



**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:		5/23/2011		
Department:		Customer and Utility Services		
Department Head		Mark D. Israelson, Assistant City Manager		
Agenda Coordinator (include phone #): Nancy Rodriguez X7510				
CAPTION				
<p>An Ordinance of the City Council of the City of Plano, Texas, ("City") approving a negotiated resolution between the Steering Committee of Cities Served by Oncor ("Steering Committee") and Oncor Electric Delivery Company LLC ("Oncor" or "Company") regarding the Company's application to increase electric rates in all cities exercising original jurisdiction; declaring existing rates to be unreasonable; requiring the Company to reimburse cities' reasonable ratemaking expenses; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; approving Oncor's proof of revenues; adopting a savings clause; determining that this Ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; declaring an effective date; and requiring delivery of this Ordinance to the Company and the Steering Committee's legal counsel.</p>				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	2010-11	Prior Year (CIP Only)	Current Year	Future Years
	2011-12			TOTALS
Budget		0	0	0
Encumbered/Expended Amount		0	0	0
This Item		0	790,618	525,000
BALANCE		0	790,618	525,000
FUND(S): GENERAL FUND				
<p>COMMENTS: This Ordinance approves a one-time settlement with Oncor Electric Delivery: \$790,618 in FY 2010-11 and \$525,000 in FY 2011-12. This one-time settlement is an unbudgeted item.</p> <p>STRATEGIC PLAN GOAL: Unanticipated increase in revenue from Oncor Electric Delivery relates to the City's goal of Financilly Strong City with Service Excellence and Partnering for Community Benefit.</p>				
SUMMARY OF ITEM				
This Ordinance approves a settlement agreement with Oncor Electric Delivery..				
List of Supporting Documents: Memorandum			Other Departments, Boards, Commissions or Agencies	

MEMORANDUM

DATE: May 23, 2011

TO: City Council

THROUGH: Bruce D. Glasscock, City Manager

FROM: Mark D. Israelson, Assistant City Manager

RE: Oncor Electric Delivery Settlement

The City of Plano, along with approximately 160 other cities served by Oncor Electric Delivery Company LLC (“Oncor” or “Company”), is a member of the Steering Committee of Cities Served by Oncor (“Steering Committee”). On or about January 7, 2011, Oncor filed with the City an application to increase electric rates. The City worked with the Steering Committee to share costs and analyze the schedules and evidence offered by Oncor to support its request to increase rates. The Ordinance and attached rate and tariffs are the result of negotiations between the Steering Committee and the Company to resolve issues raised by the Steering Committee and other intervenors during the review and evaluation of the filing.

Background:

The tariff was approved by the Executive Committee of the Steering Committee as part of the settlement agreement to resolve the Oncor rate filing at the Public Utility Commission of Texas. The agreement reduces Oncor’s request for a \$353 million increase to \$136.7 million. While the evidence does not support the \$353 million increase requested by the Company, the Steering Committee consultants agree that the Company can justify an increase in revenues of \$136.7 million. The agreement on \$136.7 million is a compromise between the positions of the parties. The alternative to a settlement of the filing would be a contested case proceeding before the Public Utility Commission of Texas on the Company’s current application, would take several months and cost ratepayers millions of dollars in rate case expenses, and would not likely produce a result more favorable than that to be produced by the settlement.

The settlement results in a system-wide rate increase of 6.1%. Residential customers will see an increase of 6.2% or \$2.35 per month, much lower than Oncor’s requested 14.6% or \$5.10 per month increase. Street lighting rates will increase 13.8%, which is also lower than Oncor’s requested increase of 25.9%. Oncor has agreed that it will not file another general base rate case prior to July 1, 2013.

Consistent with the District Court’s reversal of the Public Utility Commission of Texas’ decision relating to municipal franchise fees in Docket No. 35717, Oncor will increase franchise fees to the contractually agreed to amounts within 60 days of the final order, or July 1, 2011, whichever is later. Additionally, Oncor will pay cities retroactive franchise fees from the date the rates approved in Oncor’s prior rate case, Docket No. 35717, went into effect.

Oncor will also pay cities' rate case expenses and recover those amounts over three years with no carrying charges. Finally, at its own expense, the Company will reinstate Rider SCUD, which provides for a 20% discount for institutions of higher learning.

Purpose of the Ordinance:

Rates cannot change and the Settlement Agreement with Oncor cannot be implemented without passage of rate ordinances by cities. The purpose of the Ordinance is to approve rate tariffs ("Attachment A" and "Attachment B") that reflect the negotiated rate changes pursuant to the process and to ratify a Settlement Agreement recommended by the Steering Committee.

Approval of the Ordinance will result in the implementation of new rates that increase Oncor's revenues in two phases: by \$93.7 million effective July 1, 2011 (i.e. "Attachment A") and by \$43 million effective January 1, 2012 ("Attachment B").

Explanation of "Be It Ordained" Paragraphs:

1. This paragraph approves all findings in the Ordinance.
2. This section adopts the attached tariffs ("Attachment A") in all respects and finds the rates set pursuant to the attached tariffs to be just, reasonable and in the public interest.
3. This section requires the Company to reimburse the Steering Committee for reasonable rate making costs associated with reviewing and processing the application.
4. This section repeals any resolution or ordinance that is inconsistent with this Ordinance.
6. This section finds that the meeting was conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.
7. This section is a savings clause, which provides that if any section(s) is later found to be unconstitutional or invalid, that finding shall not affect, impair or invalidate the remaining provisions of this Ordinance. This section further directs that the remaining provisions of the Ordinance are to be interpreted as if the offending section or clause never existed.
8. This section is a "Most Favored Nations" clause, which protects the City by mandating that if the City determines any rates, revenues, terms and conditions, or benefits resulting from a Final Order or subsequent negotiated settlement approved in any proceeding addressing the issues raised in the Company's filing would be more beneficial to the City than the terms of the attached tariffs, then the more favorable rates, revenues, terms and conditions, or benefits shall additionally accrue to the City.
9. This section provides for an effective dates upon passage. Approval of the Ordinance will result in the implementation of new rates that increase Oncor's revenues in two

phases: by \$93.7 million effective July 1, 2011 (i.e. “Attachment A”) and by \$43 million effective January 1, 2012 (“Attachment B”).

10. This paragraph directs that a copy of the signed Ordinance be sent to a representative of the Company and legal counsel for the Steering Committee.

An Ordinance of the City Council of the City of Plano, Texas, (“City”) approving a negotiated resolution between the Steering Committee of Cities Served by Oncor (“Steering Committee”) and Oncor Electric Delivery Company LLC (“Oncor” or “Company”) regarding the Company’s application to increase electric rates in all cities exercising original jurisdiction; declaring existing rates to be unreasonable; requiring the Company to reimburse cities’ reasonable ratemaking expenses; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; approving Oncor’s proof of revenues; adopting a savings clause; determining that this Ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; declaring an effective date; and requiring delivery of this Ordinance to the Company and the Steering Committee’s legal counsel.

WHEREAS, the City of Plano, Texas (“City”) is an electric utility customer of Oncor Electric Delivery Company LLC (“Oncor” or “ Company”), and a regulatory authority with an interest in the rates and charges of Oncor; and

WHEREAS, the City is a member of the Steering Committee of Cities Served by Oncor (“Steering Committee”), a coalition of approximately 160 similarly situated cities served by Oncor that have joined together to facilitate the review of and response to electric issues affecting rates charged in the Oncor service area; and

WHEREAS, on or about January 7, 2011, Oncor filed with the City its application to increase electric base rates by approximately \$353 million, such increase to be effective in every municipality within Oncor’s service territory; and

WHEREAS, the Steering Committee coordinated their review of Oncor’s filing by designating an Executive Committee made up of Steering Committee representatives, assisted by Steering Committee attorneys and consultants, to resolve issues identified by the Steering Committee in the Company’s filing; and

WHEREAS, the Company has filed evidence that existing rates are unreasonable and should be changed; and

WHEREAS, independent analysis by the Steering Committee’s rate experts concluded that Oncor is able to justify an increase over current rates of \$136.7 million; and

WHEREAS, the Steering Committee has entered a Settlement Agreement with Oncor to increase base rate revenues by \$136.7 million; and

WHEREAS, the Executive Committee of the Steering Committee, and the Steering Committee's lawyers and consultants recommend that Steering Committee members approve the attached rate tariffs ("Attachment A" to this Ordinance), which will increase the Company's revenue requirement by \$136.7 million; and

WHEREAS, the attached tariffs implementing new rates are consistent with the negotiated resolution reached by the Steering Committee and are just, reasonable, and in the public interest; and

WHEREAS, it is the intention of the parties that if the City determines any rates, revenues, terms and conditions, or benefits resulting from a Final Order or subsequent negotiated settlement approved in any proceeding addressing the issues raised in the Company's filing would be more beneficial to the City than the terms of the attached tariff, then the more favorable rates, revenues, terms and conditions, or benefits shall additionally accrue to the City; and

WHEREAS, the negotiated resolution of the Company's filing and the resulting rates are, as a whole, in the public interest.

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

Section I. That the findings set forth in this Ordinance are hereby in all things approved.

Section II. That the City Council finds the existing rates for electric service provided by Oncor are unreasonable and new tariffs, which are attached hereto and incorporated herein as Attachment A and B, are just and reasonable and are hereby adopted.

Section III. That Oncor shall reimburse the reasonable ratemaking expenses of the Steering Committee in processing the Company's rate application.

Section IV. That to the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Ordinance, it is hereby repealed.

Section V. That the meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section VI. That if any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

Section VII. That if the City determines any rates, revenues, terms and conditions, or benefits resulting from a Final Order or subsequent negotiated settlement approved in any proceeding addressing the issues raised in the Company's filing would be more beneficial to the City than the terms of the attached tariff, then the more favorable rates, revenues, terms and conditions, or benefits shall additionally accrue to the City.

Section VIII. That this Ordinance and Settlement Agreement (Attachment C) shall become effective from and after its passage with rates authorized by attached Tariffs to be effective in two phases. Phase one tariffs (attached to this Ordinance as "Attachment A"), increasing Oncor's revenues by \$93.7 million, are effective for bills rendered on or after July 1, 2011. Phase two tariffs (attached to this Ordinance as "Attachment B"), increasing Oncor's revenues by \$43 million, are effective for bills rendered on or after January 1, 2012.

Section IX. That a copy of this Ordinance shall be sent to Oncor, care of Autry Warren, Oncor Electric Delivery Company, LLC, 1601 Bryan St., 23rd Floor, Dallas, Texas 75201 and to Thomas Brocato, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

DULY PASSED AND APPROVED this the 23rd day of May, 2011.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, City Secretary

APPROVED AS TO FORM:

Diane C. Wetherbee, City Attorney

ATTACHMENT "A"

Phase One Oncor Electric Delivery's Tariff for Retail Delivery Service is available for viewing in the Customer and Utility Services Department.

ATTACHMENT "B"

Phase Two Oncor Electric Delivery's Tariff for Retail Delivery Service is available for viewing in the Customer and Utility Services Department.

ATTACHMENT "C"

Settlement Agreement is available for viewing in the Customer and Utility Services Department.