	§	**BEFORE**
AUSTIN REVIEW	§	**THE CITY OF AUSTIN**
2022 BASE RATE REVIEW	§	**HEARINGS EXAMINER**

EXCEPTIONS

To the Hearing Examiner:

Two Women Ratepayers, 2WR, file these Exceptions as follows:

I.

Introduction

Austin Energy ("AE") could not have picked a worse test year for a rate case.

FY 2020 was fraught with the pandemic crisis. As the year wore on, businesses and education institutions were closing their doors causing dips in electric usage and therefore revenues. Economic hardships began occurring within the AE service territory so much so that the City Council of Austin ("COA" or "Council") took actions to alleviate by reducing electric rates, waiving fees and increasing the CAP discount (the pandemic relief) causing AE revenues to further drop. But the operating costs did not. The only conclusion, barring an extreme summer, was that AE FY2020 finances would show an operating loss. This loss is not attributable to AE's residential rate design. It is attributable to the pandemic, an extremely abnormal and catastrophic event.

In FY 2021 business and educational institution restrictions were lifting and their doors started opening for business. The Austin area like the rest of the country were coming out of the pandemic financial crisis. The pandemic relief, which reduced AE revenues, did continue through the first month of FY2021. While AE was able to return to the level of revenues lost from the pandemic relief, another abnormal and catastrophic event occurred. Winter Storm Uri. The storm left large portions of Texas without power because power plants were essentially iced out of service, necessitating emergency and extraordinary recovery efforts to get the plants back on line. To avoid a complete shut down of power, ERCOT ordered black outs for various parts of the state. AE's customers were victim to this ERCOT mandated black out. But before ERCOT ordered blackouts in the service territory, up to 35,000 AE customers experienced outages caused directly by the storm and not by the ERCOT imposed black out. Because of the ERCOT imposed black out, up to almost half of AE's customers, 220,259, experienced outages. Not only did the blackout cost these customers warmth for their homes and businesses as well as the ability to perform domestic and business commerce, but AE lost base revenues. No billable kWhs occurred for the estimated 509,828,944 customer-minutes of interrupted electric service imposed by the black out. After the storm the Council once again initiated relief measures to alleviate some of the economic burden posed by Winter Storm URI. The COA provided customers a one-time $10 bill credit and waived late fees causing AE's revenues to dip again. Another issue affecting FY2021 revenues that has arisen since the last rate case is the Nacogdoches Power Plant. Historically, AE had a purchase power contract with this power plant. Since the 2016 rate case, however, in regards to the Nacogdoches plant, AE has transformed from a purchase power purchaser from the plant to its owner. The Nacogdoches power plant was in base rates in FY2021. For the test year it was removed as a base rate item and transferred to the PSA. However, for FY 2021, base rates funded the debt service payment relating to this item. See AE. Ex 1, Rate filing Package, pp. 88 and 527. Of course, there is an additional revenue loss covered by base rates in FY 2021 and that is the losses incurred by AE's non-utility business. The losses AE suffered in FY 2021 are not the result of its residential rate design. It is attributable to the pandemic, Winter Storm Uri, AE's transformation of a purchaser of a purchase power contract to the owner of the underlying power plant and the covering of losses suffered by AE's non-utility business.

AE's use of FY 2021 as a test year is problematic as even the Hearing Examiner ("Examiner" or "Judge") acknowledged. See Examiner's Final Recommendation ("Final

Recommendation"), p. 49. AE could have used the most recent test year not tainted with the pandemic and Winter Storm Uri. That would have been FY 2019. That FY showed AE had a surplus meaning AE's base revenues exceeded its base operating costs. Since AE includes the general fund transfer in its base operating costs, the surplus reflects revenues in excess of its revenue requirement. See AE Ex. 1, Rate Filing Package ("RFP"), p, 101, Figure 7-23. AE did not use FY2019 even though AE has used earlier FYs as test years. The 2012 rate case used FY2009 as its test year. But AE decided in this rate case to not use FY2019. The test year AE chose is tainted to such a degree that it cannot be considered a reasonable starting point for what usage and revenues are expected to occur during the year the proposed rates will be in effect.

In the paragraphs below 2WR will show that the Examiner failed to consider and even ignored arguments raised by 2WR regarding certain adjustments. Moreover, 2WR will show that the Examiner was not consistent with its reasoning involving known and measurable adjustments involving certain costs discussed more fully below.

II

Exception One

The Examiner erred in failing to consider and even ignoring arguments 2WR made regarding the 20% state, school, and military discount, the non-utility business and the 311 Call Center.

A. <u>The Examiner ignored the arguments of 2WR that the subsidization of social costs caused by providing a 20% discount to state, military and school accounts should be allocated on kWh.</u>

The Examiner mischaracterized AE's proposed changes to how the cost of the 20% discount for the military, school and state accounts should be recovered. He discussed it as a commercial and industrial base rate design issue. AE's proposal is not a rate design issue. Rate design adjustments stay within the customer class. Furthermore, the Examiner stated that no party took issue with this proposal. See Examiners Final Recommendations at p 128. The Examiner essentially ignored 2WR's arguments that had been rightfully placed under cost allocation because AE was proposing allocating these costs to all customer classes based on the proportion of cost of service.

2WR recommend in its post hearing brief that these costs be allocated on kWh basis consistent with how the CAP program costs are allocated. Essentially, residential ratepayers did not cause any of the costs underlying the discount. The 20% discount only involve commercial accounts. This is the portion of 2WR's brief the Examiner ignored that is located at pp. 7 & 8 of its brief:

> <u>Rate Discounts to Military, State and local school district rate discounts.</u>
>
> AE provides a 20% rate discount to military, state and local school districts. These customer accounts spread throughout various commercia classes.[1]The recovery of these subsidies has been intraclass whereby the subsidy was spread in each customer class containing a discount customer, the subsidy cost was spread to the other customers in that rate class[2]
>
> In this rate case, AE is proposing the recovery for this subsidy be spread across all customer classes excluding the lightening classes. The allocation used was not utilized for any other cost in the COS.[3]The result of AE utilizing a cost allocation method not used in the COS is that the residential customer class picks up 54% of the military, state, and local school district subsidy. Even using AE's revenue requirement without street area lighting allocator results in a 48.5% allocation, a $328,8882 reduction to AE's proposed allocation amount.[4] Neither of these allocators are fair because residential customers did not cause any of the unrecovered costs. A fair allocation would be average demand where the costs are spread over the customer classes based on the kWhs consumed by each customer class, adjusted by line losses.[5] This allocation is more consistent with the CAP allocation, albeit commercial customers per kWh charges were capped at the now-defunct state low-income electric rate discount program (the System Benefit Fund) level.[6]. Use of the average energy allocator is also fairer because the energy allocator contains no residual indirect costs imputed to be incurred by each customer class that the other allocators

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[1] See RFP, p. 77, Table 5-A.
[2] RFP, p. 129.
[3] See RFP, p. 71, App.C, Sched. F-6 that lists the cost allocation factors.
[4] RFP, App.C.,Sched. F-6, L.30; RFP, p. 77, Table 6-A.
[5] See RFP, p.7, Table 5-N, energy related costs.
[6] 2WR Ex. No. 15, p.2; PURA §39.903(b)(m) required System Benefit Funds costs to be allocated to customers based on the amount of kWhs used

> contain. The appropriate allocator to use to spread the costs of the subsidy should be one reflective of the costs incurred by the respective subsidized customers indirectly or otherwise. Residential customers did not cause the costs underlying the subsidies. 2WR recommends that costs related to the military, state, and local school districts discounts be allocated on energy.

While AE placed its discussion under class revenue distribution (See AE. Ex. 1, p. 76), it is not. Class distribution is the process of moving each customer class closer to its cost of service. Changing the allocation factor for the 20% discount costs is not that process. As 2WR argued above this is a cost allocation issue. 2WR is being asked to bear costs incurred from another customer class. AE also discussed this funding at page 129 of its rate filing package. There, it argued that its proposal was like the CAP program. However, AE was not consistent with the cost allocation. The costs of the CAP program are allocated on kWh, i.e. energy. This cost should also be allocated on kWh, i.e. energy.

2WR requests the Examiner review this issue, determine that allocating a social cost is an equitable decision, that the costs should be allocated equitably and consistent with the social costs created by the CAP program. 2WR request the costs to subsidize the 20% discount for military, school, and state commercial accounts be allocated on a per kWh basis, energy.

B. <u>The Examiner erred in ignoring and failing to consider 2WR's argument that AE's proposed revenue requirement be reduced by $5 million dollars to remove subsidization costs involving AE's non-utility business for the time the rates will be in effect.</u>

In his Final Recommendations, the Examiner failed to consider the argument raised by 2WR concerning the subsidization cost that will be occurring in the year the rates are to be in effect. Costs removed from a test year are because they are not going to occur in the year the rates are in effect. For instance, AE made an adjustment to remove the costs of operating the Decker Steam Units was made to AE's FY2021 operating costs because the units had been retired and will no longer have operating costs. But that is not the case for the non-electric business adjustments. While the costs associated with this business were removed in the TY2021, they are recurring expenses that a one-time adjustment cannot cure. This is because the non-electric business has bonded debt that is secured by AE's revenues. See Final Recommendations, p. 38. And that bonded debt continues into FY2022. 2WR raised this issue in its post hearing brief and it was not addressed or considered by the Examiner. 2WR argued in its brief at pp. 5-7 as follows:

> <u>B.(4) and (6)(a). Internally Generated Funds for Construction and Debt Service Coverage Ratio</u>
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> Internally generated funds for construction are cash payments AE customers pay through rates to fund in addition to debt AE's construction projects.[7] Because cash funding is more expensive than debt for financing construction, a mixture of debt and capital is used resulting in a debt: cash ratio. The COA has a financial policy that adopts a cash financing of construction ranging from 35-60%.[8]
>
> subsidy amount should be removed from AE's revenue requirement, leaving AE with a debt service coverage ratio consistent with COA financial policies.[9]
>
> Another COA financial policy tied to AE's revenue requirement is AE's debt service coverage ratio. Like a mortgage, debt service is the amount AE includes in its COS to repay its debts to finance its construction created through the issuance of bonds.[10] As a condition of issuing the bonds, AE agrees to establish set rates that will cover 150% of its annual debt repayment.[11] This number referenced as 1.5 is considered the debt service coverage ratio. COA has a financial policy that electric rates be designed to generate sufficient revenues to ensure a debt service coverage ratio of 2.[12]In discovery AE provided an annotated calculation of AE's debt-service ratio based on its proposed revenue requirement.[13] Even though AE removed its non-

[7] NXP Ex. No.1, Loy testimony at pp. 51 and 52.
[8] RFP, App. B, Financial Policy No. 14.
[9] 2WR calculated the ration by following AE's calculations but reducing the base revenue rates by the subsidy amount.
[10] See e.g. RFP, App. C, C-31, p. 87 (C-65)
[11] Transcript, Day 1, p. 97, Ls.. 20-21.
[12] RFP, App. B, p. 21 Financial Policy Nos. 6 and 17
[13] 2WR Ex. No.2, p.3.

utility revenue from its COS to develop its revenue requirement, the non-utility business; revenues expenses and bonds are included in AE's calculations of its debt-service coverage ratio based on its proposed TY 2022 revenue requirement.[14]The effect of this inclusion is a .18 reduction in AE's debt service coverage ratio.[15] Using the method and data provided to calculate AE's debt service coverage ratio of .67, less than the non-utility's needed debt payment. This represents a $5,053,127 deficit that will have to be recovered by AE's proposed rates.[16] This subsidy amount should be removed from AE's revenue requirement, leaving AE with a debt service coverage ratio consistent with COA financial policies.[17]

2WR recommends that an adjustment should be made to AE's revenue requirement to remove the above non-utility subsidy amount. This is a conservative requested adjustment because the non-utility business's bond covenant requires it to have sufficient revenues to provide for a debt service ratio of 1.5 and not the 1.0 debt service coverage ratio used to calculate the subsidy.

The footnotes included in this quote point the reader to the relevant exhibits. They show that in looking at AE's calculation of its debt service ratio, it used its proposed base revenues and provided AE's non-utility bonded debt for FY2022, the bonded date for the business having been higher in FY2021. Calculating the debt service coverage for the non-utility business shows that the business would need an additional $5million to be able to make its debt service coverage, that is, its mortgage in FY 2022. This means AE will have to use its base revenues to cover the non-utility business' short fall. Consequently, AE's revenue requirement should be reduced by $5 million. It is not an excuse that AE's future revenues are likely to increase. That type of matching revenues with increasing costs are for those costs that are used and useful in providing electric service. The non-utility business costs are not used and useful in providing service.

2WR requests the Examiner to review and consider its argument and to make this recommended reduction. AE further requests the Examiner to consider some way to fully

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[14] *Id*.

[15] TIEC Ex. No. 3, LaConte's testimony at p. 9

[16] 2WR Ex. 2, p.3. Testimony, Day Three, p. 14, Ls 1-21.

[17] 2WR calculated the ration by following AE's calculations but reducing the base revenue rates by the subsidy amount.

separate out the non-utility business from its base rate operations so that the probability of continued subsidization ends and to further recommend that the Examiner recommend considering a way to make AE ratepayers whole for past and future subsidizations.

C. <u>The Examiner erred in failing to consider the arguments raised by 2WR regarding the shared services nature of the 311 Call Center</u>

The Examiner failed to address the significance of cost allocation involving shared services.

1. *What is the regulatory significance involving shared services?* Shared services, like affiliated transactions involving public utilities, are a regulatory concern because they can be subjected to subsidization for the non-regulatory participants. There are two primary concerns when it is the regulated entity, such as AE, is the service provider. The first concern is that not all the costs provided in that service are included in the costs to be allocated to the other participants. An example would be if AE did not include the costs of the building used to provide the service. The second concern is that the allocation used does not track with the cost causation of the non-regulated participants. An example would be mixing up distributed cost allocation for the embedded costs of providing the service, but use of marginal cost allocation for the other participants.
2. *What regulatory problem arises from these concerns?* Simply put costs either not included or marginal cost allocations cause costs not fairly passed through to the non-regulatory participants remain in the regulatory entity's costs, thereby increasing its cost to serve its ratepayers and increasing ratepayer rates.
3. *Is there a special concern for the 311call center?* Yes, this cost has been identified as a customer cost which means a very high cost allocation to the residential customer class resulting in residential customers bearing the brunt of the cost not properly allocated. And this cost is loaded with general and administrative expenses which drive the cost even higher.

In this case, the Examiner did not review or even identify the costs used in providing this service let alone reviewing the cost allocation used to allocate the costs to the non-regulatory entities, in this case the other City departments.

In its post hearing brief at pp.3-5 2WR pointed out that AE had not performed a cost study of this shared service. Further, AE didn't even identify the components of a cost study for the call center such as whether it included the building, janitorial services, maintenance, furniture, insurance, utilities, equipment, overhead costs and such other costs generally incurred in providing a service such as the 311 Call Center would be included in a cost study.

AE witness Galvan testified as to the staffing costs of the 311 call center. He stated staffing the call center cost $13,754,724, including known and measurable changes was included in AE's cost of service. See AE Ex. No. 5, p. 4-5; See also, AE post hearing brief at pp. 7&8. But this cost was incurred to provide 311 call services to all departments, including AE, and should have been allocated to all departments. According to AE witness Galvan 311 call center costs were allocated among the departments based on per centages of total duration of calls made. 2WR Ex. 4 provides a copy of the table that allocates these calls. AE did not show in its cost of service that the total 311 Call Center Costs were adjusted to remove the costs allocated to the other departments. Nonetheless, under the only evidence of the 311 Call Center costs and under the only evidence of an allocation methodology, AE was to receive 7.25% of the 311 Center costs. This means for the $13,754,724 in staffing costs, AE was allocated 7.25% after retaining 25% for the "value" of after hour service. This is calculated as: 25% of $13,754,724=$3,438,681 plus 7.25% of the remaining cost of $10,316,043 which is $747,913.11 = $4,186,594.11. This number is substantially less than the $13,754,724 amount included in the cost of service by about $9,568,129.89. See Appendix 1 to these Exceptions that is a copy of the AE table showing the call durations for all departments, including AE. This table was included in the record as 2WR Ex.4, p.2.

2WR requests the Examiner to review and consider 2WR's argument that AE has not proven that it has properly identified all the costs it incurred in providing the 311 service and has therefore not met its burden of proving that all costs incurred to provide the 311 service to the community are reasonable and that the costs allocated are reasonable, including AE's allocated costs, and, most importantly, the costs allocated to the other departments have been excluded from the cost of service. The only 311 call center cost testified to by AE were staffing costs whose amounts included in AE's cost of service were overstated by the $9,568,129 in costs that were to be allocated to the other departments. 2WR requests the Examiner to find that the $9,568,129 in overstated costs is unreasonable and to recommend removing this amount from AE's test year cost of service to the Council.

2WR additionally requests the Examiner to recommend the Council to direct AE to file cost studies for each shared service it provides as part of every rate base filing going forward.

III.
Exception Two

The Examiner erred in finding that AE's adjustment to its heavy equipment lease to include cost extensions into FY 2025 is a known and measurable adjustment to its TY2021 heavy equipment lease costs because the Council will not review the lease extensions until each budget year constituting a cost that is not quantifiable and used and useful before the date the rates are to become effective. The Examiner further erred by approving this cost but inconsistently denying a request to make a similar known and measurable revenue adjustment involving the Town Lake Center sale.

The Examiner agreed with AE that its known and measurable changes to its FY 2021 heavy equipment lease expenses were reasonable finding no adjustments should be made. See Final Recommendation at pp.15 and 16. Each lease extension contract is not completed until the Council approves the extension as part of the budgeting process. Until the Council acts these lease extensions are nothing more than firm bids. They are not contractual commitments. The transaction has not occurred. No implementation of the lease can proceed. AE claims historically the Council has approved these extensions

That fact does not extinguish the speculative nature of the uncompleted transaction. The Council will have seat new members with some leaving, potentially affecting the decision-making process on whether to approve or disapprove the lease. The proposed use for the heavy equipment may be delayed or stopped causing reductions to equipment proposed to be leased. Further amendments to the lease extension decreasing the cost may occur. An unapproved lease extension is subject to further negotiation. Consequently, the costs for the lease extensions beyond the test year are uncertain and therefore not known. Nor are the leases even if approved, used or useful because the purpose of the lease extensions, the heavy equipment, will not be used to provide service until sometime in the future, past the time the rates will take effect. The Examiner should, like his reasoning in rejecting a request for a known and measurable change involving the sale of Town Lake Center, find that the lack of a completed contract commitment (the Council approval of each lease extension) makes this cost adjustment neither known or useful before the time rates will be in effect. The Examiner should reject AE's request to include a known and measurable adjustment to its FY2021 heavy equipment lease costs, provided however, an adjustment should be made to reflect the FY 2022 increase. See ICA Ex. 2, Effron Rebuttal, p. 10. 2WR requests that the Examiner recommend the Council reject AE's heavy equipment lease cost adjustment to the TY costs as set out above and reduce the cost of service accordingly.

IV
Exception Three

The Examiner erred in determining that AE's residential rate design needs to substantially change because it is causing AE's financial instability.

In his Final Recommendations, the Examiner stated at page 102, "The IHE finds, however, that while the ICA identified several factors stemming from these events, it failed to provide persuasive analysis of the magnitude of these impacts. The IHE is not persuaded that a future shortfall is unlikely if the current rate structure and rates were maintained." The reference the Examiner was making to ICA was ICA's argument that

AE's use of FYs2020 and 2021 should not be indicative of future financial performance because they were heavily impacted by the catastrophic events of the pandemic (FY 2020 and 2021) and Winter Storm Uri (FY 2021). Moreover, ICA argued that these years were not weather normalized.

A. The Examiner erred in conflating rates and residential rate design with inflation involving the issue of financial instability.

2WR is not aware of any party who would disagree with AE's need for a rate change if there is a change in economic conditions Rates can increase if costs go up. The Examiner noted one of Austin Energy's argument about revenue instability was inflation which AE stated had caused prices to increase 15% over that last year, arguing that somehow its current rate design caused inflation. See Final Recommendation, p. 101. Economics 101 tell us that if a price of a resource used to make a product increases so must the product price increase, absent increased efficiencies or decreased profits. 2WR would note that even though AE contends inflation has increased prices by 15% over the past year, AE only needs to increase its base rates by 5%, assuming the Final Recommendation's recommended reduction of the general fund transfer. That is why we have rate cases, whether it is because the cost of new construction has increased or the prices for current operating expenses have increased.

Inflation does not affect rate design. Rate design and rates are set to recover costs. Neither rate design or rates cause inflation. External economic factors cause inflation. Inflation can cause a gap between base operating costs and base revenues which, if wide enough, causes rate increases. Inflation is not a reason to make drastic changes in residential rate design. Rate changes yes, rate design no.

B. The Examiner erred in placing the burden of proof on ICA and other intervenors to prove that AE's reliance upon FYs 2020 and 2021 for proof that its residential rate design was causing financial instability.

In his decision agreeing with AE's argument the Examiner was stating that ICA and the other intervenors had the burden of proving that events other than AE's residential rate design were the cause of AE's operating losses in FY2020 and FY 2021. The burden of proof is upon AE to prove that the residential rate design caused FY 2020 and FY2021 operating net losses and that duty includes the burden of producing evidence establishing that fact. In this case, AE did not show a direct correlation between its residential rate design and its claimed decrease in base revenues for FY 2021. Although AE admitted that its commercial customers have had declining consumption from FYs 2010-2020, AE failed to provide a correlation between AE's commercial rates and its decrease in revenues for FY 2021, or to at least explain why this same fact—loss of consumption—while relevant for residential customers was not relevant for commercial customers. See AE Ex. No.1, RFP, p. 81, Figure 7-4 This silence as to the commercial usage decrease does not seem logical and infers an AE disingenuous goal of making its residential rate design the sole reason it lost net operating revenues in FYs 2020 and 2021. AE did not even make a prima facie case that its residential rate design caused the lost revenues that occurred in FY 2021. AE was aware the pandemic affected its financial performance. It estimated AE lost $8.1 million in revenues because of the pandemic in FY 2021.[18] AE should have adjusted out the pandemic and Winter Storm revenue and cost effects to validate its claim that it was the residential rate design that caused FY 2021 net revenue losses. It did not do so.

Even assuming AE had made its prima facie case, Intervenors provided evidence that there were other sources causing AE's FY2021 net revenue losses. In addition, to the AE pandemic estimate mentioned above, there was also pandemic relief in the way of rate discounts and waiver of fees. Non-base rate costs occurred in FY 2021 that increased the net revenue losses such as the subsidization of the non-utility plant business—at least the $5 million that went to subsidize the debt service payment—and the costs relating to the Nacogdoches Plant of at least $16,442,387. See AE. Ex. No. 1,

[18] See 2WR Ex. No. 5. 2WR computed an additional $6.164 million in FY 2021 lost revenues stemming from the Council directed pandemic rate relief and fee waiver. This estimate is probably conservative because AE's answers were often incomplete. For instance, AE did not identify the waiver of the late fee payment from Winter Storm Uri. That waiver caused an adjustment in AE's cost of service. Other revenue shortfalls from the pandemic and winter storm Uri could be increased revenues made available for bill assistance and discounts on commercial customer bills.

RFP p.39. In all likelihood the removed accelerated depreciation of $111,743,752 related to Nacogdoches involved a payment of its debt service payment. Id., See also AE Ex. No 1, RFP p.527. Lastly, AE lost revenues from the Winter Storm Uri related ERCOT directed outages involving up to 220,259 customers whose total consumption was stopped for approximately 509,828,944 minutes. And an additional loss of consumption occurred for up to about 35,000 for untold minutes. AE did not estimate the length of stopped consumption for those customers nor did it estimate the lost base rate revenues attributable to the Storm. See. 2WR Ex. No. 5. Once the Intervenors proved other sources factored into FY2021's net revenue loss, the burden passed back to AE to prove that the FY2021 net base revenues were affected by only its residential rate design. It did not do so. Intervenors cannot be held responsible for disproving a primary factor relied upon by AE-financial instability—that AE failed to prove. It is AE and not the other parties who have the books and records to prove its argument.

Further, 2WR points out that AE's lost revenues for TY 2021, its rate increase, is $31 million, less than the rate of inflation. FY 2021 and 2020 cannot be considered normal years by any means for basing a finding that AE's residential rate design caused these operating losses that otherwise would not have occurred. As 2WR pointed out in its post hearing brief at pp. 9-11 that except for FYs 2020 and 2021 AE was showing surplus revenues for each of the FYs it included in its analysis. See AE. Ex. 1, RFP p. 101, Figure 7-23.

2WR requests the Examiner to find that there are too many external factors occurring in and affecting revenues and costs in FYs 2020 and 2021to conclude that those two FYs of net revenue losses are attributable to AE's residential rate design; and, further, to conclude and recommend to the Council that the facts in this rate case do not show a direct relationship between financial instability and AE's residential rate design.

C. <u>The Examiner erred in concluding that large usage customers subsidize small usage customers.</u>

The Examiner determined that small usage customers are being charged below their allocated costs implying agreeing with AE’s observation that 40% of AE’s residential ratepayers are subsidized by the other residential ratepayers. See Final Recommendations, pp. 104-108.

First, ICA correctly noted, that the cos of service study to provide intra class cost causation. Within a customer class, other issues arise. For instance, infrastructure costs within the class differ based on density.

Second, demand is the driving factor in AE’s costs allocations. Most infrastructure costs are allocated among the relevant customer classes by demand. Production costs are allocated among the customer classes by demand. The lower the demand value, the cheaper it is to serve a rate class. AE has argued that small users and large users have the same demand characteristics. See AE Ex. No. 1, RFP, p. 121. This is not a fact. It is a hypothetical. AE has not performed any load studies comparing small users with large users. It is an unsupported hypothetical and not credible evidence. AE has ignored the relationship between EE and decreased peak demand. AE only uses EE as a contributing factor to residential customers’ decreased energy consumption. To support its argument, AE compares the energy performance of similar sized houses, one having been constructed with a dated building code, and one constructed with a more recent building code. The comparison reveals a decrease in consumption but also a significant decrease in peak demand, making the more newly constructed house cheaper for AE to serve See AE Ex. No. 1, p. 84. Yes, energy consumption is coming down as new construction occurs under newer building codes, but peak demand is coming down as well. Also, as appliances, particularly those susceptible to weather, become more energy efficient, energy as well as peak demand goes down. Small energy users and large energy users do not necessarily have the same demand characteristics. Residential energy usage and its peak demand relationship is not that simplistic for purposes of comparing small and large users. Individual differences in peak demand can be as seemingly insignificant as a customer's decision to keep his/her air conditioning set at 68 degrees on 106-degree summer days. If AE wants to prove large users are subsidizing small users, it should put its load studies where its mouth is. Separate out the 40% of the residential rate class members who are, according to AE, being subsidized by the other members and provide demand studies for both production and the infrastructure. But this should be done before making drastic rate design changes. Rate design is a policy decision involving a multitude of factors, one of which is cost, fully distributed and marginal cost Another factor is equity and another is whether there is unreasonable subsidization ("discrimination"). Still another one is promotion of conservation. See Public Utility Regulatory Act. §36.003. Once AE has actual facts then policy decisions can be made on designing residential base rates.

D. Conclusion

AE has not proved that its residential rate design is causing financial instability. Contrary to AE's assertion, the Council made substantial changes to residential rate design in its 2016 rate case. Previous to 2016, AE had summer rates in addition to non-summer rates.[19] The 2016 rate case did away with summer rates with no approved rate tiers set at a level higher than the summer rates, but all tiers except the second tier were set above the non-summer rates. The second tier was set below the non-summer rate.[20] This was a significant change because it placed the high summer operating costs imposed on the utility system on the higher tiers to reflect the increased costs. While the energy use demographics have changed since the 2016 rate class, AE's residential rate design was changed in the rate case. This argument is not valid.

As 2WR pointed out above, AE's argument that its residential rate design is producing revenue instability is not supported by the evidence. Until FYs2020 and 2021 the previous FYs shown in AE' analysis reveal surplus revenues. 2WR has shown that

[19] See Appendix 2, a copy of the pre 2016 residential designs published in its 2016 rate filing package. This was not included in the record. AE is seeking judicial notice of this fact. It is relevant and clarifies AE's assertion that its residential rate design has not changed.

[20] Compare the rates set out in Appendix 2 with AE's current rates set out at AE Ex. No.1, RFP p.110.

significant external and catastrophic events impacted FY 2021 financial performance and AE made no attempt to adjust the test year to prove that its operating losses were the result of its residential rate design and not other external factors. Moreover, contrary to AE's attempts, inflation is an external event. While it can cause utilities to suffer financial stress without a rate increase, the cause is not rate design. As James Carville has so famously said, "it's the economy stupid." Lastly AE's allegation that big energy users subsidize small users is not grounded on fact but on hypotheticals, It has not provided intra class demand studies showing a lineal relationship between the less the energy consumed, the more cost it is to serve. It has merely assumed the relationship. A more likely relationship is efficiency and cost to serve. An efficient small user with a low peak demand is cheaper for AE to serve than a wasteful high user with a high peak demand. No load studies have been formed to prove AE's assertion.

AE has not made a credible case that a substantial change to its residential rate design should be made. 2WR requests the Examiner to find and recommend to the Council to make no change to AE's rate design and that any rate increase be made consistently within the rate design.

AE also agrees with the Examiner that it is not appropriate to collapse the rate design used for customers located outside the city limits into the residential rate design used for customers located inside the city limits.

IV.
Exception Three

The Examiner erred in failing to address AE 's hypocrisy in justifying its recommendation that its proposed customer charge should be significantly higher than comparable utilities because other utilities "may" have tiered rates that are essentially flatter or just flat rates, yet at the same time proposing to substantially flatten its rates.

AE argues comparing AE's customer charge with other comparable utilities such as CPS is because the utilities "may" or could have flatter rate tiers or simply flat rates or even declining block rates. Yet after proposing its substantial increase in the customer charge AE goes on to substantially flatten the rate tiers. AE apparently wants its cake with icing and to eat it too.

But most importantly, AE's arguments about different rate design tiers are nothing more than speculation. Ironically, AE objected to 2WR's attempt to introduce other similarly sized utility tariffs and its objection was sustained.

Obviously, the outlier nature of AE's proposed customer charge in comparison to comparably-sized utilities underscores the lack of reasonableness in AE's proposal and negates any attempt to increase the customer charge more than the residential customer class's increase.

AE's customer charge is loaded with indirect costs that AE witness Rabon admitted is not tied to any individual function, let alone individual customer.[21]

AE's proposed customer charge is overstated because it includes indirect costs that do not vary with function, let alone individual customer. It is an outlier to the range of customer charges for comparably-sized utilities operating in Texas.

2WR urges the Examiner to find that AE's proposed customer charge increase is based on costs overstated with costs that do not vary with an individual customer and further, that its amount is substantially higher to comparably-sized utilities operating in Texas and to recommend the Council increase the customer charge no higher than any increase to the residential customer class increase. In further support, 2WR by this reference its post hearing into these Exceptions.

[21] Transcript, Day Three, p.48, Ls. 12-15.

V.
Prayer

Wherefore, Premises Considered, 2WR requests the Examiner recommend to the Council set out above and such other relief in law or in equity to which it merits.

Respectfully Submitted,

/S/ Lanetta M. Cooper   Date: September 26, 2022

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Certificate of Service

The undersigned certifies that a copy of this document has been delivered on all parties of record on 26th day of September 2022 by email, fax, and/or U.S. mail.

/S/ Lanetta M. Cooer

Attachmen J

I CA TC 1-14 B: **3-1-1 Expense.** Provide the proportions of 311 calls pertaining to particular types of issues (e.g., downed power lines, outages, etc.).

ANSWER: The requested information is not available. The table below shows all 311 calls by all City of Austin Departments.

~

Austn Polee Deoartrrent	1 542 882.42	31.78%		3 010 119.98	37.52%	1 821 552.39	t	3 553 797.23
Austn Resource Remverv	564 666.57	11.63%		1101648.51	13.73%	666 654.65	j;	1 300 624.38
AU5ti1 Public Hea~h	426 459.58	8.78%	,	832 010.59	10.37%	503 485.21	$	982 285.41
Anirral Services Office	346 691.72	7.14%	,	676 385.74	8.43%	409 309.95	$	298 552.14
Austn Enerav	298 064.53	6.14%		581 515.48	7.25%	351 899.90	~	686 546.75
Develoorrent Services Dent	215 901.33	4.45%	$	421 217.40	5.25%	254 896.67	$	497 296.20
Austn Code Denartrrent	158 971.98	3.27%	$	310 149.85	3.87%	187 684.94	$	366 168.02
Austn Transnnrtatlon	149 366.27	3.08%	c	291 409.36	3.63%	176 344.27	$	344 042.70
Public Works	113 761.62	2.34%	s	221 945.70	2.77%	134 308.84	!!;	262 032.75
Austn Water	110 593.00	2.28%	c	215 763,82	2.69%	130 567.92	$	254 734,32 '
Austn Parks and Recreation	78 915.35	1.63%		153 961.62	1.92%	93 168.76	s	181 769.62
Municloal Court	12 584.23	0.26%		24 551.48	0.31%	14 857.15	$	28 985.89
Fire oeoertrrent	11 636.00	0.24%		22 701.51	0.28%	13 737.65	$	26 801.77
CPIO	8 133.67	0.17%		15 868.55	0.20%	9 602.74	$	18 734.68
Watershed Protection	8 093.77	0.17%	$	15 790.71	0.20%	9 555.63	$	18 642.77
Hurren Resources	7 888.00	0.16%	$	15 389.27	0.19%	9 312.70	t	18 168.82
Neiahborhood Housinn/Corrm Dev	7 374.10	0.15%	t	14 386.66	0.18%	8 705.98	$	16 985.13
Law Denartrrent	6 771.43	0.14%	$	13 210.88	0.16%	7 994.47	$	15 596.98
HSEM	6 723,15	0.14%	$	13 116.68	0.16%	7 937.46	$	15 485.76
Maver & Citv CouncH	5 533,97	0.11%	$	10 796.61	0.13%	6 533.49	$	12 746.66
Plannino and Zonino	4 609.00	0.09%	$	8 992.03	0.11%	5 441.46		10 616.14
TARA	3 168.70	0.07%	$	6 182.04	0.08%	3 741.02		7 298.62
CTM	2 902.57	0.06%	$	5 662.83	0.07%	3 426.82		6 685.63
Office of cav Clerk	2 723.80	0.06%	$	5 314.06	0.07%	3 215.76		6 273.86 :
Econonic Develo=nt Dent	2 441.73	0.05%	t	4 763.75	0.06%	2 882.75	$	5 624.16 :
Citv Manaaer	2 075.10	0.04%	$	4 048.46	0.05%	2 449.90	<l	4 779.68 :
Austn Public: Librarv	1 886.12	0.04%	$	3 679,76	0.05%	2 226.78	t	4 344.39 I
Nebhborhood Harre Pronram	1 653.98	0.03%	$	3 226.87	0.04%	1 952.72	$	3 809.70 ,
Far Housinn Office	l 399.25	0.03%	$	2 729.90	0.03%	1 651.98		3 222.96
Bu6dinn Services	1 216.22	0.03%	$	2 372.80	0.03%	1 435.89		2 801.37
Purchasina Office	1 021.55	0.02%	$	1 993.02	0.02%	1 206.06	,	2 352.99
Avaton	799.52	0.02%	$	1 559.83	0.02%	943.92		1 841.57
Office of Real Estate Services	719.43	0.01%	$	1 403.59	0.02%	849.37		1 657.11
Srra II Minaritv Bus Resource	592.27	0.01%	$	1 155.50	0.01%	699.24		1 364.20
Citv Boards and ComrissiOns	543.95	0.01%	$	1 061.23	0.01%	642.20	.	1 252.91
Corrrruntv Ennaaerrent	472.52	0.01%	$	921.87	0.01%	557.86	.	1 088.37
lnteraovernn-ental Relatbns	450.87	0.01%	$	879.63	0.01%	532.30	$	1 038.50
Office of the Police Monitor	413.32	0.01%	s	806.37	0.01%	487.97	$	952.01
Fleet Services	365.38	0.01%	c	712.85	0.01%	431.38	$	841.61
Downtown Austin CorrmmitvCourt	327.02	0.01%	$	638.00	0.01%	386.08	$	753.23
Budaet Office	235.78	0.00%	$	460.01	**0.01%**	278.37	t	543.09
Ausm Convention Center	223.45	0.00%	$	435.94	0.01%	263.81	t	514.68
Muntinal Civil Servte Office	206.72	0.00%	$	403.30	0.01%	244.05		476.14
Canttal Contractinn Office	189.30	0.00%	$	369.32	0.00%	223.49		436.02
Treasurv Offoce	188.22	0.00%	$	367.21	0.00%	222.21		433.53
ControOer's Office	162.23	0.00%	$	316.51	0.00%	191.54		373.68
Corridor Prooram Office	72.92	0.00%	$	142.26	0.00%	86.09	"	167.95
Office of Sustainabilttv	69.77	0.00%	$	136.11	0.00%	82.37	"	160.70
Innovaton Office	47.78	0.00%	i	93.22	0.00%	56.41	t	110.06
Office of Cttv Audtor	46.37	0.00%	$	90.46	0.00%	54.74	t	106.80
IntearitvOffi:::e	34.37	0.00%	$	67.05	0.00%	40.57	t	79.16
Labor Relafons	32.82	0.00%	$	Gq.02	0.00%	38.74	t	75.59
Eouitv Office	22.15	0.00%	$	43.21	0.00%	26.15	t	51.02
Office of Pertorrrence Morrt	6.67	0.00%	$	13.01	0.00%	7.87	$	15.36
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Total	**4,855,088.67**	**100.00%**	$	**9,472,140.75**				
		Tota I Budget	$	12,629,521.00				
		25% Value as Backup (Direct AE Charge)	$	3,157,380.25				
		Departrrental Albcation	$	9,472,140.75				

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throughout the year.[114] Figure 6.9 summarizes the recommended residential rates for inside the City limits and Figure 6.10 summarizes those for outside the City limits. Comprehensive comparisons of existing rates, cost of service rates, and proposed rates for each rate schedule are in Schedule H and associated work papers of Appendix G.

Figure 6.9
Residential Base Rates for Inside the City Limits Customers

	Existing Rate	Proposed Rate
Basic Charges ($/month)		
Customer Charge	10.00	10.00
Delivery Charge	0.00	0.00
Summer Tier Rates ($/kWh)		
First Tier (0 – 500 kWh)	0.03300	0.03300
Second Tier (501 – 1,000 kWh)	0.08000	0.05600
Third Tier (1,001 – 1,500 kWh)	0.09100	0.07595
Fourth Tier (1,501 – 2,500 kWh)	0.11000	0.09100
Fifth Tier (2,501 kWh and over)	0.11400	0.10595
Non-Summer Tier Rates ($/kWh)		
First Tier (0 – 500)	0.01800	0.03300
Second Tier (501 – 1,000)	0.05600	0.05600
Third Tier (1,001 – 1,500)	0.07200	0.07595
Fourth Tier (1,501 – 2,500)	0.08400	0.09100
Fifth Tier (2,501 and over)	0.09600	0.10595

[114] AE is proposing the removal of base rate seasonality while at the same time recommending the addition of seasonality to the PSA rates. See Section 6.5.1.

Figure 6.10
Residential Base Rates for Outside the City Limits Customers

	Existing Rates	Proposed Rates
Basic Charges ($/month)		
Customer Charge	10.00	10.00
Delivery Charge	0.00	0.00
Summer Tier Rates ($/kWh)		
First Tier (0 – 500 kWh)	0.03750	0.03800
Second Tier (501 – 1,000 kWh)	0.08000	0.05600
Third Tier (1,001 kWh and over)	0.09325	0.07815
Non-Summer Tier Rates ($/kWh)		
First Tier (0 – 500 kWh)	0.01800	0.03800
Second Tier (501 – 1,000 kWh)	0.05600	0.05600
Third Tier (1,001 kWh and over)	0.07170	0.07815

Under the proposed rates, the first tier rate for customers inside the City limits is equal to the summer first tier rate under current rates. Similarly, the proposed second tier rate is equal to the current non-summer second tier rate. This provides rate stability while at the same time addressing the need for additional revenue from the first tier. Overall, Austin Energy projects that the adjustments to the first and second tier rates will generate an additional $6.7 million per year.

Correspondingly, to avoid creating a rate increase for the class, Austin Energy proposes adjusting the rates for tiers three, four, and five to generate approximately $6.7 million less per year as compared with current rates. The proposed energy charges for the Residential customer class steadily increase from the first to the fifth tier, but the magnitude of the increases between each tier is less than under the current rates. The proposed third tier rate is set such that the overall revenue target for the class is achieved.

The proposed fourth tier rate for customers inside the City limits is set equal to the midpoint between the proposed third and fifth tier rates. The proposed fifth tier rate for customers inside the City limits is set to $0.03 per kWh more than the proposed third tier rate. This differential is based on a high-level analysis of the approximate long-run marginal cost of adding a gas-fired combustion turbine to the generation portfolio. Energy use in the fifth tier (greater than 2,500 kWh per month) is the marginal