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**SOAH DOCKET NO. 473-22-2695
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APPLICATION OF ONCOR	§	BEFORE THE STATE OFFICE
ELECTRIC DELIVERY COMPANY	§	OF
LLC FOR AUTHORITY TO CHANGE	§	ADMINISTRATIVE HEARINGS
RATES	§	

**THE STEERING COMMITTEE OF
CITIES SERVED BY ONCOR'S EXCEPTIONS TO
PROPOSAL FOR DECISION**

JANUARY 24, 2023

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THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR'S
EXCEPTIONS TO PROPOSAL FOR DECISION

The Steering Committee of Cities Served by Oncor (Cities) timely files these exceptions to the Proposal for Decision (PFD) for consideration by the Public Utility Commission of Texas (Commission) and respectfully shows as follows:

I. INTRODUCTION/SUMMARY [PRELIMINARY ORDER (PO) ISSUES 1, 2, 3]

Cities commends the Administrative Law Judges (ALJs) on a thorough and well-reasoned PFD and agrees with the ALJs' recommendations in many respects, especially with regard to an overall decrease in the Company's revenue requirement. The ALJs made many recommendations that are supported by the record and should be adopted. However, Cities urges the Commission to closely evaluate and reconsider some of the PFD's recommendations as discussed below. In several instances, the record supports additional disallowances that should be adopted to protect the best interests of ratepayers.

II. INVESTED CAPITAL-RATE BASE
[PO ISSUES 4, 5, 6, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22]

C. Additions or Deductions to Rate Base [PO Issue 20]

1. Accumulated Reserve for Deferred Federal Income Taxes

The PFD finds that Oncor properly included Accumulated Deferred Federal Income Tax (ADFIT) of certain employee compensation categories and certain ADFIT assets and unbilled revenues as additions to rate base without subtracting the temporary difference used to calculate the ADFIT from rate base.¹ Specifically, the PFD's recommendation addresses (1) Performance Enhancement Plan (PEP), Supplemental Executive Retirement Plan (SERP), and Long-Term Incentive Plan (LTIP); (2) the pension plan, other postemployment benefits (OPEB), and FAS 112

¹ SOAH Proposal for Decision at 78 (Dec. 28, 2022) (PFD).

assets; and (3) the TCRF Advanced Metering System (AMS), and Energy Efficiency Cost Recovery Factor (EECRF) unbilled revenue assets.² As justification for this recommendation, the ALJs primarily rely on Oncor's argument that the savings in financing costs from the temporary differences are incorporated in similarly labeled categories in Cash Working Capital (CWC).³ As such, the PFD recommends denial of Cities' ADFIT adjustments, which are based on congruence between three key components of rate base—(1) the temporary difference; (2) ADFIT calculated based on the temporary difference; and (3) the related excess asset ADFIT, also calculated based on the temporary difference.⁴ If this issue is not closely examined, the rate base amount at risk exceeds \$2 billion.⁵

As Cities' witness Lane Kollen testified, CWC measures timing differences in *cash* receipts and *cash* expenses; CWC does not measure the *tax* timing difference (otherwise known as the temporary difference) accounted for as asset and liability *balance sheet* items or the related ADFIT, also accounted for as asset and liability *balance sheet* items.⁶ Tax temporary differences are balance sheet items that represent the avoidance of financing, if the temporary difference is a liability, or the issuance of financing, if the temporary difference is an asset. The ADFIT related to the temporary difference represents an increase in financing if the temporary difference is a liability due to the tax effects of differences in book and tax accounting. Conversely, the ADFIT related to the temporary difference represents a savings in financing if the temporary difference is an asset, also due to the tax effect of differences in book and tax accounting.

In contrast to the ADFIT and temporary difference balance sheet items, the CWC calculates the average investment to include in rate base for the delay in *cash receipts* from customers offset by the average delays in the payment of *cash expenses*.⁷ The revenues and expenses reflected in CWC are not the same as balance sheet items reflected in working capital. They are not the same and cannot be correctly conflated. Oncor specifically acknowledged the distinction between

² PFD at 74.

³ PFD at 78.

⁴ Direct Testimony of Lane Kollen, Cities Ex. 1 at Bates 28-30 (Cities Ex. 1).

⁵ PFD at 74.

⁶ Reply Brief of the Steering Committee of Cities Served by Oncor at 13 (Oct. 28, 2022) (Cities' Reply Brief); *see also* Cities Ex. 1 at Bates 28-29.

⁷ Cities' Reply Brief at 14.

temporary differences and expense amounts included in CWC in its last rate case.⁸ Although the PFD acknowledges this key fact, it fails to address whether—and if so, why—this distinction and the difference in the effects on rate base is incorrect. Or, if it is correct, then why the difference is not relevant and should be ignored, especially since the Company’s argument in favor of it was itself conclusory and without substantive evidentiary support.⁹

In evaluating these complex accounting issues, the PFD relies on conclusory reasoning to deny Cities’ adjustments—the ALJs’ independent reasoning for the recommendation is not clear. Furthermore, Oncor’s reasoning is also conclusory and does not provide any evidentiary support to demonstrate that the temporary differences are somehow included in the CWC calculation. Oncor did not and cannot provide any mathematical evidentiary support for its argument despite multiple opportunities to do so. Instead, Oncor repeats the same unsupported argument throughout its discovery responses, rebuttal testimony, and briefing.

The record demonstrates that Oncor’s conclusion and the recommendation in the PFD improperly conflate the temporary difference and ADFIT *balance sheet* items with the separate, but similarly named, operating expense items in CWC as if the two are one and the same, and they are not.¹⁰ That Oncor’s argument relied on in the PFD is flawed is proven by the fact there are other balance sheet items the Company included in the working capital calculation *and* similarly named operating expense items included in the CWC calculation. In other words, the Company does not agree with its own argument, or at least did not consistently apply its own argument. For example, the Company included materials and supplies *balance sheet* items in the working capital as an addition to rate base and also included the material and supplies *expense* in the CWC calculation. If the Company agreed with its own argument as a matter of principle, then it would have excluded the materials and supplies balance sheet items from working capital because it included the materials and supplies expense in CWC, but it did not do so. This fact alone clearly undermines Oncor’s argument and the recommendation in the PFD. This clear dichotomy in Company’s own application of its alleged principle applicable to the ADFIT and temporary difference balance sheet items on the one hand and other balance sheet items on the other hand

⁸ Initial Brief of the Steering Committee of Cities Served by Oncor at 12 (Oct. 14, 2022) (Cities’ Initial Brief).

⁹ PFD at 76.

¹⁰ Cities’ Reply Brief at 12-14.

demonstrates the fallacy of the Company's conclusory argument and alleged principle. If the PFD's recommendation on this issue is adopted, then the principle should be applied consistently, meaning that if an operating expense item is included in the CWC calculation, the similarly named balance sheet items should be excluded from rate base. Similarly, if the PFD is correct that all temporary differences and ADFIT are adequately addressed in CWC, then *none* of the temporary differences and ADFIT balance sheet items should be included in rate base. Either all ADFIT and the related temporary differences should be included in rate base or none of them should be.¹¹

Cities urges the Commission to closely examine the parties' positions on this issue. Oncor's mismatch of the ADFIT and temporary differences as well as its improper conflation of the balance sheet items included in working capital with the operating expenses included in CWC results in an excessive revenue requirement that should be corrected and reduced.¹² As demonstrated above and throughout the record, the balance sheet items included in working capital and the operating expenses included in CWC are two separate metrics that measure two separate investments in rate base. To ensure just and reasonable rates are implemented as a result of this proceeding, these errors should be closely scrutinized and rectified through consistent matching of the key components of rate base.

2. Excess Deferred Federal Income Taxes

The PFD rejects Cities' recommendation to exclude all instances of excess asset ADFIT when the asset ADFIT and the temporary differences are excluded from rate base.¹³ The ALJs recommend approving Oncor's request to include \$108,278,694 of excess ADFIT assets in the Company's tax-related regulatory asset balance.¹⁴ Notably, the PFD does not articulate any clear basis for its recommendation to deny Cities' matching argument, but instead points to the same rationale Oncor provided when it referred to inclusion in CWC as sufficient.¹⁵ Cities urges the Commission to evaluate the record of the proceeding before relying on conclusory recommendations in the PFD.

¹¹ Cities' Initial Brief at 9-10.

¹² Cities' Reply Brief at 11.

¹³ PFD at 81.

¹⁴ *Id.*

¹⁵ *Id.*

Excess asset ADFIT is added to rate base and amortized and recovered in the revenue requirement.¹⁶ When the temporary difference and its related asset ADFIT are excluded from rate base, the excess asset ADFIT should also be excluded from rate base and the amortization of the excess asset ADFIT should be excluded from expense.¹⁷ Excess asset ADFIT is interrelated with the temporary difference and the asset ADFIT amounts and should be treated the same for rate base purposes.¹⁸

As explained above and throughout the record, the appropriate solution is for the Company to either include *all* of asset ADFIT, temporary difference, and the excess asset ADFIT for the items at issue, or to exclude all.¹⁹ The PFD's faulty reliance on Oncor's conclusory argument fails to acknowledge the importance of matching these key accounting components. As such, the Commission should reject the PFD's reasoning and adopt Cities' recommendation.

a. Oncor NTU Excess ADFIT for Net Operating Loss

The PFD finds that Oncor's request to include the excess ADFIT for Net Operating Loss (NOL) in rate base and amortize it to federal tax expenses should be approved.²⁰ In making this recommendation, the ALJs emphasize that the Commission ordered that none of the excess ADFIT recorded for Oncor NTU be amortized.²¹ Otherwise, the ALJs simply state that Oncor has met its prima facie case on the issue, and do not provide additional explanation as to why Cities' recommended adjustments should be denied, including assessing Oncor's claim that amortization of the excess ADFIT for NOL would have resulted in a normalization violation.²²

Cities has repeatedly shown that the excess NOL ADFIT Oncor acquired in the Sharyland transaction should have been fully amortized prior to Oncor's acquisition of Sharyland.²³ The PFD fails to mention that Sharyland had fully utilized its NOL carryforward and reversed the

¹⁶ Rebuttal Testimony of Bonnie L. Clutter, Oncor Ex. 49 at 13.

¹⁷ Cities Ex. 1 at Bates 42.

¹⁸ Cities Ex. 1 at Bates 43.

¹⁹ Cities' Reply Brief at 17.

²⁰ PFD at 84.

²¹ *Id.*

²² PFD at 85.

²³ Cities' Initial Brief at 14.

related asset NOL ADFIT prior to the acquisition.²⁴ The Company provided no evidence to demonstrate that the NOL was generated exclusively from accelerated tax depreciation, a key legal finding in support of any conclusion that there has been or will be a normalization violation.²⁵ Therefore, the Commission should reject the PFD's findings related to including the excess ADFIT for NOL and adopt Cities' recommendation.

4. Sources of Cost-Free Capital

b. Customer Advances for Construction

The PFD summarily adopts Oncor's proposal to remove \$42.9 million in refundable customer advances from working capital without providing any reasoning for its support.²⁶ The PFD states that Oncor provided persuasive evidence showing that its customer advances for construction activities serve as collateral security the Company is obligated to return to customers with interest once the contractual obligations of the construction agreement have been met or terminated.²⁷ The PFD findings were conclusory and failed to acknowledge the fact that Oncor is voluntarily holding these funds in a restricted account.

Cities re-iterates its arguments that (1) Oncor's proposal for removing these funds from working capital is not a reasonable, middle-ground position; (2) placing customer advances in a restricted account is not a proper solution to a problem that is self-imposed by Oncor; (3) the customer advances are cost free capital if the amounts are used to displace other financing instead of leaving the funds in a restricted account; and (4) construction collateral amounts are recurring, and the process is constant.

First, the ALJs erred in finding that Oncor's proposal is a reasonable, middle ground position. A \$3.552 million voluntary increase in transmission revenue requirement with no corresponding rate reduction is not a reasonable middle-ground—it is the Company's position.²⁸ As stated in Cities' initial brief, Oncor can use these customer advances to displace equity and debt financing, but instead Oncor made a discretionary decision to instead deposit the funds in a restricted account, include this discretionary "investment" in rate base, and charge customers a

²⁴ Cities' Initial Brief at 15.

²⁵ Cities' Reply Brief at 18.

²⁶ PFD at 92.

²⁷ *Id.*

grossed-up weighted cost of capital for the return on this investment. This discretionary decision unnecessarily and improperly increases the transmission revenue requirement and reduces the proposed transmission rate reduction.²⁹ Leaving such funds available for general corporate purposes would allow the Company to avoid other equity and long-term debt financing.³⁰ The Company's discretionary decision results in an unnecessary and improper increase in rate base and revenue requirement, and is therefore not a "reasonable, middle-ground position."

Additionally, as admitted by Mr. Ledbetter, there are no regulatory requirements that require customer advances to be held in restricted accounts.³¹ Although Oncor admits that there is no requirement to hold customer advances in a restricted account, the Company argues this practice complies with the Securities and Exchange Commission (SEC) financing reporting "disclosure requirements" regarding restricted accounts.³² The section Oncor refers to—17 Code of Federal Regulations (CFR) § 210.5-.02—is not a requirement to establish a restricted account, it only addresses the reporting disclosure requirements as to amounts that are restricted to withdrawal or usage, nor does it address the appropriate ratemaking procedures for customer advances.³³ Further, the most recent update to 17 CFR § 210 was in 2018 and Oncor did not establish a restricted account until the end of 2021.³⁴ The creation of the account three years after the claimed requirement was updated indicates the SEC financial disclosure requirements in 17 CFR § 210 do not require the use of a restricted cash account as Oncor contends.³⁵

Second, Cities strongly disagrees with Oncor's characterization of the construction advances, as a fixed, long-term reduction to transmission rate base. As a factual matter, the customer advances are received and paid back on a recurring basis in the same pattern as the Company now deposits the customer advances into the restricted account and then refunds the deposits from the restricted account.³⁶ Cities opposes the pro forma adjustment which results in

²⁹ Cities' Initial Brief at 19.

³⁰ Cities Ex. 1 at Bates 11.

³¹ PFD at 87.

³² Cities' Reply Brief at 21.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Petition and Statement of Intent of Oncor Electric Delivery Company LLC for Authority to Change Rates (includes errata)* at Bates 2783, Schedule II-B-11 (May 13, 2022) (Oncor Ex. 2).

an unnecessary increase to rate base. The end of test year balance is very close to the thirteen-month average (\$42.877 million compared to \$36.660 million) and is a reasonable measure for the customer advances in the test year.³⁷ If the Commission agrees with Cities, but wants to use a more precise measure of the customer advances to expressly capture the variability of the amount over the test year, then it should subtract the thirteen month average instead of the end of test year balance.

Further, the PFD does not address Cities' argument that this solution does not resolve the Company's self-imposed problem. As stated in Cities reply brief, Oncor's solution requires the Commission to order Oncor to continue to hold customers' construction cash collateral funds in escrow until it refunds the funds with interest back to the customer or draws upon the funds under the terms of the operative customer agreement.³⁸ The far better and simpler solution would be to reject the Company's proposed treatment of the customer advances.³⁹ If the Company chooses to deposit the customer advances into a restricted account when it is not required, then the Company should be responsible for the financing costs of its decision to do so.

Third, Oncor's customer advances *are not* customer deposits, and therefore still qualify as cost-free capital. Oncor claims the Commission-established interest rates that are attached to the customer reimbursement exceed the actual interest rates earned on such funds which make them collateral and not cost-free capital.⁴⁰ This is an erroneous statement of law because the Commission does not set the interest rate for customer advances, instead the Commission only sets the interest rate for customer deposits.⁴¹ Although Oncor differentiates customer advances from customer deposits in its accounting records and Schedule workpapers,⁴² the Company incorrectly uses Tex. Util. Code Ch. 183 in justifying why customer advances are collateral and no longer cost-free capital.⁴³ Specifically, Oncor claims that the Commissions' established interest rates

³⁷ Errata to the Direct Testimony of Lane Kollen, Cities Ex. 2 at Workpaper LK-1 (Cities Ex. 2).

³⁸ Cities' Reply Brief at 23.

³⁹ *Id.*

⁴⁰ Reply Brief of Oncor Electric Delivery Company LLC at 31 (Oct. 28, 2022) (Oncor's Reply Brief).

⁴¹ Cities' Reply Brief at 22, citing Cities Ex. 1 at Bates 13.

⁴² PFD at 91.

⁴³ Oncor's Reply Brief at 30-31.

exceed actual interest rates causing the customer advances to be collateral and instead of cost-free capital.⁴⁴

Oncor argues that the Commission-mandated interest rates that attach to customer reimbursement exceed the actual interest rates earned on these funds, even when placed into an interest-bearing restricted escrow account, thereby removing any doubt they could be cost free capital.⁴⁵ However, the Commission establishes interest rates for customer deposits and *not customer advances*.⁴⁶ As Mr. Kollen previously stated, the Federal Energy Regulatory Commission's (FERC) Uniform System of Accounts (USOA) separates customer advances for construction ("this account shall include advances by customers for construction which are to be refunded either wholly or in part") from customer deposits ("this account shall include all amounts deposited with the utility by customers as security for payment of bills").⁴⁷ In following FERC's separation between customer advances for construction and customer deposits, a deposit is different from an advance. In applying this line of reasoning, Oncor is incorrect in arguing the Commission-established interest rates exceed actual interest rates causing the customer advances to be collateral and no longer cost-free capital. While Oncor argues that customer advances for construction are customer deposits, it has conceded that they are not the same as a practical matter under Tex. Util. Code §§ 183.002-.005 or under the FERC USOA. In fact, Oncor has acknowledged that they are different.⁴⁸

Fourth, Cities reiterates that these costs are recurring, and the process is constant.⁴⁹ As stated in Cities' reply brief, Mr. Kollen did not use a "point in time" snapshot, instead Mr. Kollen's workpapers show that since January of 2019, the Company has steadily increased the collection of customer advances and there is always a steadily increasing balance.⁵⁰ The terms "unpredictable" and "non-recurring" are incorrect characterizations of these customer advances. In addition, the receipt of customer advances and the subsequent repayment of those advances is an ongoing

⁴⁴ *Id.* at 31.

⁴⁵ PFD at 90-91.

⁴⁶ Oncor's Reply Brief at 30, citing Tex. Util. Code Ch. 183.

⁴⁷ Cities Ex. 1 at Bates 12-13.

⁴⁸ Cities Ex. 1 at Bates 112, Oncor Response to Cities RFI 7-8(b), Attachment LK-4.

⁴⁹ Cities' Reply Brief at 22.

⁵⁰ Cities' Reply Brief at 23.

cyclical process, similar to the purchase of materials and supplies inventories and the use of those inventories. There is no need for the Company to maintain the alleged and so-called “collateral.”

Cities urges the Commission to carefully weigh each argument in coming to a decision on whether Oncor’s proposed voluntary accounting change to the customer advances is appropriate. Cities recommends the Commission reject such proposed adjustment and instead that customer advances should be used to reduce the Company’s financing requirements.⁵¹ This would result in a reduction of \$3.552 million in the transmission revenue requirement.⁵²

IV. OPERATING EXPENSES

B. Depreciation [PO Issues 28, 64, 65, 66, 67]

1. Cities’ Challenge Regarding Working Reserves and Spare Capital Substations

The PFD recommends the Commission deny Cities’ recommendations to disallow depreciation expense for the working reserves in Accounts 368 and 370 and the capital spare substations in Accounts 353 and 362.⁵³ Instead, the ALJs found, as Oncor maintains, that the contested assets are properly accounted for as “plant in service” consistent with the FERC USOA. The basis for the ALJ’s finding is that contested assets are considered “owned and useful by the utility in its electric utility operations.”⁵⁴ The ALJs provide no explanation as to how or why they came to these recommendations.

Cities excepts to the PFD’s proposal to allow Oncor to include depreciation expenses of working reserves and spare capital substations, which are not physically in use, in its rate base. It should be noted that the disallowance of depreciation is a delay in depreciation rather than a total ban on depreciation. Cities asserts that the depreciation expenses begin when the asset is physically in service. However, Cities does not dispute Oncor’s inclusion of these assets in rate base.⁵⁵

⁵¹ Cities’ Initial Brief at 20.

⁵² *Id.*

⁵³ PFD at 216.

⁵⁴ PFD at 216.

⁵⁵ Cities’ Initial Brief at 28.

Oncor claims that once an asset is included in plant in service, regardless of whether it is physically in service or not, depreciation of that asset begins.⁵⁶ Oncor's witness Alan Ledbetter claims it is "clear" that the Company's working reserves assets are subject to wear and tear and other similar criteria under the USOA.⁵⁷ Still, Mr. Ledbetter fails to provide any support for this alleged claim, only stating the law and not applying it.⁵⁸

Accordingly, Cities re-urges the argument made by Mr. Kollen that the depreciation expense for Oncor's proposed working reserve assets included in Accounts 368 and 370 should be considered more akin to "inventory" or "plant held for future use," rather than "plant in service."⁵⁹ This would ensure no depreciation expense for such assets would be included in rates until the asset is physically in service.⁶⁰ The record shows no evidence indicating that Oncor's working reserves are actually providing service, and therefore, the assets should not be reflected in the Company's calculations as actively incurring depreciation expense.⁶¹

If the Commission finds that depreciation expenses for working reserve assets and capital spare substations should be included in the rate base, even though they are not physically in service, the Commission must determine what factors are considered in the calculation of the depreciation rate and, if any, depreciation expenses. The Commission has the authority to make this determination under the USOA definition of depreciation.⁶² In the definition, the USOA recognizes that depreciation is an issue that is subject to "requirements of public authorities." In this case, "requirements of public authorities" would refer to the Commission's determination of whether the plant is depreciable, if so, what factors are considered in the calculation of depreciation rate and depreciation expense.⁶³ The Commission thus should, if already having found the plant to be depreciable, determine what factors should be considered in the calculation of depreciation expenses.

⁵⁶ Rebuttal Testimony of W. Alan Ledbetter, Oncor Ex. 45 at 27-28 (Oncor Ex. 45).

⁵⁷ Cities' Initial Brief at 29.

⁵⁸ Oncor Ex. 45 at 27-28.

⁵⁹ Cities' Reply Brief at 34.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² Cities Ex. 1 at Bates 50.

⁶³ *Id.*

However, Cities re-urges its recommendation that the Commission disallows depreciation expenses for Oncor's working reserves recorded in plant accounts 368 and 370, and accounts 353 and 362 until the assets are actually in service.⁶⁴ This will result in a \$1.908 million reduction in depreciation expense related to plant account 368, a \$1.246 million reduction in depreciation expense related to plant account 370, and a \$1.45 million reduction in depreciation expense associated with accounts 353 and 362.⁶⁵

VI. BILLING DETERMINANTS [PO ISSUES 4, 5, 6, 48]

A. Customer Growth Adjustments

1. Oncor's test year revenues are understated and should be corrected to correct residential test year revenues.

The PFD recommends approval of Oncor's proposed customer growth adjustment to its billing determinants, which will lower the Company's test-year residential rate class customer growth by nearly 2,000 customers per month.⁶⁶ Therefore, the PFD will ultimately lower the Company's test year revenue and, as a result, increase its revenue deficiency.⁶⁷

Cities excepts to the PFD's proposal to adjust Oncor's residential rate class customer growth without correcting for the temporary change in customer growth over the last six months of the test year. As discussed in Cities' briefs, Oncor based its test year revenues on a temporary decline in customer growth and, therefore, arbitrarily inflated its revenue deficiency.⁶⁸ Accordingly, its customer growth adjustment will result in an over-recovery of revenues and burden consumers with excessive rates until Oncor's next comprehensive rate case.

Oncor asserts that Winter Storm Uri related disconnections provide an "understandable justification" for the temporary decline in its customer growth during the test year.⁶⁹ The Company reasons that, after the Commission lifted its moratorium on disconnections in June of the test year, the Company removed active customers with unpaid electricity bills from billing, which led to the

⁶⁴ Cities Initial Brief at 29.

⁶⁵ *Id.*

⁶⁶ PFD at 254; *See* the Direct Testimony of Karl J. Nalepa, Cities Ex. 3 at Bates 8, Figure 2 (Cities Ex. 3). This figure represents the average monthly difference between the "Unadjusted Residential Customer Count" and "Corrected Residential Customer Counts" from July 2021 to December 2021.

⁶⁷ PFD at 252.

⁶⁸ Cities' Reply Brief at 35.

⁶⁹ Oncor's Reply Brief at 93.

decline in customer growth.⁷⁰ And because disconnections are “normal business operations” that will inevitably “continue for the foreseeable future,” Oncor’s customer growth correction reflects the normal state of the Company’s customer growth.⁷¹ The ALJs accepted Oncor’s justification and, without questioning whether Winter Storm Uri induced disconnections represent “normal business operations,” found that the Company’s customer growth adjustment was appropriate.⁷²

The number of customer disconnections in 2021 do not represent normal business operations and, importantly, will not continue for the foreseeable future. Winter Storm Uri was an unprecedented weather event that resulted in extremely high energy prices throughout Oncor’s service area. The elevated energy prices inevitably led to larger amounts of unpaid electric bills, which resulted in abnormal levels of disconnections. Thus, Oncor’s statement that the number of disconnections reflect “normal business operations” is inherently false: the high level of disconnections resulted from an unprecedented grid failure that, due to increased grid reliability, will likely never occur again. As such, this “dampened” customer growth rate is temporary and Oncor has provided nothing to suggest otherwise. Rather, the Company reports the opposite. It touts a “2 percent premise growth [that] is roughly twice the national average” and a service area that is “among the fastest in the country, if not the fastest.”⁷³ Such robust growth directly conflicts with a customer growth adjustment that, based on a temporary spike in disconnections, lowered the test-year residential rate class customer growth by nearly 2,000 customers per month.⁷⁴

Cities urges the Commission to consider Oncor’s Winter Storm Uri-related disconnections as a temporary, rather than a permanent, component of the Company’s residential customer growth rate. Cities’ witness Mr. Nalepa calculated Oncor’s customer count with a method that reflects Oncor’s long-term growth rate and excludes the temporary spike in disconnections.⁷⁵ This ensures that Oncor recovers a revenue deficiency based on stable trends of customer growth reported from

⁷⁰ *Id.*

⁷¹ Initial Brief of Oncor Electric Delivery Company LLC at 115 (Oct. 14, 2022) (Oncor’s Initial Brief).

⁷² PFD at 254.

⁷³ Oncor’s Initial Brief at 7.

⁷⁴ See Cities Ex. 3 at Bates 8, Figure 2. This figure represents the average monthly difference between the “Unadjusted Residential Customer Count” and “Corrected Residential Customer Counts” from July 2021 to December 2021.

⁷⁵ Cities’ Initial Brief at 30-31.

November 2017 to June 2021, rather than a temporary growth rate reduction resulting from an unprecedented weather event.⁷⁶ Under Cities’ recommended adjustment, Oncor’s test year residential revenue increases by \$4,153,878.⁷⁷

VII. COST ALLOCATION

[PO ISSUES 4, 5, 46, 47, 49, 50, 51, 52]

A. Cost Allocation of Transmission Costs and Distribution Costs [PO Issues 47, 49, 52]

1. Transmission Costs and Distribution Costs.

a. Transmission Costs

i. Demand-Related Distribution Costs

The PFD’s proposal to shift costs for Account 368 capacitors away from transmission customers breaks long-standing Commission precedent and should be summarily rejected. According to the PFD’s evaluation of cost-causation principles, only customers taking distribution-line service should bear the cost of Account 368 capacitors.⁷⁸ The ALJs recommend that the costs of Account 368 capacitors be allocated on the basis of NCP demand to the retail delivery classes, excluding the Transmission and Primary Substation customer classes.⁷⁹ This recommendation is contrary to Oncor’s proposal and historic practice of allocating Account 368 capacitors to all retail delivery classes based on NCP demand.⁸⁰

As acknowledged in the PFD, the Commission has found that “[w]hile the Account 368c facilities may not be necessary to provide delivery service to transmission-level customers, these facilities do support the entire transmission and distribution system.”⁸¹ As Cities’ witness Mr. Nalepa explained in cross rebuttal testimony, capacitors offer economical and operational benefits such as increased system load capacity, loss reduction, and power factor improvement.⁸²

⁷⁶ *Id.* at 30.

⁷⁷ *Id.* at 31.

⁷⁸ PFD at 288.

⁷⁹ *Id.*

⁸⁰ PFD at 283.

⁸¹ *Id.*

⁸² Cross Rebuttal Testimony of Karl J. Nalepa, Cities Ex. 5 at Bates 4 (Cities Ex. 5).

Oncor also explained these system-wide benefits in discovery.⁸³ In rendering their recommendation, the ALJs discuss the twenty-one-year old decision where this allocation was adopted, but the PFD fails to give weight to the adoption of Oncor’s proposed allocation in its last fully litigated base-rate case, Docket No. 35717.⁸⁴

One of the most important ramifications of the capacitor issue is that adoption of the PFD’s recommendation would shift approximately \$17.2 million of distribution capacitor costs from primary substation and transmission classes to all other classes.⁸⁵ The parties arguing for cost shift are those who benefit from capacitors but do not want to pay for those benefits. The United States Department of Defense and all other Federal Executive Agencies (DoD/FEA) and Texas Industrial Energy Consumers (TIEC) offered no change in circumstances since Oncor’s last contested base rate case that would cause the Commission to modify its long-standing precedent regarding allocation of Account 368. Thus, the PFD’s recommendation would result in an unjustified favoring of the Transmission and Primary Substation classes, violates cost-causation principles, and should be rejected.

VIII. REVENUE DISTRIBUTION AND RATE DESIGN [PO ISSUES 4, 5, 46, 53, 54, 55, 56, 75, 76]

C. Rate Design and Tariff Changes [PO Issues 47, 55, 56]

8. Proration

The PFD recommends adopting Oncor’s proposed language related to proration in Section 6.2.3.4 Additional Delivery Service Information of the Tariff for Retail Delivery Service.⁸⁶ Oncor proposes to codify its existing business practice and use a 30-day billing cycle for purposes of proration.⁸⁷ Therefore, regardless of the number of days in the affected bill cycle, Oncor would prorate invoices “by dividing the charge amount by 30 and multiplying the number of days of service in the prorated billing period.”⁸⁸

⁸³ *Id.*

⁸⁴ PFD at 287; Cities Ex. 5 at Bates 6.

⁸⁵ Cities Ex. 5 at Bates 8.

⁸⁶ PFD at 417-418.

⁸⁷ *Id.* at 418.

⁸⁸ *Id.* at 417.

Cities excepts to the PFD's proposal to adopt Oncor's proposed language related to proration. As discussed in Cities' reply brief, billing periods are often shorter or longer than 30 days and, therefore, Oncor's amendment would regularly lead to inaccurate prorated rates.⁸⁹ Thus, Cities recommended that Oncor prorate invoices "by dividing the charge amount by the number of days in the billing cycle and multiplying the number of days of service in the prorated billing period."⁹⁰ This is a pragmatic approach that would accurately prorate bills.

The ALJs rejected Cities' proposal because it "would impose an administrative burden and cost increase for what appears to be minimal benefit to ratepayers."⁹¹ But the requisite technology to implement Cities language is neither expensive nor complicated. Oncor already bills its customers based on varying billing cycles that include more or less than 30 days; therefore, it should have little difficulty applying the same process to prorations. Oncor states that this practice would require "significant ongoing programming work" and result in an "administrative burden," but it failed to quantify any specific costs associated with an accurate proration process.⁹² If Cities' recommendation would provide ratepayers benefit as the ALJs concede, Oncor must support its position with something more compelling than a general avoidance of administrative burden. As such, the Commission should reject the ALJs' recommendation to adopt Oncor's proposed language related to proration in Section 6.2.3.4 Additional Delivery Service Information of the Tariff for Retail Delivery Service and adopt Cities' proposed language instead.

9. Credit Card Payments

Cities recommends that the Commission reject the PFD's recommendation for Oncor's proposed amendment to the credit card payment language in the Additional Discretionary Service Information of its tariff. The ALJs recommend that the section not include standards for when Oncor will, and will not, except credit card as a form of payment.⁹³ Moreover, the ALJs recommend that Oncor not include a stable average of Oncor's credit card processing fees to inform ratepayers of additional fees related to credit card payments.⁹⁴ Through its witness Karl

⁸⁹ Cities' Reply Brief at 47.

⁹⁰ *Id.* at 47-48.

⁹¹ PFD at 418.

⁹² Oncor's Reply Brief at 121.

⁹³ PFD at 419.

⁹⁴ *Id.*

Nalepa, Cities recommended that the tariff section include parameters for when the Company will accept credit card payment.⁹⁵ Further, it recommended that Oncor include the average processing fee for increased customer transparency.⁹⁶

Oncor dismisses Cities' concern that without generally applicable credit card standards, the Company could apply its tariff in a discriminatory manner.⁹⁷ It also contends that the credit card payment option is new, and therefore the Company needs flexibility to adjust credit card fees as it develops the program.⁹⁸ Oncor is effectively asserting that, to properly develop its credit card payment program, ratepayers need to temporarily act as test subjects. And unless ratepayers serve this purpose, the Company will not have requisite data to properly establish credit card payment standards. Ratepayers should not serve as test subjects; rather, the Company is sufficiently sophisticated to determine credit card payment standards and average fees without a trial period that may subject ratepayers to discriminatory practices. If anything, clear Company standards would shield Oncor from allegations of intentionally targeting customers it may find unfavorable. Finally, Cities' recommendation provides Oncor the flexibility to adjust its standards and average fees over time.

Energy security is a critical issue, especially as energy prices continue to increase. It is imperative that customers, now and in the future, are capable of securing energy on credit without a fear of ad hoc rejections and with complete transparency. Cities' recommended tariff alleviates these concerns by including Mr. Nalepa's recommended language.⁹⁹ Accordingly, the Commission should reject the ALJs' recommendation that Oncor is not required to establish standards regarding credit card payments or provide an average processing fee and adopt Cities' proposed language instead.

⁹⁵ Cities' Initial Brief at 39.

⁹⁶ *Id.*

⁹⁷ Oncor's Reply Brief at 122.

⁹⁸ *Id.* at 121.

⁹⁹ Cities' Initial Brief at 39.

XVI. CONCLUSION

Cities respectfully requests that the Commission adopt the PFD, consistent with these Exceptions, and reject the PFD's recommendations as indicated above. Cities also requests any such other relief to which it has shown itself entitled.

Respectfully submitted,

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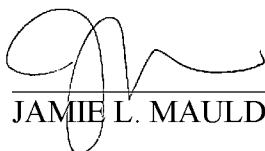
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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on January 24, 2023, in accordance with the Order Suspending Rules, issued in Project No. 50664.



JAMIE L. MAULDIN