

ORDINANCE NO. 2002-1203

AN ORDINANCE GRANTING TO ONCOR ELECTRIC DELIVERY COMPANY, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC POWER FRANCHISE TO USE THE PRESENT AND FUTURE STREETS, ALLEYS, HIGHWAYS AND PUBLIC GROUNDS AND RIGHTS-OF-WAY OF BELLS, GRAYSON COUNTY, 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, ITS PREDECESSORS AND ASSIGNS, AND FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC.

BE IT ORDAINED BY THE CITY COUNCIL OF BELLS, TEXAS:

SECTION 1. GRANT OF AUTHORITY: That there is hereby granted to Oncor Electric Delivery Company, its successors and assigns (herein called "Oncor" or "Company"), the right, privilege and franchise to construct, extend, maintain and operate in, along, under and across the present and future streets, alleys, highways, and other public grounds and rights-of-way of Bells, Texas (herein called "City") electric power lines, with all necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines and other structures, and telephone and communication lines for its own use), for the purpose of supplying electricity to the City, the inhabitants thereof, and persons, firms and corporations beyond the corporate limits thereof, for the term set out in Section 7.

SECTION 2. Poles, towers and other structures shall be so erected as not to unreasonably interfere with traffic over streets, alleys and highways.

SECTION 3. Oncor shall not be required to obtain street cutting, street excavation or other special permits or be required to post any type of bond related to excavations in Public Rights-of-Way in connection with Company's operations in Public Rights-of-Way. Company shall construct its facilities in conformance with the applicable provisions of the National Electric Safety Code or such comparable standards as may be adopted.

SECTION 4. Oncor shall hold the City harmless from all expense or liability for any act or neglect of Oncor hereunder.

SECTION 5. 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.

SECTION 6. 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 streets, alleys, highways and other public grounds and rights-of-way, and in lieu of any and all occupation taxes, assessments, municipal charges, fees, easement taxes, franchise taxes, license and inspection fees or charges, street taxes, street or alley rentals, certain regulatory expenses under Section 33.023 of the Public Utility Regulatory Act, Title 2, Texas Utilities Code ("PURA"), as amended, or any similar or successor law, 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, Oncor shall pay to the City the following:

- (a) For the calendar year beginning January 1, 2003, and on an annual basis thereafter, a charge, as authorized by Section 33.008(g) of PURA. The charge shall be 0.003353 cents/kWh.
  - 1. The first payment hereunder shall be due and payable on or before April 30, 2003, based on each kilowatt hour of electricity delivered by Oncor during the twelve-month period ended December 31, 2002, to each retail customer whose consuming facility's point of delivery is located within the City's municipal boundaries. This initial payment and the payment provided on or before April 30 of each year throughout the life of this franchise are for the rights and privileges granted hereunder for the calendar year in which they are paid.
  - 2. Thereafter, on or before April 30 of each year throughout the life of this franchise, Oncor, shall pay to the City an amount as authorized by Section 33.008(g) of PURA based on the preceding calendar year ; and
- (b) Beginning January 1, 2002, 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 and benefit of an end-use retail electric consumer.

1. The franchise fee amounts based on "Discretionary Service Charges" shall be calculated on an annual calendar year basis, i.e. from January 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" received during the preceding calendar year. The initial Discretionary Service Charge franchise fee amount will be paid on or before April 30, 2003 and will be based on the calendar year January 1 through December 31, 2002. The final Discretionary Service Charge franchise fee amount will be paid on or before April 30, 2023 and will be based on the calendar year January 1 through December 31, 2022.
3. Oncor 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 Oncor 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 Oncor.
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 Oncor.

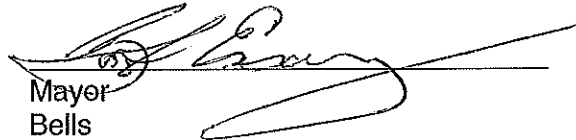
SECTION 7. This Ordinance shall become effective upon Oncor's written acceptance hereof, said written acceptance to be filed by Oncor with the City within sixty (60) days after final passage and approval hereof. The right, privilege and franchise granted hereby shall begin on January 1, 2003 and expire on December 31, 2022.

SECTION 8. This Ordinance shall supersede any and all other franchises granted by the City to Oncor, its predecessors and assigns.

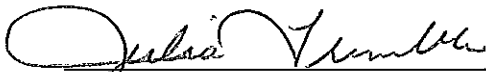
SECTION 9. In order to accept this franchise, Company must file with the City Secretary its written acceptance of this franchise ordinance within sixty (60) days after its final passage and approval by City.

SECTION 10. 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, all as required by law.

**PASSED AND APPROVED** at a regular meeting of the City Council of Bells, Texas, on this the 3 day of DEC., 2002.

  
Mayer  
Bells


ATTEST:

  
City Secretary

STATE OF TEXAS §  
COUNTY OF GRAYSON §  
CITY OF BELLS §

I, JULIA TRIMBLE, a City Secretary of Bells, Grayson County, Texas, do hereby certify that the above and foregoing is a true and correct copy of an ordinance passed and approved by the City Secretary of Bells, Texas, at a REGULAR session, held on the 3 day of DEC, 2002, at a REGULAR COUNCIL session as it appears of record in the Minutes in Book \_\_\_\_\_, page \_\_\_\_\_.

WITNESS MY HAND AND SEAL OF Bells, this the 3 day of DECEMBER, A. D. 2002.

  
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City Secretary  
Bells, Texas