To the Mayor and Members of the City Council

SUBJECT: PROPOSED SHOW CAUSE PROCEEDING ON RATES OF ONCOR ELECTRIC DELIVERY COMPANY

On April 19, the City Council will be asked to consider instituting a show cause process regarding the rates charged by Oncor Electric Delivery Company, LLC (Oncor) in the City of Fort Worth.

Background

In April 2014, Energy Future Holdings Corp. (EFH) and 70 of its affiliated companies filed for bankruptcy. Oncor is a major asset of EFH, and its ownership going forward has been a central issue in the bankruptcy proceeding.

Oncor is a regulated transmission and distribution utility that owns, operates, and maintains the wires and related infrastructure that transport electricity from generators to end-use customers. As regulated utility, the company's rates within city limits are subject to the review and approval of the Fort Worth City Council, which has original jurisdiction under the Texas Utilities Code.

Currently Oncor's rates pass the company's federal income tax liabilities through to consumers.

Corporate Restructuring and Impact on Rates

Late last year the bankruptcy court approved a deal to transfer ownership of Oncor to an investor group that plans to restructure it. The existing limited liability company would be replaced with a two-part structure consisting of an operating company and a separate real estate investment trust (REIT). The REIT would own all physical assets and lease them to the operating company. Under this structure, the companies can operate without incurring federal income tax liabilities. Although the company's current tax liabilities of approximately $250 million per year would cease to accrue following restructuring, that amount will continue to be collected as part of the rates that Oncor charges its customers unless and until a ratemaking process changes the rates.

As a regulated utility, Oncor's change in ownership was subject to review by the Public Utility Commission of Texas (PUC). Although the deal was ultimately approved by the PUC, two of the three Commissioners questioned the company's rates – in particular how savings associated with elimination of the income tax liability should be apportioned between Oncor and its customers. However, because the PUC proceeding was not a rate case, no change was made.

The investor group has indicated it intends to bring a rate case in the middle of 2017, which means any rate change would not become effective until the beginning of 2018. Rather than requiring ratepayers to continue to bear the burden of a quarter-billion dollars in non-existent tax liabilities, staff recommends that the City Council initiate a show cause proceeding, which would require Oncor to file documentation justifying its current rates or make adjustments.

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Legal and technical support for the show cause process would be provided via the Oncor Cities Steering Committee, which Fort Worth is a member of. Associated costs would initially be covered by the Committee and ultimately reimbursable by the company as rate case expenses.

If you have questions, please contact Denis McElroy, Assistant City Attorney, at (817) 392-2758.

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