



**NOTICE OF
SPECIAL MEETING OF THE TOWN COUNCIL
HICKORY CREEK TOWN HALL
1075 RONALD REAGAN AVENUE, HICKORY CREEK, TEXAS 75065
TUESDAY, MAY 07, 2019, 5:30 PM**

AGENDA

Call to Order

Roll Call

Pledge of Allegiance to the U.S. And Texas Flags

Invocation

Items of Community Interest

Pursuant to Texas Government Code Section 551.0415 the Town Council may report on the following: expressions of thanks, congratulations, or condolence; an honorary or salutary recognition of an individual; a reminder about an upcoming event organized or sponsored by the governing body; and announcements involving an imminent threat to the public health and safety of people in the municipality or county that has arisen after the posting of the agenda.

Public Comment

This item allows the public an opportunity to address the Town Council. To comply with the provisions of the Open Meetings Act, the Town Council cannot discuss or take action on items brought before them not posted on the agenda. Please complete a request if you wish to address the Town Council. Comments will be limited to three minutes.

Public Hearing

1. Public Hearing: To hear public opinion regarding the voluntary annexation of a 24.277 acre tract of land situated in the H.H. Swisher Survey, Abstract No. 1220, Denton County, Texas.

Consent Agenda

Items on the Consent Agenda are considered to be self-explanatory and will be enacted with one motion. No separate discussion of these items will occur unless so requested by at least one member of the Town Council.

2. Consider and act on allocating funds for repairs to roadways in Lakeview at Point Vista Subdivision.
3. Consider and act on a resolution by the Town of Hickory Creek, Texas denying the distribution cost recovery factor rate request of Oncor Electric Delivery Company, LLC made on or about April 8, 2019; 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.

Regular Agenda

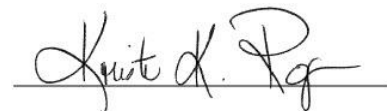
4. Presentation of Certificates of Election and Administration of Oaths of Office to candidates declared elected.

Adjournment

The Town Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by the Texas Government Code, Chapter 551.

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to the meeting. Please contact Town Hall at 940-497-2528 or by fax 940-497-3531 so that appropriate arrangements can be made.

I, Kristi Rogers, Town Secretary, for the Town of Hickory Creek certify that this meeting notice was posted on the bulletin board at Town Hall, 1075 Ronald Reagan Avenue, Hickory Creek, Texas on April 29, 2019 at 4:00 p.m.

A handwritten signature in cursive script, appearing to read "Kristi Rogers", written over a horizontal line.

Kristi Rogers, Town Secretary
Town of Hickory Creek

Item Attachment Documents:

2. Consider and act on allocating funds for repairs to roadways in Lakeview at Point Vista Subdivision.

MCMAHON CONTRACTING L.P.

FROM: McMahon Contracting L.P.
 3019 Roy Orr Blvd.
 Grand Prairie, TX 75050
 Phone: 972-263-6907
 Fax: 972-264-0008

Qoute for Patch Work
DATE: April 30, 2019

TO: CITY OF HICKORY CREEK

PROJECT: Point Vista

We hereby propose the following changes and/or additions to the original contract.

ITEM	DESCRIPTION	UNIT OF MEASURE	ORIGINAL QUANTITY	ADD/DEDUCT QUANTITY	REVISED QUANTITY	UNIT PRICE	NET COST CHANGE
New	Full depth Paving repair	SY	0	126.00	254.22	\$126.00	\$32,031.72
					TOTAL		\$32,031.72

Notes: ALL PAYMENTS BASED ON FINAL MEASURED QUANTITIES

Pricing includes: minor traffic control per area, saw cutting, removal of existing concrete, undercutting excavation, placing 8" flex base for sub-grade, paving back in place, 2 mobilization max. Additional mobs will be \$2500 each

Signed: _____

Date: _____

Item Attachment Documents:

3. Consider and act on a resolution by the Town of Hickory Creek, Texas denying the distribution cost recovery factor rate request of Oncor Electric Delivery Company, LLC made on or about April 8, 2019; 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.

AGENDA INFORMATION SHEET

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

BACKGROUND

On April 8, 2019, Oncor Electric Delivery Company, LLC (“Oncor”) submitted an Application for Approval of a Distribution Cost Recovery Factor (“DCRF”) to increase its annual revenues by approximately \$29 million. Oncor proposes to implement this increase on September 1, 2019. A DCRF permits Oncor to recover through its rates Oncor’s incremental investment in its distribution assets for the period of January 1, 2017 through December 31, 2018, or the one year period year following the end of the test year in its last DCRF proceeding, which was PUCT Docket No. 48231.

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, 2019, 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 here, by no later than June 7, 2019.

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 (“PUCT” 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 recover their reasonable rate case expenses from the utility. 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

Oncor filed its Application for Approval for a DCRF with the City on the same date it filed its application with the Public Utility Commission of Texas. 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 PUCT, 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, 2019; therefore, the City has until June 7, 2019 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.

RECOMMENDATION

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.

The City must take action no later than June 7, 2019, 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.

**TOWN OF HICKORY CREEK
RESOLUTION NO. 2019-0507-__**

A RESOLUTION BY THE TOWN OF HICKORY CREEK, TEXAS (“TOWN”) DENYING THE DISTRIBUTION COST RECOVERY FACTOR RATE REQUEST OF ONCOR ELECTRIC DELIVERY COMPANY LLC MADE ON OR ABOUT APRIL 8, 2019; 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, 2019, Oncor Electric Delivery Company, LLC (“Oncor”) filed an application for approval to amend its Distribution Cost Recovery Factor (“DCRF”) with the Town that will increase Oncor’s rates effective September 1, 2019; and

WHEREAS, the Town 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 its investment in distribution capital it has made from January 1, 2017 through December 31, 2018; and

WHEREAS, the inclusion of Oncor’s investment in distribution capital in rates, has the effect of increasing Oncor’s revenue requirement by approximately \$29 million; and

WHEREAS, the jurisdictional deadline for the Town to act in this rate matter is 60 days from the application date, or June 7, 2019; and

WHEREAS, the Town 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 Town’s efforts with a coalition of similarly situated municipalities; and

WHEREAS, the Town, 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 a 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 Town and its citizens who are customers in Oncor’s service territory, and in order for the Town’s participation to be meaningful, it is important that the Town 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 Town has concluded that Oncor’s proposed rate change is unreasonable; and

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, 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 Town **DENIES** the rate change Oncor requested on or about April 8, 2019.

Section 3. The Town 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 Town 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 Town’s invoices for the Town’s reasonable costs associated with the Town’s activities related to this rate review or to related proceedings involving Oncor before the Town, the Public Utility Commission of Texas, or any court of law.

Section 5. Subject to the right to terminate employment at any time, the Town 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 Town, 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 Town.

Section 6. The Town, 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, 816 Congress Ave., Suite 950, Austin, Texas 78701.

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 7th day of May, 2019.

Lynn C. Clark., Mayor
Town of Hickory Creek, Texas

ATTEST:

Kristi K. Rogers, Town Secretary
Town of Hickory Creek, Texas

APPROVED AS TO FORM:

Trey Sargent, Town Attorney
Town of Hickory Creek, Texas