

Public Citizen's Texas Office Award Winning Advocacy

Tom "Smitty" Smith, State Director
2009 Heinz Award
American Wind Energy Association "2008 Achievement in Advocacy Award"
CATEE (Clean Air Through Energy Efficiency) "2008 Gregg Cooke Award for Excellence in Environmental Leadership"
Campaign for People's "Thomas Paine Award"
U.S. EPA's "Award of Excellence"
2001 Austin Chronicle Best of Austin "Best People's Lobbyist"

Public Citizen Texas office
Air Quality 2006 Conference "Outstanding Non-Profit Organization Award"

Public Citizen's Solar Austin Campaign
Livable City "Vision Award"
Interstate Renewable Energy Council "Innovation Award"
2004 Austin Chronicle Best of Austin "Best Grassroots Effort"
Texas Renewable Energy Industries Association "Special Recognition Award"

Testimony of Tom "Smitty" Smith, Director of Public Citizen of Texas Before the Senate Business and Commerce Committee – July 10, 2012

Mr. Chairman and Members of the Committee:

I am Tom "Smitty" Smith, Director of Public Citizen of Texas. I appreciate the privilege of speaking before you today.

Public Citizen advocates on behalf of consumers and the environment on policy concerning Texans. We have 475 who live in Austin and 350 who live in the surrounding communities served by Austin Energy

Austin's municipal electric utility, Austin Energy, has just completed a lengthy and divisive rate case in which many of its practices were placed under criticism and scrutiny.

Austin Energy used this opportunity to craft new rates that we believe give the largest users big breaks and are asking residential and small commercial users to pay a disproportionate share of the rate increase. We call it an industrial-sized welfare plan. This cost shifting could amount to as much as 20%.

But here are many reasons we are pleased with the rate case process.

- Austin protected the lowest income families.
- It assures that the new case package met the community's goals of increasing conservation and the use of renewable resources.
- It was a long and thoughtful process that looked at a number of different issues and devoted far more real rate making time to these issues than would be typically be devoted to a rate case by the PUC commissioners.

The City Council held over 11 work sessions to look at various parts of the rate case, and even held a meeting in Lakeway, TX to get input from those who live outside of the city limits. The Council held three public hearings, and this was after the Austin Electric Utility Commission had held 6 hearings over the summer and early fall

I have heard a number of myths raised about the Austin Energy case. Since Mythbusters is my favorite show- here are some of my own:

Myth 1: Unfair to ratepayers living outside of Austin's City limits.

About 13% of Austin Energy's customers are located outside of Austin's city limits. Many of these citizens believe that Austin should serve them without charging a profit that would support its General Fund. Their logic is that since they do not live here and enjoy Austin city services that the utility transfer supports, the transfer from their bills amounts to taxation without representation. . Some of these ETJ customers have asked for a rate discount, but 57% of those customers work in Austin and use our street and services daily. Many others get more than their monies worth when they use our parks and trail systems, our libraries, hospitals, social services and our cultural activities.

Retail electric provider for 418,968 customers

- 48,230 residential AE customers are outside the city limits of Austin
- 6,891 AE commercial and industrial customers are outside the city limits of Austin
- 363,847 customers (87%) are inside the city limits of Austin



Public Citizen conducted a survey of the largest 100 municipally owned utilities in Texas to see whether there is practice of giving a discount to out of town customers. These cities represent about 58% of the state's population.

- None of these 100 cities charged lower rates outside their cities than inside.
- In fact **54 cities charged more for customers living outside their city limits for one or more of their mostly for their solid waste utilities.**
- More than 34 of these cities – typically the largest – transferred some percentage of utility revenue into their General Funds. Collectively, this represents over \$650 million in utility transfers going to City services such as police, fire protection, street maintenance, and parks. These include larger cities like Dallas, San Antonio, Austin, Ft Worth, Plano, Lubbock, Garland, Brownsville, Denton, and Beaumont. They also included many small cities with populations under 100,000.
- Only four of these cities paid a franchise fee to other cities which they served.

Myth 2: Out of Towner's don't have a voice in rate debate

Another issue is whether out-of-city ratepayers are allowed representation on the governing board of Austin Energy.

3 of the 7 members of the Electric Utility Commission, which is the rate setting review body for Austin, live outside the city limits of Austin.

We surveyed the top 10 municipal electric utilities in Texas. These represent almost 90% of Texas municipal utility revenue. Two give out-of-city ratepayers a voice in their governance.

Austin City Council has begun a review of its governance structure and will look at a variety of options such as including an out of towners on the board, or creating an independent board like

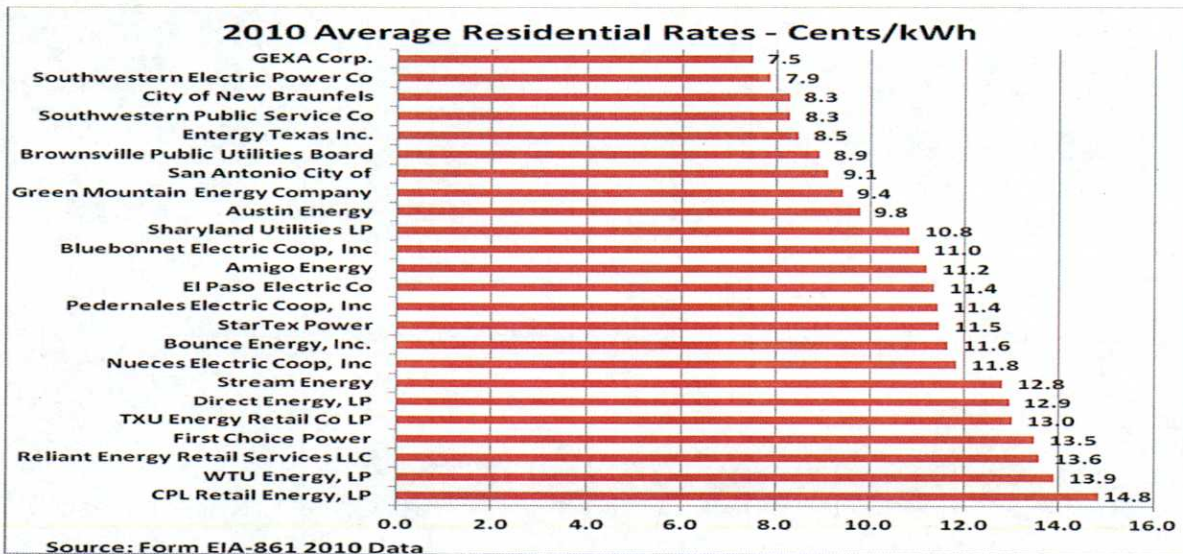
San Antonio's. It is worth noting that all of the members of that board reside within San Antonio.

The critics are holding *municipal corporations to a different standard than a private corporation. Private utilities do not allow their customers to have seats on their Board of Directors.* Out-of-city ratepayers are not demanding that they be represented on the governing boards of the private cable, telephone, and natural gas utilities that serve them. Similar to the shareholders of a private company, Austin residents assume the risk of the enterprise and are responsible for prudent management.

Myth 3: That the Cost of Energy from Austin will be 17 cents per kWh

If you look at the Austin Energy website- what you'll see is that under the rates just adopted by the Austin City Council the average rate paid by the 64.9 % of the customers who use less than 1,000 kWh will be 8 cents per kWh. And even under the highest new tiered rate, which will affect only 2.6% of the customers, it's only 11.4 cents per kWh or right at the mid- point for utilities in Texas (these rates do not include fuel charges).

| | Winter | Summer |
|-----------------------------------|---------------|----------------|
| Customer Charge | \$10.00 | \$10.00 |
| Energy Charges | | |
| First 0- 500 kWh | 1.8 ¢ Per kWh | 3.3 ¢ Per kWh |
| From 501-1,000 kWh | 5.6 ¢ Per kWh | 8.0 ¢ Per kWh |
| From 1,001-1,500 kWh | 7.2 ¢ Per kWh | 9.1 ¢ Per kWh |
| From 1,501-2,500 kWh | 8.4 ¢ Per kWh | 11.0 ¢ Per kWh |
| From 2,501 kWh and greater | 9.6 ¢ Per kWh | 11.4 ¢ Per kWh |



Myth 4: Austin's rates are high because of its energy-efficiency programs.

Austin has one of the longest running energy efficiency programs in the country, beginning in 1982. In 30 years' time, these programs have resulted in saving so much energy that that Austin has averted building a billion dollar 800 MW power plant. Its efforts affected some change in most of the residential buildings in the service area through a combination of incentive programs,

building code revisions, and voluntary participation in Green Building ratings for new homes. These programs have helped to reduce the high cost of peak energy.

These programs have helped Austin Energy avoid a rate case for 17 years. As a result of these investments, Austin Energy customers use 10% less electricity per month than customers in San Antonio and most other neighboring utilities. Currently energy efficiency programs cost less than 3 cents per kWh and the overall programs cost Austin less than 2% of their total bill. And for all the complaints from ratepayers outside of Austin, 20% of the money from the residential efficiency incentive programs goes to out-of-city customers.