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**SOAH DOCKET NO. 473-21-2527
PUC DOCKET NO. 52178**

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**APPLICATION OF ONCOR § BEFORE THE STATE OFFICE
ELECTRIC DELIVERY COMPANY §
LLC TO ADJUST ITS ENERGY § OF
EFFICIENCY COST RECOVERY §
FACTOR § ADMINISTRATIVE HEARINGS**

SOAH ORDER NO. 1

**DESCRIPTION OF CASE; ADDRESSING JURISDICTION AND NOTICE;
REQUIRING STAFF'S COMMENTS ON SUFFICIENCY OF NOTICE AND
APPLICATION; ADOPTING PROPOSED PROTECTIVE ORDER; DEADLINE TO
SUBMIT AGREED PROCEDURAL SCHEDULE AND ESTABLISHING, IF
NECESSARY, A PREHEARING CONFERENCE; AND OTHER MATTERS**

I. DESCRIPTION OF CASE

On May 28, 2021, Oncor Electric Delivery Company LLC (Oncor) filed an application with the Public Utility Commission of Texas (Commission) to adjust its energy efficiency cost recovery factor (EECRF) and other related relief pursuant to 16 Texas Administrative Code (TAC) §§ 25.181 and .182.

Oncor indicates its requested EECRF adjustment will recover the forecasted costs associated with its Program Year (PY) 2022 energy efficiency programs as adjusted by its PY 2020 net over-recovery balance (including rate-case expenses (RCEs) incurred in its 2020 EECRF proceeding) and a proposed performance bonus. Oncor's current EECRF rider was approved to recover \$64,782,106 during PY 2021 in Docket No. 50886.¹ Oncor's application seeks Commission approval to adjust its EECRF rider to recover \$83,760,515 during PY 2022, which includes:

- \$50,030,513 in energy efficiency expenses forecasted for the 2022 program year;

¹ *Application of Oncor Electric Delivery Company LLC to Adjust its Energy Efficiency Cost Recovery Factor*, Docket No. 50886, Order (Sept. 10, 2020).

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- \$2,187,660 for the total under-recovery of 2020 energy efficiency costs that includes the required interest payment;
- \$30,796,489 energy efficiency performance bonus under 16 TAC § 25.182(e) based on Oncor's energy efficiency achievements in 2020;
- \$733,805 for the estimated evaluation, measurement, and verification costs for the evaluation of program year 2021; and
- \$12,048 for the rate case expenses (RCEs) of municipalities that the Steering Committee of Cities Served by Oncor (Cities) submitted to Oncor pursuant to 16 TAC § 25.182(d)(3)(B) related to Docket No. 50886.

II. ADDRESSING JURISDICTION AND NOTICE

The Commission has jurisdiction over this application pursuant to PURA² § 39.905 and 16 TAC §§ 25.181 and .182. On June 3, 2021, the Commission's Office of Policy Docket Management issued the Order of Referral and Preliminary Order referring this case to the State Office of Administrative Hearings (SOAH) and requesting the assignment of an Administrative Law Judge (ALJ) to conduct a hearing and issue a proposal for decision (PFD), if such is necessary.³ SOAH has jurisdiction over matters relating to the conduct of the hearing in this proceeding pursuant to Texas Government Code § 2003.049.

Oncor proposes to provide notice of its application consistent with 16 TAC § 25.182(d)(13) to: (a) all parties in Commission Docket No. 50886 (Oncor's most recent completed EECRF docket); (b) all retail electric providers that are authorized by the registration agent to provide service in Oncor's service area at the time Oncor's application was filed; (c) all parties in Commission Docket No. 46957; and (d) the Texas Department of Housing & Community Affairs, which is the state agency that administers the federal weatherization program.

III. REQUIRING STAFF'S COMMENTS ON SUFFICIENCY

² Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016.

³ The Commission delegated authority to the Office of Policy and Docket Management to issue the Preliminary Order. *Order of Referral and Preliminary Order* at 1 (Jun. 3, 2021).

Staff shall, and any other party may, file comments on the sufficiency of Oncor's proposed notice and on the application itself no later than **June 25, 2021**.

IV. ADOPTING PROPOSED PROTECTIVE ORDER

The Commission's standard protective order, filed as Attachment B to Oncor's application, is **ADOPTED** and shall apply in this matter.

V. DEADLINE TO SUBMIT AN AGREED PROCEDURAL SCHEDULE AND ESTABLISHING, IF NECESSARY, A PREHEARING CONFERENCE

In its application, Oncor states that it will endeavor to pursue and file an agreed proposed procedural schedule by the parties on or before the deadline set forth by the ALJ. Under 16 TAC § 25.182(d)(9)(D) and (E), if no hearing is requested within 30 days of May 28, 2021, a procedural schedule must be set that would allow the Commission to issue a final order within 90 days after a sufficient application was filed, or August 26, 2021.⁴ If a hearing is requested within 30 days, a procedural schedule must be set that would allow the Commission to issue a final order within 180 days after a sufficient application was filed, or November 24, 2021.⁵ The parties should also account for the deadlines specified in 16 TAC § 25.182(d)(9)(B), which provides:

The presiding officer shall set a procedural schedule that will enable the utility to file an EECRF compliance tariff consistent with the final order within ten days of the date of the final order. The procedural schedule shall also provide that the compliance filing date will be at least 45 days before the effective date of March 1. In no event shall the effective date of any new or adjusted EECRF occur less than 45 days after the utility files a compliance tariff consistent with a final order approving the new or adjusted EECRF.

⁴ This date was calculated with the presumption that Oncor's May 28, 2021 application is sufficient. If the application is insufficient, this date will change.

⁵ Same comment as above.

No later than **June 18, 2021**, Oncor shall file an agreed procedural schedule that incorporates the dates set out above as well as other deadlines set out in 16 TAC § 25.182. If the parties cannot reach agreement and an agreed procedural schedule is not filed on or before June 18, 2021, the ALJ will convene a **prehearing conference in this docket through the Zoom videoconference application commencing at 9 a.m. on June 29, 2021**. If an agreed procedural schedule is filed on or before June 16, 2021, the June 29, 2021 prehearing conference is **automatically cancelled** unless a party requests a prehearing conference on or before June 16, 2021.

You may access the prehearing conference by going to <https://soah-texas.zoomgov.com/> or the Zoom application on your mobile device, selecting “Join a Meeting,” and entering the following information when prompted:

Meeting ID: 160 576 7155

Password: F2L9f7

If you do not have access to a device that would allow videoconferencing capabilities, you may join by telephone by calling either number below and entering the following Meeting ID and passcode. Note that the passcode to join by telephone is different than the passcode to join via a computer or smart device.

Telephone Number: 669 254 5252

Telephone Number: 646 828 7666

Meeting ID: 160 576 7155

Password: 427811

The following matters will be discussed at the prehearing conference:

1. Pending motions to intervene.

2. Any other motion filed by 3:00 p.m. on June 16, 2021.⁶
3. A procedural schedule that complies with 16 TAC § 25.182(d)(9), including a date for the hearing, if requested, that will enable the Commission to make a final decision before the EECRF effective date. To assist the parties in making this determination, the parties should calculate a hearing date in the following manner:
 - a. Find the Commission open meeting date immediately prior to the effective date.
 - b. Assume PFD issuance at least 21 days prior to the date in a. above.
 - c. Subtract 60 days from the date in b. above, which is the day that reply briefs would be due and the record would close.
 - d. Determine appropriate briefing deadlines that allow reply briefs to be filed on the date calculated in c. above.
 - e. Depending on transcript turnaround time, calculate the last hearing day that would allow for the briefing deadlines calculated in d. above.
 - f. Determine the number of days needed for hearing and determine which day would be the first day of hearing.
4. Any other matters that may assist in the disposition of this case in a fair and efficient manner.

VI. DISCOVERY AND OTHER PROCEDURAL MATTERS

Discovery may begin immediately pursuant to Subchapter H of the Commission's Procedural Rules.

The parties should be aware that, in response to COVID-19, the Commission has issued its second order suspending certain rules and requiring email service and online filings.⁷ The

⁶ The parties may file by this deadline a joint motion to cancel the prehearing conference if they include an agreed procedural schedule that complies with this order.

⁷ See *Issues Related to the State of Disaster for the Coronavirus Disease 2019*, Docket No. 50664, Second Order Suspending Rules (Jul. 16, 2020).

Commission's order is available at:
http://interchange.puc.texas.gov/Documents/50664_205_1075813.PDF.

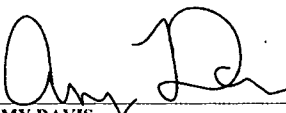
The parties should review the Commission's and SOAH's websites for the latest information on how COVID-19 is impacting applicable procedural requirements.

When a party files a document with the Commission, that party is also required to serve (i.e., provide a copy of that document to) every other party. **At this time, due to COVID-19, service must be accomplished by e-mail.** Any party to this proceeding who has not previously provided an e-mail address **SHALL, no later than seven days after the date of this order,** file a notice informing the parties of the e-mail address to be used for service.

SOAH's orders must also be provided to, or served on, the parties. Parties will be served with SOAH's orders electronically at the e-mail address they provide.

Except as modified by the Commission or SOAH in response to COVID-19, the Commission's procedural rules will govern the conduct of this case, and the parties are expected to comply with those rules. The Commission's procedural rules are available on its website at: <https://www.puc.texas.gov/agency/rulesnlaws/procrules/Procedural.aspx>.

SIGNED June 8, 2021.



AMY DAVIS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS