 between 35% and 60% is desirable."

21 **Q. HOW DID AE COMPUTE THE IGFFC?**

22 A. The relevant schedule shows that AE is using a cash funding assumption of 50%. AE's  
23 analysis looks at two prior years, 2019 and 2020, plus the 2021 test year to develop the  
24 known and measurable amount of \$119.8 million.<sup>12</sup>

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<sup>12</sup> See Schedule WP C-3.3.1, Line 69

**Q. DO YOU AGREE WITH AE'S IGFFC ADJUSTMENT?**

A. I agree with the overall methodology for determining the IGFFC amount but do not agree with the 50% equity funding assumption.<sup>13</sup> The AE workpaper shows that in FY2019, FY2020, and FY2021 the percentage of construction that was debt-funded was 85.1%, 53.2%, and 46.2% respectively, resulting in a three-year average of 67.2%. CIACs provided an average of 11% of funding over the same time period. Therefore, the actual proportion of capital costs that was funded through base rate revenues only averaged 22% during the last three years.

**Q. DOES THE 50% IN EQUITY FUNDING INCLUDE CIAC?**

A. No. Referencing the total Cash to Fund Capital Spending shown on the workpaper the total equity (i.e. non-debt) funding that would be provided by customers ranges between 54% and 59% for the FY2019 through FY2021 period, averaging 56%, or close to the top of the range provided in AE's financial policy guidance above.<sup>14</sup>

**Q. WHAT IS YOUR RECOMMENDATION FOR THE CASH FUNDING ASSUMPTION TO BE USED IN THE CALCULATION OF IGFFC?**

A. I recommend that the cash funding assumption within AE's model be set to 35%, which would reduce the IGFFC included in AE's cash flow return from \$119,817,642 to \$96,960,744 as shown in Table 3 below. This would result in an overall equity contribution to fund construction of 43%, well within AE's financial policy range.<sup>14a</sup>

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<sup>13</sup> See Schedule WP C-3.3.1

<sup>14</sup> See Schedule WP C-3.3.1, Line No. 66

<sup>14a</sup> This recommendation results in a change of AE's model, WP C-3.3.1 Excel Cell D75 changed to 35%

Table 3

Adjustment to Internally Generated Funds for Construction

IGFFC Assuming 50% Equity Contribution As Proposed	\$ 119,817,642
IGFFC Assuming 35% Equity Contribution as Recommended	96,960,744
Recommended Adjustment	(22,856,898)

**B. General Fund Transfer (GFT)**

**Q. DOES YOUR PUC METHODOLOGY CASH FLOW RETURN COMPUTATION ALLOW AE TO MAKE GENERAL FUND TRANSFERS ?**

A. Yes, within certain limits. The PUC’s instructions (Exhibit NXP-CEL-9) in the Non-IOU Transmission Cost of Service Rate Filing Package available online on the PUC’s website states:

“...for municipal utilities, annual payments for transfers to the City’s general fund at rates established by the municipal utility’s governing authority, to the extent such amounts are not recovered through other elements of the TCOS...”<sup>15</sup>

The instructions indicate the GFTs should be a reimbursement for the costs of services related to the provision of *providing utility services* or costs that could otherwise be recovered in the TCOS. Many MOUs receive administrative services such as human resources, financial and accounting, office maintenance, etc. from their host Cities. These costs will be reimbursed to the City via transfer to the City’s General Fund.

**Q. DOES THE CITY OF AUSTIN PROVIDE ADMINISTRATIVE SERVICES TO AE?**

<sup>15</sup> Accessible at [HTTPS://WWW.PUC.TEXAS.GOV/INDUSTRY/ELECTRIC/FORMS/RFP/NON\\_IOU\\_TCOS\\_INSTR.PDF](https://www.puc.texas.gov/industry/electric/forms/rfp/non_iou_tcoss_instr.pdf)

1 A. Yes. AE includes over \$62 million of charges from City Services.<sup>16</sup> These expenses were  
2 included with other O&M expenses rather than the Cash Flow Method return calculation.  
3 The AE base rate filing package states: “Austin Energy transfers funds to the City for its  
4 share of services such as the City Fleet Department, Law Department and Administrative  
5 Support and Communications and Technology Management”.

6 **Q. DOES THE GFT IN THE CASH FLOW RETURN CALCULATION REFLECT**  
7 **CITY OF AUSTIN SERVICES TO AE FOR THE PROVISION OF UTILITY**  
8 **SERVICE?**

9 A. No. The “Austin Energy 2022 Base Rate Filing Package” at page 34, states the following  
10 regarding the amount of GFT in the return calculation:

11 “Consistent with standard practice among MOUs and Texas  
12 Government Code subsection 1502.059, Austin Energy transfers a  
13 percentage of revenues to the City. Austin Energy makes transfers  
14 to the City’s general fund in lieu of paying franchise fees, taxes,  
15 dividends; and also in lieu of earning a return on investment. The  
16 transfer payment from Austin Energy to the City is invested directly  
17 back into the local community, rather than flowing to outside  
18 investors, which is a benefit to residents in Austin and those in  
19 surrounding communities.”

20 AE’s description does not indicate how the specific \$121 million amount was determined;  
21 it only indicates that the GFT charge represents a proxy for the taxes, dividends, and returns  
22 or costs it is not required to pay. The GFT charge received will be invested back into “the  
23 local community rather than flowing to outside investors.” Essentially, the GFT as  
24 supported by AE appears to be for an unspecified non-utility purpose and its inclusion in  
25 rates would not follow rate-making standards common to the electric utility industry.

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<sup>16</sup> See Schedule WP D-1.2.5

1 Additionally, AE provides no support for its contention that the GFT is invested directly  
2 back into the local community.

3 **Q. THE AE FILING PACKAGE DESCRIPTION ABOVE CITES TEXAS**  
4 **GOVERNMENT CODE SUBSECTION 1502.059. DOES THIS PROVISION**  
5 **ALLOW FOR GENERAL FUND TRANSFERS THAT ARE UNSPECIFIED?**

6 A. The code cited by the Austin package is as follows:

7 Texas Gov. Code – Sec. 1502.059, Transfer of Revenue to General  
8 Fund

9 Notwithstanding Section 1502.058 (Limitation on Use of Revenue)  
10 (a) or a similar law or municipal charter provision, a municipality  
11 and its officers and utility trustees may transfer to the  
12 municipalities general fund and may use for general or special  
13 purposes revenue of any municipality owned system in the amount  
14 and **to the extent authorized in the indenture, deed of trust, or**  
15 **ordinance providing for and securing payment of public**  
16 **securities issued under this chapter or similar law. (emphasis**  
17 **added)**

18 My understanding of the above code sections, based upon my knowledge as an expert in  
19 the field of municipal utility regulations, rates, and funding, is that it relates to payments  
20 to a City's general fund authorized by bond ordinances that secure the payment of bonds  
21 and other expenses related to securities, bond defeasance, or a cash infusion to help the  
22 City meet its debt coverage covenants. There is no mention of these types of payments in  
23 AE's description, however. In a complaint of a water utility against the City of Austin that  
24 is instructive here, the former Texas Water Commission (whose rate regulatory functions  
25 have been reassigned to the PUC) held that municipal utility transfers to a city's general  
26 fund are acceptable if they reimburse the city for administrative expenses. However,  
27 ***unspecified*** transfers to the general fund would be justifiable only if they are needed to

1 provide the city with adequate debt service coverage.<sup>17</sup> In addition, there is a similar finding  
2 in SOAH Docket No. 473-14-5138.WS, PUC Docket No. 42857.<sup>18</sup> Page 35 of the Proposal  
3 for Decision states the following:

4 “The M1 Manual also states that payments made to a  
5 municipality’s general fund should reimburse the general fund for  
6 the necessary cost of goods or services required by the water utility  
7 to provide water service. Following this reasoning, the general  
8 transfer should not be used to set Petitioners’ rates when the cost  
9 has not been shown by the evidence to be related to providing  
10 service to Petitioners. Otherwise, ratepayers outside the City’s  
11 limits are being charged rates that include an allocated portion of  
12 the 8.2% transfer into the City’s general fund, which may then be  
13 used to provide general services to the City’s residents.”

14 **Q. THE DECISIONS YOU CITE ABOVE ARE RELATED TO WATER UTILITIES,**  
15 **NOT ELECTRIC, AND WERE BROUGHT BY CUSTOMERS OUTSIDE OF**  
16 **AUSTIN CITY LIMITS. WHY DO YOU BELIEVE THIS IS RELEVANT TO**  
17 **ELECTRIC CUSTOMERS INSIDE THE CITY LIMITS WHO ARE CITIZENS OF**  
18 **THE CITY OF AUSTIN?**

19 **A.** Though the decisions cited above disallowed GFT because they were not being used for  
20 utility service to outside customers, the same principles apply to utility service for  
21 customers inside city limits as well. Both decisions were made under the guidance of the  
22 same ratemaking principles that are applicable to this request, that the cost of providing  
23 utility service should be the basis of rates. AE’s rate filing package explicitly states that the  
24 transfer is not for utility services, and nowhere indicates how the funds will be used “for  
25 and securing payment of public securities” to assist the City. If this procedure is to follow

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<sup>17</sup> Pet. Ex. 5 at 25; JJJ-5 at 949-50; TWC Docket No. 7144-M, *In the Matter of Complaints of Springwoods Municipal Utility District, et al. against the City of Austin*, Findings of Fact Nos. 40 and 41.

<sup>18</sup> *Petition of the North Austin Municipal Utility District No. 1, Northtown Municipal Utility District, Travis County Water Control And Improvement District No. 10, and Wells Branch Municipal Utility District From The Ratemaking Actions of the City of Austin and Requests for Interim Rates In Williamson and Travis Counties.*

1 longstanding ratemaking principles founded on economic standards common to the utility  
2 industry, then based on the evidence provided the GFT should properly be excluded.

3 **Q. AE INDICATES THE INCLUSION OF THE GFT IS “STANDARD PRACTICE**  
4 **AMONG MOUS” AND IMPLIES THIS IS PERMITTED UNDER TEXAS**  
5 **GOVERNMENT CODE SEC. 1502.059.**

6 A. I am not qualified to challenge whether the GFT as proposed is properly following the law,  
7 only its reasonableness as applied under longstanding ratemaking principles. I have  
8 difficulty reconciling what is stated in Texas Government Code Sec. 1502.059 and AE’s  
9 justification for GFT inclusion in rates. Regardless, it has been established in PUC  
10 decisions that transfers just like AE’s GFT as proposed should not be recovered in rates  
11 assessed to its outside customers. The City’s unspecified investments in the local  
12 community is hardly a dividend to customers. And for the AE customers located outside  
13 the city limits, AE fails to describe any benefit at all for their monthly “investment” in the  
14 City of Austin. As proposed, it appears that the GFT is a backdoor tax on customers both  
15 outside and inside the City of Austin’s city limits. Many communities in Texas would  
16 require a vote from informed citizens on a \$121 million tax.

17 **Q. WHAT IS THE IMPACT OF THE GFT ON THE BASE RATES AS PROPOSED?**

18 A. The GFT represents about 18% of requested base rate revenues. Under AE’s proposed rate  
19 design, I estimate NXP will pay about \$7.3 million of the GFT. The average bill impact of  
20 the GFT on AE residential customers, both inside and outside the City limits, is estimated  
21 at about \$139.00 per customer annually. This reflects about \$8.7 million paid by outside  
22 residential customers assuming an estimated total amount to the residential class of \$62  
23 million.

1 **Q. YOU INDICATED EARLIER THAT YOU ARE PROPOSING AN ALTERNATIVE**  
2 **RECOMMENDATION FOR THE GFT INSTEAD OF OUTRIGHT**  
3 **DISALLOWING THE GFT EXPENSE. PLEASE EXPLAIN YOUR**  
4 **ALTERNATIVE.**

5 A. Yes. The GFT transfer shown in the City's latest budget document awaiting approval of  
6 the City Council would support the inclusion of a maximum of \$114 million in GFT, not  
7 the \$121 million requested by AE in this proceeding. I recommend that the amount of GFT  
8 included in rates be set at \$114 million, a \$7 million reduction from what was requested  
9 by AE.<sup>18a</sup>

10 **Q. DO YOU HAVE ANY RECOMMENDATIONS IF THE FULL \$121 MILLION GFT**  
11 **REQUESTED IN ITS RATE FILING PACKAGE IS APPROVED?**

12 A. Yes. If only \$114 million is transferred, that represents \$7 million in cash that AE will  
13 collect in rates that will not be transferred to the general fund. The financial policy adopted  
14 by AE requires that the transfer to GFT be based on the three-year average revenues (less  
15 PSA revenues) times 12%. AE's request is based on a percentage of the *cost of service*  
16 calculated in this case, ignoring previous years. Therefore the rates necessary to support  
17 the amount of transfer included in AE's request will not be fully included in the calculation  
18 as detailed in the AE financial policy until three years from now, resulting in a windfall for  
19 the utility. I recommend that if the entire GFT amount of \$121 million is approved, the  
20 requested funding for the non-nuclear decommissioning reserve should be reduced by the  
21 difference between what will be collected in rates and the actual GFT transfer to the City  
22 (i.e. \$7 million in the first year of the increased rates).

<sup>18a</sup> This recommendation results in a change of AE's model, WP C-3.2.1 Excel Cell E19 (changed to \$114,000,000)



## V. SUMMARY AND CONCLUSIONS

**Q. PLEASE SUMMARIZE YOUR CONCLUSIONS AND RECOMMENDATIONS.**

**A.** The table below shows the effect of my adjustments on AE's overall revenue requirement.

**Table 5**  
**NXP Revenue Requirement Position**

Line No.	Revenue Requirement Component	AE		NXP Recommended	Change - As Corrected to Recommended	
		As Filed	As Corrected		\$	%
	(a)	(b)	(c)	(d)	(e)	(f)
1	Total Expenses	\$ 1,140,306,295	\$ 993,540,595	\$ 993,540,595	\$ -	0.0%
2	<i>Cash Flow Return Calculation</i>					
3	Debt Service	143,115,070	143,115,070	143,115,070	-	0.0%
4	Non-Nuclear Decommissioning	8,000,000	8,000,000	8,000,000	-	0.0%
5	General Fund Transfer	121,000,000	121,000,000	114,000,000	(7,000,000)	-5.8%
6	Internally-Generated Funds for Construction	119,817,642	119,817,642	96,960,744	(22,856,898)	-19.1%
7	Less: Depreciation & Amortization	(146,765,700)	-	-	-	n/a
8	Less: Interest and Dividend Income	(4,270,316)	(4,270,316)	(4,270,316)	-	0.0%
9	Less: Contributions in Aid of Construction	(43,627,981)	(43,627,981)	(43,627,981)	-	0.0%
10	Total Cash Flow Return Requested	197,268,716	344,034,416	314,177,517	(29,856,898)	-8.7%
11	Less: Other Revenue	(144,435,404)	(144,435,404)	(136,368,862)	8,066,543	-5.6%
12	<b>Total Revenue Requirement</b>	<b>1,193,139,607</b>	<b>1,193,139,607</b>	<b>1,171,349,251</b>	<b>(21,790,356)</b>	<b>-1.8%</b>

**Q. DOES THIS CONCLUDE YOUR PORTION OF THE STATEMENT OF POSITION?**

**A.** Yes it does.

The adjusted COSS model that Mr. Daniel relied upon is voluminous and will be made available upon request.

**EXHIBIT B**  
**(Clean)**

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## **EXHIBITS**

NXP-JWD-1	List of Testimony, Affidavits, and Expert Reports
NXP-JWD-2	Austin Energy's Base Review, Appendix C-178, WP F-6.1
NXP-JWD-3	Austin Energy's Response to TIEC 1-3
NXP-JWD-4	Austin City Council Ordinance No. 20120607-055
NXP-JWD-5	Austin Energy's Supplemental Response to NXP Third RFI
NXP-JWD-6	3-11 Adjusted Cost of Service Study <sup>a</sup>
NXP-JWD-7	NXP Revenue Distributions Using NXP's COSS <sup>b</sup>
NXP-CEL-8	Resume and List of Testimony Filed
NXP-CEL-9	PUC Non-IOU TCOS – RFP Instructions

<sup>a</sup> This model could be created by revising the following components of AE's model: Schedule G-6 Cell G23 changed to "1NCP Primary"; WP F-6.1 Excel Row 168, rows F through U to Add Average Demand Portion of AED/4CP Calculation based on 1CP Load Factor; WP F-6.1 Excel Row 169, rows F through U to Add Excess Demand Portion of AED/4CP Calculation based on 1CP Load Factor; WP F-6.1 Excel Row 170, rows F through U to Calculate "AED/4CP (1CP Load Factor)" allocation factor as sum of rows 168 and 169; Schedule G-6 Excel Cell G8 changed to "AED/4CP (1CP Load Factor)" as calculated above; Schedule G-4 Excel Row 159, Excel Columns G through N, change values to equal those shown on Excel Row 517 within same Schedule; Schedule G-6 Excel Row 154, Excel Columns G through N, reallocate values based on depreciation expense shown on Row 159; Schedule G-5 Excel Row 159, Excel Columns G through N, change values to equal those shown on Excel Row 517 within same Schedule; Schedule G-6 Excel delete values in Excel cells F55 and F56 to eliminate the redistribution of costs associated with the Service Area Street Lighting Service rate class.

<sup>b</sup> See *id.*

1 Based on the above, I recommend that AE's production demand-related costs be  
2 allocated using the average and excess with the average four summer month CP  
3 demands (A&E w/4CP).

4 **Q. PLEASE EXPLAIN THE A&E W/4CP DEMAND ALLOCATION**  
5 **METHODOLOGY.**

6 A. The average and excess methodology considers both average demands and peak  
7 demands of the customer classes. The average demand is usually determined using  
8 customer class energy usage and the excess demand is typically determined using the  
9 customer class critical monthly CP demands. For AE, the use of the four summer  
10 month CP demands reflects the importance AE's summer peaking system.

11 The average demand is determined by dividing the class's annual energy usage  
12 by 8760 hours. The excess demand is determined by subtracting the average demand  
13 from the class's 4CP demand. The average demand component is weighted by the  
14 system load factor with the excess demand weighted by one minus the system  
15 load factor.<sup>5a</sup>

16 **Q. WHY DO UTILITIES AND REGULATORY AGENCIES UTILIZE THE A&E**  
17 **W/4CP METHODOLOGY?**

18 A. It is used for allocating costs to retail customer classes. The methodology uses the  
19 critical monthly system peak demands during the summer months. The average demand  
20 component also ensures that costs are allocated to classes, such as outdoor lighting, that  
21 may not be on during the times of system CP demands.

<sup>5a</sup>The system load factor should be calculated using AE's peak demand for the test year rather than the average 4CP demand used by AE.

1 A. AE's own system planning, and demand side management programs continue to  
2 reflect the importance of AE's demands during the summer. On August 12, 2019,  
3 Austin's Electric Commission ("EUC") created the Resource Plan Working Group  
4 ("Working Group") to provide recommendations and strategic goals to Austin  
5 Energy and the Austin City Council on technical and market issues to meet  
6 environmental efficiency and affordability goals established by the Austin City  
7 Council. On March 5, 2020, the Working Group finalized the "Austin Energy  
8 Resource, Generation and Climate Protection Plan to 2030" Vision Plan based  
9 on analysis of the risks, costs and opportunities to meet the future demand for  
10 electricity. The AE Vision Plan states "Austin Energy will maintain an energy  
11 supply portfolio sufficient to offset customer demand while eliminating carbon and  
12 other pollutant emissions from its electric generation facilities as rapidly as  
13 feasible within the limitations set by the Austin City Council"he Vision Plan further  
14 highlights that the retirement of the Decker Prairie Steam gas-fired units was  
15 delayed until after the summer peaks of 2020 and 2021 .<sup>10</sup> The Vision Plan also  
16 states that "Austin Energy will sponsor energy efficiency and demand response  
17 initiatives aimed to reduce overall system load and reduce peak demand." <sup>11</sup>.  
18 AE's 2022 Austin Energy Base Review, Appendix C-178, WP F-6.1 documents the  
19 fact that the largest AE Coincident Peaks and AE Peaks Coincident with the ERCOT  
20 Peaks occur during the four summer months of June through September of the test  
year (October 2020 - September 2021) and is being provided as my Exhibit JWD-2.

19 Q. **DO YOU HAVE ANY ADDITIONAL COMMENTS REGARDING AE'S**  
20 **PROPOSED USE OF A 12CP ALLOCATION FACTOR FOR DEMAND-**  
**RELATED PRODUCTION COSTS?**

---

<sup>10</sup> See Austin Energy's Response to NXP 1-6

<sup>11</sup> See Austin Energy's Response to NXP 1-6

1   **Q.    HAVE YOU EVER SEEN A UTILITY PROPOSE A SIMILAR CLASS**  
2       **REVENUE DISTRIBUTION METHODOLOGY?**

3    A.    No. While steps 2 and 3 are not unusual, I have never seen AE’s step 1 used by any  
4       other utility.

5   **Q.    HOW DOES AE SUPPORT STEP 1 OF ITS REVENUE DISTRIBUTION**  
6       **METHODOLOGY?**

7    A.    AE claims step 1 is needed “to align all customer classes in comparison to cost of  
8       service.” However, for some customer classes, this step moves them further from cost  
9       of service in opposition to AE’s stated goal of moving class revenues towards cost of  
10      service. For example, the Secondary Voltage Greater Than 300 kw customer class’s  
11      current revenues are already above the class’s cost of service. By increasing the class’s  
12      current revenues by the overall percent revenue increase needed of 7.6%, this class is  
13      moved further above its cost of service. However, as stated on page 75 of the Base Rate  
14      Filing Package, AE wants to disregard the system movement in step 1 so that their  
15      methodology can be described as moving halfway to cost.”

16

17   **Q.    WHAT IS YOUR RECOMMENDED CLASS REVENUE DISTRIBUTION?**



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A. As shown on Table 2 above, the current rate revenues of some customer classes are substantially below their cost of service. Moving those customer classes' revenues to cost service would result in large percentage increases. I propose moving these customer classes 1/3 of the way to their cost of service in order to alleviate those impacts. This will still result in some of the customer classes receiving significant subsidies from the other customer classes which are currently over-recovering their cost of service. The remaining customer class subsidies after the 1/3 move to cost of service will need to be assigned to the other customer classes. I propose to do this by proportionately spreading to the other classes the "net" over-recovery (their cost of service over-recovery less the subsidies) based on their cost of service so that some of the subsidy they currently pay is reduced. These classes will also receive small rate decreases.

This revised revenue distribution is provided as my Exhibit NXP-JWD-7/ As shown on this exhibit, the residential customer class will still receive a substantial subsidy under my proposed revenue distribution.

**Q. DO YOU HAVE ANY OTHER COMMENTS REGARDING AE'S DISTRIBUTION OF ITS PROPOSED REVENUE INCREASE AMONG THE CUSTOMER CLASSES?**

# TESTIMONY OF CHUCK E. LOY

1 **PART II**

2 **I. INTRODUCTION**

3 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

4 A. My name is Charles E. Loy. My business address is 919 Congress Avenue, Suite 1110,  
5 Austin, Texas 78701.

6 **Q. PLEASE OUTLINE YOUR FORMAL EDUCATION.**

7 A. I received a Bachelor of Business Administration degree with a concentration in accounting  
8 from the University of Texas at Austin. I am a Certified Public Accountant in the State of  
9 Texas.

10 **Q. WHAT IS YOUR PRESENT POSITION?**

11 A. I am a Principal for GDS of GDS's office in Austin, Texas.

12 **Q. PLEASE STATE YOUR PROFESSIONAL EXPERIENCE.**

13 A. Prior to joining GDS in June of 2001, I was General Manager of Rates and Regulatory  
14 Affairs of AquaSource, Inc. ("AquaSource"). AquaSource is a wholly-owned water and  
15 wastewater subsidiary of DQE, Inc., a publicly traded electric utility located in Pittsburgh,  
16 Pennsylvania. My responsibilities included the organization, preparation, and management  
17 of various rate filings and proceedings on rate requests and other regulatory matters in the  
18 twelve states where AquaSource provided water and wastewater utility service. Prior to  
19 joining AquaSource, I was a Manager of Regulatory Affairs for Citizens Utilities  
20 Company, Public Services Sector ("Citizens"). At Citizens, I was responsible for various  
21 regulatory matters, including rate cases for water/wastewater, gas, and electric services in  
22 eight states. Prior to joining Citizens, I was a Rate Manager with Southern Union Gas  
23 (now Texas Gas Service Company) where I prepared rate filings, cost of service studies,

1 and testimony for their various operations in Texas and Oklahoma. My utility regulation  
2 experience began with Diversified Utility Consultants as a Senior Analyst, where I assisted  
3 in the review and analysis of various gas, electric, and water company rate filings. My  
4 professional resume is included as Exhibit NXP-CEL-8.

5 **Q. HAVE YOU TESTIFIED BEFORE ANY REGULATORY COMMISSIONS?**

6 A. I have testified many times before regulatory commissions. I have submitted testimony  
7 before the following state regulatory authorities: the Public Utility Commission of Texas  
8 (“PUC” or the “Commission”), the Texas Commission on Environmental Quality, the  
9 Texas Railroad Commission, El Paso Public Utilities Board, the Arkansas Public Service  
10 Commission, the Arizona Corporation Commission, the Connecticut Department of Public  
11 Utility Control, the Delaware Public Service Commission, the Federal Energy Regulatory  
12 Commission, the Hawaii Public Utilities Commission, the Idaho Public Utilities  
13 Commission, the Illinois Commerce Commission, the Indiana Regulatory Commission, the  
14 New Jersey Board of Public Utilities, the Public Service Commission of Montana, the New  
15 Mexico Public Service Commission, the New York Public Service Commission, the Public  
16 Utilities Commission of Ohio, the Oklahoma Corporation Commission, the Pennsylvania  
17 Public Utility Commission, the Public Service Commission of South Carolina, and the  
18 West Virginia Public Service Commission. A list of regulatory proceedings in which I  
19 have presented expert testimony is provided as Exhibit NXP-CEL-8.

20 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

21 A. I am appearing and providing testimony on behalf of NXP.  
22

## II. PURPOSE OF STATEMENT OF POSITION

**Q. WHAT IS THE SUBJECT OF YOUR STATEMENT OF POSITION IN THIS PROCEEDING?**

A. I was engaged to review and analyze the portions of AE's base rate filing package related to the proposed revenue requirements. In particular, I have set forth recommendations concerning AE's application of the Cash Flow Methodology in calculating the return component of its revenue requirement.

**Q. WOULD YOU PLEASE SUMMARIZE THE RESULTS OF YOUR REVIEW AND ANALYSIS?**

A. Based on my review and analysis, I have reached the following conclusions and recommendations regarding AE's application of the Cash Flow Methodology for the return component of its total revenue requirement:

1. I do not agree with the presentation of the cash flow return calculation. I believe it should follow more closely the Non-IOU Transmission Cost of Service Rate Filing Package instructions utilized at the PUC. As a result of applying a corrected methodology, the revenue requirement stays the same, but the imputed rate of return changes and more closely reflects the actual cash flow return requested in AE's rate filing package. This results in a higher imputed rate of return of 13.8% but does not change the revenue requirements.

2. I disagree with the 50% assumption used to determine the Internally Generated Funds for Construction ("IGFFC") level. I recommend a percent level that falls within the City's financial policy and closer to the City's actual average utilization of IGFFC over the last three years of 22%.

1           3. The level of General Fund Transfer ("GFT") requested is unsupported and its  
2           inclusion in rates does not concur with longstanding rate-making principles. As an  
3           alternative to AE's proposal I recommend a GFT based on AE's budgeted amount.

4           4. My recommended adjustments result in a reduction to revenue requirements of  
5           \$21.79 million, or 1.8%.

### 6 7       **III. ADJUSTMENTS TO AE'S CASH FLOW METHOD RETURN REQUEST**

#### 8       **Q. PLEASE DESCRIBE AE'S USE OF THE CASH FLOW APPROACH TO** 9       **DETERMINE ITS PROPOSED REVENUE REQUIREMENT AND RETURN.**

10      A. The cash flow approach is intended to provide adequate revenue requirements for a MOU  
11      to meet its financial needs for ongoing operations and construction of plant. For an  
12      investor-owned utility ("IOU"), reasonable and necessary test year operating costs plus a  
13      return on the capital investment found to meet the "prudence" standard set forth in statute  
14      and Commission rule, based on the application of the utility's weighted average cost of  
15      capital to investment in rate base, is used to determine the level of revenue required to  
16      attract reasonably cost capital and allow the utility to provide continuous and reliable  
17      service. A MOU, having no equity investors, must use a different methodology for this  
18      determination. In this case, AE has chosen the cash flow approach.

19      Under the cash flow method, a MOU's revenue requirement is determined by the sum of  
20      operating and maintenance costs, debt service requirements, cash outlays from revenues  
21      for capital additions, working capital requirements, bond defeasance costs, and payments  
22      to the City for services provided and/or to secure the payment of bonds, less interest income  
23      and other income from miscellaneous services the utility provides. These cash needs are

generally met by three main funding sources: base rates collected from customers, contributions and payments to the utility from specific customers to fund plant, and the proceeds of debt issuances. The PUC has allowed Non-IOWs to utilize the Cash Flow Method of determining returns. The specific methodology is set forth in the Non-IOW Transmission Cost of Service Rate Filing Package

**Q. PLEASE DISCUSS AE'S USE OF THE CASH FLOW APPROACH TO DETERMINE RETURN.**

A. AE's proposed cash flow methodology calculation consists of the following components as it appears on Schedule C-3 of AE's rate filing package: Debt Service, Non-Nuclear Decommissioning, GFT, and IGFFC. These items are reduced by Depreciation and Amortization, Interest Income, and Contributions in Aid of Construction ("CIAC").

**Q. DO YOU AGREE WITH HOW AE APPLIED THE CASH FLOW METHODOLOGY?**

A. While I believe the overall revenue requirement calculated by AE is computationally correct, I disagree with the presentation of the cash flow return. AE includes \$146,765,700 in depreciation and amortization ("D&A") expense in the calculation of its revenue requirement on Line 7 of schedule A since D&A expense is not reflected in AEs rates it is not a source of cash and does not affect cash flow. Therefore it should not be included in the calculation of a revenue requirement utilizing a cash flow return. But applying it in the manner AE has proposed departs from that rationale. Accordingly, AE should remove the amount of D&A expense from its calculated return to arrive at the computationally correct revenue requirement.

AE's approach leads to a significant understatement of the true cash flow return that is being requested by the City, and would be embedded in the rates AE is proposing in this proceeding. As shown below on Tables 1 and 2, the actual amount of cash flow being requested by the City is \$344,034,416, not the \$197,268,716 shown on Line 29 of Schedule A.

**Table 1**  
**IOU Cash Flow Using AE Revenue Requirement**

1	Requested Revenue Requirement (excludes D&A & before Pass-throughs applied)	\$1,337,575,011
2	Total Expenses (Includes D&A & Pass through costs)	\$1,140,306,295
3	Cash Flow Return Requested (Line 1 minus Line 2)	\$197,268,716
4	Add Back Non-Cash D&A	\$146,765,700
5	Cash Flow Method Reflected In AE Request	<b>\$344,034,416</b>

**Table 2**  
**Alternative PUC Non-IOU Cash Flow Return Method**

	<u>AE Request</u>	<u>Adjust</u>	<u>As Adjusted</u>
	(a)	(b)	(c)
<b><u>Overall Revenue Requirement</u></b>			
1 Total Expenses	\$1,140,306,295	(\$146,765,700)	\$993,540,595
2 Requested Return (Calculated below)	\$197,268,716	\$146,765,700	\$344,034,416
3 Total Rev Req (before Pass-throughs)	<u>\$1,337,575,011</u>		<u>\$1,337,575,011</u>
<b><u>Cash Flow Return Calculation</u></b>			
4 Debt Service	\$143,115,070		\$143,115,070
5 Non-Nuclear Decommissioning	\$8,000,000		\$8,000,000
6 General Fund Transfer	\$121,000,000		\$121,000,000
7 Internally Generated Funds for Construc	\$119,817,642		\$119,817,642
8 Depreciation & Amortization	(\$146,765,700)	\$146,765,700	\$0
9 Interest and Dividend Income	(\$4,270,316)		(\$4,270,316)
10 Contribution in Aid of Construction	<u>(\$43,627,981)</u>		<u>(\$43,627,981)</u>
11 Total Return	<u>\$197,268,716</u>		<u>\$344,034,416</u>
12 Rate Base	\$2,488,130,769		\$2,488,130,769
13 Rate of Return - Line 11/Line 12	<b>7.9%</b>		<b>13.8%</b>



1 **Q. TABLE 2 ABOVE SHOWS A TRUE PROPOSED RATE OF RETURN OF 13.8%.**  
2 **DO YOU HAVE ANY ADDITIONAL COMMENTS ON THIS AMOUNT?**

3 A. I would note that the imputed 13.8% is a cash flow return and is not comparable to a return  
4 that would be granted to a regulated IOU, as it excludes the effect of depreciation and  
5 amortization (as noted above). However I believe that this measure is a better indicator of  
6 the amount of the cash that AE is actually requesting, above that which is needed to fund  
7 ongoing non-capital operations.

8  
9 **IV. ADJUSTMENTS TO AE'S CASH FLOW RETURN COMPONENT**

10 **A. *Internally Generated Funds for Construction (IGFFC)***

11 **Q. PLEASE EXPLAIN THE SIGNIFICANCE OF INTERNALLY GENERATED**  
12 **FUNDS.**

13 A. Internally generated funds are the amount of revenue collected from customers that is used,  
14 in conjunction with funds received from issuances of debt, for construction, improvements,  
15 and replacements. The AE financial policy on IGFFC characterizes it as an equity  
16 contribution. Capital policy No. 14 found in Appendix B of the rate filing package states:

17 "Capital projects should be financed through a combination of  
18 cash, referred to as pay-as-you-go financing (equity contributions  
19 from current revenues), and debt. An equity contribution ratio  
20 between 35% and 60% is desirable."

21 **Q. HOW DID AE COMPUTE THE IGFFC?**

22 A. The relevant schedule shows that AE is using a cash funding assumption of 50%. AE's  
23 analysis looks at two prior years, 2019 and 2020, plus the 2021 test year to develop the  
24 known and measurable amount of \$119.8 million.<sup>12</sup>

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<sup>12</sup> See Schedule WP C-3.3.1, Line 69

1 **Q. DO YOU AGREE WITH AE’S IGFFC ADJUSTMENT?**

2 A. I agree with the overall methodology for determining the IGFFC amount but do not agree  
3 with the 50% equity funding assumption.<sup>13</sup> The AE workpaper shows that in FY2019,  
4 FY2020, and FY2021 the percentage of construction that was debt-funded was 85.1%,  
5 53.2%, and 46.2% respectively, resulting in a three-year average of 67.2%. CIACs  
6 provided an average of 11% of funding over the same time period. Therefore, the actual  
7 proportion of capital costs that was funded through base rate revenues only averaged 22%  
8 during the last three years.

9 **Q. DOES THE 50% IN EQUITY FUNDING INCLUDE CIAC?**

10 A. No. Referencing the total Cash to Fund Capital Spending shown on the workpaper the total  
11 equity (i.e. non-debt) funding that would be provided by customers ranges between 54%  
12 and 59% for the FY2019 through FY2021 period, averaging 56%, or close to the top of the  
13 range provided in AE’s financial policy guidance above.<sup>14</sup>

14 **Q. WHAT IS YOUR RECOMMENDATION FOR THE CASH FUNDING**  
15 **ASSUMPTION TO BE USED IN THE CALCULATION OF IGFFC?**

16 A. I recommend that the cash funding assumption within AE’s model be set to 35%, which  
17 would reduce the IGFFC included in AE’s cash flow return from \$119,817,642 to  
18 \$96,960,744 as shown in Table 3 below. This would result in an overall equity contribution  
19 to fund construction of 43%, well within AE’s financial policy range.<sup>14a</sup>

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<sup>13</sup> See Schedule WP C-3.3.1

<sup>14</sup> See Schedule WP C-3.3.1, Line No. 66

<sup>14a</sup> This recommendation results in a change of AE’s model, WP C-3.3.1 Excel Cell D75 changed to 35%

Table 3

Adjustment to Internally Generated Funds for Construction

IGFFC Assuming 50% Equity Contribution As Proposed	\$ 119,817,642
IGFFC Assuming 35% Equity Contribution as Recommended	96,960,744
Recommended Adjustment	(22,856,898)

**B. General Fund Transfer (GFT)**

**Q. DOES YOUR PUC METHODOLOGY CASH FLOW RETURN COMPUTATION ALLOW AE TO MAKE GENERAL FUND TRANSFERS ?**

A. Yes, within certain limits. The PUC’s instructions (Exhibit NXP-CEL-9) in the Non-IOU Transmission Cost of Service Rate Filing Package available online on the PUC’s website states:

“...for municipal utilities, annual payments for transfers to the City’s general fund at rates established by the municipal utility’s governing authority, to the extent such amounts are not recovered through other elements of the TCOS...”<sup>15</sup>

The instructions indicate the GFTs should be a reimbursement for the costs of services related to the provision of *providing utility services* or costs that could otherwise be recovered in the TCOS. Many MOUs receive administrative services such as human resources, financial and accounting, office maintenance, etc. from their host Cities. These costs will be reimbursed to the City via transfer to the City’s General Fund.

**Q. DOES THE CITY OF AUSTIN PROVIDE ADMINISTRATIVE SERVICES TO AE?**

<sup>15</sup> Accessible at [HTTPS://WWW.PUC.TEXAS.GOV/INDUSTRY/ELECTRIC/FORMS/RFP/NON\\_IOU\\_TCOS\\_INSTR.PDF](https://www.puc.texas.gov/industry/electric/forms/rfp/non_iou_tcoss_instr.pdf)

1 A. Yes. AE includes over \$62 million of charges from City Services.<sup>16</sup> These expenses were  
2 included with other O&M expenses rather than the Cash Flow Method return calculation.  
3 The AE base rate filing package states: “Austin Energy transfers funds to the City for its  
4 share of services such as the City Fleet Department, Law Department and Administrative  
5 Support and Communications and Technology Management”.

6 **Q. DOES THE GFT IN THE CASH FLOW RETURN CALCULATION REFLECT**  
7 **CITY OF AUSTIN SERVICES TO AE FOR THE PROVISION OF UTILITY**  
8 **SERVICE?**

9 A. No. The “Austin Energy 2022 Base Rate Filing Package” at page 34, states the following  
10 regarding the amount of GFT in the return calculation:

11 “Consistent with standard practice among MOUs and Texas  
12 Government Code subsection 1502.059, Austin Energy transfers a  
13 percentage of revenues to the City. Austin Energy makes transfers  
14 to the City’s general fund in lieu of paying franchise fees, taxes,  
15 dividends; and also in lieu of earning a return on investment. The  
16 transfer payment from Austin Energy to the City is invested directly  
17 back into the local community, rather than flowing to outside  
18 investors, which is a benefit to residents in Austin and those in  
19 surrounding communities.”

20 AE’s description does not indicate how the specific \$121 million amount was determined;  
21 it only indicates that the GFT charge represents a proxy for the taxes, dividends, and returns  
22 or costs it is not required to pay. The GFT charge received will be invested back into “the  
23 local community rather than flowing to outside investors.” Essentially, the GFT as  
24 supported by AE appears to be for an unspecified non-utility purpose and its inclusion in  
25 rates would not follow rate-making standards common to the electric utility industry.

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<sup>16</sup> See Schedule WP D-1.2.5

1 Additionally, AE provides no support for its contention that the GFT is invested directly  
2 back into the local community.

3 **Q. THE AE FILING PACKAGE DESCRIPTION ABOVE CITES TEXAS**  
4 **GOVERNMENT CODE SUBSECTION 1502.059. DOES THIS PROVISION**  
5 **ALLOW FOR GENERAL FUND TRANSFERS THAT ARE UNSPECIFIED?**

6 A. The code cited by the Austin package is as follows:

7 Texas Gov. Code – Sec. 1502.059, Transfer of Revenue to General  
8 Fund

9 Notwithstanding Section 1502.058 (Limitation on Use of Revenue)  
10 (a) or a similar law or municipal charter provision, a municipality  
11 and its officers and utility trustees may transfer to the  
12 municipalities general fund and may use for general or special  
13 purposes revenue of any municipality owned system in the amount  
14 and **to the extent authorized in the indenture, deed of trust, or**  
15 **ordinance providing for and securing payment of public**  
16 **securities issued under this chapter or similar law. (emphasis**  
17 **added)**

18 My understanding of the above code sections, based upon my knowledge as an expert in  
19 the field of municipal utility regulations, rates, and funding, is that it relates to payments  
20 to a City's general fund authorized by bond ordinances that secure the payment of bonds  
21 and other expenses related to securities, bond defeasance, or a cash infusion to help the  
22 City meet its debt coverage covenants. There is no mention of these types of payments in  
23 AE's description, however. In a complaint of a water utility against the City of Austin that  
24 is instructive here, the former Texas Water Commission (whose rate regulatory functions  
25 have been reassigned to the PUC) held that municipal utility transfers to a city's general  
26 fund are acceptable if they reimburse the city for administrative expenses. However,  
27 ***unspecified*** transfers to the general fund would be justifiable only if they are needed to

1 provide the city with adequate debt service coverage.<sup>17</sup> In addition, there is a similar finding  
2 in SOAH Docket No. 473-14-5138.WS, PUC Docket No. 42857.<sup>18</sup> Page 35 of the Proposal  
3 for Decision states the following:

4 “The M1 Manual also states that payments made to a  
5 municipality’s general fund should reimburse the general fund for  
6 the necessary cost of goods or services required by the water utility  
7 to provide water service. Following this reasoning, the general  
8 transfer should not be used to set Petitioners’ rates when the cost  
9 has not been shown by the evidence to be related to providing  
10 service to Petitioners. Otherwise, ratepayers outside the City’s  
11 limits are being charged rates that include an allocated portion of  
12 the 8.2% transfer into the City’s general fund, which may then be  
13 used to provide general services to the City’s residents.”

14 **Q. THE DECISIONS YOU CITE ABOVE ARE RELATED TO WATER UTILITIES,**  
15 **NOT ELECTRIC, AND WERE BROUGHT BY CUSTOMERS OUTSIDE OF**  
16 **AUSTIN CITY LIMITS. WHY DO YOU BELIEVE THIS IS RELEVANT TO**  
17 **ELECTRIC CUSTOMERS INSIDE THE CITY LIMITS WHO ARE CITIZENS OF**  
18 **THE CITY OF AUSTIN?**

19 **A.** Though the decisions cited above disallowed GFT because they were not being used for  
20 utility service to outside customers, the same principles apply to utility service for  
21 customers inside city limits as well. Both decisions were made under the guidance of the  
22 same ratemaking principles that are applicable to this request, that the cost of providing  
23 utility service should be the basis of rates. AE’s rate filing package explicitly states that the  
24 transfer is not for utility services, and nowhere indicates how the funds will be used “for  
25 and securing payment of public securities” to assist the City. If this procedure is to follow

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<sup>17</sup> Pet. Ex. 5 at 25; JJJ-5 at 949-50; TWC Docket No. 7144-M, *In the Matter of Complaints of Springwoods Municipal Utility District, et al. against the City of Austin*, Findings of Fact Nos. 40 and 41.

<sup>18</sup> *Petition of the North Austin Municipal Utility District No. 1, Northtown Municipal Utility District, Travis County Water Control And Improvement District No. 10, and Wells Branch Municipal Utility District From The Ratemaking Actions of the City of Austin and Requests for Interim Rates In Williamson and Travis Counties.*

1       longstanding ratemaking principles founded on economic standards common to the utility  
2       industry, then based on the evidence provided the GFT should properly be excluded.

3   **Q.    AE INDICATES THE INCLUSION OF THE GFT IS “STANDARD PRACTICE**  
4       **AMONG MOUS” AND IMPLIES THIS IS PERMITTED UNDER TEXAS**  
5       **GOVERNMENT CODE SEC. 1502.059.**

6   A.    I am not qualified to challenge whether the GFT as proposed is properly following the law,  
7       only its reasonableness as applied under longstanding ratemaking principles. I have  
8       difficulty reconciling what is stated in Texas Government Code Sec. 1502.059 and AE’s  
9       justification for GFT inclusion in rates. Regardless, it has been established in PUC  
10       decisions that transfers just like AE’s GFT as proposed should not be recovered in rates  
11       assessed to its outside customers. The City’s unspecified investments in the local  
12       community is hardly a dividend to customers. And for the AE customers located outside  
13       the city limits, AE fails to describe any benefit at all for their monthly “investment” in the  
14       City of Austin. As proposed, it appears that the GFT is a backdoor tax on customers both  
15       outside and inside the City of Austin’s city limits. Many communities in Texas would  
16       require a vote from informed citizens on a \$121 million tax.

17   **Q.    WHAT IS THE IMPACT OF THE GFT ON THE BASE RATES AS PROPOSED?**

18   A.    The GFT represents about 18% of requested base rate revenues. Under AE’s proposed rate  
19       design, I estimate NXP will pay about \$7.3 million of the GFT. The average bill impact of  
20       the GFT on AE residential customers, both inside and outside the City limits, is estimated  
21       at about \$139.00 per customer annually. This reflects about \$8.7 million paid by outside  
22       residential customers assuming an estimated total amount to the residential class of \$62  
23       million.

1 **Q. YOU INDICATED EARLIER THAT YOU ARE PROPOSING AN ALTERNATIVE**  
2 **RECOMMENDATION FOR THE GFT INSTEAD OF OUTRIGHT**  
3 **DISALLOWING THE GFT EXPENSE. PLEASE EXPLAIN YOUR**  
4 **ALTERNATIVE.**

5 A. Yes. The GFT transfer shown in the City's latest budget document awaiting approval of  
6 the City Council would support the inclusion of a maximum of \$114 million in GFT, not  
7 the \$121 million requested by AE in this proceeding. I recommend that the amount of GFT  
8 included in rates be set at \$114 million, a \$7 million reduction from what was requested  
9 by AE.<sup>18a</sup>

10 **Q. DO YOU HAVE ANY RECOMMENDATIONS IF THE FULL \$121 MILLION GFT**  
11 **REQUESTED IN ITS RATE FILING PACKAGE IS APPROVED?**

12 A. Yes. If only \$114 million is transferred, that represents \$7 million in cash that AE will  
13 collect in rates that will not be transferred to the general fund. The financial policy adopted  
14 by AE requires that the transfer to GFT be based on the three-year average revenues (less  
15 PSA revenues) times 12%. AE's request is based on a percentage of the *cost of service*  
16 calculated in this case, ignoring previous years. Therefore the rates necessary to support  
17 the amount of transfer included in AE's request will not be fully included in the calculation  
18 as detailed in the AE financial policy until three years from now, resulting in a windfall for  
19 the utility. I recommend that if the entire GFT amount of \$121 million is approved, the  
20 requested funding for the non-nuclear decommissioning reserve should be reduced by the  
21 difference between what will be collected in rates and the actual GFT transfer to the City  
22 (i.e. \$7 million in the first year of the increased rates).

<sup>18a</sup>This recommendation results in a change of AE's model, WP C-3.2.1 Excel Cell E19 (changed to \$114,000,000)



## V. SUMMARY AND CONCLUSIONS

**Q. PLEASE SUMMARIZE YOUR CONCLUSIONS AND RECOMMENDATIONS.**

**A.** The table below shows the effect of my adjustments on AE's overall revenue requirement.

**Table 5**  
**NXP Revenue Requirement Position**

Line No.	Revenue Requirement Component	AE As Filed	AE As Corrected	NXP Recommended	Change - As Corrected to Recommended	
					\$	%
	(a)	(b)	(c)	(d)	(e)	(f)
1	Total Expenses	\$ 1,140,306,295	\$ 993,540,595	\$ 993,540,595	\$ -	0.0%
2	<i>Cash Flow Return Calculation</i>					
3	Debt Service	143,115,070	143,115,070	143,115,070	-	0.0%
4	Non-Nuclear Decommissioning	8,000,000	8,000,000	8,000,000	-	0.0%
5	General Fund Transfer	121,000,000	121,000,000	114,000,000	(7,000,000)	-5.8%
6	Internally-Generated Funds for Construction	119,817,642	119,817,642	96,960,744	(22,856,898)	-19.1%
7	Less: Depreciation & Amortization	(146,765,700)	-	-	-	n/a
8	Less: Interest and Dividend Income	(4,270,316)	(4,270,316)	(4,270,316)	-	0.0%
9	Less: Contributions in Aid of Construction	(43,627,981)	(43,627,981)	(43,627,981)	-	0.0%
10	Total Cash Flow Return Requested	197,268,716	344,034,416	314,177,517	(29,856,898)	-8.7%
11	Less: Other Revenue	(144,435,404)	(144,435,404)	(136,368,862)	8,066,543	-5.6%
12	<b>Total Revenue Requirement</b>	<b>1,193,139,607</b>	<b>1,193,139,607</b>	<b>1,171,349,251</b>	<b>(21,790,356)</b>	<b>-1.8%</b>

**Q. DOES THIS CONCLUDE YOUR PORTION OF THE STATEMENT OF POSITION?**

**A.** Yes it does.

The adjusted COSS model that Mr. Daniel relied upon is voluminous and will be made available upon request.