

ORDINANCE NO. 1603-11-2025

AN ORDINANCE OF THE CITY OF GAINESVILLE, TEXAS GRANTING TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC POWER FRANCHISE TO USE THE PRESENT AND FUTURE STREETS, ALLEYS, HIGHWAYS, PUBLIC UTILITY EASEMENTS, PUBLIC WAYS AND PUBLIC PROPERTY OF THE CITY OF GAINESVILLE, TEXAS, PROVIDING FOR COMPENSATION THEREFOR; PROVIDING FOR AN EFFECTIVE DATE AND A TERM OF SAID FRANCHISE; PROVIDING FOR WRITTEN ACCEPTANCE OF THIS FRANCHISE; PROVIDING FOR THE REPEAL OF ALL EXISTING FRANCHISE ORDINANCES TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS PREDECESSORS AND ASSIGNS; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council adopted a Franchise Ordinance granting to Oncor Electric Delivery Company LLC as defined in Section 2; and

WHEREAS, the Franchise granted to Company expires on December 31, 2025; and

WHEREAS, the parties hereto now wish to enter into a new Franchise agreement, pursuant to the terms and conditions provided below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GAINESVILLE, TEXAS:

SECTION 1. That any previous ordinances of the City of Gainesville granting a franchise to Oncor and its successors or assigns, are hereby repealed.

SECTION 2. GRANT OF AUTHORITY. That there is hereby granted to Oncor Electric Delivery Company LLC, its successors and assigns (herein called "Company"), the right, privilege and franchise to construct, extend, maintain and operate in, along, under and across the present and future streets, alleys, highways, easements held by the City to which the City holds the property rights in regard to use for utilities, public ways and other public property ("Public Rights-of-Way" or "Rights-of-Way") of the City of Gainesville, Texas (herein called "City") electric power lines, with all necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines, telephone and communication lines, and other structures for

Company's own use), (herein called "Facilities") for the purpose of delivering electricity to the City, the inhabitants thereof, and persons, firms and corporations beyond the corporate limits thereof, for the term set out in Section 11.

SECTION 3. Poles, towers and other structures shall be so erected as not to unreasonably interfere with traffic over streets, alleys and highways.

SECTION 4. The City reserves the right to lay, and permit to be laid, storm, sewer, gas, water, wastewater and other pipe lines, cables, and conduits, or other improvements and to do and permit to be done any underground or overhead work that may be necessary or proper in, across, along, over, or under Public Rights-of-Way occupied by Company. The City also reserves the right to change in any manner any curb, sidewalk, highway, alley, public way, street, utility lines (or in the case of utility line owned by Company, to require that change by Company), storm sewers, drainage basins, drainage ditches, and the like. City and Company agree that widening and straightening of a street includes the addition of any acceleration, deceleration, center or side turn lanes, and sidewalks (meaning sidewalks done in conjunction with widening or straightening of a street). City shall provide Company with at least thirty (30) days' notice when requesting Company to relocate facilities and shall specify a new location for such facilities along the Public Rights-of-Way. Company shall, except in cases of emergency conditions or work incidental in nature, obtain a permit, if required by City ordinance, prior to performing work in the Public Rights-of-Way, except in no instance shall Company be required to pay fees or bonds related to its use of the Public Rights-of-Way, despite the City's enactment of any ordinance providing the contrary. Company shall construct its facilities in conformance with the applicable provisions of the National Electrical Safety Code. City-requested relocations of Company facilities in the Public Rights-of-Way shall be at the Company's expense; provided however, if the City is the end use Retail Customer (customer who purchases electric power or energy and ultimately consumes it) requesting the removal or relocation of Company Facilities for its own benefit, or the project requiring the relocation is solely aesthetic/beautification in nature, it will be at the total expense of the City. Provided further, if the relocation request includes, or is for, the Company to relocate above-ground facilities to an underground location, City shall be fully responsible for the additional cost of placing the facilities underground.

If any other corporation or person (other than City) requests Company to relocate Company facilities located in City Rights-of-Ways, the Company shall not be bound to make such changes until such other corporation or person shall have undertaken, with good and sufficient bond, to reimburse the Company for any costs, loss, or expense which will be caused by, or arises out of such change, alteration, or relocation of Company's Facilities. City may not request the Company to pay for any relocation which has already been requested, and paid for, by any entity other than City.

If City abandons any Public Rights-of-Way in which Company has facilities, such abandonment shall be conditioned on Company's right to maintain its use of the former Public Rights-of-Way and on the obligation of the party to whom the Public Rights-of-Way is abandoned to reimburse Company for all removal or relocation expenses if Company agrees to the removal or relocation of its facilities following abandonment of the Public Rights-of-Way. If the party to whom the Public Rights-of-Way is abandoned requests the Company to remove or relocate its facilities and Company agrees to such removal or relocation, such removal or relocation shall be done within a reasonable time at the expense of the party requesting the removal or relocation. If relocation cannot practically be made to another Public Rights-of-Way, the expense of any right-of-way acquisition shall be considered a relocation expense to be reimbursed by the party requesting the relocation.

SECTION 5. INDEMNIFICATION

A. IN CONSIDERATION OF THE GRANTING OF THIS FRANCHISE, COMPANY SHALL, AT ITS SOLE COST AND EXPENSE, INDEMNIFY AND HOLD THE CITY, AND ITS PAST AND PRESENT OFFICERS, AGENTS AND EMPLOYEES HARMLESS AGAINST ANY AND ALL LIABILITY ARISING FROM SUITS, ACTIONS OR CLAIMS REGARDING INJURY OR DEATH TO ANY PERSON OR PERSONS, OR DAMAGES TO ANY PROPERTY ARISING OUT OF OR OCCASIONED BY THE INTENTIONAL AND/OR NEGLIGENT ACTS OR OMISSIONS OF COMPANY OR ANY OF ITS OFFICERS, AGENTS, OR EMPLOYEES IN CONNECTION WITH COMPANY'S CONSTRUCTION, MAINTENANCE AND OPERATION OF COMPANY'S FACILITIES IN THE CITY PUBLIC RIGHTS-OF-WAY, INCLUDING ANY ACTUAL COURT COSTS, REASONABLE EXPENSES AND REASONABLE DEFENSES THEREOF.

B. THIS INDEMNITY SHALL ONLY APPLY TO THE EXTENT THAT THE LOSS, DAMAGE, DEATH OR INJURY IS ATTRIBUTABLE TO THE NEGLIGENCE OR WRONGFUL ACT OR OMISSION OF THE COMPANY OR ITS OFFICERS, AGENTS OR EMPLOYEES, AND DOES NOT APPLY TO THE EXTENT SUCH LOSS, DAMAGE, DEATH OR INJURY IS ATTRIBUTABLE TO THE NEGLIGENCE OR WRONGFUL ACT OR OMISSION OF THE CITY OR THE CITY'S OFFICERS, AGENTS, OR EMPLOYEES OR ANY OTHER PERSON OR ENTITY. THIS PROVISION IS NOT INTENDED TO CREATE A CAUSE OF ACTION OR LIABILITY FOR THE BENEFIT OF THIRD PARTIES BUT IS SOLELY FOR THE BENEFIT OF COMPANY AND THE CITY.

C. IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OR FAULT OF BOTH COMPANY AND THE CITY, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY BETWEEN THE CITY AND

COMPANY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY OF THE DEFENSES OF THE PARTIES UNDER TEXAS LAW. FURTHER, IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OR FAULT OF BOTH COMPANY AND THE CITY, RESPONSIBILITY FOR ALL COSTS OF DEFENSE SHALL BE APPORTIONED BETWEEN THE CITY AND COMPANY BASED UPON THE COMPARATIVE FAULT OF EACH.

D. IN FULFILLING ITS OBLIGATION TO DEFEND AND INDEMNIFY CITY, COMPANY SHALL HAVE THE RIGHT TO SELECT DEFENSE COUNSEL, SUBJECT TO CITY'S APPROVAL, WHICH WILL NOT BE UNREASONABLY WITHHELD. COMPANY SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS FRANCHISE. IF COMPANY FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND COMPANY SHALL BE LIABLE FOR ALL REASONABLE DEFENSE COSTS INCURRED BY CITY, EXCEPT AS OTHERWISE PROVIDED IN SECTION 5.B. AND 5.C.

SECTION 6. This franchise is not exclusive, and nothing herein contained shall be construed so as to prevent the City from granting other like or similar rights, privileges and franchises to any other person, firm, or corporation. Any Franchise granted by the City to any other person, firm, or corporation shall not unreasonably interfere with this Franchise.

SECTION 7. In consideration of the grant of said right, privilege and franchise by the City and as full payment for the right, privilege and franchise of using and occupying the said Public Rights-of-Way, and in lieu of any and all occupation taxes, assessments, municipal charges, fees, easement taxes, franchise taxes, license, permit and inspection fees or charges, street taxes, bonds, street or alley rentals, and all other taxes, charges, levies, fees and rentals of whatsoever kind and character which the City may impose or hereafter be authorized or empowered to levy and collect, excepting only the usual general or special ad valorem taxes which the City is authorized to levy and impose upon real and personal property, sales and use taxes, and special assessments for public improvements, Company shall pay to the City the following:

A. A final quarterly payment was made on or before September 10, 2025 for the basis period of April 1, 2025 through June 30, 2025 and the privilege period of July 1, 2026 through September 30, 2026 in accordance with the provisions in the previous franchise.

B. As authorized by Section 33.008(b) of PURA, the original franchise fee factor

calculated for the City in 2002 was 0.002775 (the “Base Factor”), multiplied by each kilowatt hour of electricity delivered by Company to each retail customer whose consuming facility’s point of delivery is located within the City’s municipal boundaries for determining franchise payments going forward.

Due to a 2006 agreement between Company and City the franchise fee factor was increased to a franchise fee factor of 0.002914 (the “Current Factor”), multiplied by each kilowatt hour of electricity delivered by Company to each retail customer whose consuming facility’s point of delivery is located within the City’s municipal boundaries on a quarterly basis.

However, consistent with the 2006 agreement, should the Public Utility Commission of Texas at any time disallow Company’s recovery through rates of the higher franchise payments made under the Current Factor as compared to the Base Factor, then the franchise fee factor shall immediately revert to the Base Factor of 0.002775 and all future payments, irrespective of the time period that is covered by the payment, will be made using the Base Factor.

Company shall make quarterly payments as follows:

<u>Payment Due Date</u>	<u>Basis Period</u>	<u>Privilege Period (Following Pmt)</u>
December 10	Jul. 1 - Sept. 30	Oct. 1 - Dec. 31
March 10	Oct. 1 - Dec. 31	Jan. 1 - Mar. 31
June 10	Jan. 1 - Mar. 31	Apr. 1 – Jun. 30
September 10	Apr. 1 - Jun. 30	Jul. 1 - Sept. 30

1. The first payment hereunder shall be due and payable on or before December 10, 2025 and will cover the basis period of July 1, 2025 through September 30, 2025 and the privilege period of October 1, 2026 through December 31, 2026. If this franchise is not effective prior to the first quarterly payment date, Company will pay any payments due within 30 days of the effective date of this agreement. The final payment under this franchise is due on or before December 10, 2044 and covers the basis period of July 1, 2044 through September 30, 2044 and the privilege period of October 1, 2045 through December 31, 2045; and
2. After the final payment date of December 10, 2044, Company may continue to make additional quarterly payments in accordance with the above schedule. City acknowledges that such continued payments will correspond to privilege periods that extend beyond the term of this Franchise and that such continued payments will be recognized in any subsequent franchise as full payment for the relevant quarterly

periods.

C. A sum equal to four percent (4%) of gross revenues received by Company from services identified as DD1 through DD24 in Section 6.1.2 “Discretionary Service Charges,” in Oncor’s Tariff for Retail Delivery Service (Tariff), effective 1/1/2002, that are for the account and benefit of an end-use retail electric consumer. Company will, upon request by City, provide a cross reference to Discretionary Service Charge numbering changes that are contained in Company’s current approved Tariff.

1. 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.
2. 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”, as set out in Section 7.C., received during the preceding calendar year. The initial Discretionary Service Charge franchise fee amount will be paid on or before April 30, 2026 and will be based on the calendar year January 1 through December 31, 2025. The final Discretionary Service Charge franchise fee amount will be paid on or before April 30, 2046 and will be based on the calendar year of January 1, 2045 through December 31, 2045.
3. Company may file a tariff or tariff amendment(s) to provide for the recovery of the franchise fee on Discretionary Service Charges.
4. City agrees (i) to the extent the City acts as regulatory authority, to adopt and approve that portion of any tariff which provides for 100% 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 take an affirmative position supporting the 100% recovery of such franchise fees by Company and; (iii) in the event of an appeal of any such regulatory proceeding in which the City has intervened, the City will take an affirmative position in any such appeals in support of the 100% recovery of such franchise fees by Company.
5. City agrees that it will take no action, nor cause any other person or entity to take any action, to prohibit the recovery of such franchise fees by Company.
6. In the event of a regulatory disallowance of the recovery of the franchise fees on the Discretionary Service Charges, Company will not be required to continue payment of such franchise fees.
7. This Section applies only if, after the effective date of this Franchise Agreement, Company enters into a new municipal franchise agreement or renews an existing municipal franchise agreement with another municipality that provides for a different

method of calculation of franchise fees for use of the Public Rights-of-Way than the calculation under PURA, Section 33.008(b), which, if applied to City, would result in a greater amount of franchise fees owed City than under this Franchise Agreement. In the event of an occurrence as described in this Section, City shall have the option to:

a. Have Company select, within 30 days of City's request, any or all portions of the franchise agreement with the other municipality or comparable provisions that, at Company's sole discretion, must be considered in conjunction with the different method of the calculation of franchise fees included in that other franchise agreement; and

b. Modify this franchise agreement to include both the different method of calculation of franchise fee found in the franchise agreement with the other municipality and all of the other provisions identified by Company pursuant to this Section. In no event shall City be able to modify the franchise to include the different method of calculation of franchise fee found in the franchise agreement with the other municipality without this franchise also being modified to include all of the other provisions identified by Company pursuant to this Section.

c. City may not exercise the option provided in this Section if any of the provisions that would be included in this franchise are, in Company's sole opinion, inconsistent with or in any manner contrary to any then-current rule, regulation, ordinance, law, Code, or City Charter. In the event of a regulatory disallowance of the increase in franchise fees paid pursuant to City's exercise of its option pursuant to this Section, then at any time after the regulatory authority's entry of an order disallowing recovery of the additional franchise fee expense in rates, Company shall have the right to cancel the modification of the franchise made pursuant to this Section, and the terms of the Franchise shall immediately revert to those in place prior to City's exercise of its option under this Section.

d. Notwithstanding any other provision of this franchise, should City exercise the option provided in this Section, and then adopt any rule, regulation, ordinance, law, Code, or Charter that, in Company's sole opinion, is inconsistent with or in any manner contrary to the provision included in this franchise pursuant to this Section, then Company shall have the right to cancel all of the modifications to this franchise made pursuant to this Section and, effective as of the date of City's adoption of the inconsistent provision, the terms of the franchise shall revert to those in place prior to City's exercise of its option under this Section. The provisions of this Section apply only to the amount of the franchise fee to be paid and do not apply to other franchise fee payment provisions, such as the timing of such payments. The provisions of this Section do not apply to differences in the franchise fee factor that result from the application of the methodology set out in PURA Section 33.008(b) or any successor methodology.

SECTION 8. Any notices required or desired to be given from one party to the other party to this ordinance shall be in writing and shall be given and shall be deemed to have served and received if: (i) delivered in person to the address set forth below; (ii) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by certified mail, return receipt requested, and addressed to such party at the address hereinafter specified; or (iii) delivered to such party by courier receipted delivery. Either party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

CITY
City Manager
200 South Rusk
Gainesville, Texas 76240

COMPANY
Oncor Electric Delivery, LLC
Attn: Regulatory Affairs
1616 Woodall Rogers Fwy
Dallas, Texas 75202

SECTION 9. The rights granted by this Franchise Agreement inure to the benefit of the Company and any parent, subsidiary, affiliate or successor entity now or hereafter existing. The rights shall not be assignable without the express written consent, by Ordinance, of the City Council of the City, unless otherwise superseded by state laws, rules, or regulations, or Public Utility Commission of Texas action, and such consent by City shall not be unreasonably withheld or delayed, except the Company may assign its rights under this Franchise Agreement to a parent, subsidiary, affiliate or successor entity without consent, so long as such parent, subsidiary, affiliate or successor entity assumes all obligations of Company hereunder, and is bound to the same extent as Company hereunder. The Company shall give the City written notice within ninety (90) days of any such assignment to a parent, subsidiary, affiliate or successor entity.

SECTION 10. This Ordinance may be amended only by the mutual written agreement of the City and Company.

SECTION 11. This Ordinance shall become effective upon Company's written acceptance hereof, said written acceptance to be filed by Company with the City within sixty (60) days after final passage and approval hereof by City. The right, privilege and franchise granted hereby shall expire on December 31, 2045; provided that, unless written notice of cancelation is given by either party hereto to the other not less than sixty (60) days before the expiration of this franchise agreement, it shall be automatically renewed for an additional period of six (6) months from such expiration date and shall be automatically renewed thereafter for like periods until canceled by

written notice given not less than sixty (60) days before the expiration of any such renewal period.

SECTION 12. This Ordinance shall supersede any and all other franchises granted by the City to Company, its predecessors and assigns.

SECTION 13. The sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable. If any portion of this Ordinance is declared illegal or unconstitutional by the valid final non-appealable judgment or decree of any court of competent jurisdiction, such illegality or unconstitutionality shall not affect the legality and enforceability of any of the remaining portions of this Ordinance.

SECTION 14. In order to accept this franchise, Company must file with the City Secretary its written acceptance of this franchise ordinance within sixty (60) days after its final passage and approval by City.

SECTION 15. It is hereby officially found that the meeting at which this Ordinance is passed is open to the public and that due notice of this meeting was posted by City, all as required by law.

SECTION 16. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and City Charter in such cases provide, assuming Company accepts this Ordinance consistent with Section 11.

Remainder of Page Intentionally Left Blank

INTRODUCTION, FIRST READING, CHARTER SUSPENSION:

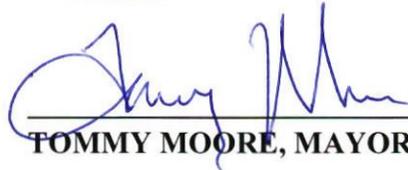
INTRODUCED AND READ FOR THE FIRST TIME BEFORE THE CITY COUNCIL OF THE CITY OF GAINESVILLE ON THE 4TH DAY OF NOVEMBER 2025, AT WHICH THE CHARTER PROVISION OF THE CITY OF GAINESVILLE REQUIRING THE READING OF THE ORDINANCE ON THREE SEPARATE OCCASIONS WAS SUSPENDED BY A VOTE OF:

7 AYES 0 NAYS 0 ABSENCES 0 ABSTENTIONS.

ADOPTION

READ FOR THE THIRD TIME AND ADOPTED BEFORE THE CITY COUNCIL OF THE CITY OF GAINESVILLE ON THE 4TH DAY OF NOVEMBER 2025.

7 AYES 0 NAYS 0 ABSENCES 0 ABSTENTIONS.



TOMMY MOORE, MAYOR

ATTEST:



DIANA LOCH, CITY SECRETARY

