

# CITY OF WILLOW PARK

ORDINANCE NO. 493-02

**AN ORDINANCE AMENDING THE EXISTING ELECTRIC FRANCHISE BETWEEN THE CITY AND ONCOR ELECTRIC DELIVERY COMPANY, TO PROVIDE FOR A DIFFERENT CONSIDERATION; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR ACCEPTANCE BY ONCOR ELECTRIC DELIVERY COMPANY; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

WHEREAS, the City of Willow Park, is a municipal corporation duly and legally formed in the State of Texas; and

WHEREAS, the City is a general law municipality with specific powers delegated to it to protect the health, safety and general welfare of its citizens; and,

WHEREAS, Oncor Electric Delivery Company, successor in interest to TXU Electric Company (hereinafter called "Oncor") is engaged in the business of providing electric utility service within the City and is using the public streets, alleys, grounds and rights-of-ways within the City for that purpose under the terms of a franchise ordinance heretofore duly passed by the governing body of the City and duly accepted by Oncor; and

WHEREAS, the City and Oncor desire to amend said franchise ordinance to provide for a different consideration;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WILLOW PARK, TEXAS:**

## SECTION 1. AMENDMENT.

The existing electric franchise ordinance between the City and Oncor Electric Delivery Company is amended as follows:

- A. Effective January 1, 2002, the franchise fee due from Oncor shall be a sum comprised of the following:
- (1) a charge, as authorized by Section 33.008(b) of Public Utility Regulatory

Act (PURA), based on each kilowatt hour of electricity delivered by Oncor to each retail customer whose consuming facility's point of delivery is located within the City's municipal boundaries and as specified by Oncor to the City by letter dated January 21, 2002.

(a) The franchise fee due pursuant to Section 33.008(b) of PURA shall be payable in accordance with the existing electric franchise; and

(2) a sum equal to four percent (4%) of gross revenues received by Oncor from services identified in its Tariff for Retail Delivery Service", Section 6.1.2, "Discretionary Service Charges," items DD1 through DD24, that are for the account or benefit of an end-use retail electric consumer.

(a) The franchise fee amounts based on "Discretionary Service Charges"

shall be calculated on an annual calendar year basis, i.e., from January 1 through December 31 of each calendar year.

- (b) The franchise fee amounts that are due based on "Discretionary Service Charges" shall be paid at least once annually on or before April 30 each year based on the total "Discretionary Service Charges" received during the preceding calendar year.

B. Oncor Franchise Fee Recovery Tariff

- (1) Oncor may file a tariff amendment(s) to provide for the recovery of the franchise fee on Discretionary Service Charges.
- (2) City agrees (i) to the extent the City acts as regulatory authority, to adopt and approve that portion of any tariff which provides for recovery of the franchise fee on Discretionary Service Charges; (ii) in the event the City intervenes in any regulatory proceeding before a federal or state agency in which the recovery of the franchise fees on such Discretionary Service Charges is an issue, the City will support

the recovery of franchise fees on Discretionary Service Charges by Oncor and; (iii) in the event of an appeal of any such regulatory proceeding in which the City has intervened, the City will support the recovery of franchise fees on Discretionary Service Charges by Oncor.

- (3) City agrees that it will take no action to prohibit the recovery of such franchise fees by Oncor.

SECTION 2. EXISTING AGREEMENT.

In all respects, except as specifically and expressly amended by this ordinance, the existing effective franchise ordinance heretofore duly passed by the governing body of the City and duly accepted by Oncor shall remain in full force and effect according to its terms until said franchise ordinance terminates as provided therein.

SECTION 3. EFFECTIVE DATE.

This ordinance shall take effect upon its final passage and Oncor's acceptance. Oncor shall, within thirty (30) days from the passage of this ordinance, file its written acceptance of this ordinance with the Office of the City Secretary in substantially the following form:

To the Honorable Mayor and City Council:

Oncor Electric Delivery Company, acting by and through the undersigned authorized officer, hereby accepts in all respects, on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, Ordinance No. \_\_\_\_\_ amending the current electric franchise between the City and Oncor and the same shall constitute and be a binding contractual obligation of Oncor and the City.

Oncor Electric Delivery Company

By \_\_\_\_\_  
Vice President

SECTION 4. OPEN MEETING.

It is hereby officially found and determined that the meeting at which this Ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.

PASSED AND ADOPTED this 19<sup>th</sup> day of November, 2002.

*James H. Poythress*  
\_\_\_\_\_  
Mayor

ATTEST: *Candice A. Scott*  
\_\_\_\_\_  
City Secretary/Clerk

APPROVED AS TO FORM:

/s/ \_\_\_\_\_  
City Attorney

The Willow Park City Council in acting on Ordinance No. 493-02 did on the 19<sup>th</sup> day of November, 2002 vote as follows:

	<u>FOR</u>	<u>AGAINST</u>
James H. Poythress, Mayor	_____	_____
Scott Rule, Place 1	_____✓	_____
Terry Skaggs, Place 2	_____✓	_____
Brad Johnson, Place 3	_____✓	_____
Jason Ellerbusch, Place 4	_____✓	_____
Hale Alderman, Place 5	_____✓	_____