Control Number: 40123

Item Number: 30

Addendum StartPage: 0

Public Utility Commission of Texas

TO: Central Records

FROM: Stephen Journeay, Director
Commission Advising and Docket Management

DATE: 28 March 2012

RE: *Petition of Oncor Electric Delivery Company LLC for a Good Cause Exception Order*, Docket No. 40123; Mis-titled Order

The Commission approved a proposed order that granted Oncor's petition for a good-cause exception at the open meeting on March 7, 2012 and an order was filed that same day.

Due to an oversight on our part, the order that was filed was titled as a proposed order. After we discovered this error, a properly titled order was circulated for signature by the Commissioners.

Please file the attached, properly titled order in Docket No. 40123.

q:\cadm\memos\misc\40123 corrected order.docx

30

DOCKET NO. 40123

PETITION OF ONCOR ELECTRIC DELIVERY COMPANY LLC FOR A GOOD CAUSE EXCEPTION ORDER	§ § §	**PUBLIC UTILITY COMMISSION OF TEXAS**

ORDER

This Order addresses the petition of Oncor Electric Delivery Company LLC (Oncor) for a good cause exception order allowing Oncor to pursue obtaining an additional 50 MW of commercial load for the 2012 summer peak period. The parties to this proceeding agreed to resolve all issues, memorialized in an Agreed Proposed Order (Agreement), or do not oppose the agreement. The Commission finds that this is an extraordinary action to address reliability issues and the Commission will not ordinarily be willing to alter a utility's EECRF programs mid-year. Consistent with the Agreement, Oncor's petition is approved.

I. Background

Oncor's filing was precipitated by recent presentations made by the Electric Reliability Council of Texas, Inc. (ERCOT) to the Public Utility Commission of Texas (Commission)[1] showing that reserve margins for the 2012 summer peak period may not be adequate to maintain reliable electric service to meet the needs of all Texans, including Texas ratepayers that receive electric delivery service from Oncor.[2] Those discussions further indicated that reserve margins would be further reduced should the current drought extend into the summer of 2012.[3]

Oncor is able to seek to obtain an additional 50 MW of commercial load to be available for curtailment during the 2012 summer peak period as described in the petition. This additional curtailable load will be procured through the same program used to obtain the 50 MW of

---

[1] *See e.g., PUC Proceeding Relating to Resource and Reserve Adequacy and Shortage* Pricing, Project No. 37897, Item No. 15 (Open Meeting on Jan. 12, 2012).

[2] The Commission considers "peak period" to consist ". . . of the hours from one p.m. to seven p.m., during the months of June, July, August, and September, excluding weekends and Federal holidays." *See* Commission Substantive Rule § 25.181(c)(26).

[3] Pursuant to P.U.C. PROC. R. 22.222, the Commission takes official notice of ERCOT's representations in Project No. 37897 regarding the reliability issues concerning the 2012 summer peak period, including the representations in ERCOT's *Resource Adequacy Status Report* that was recently filed on February 3, 2012.

curtailable load approved in Docket No. 39375.[4] Oncor indicates that the program costs to ratepayers to curtail an additional 50 MW of commercial load for the 2012 summer peak period will not exceed $2.5 million.

The Commission adopts the following findings of fact and conclusions of law:

II. Findings of Fact

Procedural History

1. On January 20, 2012, Oncor filed a petition for a good cause exception order (petition) allowing Oncor to pursue curtailing an additional 50 MW of commercial load for the 2012 summer peak period.

2. On January 23, 2012, Oncor filed an affidavit attesting to completion of notice by providing notice and a courtesy copy of the petition via e-mail and first-class U.S. mail to: (a) all retail electric providers (REPs) in Texas that were certified at the time of the filing of the petition; (b) intervenors that participated in Oncor's 2012 energy efficiency cost recovery factor (EECRF) proceeding in Docket No. 39375[5]; (c) Office of Public Utility Counsel (OPC); and (d) ERCOT.

3. On January 23, 2012, Order No. 1 was issued requiring Commission Staff to file by January 27, 2012, a response to the petition and, additionally, a recommendation regarding notice and Oncor's proposed procedural schedule.

4. On January 27, 2012, Commission Staff filed its response and recommendation pursuant to Order No. 1 supporting Oncor's notice but not supporting Oncor's petition or proposed procedural schedule.

5. On January 31, 2012, Oncor filed a response to Commission Staff's response and recommendation.

---

[4] The Commission has already authorized Oncor in its 2012 EECRF proceeding to implement 50 MW of load reduction in the Commercial Load Management Program for the 2012 program year. *Application of Oncor Electric Delivery Company, LLC for 2012 Energy Efficiency Cost Recovery Factor*, Docket No. 39375, Order at page 7 at Ordering Paragraphs 1 and 2 (Nov. 22, 2011); and Application, Exhibit MRS-1 at pages 16 and 18 (May 2, 2011).

[5] *Application of Oncor Electric Delivery Company, LLC for 2012 Energy Efficiency Cost Recovery Factor*, Docket No. 39375 (Nov. 22, 2011).

6. Motions to intervene were filed by the Steering Committee of Cities Served by Oncor (Cities), Texas Industrial Energy Consumers (TIEC), OPC, Alliance for Retail Markets (ARM), and Reliant Energy Retail Services, LLC (Reliant). All motions were granted.

7. On January 31, 2012, OPC requested a hearing on the merits.

8. On February 3, 2012, the Commission published a notice of this proceeding in the *Texas Register*.

9. On February 8, 2012, and February 14, 2012, the Parties filed status reports that indicated they had been engaged in fruitful negotiations.

10. On February 17, 2012, OPC withdrew its request for a hearing.

11. On February 16, 2012, the parties filed the Agreement supported by Cities, TIEC, OPC, Oncor and Commission Staff. ARM and Reliant do not oppose it.

Description of Oncor's Request as Modified by the Agreement

12. Oncor requests that the Commission determine on or before March 7, 2012 that based on the data reported by ERCOT that is referenced in Footnote No. 3: (1) there is a risk that firm load may be interrupted during the 2012 summer peak period due to anticipated reserve margins that may not be adequate; (2) Oncor is authorized to pursue obtaining an additional 50 MW of commercial load to be available for curtailment during the 2012 summer peak period in an effort to help prevent the interruption of electric service; (3) the circumstances related to the potential interruption of electric service is outside of Oncor's control and that Oncor's proposal to help address the situation is necessary to carry out the provisions of PURA[6] and, therefore, Oncor will be allowed to request recovery of program costs (including administrative costs) in its EECRF proceeding initiated in 2013 and applicable performance bonus related to the procurement of an additional 50 MW of commercial load for curtailment; and (4) the costs of Oncor curtailing the additional 50 MW of commercial load shall be allocated to customer classes pursuant to P.U.C. SUBST. R. 25.181, PURA § 39.905, and this Order; and

[6] Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (Vernon 2007 & Supp. 2011) (PURA).

therefore, in no event shall those costs, including the applicable bonus, be allocated to the residential customer class. Oncor's program costs will not exceed $2.5 million.

13. Oncor requests that it be allowed to oversubscribe its Commercial Load Management Program by up to 20 MW over the combined 100 MW goal (i.e., 50 MW approved in Docket No. 39375 and an additional 50 MW to address the reliability issue regarding the 2012 summer peak period), as not all subscribers may actually reduce load when called upon to do so, and oversubscribing by up to 20 MW provides the best chance of actually achieving the total 100 MW goal.

14. Oncor requests that the proposed additional 50 MW of Commercial Load Management requested herein not be used to determine its capacity factor pursuant to P.U.C. SUBST. R. 25.181(c)(2) and (e)(4).

Other Factual Findings

15. The following is admitted into evidence in this proceeding: (a) the petition by Oncor Electric Delivery Company LLC for a Good Cause Exception Order, filed January 20, 2012; (b) the affidavit attesting to the provision of notice filed on behalf of Oncor; (c) the joint motion to adopt the agreed proposed order filed by the parties; and (d) response of Oncor Electric Delivery Company LLC to the Office of Public Utility Counsel's first request for information.

16. The Commission finds that there is a risk that firm load may be interrupted during the 2012 summer peak period due to anticipated reserve margins that may not be adequate based on data reported by ERCOT that is referenced in Footnote No. 3.

17. The Commission finds that the circumstances related to the potential interruption of electric service are outside of Oncor's control and that Oncor's proposal to help address the reliability issue by pursuing curtailment of an additional 50 MW of commercial load is reasonable and necessary to carry out the provisions of PURA.

18. Oversubscription of its Commercial Load Management Program by up to 20 MW over the combined 100 MW goal (i.e., 50 MW approved in Docket No. 39375 and an additional 50 MW to address the reliability issue regarding the 2012 summer peak period) provides Oncor the best chance of achieving the total 100 MW goal.

19. Oncor will coordinate with ERCOT to: (1) maximize the use of the additional commercial load management for grid reliability purposes as directed by ERCOT; and (2) ensure the program is operated in a manner consistent with Commission policy deliberations in Project No. 37897, *PUC Proceeding Relating to Resource and Reserve Adequacy and Shortage Pricing*, to the extent the existing commercial load management program design permits.

20. Pursuant to P.U.C. PROC. R. 22.5(b), good cause exists to waive the 20-day requirement of P.U.C. PROC. R. 22.35(b)(2), so that this proceeding may be considered at the Commission's next regularly scheduled Open Meeting of March 7, 2012, and if approved, give Oncor sufficient time to implement the curtailment program.

21. The Commission finds that this is an extraordinary action to address reliability issues and the Commission will not ordinarily be willing to alter a utility's EECRF programs mid-year.

III. Conclusions of Law

1. Oncor is an electric utility as defined under PURA § 31.002.

2. The Commission has jurisdiction over this matter pursuant to PURA §§ 14.001, 32.001, and 39.905.

3. This matter was processed in accordance with the requirements of PURA and P.U.C. SUBST. R. 25.1, 25.3(b), 25.52(b)(1), and 25.181.

4. Oncor's petition was processed in accordance with the requirements of PURA and the Administrative Procedure Act, Tex. Gov't Code Ann. §§2001.001-2001.902 (Vernon 2008 & Supp. 2011) and P.U.C. PROC. R. 22.5.

5. Oncor provided notice of the petition in accordance with P.U.C. PROC. R. 22.55.

6. The relief requested in the petition, as modified by the Agreement, is a just and reasonable resolution of all issues it addresses, and is consistent with relevant provisions of PURA.

7. The current energy efficiency regulations found in P.U.C. SUBST. R. 25.181, PURA § 39.905, and this Order will govern Oncor's activity, including applicable costs, associated with pursuing the additional 50 MW of commercial load for curtailment relating to the 2012 summer peak period reliability issue. The grant of relief is made under P.U.C. SUBST. R. 25.181 and PURA § 39.905 in this docket based on the unique and exigent circumstances described above. This proceeding does not address whether the additional 50 MW of Commercial Load Management is energy efficiency or resource adequacy.

8. The additional 50 MW of Commercial Load Management approved herein shall not be used to determine Oncor's capacity factor pursuant to P.U.C. SUBST. R. 25.181(c)(2) and (e)(4).

9. Pursuant to P.U.C. PROC. R. 22.5(b) good cause exists to waive the 20-day requirement of P.U.C. PROC. R. 22.35(b)(2).

IV. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following order:

1. Oncor's petition is approved to the extent it is consistent with the Agreement.

2. Oncor is authorized to pursue obtaining an additional 50 MW of commercial load to be available for curtailment during the 2012 summer peak period in an effort to help prevent the interruption of firm load.

3. Oncor will be allowed to oversubscribe its Commercial Load Management Program by up to 20 MW over the combined 100 MW goal (i.e., 50 MW approved in Docket No. 39375 and an additional 50 MW to address the reliability issue regarding the 2012 summer peak period) to provide the best chance of achieving the total 100 MW goal.

4. In the EECRF proceeding initiated in 2013, Oncor will be allowed to request recovery of its program costs (including administrative costs) and to request any applicable performance bonus arising from the additional 50 MW of commercial load curtailment. The Commission will review the requests to determine if the expenditures were

reasonable regarding the procurement of the additional 50 MW of commercial load for curtailment authorized by this Order.

5. Oncor's request for cost recovery of its program costs (including administrative costs) to pursue obtaining an additional 50 MW of commercial load curtailment shall not exceed $2.5 million. To the extent that the additional expenditure does not cause Oncor to exceed the cost caps in P.U.C. SUBST. R. 25.181, Oncor will also be allowed to pursue recovery of a performance bonus related to the additional 50 MW of commercial load curtailment in an amount determined by P.U.C. SUBST. R. 25.181, but not to exceed $485,000. Oncor will not be allowed to seek the recovery of carrying costs.

6. The costs associated with Oncor curtailing the additional 50 MW of commercial load shall be separately tracked and accounted for to the extent possible, and shall be allocated to customer classes that participate in the programs pursuant to P.U.C. SUBST. R. 25.181, PURA § 39.905, and this Order, and therefore, those costs, including the applicable bonus, will not be allocated to the residential customer class.

7. The additional 50 MW of Commercial Load Management approved herein shall not be used to determine Oncor's capacity factor pursuant to P.U.C. SUBST. R. 25.181(c)(2) and (e)(4).

8. Entry of this Order shall be binding only to the extent future Oncor proceedings address the additional 50 MW of commercial load curtailment authorized in this Order, including applicable requests for cost recovery and cost allocation. Otherwise, entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology and shall not be regarded as binding or holding precedent.

9. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted, are denied.

SIGNED AT AUSTIN, TEXAS the 28th day of March 2012.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

ROLANDO PABLOS, COMMISSIONER

Q:\CADM\ORDERS\FINAL\40000\40123fo.docx