



# City of Pflugerville

## Legislation Text

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**File #:** RES-0725, **Version:** 1

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Approving 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.

The City of Pflugerville has previously participated in the Alliance of Oncor Cities. The following information has been provided by the law firm of Herrera Law & Associates which has previously represented the Alliance of Oncor Cities in rate matters involving Oncor.

On April 3, 2020, 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 \$76 million. Oncor proposes to implement this increase on September 1, 2020. 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 permits Oncor to recover a profit on the incremental investment it made in its distribution assets during the one-year period year following the end of the test year in its last DCRF proceeding; that one-year period for this filing is January 1, 2019 through December 31, 2019. 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, 2020, 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 2, 2020.

However, due to the ongoing COVID-19 health crisis, the PUC’s Administrative Law Judge has granted Oncor’s request for good cause for 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 information and admissions of fact.

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”).

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 AOC will submit monthly invoices to AOC that will be forwarded to Oncor for reimbursement.

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

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.

Oncor filed its application on April 3, 2020; therefore, the City has until June 2, 2020 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.

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,

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

**The City must take action no later than June 2, 2020, 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.**

### **Prior City Council Action**

The City Council last participated with the coalition for participation in rate proceeding by approval of Resolution No. 1700-05-28-0621 on May 28, 2019.

### **Deadline for City Council Action**

June 2, 2020.

**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**

Approve 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.