



# City of Saginaw

**Meeting Date:** 04/07/2015

**Staff Contact:** Nan Stanford  
City Manager

**Agenda Item:** 4c  
(CC-0415-03)

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**Phone:** 817-232-4640

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**SUBJECT:** Action regarding Resolution No. 2015-03, Authorizing Continued Participation with the Steering Committee of Cities served by Oncor Electric Delivery Company

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**BACKGROUND/DISCUSSION:**

Resolution No. 2015-03 approves the 2015 membership assessment to continue participation with the steering committee of cities served by Oncor Electric Delivery Company. The committee consists of 153 cities. It is active in working to keep wire rates reasonable and protecting the authority of municipalities over the regulated transmission and distribution (wires) service and rates charged by Oncor.

**FINANCIAL IMPACT:**

The financial impact will be \$2,338.27. 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. 2015-03, authorizing continued participation with the steering committee of cities served by Oncor Electric Delivery Company.

Attachments

Proposed Resolution

Steering Committee Information

RESOLUTION NO. 2015-03

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 (whose current members are identified in Attachment 1) 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 2014 meeting set a budget for 2015 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 David Barber, Steering Committee of Cities Served by Oncor, c/o City Attorney’s Office, Mail Stop 63-0300, Post Office Box 90231, Arlington, Texas 76004-3231.

PRESENTED AND PASSED on this the \_\_\_\_\_ day of \_\_\_\_\_, 2015, by a vote of \_\_\_\_\_ ayes and \_\_\_\_\_ nays at a regular meeting of the City Council of the City of Saginaw, Texas.

\_\_\_\_\_  
Gary Brinkley  
Mayor

ATTEST:

\_\_\_\_\_  
Janice England  
City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Bryn Meredith  
City Attorney

**Attachment 1**  
**OCSC 2015 Executive Committee Members**

Allen	Eric Ellwanger, Assistant to City Manager
Arlington	David Barber, Assistant City Attorney
Burkburnett	Trish Holley, Director of Administration
Carrollton	Elizabeth Horn, Assistant City Attorney
Cleburne	Kim Galvin, Director of Finance
Colleyville	Cathy Cunningham, City Attorney
Comanche	Ronnie Clifton, Mayor
Dallas	Nick Fehrenbach, Manager of Regulatory Affairs & Utility Franchising
Denison	Courtney Goodman-Morris, City Attorney
Ennis	Joel Welch, Director of Finance
Flower Mound	Christianne Price, Budget & Grants Manager
Fort Worth	Bridgette Garrett, Director of Budget & Management Services
Frisco	Ben Brezina, Assistant to City Manager
Grand Prairie	Don Postell, City Attorney
Irving	Carrie Morris, Assistant City Attorney
Lewisville	Phil Boyd, Consultant
Mansfield	Joe Smolinski, Director of Utility Operations
Mesquite	Cynthia Steiner, Assistant City Attorney
Odessa	Konrad Hildebrandt, Assistant City Manager
Plano	Mark Israelson, Director of Policy and Government Relations
Sherman	Brandon Shelby, City Attorney
The Colony	Gwen Mansfield, Assistant Finance Director
Tyler	Deborah G. Pullum, City Attorney
Waco	Jennifer Richie, City Attorney
Watauga	Greg Vick, City Manager
Waxahachie	Doug Barnes, Director of Economic Development

**STAFF 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 153-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 David Barber, Steering Committee of Cities Served by Oncor, c/o City Attorney’s Office, Mail Stop 63-0300, Post Office Box 90231, Arlington, Texas 76004-3231. Checks should be made payable to: *Steering Committee of Cities Served by Oncor.*

## STEERING COMMITTEE CITIES SERVED BY ONCOR (153)

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

# Steering Committee of Cities Served by Oncor

## 2014 Year in Review



### *Steering Committee membership:*

This past year was a busy one for the Steering Committee of Cities Served by Oncor (“OCSC”). With the Texas Legislature soon to be in session, things are only going to ramp up in 2015. This annual review highlights the significant events of 2014 that impacted OCSC and what’s on the horizon this year.

Sincerely,

Paige Mims, OCSC Chair

## Significant Events of 2014

### **PUC PROJECT NO. 41622 – RULEMAKING TO PROPOSE NEW RULE 25.245 RELATING TO RECOVERY OF EXPENSES FOR RATEMAKING PROCEEDINGS**

At its July 10 Open Meeting, the Public Utility Commission (“PUC” or “Commission”) adopted new rules governing the recoverability of utility and municipal rate case expenses proposed in Project No. 41622. Pursuant to amendments offered by Commissioner Donna Nelson, parties are now required to track fees and expenses by issue. This effort will add to the time and effort involved in litigating a rate case, which will in turn increase rate case expenses.

Additionally, the new rule gives the ability of the examiner or Commission to make disallowances of rate case expenses based on the extent to which a

party was unsuccessful in winning issues rather than the totality of issues argued by a party.

The rules were adopted despite concerns that it would be difficult to distinguish the amount of time spent on a particular issue when there are multiple issues in a particular case. To address this concern, the Commissioners asked for language in the Preamble giving adequate room to make reasonable allocations, stating that “Commission sense has to prevail.”

### **EFH BANKRUPTCY CONTINUES – SALE OF ONCOR**

For years, Energy Future Holdings Corp. (“EFH”) has been struggling to manage its massive \$40 billion debt. But in April of 2014, it finally threw in the towel and filed for Chapter 11 Bankruptcy. With many creditor agreements in place, EFH officials had hoped for a quick 11-month proceeding in bankruptcy court that would end with EFH’s subsidiaries, including Oncor, being split up between creditors. However, multiple delays largely due to the sale of Oncor, have prolonged the process.

With over \$330 million in profits in 2013 and solid ring fence protection from the bankruptcy, Oncor has been seen as EFH’s most valuable asset. In April, Oncor was poised to be taken over by a creditors’ group led by Hunt Consolidated and the Teacher Retirement System of Texas but Florida-based power company NextEra Energy upset that deal by placing its own \$18 billion bid on the transmission company. In August, EFH decided to open up bidding to the public in hopes of extracting an even higher bid. Reportedly, CenterPoint Energy and Berkshire Hathaway, along with

Hunt and NextEra, have expressed interest and signed up to review confidential financial information on Oncor.

The first round of bidding was originally scheduled to close October 23, with the final auction to take place in February 2015 but the auction has faced multiple delays. Most recently, in November, U.S. Bankruptcy Court Judge Christopher Sontchi ruled that EFH must change the way its affiliates approve of the Oncor sale plan. Although Judge Sontchi did not set a timeline, he said the bidding process must now involve two official creditors’ committees and the timeline should be extended to allow for the development of alternative deals, which will likely delay the auction a couple of months. Going forward, the Oncor sale is dependent on EFH’s confirmation of a plan of reorganization, which it expects to do by the end of 2015.

OCSC will continue to closely monitor the EFH bankruptcy and will participate in any arising proceedings to protect its membership and ensure no negative consequences result for Oncor’s customers.

## ONCOR BATTERY PROPOSAL

Oncor Electric Delivery Company, LLC (“Oncor”) ended the year with a bang by surprising the energy world with a proposal to invest up to \$5.2 billion in grid-connected battery storage. The investment would potentially add up to five gigawatts (GW) of storage capacity, enough electricity to power 1.5 million Texas homes on a hot summer day, to back up Oncor’s transmission and distribution network.

During the deregulation of the electricity market in 1999, Texas lawmakers adopted a law that prevents transmission companies from selling electricity on the wholesale market. Oncor claims the implementation of its plan depends on changing this law. According to a report published by The Brattle Group, a consulting group hired by Oncor to analyze the impact of the potential multi-billion dollar investment, neither a transmission company nor a generator could make the battery economics work under the current laws. To be economical, a company would need to tap cost savings on both ends. The Brattle Group reports that “approximately 30% to 40% of the total system-wide benefits of storage investments are associated with reliability, transmission, and distribution functions that are not reflected in wholesale market prices.” The Brattle Group recommends that the state legislature change the law to allow transmission providers to “auction off” the market value of battery storage to wholesalers. In Oncor’s eyes, this would maintain the separation between generation and transmission companies while allowing both sides to share the full system-wide benefits and making the investment feasible.

Oncor’s proposal will most certainly face opposition and, indeed, is already receiving pushback from its sister companies, TXU Energy and Luminant. The retail electricity provider and power generator, owned together with Oncor by Energy Future Holdings (“EFH”), issued a joint statement saying that while they support battery technology on the electric grid, they do not



want customers paying for it. The energy giants voiced concern that such a move would “shift risk to ratepayers and undermine the competitive market.” According to them, “batteries act like generation resources so they should remain part of the competitive market, which can better handle and appropriately price battery technology risks.”

Risk factors include Oncor’s assumption that battery prices will continue to fall. Oncor’s plan presumes that the cost of lithium-ion storage batteries will drop to half of today’s cost within the next seven or eight years, making battery storage a cheaper way to provide grid stability and prevent power outages than large-scale renovation of Texas’ electric infrastructure. Oncor says it will work with Tesla Motors to supply the batteries from its planned gigafactory in Nevada, which Tesla claims will have gigawatts’ worth of grid-ready storage systems by 2018, when Oncor hopes to start deployment.

Oncor touts the lowering of consumer electric bills as one of the benefits of its behemoth battery storage plan. However, The Brattle Group reports that deploying up to 5 GW of battery storage could shave just 34 cents off an average household bill of \$176 per month.

Oncor has started a lobbying effort but, reportedly, does not expect to get legislation passed this upcoming session. Nevertheless, we expect battery storage to be a much-discussed item during the session and a hot topic in 2015.





## APPEALS COURT ISSUES OPINION IN ONCOR'S 2008 RATE CASE



On August 6, after over three years, the Third Court of Appeals issued its opinion in *State of Texas' Agencies and Institutions of*

*Higher Learning, et al. v. Public Utility Commission of Texas, et al.*, Cause No. 03-11-00072-CV – the appeal of Oncor's 2008 rate case, PUC Docket No. 35717, *Application of Oncor Electric Delivery Company, LLC for Authority to Change Rates*. Twelve issues were raised in the appeal, but two were of particular interest to and were argued by Cities: (1) Consolidated Tax Savings Adjustment (CTSA) and (2) Franchise Fees.

Agreeing with Cities, the appellate court held that the district court erred in determining that Oncor was not a member of an affiliated group eligible to file a consolidated return under Public Utility Regulatory Act ("PURA") § 36.060 and remanded the issue to the Commission for recalculation of the CTSA. Likewise, the Third Court of Appeals concluded that Oncor did not meet its burden of proving that it had franchise fee agreements in effect on September 1, 1999 that had since expired.

In addition to these important issues, the court reversed the district court's ruling regarding the university discount, affirming the Commission's

decision that Oncor provides services to retail electric providers, but does not provide electric service to state universities. The court also found that Oncor's investment in automated meters that did not comply with the technical specifications established by the PUC was prudent. Finally, the court affirmed the PUC's decision regarding incentive-compensation and Oncor's reimbursement of municipalities' regulatory expenses, both overruling Oncor.

Oncor filed a Motion for Rehearing on all issues and on December 4, the court withdrew its August opinion and issued a new opinion granting Oncor's motion regarding a university discount but denying the rest. Consistent with Oncor's motion, the court reversed and determined that Oncor is not required to provide state colleges and universities the discount outlined in PURA § 36.351. However, the court maintained its original position on the other issues and once again reversed and remanded the issues of the CTSA and franchise fees to the PUC and affirmed the district court's judgment in all other respects.

Parties are expected to appeal this opinion further to the Texas Supreme Court. Petitions for Review are due on February 19, 2015.

## PUC PROJECT NO. 42330 – RULEMAKING RELATING TO DISCOVERY LIMITATIONS



In October, the PUC approved a Proposal for Publication in Project No. 42330 in order to receive comments on a proposal to require that, for all rate proceedings, a discovery control

plan be established by an order entered by the presiding officer of the Commission.

The rules, proposed by PUC staff, would prescribe specific discovery limitations on requests for information, requests for admission, and deposition by oral examination, while affording the presiding officer latitude in granting requests for additional discovery upon a showing of good cause. Modifications by the presiding officer or the Commission would also be authorized upon the occurrence of certain events. In

addition, PUC staff would be exempted from the discovery limitations.

Initial comments were due at the beginning of December and 16 parties, including OCSC, filed comments and requested a public hearing to be held before the Commission decides whether to adopt the new rule. OCSC's comments expressed concern regarding the necessity of the proposed rule, given that the majority of rate cases since 2002 have settled, and noted that the limitations proposed in the rule would harm the scrutiny given to utilities' rate filings. Parties filed reply comments at the end of December and OCSC reiterated the recommendation that the rule extend the circumstance-specific discovery control plan approach set for comprehensive base rate cases to all PUC ratemaking proceedings. OCSC will continue to participate in this rulemaking as it continues in 2015.

# What to Expect in 2015?

## 2015 LEGISLATIVE AGENDA

The 84<sup>th</sup> Texas Legislature begins January 13, 2015 and runs through June 1, 2015. OCSC representatives have spent the past year actively preparing a full agenda and are hopeful the session will prove successful.

As in the past, this session's agenda is primarily focused on defensive issues. OCSC will oppose piecemeal ratemaking efforts to the extent that they reduce the ability of cities and the Commission to effectively fulfill their regulatory functions and will oppose any effort to reduce or eliminate cities' original jurisdiction in rate cases. Additionally, OCSC will defend cities against legislation that would erode franchise fee payments or cities' position on utility relocations.

Proactively, OCSC will promote legislation that would require a standard offer deal among retail electric providers ("REPs") to enhance competition

and consumer satisfaction during the REP selection process. OCSC is also pursuing the possibility of legislation that would allow cities to utilize electric transmission rights of way for hike and bike trails by limiting the liability of utilities for accidents within transmission corridors. Additionally, OCSC will renew last session's effort of promoting private/public partnerships to develop small scale generation projects.

Please keep in mind that this is a working agenda and is subject to additional research and evaluation as the session progresses. If there are any other issues that you would like to see added to the agenda, please feel free to contact us at any point.



### **2015 OCSC QUARTERLY MEETING SCHEDULE**

Thursday, April 2

Thursday, June 25

Thursday, September 17

Thursday, December 17

#### **Questions?**

For questions or concerns regarding any OCSC matter or communication, please contact the following representatives, who will be happy to provide assistance:

**Geoffrey Gay**  
512-322-5875  
ggay@lglawfirm.com

**Thomas Brocato**  
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