



City of Dallas

Oncor Electric Delivery Company LLC Franchise Agreement

**Dallas City Council
February 7, 2024**

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Budget and Management Services**

Overview



- Brief the Council on the Oncor Electric Delivery Company, LLC (Oncor) franchise extension
 - Explanation of utility franchising
 - Other utilities franchised by the City
 - Electric issues not related to franchising
 - Key terms of proposed franchise extension
 - Recommendation and Next Steps



Utility Franchising



- Franchise grants non-exclusive authority to use public property in exchange for monetary and other considerations
 - Utilities require use of Public Rights-of-Ways (ROW) paid for by the taxpayers to install poles and wires necessary to provide service
 - ROW includes streets, alleys, highways, public utility easements and other public ways
 - Without use of Public ROW utilities would have to purchase easements to serve customers



Utility Franchising



- Historically City franchised all utilities and cable TV providers
 - Telephone
 - Cable TV
 - Gas
 - Electric



Utility Franchising



- Under State Constitution, City must receive fair compensation for allowing use of public property
 - ROW is a unique property and fair value is hard to determine
 - Historically a percentage of gross receipts was considered fair and reasonable compensation for use of ROW
- Use of public ROW is also basis for City regulation of utility service
 - The City has original jurisdiction over the rates and services of Oncor
 - Public Utility Commission (PUC) has appellant jurisdiction
 - City's role as a landlord and as a regulator are related but must be kept separate



Utility Franchising



- Franchise is both a contract and regulatory document
 - In part, a franchise is a contract for the lease of public property
 - Franchise also spells out certain regulatory responsibilities of the City
 - Franchise prescribes regulatory obligations of the utility
- Franchise Ordinance adopted by City Council and requires acceptance by the utility



Utility Franchising



- City Charter Provisions (Chapter XIV)
 - City may confer upon any person, firm or corporation the franchise or right to use the public property of the city for the purposes of furnishing to the public any general public service or benefit
 - No exclusive franchise shall ever be granted
 - No term longer than 40 years
 - Minimum franchise fee of 4% of gross receipts



Utility Franchising, Telephone



- House Bill 1777 adopted in 1999 by State legislature
 - Eliminated municipal franchise of “Certificated Telecommunications Providers” (CTPs)
 - CTPs were allowed to terminate existing franchises
 - Provided for compensation to cities on a per access line basis
 - Initial access line fees based on historic franchise fee payments
 - Adjusted annually by 50% of Consumer Price Index (inflation)



Utility Franchising, Cable TV



- Senate Bill 5 adopted in 2005 by State legislature
 - State of Texas became franchising authority for Cable TV and Video Service providers
 - Existing franchises were grandfathered until their normal expiration date
 - Companies operating under a state issued franchise pay a 5% franchise fee to the local municipality
 - Companies operating under a state issued franchise pay a 1% PEG fee to support Public Educational and Government use of the cable system
 - All cable TV providers in Dallas operate under a state issued franchise



Utility Franchising, Gas



- Atmos Energy Corp
 - Provides natural gas service pursuant to City franchise
 - Ordinance No. 27793 granted January 13, 2010
 - Expires December 31, 2025
 - Will automatically be renewed for one additional 15-year term unless written notice is given 120 days prior to expiration
 - Requires franchise fee of 5% of gross receipts



Utility Franchising, Electric



- Oncor Electric Delivery Company LLC
 - Holds a Certificate of Convenience and Necessity (CCN) to provide electric delivery service within the City
 - CCN issued by the Public Utility Commission of Texas
 - CCN grants exclusive right to serve within its service area
 - Municipal franchise still required to use public ROW
 - Current franchise ordinance no. 27485
 - Granted February 11, 2009
 - Expires March 31, 2024
 - Automatically renews for a term of 1 year if not renewed or extended by the City
 - Compensation is \$0.002753 per kWh of electricity delivered within the City
 - FY 2023-2024 revenue budget is \$50.76 million



Electric Issues not related to Franchise



- Rates and Services
 - Rates are not covered by the franchise
 - Rates charged to customers are regulated by the City
 - There are currently no pending rate cases
- Tree Trimming
 - Tree trimming issues are not covered by the franchise
 - Tree trimming is not regulated by the City
 - State law authorizes utility to trim trees as necessary to provide reliable service
 - Trees are major causes of electrical outages
 - Oncor trims trees to help minimize outages
 - Oncor arborists will meet with residents to discuss tree trimming issues and concerns



Electric Issues not related to Franchise



- Street lighting
 - Street lighting not covered by Franchise
 - Street lighting is covered by the tariffs and are reviewed as part of the rate setting process
- Undergrounding
 - The City may require undergrounding of certain facilities
 - Provisions must be made for Oncor to recover the increased costs



Proposed Extension of Oncor Franchise



- Oncor desires to extend the term of the current franchise
 - Staff has met with Oncor and negotiated the terms of a franchise extension
 - Franchise will be extended for 15 years
 - New expiration date March 31, 2039
 - Section 3, Regulation by City and Placement of Facilities
 - Amended to clarify that Oncor will comply with the Americans with Disabilities Act
 - Section 4, Construction and Maintenance
 - Amended to clarify that Oncor will comply with the City's standard construction details and pavement cut and repair manual
 - Section 5, Joint use of poles trenches and conduits
 - Amended to ensure that wires attached to Oncor poles by others will not block signals at signalized intersections
 - Section 9, Compensation
 - Amended to remove unnecessary language



Recommendation and Next Steps



- City Manager recommendation to adopt the franchise extension as negotiated by staff
- February 28, 2024, agenda item to adopt the franchise extension





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