



City of Saginaw

Meeting Date: 06/07/2016

Staff Contact: Nan Stanford
City Manager

Agenda Item: 4c
(CC-0616-03)

E-mail: nstanford@saginawtx.org

Phone: 817-232-4640

SUBJECT: Action regarding Resolution No. 2016-08, Authorizing Continued Participation with the Steering Committee of Cities served by Oncor Electric Delivery Company

BACKGROUND/DISCUSSION:

Resolution No. 2016-08 approves the 2016 membership assessment to continue participation with the steering committee of cities served by Oncor Electric Delivery Company. The committee consists of 156 cities. It is actively involved in rate cases, appeals, rulemakings, and legislative efforts impacting the rates charged by Oncor Electric Delivery Company, LLC within the city.

FINANCIAL IMPACT:

The financial impact will be \$2,387.33. The funds for this expenditure are budgeted in the General Administrative Office Budget, Legal and Special Services and Audit Account 01-6650-02.

RECOMMENDATION:

Staff recommends approval of Resolution No. 2016-08, authorizing continued participation with the steering committee of cities served by Oncor Electric Delivery Company.

Attachments

Proposed Resolution

Steering Committee Information

RESOLUTION NO. 2016-08

A RESOLUTION AUTHORIZING CONTINUED PARTICIPATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR; AND AUTHORIZING THE PAYMENT OF 11 CENTS PER CAPITA TO THE STEERING COMMITTEE TO FUND REGULATORY AND LEGAL PROCEEDINGS AND ACTIVITIES RELATED TO ONCOR ELECTRIC DELIVERY COMPANY, LLC.

- WHEREAS, the City of Saginaw is a regulatory authority under the Public Utility Regulatory Act (PURA) and has exclusive original jurisdiction over the rates and services of Oncor Electric Delivery Company, LLC (Oncor) within the municipal boundaries of the city; and
- WHEREAS, the Steering Committee has historically intervened in Oncor rate proceedings and electric utility related rulemakings to protect the interests of municipalities and electric customers residing within municipal boundaries; and
- WHEREAS, the Steering Committee is participating in Public Utility Commission dockets and projects, as well as court proceedings, and legislative activity, affecting transmission and distribution utility rates; and
- WHEREAS, the City is a member of the Steering Committee of Cities Served by Oncor; and
- WHEREAS, the Steering Committee functions under the direction of an Executive Committee which sets an annual budget and directs interventions before state and federal agencies, courts and legislatures, subject to the right of any member to request and cause its party status to be withdrawn from such activities; and
- WHEREAS, the Executive Committee in its December 2015 meeting set a budget for 2016 that compels an assessment of eleven cents (\$0.11) per capita; and
- WHEREAS, in order for the Steering Committee to continue its participation in these activities which affects the provision of electric utility service and the rates to be charged, it must assess its members for such costs.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAGINAW, TEXAS:

I.

That the City is authorized to continue its membership with the Steering Committee of Cities Served by Oncor to protect the interests of the City of Saginaw and protect the interests of the customers of Oncor Electric Delivery Company, LLC residing and conducting business within the City limits.

II.

The City is further authorized to pay its assessment to the Steering Committee of eleven cents (\$0.11) per capita based on the population figures for the City shown in the latest TML Directory of City Officials.

III.

A copy of this Resolution and the assessment payment check made payable to "*Steering Committee of Cities Served by Oncor*" shall be sent to Brandi Stigler, Steering Committee of Cities Served by Oncor, c/o City Attorney's Office, Mail Stop 63-0300, 101 S. Mesquite St., Suite 300, Arlington, Texas 76010.

PRESENTED AND PASSED on this the 7th day of June, 2016, by a vote of _____ ayes and _____ nays at a regular meeting of the City Council of the City of Saginaw, Texas.

Signature
Gary Brinkley, Mayor

ATTEST:

Signature
Janice England, City Secretary

APPROVED AS TO FORM:

Signature
Bryn Meredith, City Attorney

**REPORT ON ASSESSMENT RESOLUTION
FOR STEERING COMMITTEE OF CITIES SERVED BY ONCOR**

Purpose of the Resolution

The City of Saginaw is a member of a 156-member city coalition known as the Steering Committee of Cities Served by Oncor. The resolution approves the assessment of an eleven cent (\$0.11) per capita fee to fund the activities of the Steering Committee.

Why this Resolution is Necessary

The Steering Committee undertakes activities on behalf of municipalities for which it needs funding support from its members. Municipalities have original jurisdiction over the electric distribution rates and services within the city. The Steering Committee has been in existence since the late 1980s. It took on a formal structure in the early 1990s. Empowered by city resolutions and funded by per capita assessments, the Steering Committee has been the primary public interest advocate before the Public Utility Commission, ERCOT, the courts, and the Legislature on electric utility regulation matters for over two decades.

The Steering Committee is actively involved in rate cases, appeals, rulemakings, and legislative efforts impacting the rates charged by Oncor Electric Delivery Company, LLC within the City. Steering Committee representation is also strong at ERCOT. It is possible that additional efforts will be necessary on new issues that arise during the year, and it is important that the Steering Committee be able to fund its participation on behalf of its member cities. A per capita assessment has historically been used, and is a fair method for the members to bear the burdens associated with the benefits received from that membership.

Explanation of “Be It Resolved” Paragraphs

I. The City is currently a member of the Steering Committee; this paragraph authorizes the continuation of the City’s membership.

II. This paragraph authorizes payment of the City’s assessment to the Steering Committee in the amount of eleven cents (\$0.11) per capita, based on the population figure for the City as shown in the latest TML Directory of City Officials.

III. This paragraph requires notification to the Chair of the Steering Committee, Paige Mims, that the City has adopted the Resolution.

Payment of Assessment

A copy of the resolution should be mailed with payment of the fee to Brandi Stigler, Steering Committee of Cities Served by Oncor, c/o City Attorney’s Office, Mail Stop 53-0300, 101 S. Mesquite St., Suite 300, Arlington, Texas 76010. Checks should be made payable to: *Steering Committee of Cities Served by Oncor.*

STEERING COMMITTEE CITIES SERVED BY ONCOR (Total 156)

Addison	Flower Mound	Oak Leaf
Allen	Forest Hill	Oak Point
Alvarado	Fort Worth	Odessa
Andrews	Frisco	O'Donnell
Anna	Frost	Ovilla
Archer City	Gainesville	Palestine
Argyle	Garland	Pantego
Arlington	Glenn Heights	Paris
Azle	Grand Prairie	Plano
Bedford	Granger	Pottsboro
Bellmead	Grapevine	Prosper
Belton	Haltom City	Ranger
Benbrook	Harker Heights	Rhome
Beverly Hills	Haslet	Richardson
Big Spring	Heath	Richland
Breckenridge	Henrietta	Richland Hills
Bridgeport	Hewitt	River Oaks
Brownwood	Highland Park	Roanoke
Buffalo	Honey Grove	Robinson
Burkburnett	Howe	Rockwall
Burleson	Hurst	Rosser
Caddo Mills	Hutto	Rowlett
Cameron	Iowa Park	Sachse
Canton	Irving	Saginaw
Carrollton	Jolly	Sansom Park
Cedar Hill	Josephine	Seagoville
Celina	Justin	Sherman
Centerville	Kaufman	Snyder
Cleburne	Keller	Southlake
Coahoma	Kennedale	Springtown
Colleyville	Kerens	Stephenville
Collinsville	Killeen	Sulphur Springs
Comanche	Krum	Sunnyvale
Commerce	Lake Worth	Sweetwater
Coppell	Lakeside	Temple
Copperas Cove	Lamesa	Terrell
Corinth	Lancaster	The Colony
Crowley	Lewisville	Trophy Club
Dallas	Lindale	Tyler
Dalworthington Gardens	Little Elm	University Park
DeLeon	Little River Academy	Venus
De Soto	Malakoff	Waco
Denison	Mansfield	Watauga
Duncanville	McKinney	Waxahachie
Early	Mesquite	Westover Hills
Eastland	Midland	White Settlement
Edgecliff Village	Midlothian	Wichita Falls
Ennis	Murchison	Willow Park
Eules	Murphy	Woodway
Everman	Nacogdoches	Wylie
Fairview	New Chapel Hill	
Farmers Branch	North Richland Hills	
Fate	Northlake	

Steering Committee of Cities Served by Oncor

2015 Year in Review



Steering Committee Membership:

2015 was a big year for the Steering Committee of Cities Served by Oncor ("OCSC" or "Cities"). With the Texas Legislature in session and the proposed sale of Oncor pending PUC approval, Cities were very active. This annual review serves to highlight these and other activities, as well as what proceedings OCSC will continue to be involved in during 2016.

Sincerely,
Paige Mims, OCSC Chair

EFH Bankruptcy and Oncor Sale



OCSC's biggest case last year was the proposed sale of Oncor Electric Delivery Company LLC ("Oncor") to a group led by Dallas billionaire Ray L. Hunt as part of the bankruptcy exit plan of Oncor's parent company Energy Future Holdings ("EFH"). Cities have been involved in this case since EFH filed for bankruptcy in April 2014 and are currently preparing for the Public Utility Commission ("Commission" or "PUC") hearing where the PUC Commissioners will decide whether to approve the Oncor sale.

After 19 months of absurdly costly bankruptcy proceedings, EFH was finally cleared in December to move forward with a bankruptcy exit plan by U.S. Bankruptcy Judge Christopher Sontchi. The plan centers on EFH selling its transmission and distribution utility giant Oncor to the Hunt

group, a move which has received large media attention and stakeholder scrutiny. OCSC, industrial consumers, and the Office of Public Utility Counsel intervened and filed testimony last month. The PUC Commissioners will hear the case themselves as opposed to the State Office of Administrative Hearings, where the Commission usually refers its cases. The hearing is scheduled to begin January 11 and the Commission's decision is due in March. For the Commission to approve the sale, it must find that it serves the public interest by providing tangible and quantifiable benefits to ratepayers.

Much of the focus of the Oncor sale has been centered on the unusual structure Hunt is proposing and how it would impact ratepayers. Hunt intends to restructure Oncor into a real estate investment trust ("REIT"), essentially dividing Oncor into two companies: one owning the assets (power lines, trucks, and transformers), while the other rents the equipment, operates it, and deals with customers. REITs are commonly used for properties such as shopping malls, but have never been used for a large utility like Oncor.

At the hearing next week, Cities will seek to ensure that if the sale is approved, the Hunt group commits to maintain Oncor's current rates and service quality standards and any tax benefits provided by the REIT are passed on to ratepayers.

PUC Discovery Rulemaking Pulled

Cities received great news in 2015 when the PUC pulled the plug on its proposed discovery rulemaking that OCSC, along with many other consumer groups, vehemently opposed.

The rulemaking, Project No. 42330, opened in March 2014 and sought to amend the PUC procedural rule governing discovery in rate proceedings, making it more difficult for parties to review utility rate increase filings. Generally, the proposed Rule 22.146 would have limited parties, including cities, to submitting no more than 20 requests for information, 20 requests for admissions and conducting no more than 10 hours of depositions. For context, according to PUC staff, an average case will have 78 requests for

information. PUC Staff would have been exempt from the limitations.

Not surprisingly, the rulemaking was spearheaded and supported by utilities alleging the rule was a measure to reduce litigation costs. OCSC, along with over 20 other parties including industrial consumer groups, municipalities, and individuals, filed comments criticizing the proposed rule as an arbitrary and severe limitation on the only process customers have to protect against monopoly utilities' overcharging. Fortunately, the Commission chose not to formally adopt the rule, saving cities from the unnecessary and unfair discovery limitations the rule would have imposed.

84th Regular Legislative Session

Texas' 84th Regular Legislative Session was a major event for OCSC in 2015. From January through June, Cities played a large role at the Capitol advocating for consumers on utility issues, which as usual, received significant attention from lobbyists and legislators alike. Approximately 120 utility-related bills were filed this session and Cities were active on many of them, including being responsible for four bills and three associated companion bills. Like most sessions, there were disappointments and accomplishments, but overall, Cities are pleased that no major utility legislation negatively impacting cities' interests was adopted. This is particularly satisfying given the attacks on municipalities raised in other areas throughout the session.

Despite favorable hearings and committee approval on two of OCSC's bills, the powerful utility lobby ultimately prevented one of OCSC's bills from passing, the Public Utility Commission ("PUC") system-wide bills (HB 3084 / SB 1271). These bills would have clarified that rate case expenses at the PUC are to be collected on a system-wide basis but because of widespread opposition and strategic reasons, they did not receive a hearing. Nevertheless, although some reservation was expressed, the PUC recently ruled to implement its longstanding practice of system-wide collection of expenses in a recent rate case where this issue was considered.

Disappointingly, Sen. Larry Taylor's (R – Friendswood) SB 1444 died after emerging from committee in the Senate. This bill would have facilitated the creation of public-private partnerships between cities and utilities for the purpose of creating hike-and-bike trails. Cities sought this legislation because it would have allowed for the expansion of these public trails, but at little or no cost for property acquisition. SB 1444 would have facilitated these partnerships by lifting some legal liability that utilities face for the public use of their property, prompting trial attorneys to rigorously fight and, ultimately, kill the bill.

There were, however, a few bills that city coalitions supported or had a major influence on that did get adopted. In particular, Rep. Sylvester Turner's (D – Houston), House Bill

1101, represents the session's biggest victory for Texas energy consumers by providing more than \$200 million in discounts to low-income electric ratepayers. Money for the discounts comes not from tax dollars, but through fees paid by electric users statewide into a special government fund, the System Benefit Fund — that was created as part of delicate negotiations with consumer groups during the adoption of the 1999 electric deregulation law. HB 1101 extends the period over which the System Benefit Fund's balance is to be eliminated and was signed by Governor Abbot on June 17, effective immediately.

Also signed by the Governor are Rep. John Frullo's (R – Lubbock) HB 1535 and Sen. Troy Fraser's (R – Horseshoe Bay) SB 776. HB 1535, effective immediately, allows electric utilities located outside the state's main power grid to more easily increase their rates by various methods, including the allowance of accelerated hikes that correspond with transmission system investments. Although originally opposed to this legislation, advocates for cities and business consumers lifted their opposition after successfully negotiating changes to help protect the electric consumers' interests. SB 776 impacts municipal-owned utilities by requiring them to obtain certificates of convenience and necessity when extending a transmission facility outside its home service territory. This bill takes effect on August 1.

Now city coalitions are beginning work for the 2017 legislative session. During the interim, city representatives will continue to meet with legislators and legislative staff to educate them on utility issues and engage with stakeholders to identify additional needs.



Court of Appeals Rules City Pays Utility Relocation Costs

For the past several years, the City of Richardson ("Richardson") has been embroiled in litigation with Oncor over who is responsible for the costs of relocating Oncor's electric equipment in the City's public alleys for the purpose of widening the alleys. The latest decision in this dispute was issued in February 2015 by the Fifth Court of Appeals in Dallas, finding in favor of Oncor by holding that Oncor's tariff controls and Richardson is an entity requesting relocation that must pay the associated costs.

This dispute arose when Oncor refused for the first time to relocate its equipment in Richardson's alleys at its own expense to allow for alley reconstruction and widening. At the time, Richardson's electric franchise incorporated Richardson's rights-of-way ("ROW") ordinance and required Oncor to relocate its facilities in the ROW, including alleys, at Oncor's cost when necessary for city construction.

The Fifth Court of Appeals heard the case in 2015 and issued its decision in August siding with Oncor that its tariff controls. Moreover, the appellate court concluded the tariff's provision requiring an entity requesting relocation to pay the associated costs is a pro-forma tariff provision, which pursuant to the Administrative Code must be included in every electric utility provider's tariff and may not be modified by a city. Further, the appellate court rejected Richardson's argument that Oncor's prior conduct of paying for previous alley equipment relocations obligated it to continue to do so.

Richardson's motion for rehearing at the court of appeals was denied. Richardson may now file a petition for review at the Supreme Court in February of this year. If it chooses to do so, Cities will likely file an amicus brief supporting Richardson.

ERCOT Successes

Cities had a good year at the Electric Reliability Council of Texas (“ERCOT”) in 2015. An abusive Nodal Protocol Revision Request (“NPRR”) was defeated and the implementation of a reserve margin metric change long-supported by Cities proved to be a success.

Cities benefitted when ERCOT’s Technical Advisory Board (“TAC”) rejected NPRR 649, which the Protocol Revision Subcommittee had been discussing since October 2014 and recommended for TAC’s approval last November. The overreaching NPRR 649 would have been costly for consumers by giving payments to generators for power they did not produce. If NPRR 649 had passed, generators would have received “make whole” payments from ERCOT if ERCOT directed a generator to reduce its output below what SCED, ERCOT’s complex computer system that selects what combination of power plants should run to meet demand, indicated. This situation occurs when voltage issues arise that SCED is incapable of detecting. However, generators themselves are able to model and predict when such a voltage issue will arise and could potentially game the system by artificially inflating the price of the offer curve they submit to ERCOT in order to pump up the “make whole”

payment they would receive under NPRR 649 when, ultimately, ERCOT directs the generator to reduce output due to the voltage issue the generator predicted but SCED did not. Because NPRR 649 could have resulted in these unfair payments to generators, Cities consider its rejection by TAC a major victory of 2015.

This year, Cities also celebrated the success of ERCOT’s new forecasting methodology. Cities had supported changing the metric ERCOT uses to model its 10-year outlook on Capacity, Demand and Reserves (“CDR”) for years, arguing ERCOT was using a simplistic look-back metric that did not accurately account for all factors affecting market health. ERCOT staff developed an updated load forecasting methodology that was implemented in 2014. The new model uses growth trends in customer accounts to project future growth in electric demand for each region served by the ERCOT grid. In 2015, the new model proved to work. The year’s CDR reports predicted healthy market conditions that market participants agreed more accurately reflected true conditions. More accurate predictions showing a healthy market is a win-win for everyone.

Oncor’s 2008 Rate Case Appealed to Texas Supreme Court

OCSC continued work on the 2008 Oncor rate case, Docket No. 35717, last year. Several parties, including Cities, filed petitions for review at the Supreme Court. This case involves the Commission’s decision to deny Oncor’s recovery of certain franchise fee payments OCSC and Oncor had negotiated, meaning Cities were denied millions of dollars of franchise fee payments. OCSC is currently working on a brief to file in this case at the end of the month. It remains to be seen whether the Supreme Court will grant the petition.



2016 OCSC Meetings

March 10
May 12
August 11
December 8

2016 Officers

Paige Mims—Chair
Don Knight—Vice Chair
Joel Welch—Secretary

Questions?

For questions about any OCSC matter or communication, please feel free to contact:

Geoffrey Gay
(512) 322-5875
ggay@lglawfirm.com

Thomas Brocato
(512) 322-5857
tbrocato@lglawfirm.com



Lloyd Gosselink Rochelle and Townsend, P.C.
816 Congress Avenue Suite 1900
Austin, Texas 78701