

<b>AUSTIN ENERGY</b>	<b>§</b>	<b>BEFORE THE CITY OF AUSTIN</b>
	<b>§</b>	
<b>2022 BASE RATE REVIEW</b>	<b>§</b>	<b>IMPARTIAL HEARING EXAMINER</b>

**ORDER NO. 5**

**RULING ON MOTIONS TO COMPEL  
AND RULING ON MOTION FOR MORE TIME TO FILE POSITION STATEMENT**

This Order No. 5, issued by the Impartial Hearing Examiner (IHE), states rulings on certain motions and responses pending in this 2022 Base Rate Review Process (Base Rate Review) of the Base Rate Filing Package of the City of Austin’s (City) municipally owned electric utility, Austin Energy (Austin Energy).

In making the rulings set out below, the IHE does not reiterate arguments stated in the Participants’ motions or Austin Energy’s responses. To the extent the IHE rules in favor of a Participant or Austin Energy, that ruling is based on and incorporates the arguments of the prevailing party as if set out herein. Any information that is produced but not yet included in a position statement may be addressed at the Final Conference or in briefing.

The IHE’s rulings are also guided by the scope of discovery set out in the Procedural Guidelines at Section F(1)(A). Specifically:

. . . Discovery is limited to relevant information that is not unduly prejudicial. In other words, Participants can ask for information related to the Rate Filing Package.  
...

This scope of discovery, as stated, is akin to an evidentiary standard indicating that it is narrower than the scope of discovery set forth in the Texas Rules of Civil Procedure.<sup>1</sup> However, all parties appear to agree that the traditional “reasonably calculated” standard applies and the IHE is guided by that principle.

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<sup>1</sup> See Texas Industrial Energy Consumers’ (TIEC) Motion to Compel at 2. TIEC notes that in the 2016 Austin Energy Rate Case, the IHE incorporated the traditional scope of discovery into the concept of relevance as is the case with Texas Rule of Civil Procedure 192.3(a).

## **I. Ruling on Motions to Compel**

The IHE issues the following rulings on motions to compel and responses that have been filed and are currently pending in this Base Rate Review:

### **1. Independent Consumer Advocate's (ICA) Motion to Compel**

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

Ruling: Austin Energy's objections are sustained. In addition, as noted by Austin Energy, the workpapers are publicly available in native format on the PUC Interchange at 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.*

Ruling: Austin Energy's objections are sustained.

### **2. Solar and Storage Coalition's (SSC) Motion to Compel**

SSC 1-2: *One of the pillars for the Value of Solar rate is policy driven incentives, as noted on page 140.  
(d) Has Austin Energy analyzed a process for approving disconnect switches for energy storage systems installed as part of a solar installation?*

Ruling: Austin Energy's objections are sustained.

SSC 1-5: *On page 49, Cost of Services is divided into functions, one of those is Customer Service.*

- a. *Please provide information on the average time, minimum time, and maximum time it takes for residential solar permits to be approved. This information should be provided by year for the last 5 years.*
- b. *Please provide information on the average time, minimum time, and maximum time it takes for commercial solar*

*permits to be approved. This information should be provided by year for the last 5 years.*

- c. *Please provide information about residential solar permit requests that have been canceled by the customer or rejected by Austin Energy, such as reasons for cancellation or rejection, frequency of cancellation or rejection, and other relevant details.*

Ruling: Austin Energy's objections are sustained.

3. Texas Industrial Energy Consumer's (TIEC) Motion to Compel

TIEC 4-5: *Provide a copy of Austin Energy's most recent short/long-term electricity sales and peak load forecast.*

Ruling: Austin Energy's objection is overruled only to the extent that the request touches on the statement identified by TIEC at Page 9 of the Base Rate Filing Package. TIEC did not otherwise tie this request to specific known and measurable change data within the Base Rate Filing Package other than broad statements at pages 26 and 27 regarding known and measurable changes. Austin Energy shall produce non-confidential requested information as soon as practicable.<sup>2</sup> TIEC shall cooperate with Austin Energy to develop any reasonable limits to production timing, specificity of information, and the scope of this request, as represented in TIEC's Motion to Compel.

TIEC 4-10: *Provide a schedule showing each of the following metrics for Austin Energy over the past five years and projected for the next five years:*  
*a) Debt service coverage ratio.*  
*b) City transfer.*  
*c) The amount of cash available to fund construction.*

Ruling: Austin Energy's objection is overruled only to the extent explained below. Based on the motion and response, it is unclear to the IHE whether Austin Energy has actually projected all of the information sought for the next five years, or whether any of the information sought is confidential. TIEC shall cooperate with Austin Energy to

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<sup>2</sup> See TIEC Motion to Compel at page 4. The IHE is confident that Austin Energy and TIEC can reach an agreement on the timing and extent of the non-confidential production, without the IHE imposing a time constraint for which the IHE lacks enough information to order.

obtain projected information. Guidance on the time period of the projection and scope shall be what is readily available to Austin Energy, but not beyond five years from the end of the test year, and only to the extent such information is not confidential.

## **II. Ruling on Motion for More Time to File Position Statements**

Mr. Paul Robbins filed a request for additional time to submit his position statement in this matter due to pending discovery requests. In addition to other valid arguments, Austin Energy's response notes that Mr. Robbins may address the substance of Austin Energy's responses to his discovery at the Final Conference and in his closing brief. The IHE agrees with Austin Energy. Mr. Robbins may adequately address these matters at the hearing and in briefing.



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Travis Vickery  
Impartial Hearing Examiner

Date: June 27, 2022