

## AGENDA INFORMATION SHEET

### FINAL ACTION ON APPLICATION FOR AUTHORITY TO INCREASE RATES SUBMITTED BY ONCOR ELECTRIC DELIVERY COMPANY LLC

#### **BACKGROUND**

On or about January 7, 2011, Oncor Electric Delivery Company LLC (“Oncor” or “Company”) filed a Statement of Intent to increase rates by approximately \$353 million, which equates to an increase of approximately 12.6% overall and an approximate increase of 15% for Residential customers.

The City earlier took action on Oncor’s Statement of Intent and suspended Oncor’s proposed rate increase to allow its special counsel and rate consultants to review Oncor’s application.

After extensive review by the City’s special counsel and rate consultants and other parties in the rate proceeding pending at the Public Utility Commission of Texas (“PUCT”), the parties have reached a Settlement on the increase to be allowed Oncor.

#### **COMPARISON OF SETTLEMENT TO ONCOR’S PROPOSED INCREASE**

Oncor’s *proposed* increase would have resulted in a Residential customer that uses 1300 kWh per month, seeing an increase in their bill of about \$5.00 per month, and as a class the Residential customers would experience an increase of about 15% while the small commercial rate class would see a 13% to 16% increase in base rates, and the large commercial rate class would see a 5% increase. Also, Oncor’s request would increase rates for Lighting services by 26%. Oncor is also asked for a return on equity of 11.25%. Oncor also proposed to recover its costs for vegetation management through a surcharge that would produce an additional \$34.6 million per year over its test year amount.

The major points of the settlement are as follows:

- Under the Settlement pending before the PUCT, Oncor’s increase in rates is limited to \$136.7 million. Additionally, the increase would be implemented in two phases: Phase I would go into effect on July 1, 2011 and would be an increase of \$93.7 million; Phase II would go into effect on January 1, 2012 and would increase rates by the remaining \$43 million. This minimizes the impact to customers even more as we head into the summer months.
- An increase of \$136.7 million results in a bill increase of about \$1.60 per month for a customer using 1,300 kWh per month. This means that the increase in Phase

I would be about \$1.10 per month and in Phase II the increase would be about \$0.50 per month for a Residential customer using 1,300 kWh per month. This compares very favorably with the increase Oncor proposed of \$5.00 per month.

- Oncor agrees to not file a general rate case before July 1, 2013;
- The increase to the Lighting class is limited to about 13% (compared to Oncor's proposed increase of 26%).
- Oncor's request for a vegetation management surcharge is denied.
- Oncor's return on equity is set at 10.25%.
- Oncor agreed to pay the City's franchise fees it had withheld based on the PUCT's decision in Docket No. 35717. In Docket No. 35717 the PUCT decided that any franchise fees in excess of a minimum statutory rates were not recoverable through rates. The AOC cities appealed that decision, among other issues, to the Travis County District Court and the court agreed with the AOC cities' position that the higher franchise fee amount was the appropriate fee. As part of the Settlement, the parties agreed that this issue is resolved and that Oncor would pay – retroactively to when it stopped remitting franchise payments at the higher rate – the higher franchise fees. In total, Oncor will remit approximately \$22 million to the cities in which it provides service and where it had a franchise agreement calling for the higher fees. This means that the issue of franchise fees will not be tied up in the courts of appeals for the next 3 – 5 years, as could otherwise have occurred absent the Settlement.

### **ALLIANCE OF ONCOR CITIES**

The Alliance of Oncor Cities (“AOC”) was organized by a number of municipalities, served by Oncor; the Alliance was formerly known as the “Alliance of TXU/Oncor Cities.” The law firm of Herrera & Boyle, PLLC (through Mr. Alfred R. Herrera and Mr. Jim Boyle) represented the AOC in a rate case involving Oncor along with rate experts engaged by Herrera & Boyle with AOC's approval.

### **RATE CASE EXPENSES**

Cities, by statute, are entitled to recover their reasonable rate case expenses from the utility. Under the Settlement Oncor agrees to reimburse the AOC cities their rate case expenses found reasonable in the amount of \$315,919.26, which includes \$225,919.26 in actual attorneys and consultants' fees through March 31, 2011, and an estimated \$90,000 in estimated expenses through July 1, 2011 for rate proceedings involving Oncor, including the proceeding to address Oncor's rate case expenses and the appeal of the PUCT's order in Docket No. 35717.

### **FINAL ACTION AND RECOMMENDATION**

The AOC's special counsel and consultants are of the opinion that the Settlement is a reasonable result and believe that the outcome is well within the range of likely outcomes from a fully litigated proceeding at the PUCT and is one that helps minimize rate case expenses materially, while at the same time resulting in just and reasonable rates. In short, AOC's special counsel and consultants believe the Settlement is a sound result that they recommend be approved.

**The City must take action no later than June 10, 2011. If the City does not take action by June 10, 2011, Oncor's proposed rates will be deemed approved by operation of law, subject to the City's right to hold hearing to address Oncor's rate application.**

If the City approves the Settlement and its resulting rates, those rates would be effective on July 1, 2011 for service rendered on and after that date. Further, approval by the City means that Oncor would not submit an appeal of the City's decision to the PUCT, thereby concluding the matter entirely before at the City level. An approval by the City brings certainty with regard to the terms and conditions of the Settlement. The PUCT could not change the terms and conditions of the Settlement as it applies within the City.

However, should the City decide it prefers to deny Oncor's application as filed, it may also do so. If the City denies Oncor's application, Oncor would file an appeal to the PUCT and the PUCT would make a final decision on Oncor's rate application, including the terms and conditions of the Settlement. If Oncor appeals to the PUCT, the PUCT has the authority to modify the Settlement as it determines.