

Investigative Report

# Austin Energy: Abuse of Position to Solicit and Accept Favors from Employees of a City Vendor

May 2019



We found evidence indicating that John Wilson, Austin Energy Distribution Electrician Supervisor, abused his position to solicit and accept favors from employees of a City vendor.

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Cover: Aerial view of downtown Austin, iStock.com/RoschetzkyIstockPhoto

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## Allegation

In March 2018, Austin Energy (AE) human resources personnel contacted the Office of the City Auditor to report an allegation that John Wilson, Distribution Electrician Supervisor, solicited and accepted favors from a City vendor. Based on the information available at the time, we were unable to find sufficient evidence to open a case. In July 2018, Austin Energy human resources personnel contacted the Office of the City Auditor with additional information related to the allegation. With the new information, we were able to move forward with our investigation into Wilson’s abuse of his City position to solicit and accept gifts and favors from a City vendor.

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## Background

Austin Energy’s (AE) mission is “to safely deliver clean, affordable, reliable energy and excellent customer service.” John Wilson is a Distribution Electrician Supervisor for Austin Energy’s Distribution Services group. This group’s purpose is to “provide construction, operations, and maintenance of the distribution system in Austin Energy’s service territory.”

Wilson has worked for the City since 1992 and was appointed Acting Distribution Electrician Supervisor in January 2017. Wilson was hired into that role on a permanent basis in March 2018. As a part of Wilson’s job, he is responsible for supervising City employees who oversee work done by an AE vendor. Wilson approves the completion of work done by the vendor, as well as verifies all of the vendor’s invoices for payment. As described by Wilson, the vendor cannot get paid without his approval. The scope of work under the contract includes maintaining and replacing utility poles.

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# Investigation Results Summary

We found evidence that John Wilson abused his position by soliciting and accepting favors from employees of a City vendor whose work he oversees. Specifically, Wilson accepted delivery of used utility poles to his residence by employees of the vendor. Additionally, Wilson requested that the vendor send an employee to dig a hole for a mailbox on his private property. Wilson also accepted a favor from one of the vendor's employees who placed a call for Wilson to ensure that construction activities for Wilson's mailbox did not sever any of his underground utilities. We also found evidence that some of the work done on Wilson's property may have been billed to AE.

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## Finding 1 Abuse of Position to Solicit and Accept a Gift or Favor

We found evidence that John Wilson solicited and accepted favors from employees of a City vendor whose work Wilson oversees.

### Favor: Delivery and Installation of Utility Poles

We spoke to an employee of the City vendor who stated that Wilson asked him to transport utility poles that had been taken out of City service to Wilson's private property near Hutto, Texas. When we spoke to Wilson, he admitted to asking employees of the City vendor to "look out for some good old poles" which he could use to build a fence. According to Wilson, the vendor's employees delivered and installed the poles at his property on their own volition, while a vendor employee stated that Wilson asked him to deliver the poles to the property. A supervisor employed by the vendor stated that his company would not deliver old utility poles to members of the general public due to liability concerns, but in this case, the delivery was done as a favor for Wilson.

We spoke with two of the vendor's employees who stated that crews delivered old utility poles to Wilson's residence on several occasions in early 2018. To corroborate these statements, we requested GPS data from the vendor for vehicles identified by witnesses as having been used to deliver these utility poles. Our analysis of the data indicated that one of the vendor's vehicles, which was described as a "digger," visited Wilson's personal residence on 8 separate occasions over 7 dates in January and February 2018. On these visits, the vehicle was at Wilson's residence from anywhere between 39 minutes to approximately 7.5 hours. The total time the vehicle spent at Wilson's property was almost 29 hours. This does not include the time the vehicle spent traveling to and from the vendor's vehicle yard which is located approximately 45 miles from Wilson's residence. Multiple employees for both the vendor and the City of Austin stated that the vendor does not perform work under the Austin Energy contract near Wilson's residence. We visited Wilson's property and saw evidence of old utility poles, some with AE tags, being used as fence posts. We confirmed with AE that they do not allow citizens to use these poles, and have not since 2016.

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#### Investigation Criteria:

"No City official or employee shall accept or solicit [a]ny gift or favor, that might reasonably tend to improperly influence that individual in the discharge of official duties[...]"

*City Code §2-7-62(G)(1)(a)*

See Investigation Criteria Section for More Details

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**Exhibit 1: Photos of utility poles with AE tags being used as fence posts at Wilson's property**



SOURCE: CAIU

Although management from the vendor indicated they felt it was likely that AE was billed for the work done at Wilson's property, we were unable to definitively conclude whether the City was charged for the time the vendor's vehicles and employees were performing non-City work for Wilson. An employee for the vendor informed us that the time spent replacing utility poles is charged to the City under a specific work order number. We reviewed work orders that were submitted by the vendor with this work order number and found that they included the days on which the vendor's vehicle visited Wilson's property. However, these work orders cited "various locations" as the worksite, and did not list specific addresses. We noted that GPS data from the vendor's vehicle indicated that on five

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Investigation Criteria:

“A City official or employee may not engage in fraud or abuse, as defined in City Code Chapter 2-3.”

*City Code §2-7-62(O)*

“Abuse means the use of [...] City [...] employment, [or a] contract, [...] to obtain personal gain or favor from a citizen or other City employee or vendor.”

*City Code §2-3-5(A)(1)*

“A salaried City [...] employee may not use the [...] employee’s official position to secure a special privilege [...] for [...] the employee [...].”

*City Code §2-7-62(I)*

See Investigation Criteria Section for More Details

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of the days in question, the vehicle only traveled between the vendor’s storage yards and Wilson’s property. If the City was billed for that work, the total bill would have been over \$7,100 based on the vendor’s billing rate for that type of work and the hours we know the vendor’s truck and staff were at Wilson’s property.

**Favor: Hole Digging and Line Locate Request**

Wilson admitted that he requested that an employee of the vendor come to his residence to dig a hole for his mailbox. As part of this mailbox construction project, Wilson admitted that he asked an employee of the vendor to place a utility line locate request, otherwise known as an “811 call,” for him. State law requires that anyone digging into the ground place this type of call so that damage to underground utilities can be avoided. We saw documentation indicating that the vendor’s employee placed the call on behalf of Wilson. We did not find evidence to indicate whether either of these employees charged the City for their efforts for Wilson. The employee who dug the hole for the mailbox, however, stated that Wilson paid him \$150 in cash for the work, but also said that he was unable to work his normal job with the vendor that day. The employee who phoned in the line locate request stated that he did it as “a favor” for Wilson.

Wilson’s supervisor stated that he would be disappointed to learn that Wilson requested and received favors from the City vendor he oversees and that having personal work performed in AE’s name would be inappropriate.

Wilson’s solicitation and acceptance of a favor from a City vendor appears to constitute violations of the following criteria:

- City Code §2-7-62(O): Standards of Conduct: Abuse
- City Code §2-3-5(A)(1): Abuse
- City Code §2-7-62(G)(1)(a): Solicitation/Acceptance of a Gift or Favor
- City Code §2-7-62(I): Standards of Conduct: Special Privilege

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## Appendix A - Subject Response

I did accept poles from a vendor who was going to dispose of them otherwise. I didn't realize that accepting used salvage material would be a violation of City policy or code. I did ask a vendor's employee to "look for some good old poles," but he dropped off the used poles at my home of his own accord, and Austin Energy did not pay for delivery of the poles. While I did reuse the poles on my property, **the vendor DID NOT install** the poles on my property.

The audit report states that I requested the vendor send an employee to dig a hole for a mailbox on my property. More accurately, I asked a friend of mine, who is an employee of the vendor, to help dig a hole for a mailbox on my property. He did this on his own time, when he was off from work, and I paid him \$150 for the help. I did request that an 811 call be made prior to the hole being dug to ensure compliance with state law.

Since this investigation has taken place, I have received additional training on what could create a conflict of interest. I now have a very clear understanding of how this type of transaction could be perceived. I also understand that having long-time friendships with employees of vendors could lead to misjudgments that could result in policy violations.

I never intended to violate City code. I believed at the time that I was simply asking a friend to help me. I accept full responsibility now that I understand that my actions were in violation of the City code.

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## Appendix B - Office of City Auditor's Response to Subject Response

We have reviewed the subject's response. His statement that, "the vendor DID NOT install the poles on my property," directly contradicts a statement he made to our office during the investigation. At that time, Wilson admitted the vendor installed poles in the ground. Two vendor employees who performed the work on Wilson's property also stated that they installed poles on Wilson's property. One vendor employee stated they set poles in holes during multiple trips to Wilson's property, and setting each pole took 45 minutes. The other vendor employee described the process of setting a pole on Wilson's property in step by step detail, including noting that the crew cut the poles to the appropriate length for Wilson before setting them in the ground. These statements appear to match the GPS data from the vendor's truck which indicates the truck spent almost 29 hours at Wilson's property over 8 visits.

## Appendix C - Management Response



City of Austin  
**Austin Energy**

Town Lake Center • 721 Barton Springs Road • Austin, Texas 78704 - 1145

**TO:** Brian Molloy, Chief of Investigations  
City Auditor

**FROM:** Jackie A. Sargent, General Manager  
Austin Energy

**CC:** Charles Dickerson, Chief Operations Officer, Austin Energy  
Dan Smith, Vice President ESD, Austin Energy  
Scott Bayer, Director Transmission, Austin Energy  
Cindy Steffen, Human Resources Manager, Austin Energy  
Jeff Burton, Director Employee Development, Austin Energy  
Mark Dombroski, Deputy General Manager & Chief Financial Officer, Austin Energy

**DATE:** May 9, 2019

**SUBJECT:** Draft Investigation Report (IN 18014 ) re: John Wilson

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Austin Energy (AE) is in receipt of the draft investigation report regarding allegations against Austin Energy employee, Distribution Electrician Supervisor John Wilson, of Abuse of Position to Solicit and Accept Favors from employees of a City vendor. Our Austin Energy Human Resources (AE HR) team will collaborate with AE Management to review the report and findings to determine the appropriate next steps in this matter.

Should you need additional information, please contact Human Resources Manager Cindy Steffen at 512-322-6249.



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# Investigation Criteria

## Finding 1

### City Code §2-7-62 – STANDARDS OF CONDUCT: ABUSE

(O) “A City official or employee may not engage in fraud or abuse, as defined in City Code Chapter 2-3 (City Auditor).”

### City Code §2-3-5 – CITY AUDITOR: POWERS AND DUTIES

(A)(1) “Abuse means: the use of [...] City [...] employment, [or a] contract, [...] to obtain personal gain or favor from a citizen or other City employee or vendor.”

### City Code §2-7-62 – STANDARDS OF CONDUCT

(I) “A salaried City official or employee may not use the official’s or the employee’s official position to secure a special privilege or exemption for the official or the employee, to secure a special privilege or exemption for another person, to harm another person, or to secure confidential information for a purpose other than official responsibilities.”

### City Code §2-7-62 – STANDARDS OF CONDUCT

(G)(1)(a) “No City official or employee shall accept or solicit [...] Any gift or favor, that might reasonably tend to improperly influence that individual in the discharge of official duties or that the official or employee knows or should know has been offered with the intent to improperly influence or improperly reward official conduct.”

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## Methodology

To accomplish our objective, we performed the following steps:

- reviewed applicable City Code and policy;
- conducted background research;
- conducted a site visit of the subject's property;
- reviewed City financial records and vendor records;
- conducted interviews with City of Austin staff;
- conducted interviews with Pike Electric employees; and
- interviewed the subject.

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## CAIU Investigative Standards

Investigations by the Office of the City Auditor are considered non-audit projects under the Government Auditing Standards and are conducted in accordance with the ethics and general standards (Chapters 1-3), procedures recommended by the Association of Certified Fraud Examiners (ACFE), and the ACFE Fraud Examiner's Manual. Investigations conducted also adhere to the quality standards for investigations established by the Council of the Inspectors General on Integrity and Efficiency (CIGIE), and to City Code.

The Office of the City Auditor, per City Code, may conduct investigations into fraud, abuse, or illegality that may be occurring. If the City Auditor, through the Integrity Unit, finds that there is sufficient evidence to indicate that a material violation of a matter within the office's jurisdiction may have occurred, the City Auditor will issue an investigative report and provide a copy to the appropriate authority.

In order to ensure our report is fair, complete, and objective, we requested responses from both the subject and the Department Director on the results of this investigation. Please find attached these responses in Appendix A and C.

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The Office of the City Auditor was created by the Austin City Charter as an independent office reporting to City Council to help establish accountability and improve city services. We conduct investigations of allegations of fraud, waste, or abuse by City employees or contractors.

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