

**2022 AUSTIN ENERGY BASE RATE REVIEW  
PROCEDURAL GUIDELINES**

## **Section A. General Provisions and Definitions**

### **1. Scope.**

- (a) These Guidelines establish the process for the 2022 review of Austin Energy's proposed base rates. The Guidelines address: how an Austin Energy customer or an organization whose membership is comprised of Austin Energy customers may participate in the review process, how a Participant may get information from Austin Energy or another Participant, and Participant responsibilities.
- (b) These Guidelines do not change the jurisdiction, powers, or authority of the City Council, City of Austin staff, or the substantive rights of any Person.
- (c) If any part of these Guidelines conflicts with any resolution or ordinance adopted by the City Council, the resolution or ordinance shall control.
- (d) If an issue arises that is not addressed by these Guidelines and is within the Impartial Hearing Examiner's purview, the Impartial Hearing Examiner shall decide such issue fairly and impartially. In addressing any issues arising under these Guidelines, the Impartial Hearing Examiner will consider the Person's familiarity or sophistication in rate or legal proceedings.
- (e) Except as noted in Section A.1(f) below, the scope of the 2022 Austin Energy Base Rate Review is limited to reviewing Austin Energy's base rates. Issues related to Austin Energy's rates or costs that are not in base rates, such as district cooling rates and contracts, are beyond the scope of the 2022 Austin Energy Base Rate Review. Items in the Power Supply Adjustment that are approved in the annual budget process, including fuel costs, generation investment, purchase power contracts, and regulatory charges, are also beyond the scope of the 2022 Austin Energy Base Rate Review. Additionally, issues that are outside the City of Austin's jurisdiction such as transmission cost of service are outside the scope of the 2022 Austin Energy Base Rate Review.
- (f) Consistent with the current tariff, the Value of Solar Rider rates, methodology, and inputs will be re-assessed and updated during the 2022 Austin Energy Base Rate Review. However, the Value of Solar Rider is a separate, bifurcated tariff, and is not included in Austin Energy's base rates and may be severed as necessary to ensure efficient processing of the Base Rate Review.

### **2. Definitions.**

- (a) Authorized Representative — A Person who enters an appearance on behalf of a Participant, or on behalf of a Person who wants to be a Participant or otherwise to participate, in the Base Rate Review. The appearance is made by signing any written document submitted on behalf of the Participant or Person who wants to be a Participant or otherwise to participate in the Base Rate Review. The Authorized Representative shall be an Authorized Representative until a statement stating otherwise is submitted. The

Authorized Representative has the authority to sign agreements and settlements associated with the 2022 Austin Energy Base Rate Review.

- (b) Business Day — Any day other than a Saturday, a Sunday, a City holiday, or a day on which City offices are closed.
- (c) City — City of Austin, Texas.
- (d) Days — Calendar days, unless specifically stated otherwise.
- (e) Final Conference — The proceeding conducted by the Impartial Hearing Examiner during which Austin Energy and the Participants present their Position Statements and oral remarks regarding the 2022 Austin Energy Base Rate Review for a final recommendation by the Impartial Hearing Examiner to City Council.
- (f) Impartial Hearing Examiner — The individual hired by the City to conduct Hearings and Proceedings related to the Rate Filing Package and to make recommendations to the City Council about the Rate Filing Package.
- (g) Independent Consumer Advocate — The individual or group of individuals hired by the City to represent the interests of the residential and small commercial customer classes in the electric rate setting process.
- (h) Model — The electronic model containing Austin Energy’s cost-of-service study. Certain information in the Model may be redacted or password protected in order to adequately protect Austin Energy’s competitive information and confidential customer information.
- (i) Motion — A request for action to be taken by the Impartial Hearing Examiner.
- (j) Participant — A Person who has met the requirements of Section B and granted the right to participate in the Base Rate Review by the Impartial Hearing Examiner.
- (k) Person — An individual, partnership, corporation, association, governmental subdivision, entity, or public or private organization.
- (l) Position Statement — A formal statement of a Participant’s position on the issues which states what course of action the Participant recommends the Impartial Hearing Examiner should recommend to City Council.
- (m) Preliminary Conference — A proceeding conducted by the Impartial Hearing Examiner prior to the Final Conference to establish time allocations and other procedural requirements related to the Final Conference.
- (n) Rate Ordinance — The ordinance approved by the City Council, adopting electric rates for Austin Energy customers.

- (o) Rate Review Administrator — The Person responsible for clerical and administrative functions necessary to enable the functioning of the Base Rate Review Process. The email address for the Rate Review Administrator is [rate.filings2022@austinenergy.com](mailto:rate.filings2022@austinenergy.com).
- (p) Rate Review Website — The public webpage, found on the City Clerk’s webpage, where the Rate Filing Package, Motions, Requests for Information, IHE Orders, Position Statements, and other documents will be located. Participants will coordinate with the Rate Review Administrator to submit Motions, Requests for Information, and Position Statements to the Rate Review Website. The Rate Review Website may be found at: [https://www.austintexas.gov/cityclerk/postings/ae\\_2022\\_rate\\_review.htm](https://www.austintexas.gov/cityclerk/postings/ae_2022_rate_review.htm).
- (q) Request for Information — A written request that asks the receiving Participant to answer a specific question related to the 2022 Austin Energy Base Rate Review, either in writing or by providing responsive documents, or asks the receiving Participant to share certain documents.
- (r) Rate Filing Package — The cost-of-service study, narrative, tariff, and accompanying explanations presented by Austin Energy for review by the Impartial Hearing Examiner and adoption by the City Council.
- (s) Technical Conference — A meeting that takes place prior to the Final Conference in which details related to the 2022 Austin Energy Base Rate Review are discussed by Participants.

### **3. Conduct.**

- (a) **Conduct.** Every Person or Participant appearing before the Impartial Hearing Examiner shall behave with dignity, courtesy and respect. Professional representatives shall observe and practice the standard of ethical and professional conduct prescribed for their professions. If determined by the Impartial Hearing Examiner that a Person or Participant is not professionally conducting themselves, they may be excluded from the Base Rate Review Process Proceedings.
- (b) **Communications.**
  - (1) **Ex parte communications.** Unless specifically authorized by law, the Impartial Hearing Examiner cannot communicate, directly or indirectly, about any issue of law or fact related to the Base Rate Review with any Person or Participant, or their Authorized Representatives, unless all Participants know about and have an opportunity to participate in the communication.
  - (2) **Contract manager.** The Impartial Hearing Examiner does not need to provide notice to all Participants before the Impartial Hearing Examiner communicates with the City of Austin employee designated as the contract manager about the administration of the Impartial Hearing Examiner’s contract.

#### **4. Computation of Time.**

- (a) **Counting days.** When determining the length of a time period outlined in these Guidelines, the period begins on the day after the act, event, or default in question. The period ends on the last day of the designated period unless that day is not a Business Day. If the last day is not a Business Day, the designated period ends on the next Business Day. For example, if a response to a discovery request is due 14 days after the Participant receives the discovery request and that 14-day period ends on a Saturday or Sunday, the response is due on Monday.
- (b) **Extensions.** Before a time period expires, a Participant may ask the Impartial Hearing Examiner to extend the time period. The Participant must submit a written request that explains why the extension is needed and shows that the neglect, indifference, or lack of diligence of the Participant asking for the extension is not the reason for the extension. The Impartial Hearing Examiner shall rule on the request for extension in a timely manner.

### **Section B. Participants**

#### **1. Representative Appearances.**

- (a) **Generally.** Any Person or Participant may appear before the Impartial Hearing Examiner in person or through an Authorized Representative.
- (b) **Change in information required for notification or service.** Any Participant or Authorized Representative shall email the Rate Review Administrator with any change in their email address. A notice of appearance shall be submitted to the Rate Review Administrator for any new Authorized Representative.

#### **2. Rules for Participation.**

- (a) **Standing.** A Person can participate in the Base Rate Review if that Person is a customer of Austin Energy receiving electric service. The Independent Consumer Advocate hired by the City also has standing to participate in the Base Rate Review.
- (b) **Requests to participate.**
  - (1) Anyone who wants to participate in the Base Rate Review shall submit a request to participate to the Rate Review Administrator. The request shall:
    - (A) Identify the particular Person or group of Persons represented;
    - (B) State that the Person is an Austin Energy customer;
    - (C) Designate an email address to be used for communications;

- (D) If represented by an Authorized Representative, state the Authorized Representative's name and email address, and if the Authorized Representative is an attorney, include the attorney's state bar number; and
  - (E) Include a list identifying the Participant's questions and concerns related to Austin Energy's Rate Filing Package that the Participant believes should be addressed by the Impartial Hearing Examiner and Council.
- (2) Any association or organized group shall include in its request a list of the members that will be represented by the association or organized group in the Base Rate Review. The group or association shall supplement the list at any time a member is added or deleted.
  - (3) Requests to participate shall be submitted no later 30 Days from the date Austin Energy submits its Rate Filing Package. All requests to participate shall be emailed to the Rate Review Administrator.
  - (4) The Impartial Hearing Examiner may grant untimely requests to participate and must approve such a request if doing so would increase participation and accessibility for historically marginalized or underrepresented communities. If a Participant requests to participate after the deadline, the Participant will accept the schedule and record as it exists at the time the Participant submits its request.
  - (5) The Impartial Hearing Examiner shall rule on requests to participate. A Person whose request to participate is granted by the Impartial Hearing Examiner is considered a Participant to the Base Rate Review.
  - (6) Austin Energy may verify customer status. Any Person who is shown not to be an Austin Energy customer shall not be allowed to participate in the Proceeding.

### **3. Participants.**

- (a) **Participants.** Subject to the alignment of Participants pursuant to Section B.3(b), all Participants will be allowed to provide a Position Statement, submit discovery Requests to other Participants, make oral or written arguments, and otherwise fully participate in any Proceeding.
- (b) **Alignment of Participants.** The Impartial Hearing Examiner shall align Participants for the purposes of participating in the Base Rate Review if the Participants have the same positions on issues of fact. This means that the Impartial Hearing Examiner shall group together several Participants who have similar concerns about Austin Energy's Rate Filing Package. Aligned Participants should coordinate their efforts. The Impartial Hearing Examiner shall order alignment of Participants at the earliest reasonable opportunity in order to avoid unnecessary duplication of effort and to allow aligned Participants enough time to prepare.

- (c) **Informal Participation.** In addition to a Person engaging in this process as a Participant, comments by a member of the public who does not wish to be a formal Participant may be submitted up to 3 Days before the Final Conference during the pending Base Rate Review process. Persons submitting comments must be an Austin Energy customer and may submit comments online, at the City Clerk’s Office, and at certain City of Austin Library locations to be designated. Hard copies of comment forms will be available to fill out and submit in a drop box, and computers are available for the online submission of comments. Comments by customers will be received by the Rate Review Administrator and shared with Austin Energy staff and the Independent Consumer Advocate to inform positions and will be taken into consideration.

## **Section C. Documents**

### **1. Submitting Documents and Other Materials.**

- (a) All documents and other materials should be in electronic form and emailed to the Rate Review Administrator at [rate.filings2022@austinenergy.com](mailto:rate.filings2022@austinenergy.com).
- (b) Austin Energy will file its Rate Filing Package on April 18, 2022. The Rate Filing Package will be submitted in PDF format. Any Participants wishing to access the Model in native format shall email their request to the Rate Review Administrator.
- (c) Participants without digital access may submit all documents, including Motions, Requests for Information, Position Statements, and other materials to the City Clerk’s Office, City Hall, 301 W. 2nd St. Austin, Texas.
- (d) The Rate Review Administrator will receive the documents or other materials and upload it to the Rate Review Website.
- (e) If there are errors or other problems with electronic documents, the Rate Review Administrator may request the sender to correct the problems and re-send.
- (f) All documents should be provided in PDF format, except for spreadsheets and Microsoft Excel files.
- (g) Members of the public can download copies of all documents located on the Rate Review Website.
- (h) All documents shall be submitted by 12:00 p.m. on the due date, unless otherwise ordered by the Impartial Hearing Examiner. Documents that are electronically submitted will be considered submitted at the time the Rate Review Administrator receives the email. Documents that are submitted in person to the City Clerk’s Office will be considered submitted at the time the City Clerk’s Office time stamps the document. If the deadline is not met, the document may be excluded from consideration.

- (i) Upon submitting the document to the Rate Review Administrator, Participants shall endeavor to send the document submitted via email to all other Participants using the service list found on the Rate Review Website.
- (j) All rulings or other communications from the Impartial Hearing Examiner to the Participants will be submitted to the Rate Review Administrator.

## **2. Confidential Material.**

- (a) Because this review process is designed to be open and accessible to all members of the public, no confidential materials should be involved in any filings. However, Austin Energy may be required to rely on information in compiling its Rate Filing Package that includes competitive matters under Texas Government Code Section 552.133 and cannot be provided to the public. All determinations regarding whether Austin Energy information is confidential competitive information will be made in good faith with the advice and concurrence of the City of Austin Law Department.
- (b) No personally identifiable information, including but not limited to social security 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.

## **3. Form and Format of Documents and Other Materials.**

- (a) All documents and materials submitted to the Rate Review Administrator should include: (1) the name of the Participant submitting it and (2) the title of the document submitted (e.g., George Washington's Motion to Intervene, The Continental Congress' Presentation, etc.). The last page of the document (excluding attachments) shall include the signature of the filing Participant or Authorized Representative and their email address. If the Person signing the document is a licensed attorney, the attorney's state bar number must be provided.
- (b) Hard copy documents will be accepted only in the case of individual Persons lacking adequate digital access in need of a hard copy alternative in order to participate.
- (c) The Impartial Hearing Examiner may allow any Participant to amend a submittal if the Impartial Hearing Examiner determines that the amendment will not unreasonably harm any Participant.

## **4. Motions.**

- (a) **General requirements.** A Motion shall state the relief sought and the specific reasons supporting a grant of relief. In other words, the Motion must explain what the Participant is asking the Impartial Hearing Examiner to do and will support the Participant's argument with as many specific facts as possible.



- (b) **Time for response.** Unless specifically stated otherwise in these Guidelines or by ruling of the Impartial Hearing Examiner, Participants shall have 7 Days after a Motion is filed to respond to the Motion in writing.
- (c) **Rulings on Motions.** All rulings made by the Impartial Hearing Examiner shall be in writing and shall be emailed to the Rate Review Administrator.
- (d) **Continuances.** The Impartial Hearing Examiner may grant extensions for responses to Motions or continuances after being asked to do so by a Participant.

## **Section D. Conferences**

### **1. Conferences.**

- (a) **Conferences.** The Impartial Hearing Examiner may schedule any necessary conferences. The Impartial Hearing Examiner may schedule a conference after being asked by one or more Participant to do so or if the Impartial Hearing Examiner determines that a conference is necessary. The Impartial Hearing Examiner will inform the Participants about the conference at least 5 Days before the conference is scheduled to be held. The notice will tell the Participants what will be discussed at the conference and will include the time and location of the conference.
- (b) **Technical Conferences.** In order to facilitate access to information, Technical Conferences will take place in accordance with the established procedural schedule for the Participants to discuss details related to the 2022 Austin Energy Base Rate Review. Technical Conferences shall be conducted informally. Austin Energy may follow up on items related to issues discussed during Technical Conferences as necessary.
- (c) **Preliminary orders.** The Impartial Hearing Examiner may issue written preliminary orders covering procedural and discovery matters, and other matters as needed. No preliminary order shall conflict with these procedural Guidelines.
- (d) **Preliminary Conference.** The Impartial Hearing Examiner shall schedule the Preliminary Conference in preparation of the Final Conference. The Impartial Hearing Examiner will inform the Participants about the Preliminary Conference at least 5 Days before the conference is scheduled to be held. The notice will include the time and location of the Preliminary Conference.
- (e) **Final Conference.** Discussed in Section G, below.

## **Section E. Position Statements**

### **1. Position Statements.**

- (a) In accordance with the procedural schedule, all Participants, except Austin Energy, may submit a Position Statement. This document will, at a minimum, present the Participant's position on the issues and will clearly state what course of action the Participant believes the Impartial Hearing Examiner should recommend to City Council. To the extent possible, the document will contain factual and legal support for the Participant's position. The Position Statement may use a pre-filed testimony question and answer format or may use a narrative format.
  - (1) If in the Position Statement, or any subsequent filing, a Participant modifies the Model, the Participant shall identify by spreadsheet, row, and column what cells in the Model have been changed. Similarly, if Austin Energy files an updated Model, it shall identify which spreadsheets, rows and columns have been changed.

### **2. Objections.**

- (a) Participants shall exclude irrelevant, immaterial, or unduly repetitious evidence from Position Statements. A Participant may object to a Position Statement offered by another Participant. The Impartial Hearing Examiner will note the objection and will rule on it.

### **3. Rebuttal and Cross Rebuttal.**

- (a) Participants and the Independent Consumer Advocate may rebut the Position Statements submitted by other Participants, other than Austin Energy ("Cross Rebuttal"). Cross Rebuttal shall be limited to rate design and cost allocation issues. Any such Cross Rebuttal shall be due in accordance with the procedural schedule.
- (b) Austin Energy will submit a Rebuttal position statement ("Rebuttal") following the submittal of Position Statements and Cross Rebuttal by Participants. The Rebuttal will contain Austin Energy's response to the issues and concerns outlined in the Participant's Position Statements and Cross Rebuttal. Rebuttal will be due in accordance with the procedural schedule.
- (c) Limited discovery, as outlined below in Section F.2, will be allowed on Participants' Position Statements and Cross Rebuttal and on Austin Energy's Rebuttal. Discovery will be due in accordance with the procedural schedule.
- (d) The Impartial Hearing Examiner may set limits with regard to Rebuttal and Cross Rebuttal.

## **Section F. Discovery**

### **1. Forms and Scope of Discovery.**

- (a) **Scope.** Discovery is the process by which Participants can ask each other for information related to the Rate Filing Package and the Participants' Position Statements. 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. Participants can ask for information that would help the Participant find information that the Participant can use to prepare its Position Statement.

During the Base Rate Review, Participants may obtain information through discovery. A Participant does not need to produce a document or record unless that Participant has constructive or actual possession, custody, or control of the non-confidential requested item. A Participant has possession, custody or control of a document or record if the Participant can obtain possession of the document or record with reasonable effort.

- (b) **Discovery methods.** Participants may obtain discovery by Requests for Information ("Requests"). Additionally, to facilitate the efficient exchange of information, Participants are encouraged to forego formal discovery Requests where necessary in favor of Technical Conferences to discuss and answer Requests.

### **2. Limitations on Discovery.**

#### **(a) Limitation of discovery Requests.**

- (1) Each Participant or group of aligned Participants may ask a total of 50 Requests on Austin Energy's Rate Filing Package and 10 Requests on each Participant's Position Statement. Each Participant or group of aligned Participants may ask a total of 7 Requests on each Participant's Cross Rebuttal. Participants are encouraged to participate in the Technical Conferences, discussed above in Section D.1(b), where they may informally ask additional questions of Austin Energy.
- (2) Austin Energy may ask a total of 10 Requests on each Participant's Position Statement and 7 on each Participant's Cross Rebuttal.
- (3) Each Participant or group of aligned Participants may ask a total of 7 Requests on Austin Energy's Rebuttal.
- (4) Each question, subpart, request for production, and request for admission shall count as a separate Request. The Impartial Hearing Examiner may place additional limits on discovery in order to protect a Participant against unreasonable Requests, including for the following purposes:
  - (A) Prevention of undue delay;

- (B) Protection from a request to provide information which is readily available to the requesting Participant;
  - (C) Protection from unreasonably cumulative or duplicative discovery Requests; or
  - (D) Protection of a Participant from undue burden, unnecessary expense, harassment or annoyance, or invasion of personal, constitutional, or property rights.
- (b) **Denial of right to discovery Requests.** The Impartial Hearing Examiner may, by signing an order, deny a Participant the right to continue discovery if there is proof that the Participant has misused the discovery process.
- (c) **Written Requests.** In accordance with the procedural schedule and any rulings made by the Impartial Hearing Examiner, at any time after the Rate Filing Package is filed and a Person has filed a request to participate, any Participant may submit to any other Participant, including Austin Energy, written Requests. For all Requests, the requesting Participant must use enough detail so that the Participant receiving the Request will know what is being asked for.
- (d) **Deadlines.** The deadline for propounding Requests will be set out in the procedural schedule.
- (e) **Making Requests.**
  - (1) **Contents.** A Request shall identify the information, documents or material sought. A Request asking for documents shall describe the documents to be produced and shall set forth the items to be inspected by individual item or by category. The Participant making the Request will include enough information in the Request so that the Participant receiving the Request will know what the Participant should produce.
  - (2) **Service.** The requesting Participant shall submit all Requests electronically to the Rate Review Administrator. Accommodations will be made for Persons lacking adequate digital access. In such case, Persons may submit Requests in person to the City Clerk's Office.
- (f) **Responding to Requests.**
  - (1) **Time for response.**
    - (A) Austin Energy shall respond in writing to Requests on its Rate Filing Package no later than 14 Days after the Request is submitted to the Rate Review Administrator.

- (B) Participants shall respond in writing to Requests on their Position Statements and on their Cross Rebuttals no later than 5 Days after the Request is submitted to the Rate Review Administrator.
- (C) Austin Energy shall respond in writing to Requests on its Rebuttal no later than 5 Days after the Request is submitted to the Rate Review Administrator.
- (D) The Impartial Hearing Examiner, on Motion, may extend the time for providing responses.

(2) **Requirements of response.**

- (A) Each response shall be truthful, as if under oath, and identify the individual responsible for the response.
- (B) Each Request shall be answered separately. When answering the Request, the responding Participant shall first restate the Request then provide the response.
- (C) If a response is voluminous, instead of producing the requested information, a Participant may make the information available for review at a mutually convenient time at the location where the information is maintained. The requesting Participant may inspect and make copies of the records. When making the information available for inspection and copying, the responding Participant will provide enough detail for the requesting Participant to find what is responsive in the information.
- (D) The responding Participant may provide the information in the format that the documents are maintained.
- (E) If responsive information can be found in publicly available documents, the Responding Participant only has to describe where the information can be found.
- (F) A Participant must only produce already existing information that Participant has in its custody or control, meaning the Participant can get the document or record with reasonable effort.
- (G) Responses shall be submitted to the Rate Review Administrator.

- (g) **Objections to Requests.** Participants shall work together to try and resolve any discovery dispute prior to filing an objection. If negotiation fails, objections to Requests, if any, shall be submitted to the Rate Review Administrator no later than 10 Days after receipt of the Requests. The objections shall include a statement that the Participants conducted good faith negotiations that failed to resolve the issues. Due to time constraints, Participants are encouraged to informally resolve issues related to Cross Rebuttal and Rebuttal Requests.

- (h) **Motions to compel.** If the Participants cannot resolve objections or other discovery disputes through informal means, the requesting Participant may file a Motion to compel a response no later than 4 Days after the objection is submitted to the Rate Review Administrator. The Motion to compel should provide a detailed account of efforts to confer and reasons for continued disagreement. If granted by the Impartial Hearing Examiner, the Motion to compel requires the responding Participant to produce the disputed information.

Responses to a Motion to compel shall be filed no later than 4 Days after receipt of the Motion and shall include all factual and legal arguments the responding Participant wants to present regarding the Motion. The Impartial Hearing Examiner may rule on the Motion to compel without allowing additional argument.

- (i) **Duty to supplement.** If a responding Participant gets more information which makes a previous response to a Request incorrect or incomplete, the responding Participant shall supplement its response by adding the new information.

## **Section G. Final Conference**

### **1. Impartial Hearing Examiner.**

- (a) **Authority of Impartial Hearing Examiner.** The Impartial Hearing Examiner's authority includes, but is not limited to, receiving Position Statements; issuing discovery, procedural, and scheduling orders; taking other reasonable and lawful actions necessary for an efficient and fair Base Rate Review process; and making a final recommendation to the Austin City Council. Notwithstanding the above, the Impartial Hearing Examiner does not have the authority to issue protective orders or swear-in Participants.
- (b) **Role of Impartial Hearing Examiner.** The Impartial Hearing Examiner shall rule as quickly as possible on all Motions and objections. The Impartial Hearing Examiner shall conduct the Final Conference in a way that secures fairness in administration, eliminates unjustifiable delay, and promotes the development of the record consistent with the applicable laws. The Impartial Hearing Examiner shall endeavor to limit the presentation of Position Statements so they do not create an unfair prejudice, confuse the issues, or cause undue delay or needless presentation of cumulative information, and may:
- (1) Establish the order in which Participants will present their Position Statements;
  - (2) Limit the number of Position Statements to avoid cumulative or repetitious discussion;
  - (3) Prevent Participants from presenting the same information that has already been introduced;
  - (4) Exclude information that is not relevant to the Base Rate Review;
  - (5) Align Participants for purposes of questioning; and

- (6) Propose that Participant panels be used.
- (c) **Notice.** The Impartial Hearing Examiner shall provide notice to the Participants at least 5 Days in advance of any scheduled pre-conference or Final Conference. Notice shall include:
  - (1) A statement of the time, place, and nature of the Final Conference; and
  - (2) A short, plain statement of the matters to be addressed at the hearing.

## **2. Final Conference Procedures.**

- (a) **Presentation of Position Statements and Cross Rebuttal, if any.** Austin Energy shall have 45 minutes to present the 2022 Austin Energy Base Rate Review. Following Austin Energy's presentation, the Participants will present their Position Statements to the Impartial Hearing Examiner in the order established by the Impartial Hearing Examiner at the Preliminary Conference. Each Participant shall have 10 minutes to present its Position Statement, including oral remarks and Cross Rebuttal. Austin Energy will then have 30 minutes for Rebuttal.
- (b) **Questioning.** Each Participant may ask questions of any Participant in the Proceeding relevant to the Participant's Position Statement or Rebuttal. Participants may only ask questions of a Participant that is supporting a position that is not consistent with the questioning Participant. Participants that have been aligned into one group by the Impartial Hearing Examiner may not question each other. Each Participant has 15 minutes total for questioning. Austin Energy will be allowed 60 minutes total for questioning. The Impartial Hearing Examiner may ask any questions of Austin Energy and all Participants relevant to Austin Energy's Rate Filing Package, any Participant's Position Statement, or Rebuttal, and may limit questioning by any Participant.
- (c) **Closing Briefs.** Participants may submit written statements ("Closing Briefs") summarizing their position and addressing any issues raised by the other Participants no later than 7 Days following the conclusion of the Final Conference. Closing Briefs are limited to 30 pages. Austin Energy's Closing Brief will be submitted 10 Days following the submission of the last Closing Brief submitted by any Participant or the Independent Consumer Advocate. Austin Energy's Closing Brief is limited to 50 pages. There will only be one round of briefs; i.e., there will be no replies to Closing Briefs.
- (d) **Additional materials.** The Impartial Hearing Examiner may call upon any Participant to provide further material or relevant information on any issue before issuing a final recommendation to City Council. The additional information shall not be considered without an opportunity for inspection and objection by all Participants and Rebuttal by Austin Energy.
- (e) **Recording.** The Final Conference will be recorded and available via ATXN.

- (f) **Not subject to APA.** These proceedings are not subject to the Administrative Procedure Act, Government Code, Title 10, Chapter 2001.

## **Section H. Recommendation**

### **1. Impartial Hearing Examiner Recommendation.**

- (a) **Final recommendation.** After reviewing the Participants' Position Statements and Rebuttal, conducting all necessary meetings, and reviewing the Closing Briefs, the Impartial Hearing Examiner will draft a final recommendation to City Council addressing Austin Energy's Rate Filing Package. The final recommendation shall:
- (1) Summarize the process;
  - (2) Organize the issues in a structured framework which can be used by the City Council to conduct an efficient decision-making process for the final adoption of the Base Rate Ordinance;
  - (3) Discuss the Participants' positions and any other issue deemed relevant by the Impartial Hearing Examiner;
  - (4) Present a recommendation on each issue identified and on other issues as deemed appropriate by the Impartial Hearing Examiner, and explain the rationale for arriving at that recommendation;
  - (5) Be based on the public policy framework developed by Austin City Council through its ordinances and resolutions and consider all relevant facts and laws;
  - (6) Include any other facts, analysis, opinions, rules, laws, or other information materially significant to the formation of any recommendation included in the report; and
  - (7) Be issued within 30 days of the submission of Austin Energy's Closing Brief.
- (b) **Response to the Final Recommendation.** Participants may submit a response to the Impartial Hearing Examiner's Final Recommendation within 15 Days of issuance.

## **Section I. Procedural Schedule**

### **1. Issuance of Procedural Schedule.**

- (a) Prior to Austin Energy filing its Rate Filing Package, Austin Energy will provide a procedural schedule to the Rate Review Administrator and Impartial Hearing Examiner to be used by the Participants and the Impartial Hearing Examiner for the Base Rate Review



process. The Rate Review Administrator will upload the procedural schedule to the Rate Review Website. The Impartial Hearing Examiner may modify the procedural schedule only with agreement from Austin Energy.