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**SOAH DOCKET NO. 473-24-04312  
PUC DOCKET NO. 54614**

<b>APPLICATION OF EL PASO ELECTRIC</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>COMPANY FOR APPROVAL OF TEXAS</b>	<b>§</b>	
<b>ELECTRIC VEHICLE-READY PILOT</b>	<b>§</b>	<b>OF</b>
<b>PROGRAMS</b>	<b>§</b>	
	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>

**OFFICE OF PUBLIC UTILITY COUNSEL'S  
EXCEPTIONS TO THE PROPOSAL FOR DECISION**

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**August 12, 2024**

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**SOAH DOCKET NO. 473-24-04312  
PUC DOCKET NO. 54614**

<b>APPLICATION OF EL PASO ELECTRIC COMPANY FOR APPROVAL OF TEXAS ELECTRIC VEHICLE-READY PILOT PROGRAMS</b>	§ § § § §	<b>BEFORE THE STATE OFFICE  OF  ADMINISTRATIVE HEARINGS</b>
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**OFFICE OF PUBLIC UTILITY COUNSEL’S  
EXCEPTIONS TO THE PROPOSAL FOR DECISION**

The Office of Public Utility Counsel (“OPUC”), representing the interests of residential and small commercial consumers in Texas, respectfully submits these exceptions to the proposal for decision (“PFD”) issued by the State Office of Administrative Hearings (“SOAH”) administrative law judge (“ALJ”) in this proceeding on June 28, 2024.<sup>1</sup> OPUC did not receive service of the Exceptions and Corrections Memorandum filed on July 15, 2024 by the Public Utility Commission, Office of Policy and Docket Management. The revised deadline to file exceptions to the PFD is August 12, 2024. Therefore, this filing is timely.

**I. INTRODUCTION**

OPUC appreciates the ALJs’ analysis of El Paso Electric Company’s (“EPE”) Texas Electric Vehicle-Ready Pilot Programs and Tariffs. OPUC takes exception to the determination of the ALJs regarding the following: (1) EV Smart Rewards Pilot Program, (2) Whole House EV Pilot Incentive Credit Rider, (3) PowerConnect Pilot Program, and (4) the treatment of Rate Case Expenses on EPE’s non-participating customers.<sup>2</sup>

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<sup>1</sup> Proposal for Decision (Jun. 28, 2024). (PFD).

<sup>2</sup> PFD at 5-35.

## **II. DISCUSSION**

### **A. EV SMART REWARDS PILOT PROGRAM**

OPUC respectfully disagrees with the ALJs on their recommendation for the EV Smart Rewards Pilot Program.<sup>3</sup> OPUC maintains that the EV Smart Rewards Pilot Program's rates are unreasonably preferential, prejudicial, and discriminatory in violation of PURA § 36.003. Furthermore, EPE's proposed incentives for the EV Smart Rewards Program are not cost-based and the program does not protect non-participating customers from bearing costs associated with the program.<sup>4</sup> Consequently, the Commission should reject EPE's proposed EV Smart Rewards Pilot Program tariff, direct EPE to develop cost-based incentives, and require that EPE submit another filing requesting approval for the program and tariff.<sup>5</sup>

### **B. WHOLE HOUSE EV PILOT INCENTIVE CREDIT RIDER**

EPE's proposed Whole House EV Pilot Incentive Credit Rider does not contain adequate protections to ensure costs associated with this rider do not impact the costs borne by customers who do not take service under this rider.<sup>6</sup> Consequently, OPUC maintains its position that establishing a separate rate class under the Whole House EV rider is the best way to ensure non-participating customers will not subsidize this rate.<sup>7</sup> The ALJs recognized EPE's willingness to establish a separate rate class for the Whole House EV Pilot program, but still declined to

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<sup>3</sup> PFD at 11.

<sup>4</sup> Direct Testimony and Workpapers of Evan D. Evans (Evans Direct) at 11:1 – 12:15. (Feb. 20, 2024) or OPUC's Post-Hearing Initial Brief at 2-6. (Apr.18, 2024).

<sup>5</sup> OPUC's Post-Hearing Reply Brief at 4 (May 2, 2024).

<sup>6</sup> Evans Direct at 14:1 – 14.

<sup>7</sup> *Id.* at 5.

recommend it in the instant case.<sup>8</sup> Therefore, OPUC excepts to the ALJs' finding regarding the Whole House EV Pilot Incentive Rider.

### **C. POWERCONNECT PILOT PROGRAM**

OPUC appreciates the ALJs' analysis and acknowledgement that the Commission may determine, in a separate rate proceeding or otherwise, that a separate EV rate class would be appropriate for participating customers enrolled in the PowerConnect Pilot Program, but excepts to the ALJs' determination that no conditions are appropriate in the instant case for the PowerConnect Pilot Program.<sup>9</sup> OPUC remains concerned that the costs associated with this program will be borne by EPE's non-participating customers.<sup>10</sup>

### **D. TAKECHARGE PILOT PROGRAM**

OPUC agrees with the ALJs' recommendation that conditions be placed on the approval of the Take Charge TX Pilot program so that EPE does not collect outstanding fees under that program from EPE's non-participating customers.<sup>11</sup>

### **E. RATE CASE EXPENSES**

OPUC appreciates the ALJs' consideration and analysis of the treatment of rate case expenses for this proceeding, but excepts to the fact that they avoided addressing OPUC's recommendation of ensuring EPE only collects rate case expenses from participating customers.<sup>12</sup>

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<sup>8</sup> PFD at 17.

<sup>9</sup> PFD at 26.

<sup>10</sup> OPUC's Post-Hearing Reply Brief at 5.

<sup>11</sup> PFD at 34.

<sup>12</sup> *Id.*

### **III. CONCLUSION**

For the reasons stated herein, OPUC respectfully requests that the Commission modify the PFD to include findings of fact and conclusions of law consistent with these exceptions and that OPUC be granted any other relief to which it may be entitled.

Date: August 12, 2024

Respectfully submitted,

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**ATTORNEYS FOR THE  
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**CERTIFICATE OF SERVICE**  
SOAH DOCKET NO. 473-24-04312  
PUC DOCKET NO. 54614

I hereby certify that a copy of the foregoing document was served on all parties of record in this proceeding on this 12<sup>th</sup> day of August 2024 by facsimile, electronic mail, and/or first class, U.S. Mail.

  
Justin Swearingen