



# SIERRA CLUB

## LONE STAR CHAPTER

**Comments on SB 853 (Hancock): Relating to electricity service provided by certain municipally owned utilities.**

**May 14th, 2023**

**To: The Honorable Todd Hunter**

**Members, House Committee on State Affairs**

**From: Cyrus Reed, Conservation Director, Lone Star Chapter, Sierra Club,  
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### **Sierra Club opposes SB 853 (Hancock): Don't pick on one municipal utility**

The Lone Star Chapter of the Sierra Club is opposed to SB 853, which would change state policy for one single municipal utility - Austin Energy. Under the proposed legislation if a petition is signed by at least five percent of Austin Energy customers to the Public Utility Commission of Texas to review rates, the PUCT must consider the petition, and potentially order a new rate hearing for Austin Energy if the PUCT found the rates were not similar to what customers could receive in the competitive market. Importantly, this could lead to incredible burdens on Austin Energy staff and to the city budget process. As an example, Austin Energy just went through a year-long process to raise its rates beginning this year, which helps determine the annual budget for the utility. In fact, that new rate just went into effect on March 1st, after an exhaustive, important process that involved both in-city and out-of-city ratepayers. Importantly, this legislation is not limited to out-of-towners but all rate payers, giving those ratepayers a second opportunity if they didn't like the rates.

It is important to note that this change would only be true for Austin Energy under the bill, **picking on one municipal utility**. Unnecessary and bad public policy. If you want to change state policy, you should do it for all municipal utilities not one/

In its write-up of the bill, it is claimed "While other municipalities operate their utility services in the same manner, Austin Energy services the Capitol Complex area and the state should have the ability to review rates that are set to state agencies." But the fact is the way the bill is written is not limited to the rates for state agency buildings, but it is

written so that any type of customers - from residential to large industrial customers - could seek a rate review and a potential overturning of existing rates.

## **How Austin Energy sets its rates: The Most Transparent of Any Municipal Utility in the State**

Austin Energy has reviewed its rates three times in recent years - 2012, 2016 and 2022. Beginning in 2016, Austin Energy began mimicking state procedures for rate making.

Sierra Club has been a formal participant in both the 2016 and the 2022 rate review for the City of Austin and Austin Energy. In 2016, we participated and entered into a ratemaking process that included discovery, expert witnesses and formal statements, leaving eventually to a settlement of all parties involved and a rate reduction for all customer classes. The city hired an outside entity to serve as the equivalent of an Independent Hearings Examiner. This process is functionally similar to the process at PUCT. All testimony and positions were available online and the settlement was approved by Austin Energy's Board of Directors - the Mayor and City Council.

***Importantly, state agency buildings were given a significant discount on the rates that other similar entities pay. In addition, out-of-town ratepayers were also given a significantly lower rate and rate structure than in-city residential customers.***

In 2022, Sierra Club again participated in a more than six-month process in the setting of new electric rates as a formal party. We provided expert testimony, engaged in cross-examination of Austin Energy witnesses and provided final summaries of our position. We also engaged in public hearings at the City Council opposing the proposed increase and asking for a much smaller increase in rates.

While we formally opposed Austin Energy's proposal to increase residential rates by more than \$15 dollars on an average bill, we believe the process was fair. Some 12 different entities participated in the rate review, including Data Foundry, TIEC, and homeowners outside the city limits represented by HURF. While Austin Energy initially asked for more than \$45 million in additional revenues, through the process the Independent Hearings Examiner recommended about \$31.5 million, and the amount that City Council approved was only about \$28 million. In addition, the customer charge on residential consumers will be raised by \$3 to \$5 dollars over the next three years, rather than \$15 as Austin Energy had initially sought. Thus, through a public, transparent process, Austin Energy's proposed 2023 rate package was improved. Ultimately on a suite of issues not related to

the revenue requirement, all rate review participants reached agreements with City Council and Austin Energy on how to move forward.

*Importantly, the state continues to receive a significant discount from the rates that other commercial entities are charged through Austin Energy rates, as do out-of-town residential ratepayers WHO ENJOY ROUGHLY A 10 PERCENT DISCOUNT.*

The City of Austin and Austin Energy remain transparent and accessible to the public. All “Power Supply Adjustments” (ie the fuel costs) are reviewed monthly and yearly by the City Council and the Electric Utility Commission, an independent advisory committee that reports to city council. All rate changes are also reviewed by the EUC and City Council.

Finally, Austin Energy rates are competitive. In fact, even after the recent rate increase, Austin Energy rates are lower than the average competitive market rates. This legislation is discriminatory, unnecessary and bad public policy. Please vote no.

*Note: Cyrus Reed serves as a member of the EUC for the City of Austin. He was recently reappointed by Councilmember “Zo” Qadri (Place 9) However our comments here are from the perspective of the Sierra Club, not the EUC.*