

**AUSTIN ENERGY'S RESPONSE TO PAUL ROBBINS'
SPECIAL MOTION TO COMPEL**

Austin Energy files this Response to Paul Robbins' ("P. Robbins") Special Motion to Compel, and respectfully shows as follows:

I. PROCEDURAL HISTORY

P. Robbins filed a motion titled, "Special Motion by Paul Robbins to Compel Austin Energy to Produce Evidence Related to Customer Assistance Program (CAP)" ("Special Motion to Compel") on July 11, 2022. P. Robbins' Special Motion to Compel was not directly related to a discovery request or objection, and was filed after the deadline for discovery. On the final day of the Final Conference, July 15, 2022, Austin Energy was directed by the Impartial Hearing Examiner ("IHE") to respond to P. Robbins' Special Motion to Compel by the following business day. Therefore, this Response is timely filed.

II. RESPONSE

P. Robbins' Special Motion to Compel requests that the IHE compel Austin Energy to "provide a (mutually agreed upon) third-party data firm with the names and addresses of automatically-enrolled CAP participants in the electric discount program under a non-disclosure agreement."¹ During 2022 Base Rate Review discovery process, P. Robbins requested that Austin Energy provide him with customer names and service addresses of CAP participants.² In response, Austin Energy filed a Notice of Procedural Guidelines Section C(2) Ruling.³

In its Notice, Austin Energy stated that, pursuant to the 2022 Austin Energy Base Rate Review Procedural Guidelines § C(2)(a), no confidential materials should be involved in any filings.⁴ Further, pursuant to the 2022 Austin Energy Base Rate Review Procedural Guidelines § C(2)(b), no personally identifiable information, including but not limited to social security

¹ Special Motion by Paul Robbins to Compel Austin Energy to Produce Evidence Related to Customer Assistance Program (CAP) at 1 (Jul. 11, 2022) (P. Robbins' Special Motion to Compel).

² Paul Robbins' First Request for Information (RFI), P. Robbins' RFI 1-6 (May 18, 2022).

³ Austin Energy' Notice of Procedural Guidelines Section C(2) Ruling (May 27, 2022).

⁴ *Id.* at 1.

numbers, driver's license numbers, account numbers, account usage data, *or any other data that might compromise a person's privacy*, should be included in any filings.⁵ The City of Austin Law Department reviewed P. Robbins' Request for Information and determined that responsive Austin Energy information was considered confidential customer information, which Austin Energy could not legally disclose.⁶ Austin Energy then provided P. Robbins with information about how to submit a formal Texas Public Information Act request to Austin Energy.⁷

P. Robbins requested CAP participants' names and service addresses again in his discovery to Austin Energy's rebuttal on July 8, 2022.⁸ Austin Energy responded on July 12, 2022, referring P. Robbins to Austin Energy's Response to P. Robbins 1-6.⁹

P. Robbins now requests the same information again through a Special Motion to Compel. Austin Energy has already filed two responses explaining that the information requested contains confidential customer information, which Austin Energy cannot legally disclose.¹⁰ The circumstances have not changed. Austin Energy cannot legally disclose this information to P. Robbins, and it similarly cannot legally disclose this information to a third-party data firm, as P. Robbins requests here. Further, P. Robbins filed his Special Motion to Compel outside of the discovery process, as the deadline for discovery was July 8, 2022.¹¹ The Final Conference in Austin Energy's 2022 Base Rate Review has already taken place, and therefore, the record is closed. P. Robbins' Special Motion to Compel should be denied.

III. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, Austin Energy requests P. Robbins' Special Motion to Compel be denied. Austin Energy also requests any other relief to which it may show itself justly entitled.

⁵ *Id.* [emphasis added].

⁶ *Id.*

⁷ *Id.*

⁸ P. Robbins' Discovery to Austin Energy's Rebuttal, P. Robbins' RFI 5-1 (Jul. 8, 2022).

⁹ Austin Energy's Response to P. Robbins' Discovery to Austin Energy's Rebuttal (Jul. 12, 2022).

¹⁰ Austin Energy' Notice of Procedural Guidelines Section C(2) Ruling (May 27, 2022); Austin Energy's Response to P. Robbins' Discovery to Austin Energy's Rebuttal (Jul. 12, 2022).

¹¹ 2022 Austin Energy Base Rate Review Updated Procedural Schedule (Jun. 3, 2022).

Respectfully submitted,

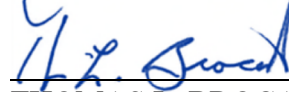
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**ATTORNEYS FOR THE CITY OF AUSTIN
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this pleading has been served on all parties and the Impartial Hearing Examiner on July 18, 2022.



THOMAS L. BROCATO