



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		January 24, 2011		
Department:		Customer and Utility Services		
Department Head		Mark D. Israelson		
Agenda Coordinator (include phone #): Nancy Rodriguez X7510				
CAPTION				
Resolution of the City of Plano suspending the February 14, 2011, effective date of Oncor Electric Delivery Company's requested rate change to permit the City time to study the request and to establish reasonable rates; approving cooperation with the Steering Committee of Cities Served by Oncor to hire legal and consulting services and to negotiate with the Company and direct any necessary litigation and appeals; finding that the meeting at which this Resolution is passed is open to the public as required by law; requiring notice of this Resolution to the Company and legal counsel for the Steering Committee; and providing an effective date.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS: The request for a rate increase suspension request has no current fiscal impact to the City of Plano Operating Budget. STRATEGIC PLAN GOAL: Requesting a rate increase suspension relates to the City's Goal of Financially Strong City with Service Excellence, Strong, Local Economy and Partnering for Community Benefit.				
SUMMARY OF ITEM				
This Resolution suspends the February 14, 2011, effective date of Oncor Electric Delivery Company's requested rate change that has been requested at the Public Utility Commission of Texas.				
List of Supporting Documents: Memorandum to City Council			Other Departments, Boards, Commissions or Agencies	

MEMORANDUM

TO: City Council

THROUGH: Thomas H. Muehlenbeck, City Manager

FROM: Mark D. Israelson, Assistant City Manager

RE: Oncor Electric Delivery Rate Case

DATE: January 24, 2011

*****ACTION MUST BE TAKEN TO SUSPEND THE EFFECTIVE DATE ON OR BEFORE FEBRUARY 14, 2011*****

PURPOSE

Oncor Electric Delivery Company ("Oncor" or "the Company") filed an application on or about January 7, 2011 with cities retaining original jurisdiction seeking to increase system-wide transmission and distribution rates by \$353 million. The Company asks the City to approve a 14.6% increase in residential rates, a 15.5% increase in commercial rates, and a 25.9% increase in street lighting rates. According to Oncor, annual rates would increase by approximately \$60 for an average residential customer.

The resolution suspends the February 14, 2011 effective date of the Company's rate increase for the maximum period permitted by law to allow the City, working in conjunction with the Steering Committee of Cities Served by Oncor, to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy, including settlement, to pursue.

The law provides that a rate request made by an electric utility cannot become effective until at least 35 days following the filing of the application to change rates. The law permits the City to suspend the rate change for 90 days after the date the rate change would otherwise be effective. **If the City fails to take some action regarding the filing before the effective date, Oncor's rate request is deemed administratively approved.**

DISCUSSION

The City of Plano is a member of a 146-city coalition known as the Steering Committee of Cities Served by Oncor ("Steering Committee"). The Steering Committee has been in existence since the late 1980s. It took on a formal structure in the early 1990s when cities served by the former TXU gave up their statutory right to rate case expense reimbursement in exchange for higher franchise fee payments. Empowered by city resolutions and funded by *per capita* assessments, the Steering Committee has been the primary public interest advocate before the Public Utility Commission, the Courts, and the Legislature on electric utility regulation matters for the last 20 years.

The current filing comes 15 months following the implementation of Oncor's last rate increase. That case is currently on appeal.

Explanation of "Be It Resolved" Paragraphs:

Section 1. The City is authorized to suspend the rate change for 90 days after the date that the rate change would otherwise be effective for any legitimate purpose. Time to study and investigate the application is always a legitimate purpose. Please note that the resolution refers to the suspension period as "the maximum period allowed by law" rather than ending by a specific date. This is because the Company controls the effective date and can extend the deadline for final city action to increase the time that the City retains jurisdiction if necessary to reach settlement on the case. If the suspension period is not otherwise extended by the Company, the City must take final action on Oncor's request to raise rates by February 14, 2011.

Section 2. This provision authorizes the Steering Committee, consistent with the City's resolution approving membership in the Steering Committee, to act on behalf of the City at the local level in settlement discussions, in preparation of a rate ordinance, on appeal of the rate ordinance to the PUC, and on appeal to the Courts. Negotiating clout and efficiency are enhanced by the City cooperating with the Steering Committee in a common review and common purpose. Additionally, rate case expenses are minimized when the Steering Committee hires one set of attorneys and experts who work under the guidance and control of the Executive Committee of the Steering Committee.

Section 3. The Company will reimburse the Steering Committee for its reasonable rate case expenses. Legal counsel and consultants approved by the Executive Committee of the Steering Committee will submit monthly invoices that will be forwarded to Oncor for reimbursement. No individual city incurs liability for payment of rate case expenses by adopting a suspension resolution.

Section 4. This section merely recites that the resolution was passed at a meeting that was open to the public and that the consideration of the Resolution was properly noticed.

Section 5. This section provides that both Oncor and Steering Committee counsel will be notified of the City's action by sending a copy of the approved and signed resolution to certain designated individuals.

Resolution of the City of Plano suspending the February 14, 2011, effective date of Oncor Electric Delivery Company's requested rate change to permit the City time to study the request and to establish reasonable rates; approving cooperation with the Steering Committee of Cities Served by Oncor to hire legal and consulting services and to negotiate with the Company and direct any necessary litigation and appeals; finding that the meeting at which this Resolution is passed is open to the public as required by law; requiring notice of this Resolution to the Company and legal counsel for the Steering Committee; and providing an effective date.

WHEREAS, on or about January 7, 2011, Oncor Electric Delivery Company (Oncor), pursuant to PURA §§33.001 and 36.001 filed with the City of Plano a Statement of Intent to increase electric transmission and distribution rates in all municipalities exercising original jurisdiction within its service area effective February 14, 2011; and

WHEREAS, the City of Plano is a member of the Steering Committee of Cities Served by Oncor ("Steering Committee") and will cooperate with the 146 similarly situated city members and other city participants in conducting a review of the Company's application and to hire and direct legal counsel and consultants and to prepare a common response and to negotiate with the Company prior to setting reasonable rates and direct any necessary litigation; and

WHEREAS, PURA §36.108 grants local regulatory authorities the right to suspend the effective date of proposed rate changes for ninety (90) days after the date the rate change would otherwise be effective; and

WHEREAS, PURA §33.023 provides that costs incurred by Cities in ratemaking activities are to be reimbursed by the regulated utility.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. That the February 14, 2011, effective date of the rate request submitted by Oncor on or about January 7, 2011, be suspended for the maximum period allowed by law to permit adequate time to review the proposed changes and to establish reasonable rates.

Section II. As indicated in the City's resolution approving membership in the Steering Committee, the Executive Committee of the Steering Committee is authorized to hire and direct legal counsel and consultants, negotiate with the Company, make recommendations regarding reasonable rates, and to intervene and direct any necessary administrative proceedings or court litigation associated with an appeal of a rate ordinance and the rate case filed with the City or Public Utility Commission.

Section III. That the City's reasonable rate case expenses shall be reimbursed by Oncor on a monthly basis.

Section IV. That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

Section V. A copy of this Resolution shall be sent to Oncor, care of Autry Warren, Oncor Electric Delivery Company, LLC, 1601 Bryan St., 23rd Floor, Dallas, Texas 75201 and to Geoffrey Gay, General Counsel to the Steering Committee, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

Section VI. This Resolution shall become effective immediately

DULY PASSED AND APPROVED this the 24th day of January, 2011.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY