



City of Pflugerville

Legislation Text

File #: RES-0864, **Version:** 1

Approving a resolution providing denial of application for approval of a rate change submitted by Oncor Electric Delivery Company, LLC and authorization to participate in proceedings at the Public Utility Commission of Texas.

On April 8, 2021, Oncor Electric Delivery Company, LLC (“Oncor”) submitted an Application for Approval to Amend Its Distribution Cost Recovery Factor (“DCRF”) to increase its annual revenues by approximately \$97.83 million. Oncor proposes to implement this increase on September 1, 2021. Oncor requests to recover through its DCRF its incremental investment in its distribution assets for the period of January 1, 2020 through December 31, 2020, or the one year period year following the end of the test year in its last DCRF proceeding, which was PUCT Docket No. 50734. Oncor has simultaneously filed its request to amend its DCRF with the Public Utility Commission of Texas (“PUC”).

Oncor’s application affects all retail electric providers (“REPs”) serving end-use retail electric customers in Oncor’s service-area and will affect the retail electric customers of those REPS to the extent the REPs choose to pass along these charges to their customers, which we expect REPs to attempt to do.

A DCRF filing is a streamlined single-issue proceeding outside of a comprehensive base rate case that moves very quickly. The Commission’s rules dictate, pursuant to State law, that September 1, 2021, absent good cause, is the effective date for new rates. This means, absent good cause, the case will be resolved in approximately 150 days. Discovery is also very limited allowing parties to serve, absent good cause, no more than 20 requests for information and requests for admissions of fact. Finally, the City must make its final decision within 60 days of the filing of the application or in this case, by no later than June 7, 2021.

However, due to the ongoing health crisis presented by the COVID-19 virus, Oncor has requested a good cause exception seeking a 60-day stay of PUC action on and of all deadlines applicable to Oncor’s DCRF filing, other than deadlines pertaining to Oncor’s responses to parties’ requests for written discovery. It is unclear from Oncor’s application whether its request for a 60-day stay will delay the effective date of new rates beyond September 1, 2021.

REPRESENTATION

The law firm of Herrera Law & Associates, PLLC (through Mr. Alfred R. Herrera) has previously represented the Alliance of Oncor Cities (“AOC”) in rate matters involving Oncor, including its most recent comprehensive base rate and DCRF proceedings. Similarly, the firm has represented other Texas cities dealing with rate case matters, therefore providing a depth of experience in dealings with Oncor and the Public Utility Commission of Texas (“PUC” or “Commission”).

CITY JURISDICTION AND RATE CASE EXPENSES

The City is a regulatory authority under the Public Utility Regulatory Act (“PURA”) and under Section

33.001 of PURA has exclusive original jurisdiction over Oncor's rates, operations, and services within the municipality, and specifically over Oncor's requested change in rates to recover increased distribution costs under Section 36.210 of PURA. Also, cities, by statute, are entitled to be reimbursed by the utility for their reasonable rate case expenses. Legal counsel and consultants approved by the City will submit monthly invoices to the City that will be forwarded to Oncor for reimbursement.

INTERVENTION AT THE PUBLIC UTILITY COMMISSION OF TEXAS AND COURT PROCEEDINGS, IF ANY

As mentioned, Oncor filed its Application for an Amendment of Its DCRF with the PUC and the AOC cities. It is important to participate in the Commission's proceeding because its final decision will impact rates within the City. Thus, the accompanying Resolution authorizes intervention in proceedings at the PUC, including any appeal of the City's decision on rates.

ACTION: DENIAL OF ONCOR'S PROPOSED RATE INCREASE

Oncor's application presents complex issues that merit careful review. The City only has 60 days to act on Oncor's request. If the City has not acted within 60 days, the application is deemed denied and appealed to the PUCT to be consolidated with the DCRF proceeding pending at the PUCT. And even if the City approves Oncor's application, under state law, even the approval is "deemed" appealed to the PUCT.

The application was filed on April 8, 2021; therefore, the City has until June 7, 2021 to act. It is virtually impossible for the City to set just and reasonable rates before the expiration of City's jurisdiction at the 60-day mark. Denial does not preclude the City's special regulatory counsel and experts an opportunity to perform a review of Oncor's application and request additional information as necessary to fully evaluate the proposal and determine the most appropriate response. Further, a denial will not eliminate the possibility of resolving the proceeding through settlement.

Prior City Council Action

The City Council last approved a resolution a resolution denying application for approval of a rate change submitted by Oncor Electric Delivery Company, LLC and providing authorization to participate in proceedings at the Public Utility Commission of Texas on May 26, 2020 by Resolution No. 1767-20-05-26-0725.

Deadline for City Council Action

The City must take action no later than June 7, 2021, but it is recommended that the City take action as early as possible to allow for full participation in proceedings before the Public Utility Commission of Texas.]

Funding Expected: Revenue Expenditure N/A

Budgeted Item: Yes No N/A

Amount: _____

1295 Form Required? Yes No

Legal Review Required: N/A Required Date Completed: _____

Supporting documents attached:

Resolution

Recommended Action

It is recommended that the City deny Oncor's application to increase its DCRF rates.

It is also recommended that the City retain the law firm of Herrera Law & Associates, PLLC to represent the City's interest in matters related to Oncor's DCRF filing and to advise the City with regard to Oncor's application, and that the City intervene in the proceeding before the Public Utility Commission of Texas, and represent the City in appeals, if any, regarding Oncor's application.