

**RESOLUTION NO. 2021 - 06**

**RESOLUTION BY THE CITY OF COMMERCE, TEXAS ("CITY") DENYING THE DISTRIBUTION COST RECOVERY FACTOR RATE REQUEST OF ONCOR ELECTRIC DELIVERY COMPANY LLC MADE ON OR ABOUT APRIL 8, 2021; AUTHORIZING PARTICIPATION IN A COALITION OF SIMILARLY SITUATED CITIES; AUTHORIZING PARTICIPATION IN RELATED RATE PROCEEDINGS; REQUIRING THE REIMBURSEMENT OF MUNICIPAL RATE CASE EXPENSES; AUTHORIZING THE RETENTION OF SPECIAL COUNSEL; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE**

**WHEREAS**, on about April 8, 2021, Oncor Electric Delivery Company, LLC ("Oncor") filed an application for approval to amend its Distribution Cost Recovery Factor ("DCRF") with the City that will increase Oncor's rates effective September 1, 2021; and

**WHEREAS**, the City is a regulatory authority under the Public Utility Regulatory Act ("PURA") and under Chapter 33, §33.001 et seq. of PURA has exclusive original jurisdiction over Oncor's rates, operations, and services within the municipality, and specifically over its requested amendment to its DCRF under Chapter 36, §36.210; and

**WHEREAS**, Oncor seeks to include in rates a profit related to its incremental investment in distribution assets it has made from January 1, 2020 through December 31, 2020; and

**WHEREAS**, the inclusion of Oncor's profit on its investment in distribution assets in rates, has the effect of increasing Oncor's revenue requirement by approximately \$97.83 million; and

**WHEREAS**, the jurisdictional deadline for the City to act in this rate matter is 60 days from the application date, or June 7, 2021; and

**WHEREAS**, the City will require the assistance of specialized legal counsel and rate experts to review the merits of Oncor's application to increase rates; and

**WHEREAS**, in order to maximize the efficient use of resources and expertise in reviewing, analyzing and investigating Oncor's rate request, it is prudent to coordinate the City's efforts with a coalition of similarly situated municipalities; and

**WHEREAS**, the City, in matters regarding applications by Oncor to change rates, has in the past joined with other local regulatory authorities to form the Alliance of Oncor Cities ("AOC") and hereby continues its participation in AOC; and

**WHEREAS**, Oncor simultaneously filed an application for approval of an amendment to its DCRF with the Public Utility Commission of Texas, and therefore the decision of the Public Utility Commission of Texas will have an impact on the rates paid by the City and its citizens who are customers in Oncor's service territory, and in order for the City's participation to be meaningful, it is important that the City promptly intervene in such proceeding at the Public Utility Commission of Texas; and

**WHEREAS**, Oncor failed to show that its proposed rate change in rates is reasonable and therefore the City has concluded that Oncor's proposed rate change is unreasonable;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COMMERCE, TEXAS THAT:**

**Section 1.** The findings set out in the preamble are in all things approved and incorporated herein as if fully set forth.

**Section 2.** The City **DENIES** the rate change Oncor requested on or about April 8, 2021.

**Section 3.** The City authorizes intervention in proceedings related to Oncor's application for approval of its DCRF before the Public Utility Commission of Texas and related proceedings in courts of law as part of the coalition of cities known as the Alliance of Oncor Cities ("AOC").

**Section 4.** The City hereby orders Oncor to reimburse the City's rate case expenses as provided in the Public Utility Regulatory Act and that Oncor shall do so on a monthly basis and within 30 days after submission of the City's invoices for the City's reasonable costs associated with the City's activities related to this rate review or to related

proceedings involving Oncor before the City, the Public Utility Commission of Texas, or any court of law.

**Section 5.** Subject to the right to terminate employment at any time, the City retains and authorizes the law firm of Herrera Law & Associates, PLLC to act as Special Counsel with regard to rate proceedings involving Oncor before the City, the Public Utility Commission of Texas, or any court of law and to retain such experts as may be reasonably necessary for review of Oncor's rate application subject to approval by the City.

**Section 6.** The City, through its participation in AOC, shall review the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to Oncor for reimbursement.

**Section 7.** A copy of this resolution shall be sent to Oncor Electric Delivery Company, LLC, care of Mr. J. Michael Sherburne, Oncor Electric Delivery Company, LLC, 1616 Woodall Rodgers Freeway, Dallas, Texas 75202; and to Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, 4524 Burnet Road, Austin, Texas 78756.

**Section 8.** The meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

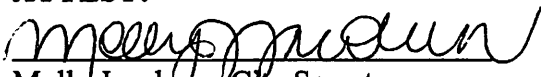
**Section 9.** This resolution supersedes any prior inconsistent or conflicting resolution or ordinance.

**Section 10.** This resolution shall become effective from and after its passage.

**PASSED AND APPROVED** this 20<sup>th</sup> day of April 2021.

  
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Wyman Williams, Mayor

**ATTEST:**

  
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Molly Jacobsen, City Secretary