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PUC DOCKET NO. 34077

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**JOINT REPORT AND APPLICATION
OF ONCOR ELECTRIC DELIVERY
COMPANY AND TEXAS ENERGY
FUTURE HOLDINGS LIMITED
PARTNERSHIP PURSUANT TO PUBLIC
UTILITY REGULATORY ACTION
SECTION 14.101**

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**BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS**

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DOCKET NO. 34077

JOINT REPORT AND APPLICATION	§	
OF ONCOR ELECTRIC DELIVERY	§	
COMPANY AND TEXAS ENERGY	§	PUBLIC UTILITY COMMISSION
FUTURE HOLDINGS LIMITED	§	
PARTNERSHIP PURSUANT TO	§	OF TEXAS
PUBLIC UTILITY REGULATORY	§	
ACT SECTION 14.101	§	

**JOINT REPORT AND APPLICATION OF ONCOR ELECTRIC DELIVERY
COMPANY AND TEXAS ENERGY FUTURE HOLDINGS LIMITED PARTNERSHIP
PURSUANT TO PUBLIC UTILITY REGULATORY ACT SECTION 14.101**

To the Honorable Public Utility Commission of Texas:

COME NOW Oncor Electric Delivery Company ("Oncor") (formerly TXU Electric Delivery Company¹) and Texas Energy Future Holdings Limited Partnership ("TEF") (collectively, "Applicants") and file this Joint Report and Application pursuant to Section 14.101(b) of the Public Utility Regulatory Act (PURA)² and P.U.C. SUBST. R. 25.75. TXU Corp., the parent of Oncor, and TEF have entered into an Agreement and Plan of Merger, dated as of February 25, 2007 (the "Merger Agreement"), whereby Texas Energy Future Merger Sub Corp, a Texas corporation and wholly-owned subsidiary of TEF ("Merger Sub"), will be merged with and into TXU Corp., with TXU Corp. continuing as the surviving corporation. Immediately following such merger, TEF will own all or substantially all of the outstanding shares of TXU Corp., and Oncor will remain a direct or indirect wholly-owned subsidiary of TXU Corp.³

Section 14.101(b) of PURA requires that a transaction involving the sale of more than 50% of the stock of a public utility be reported to the Public Utility Commission of Texas ("Commission") within a reasonable time and that the Commission shall determine whether the transaction is consistent with the standards set out therein. Although the proposed transaction

¹ On April 24, 2007, TXU Electric Delivery Company filed with the Secretary of State to begin using the name Oncor Electric Delivery Company, and also filed revised tariffs with the Public Utility Commission of Texas ("PUCT") reflecting the Oncor Electric Delivery Company name. For the purposes of this filing, TXU Electric Delivery Company will be referred to as "Oncor."

² TEX. UTILITIES CODE ANN. §§ 11.001 – 66.017 (Vernon 1998 and Supp. 2006).

³ As reflected in the testimony of Mr. Frederick M. Goltz, TEF is also exploring the possibility of bringing in a third party minority investor into Oncor, to support TEF's commitments to "ring-fence" Oncor from the rest of TXU Corp. and its subsidiaries.

("Transaction") does not involve the direct sale of public utility stock, Applicants have chosen to seek a public interest determination pursuant to Section 14.101(b) of PURA. Thus, Applicants request a determination that the Transaction as it relates to Oncor is consistent with the standards set out in PURA Section 14.101(b).

I. PARTIES TO THE TRANSACTION

Oncor

Oncor, a Texas corporation, is a direct wholly-owned subsidiary of TXU Corp. Oncor is an electric distribution and transmission utility that delivers power pursuant to rates approved by municipalities in which it provides service that have retained original jurisdiction and by the Commission. Oncor operates more than 115,000 miles of distribution and transmission lines within the Electric Reliability Council of Texas ("ERCOT") region of Texas. Oncor also provides limited open access wholesale transmission service under tariffs on file with the Federal Energy Regulatory Commission ("FERC") for certain transactions that are subject to the jurisdiction of the FERC under Sections 210, 211, and 212 of the Federal Power Act.

TEF

TEF is a Delaware limited partnership formed for the purpose of effectuating the Transaction. TEF is not a public utility. TEF is controlled by its sole general partner, Texas Energy Future Capital Holdings LLC, and is owned by its sole general partner and its limited partners. Upon consummation of the Transaction, TEF will own all or substantially all of the outstanding common shares of TXU Corp.

II. DESIGNATED REPRESENTATIVES

For purposes of this proceeding, Oncor's designated legal representatives are as follows:

Matthew C. Henry	Howard V. Fisher
State Bar No. 00790870	State Bar No. 07051500
Hunton & Williams LLP	Oncor Electric Delivery Company
1601 Bryan Street, 30 th Floor	1601 Bryan Street, 23 rd Floor
Dallas, Texas 75201	Dallas, Texas 75201
214-979-3081 - Office	214-486-3026 - Office
214-979-3923 - Fax	214-486-3221 - Fax

For purposes of this proceeding, TEF's designated legal representatives are as follows:

Richard L. Adams
State Bar No. 00874950
Jo Ann Biggs
State Bar No. 02312400
Hunton & Williams LLP
1601 Bryan Street, 30th Floor
Dallas, Texas 75201
214-979-3000 - Office
214-979-3901 - Fax

Michael J. Tomsu
State Bar No. 20125875
Vinson & Elkins LLP
2801 Via Fortuna, Suite 100
Austin, Texas 78746
512-542-8527 - Office
512-236-3211 - Fax

III. SERVICE OF PLEADINGS

Pursuant to P.U.C. PROC. R. 22.74, Applicants request that their authorized representatives for the purpose of service of pleadings be as follows:

Oncor

Matthew C. Henry
State Bar No. 00790870
Hunton & Williams LLP
1601 Bryan Street, 30th Floor
Dallas, Texas 75201
214-979-3081 - Office
214-979-3923 - Fax

TEF

Michael J. Tomsu
State Bar No. 20125875
Vinson & Elkins LLP
2801 Via Fortuna, Suite 100
Austin, Texas 78746
512-542-8527 - Office
512-236-3211 - Fax

IV. PERSONS POTENTIALLY AFFECTED BY THE TRANSACTION

Persons potentially affected by the Transaction as it relates to Oncor include: retail electric providers ("REPs") who take transmission and distribution delivery service from Oncor; other transmission and distribution service providers in ERCOT; other wholesale market participants in ERCOT; and retail end-use customers who are connected to Oncor's transmission and distribution system.

V. JURISDICTION

The Commission has jurisdiction to review this Joint Report and Application under Section 14.101(b) of PURA.

VI. FILINGS

Applicants have prepared the Commission's form for Application for Sale, Transfer, or Merger, attached as Exhibit A to this Joint Report and Application, and are filing sworn testimony in support of this Joint Report and Application.

VII. SUMMARY OF THE PROPOSED TRANSACTION

Pursuant to the Merger Agreement,⁴ Merger Sub will be merged with and into TXU Corp., with TXU Corp. continuing as the surviving corporation. Upon the closing of the Transaction, each outstanding share of common stock of TXU Corp. will be converted into the right to receive \$69.25 in cash, without interest and less any applicable withholding taxes. After the closing of the Transaction, TEF will own all or substantially all of the outstanding shares of TXU Corp., and Oncor will remain a direct or indirect wholly-owned subsidiary of TXU Corp.⁵

The Transaction will close after all regulatory filings are made and the necessary approvals are received and all conditions of closing are met. In addition to this Joint Report and Application on the proposed Transaction filed with the Commission, the parties to the Transaction either have made, or intend to make regulatory filings with the FERC, the Nuclear Regulatory Commission, the Federal Communications Commission, and with the Antitrust Division of the United States Department of Justice pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended. As reflected in the testimony of Mr. Frederick M. Goltz, TEF is also exploring the possibility of bringing in a third party minority investor into Oncor, to support TEF's commitments to "ring-fence" Oncor from the rest of TXU Corp. and its subsidiaries.

At the conclusion of the Transaction, all or substantially all of the stock of TXU Corp. will be held by TEF. The Transaction will not involve any change in ownership or character of the common stock of Oncor. TXU Corp. will remain the sole owner of Oncor's common stock, although it is envisioned that an intermediate holding company ("Oncor Electric Delivery

⁴ A copy of the Merger Agreement (and the related Company Disclosure Letter) is attached to the testimony of Mr. Frederick M. Goltz. Portions of the Company Disclosure Letter contain competitively sensitive information and have been redacted.

⁵ Subject to any minority investment in Oncor, as described in footnote 3.

Holdings”) will be established between TXU Corp. and Oncor. The Transaction will not result in the transfer of any of Oncor’s assets, franchises, or certificates of convenience and necessity. Oncor’s rates will not reflect Transaction-related costs, such as investment banking fees and legal fees. The headquarters of Oncor will remain in Dallas, Texas. There will be no transfer of jobs to workers domiciled outside of Texas as a result of the Transaction. No increase in Oncor’s cost of debt will be requested in Oncor’s scheduled rate proceedings in 2007 and 2008 as a result of the Transaction. The Transaction will not result in a decline in service or adversely affect the health or safety of Oncor’s employees or customers.

VIII. COMMITMENTS AND REQUEST FOR INTERIM ORDER

As an integral part of this docket, TEF and Oncor are making numerous commitments to the Commission regarding the manner in which Oncor will be structured and operated upon consummation of the Transaction. On April 2, 2007, TEF filed a letter with the Commission in which it set forth a number of these significant commitments. These commitments are:

- **Name Change Commitment** - On or before closing of the Transaction, the name of TXU Electric Delivery Company will be changed to Oncor Electric Delivery Company. Oncor’s logo will be separate and distinct from the logos of the parent, TXU Corp., the retail electric provider, which will retain the TXU Energy name (“TXU Energy Retail”), and the power generation company, which we expect to rename with the Luminant Energy brand (“Luminant”). In fact, the name of TXU Electric Delivery Company was changed to Oncor Electric Delivery Company on April 24, 2007. TXU Corp. commits to maintaining a name and logo for Oncor that is separate and distinct from the names of TXU Corp.’s retail electric provider and wholesale generation companies.
- **Separate Board Commitment** - At closing and thereafter, Oncor will have a separate board of directors that will not include any members from the boards of directors of TXU Energy Retail or Luminant.
- **Separate Headquarters Commitment** - Within a reasonable transition period after closing of the Transaction, not to exceed 6 months, Oncor’s headquarters will be located in a separate building from the headquarters and operations of TXU Energy Retail and Luminant.
- **No Transaction-Related Debt at Oncor Commitment**- Oncor will not incur, guaranty or pledge assets in respect of any incremental new debt related to financing the Transaction at the closing or thereafter. Oncor’s financial integrity will be protected from the separate operations of TXU Energy Retail and Luminant.

- **Debt-to-Equity Ratio Commitment** - Oncor's debt will be limited so that its regulatory debt-to-equity ratio is at or below the assumed debt-to-equity ratio established from time to time by the Commission for ratemaking purposes, which is currently set at 60% debt to 40% equity. For ratemaking purposes, in its scheduled rate cases in 2007 and 2008, Oncor will support a cost of debt that does not exceed Oncor's actual cost of debt immediately prior to the announcement of the Transaction.
- **Capital Expenditure Commitment** - Following the closing of the Transaction, Oncor will continue to make capital expenditures consistent with the capital expenditures in Oncor's business plan. Total capital spending will depend in part on economic and population growth in Texas, as well as permitting and siting outcomes. However, in any event, over the five years following the year in which closing of the Transaction occurs, Oncor will make capital expenditures in connection with its transmission and distribution business in an aggregate amount of more than \$3.0 billion.
- **DSM/Energy Efficiency Commitment** - Over the five years following the year in which closing occurs, subsidiaries of TXU Corp. will expend an aggregate of at least \$200 million on demand-side management/energy efficiency programs ("DSM") over the amount included by the Commission in Oncor's rates. This commitment will approximately double the level of spending on DSM currently included in Oncor's rates. Oncor will not seek to recover in rates any of the \$200 million in incremental DSM expenditures.
- **Service and Safety Commitment** - Oncor will support the inclusion of negotiated commitments with appropriate stakeholders regarding reliability, customer service and employee safety in any final order regarding the Transaction issued pursuant to PURA Section 14.101.
- **Rate Case Commitment** - If, for any reason, the Commission has not initiated a general rate proceeding for Oncor or its predecessor prior to July 1, 2008, Oncor will not later than that date file a general rate case consistent with its currently effective settlement agreement with certain municipalities.
- **Continued Ownership Commitment** - TEF will hold a majority of its ownership interest in Oncor, in the current regulatory system, for a period of more than five years after the closing date of the Transaction.

In addition to the foregoing, TEF and Oncor are now willing to make additional commitments to support the separateness of Oncor from the rest of TXU Corp. and its subsidiaries. These commitments are as follows:

- **Holding Company Commitment** - A new holding company, Oncor Electric Delivery Holdings, will be formed between TXU Corp. and Oncor.

- **Independent Board Commitment** - Each of Oncor Electric Delivery Holdings and Oncor will have a board of directors comprised of at least nine persons. A majority of the board members of each of Oncor Electric Delivery Holdings and Oncor will qualify as “independent” in all material respects in accordance with the rules and regulations of the New York Stock Exchange (“NYSE”) (which are set forth in Section 303A of the NYSE Listed Company Manual and in Exhibit FMG-3), from TXU Corp. and its subsidiaries (including TXU Energy Retail and Luminant), TPG and KKR. Consistent with TEF’s commitments, the directors of Oncor and Oncor Electric Delivery Holdings will also not include any members from the boards of directors of TXU Energy Retail or Luminant.
- **Affiliate Asset Transfer Commitment** - Neither Oncor Electric Delivery Holdings nor Oncor will transfer any material assets or facilities to any affiliates (other than the Ring-Fenced Entities, as hereinafter defined), other than such transfer that is on an arm’s length basis consistent with the Commission’s affiliate standards applicable to Oncor, regardless of whether such affiliate standards would apply to the particular transaction.
- **Arm’s Length Relationship Commitment** - Each of the Ring-Fenced Entities will maintain an arm’s length relationship with the TXU Group (as defined below) consistent with the Commission’s affiliate standards applicable to Oncor.
- **Separate Books and Records Commitment** - Each of the Ring-Fenced Entities will maintain accurate and appropriate detailed books, financial records and accounts, including checking and other bank accounts, and custodial and other securities safekeeping accounts that are separate and distinct from those of any other entity.

Applicants formally request that the Commission issue an Interim Order in the proposed form attached as Exhibit B to this Joint Report and Application. Applicants further stipulate and agree that all of these commitments may be included as written in the findings of fact and conclusions of law, as well as the ordering paragraphs, contained in any Commission Interim or Final Order in this docket.

In addition, TEF has made other commitments unrelated to Oncor’s business and this proceeding. However, for the sake of completeness, these other commitments are as follows:

- **Ten Percent Price Cut** – As a result of the Transaction, TXU Energy Retail will provide a ten percent (10%) price reduction⁶ for residential customers in its traditional service area who have not already selected one of TXU Energy Retail’s lower priced offers. Additionally, TXU Energy Retail customers entitled to receive the two remaining customer appreciation bonus payments of \$25 per

⁶ This price reduction is applicable to certain residential rates that were in effect on December 31, 2006.

quarter will receive those payments.

- **Five Year TXU Corp. Investment Commitment** – In the current regulatory system, the investor group will commit to hold a majority of its ownership in TXU Corp. for more than five years after the Transaction closes.
- **Coal Unit Commitment** – The planned coal units will be reduced from eleven to three. Plans to build the other eight coal units have been suspended and will be cancelled when the Transaction is closed.
- **Emerging Technologies Commitment** – Significant resources will be invested in emerging energy technologies, such as integrated gasification combined cycle coal plants, including an increased commitment to renewable energy.

IX. REQUEST FOR PROTECTIVE ORDER

Certain documents that are expected to be produced in this docket by the Applicants, including competitively sensitive portions of the schedules attached to the Merger Agreement, are considered by the Applicants to be confidential or highly confidential and not subject to public disclosure. Certain other documents that may be the subject of requests for information are expected to be privileged and not subject to discovery. Applicants thus request entry of a protective order, substantially similar in substance and form, to the Amended Protective Order that was adopted in Docket No. 31056, *Application of AEP Texas Central Company and CPL Retail Energy, LP to Determine True-Up Balances Pursuant to PURA §39.262*.⁷ For Your Honor's convenience, a proposed Protective Order is attached to this Joint Report and Application as Exhibit C.

Applicants are requesting that the Protective Order entered in this proceeding vary from the above-referenced order in two substantive respects. First, in Paragraph 4 of the Protective Order, Applicants propose that a written statement regarding the designation of protected materials be provided only in response to a Commission or party written request that the providing party make such a written statement. This procedure is in lieu of the providing party

⁷ This Amended Protective Order was adopted on June 23, 2005, in Order No. 4 (Interchange Item No. 78).

being required to make the written statement as a matter of course each time it intends to designate protected materials. If a party has reason to question the designation of protected materials in any respect, it can request the written statement at that time. This change will eliminate a cumbersome procedural requirement, and serve to streamline the process.

Second, Paragraph 36 of the Protective Order has been revised to eliminate the requirement that the providing party must, within ten (10) days of the request, tender any materials that it believes should not be disclosed to all or certain parties, e.g., on the basis of privilege, to the presiding officer for an in camera review. The Applicants propose that the existing procedure should be replaced with one that allows the responding party to identify the withheld materials at the time the response to the request is otherwise due. This change would bring this procedure more in line with common state and federal procedures with regard to the claiming of privilege through the use of a privilege log. Moreover, the Commission, or any complaining party can always seek to compel an in camera review based on the content of the privilege log.

Applicants have already engaged in informal discovery with Texas Industrial Energy Consumers prior to the filing of this Joint Report and Application, and responses to numerous requests have already been furnished. The non-confidential responses are being filed at the Commission contemporaneous with the filing of this Joint Report and Application. A portion of the responses constitute Highly Sensitive Confidential Information and will be made available to the parties in this docket following entry of a suitable Protective Order and execution of the certification pursuant to the terms of such order.

X. NOTICE

Applicants will provide notice of this filing by mailing the notice substantially in the form attached as Exhibit D to this Joint Report and Application by first class mail to: (1) all municipalities in Oncor's service area; (2) all entities listed in the Commission's transmission matrix in Docket No. 33550, Commission Staff's Application to set 2007 Wholesale Transmission Service Rates for the Electric Reliability Council of Texas; (3) all electric cooperatives and municipally-owned utilities with dually certified areas with Oncor; (4) all REPs currently certificated by this Commission; and (5) all authorized representatives for parties in Docket No. 22350, *Application of TXU Electric Company for Approval of Unbundled Cost of*

Service Rate pursuant to PURA § 39.201 and Commission Substantive Rule 25.344. Applicants request that the Commission approve further notice of this docket by publication of the notice attached as Exhibit E to this Joint Report and Application in local newspapers of general circulation in Oncor's service territory once a week for two consecutive weeks in accordance with P.U.C. PROC. R. 22.55.

**XI.
REQUEST FOR COMMISSION TO CONDUCT
ANY HEARING REQUIRED IN THIS DOCKET**

Section 14.101(b) of PURA provides that the Commission shall investigate the Transaction to determine if the Transaction as it relates to Oncor is in the public interest. It also provides that the investigation may proceed "with or without a public hearing." Applicants respectfully request that, if the Commission determines that a hearing is necessary in this proceeding, it would be highly beneficial to a just and expeditious decision for the Commission to itself hear the testimony and make its own findings to fact and conclusions of law. Accordingly, Applicants request that any hearing in this docket be conducted in front of the Commissioners themselves.

**XII.
PROPOSED PROCEDURAL SCHEDULE AND PRELIMINARY ORDER**

Applicants request an expeditious review of this filing, and to that end have attached as Exhibit F a proposed procedural schedule. Applicants believe that a Preliminary Order from the Commission would contribute to the orderly and efficient administration of this docket, by giving guidance as to the proper scope of the issues which are, and are not, to be considered. Therefore, Applicants have attached as Exhibit G to this Joint Report and Application a proposed Preliminary Order in this docket.

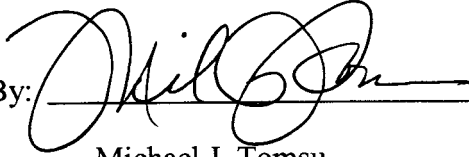
**XIII.
REQUESTED COMMISSION ACTION**

Applicants request that the Commission:

1. Enter the Protective Order and approve the Notice proposed herein;
2. Enter a Scheduling Order consistent with the procedural schedule proposed herein;
3. Enter the Preliminary Order proposed herein;
4. Enter the Interim Order proposed herein; and

5. Make a timely determination that the Transaction as it relates to Oncor is consistent with the standards set out in PURA Section 14.101(b).

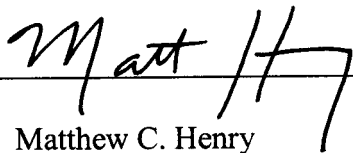
Respectfully Submitted,

By: 

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State Bar No. 20125875
Vinson & Elkins LLP
2801 Via Fortuna, Suite 100
Austin, Texas 78746
512.542.8527 - Office
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Richard L. Adams
State Bar No. 00874950
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1601 Bryan Street, 30th Floor
Dallas, Texas 75201
Telephone: 214.979.3000
Facsimile: 214.979.3901

ATTORNEYS FOR TEXAS ENERGY FUTURE
HOLDINGS LIMITED PARTNERSHIP

By: 


Matthew C. Henry
State Bar No. 00790870
Hunton & Williams LLP
1601 Bryan Street, 30th Floor
Dallas, Texas 75201
Telephone: 214.979.3000
Facsimile: 214.979.3923

Howard V. Fisher
State Bar No. 07051500
Oncor Electric Delivery Company
1601 Bryan Street, 23rd Floor
Dallas, Texas 75201
214.486.3026 - Office
214.486.3221 - Fax

ATTORNEYS FOR ONCOR ELECTRIC
DELIVERY COMPANY

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the above and foregoing has been hand delivered and sent via overnight delivery or first class U.S. mail, postage prepaid, to all parties of record in this proceeding on this 25th day of April, 2007.


Matthew C. Henry

PUBLIC UTILITY COMMISSION OF TEXAS
1701 N. CONGRESS AVENUE
AUSTIN, TEXAS 78701
(512) 936 - 7000

(Commission Use Only)
Docket No. _____
File No. _____

APPLICATION FOR SALE, TRANSFER, OR MERGER

This form should be used by public utilities for:

- 1) seeking authority to sell assign, or lease a Certificate of Convenience and Necessity or any rights obtained under a certificate;
- 2) reporting the sale, acquisition, lease or rental by or to any public utility of any plant as an operation system or unit for a total consideration in excess of \$100,000;
- 3) reporting the merger or consolidation of two or more public utilities; and
- 4) reporting the purchase by one public utility of voting stock in another public utility.

See Texas Public Utilities Code §14.101 *et seq.*

1. Proposed action or subject of report:

 X Reporting of Sale of Stock of Parent Company **TXU Corp.**

 Sale, transfer or lease of a portion of Applicant's service area or facilities to which it is certificated (including certificate rights)

 Sale, transfer or lease of a utility plant as an operating system or unit for more than \$100,000 (including certificate rights)

 Merger or consolidation of public utilities

 Purchase by a public utility of voting stock in another public utility

List all counties in which the utility's service area will be affected by this transaction: **No effect is anticipated, however, the counties in Texas served by Oncor Electric Delivery Company are shown in Attachment A.**

2. Applicants: **Oncor Electric Delivery Company ("Oncor") and Texas Energy Future Holdings Limited Partnership ("TEF")**

Mark one:

- ☒ **X** Oncor holds Certificate of Convenience and Necessity Nos. **30158, 30160, 30043, 30152**
- ☒ **X** TEF does not hold a certificate from the Public Utility Commission

The Applicants are the:

- ☐ Seller (transferor or lessor)
- ☒ **X** Purchaser (transferee or lessor) **TEF is acquiring TXU Corp., Oncor's parent.**
- ☐ One of the merging or consolidating utilities
- ☒ **X** Other (please explain) **Oncor is a transmission and distribution utility which is wholly-owned by TXU Corp. While the stock of a Texas utility (Oncor) is not being sold, the Applicants have chosen to file a Joint Report and Application pursuant to Section 14.101(b) of the Public Utility Regulatory Act requesting that the Public Utility Commission determine that the transaction as it may relate to Oncor is consistent with the standards set out in PURA Section 14.101(b).**

Business
Address

**Oncor Electric Delivery Company
Energy Plaza
1601 Bryan Street
Dallas, Dallas County, Texas 75201
214-486-2000**

**Texas Energy Future Holdings Limited Partnership
c/o Kohlberg Kravis Roberts & Co. L.P.
9 West 57th Street, Suite 4200
New York, New York 10019
212-750-8300**

and

**Texas Energy Future Holdings Limited Partnership
c/o Texas Pacific Group
301 Commerce Street, Suite 3300
Fort Worth, Texas 76102
817-871-4000**

3. Applicants are:

Oncor is a Texas corporation; TEF is a Delaware limited partnership.

4. If applicable, list the names, addresses and office of all partners or all officers of Applicants:

Officers of Oncor:

Robert S. Shapard	Chairman of the Board and Chief Executive	1601 Bryan Street Dallas, Texas 75201-3411
R. D. Trimble	President and Chief Operating Officer	1601 Bryan Street Dallas, Texas 75201-3411
M. Rizwan Chand	Senior Vice President	1601 Bryan Street Dallas, Texas 75201-3411
Brenda L. Jackson	Senior Vice President	1601 Bryan Street Dallas, Texas 75201-3411
Paul W. Plunket, III	Senior Vice President and Chief Legal Officer	1601 Bryan Street Dallas, Texas 75201-3411
Brenda J. Pulis	Senior Vice President	1601 Bryan Street Dallas, Texas 75201-3411
Curtis L. Seidlits, Jr.	Senior Vice President	1601 Bryan Street Dallas, Texas 75201-3411
Stanley J. Szlauderbach	Senior Vice President	1601 Bryan Street Dallas, Texas 75201-3411
David M. Davis	Vice President and Principal Financial Officer	1601 Bryan Street Dallas, Texas 75201-3411
Deborah L. Dennis	Vice President	1601 Bryan Street Dallas, Texas 75201-3411
David T. Gill	Vice President	1601 Bryan Street Dallas, Texas 75201-3411
James A. Greer	Vice President	1601 Bryan Street Dallas, Texas 75201-3411
Michael E. Guyton	Vice President	1601 Bryan Street Dallas, Texas 75201-3411
Charles W. Jenkins, III	Vice President	1601 Bryan Street Dallas, Texas 75201-3411
John W. Self	Vice President	1601 Bryan Street Dallas, Texas 75201-3411
Gina C. Thomas	Vice President	1601 Bryan Street Dallas, Texas 75201-3411
Debra L. Elmer	Vice President – Human Resources	1601 Bryan Street Dallas, Texas 75201-3411
Paul T. McKaig	Vice President – Regulatory Affairs	1601 Bryan Street Dallas, Texas 75201-3411
Cheryl B. Stevens	Vice President – Workforce & Supplier Diversity	1601 Bryan Street Dallas, Texas 75201-3411
Anthony Horton	Treasurer and Assistant Secretary	1601 Bryan Street Dallas, Texas 75201-3411
Richard C. Hays	Controller	1601 Bryan Street Dallas, Texas 75201-3411

Kim K.W. Rucker	Secretary and Assistant Treasurer	1601 Bryan Street Dallas, Texas 75201-3411
John M. Casey	Assistant Treasurer	1601 Bryan Street Dallas, Texas 75201-3411
Diane J. Kubin	Assistant Secretary	1601 Bryan Street Dallas, Texas 75201-3411
Carla A. Howard	Tax Signing Officer	1601 Bryan Street Dallas, Texas 75201-3411
David A. Sigler	Tax Signing Officer	1601 Bryan Street Dallas, Texas 75201-3411

Partners of TEF:

General Partner:

**Texas Energy Future Capital Holdings LLC
c/o Kohlberg Kravis Roberts & Co. L.P.
9 West 57th Street, Suite 4200
New York, New York 10019
212-750-8300**

and

**c/o Texas Pacific Group
301 Commerce Street, Suite 3300
Fort Worth, Texas 76102
817-871-4000**

Current Limited Partners:

**KKR 2006 Fund L.P.
c/o Kohlberg Kravis Roberts & Co. L.P.
9 West 57th Street, Suite 4200
New York, New York 10019
212-750-8300**

**TPG Partners V, L.P.
c/o Texas Pacific Group
301 Commerce Street, Suite 3300
Fort Worth, Texas 76102
817-871-4000**

5. If applicable, list names, addresses and positions of Applicant's five largest shareholders.

Oncor is a wholly-owned subsidiary of TXU Corp.

TEF has no shareholders. Texas Energy Future Capital Holdings LLC, as shown above in Question No. 4, acts as its sole general partner. TEF currently has two limited partners as shown above in Question No. 4, KKR 2006 Fund L.P. and TPG Partners V, L.P.

6. Applicants designate the following persons to be contacted with respect to any questions regarding the filing:

Oncor

David T. Gill
Vice President - Regulatory
1601 Bryan Street, 23rd Floor
Dallas, Texas 75201
214-486-4812

TEF

Michael J. Tomsu
Vinson & Elkins LLP
2801 Via Fortuna, Suite 100
Austin, Texas 78746
512-542-8527

7. If Applicants are represented by an attorney:

Oncor

Matthew C. Henry
Hunton & Williams
1601 Bryan Street, Suite 3000
Dallas, Texas 75201
214-979-3081

Howard V. Fisher
Oncor Electric Delivery Company
1601 Bryan Street, 23rd Floor
Dallas, Texas 75201
214-486-3026

TEF

Richard L. Adams
Hunton & Williams
1601 Bryan Street, Suite 3000
Dallas, Texas 75201
214-979-3000

Michael J. Tomsu
Vinson & Elkins
2801 Via Fortuna, Suite 100
Austin, Texas 78746
512-542-8527

8. Do Applicants presently have a tariff on file with the Commission?

 X Yes. If yes, date of filing: **Oncor's Tariffs were approved by the Commission in Docket No. 22350 and became effective on January 1, 2002, as amended from time to time.**

 No. If no, attach a written schedule of present rates and services.

9. Please indicate the proposed effect of this transaction on rates to be charged affected customers:

 X All customers will be charged the same rates as they were charged before the transaction. **The transmission and distribution delivery service rates that Oncor charges to its customers, primarily the distribution service providers in ERCOT and the Retail Electric Providers authorized to do business in the Oncor certificated service area, will not change or increase as a result of this transaction.**

_____ (Some) (all) customers will be charged different rates than they were charged before the transaction. If so, please explain.

_____ Applicant intends to file with the Commission an application to change rates of (some) (all) of its customers as a result of this transaction. If so, please explain.

_____ Other: Please explain.

10. Other party to this transaction: **TXU Corp.**

_____ The other party holds Certificate of Convenience and Necessity No.

 X The other party does not hold a Certificate of Convenience and Necessity

The other party is the:

 X Seller (transferor or lessor)

_____ Purchaser (transferee or lessee)

_____ One of the merging or consolidating utilities

 X Other: **The parent of Oncor**

Business
Address

**TXU Corp.
Energy Plaza
1601 Bryan Street
Dallas, Dallas County, Texas 75201**

Telephone **214-812-4600**

If there are more than two parties to this transaction, please attach sheets providing the information required in Question No. 9 through 16 for each party.

11. The other party is a **Texas corporation**

12. If applicable, list the names, addresses and office of all partners or all officers of the other party.

Officers of TXU Corp.:

C. John Wilder	Chairman, President, and Chief Executive Officer	1601 Bryan Street Dallas, Texas 75201-3411
T. L. Baker	Vice Chairman	1601 Bryan Street Dallas, Texas 75201-3411
David A. Campbell	Executive Vice President and Chief Financial Officer	1601 Bryan Street Dallas, Texas 75201-3411
David P. Poole	Executive Vice President and General Counsel	1601 Bryan Street Dallas, Texas 75201-3411
M. Rizwan Chand	Senior Vice President	1601 Bryan Street Dallas, Texas 75201-3411
Anthony Horton	Senior Vice President, Treasurer and Assistant Secretary	1601 Bryan Street Dallas, Texas 75201-3411
Kim K.W. Rucker	Senior Vice President, Secretary and Chief Governance Officer	1601 Bryan Street Dallas, Texas 75201-3411
Stanley J. Szlauderbach	Senior Vice President and Controller	1601 Bryan Street Dallas, Texas 75201-3411
Gina C. Thomas	Senior Vice President and General Tax Counsel	1601 Bryan Street Dallas, Texas 75201-3411
Gaylene M. McMahon	Assistant Controller	1601 Bryan Street Dallas, Texas 75201-3411
Diane J. Kubin	Assistant Secretary	1601 Bryan Street Dallas, Texas 75201-3411

13. If applicable, list the names and addresses of the other party's five (5) largest shareholders.

Top 5 largest shareholders of TXU Corp. as of 12/31/06 (per 13F filings):

Rank	Investor Name	Address
1	Barclays Global Investors, NA	45 Fremont Street San Francisco, CA 94105-2228
2	Wellington Management Company, L.L.P.	75 State Street Boston, MA 02109-1809
3	Fidelity Management & Research (U.S.)	245 Summer Street, 11 th Floor Boston, MA 02110
4	State Street Global Advisors (U.S.)	1 Lincoln Street Boston, MA 02111-2901
5	Vanguard Group, Inc.	100 Vanguard Boulevard Malvern, PA 19355-2331

14. The other party designates the following person to be contacted with respect to any question regarding the filing

David P. Poole
TXU Corp.
1601 Bryan Street, 6th Floor
Dallas, Texas 75201
214-812-6001

15. If the other party has retained an engineer: **N/A**

The Public Utility Commission should be informed of any change of engineer prior to the completion of a project in process.

16. If the other party is represented by an attorney:

**David P. Poole
TXU Corp.
1601 Bryan Street, 6th Floor
Dallas, Texas 75201
214-812-6001**

17. List all neighboring utilities, cities, political subdivisions, or other parties directly affected by this application.

Persons potentially affected by the Transaction as it relates to Oncor include: retail electric providers who take transmission and distribution delivery service from Oncor; other transmission and distribution service providers in ERCOT; other wholesale market participants in ERCOT; and retail end-use customers who are connected to Oncor's transmission and distribution system. See Attachment A for a list of Cities and Counties served by Oncor. Oncor will continue to share dual certification in parts of its service territory with electric cooperatives and municipal utilities just as it does today (see Attachment A for a list of the electric cooperatives and municipal utilities that have dual certification in Oncor's service territory).

18. Please describe the nature of the transaction. Indicate if it involves the transfer of certificated facilities and/or service area.

TXU Corp., the parent of Oncor, and TEF have entered into an Agreement and Plan of Merger dated as of February 25, 2007 (the "Merger Agreement"), whereby Texas Energy Future Merger Sub Corp, a Texas corporation and wholly-owned subsidiary of TEF ("Merger Sub"), will be merged with and into TXU Corp., with TXU Corp. continuing as the surviving corporation (the "Transaction"). As a result of the Transaction, TEF will own all or substantially all of the outstanding shares of TXU Corp., and Oncor will remain a direct or indirect wholly-owned subsidiary of TXU Corp., subject to any minority investment in Oncor. The effect of the Transaction will be to change the ownership of TXU Corp. The Transaction will not result in the transfer of any of Oncor's assets, franchises, or certificates of convenience and necessity.

19. If the transaction involves the transfer of certificated facilities and/or service area please describe the qualifications of the purchaser (or transferee) to provide adequate utility service. **N/A**

20. State the purchase price and/or the other consideration for the transaction:

TEF will purchase each outstanding share of the stock of TXU Corp. for \$69.25 per share, for a total acquisition price of approximately \$32 billion.

21. If applicable, state the original cost of plant to be sold or merged, as recorded - on books of Seller (or merging companies): **N/A**

22. If applicable, state the amount of accumulated depreciation and the date of acquisition:
\$ _____ as of _____, 20__ **N/A**

23. If applicable, state the amount recorded as plant acquisition adjustment on books of selling company(ies): \$ _____. **See the testimony of Mr. Richard C. Hays filed in conjunction with this Application for a description of the accounting for this Transaction.**

24. Complete the following proposed entries in books of purchasing (or surviving) company to record purchase (or merger):

See the testimony of Mr. Richard C. Hays filed in conjunction with this Application for a description of the accounting for this Transaction and the pro forma entries to record the Transaction.

Utility plant in service

Plant acquisition adjustment

Extraordinary loss on purchase

Accumulated depreciation plant

Cash

Notes payable

Mortgage payable

Other list

25. If utility plant in service is traded for utility plant in service, give details of original cost - accumulated depreciation, and reasons for or justification of the trade: **N/A**

26. Provide analysis of tax consequences in transaction and recognition given in books to parties concerned: **See the testimony of Mr. Richard C. Hays filed in conjunction with this Application for a discussion of the tax consequences of the Transaction.**

27. Describe type of plant facilities, and number of connections affected by this application.
N/A

28. Describe the location of plant facilities involved in this application with respect to streets, highways, cities, known landmarks, water courses, coordinates of transmitter sites, etc.:
N/A

29. Regarding the utility being sold, provide details of the following: **N/A**

- a. Planned or needed capital improvements;
- b. Estimated cost of such improvements;
- c. Whether required to make such improvements by a federal or state agency;
- d. Any time limits imposed for such improvements.

30. Please describe anticipated impact of this transaction on the quality of utility service. Please explain anticipated changes in quality of service. **There are no anticipated impacts on the quality of utility service as a result of this Transaction. See the testimony of Ms. Brenda J. Pulis filed in conjunction with this Application for a discussion of Oncor's quality of service.**

31. If a merger or combination is sought by this application, please provide the following:

- a. A balance sheet for each entity;
- b. An income statement for each entity;
- c. Articles of Incorporation of a newly created entity;
- d. A preliminary prospectus if stock of a newly created entity is to be publicly held.

N/A. See the testimony of Mr. Richard C. Hays filed in conjunction with this Application for a description of the accounting for this Transaction and the pro forma Balance Sheet for Oncor.

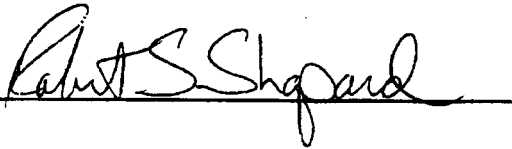
If the Affiant(s) to this form is any person other than the sole owner, partner, or officer of the applicant or its attorney, a properly verified Power of Attorney must be enclosed.

OATH

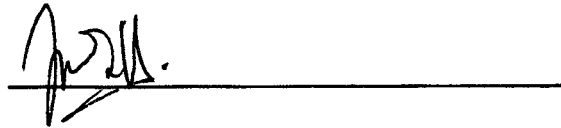
STATE OF TEXAS

COUNTY OF DALLAS

We, Robert S. Shapard, Chairman of the Board and Chief Executive Officer of Oncor Electric Delivery Company and Frederick M. Goltz, Partner, Kohlberg Kravis Roberts & Co., representing Texas Energy Future Holdings Limited Partnership, having been duly sworn and authorized as representatives of the Applicants, file this application and affirm that in such capacities, we are qualified and authorized to file and verify such application, are personally familiar with the documents filed with this application, and have complied with all the requirements contained in the application; and, that all such statements made and matters set forth therein with respect to the Applicants are true and correct. Statements about other parties are made on information and belief. We further state that the application is made in good faith, that notice of its filing was given to all necessary parties, and that this application does not duplicate any filing presently before the Commission.



Robert S. Shapard
Chairman of the Board
Chief Executive Officer
Oncor Electric Delivery Company



Frederick M. Goltz
Authorized Representative
Texas Energy Future Holdings
Limited Partnership

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public in and for the State of Texas, this 24th day of April, 2007.

SEAL


Notary Public

Attachment A

Cities served by Oncor Electric Delivery:

Abbott	Ackerly	Addison	Aledo	Allen
Alma	Alto	Alvarado	Alvord	Andrews
Angus	Anna	Annetta	Annetta North	Annetta South
Annona	Appleby	Archer City	Argyle	Arlington
Arp	Athens	Aurora	Austin	Azle
Balch Springs	Bangs	Bardwell	Barry	Bartlett
Bedford	Bellevue	Bellmead	Bells	Belton
Benbrook	Beverly Hills	Big Spring	Blanket	Blooming Grove
Blue Mound	Bonham	Boyd	Breckenridge	Bridgeport
Brownsboro	Brownwood	Bruceville-Eddy	Buckholts	Buffalo
Bullard	Burkburnett	Burke	Burleson	Bynum
Caddo Mills	Cameron	Campbell	Caney City	Canton
Carbon	Carrollton	Cashion Community	Cedar Hill	Celina
Centerville	Chandler	Chico	Chireno	Clarksville
Cleburne	Coahoma	Cockrell Hill	Colleyville	Collinsville
Colorado City	Comanche	Commerce	Como	Cool
Coolidge	Cooper	Coppell	Copperas Cove	Corinth
Corsicana	Crandall	Crane	Cresson	Crockett
Cross Roads	Crowley	Cumby	Cushing	Dallas
Dalworthington Gardens	Dawson	Dean	Decatur	DeLeon
Denison	Denton	DeSoto	Diboll	Dish
Dodd City	Dorchester	Dublin	Duncanville	Early
Eastland	Ector	Edgecliff Village	Edgewood	Edom
Electra	Elgin	Elkhart	Emhouse	Enchanted Oaks
Ennis	Eules	Eureka	Eustace	Everman
Fairfield	Fairview	Farmers Branch	Fate	Ferris
Florence	Flower Mound	Forest Hill	Forney	Forsan
Fort Worth	Frankston	Frisco	Frost	Gainesville
Gallatin	Garland	Garrett	Georgetown	Gholson
Glenn Heights	Godley	Golinda	Goodlow	Gorman
Graford	Graham	Grand Prairie	Grandfalls	Grandview
Granger	Grapeland	Grapevine	Groesbeck	Gun Barrel City
Gunter	Haltom City	Harker Heights	Haslet	Heath
Hebron	Henrietta	Hewitt	Hickory Creek	Hideaway
Highland Park	Hillsboro	Holland	Holliday	Honey Grove
Howe	Hubbard	Hudson	Hudson Oaks	Huntington
Hurst	Hutchins	Hutto	Iowa Park	Irving
Italy	Itasca	Jacksboro	Jacksonville	Jarrell
Jewett	Jolly	Josephine	Joshua	Justin
Kaufman	Keene	Keller	Kemp	Kennedale
Kerens	Killeen	Knollwood	Krum	Lacy-Lakeview
Ladonia	Lake Bridgeport	Lake Dallas	Lake Worth	Lakeside
Lakeside City	Lamesa	Lancaster	Latexo	Lavon
Leona	Leroy	Lewisville	Lindale	Lindsay
Lipan	Little Elm	Little River Academy	Loraine	Lorena
Lott	Lovelady	Lowry Crossing	Lucas	Lufkin
Mabank	Malakoff	Malone	Manor	Mansfield
Marlin	Marquez	Marshall Creek	Mart	Maypearl
McGregor	McKinney	McLendon-Chisholm	Melissa	Mertens
Mesquite	Mexia	Midland	Midlothian	Milano
Mildred	Milford	Millsap	Mineral Wells	Mobile City

Monahans	Moody	Morgan's Point Resort	Mount Calm	Muenster
Murchison	Murphy	Mustang	Nacogdoches	Navarro
Nevada	New Chapel Hill	New Fairview	New Summerfield	Newark
Neylandville	Nolanville	Noonday	North Richland Hills	Northlake
O'Donnell	Oak Grove	Oak Leaf	Oak Point	Oak Valley
Oakwood	Odessa	Oglesby	Overton	Ovilla
Palestine	Palmer	Pantego	Paradise	Paris
Parker	Payne Springs	Pecan Gap	Pecan Hill	Penelope
Pflugerville	Plano	Pleasant Valley	Ponder	Post Oak Bend
Pottsboro	Powell	Poynor	Princeton	Prosper
Pyote	Qunilan	Ranger	Ravenna	Red Oak
Reno (Lamar County)	Reno (Parker County)	Retreat	Rhome	Rice
Richardson	Richland	Richland Hills	Riesel	River Oaks
Roanoke	Robinson	Rockdale	Rockwall	Rogers
Roscoe	Rosebud	Rosser	Round Rock	Rowlett
Roxton	Royse City	Runaway Bay	Rusk	Sachse
Sadler	Saginaw	Salado	Sanctuary	Sansom Park
Savoy	Seagoville	Shady Shores	Sherman	Snyder
Southlake	Southmayd	Springtown	St. Paul	Stanton
Stephenville	Streetman	Sulphur Springs	Sunnyvale	Sunset
Sweetwater	Taylor	Teague	Tehuacana	Temple
Terrell	The Colony	Thorndale	Thornton	Thorntonville
Thrall	Tira	Tool	Trinidad	Trophy Club
Troup	Troy	Tyler	University Park	Valley View
Van	Van Alstyne	Venus	Waco	Watauga
Waxahachie	Weatherford	Weir	Wells	West
Westbrook	Westover Hills	Westworth Village	White Settlement	Whitehouse
Wichita Falls	Wickett	Willow Park	Wills Point	Wilmer
Windom	Wink	Wolfe City	Woodway	Wortham
Wylie	Yantis	Zavalla		

Counties served by Oncor Electric Delivery:

Anderson	Andrews	Angelina	Archer	Bastrop
Baylor	Bell	Borden	Bosque	Brazos
Brown	Burnet	Cherokee	Clay	Coke
Coleman	Collin	Comanche	Cooke	Coryell
Crane	Culberson	Dallas	Dawson	Delta
Denton	Eastland	Ector	Ellis	Erath
Falls	Fannin	Fisher	Freestone	Gaines
Glasscock	Grayson	Henderson	Hill	Hood
Hopkins	Houston	Howard	Hunt	Jack
Johnson	Kaufman	Kent	Lamar	Lampasas
Leon	Limestone	Loving	Lynn	Martin
McLennan	Midland	Milam	Mitchell	Montague
Nacogdoches	Navarro	Nolan	Palo Pinto	Parker
Pecos	Rains	Reagan	Red River	Reeves
Rockwall	Rusk	Scurry	Shackelford	Smith
Stephens	Sterling	Tarrant	Terry	Tom Green
Travis	Trinity	Upton	Van Zandt	Ward
Wichita	Wilbarger	Williamson	Winkler	Wise
Wood	Young			

Electric cooperatives and municipal utilities with whom Oncor Electric Delivery is dually certified within portions of its service area:

Austin Electric	Bartlett Electric Coop.	Belfalls Electric Coop.	Big Country Electric Coop.	Bluebonnet Electric Coop.
Bowie Utilities	City of Bridgeport	Cap Rock Energy Corp	Cherokee County Electric Coop.	Coleman County Electric Coop.
Comanche Electric Coop.	Concho Valley Electric Coop.	Cooke County Electric Coop.	CoServe Electric	Deep East Texas Electric Coop.
Denton Municipal Util.	Electra Electric Dept.	Fannin County Electric Coop.	City of Farmersville	FEC Electric Coop.
Fort Belknap Electric Coop.	Garland Power & Light	Georgetown Community Owned Utilities	Grayson Collin Electric Coop.	Greenville Electric Utility
HILCO Electric Coop.	Houston County Electric Coop.	J-A-C Electric Coop.	Jasper-Newton Electric Coop.	Lamar County Electric Coop.
Lyntegar Electric Coop.	McCulloch Electric Coop.	McLennan County Electric Coop.	Navarro County Electric Coop.	Navasota Electric Coop.
Pedernales Electric Coop.	Rio Grande Electric Coop.	Rusk County Electric Coop.	Sam Houston Electric Coop.	Sanger Electric System
City of Seymour	Southwest Rural Electric Association	Taylor Electric Coop.	Tri-County Electric Coop.	Trinity Valley Electric Coop.
United Cooperative Services	Upshur Rural Electric Coop.	Wise Electric Coop.	Weatherford Municipal Utility System	Wood County Electric Coop.

JOINT REPORT AND APPLICATION
OF ONCOR ELECTRIC DELIVERY
COMPANY AND TEXAS ENERGY
FUTURE HOLDINGS LIMITED
PARTNERSHIP PURSUANT TO PUBLIC
UTILITY REGULATORY ACTION
SECTION 14.101

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BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

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TESTIMONY

DIRECT TESTIMONY OF ROBERT S. SHAPARD
DIRECT TESTIMONY OF BRENDA PULIS
DIRECT TESTIMONY OF JOHN M CASEY
DIRECT TESTIMONY OF RICHARD C HAYS
DIRECT TESTIMONY OF FREDERICK M. GOLTZ
DIRECT TESTIMONY OF STEVE M. FETTER
DIRECT TESTIMONY OF WILLIAM E AVERA

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PUC DOCKET NO. 34077

JOINT REPORT AND APPLICATION	§	PUBLIC UTILITY COMMISSION
OF ONCOR ELECTRIC DELIVERY	§	
AND TEXAS ENERGY FUTURE	§	OF TEXAS
HOLDINGS LIMITED PARTNERSHIP	§	
PURSUANT TO PURA § 14.101	§	

**INTERIM ORDER RULING ON STIPULATED BINDING COMMITMENTS OF
TEXAS ENERGY FUTURE HOLDINGS LIMITED PARTNERSHIP
AND ONCOR ELECTRIC DELIVERY COMPANY**

This Order adopts, on an interim basis pending the issuance of a Final Order in this proceeding, the commitments stipulated to by Texas Energy Future Holdings Limited Partnership (“TEF”) and Oncor Electric Delivery Company (“Oncor”) regarding actions that will be undertaken with regard to Oncor subject to and upon consummation of the proposed merger transaction (the “Transaction”) that is the subject of this proceeding.

I. Procedural Background

On April 2, 2007, TEF filed a letter with the Commission (i) indicating its commitment and agreement to undertake certain actions with regard to Oncor upon consummation of the proposed merger transaction, and (ii) requesting that the Commission issue an interim order pursuant to P.U.C. Proc. R. § 22.122(a) incorporating the stipulated commitments pending the issuance of a Final Order in this proceeding. On April 25, 2007, TEF and Oncor filed a Joint Report and Application pursuant to PURA § 14.101 regarding the Transaction as it relates to Oncor, again incorporating the stipulated commitments set forth in the request for an interim order.

II. Discussion

P.U.C. Proc. R. § 22.122(a) provides that the Commission may issue an interim order “covering procedural and discovery matters, requests for interim relief, and such other matters as may aid in the conduct of the hearing and the efficient and fair disposition of the proceeding.”¹ In the current proceeding, TEF and Oncor have indicated that they will stipulate to undertake certain minimum commitments with respect to Oncor subject to and upon the consummation of

¹ P.U.C. Proc. R. § 22.122(a).

the Transaction. TEF and Oncor acknowledge that the inclusion of the commitments in an interim order in no way affects the ability of any party to raise any proper issue in this proceeding or impact the ability of the Commission to investigate the Transaction pursuant to PURA § 14.101.

III. Order

The Commission finds that the inclusion of TEF's and Oncor's stipulated commitments in an interim order will aid in the conduct of the hearing and the efficient disposition of the proceeding. For the reasons set forth herein, the Commission orders that pursuant to TEF's and Oncor's stipulation and agreement, TEF and Oncor shall be bound to undertake the following commitments subject to and upon consummation of the Transaction, and that, at a minimum, such commitments shall be included in the findings of fact, conclusions of law and ordering paragraphs of the Final Order issued in this proceeding:

- **Name Change Commitment** - On or before closing of the Transaction, the name of TXU Electric Delivery Company will be changed to Oncor Electric Delivery Company. Oncor's logo will be separate and distinct from the logos of the parent, TXU Corp., the retail electric provider, which will retain the TXU Energy name ("TXU Energy Retail"), and the power generation company, which we expect to rename with the Luminant Energy brand ("Luminant"). In fact, the name of TXU Electric Delivery Company was changed to Oncor Electric Delivery Company on April 24, 2007. TXU Corp. commits to maintaining a name and logo for Oncor that is separate and distinct from the names of TXU Corp.'s retail electric provider and wholesale generation companies.
- **Separate Board Commitment** - At closing and thereafter, Oncor will have a separate board of directors that will not include any members from the boards of directors of TXU Energy Retail or Luminant.
- **Separate Headquarters Commitment** - Within a reasonable transition period after closing of the Transaction, not to exceed 6 months, Oncor's headquarters will be located in a separate building from the headquarters and operations of TXU Energy Retail and Luminant.
- **No Transaction-Related Debt at Oncor Commitment**- Oncor will not incur, guaranty or pledge assets in respect of any incremental new debt related to financing the Transaction at the closing or thereafter. Oncor's financial integrity will be protected from the separate operations of TXU Energy Retail and Luminant.

EXHIBIT B

- **Debt-to-Equity Ratio Commitment** - Oncor's debt will be limited so that its regulatory debt-to-equity ratio is at or below the assumed debt-to-equity ratio established from time to time by the Commission for ratemaking purposes, which is currently set at 60% debt to 40% equity. For ratemaking purposes, in its scheduled rate cases in 2007 and 2008, Oncor will support a cost of debt that does not exceed Oncor's actual cost of debt immediately prior to the announcement of the Transaction.
- **Capital Expenditure Commitment** - Following the closing of the Transaction, Oncor will continue to make capital expenditures consistent with the capital expenditures in Oncor's business plan. Total capital spending will depend in part on economic and population growth in Texas, as well as permitting and siting outcomes. However, in any event, over the five years following the year in which closing of the Transaction occurs, Oncor will make capital expenditures in connection with its transmission and distribution business in an aggregate amount of more than \$3.0 billion.
- **DSM/Energy Efficiency Commitment** - Over the five years following the year in which closing occurs, subsidiaries of TXU Corp. will expend an aggregate of at least \$200 million on demand-side management/energy efficiency programs ("DSM") over the amount included by the Commission in Oncor's rates. This commitment will approximately double the level of spending on DSM currently included in Oncor's rates. Oncor will not seek to recover in rates any of the \$200 million in incremental DSM expenditures.
- **Service and Safety Commitment** - Oncor will support the inclusion of negotiated commitments with appropriate stakeholders regarding reliability, customer service and employee safety in any final order regarding the Transaction issued pursuant to PURA Section 14.101.
- **Rate Case Commitment** - If, for any reason, the Commission has not initiated a general rate proceeding for Oncor or its predecessor prior to July 1, 2008, Oncor will not later than that date file a general rate case consistent with its currently effective settlement agreement with certain municipalities.
- **Continued Ownership Commitment** - TEF will hold a majority of its ownership interest in Oncor, in the current regulatory system, for a period of more than five years after the closing date of the Transaction.

SIGNED AT AUSTIN, TEXAS the ____ day of _____, 2007.

PUBLIC UTILITY COMMISSION OF TEXAS

PAUL HUDSON, CHAIRMAN

JULIE PARSLEY, COMMISSIONER

BARRY T. SMITHERMAN, COMMISSIONER

PUC DOCKET NO. 34077

JOINT REPORT AND APPLICATION
OF ONCOR ELECTRIC DELIVERY
COMPANY AND TEXAS ENERGY
FUTURE HOLDINGS LIMITED
PARTNERSHIP PURSUANT TO
PUBLIC UTILITY REGULATORY ACT
SECTION 14.101

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BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

PROTECTIVE ORDER

This Protective Order shall govern the use of all information deemed confidential (Protected Materials) or highly confidential (Highly Sensitive Protected Materials) by a party providing information to the Public Utility Commission of Texas (Commission), including information whose confidentiality is currently under dispute.

It is ORDERED that:

1. **Designation of Protected Materials.** Upon producing or filing a document, including, but not limited to, records stored or encoded on a computer disk or other similar electronic storage medium in this proceeding, the producing party may designate that document, or any portion of it, as confidential pursuant to this Protective Order by typing or stamping on its face "PROTECTED PURSUANT TO PROTECTIVE ORDER ISSUED IN DOCKET NO. 34077" or words to this effect and consecutively Bates Stamping each page. Protected Materials and Highly Sensitive Protected Materials include not only the documents so designated, but also the substance of the information contained in the documents and any description, report, summary, or statement about the substance of the information contained in the documents.
2. **Materials Excluded from Protected Materials Designation.** Protected Materials shall not include any information or document contained in the publicly available files of the Commission or any other federal or state agency, court, or

local governmental authority subject to the Texas Public Information Act. Protected Materials also shall not include documents or information which at the time of, or prior to disclosure in a proceeding, is or was public knowledge, or which becomes public knowledge other than through disclosure in violation of this Protective Order.

3. **Reviewing Party.** For the purposes of this Protective Order, a “Reviewing Party” is any party to this docket.
4. **Procedures for Designation of Protected Materials.** Within ten (10) days after the written request of the Commission or any party for a written statement, as described below, the producing party shall file with the Commission and deliver to each party to the proceeding a written statement, which may be in the form of an objection, indicating: (i) any and all exemptions to the Public Information Act, TEX. GOV'T CODE ANN., Chapter 552, claimed to be applicable to the alleged Protected Materials; (ii) the reasons supporting the providing party's claim that the responsive information is exempt from public disclosure under the Public Information Act and subject to treatment as protected materials; and (iii) that counsel for the providing party has reviewed the information sufficiently to state in good faith that the information is exempt from public disclosure under the Public Information Act and merits the Protected Materials designation.
5. **Persons Permitted Access to Protected Materials.** Except as otherwise provided in this Protective Order, a Reviewing Party shall be permitted access to Protected Materials only through its “Reviewing Representatives” who have signed the Protective Order Certification Form. Reviewing Representatives of a Reviewing Party include its counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by the Reviewing Party and directly engaged in this proceeding. At the request of the PUC Commissioners, or their staff, copies of Protected Materials may be produced by Commission Staff or the Policy Development Division (PDD) to the Commissioners. The Commissioners and

their staff shall be informed of the existence and coverage of this Protective Order and shall observe the restrictions of the Protective Order.

6. **Highly Sensitive Protected Material Described.** The term “Highly Sensitive Protected Materials” is a subset of Protected Materials and refers to documents or information which a producing party claims is of such a highly sensitive nature that making copies of such documents or information or providing access to such documents to employees of the Reviewing Party (except as set forth herein) would expose a producing party to unreasonable risk of harm, including but not limited to: (a) customer-specific information protected by § 32.101(c) of the Public Utility Regulatory Act¹; (b) contractual information pertaining to contracts that specify that their terms are confidential or which are confidential pursuant to an order entered in litigation to which the producing party is a party; (c) market-sensitive fuel price forecasts, wholesale transactions information and/or market-sensitive marketing plans; and (d) business operations or financial information that is commercially sensitive. Documents or information so classified by a producing party shall bear the designation “HIGHLY SENSITIVE PROTECTED MATERIALS PROVIDED PURSUANT TO PROTECTIVE ORDER ISSUED IN DOCKET NO. 34007” or words to this effect and shall be consecutively Bates Stamped in accordance with the provisions of this Protective Order. The provisions of this Protective Order pertaining to Protected Materials also apply to Highly Sensitive Protected Materials, except where this Protective Order provides for additional protections for Highly Sensitive Protected Materials. In particular, the procedures herein for challenging the producing party’s designation of information as Protected Materials also apply to information that a producing party designates as Highly Sensitive Protected Materials.

7. **Restrictions on Copying and Inspection of Highly Sensitive Protected Material.** Except as expressly provided herein, only one copy may be made of any Highly Sensitive Protected Materials except that additional copies may be

¹ Public Utility Regulatory Act, TEX. UTIL. CODE ANN., § 32.101 (c) (Vernon 1998 & Supp. 2005) (PURA).

made in order to have sufficient copies for introduction of the material into the evidentiary record if the material is to be offered for admission into the record. A record of any copies that are made of Highly Sensitive Protected Material shall be kept and a copy of the record shall be sent to the producing party at the time the copy or copies are made. The record shall include information on the location and the person in possession of the copy. Highly Sensitive Protected Material shall be made available for inspection only at the location or locations provided by the producing party, except as provided by Paragraph 9. Limited notes may be made of Highly Sensitive Protected Materials, and such notes shall themselves be treated as Highly Sensitive Protected Materials unless such notes are limited to a description of the document and a general characterization of its subject matter in a manner that does not state any substantive information contained in the document.

8. **Restricting Persons Who May Have Access to Highly Sensitive Protected Material.** With the exception of Commission Staff, The Office of the Attorney General (OAG), and the Office of Public Utility Counsel (OPC), and except as provided herein, the Reviewing Representatives for the purpose of access to Highly Sensitive Protected Materials may be persons who are (i) outside counsel for the Reviewing Party, (ii) outside consultants for the Reviewing Party working under the direction of Reviewing Party's counsel or, (iii) employees of the Reviewing Party working with and under the direction of Reviewing Party's counsel who have been authorized by the presiding officer to review Highly Sensitive Protected Materials. The Reviewing Party shall limit the number of Reviewing Representatives that review each Highly Sensitive Protected document to the minimum number of persons necessary. The Reviewing Party is under a good faith obligation to limit access to each portion of any Highly Sensitive Protected Materials to two Reviewing Representatives whenever possible. Reviewing Representatives for Commission Staff, the OAG, and OPC, for the purpose of access to Highly Sensitive Protected Materials, shall consist of their respective counsel of record in this proceeding and associated attorneys,

paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by them and directly engaged in these proceedings.

9. **Copies Provided of Highly Sensitive Protected Material.** A producing party shall provide one copy of Highly Sensitive Protected Materials specifically requested by the Reviewing Party to the person designated by the Reviewing Party who must be a person authorized to review Highly Sensitive Protected Material under Paragraph 8, and be either outside counsel or an outside consultant. Other representatives of the reviewing party who are authorized to view Highly Sensitive Material may review the copy of Highly Sensitive Protected Materials at the office of the Reviewing Party's representative designated to receive the information. Each reviewing party may make two additional copies of Highly Sensitive documents for outside consultants whose business offices are located outside of Travis County. The additional copies may be maintained at the outside consultants' offices outside of Travis County. All restrictions on Highly Sensitive documents in this Order shall apply to the additional copies maintained in the outside consultants' offices. Any Highly Sensitive Protected documents provided to a Reviewing Party may not be copied except as provided in Paragraph 7 and shall be returned along with any copies made pursuant to Paragraph 7 to the producing party within two weeks after the close of the evidence in this proceeding. The restrictions contained herein do not apply to Commission Staff, OPC, and the Office of the Attorney General (OAG) when the OAG is representing a party to the proceeding.
10. **Procedures in Paragraphs 10-14 Apply to Commission Staff, OPC, and the OAG and Control in the Event of Conflict.** The procedures set forth in Paragraphs 10 through 14 apply to responses to requests for documents or information that the producing party designates as Highly Sensitive Protected Materials and provides to Commission Staff, OPC, and the OAG in recognition of their purely public functions. To the extent the requirements of Paragraphs 10 through 14 conflict with any requirements contained in other paragraphs of this Protective Order, the requirements of these Paragraphs shall control.

11. **Copy of Highly Sensitive Protected Material to be Provided to Commission Staff, OPC and the OAG.** When, in response to a request for information by a Reviewing Party, the producing party makes available for review documents or information claimed to be Highly Sensitive Protected Materials, the producing party shall also deliver one copy of the Highly Sensitive Protected Materials to the Commission Staff, OPC, and the OAG (if the OAG is representing a party) in Austin, Texas. Provided however, that in the event such Highly Sensitive Protected Materials are voluminous, the materials will be made available for review by Commission Staff, OPC, and the OAG (if the OAG is representing a party) at the designated office in Austin, Texas. The Commission Staff, OPC and the OAG (if the OAG is representing a party) may request such copies as are necessary of such voluminous material under the copying procedures set forth herein.
12. **Delivery of the Copy of Highly Sensitive Protected Material to Staff and Outside Consultants.** The Commission Staff, OPC, and the OAG (if the OAG is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by them to the appropriate members of their staff for review, provided such staff members first sign the certification provided in Paragraph 15. After obtaining the agreement of the producing party, Commission Staff, OPC, and the OAG (if the OAG is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by it to the agreed, appropriate members of their outside consultants for review, provided such outside consultants first sign the certification attached hereto.
13. **Restriction on Copying by Commission Staff, OPC and the OAG.** Except as allowed by Paragraph 7, Commission Staff, OPC and the OAG may not make additional copies of the Highly Sensitive Protected Materials furnished to them unless the producing party agrees in writing otherwise, or, upon a showing of good cause, the presiding officer directs otherwise. Limited notes may be made by Commission Staff, OPC, and the OAG (if the OAG is representing a party) of Highly Sensitive Protected Materials furnished to them and all such handwritten

notes will be treated as Highly Sensitive Protected Materials as are the materials from which the notes are taken.

14. **Public Information Requests.** In the event of a request for any of the Highly Sensitive Protected Materials under the Public Information Act, an authorized representative of the Commission OPC, or the OAG may furnish a copy of the requested Highly Sensitive Protected Materials to the Open Records Division at the OAG together with a copy of this Protective Order after notifying the producing party that such documents are being furnished to the OAG. Such notification may be provided simultaneously with the delivery of the Highly Sensitive Protected Materials to the OAG.
15. **Required Certification.** Each person who inspects the Protected Materials shall, before such inspection, agree in writing to the following certification set forth in the Attachment to this Protective Order:

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in this docket, and that I have been given a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order and unless I am an employee of the Commission or OPC shall be used only for the purpose of the proceeding in Docket No. 34077. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the information contained in the Protected Materials is obtained from independent public sources, the understanding stated herein shall not apply.

In addition, Reviewing Representatives who are permitted access to Highly Sensitive Protected Material under the terms of this Protective Order shall, before inspection of such material, agree in writing to the following certification set forth in the Attachment to this Protective Order:

I certify that I am eligible to have access to Highly Sensitive Protected Material under the terms of the Protective Order in this docket.

A copy of each signed certification shall be provided by the reviewing party to Counsel for the producing party and served upon all parties of record.

16. **Disclosures Between Reviewing Representatives and Continuation of Disclosure Restrictions After a Person is no Longer Engaged in the Proceeding.** Any Reviewing Representative may disclose Protected Materials, other than Highly Sensitive Protected Materials, to any other person who is a Reviewing Representative provided that, if the person to whom disclosure is to be made has not executed and provided for delivery of a signed certification to the party asserting confidentiality, that certification shall be executed prior to any disclosure. A Reviewing Representative may disclose Highly Sensitive Protected Material to other Reviewing Representatives who are permitted access to such material and have executed the additional certification required for persons who receive access to Highly Sensitive Protected Material. In the event that any Reviewing Representative to whom Protected Materials are disclosed ceases to be engaged in these proceedings, access to Protected Materials by that person shall be terminated and all notes, memoranda, or other information derived from the protected material shall either be destroyed or given to another Reviewing Representative of that party who is authorized pursuant to this Protective Order to receive the protected materials. Any person who has agreed to the foregoing certification shall continue to be bound by the provisions of this Protective Order so long as it is in effect, even if no longer engaged in these proceedings.
17. **Producing Party to Provide One Copy of Certain Protected Material and Procedures for Making Additional Copies of Such Materials.** Except for

Highly Sensitive Protected Materials, which shall be provided to the Reviewing Parties pursuant to Paragraphs 9, and voluminous Protected Materials, the producing party shall provide a Reviewing Party one copy of the Protected Materials upon receipt of the signed certification described in Paragraph 15. Except for Highly Sensitive Protected Materials, a Reviewing Party may make further copies of Protected Materials for use in this proceeding pursuant to this Protective Order, but a record shall be maintained as to the documents reproduced and the number of copies made, and upon request the Reviewing Party shall provide the party asserting confidentiality with a copy of that record.

18. **Procedures Regarding Voluminous Protected Materials.** Production of voluminous Protected Materials will be governed by P.U.C. PROC. R. 22.144(h). Voluminous Protected Materials will be made available in the producing party's voluminous room, in Austin, Texas, or at a mutually agreed upon location, Monday through Friday, 9:00 a.m. to 5:00 p.m. (except on state or Federal holidays), and at other mutually convenient times upon reasonable request.
19. **Reviewing Period Defined.** The Protected Materials may be reviewed only during the Reviewing Period, which shall commence upon entry of this Protective Order and continue until the expiration of the Commission's plenary jurisdiction. The Reviewing Period shall reopen if the Commission regains jurisdiction due to a remand as provided by law. Protected materials that are admitted into the evidentiary record or accompanying the evidentiary record as offers of proof may be reviewed throughout the pendency of this proceeding and any appeals.
20. **Procedures for Making Copies of Voluminous Protected Materials.** Other than Highly Sensitive Protected Materials, Reviewing Parties may take notes regarding the information contained in voluminous Protected Materials made available for inspection or they may make photographic, mechanical or electronic copies of the Protected Materials, subject to the conditions hereof; provided, however, that before photographic, mechanical or electronic copies can be made, the Reviewing Party seeking photographic, mechanical or electronic copies must

complete a written receipt for copies on the attached form identifying each piece of Protected Materials or portions thereof the Reviewing Party will need.

21. **Protected Materials to be Used Solely for the Purposes of These Proceedings.**

All Protected Materials shall be made available to the Reviewing Parties and their Reviewing Representatives solely for the purposes of these proceedings. Access to the Protected Materials may not be used in the furtherance of any other purpose, including, without limitation: (i) any other pending or potential proceeding involving any claim, complaint, or other grievance of whatever nature, except appellate review proceedings that may arise from or be subject to these proceedings; or (ii) any business or competitive endeavor of whatever nature. Because of their statutory regulatory obligations, these restrictions do not apply to Commission Staff or OPC.

22. **Procedures for Confidential Treatment of Protected Materials and Information Derived from those Materials.**

Protected Materials, as well as a Reviewing Party's notes, memoranda, or other information regarding or derived from the Protected Materials are to be treated confidentially by the Reviewing Party and shall not be disclosed or used by the Reviewing Party except as permitted and provided in this Protective Order. Information derived from or describing the Protected Materials shall be maintained in a secure place and shall not be placed in the public or general files of the Reviewing Party except in accordance with the provisions of this Protective Order. A Reviewing Party must take all reasonable precautions to insure that the Protected Materials including notes and analyses made from Protected Materials that disclose Protected Materials are not viewed or taken by any person other than a Reviewing Representative of a Reviewing Party.

23. **Procedures for Submission of Protected Materials.** If a Reviewing Party tenders for filing any Protected Materials, including Highly Sensitive Protected Materials, or any written testimony, exhibit, brief, motion or other type of pleading or other submission at the Commission or before any other judicial body

that quotes from Protected Materials or discloses the content of Protected Materials, the confidential portion of such submission shall be filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they contain Protected Material or Highly Sensitive Protected Material and are sealed pursuant to this Protective Order. If filed at the Commission, such documents shall be marked "PROTECTED MATERIAL" and shall be filed under seal with the presiding officer and served under seal to the counsel of record for the Reviewing Parties. The presiding officer may subsequently, on his/her own motion or on motion of a party, issue a ruling respecting whether or not the inclusion, incorporation or reference to Protected Materials is such that such submission should remain under seal. If filing before a judicial body, the filing party: (i) shall notify the party which provided the information within sufficient time so that the providing party may seek a temporary sealing order; and (ii) shall otherwise follow the procedures set forth in Rule 76a, Texas Rules of Civil Procedure.

24. **Maintenance of Protected Status of Materials During Pendency of Appeal of Order Holding Materials are not Protected Materials.** In the event that the presiding officer at any time in the course of this proceeding finds that all or part of the Protected Materials are not confidential or proprietary, by finding, for example, that such materials have entered the public domain or materials claimed to be Highly Sensitive Protected Materials are only Protected Materials, those materials shall nevertheless be subject to the protection afforded by this Protective Order for three (3) full working days, unless otherwise ordered, from the date the party asserting confidentiality receives notice of the presiding officer's order. Such notification will be by written communication. This provision establishes a deadline for appeal of a presiding officer's order to the Commission. In the event an appeal to the Commissioners is filed within those three (3) working days from notice, the Protected Materials shall be afforded the confidential treatment and status provided in this Protective Order during the pendency of such appeal. Neither the party asserting confidentiality nor any Reviewing Party waives its

right to seek additional administrative or judicial remedies after the Commission's denial of any appeal.

25. **Notice of Intent to Use Protected Materials or Change Materials Designation.**

Parties intending to use Protected Materials shall notify the other parties prior to offering them into evidence or otherwise disclosing such information into the record of the proceeding. During the pendency of Docket No. 34077 at the Commission, in the event that a Reviewing Party wishes to disclose Protected Materials to any person to whom disclosure is not authorized by this Protective Order, or wishes to have changed the designation of certain information or material as Protected Materials by alleging, for example, that such information or material has entered the public domain, such Reviewing Party shall first file and serve on all parties written notice of such proposed disclosure or request for change in designation, identifying with particularity each of such Protected Materials. A Reviewing Party shall at any time be able to file a written motion to challenge the designation of information as Protected Materials.

26. **Procedures to Contest Disclosure or Change in Designation.** In the event that the party asserting confidentiality wishes to contest a proposed disclosure or request for change in designation, the party asserting confidentiality shall file with the appropriate presiding officer its objection to a proposal, with supporting affidavits, if any, within five (5) working days after receiving such notice of proposed disclosure or change in designation. Failure of the party asserting confidentiality to file such an objection within this period shall be deemed a waiver of objection to the proposed disclosure or request for change in designation. Within five (5) working days after the party asserting confidentiality files its objection and supporting materials, the party challenging confidentiality may respond. Any such response shall include a statement by counsel for the party challenging such confidentiality that he or she has reviewed all portions of the materials in dispute and without disclosing the Protected Materials, a statement as to why the Protected Materials should not be held to be confidential under current legal standards, or alternatively that the party asserting

confidentiality for some reason did not allow such counsel to review such materials. If either party wishes to submit the material in question for in camera inspection, it shall do so no later than five (5) working days after the party challenging confidentiality has made its written filing.

27. **Procedures for Presiding Officer Determination Regarding Proposed Disclosure or Change in Designation.** If the party asserting confidentiality files an objection, the appropriate presiding officer will determine whether the proposed disclosure or change in designation is appropriate. Upon the request of either the producing or reviewing party or upon the presiding officer's own initiative, the presiding officer may conduct a prehearing conference. The burden is on the party asserting confidentiality to show that such proposed disclosure or change in designation should not be made. If the presiding officer determines that such proposed disclosure or change in designation should be made, disclosure shall not take place earlier than three (3) full working days after such determination unless otherwise ordered. No party waives any right to seek additional administrative or judicial remedies concerning such presiding officer's ruling.
28. **Maintenance of Protected Status During Periods Specified for Challenging Various Orders.** Any party electing to challenge, in the courts of this state, a Commission or presiding officer determination allowing disclosure or a change in designation shall have a period of ten (10) days from: (i) the date of an unfavorable Commission order; or (ii) if the Commission does not rule on an appeal of an interim order, the date an appeal of an interim order to the Commission is overruled by operation of law, to obtain a favorable ruling in state district court. Any party challenging a state district court determination allowing disclosure or a change in designation shall have an additional period of ten (10) days from the date of the order to obtain a favorable ruling from a state appeals court. Finally, any party challenging a determination of a state appeals court allowing disclosure or a change in designation shall have an additional period of ten (10) days from the date of the order to obtain a favorable ruling from the state

supreme court, or other appellate court. All Protected Materials shall be afforded the confidential treatment and status provided for in this Protective Order during the periods for challenging the various orders referenced in this paragraph. For purposes of this paragraph, a favorable ruling of a state district court, state appeals court, Supreme Court or other appellate court includes any order extending the deadlines set forth in this paragraph.

29. **Other Grounds for Objection to Use of Protected Materials Remain Applicable.** Nothing in this Protective Order shall be construed as precluding any party from objecting to the use of Protected Materials on grounds other than confidentiality, including the lack of required relevance. Nothing in this Protective Order constitutes a waiver of the right to argue for more disclosure, provided, however, that unless and until such additional disclosure is order by the Commission or a court, all parties will abide by the restrictions imposed by the Protective Order.
30. **Protection of Materials from Unauthorized Disclosure.** All notices, applications, responses or other correspondence shall be made in a manner which protects Protected Materials from unauthorized disclosure.
31. **Return of Copies of Protected Materials and Destruction of Information Derived from Protected Materials.** Following the conclusion of these proceedings, each Reviewing Party must, no later than thirty (30) days following receipt of the notice described below, return to the party asserting confidentiality all copies of the Protected Materials provided by that party pursuant to this Protective Order and all copies reproduced by a Reviewing Party, and counsel for each Reviewing Party must provide to the party asserting confidentiality a letter by counsel that, to the best of his or her knowledge, information, and belief, all copies of notes, memoranda, and other documents regarding or derived from the Protected Materials (including copies of Protected Materials) that have not been so returned, if any, have been destroyed, other than notes, memoranda, or other documents which contain information in a form which, if made public, would not

cause disclosure of the substance of Protected Materials. As used in this Protective Order, “conclusion of these proceedings” refers to the exhaustion of available appeals, or the running of the time for the making of such appeals, as provided by applicable law. If, following any appeal, the Commission conducts a remand proceeding, then the “conclusion of these proceedings” is extended by the remand to the exhaustion of available appeals of the remand, or the running of the time for making such appeals of the remand, as provided by applicable law. Promptly following the conclusion of these proceedings, counsel for the party asserting confidentiality will send a written notice to all other parties, reminding them of their obligations under this Paragraph. Nothing in this Paragraph shall prohibit counsel for each Reviewing Party from retaining two (2) copies of any filed testimony, brief, application for rehearing, hearing exhibit or other pleading which refers to Protected Materials provided that any such Protected Materials retained by counsel shall remain subject to the provisions of this Protective Order.

32. **Applicability of Other Law.** This Protective Order is subject to the requirements of the Public Information Act², the Open Meetings Act³, and any other applicable law, provided that parties subject to those acts will give the party asserting confidentiality notice, if possible under those acts, prior to disclosure pursuant to those acts.
33. **Procedures for Release of Information Under Order.** If required by order of a governmental or judicial body, the Reviewing Party may release to such body the confidential information required by such order; provided, however, that (i) the Reviewing Party shall notify the party asserting confidentiality of such order at least five (5) calendar days in advance of the release of the information in order for the party asserting confidentiality to contest any release of the confidential information; (ii) the Reviewing Party shall notify the producing party that there is a request for such information within five (5) calendar days of the date the Reviewing Party is notified of the request for information; and (iii) the Reviewing

² TEX. GOV'T CODE ANN. § 552.111 (Vernon 1994 & Supp. 2004).

Party shall use its best efforts to prevent such materials from being disclosed to the public. The terms of this Protective Order do not preclude the Reviewing Party from complying with any valid and enforceable order of a state or federal court with competent jurisdiction specifically requiring disclosure of Protected Materials earlier than contemplated herein.

34. **Best Efforts Defined.** The term “best efforts” as used in the preceding paragraph requires that the Reviewing Party attempt to ensure that disclosure is not made unless such disclosure is pursuant to a final order of a Texas governmental or Texas judicial body or written opinion of the Texas Attorney General which was sought in compliance with the Public Information Act. The Reviewing Party is not required to delay compliance with a lawful order to disclose such information but is simply required to timely notify the party asserting confidentiality, or its counsel, that it has received a challenge to the confidentiality of the information and that the Reviewing Party will either proceed under the provisions of §552.301 of the Public Information Act, or intends to comply with the final governmental or court order.
35. **Notify Defined.** “Notify” for purposes of Paragraphs 33 and 34 shall mean written notice to the party asserting confidentiality at least five (5) calendar days prior to release; including when a Reviewing Party receives a request under the Public Information Act. However, the Commission or OPC may provide a copy of Protected Materials to the Open Records Division of the OAG as provided herein.
36. **Requests for Non-Disclosure.** If the producing party asserts that the requested information should not be disclosed at all, or should not be disclosed to certain parties under the protection afforded by this Order, the producing party shall, within the time allotted for its response, serve a withholding statement that: (1) states that information responsive to the request(s) is being withheld, (2) identifies the specific request(s) to which the information relates, and (3) lists the

³ TEX. GOV'T CODE ANN. § 551.001 (Vernon 1994 & Supp. 2004).