

Mrs. Sherry Mueck  
Milam County Tax Assessor/Collector  
May 5<sup>th</sup>, 2023  
RE: Request for Waiver of Penalties and Interest on 2023 Property Taxes– Oncor Delivery Company LLC

Generally, property tax bills are issued in October, are due upon receipt, and are delinquent if not paid before the following February 1<sup>st</sup>. Taxes paid or received on or after February 1<sup>st</sup> incur penalties and interest. However, the Texas Tax Code recognizes limited instances where those penalties and interest may be waived.

Texas Tax Code Section 33.011(j) permits the governing body of a taxing unit to waive penalties and interest on a delinquent tax if the taxpayer submits evidence sufficient to show the taxpayer delivered payment for the tax before the delinquency date to the United States Postal Service for delivery by mail, but an act or omission of the postal service resulted the taxpayer's payment being postmarked after the delinquency date.

Oncor Delivery Company LLC (“Oncor”) has requested a waiver of penalties and interest under the provision of the tax code. Specifically, Oncor states that the payment for all Oncor property tax accounts in Milam County was deposited at a USPS location at 400 N. Ervay St., Dallas, Texas 75201 (“the Post Office”) on January 31<sup>st</sup>, 2023, and that the USPS failed to timely postmark and deliver the payment to the Milam County Tax Office. The information provided by Oncor has been supplemented and reviewed, and the following points summarize the factors in favor of a waiver determination:

- 1) Oncor uses an onsite postage meter in its Dallas headquarters to prepare certified mail. The attached list shows postage creation for mail to 128 different assessor/collector's offices across the state of Texas from January 30<sup>th</sup> to January 31<sup>st</sup>. It also shows that the certified mail for the Milam County was created January 31<sup>st</sup>, 2023. Therefore, the certified mail for the payment to Milam County taxing units was created timely.
- 2) The employee affidavit included in Oncor's waiver request provides that the Milam County payment was taken, along with hundreds of others, to the Post Office on January 31<sup>st</sup>, 2023. The affidavit also states that the Post Office employee present refused to provide Oncor with a receipt or other documentation showing the certified mail was accepted. An affidavit like the one provided, if properly qualified, can serve as evidence in a court of law. Additionally, misrepresenting facts in a sworn statement is considered perjury and is a Class A misdemeanor in the state of Texas. To falsify statements in the affidavit would be committing a Class A misdemeanor, punishable by up to a year in jail, a \$4,000 fine, or both.
- 3) A geo-located photo taken at 2:01 p.m. January 31<sup>st</sup>, 2023 appears to show a box of certified mail envelopes in an elevator. The geo-tag attached to the photo appears to have been taken at Oncor's headquarters in downtown Dallas, several blocks from the Post Office. This date and time corroborate that certified mail envelopes from Oncor could have been delivered to the Post Office January 31<sup>st</sup>, 2023.

- 4) The Oncor employee responsible for mailing all Oncor's property tax payments statewide purchased a certified mail package at the Post Office at approximately 2:24 p.m. January 31<sup>st</sup>, 2023. While it was not the Milam County payment, it proves he was present and capable of delivering the Milam County payment to the Post Office timely. A bank statement from the Oncor employee and a certified mail receipt were provided within the waiver request as corroborating evidence
- 5) The Delivery Supervisor for the Post Office confirmed via the included letter that mail did not go out due to severe inclement weather during the days of January 31<sup>st</sup> to February 2, 2023. While this does not explain why the certified mail was "lost" for from January 31<sup>st</sup> to February 24<sup>th</sup>, it does show that there were issues with the Post Office at that time.
- 6) **TO SUMMARIZE:** Oncor created a certified mail envelope for the Milam County payment January 31<sup>st</sup>, 2023, and has provided a sworn statement and circumstantial documentation/evidence supporting that an Oncor employee delivered the payment to a USPS location January 31<sup>st</sup>, 2023.

The evidence provided could justify a determination that Oncor's Milam County payment was delivered to the Post Office on January 31<sup>st</sup>, 2023, and therefore that the taxing units could waive the accrued penalties and interest. However, the following may be considered in making a determination:

- 1) The evidence does not conclusively prove that the Milam County property tax payment was included in the mailing on January 31<sup>st</sup>, 2023, though Oncor and its attorney have provided a compelling argument and circumstantial evidence to that effect.
- 2) Once requested, Oncor's attorney provided a list of all certified mail created for property tax payments by Oncor's onsite postage meter, a copy of which has been attached. A review of the tracking information for all 128 certified mail envelopes revealed that all Oncor's envelopes for property tax payments statewide were created over two days, January 30<sup>th</sup> and January 31<sup>st</sup>, 2023. All envelopes Oncor created January 30<sup>th</sup>, 2023 were accepted and processed by the Post Office within the timeline provided by the USPS Delivery Supervisor, specifically that postage received January 31<sup>st</sup> would not have gone out until February 2<sup>nd</sup> or 3<sup>rd</sup>. The tracking information for the certified mail purchased at the Post Office by the Oncor employee also shows it was accepted and processed in the same period. However, tracking information also revealed that all of Oncor's envelopes created January 31<sup>st</sup>, 2023, were not accepted and processed by the Post Office for several weeks, namely until February 24<sup>th</sup> or 25<sup>th</sup>. There is zero crossover between the two groups of Oncor-created envelopes; all mail created the 30<sup>th</sup> by Oncor was processed by USPS by February 3<sup>rd</sup>, and all mail created by Oncor January 31<sup>st</sup> disappeared until February 24<sup>th</sup>. No explanation has been provided as to why, if all envelopes were delivered to the Post Office at the same time, the envelopes created on different days yielded 100% different results.
  - a. Additionally, Oncor's January 31<sup>st</sup> envelopes resurfaced and were accepted and processed on February 24<sup>th</sup>, the same day Oncor had the Post Office Delivery Supervisor issue a statement reflecting that mail received January 31<sup>st</sup> was not sent out until February 3<sup>rd</sup>.
- 3) The email exchange between Oncor employees included with Oncor's request shows that the Oncor employee responsible for mailing the checks was still matching certified mail, tax statements, and



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checks the morning of January 31<sup>st</sup>, effectively at the last minute, and as one of the largest ice storms to hit Texas this century was descending on downtown Dallas. It is possible, though controverted by the Oncor employee's affidavit, that the payment was misplaced or forgotten and mailed at a later date. In the same email exchange, one of the other Oncor employees even suggests that "surely the various CAD's would allow us to be late because of the weather," implying that it would have been an acceptable and anticipated outcome for Oncor to deliver the certified mail to USPS after the January 31<sup>st</sup> deadline and ask for forgiveness thereafter.

I have also included a proposed resolution for use by the taxing units in making their waiver determination. Please contact my office directly should you have additional questions regarding the waiver process, the information included herein, or any other property-tax matters.

Regards,

/s/ Connor Buchanan

Connor Buchanan

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