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**SOAH DOCKET NO. 473-24-07154
PUC DOCKET NO. 55338**

PROCEEDING TO RESOLVE ISSUES IN	§	BEFORE THE STATE OFFICE
DOCKET NO. 53719 RELATED TO	§	
TRANSPORTATION AND	§	OF
ELECTRIFICATION AND CHARGING	§	
INFRASTRUCTURE	§	ADMINISTRATIVE HEARINGS

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

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August 15, 2024

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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 replies to exceptions to the proposal for decision (“PFD”)¹ filed by Staff of the Public Utility Commission of Texas (“Staff”)² and Americans for Affordable Clean Energy (“AACE”) on August 1, 2024.³ The deadline to submit replies to exceptions to the PFD is August 15, 2024.⁴ Therefore, this pleading is timely filed.

I. INTRODUCTION

OPUC is supportive of Staff’s exceptions to the PFD. Regarding the exceptions filed by AACE, OPUC contends that AACE’s arguments reveal the TECDA Rider provides discounted demand charges and discounted rates.

¹ Proposal for Decision (Jun. 21, 2024). (PFD).

² Staff’s Exceptions to Proposal for Decision (Aug. 1, 2024). (Staff’s Exceptions).

³ AACE’s Exceptions to Proposal for Decision (Aug. 1, 2024). (AACE’s Exceptions);

⁴ Exceptions and Replies Memorandum (Jul. 16, 2024).

II. DISCUSSION

OPUC agrees with Staff's reasoning as to establishing a separate electric vehicle ("EV") rate class "where EV-specific policies are embedded into rates in order to effectuate the purpose of the TECI and TECDA Riders and to fully comply with Chapters 42 and 36 of [the Public Utility Regulatory Act ("PURA")]."⁵ OPUC also agrees with Staff's exceptions to the PFD's flawed assessment "that the [Transportation Electrification and Charging Infrastructure ("TECT")] Rider (1) provides sufficient cost recovery mechanism and does not result in cost-shifting to non-participating customers, (2) does not impede competition, and (3) is not unreasonably preferential, prejudicial, or discriminatory."⁶ Specifically, OPUC supports Staff's analysis that "all electric utility-related costs" includes both TECI-related costs, as well as costs associated with base rates and non-fuel firm rate schedules," and as such would comport with cost causation principals and 16 TAC § 25.234(a).⁷ OPUC concurs with Staff's conclusion that this finding demonstrates how participating customers will fail to pay for all electric-utility related costs.⁸ Furthermore, OPUC agrees with Staff's exception to the PFD's finding that ETI may be able to seek leave from the Commission to recover bad debt expenses from non-participating customers.⁹ OPUC agrees with Staff that ETI should be prohibited from recovering bad-debt expense relating to the TECI or TECDA Riders from non-participating customers.¹⁰ Finally, OPUC agrees that the TECI Rider is preferential because it provides subsidies to participating customers, are inequitable because the

⁵ Staff's Exceptions at 2.

⁶ Staff's Exceptions at 5.

⁷ Staff's Exceptions at 8.

⁸ *Id.*

⁹ Staff's Exceptions at 11 (citing to PFD at 25.).

¹⁰ *Id.*

subsidies act as a discount such that the full cost of the TECI Rider may not be recovered from the participating customer, and if the full cost is not recovered from the participating customers, ETI will seek to recover the costs from the non-participating customers. Thus, *the TECI Rider is also discriminatory*.

OPUC agrees with Staff that the TECDA Rider's billing demand discount does not provide "adequate price signals to customers and can encourage customers to unnecessarily impose higher demands on the system...ultimately resulting in higher rates for all customers."¹¹ OPUC also agrees with Staff that ETI's Ratepayer Impact Measure Test ("RIM") is speculative and should not serve as a basis to depart from cost-based rates.¹² In addition, OPUC supports Staff's analysis that the "costs shifted to non-participating customers would likely far exceed the costs of any relevant make-ready infrastructure, because the rate discount applies to rates that include all of ETI's system costs"¹³ Finally, OPUC agrees with Staff that the TECDA Rider is *unreasonably preferential, prejudicial, and discriminatory* and that the rider would "allow qualifying participating customers to pay only a portion of their capacity costs which they cause ETI to incur, and thus would unreasonably discriminate against a non-participating customer with identical usage and load."¹⁴

Regarding the exceptions filed by AACE, OPUC contends that AACE's argument for lifting the limits on the Transportation Electrification and Charging Demand Adjustment

¹¹ Staff's Exceptions at 15.

¹² *Id.*

¹³ *Id.*

¹⁴ Staff's Exceptions at 16.

(“TECDA”) rider provides clear examples as to why the TECDA rider *is a discount rate*.¹⁵ AACE’s argument that “the TECDA Rider allows private investors some relief from the demand charges,”¹⁶ reveals the TECDA Rider provides *discounted demand charges*. Furthermore, the argument that “[t]he TECDA Rider’s limitations must be increased in order to allow site hosts full relief from the high demand charges faced when investing in EV charging stations,”¹⁷ clearly describes the rate discounts, or relief, provided to the participants.

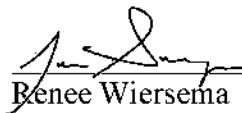
III. CONCLUSION

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 OPUC’s and Staff’s Exceptions to the PFD and that OPUC be granted any other relief to which it may be entitled.

Date: August 15, 2024

Respectfully submitted,

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¹⁵ See AACE’s Exceptions at 2 (noting, in part, “AACE proposes the TECDA Rider be modified by increasing the limitation of its application to the first 30,000 kW.”).

¹⁶ *Id.*

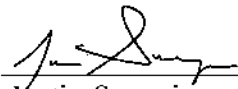
¹⁷ *Id.*

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**ATTORNEYS FOR THE
OFFICE OF PUBLIC UTILITY COUNSEL**

CERTIFICATE OF SERVICE
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I hereby certify that a copy of the foregoing document was served on all parties of record in this proceeding on this 15th day of August 2024 by facsimile, electronic mail, and/or first class, U.S. Mail.


Justin Swearingen