

Control Number: 50477



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**PUC DOCKET NO. 50477**



**COMPLIANCE FILING FOR DOCKET  
NO. 49849 (JOINT REPORT AND  
APPLICATION OF EL PASO ELECTRIC  
COMPANY, SUN JUPITER HOLDINGS  
LLC, AND IIF US HOLDING 2 LP FOR  
REGULATORY APPROVALS UNDER  
PURA §§ 14.101, 39.262, AND 39.915)**

**PUBLIC UTILITY COMMISSION**

**OF TEXAS**

**OFFICE OF PUBLIC UTILITY COUNSEL'S  
COMMENTS ON THE MERITS**

The Office of Public Utility Counsel (“OPUC”) respectfully submits these comments in response to Order No. 2 that establishes a deadline for intervenors to file comments on the merits, or request a hearing, on May 14, 2020.<sup>1</sup> On March 31, 2020, OPUC filed a Motion to Intervene<sup>2</sup> in this proceeding, and the motion was granted on May 3, 2020.<sup>3</sup> Accordingly, these comments on the merits are timely made.

**BACKGROUND**

On March 30, 2020, El Paso Electric Company (“EPE”) filed its application to implement a \$21 million merger rate credit.<sup>4</sup> This proposed merger rate credit was required by the Commission’s Order approving a transaction between EPE, Sun Jupiter Holdings LLC, and IIF US Holding 2 LP in Docket No. 49849.<sup>5</sup> In its application, EPE proposes the following calculation and allocation of the \$21 million merger rate credit to its Texas retail customers:

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<sup>1</sup> Order No. 2 Deeming Application Administratively Complete, Approving the Method of Providing Notice, and Establishing Procedural Schedule (Apr. 28, 2020).

<sup>2</sup> OPUC’s Motion to Intervene (Mar. 31, 2020).

<sup>3</sup> Order No. 3 Granting Interventions (May 3, 2020).

<sup>4</sup> *Application of El Paso Electric Company to Implement the Merger Rate Credit in Compliance with Settlement and Order in Docket No. 49849* (Mar. 30, 2020); Docket No. 50477, *Compliance Filing for Docket No. 49849 (Joint Report and Application of El Paso Electric Company, Sun Jupiter Holdings LLC, and IIF US Holding 2 LP for Regulatory Approvals Under PURA §§ 14.101, 39.262, and 39.915)*.

<sup>5</sup> *Joint Report and Application of El Paso Electric Company, Sun Jupiter Holdings LLC, and IIF US Holding 2 LP for Regulatory Approvals Under PURA §§ 14.101, 39.262, and 39.915*, Docket No. 49849, Final Order, Findings of Fact No. 58(a) (Jan. 28, 2020) (“EPE will issue a rate credit to its Texas customers in a total aggregate amount for all customers of \$21 million. The rate credit will be distributed among customers in 36 monthly installments. No later than 45 days after the closing of the transaction, EPE will make a tariff filing to implement the rate credit. EPE will not attempt to recover the value of this rate credit in future rate cases.”).

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- (1) Implementation of the merger rate credit as ordered within 36 months with a final true-up after the 36-month credit period;<sup>6</sup>
- (2) The \$21 million merger rate credit will be allocated to Texas retail rate classes utilizing EPE's 2019 base rate revenues;<sup>7</sup>
- (3) The allocated rate class credit amounts are divided by the projected 36-months of kilowatt-hour sales from June 2020 - May 2023 to obtain a rate class merger rate credit factor for each rate class;<sup>8</sup> and
- (4) The rate class merger rate credit factor is then multiplied by each customer's billed energy every month and the resulting credit is provided as a line item credit in customer bills for 36 months.<sup>9</sup>

### OPUC'S COMMENTS ON THE MERITS

OPUC has reviewed EPE's application and proposed allocation methodology and has no objections to the proposed methodology for allocating the \$21 million merger rate credit. However, OPUC expresses concern with the inclusion of Rate Class 38 (interruptible service) costs being included in the proposed merger rate credit.<sup>10</sup> Accordingly, OPUC takes the position that Rate Class 38 be removed from the allocation methodology, as interruptible sales are non-firm sales and as such are not subject to cost-of-service allocation in any Company rate case.<sup>11</sup> OPUC reserves the right to request a hearing based on the parties' positions that are taken in this proceeding.

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<sup>6</sup> *Application of El Paso Electric Company to Implement the Merger Rate Credit in Compliance with Settlement and Order in Docket No. 49849, Docket No. 50477 at 1 (Mar. 30, 2020).*

<sup>7</sup> *Id.* at 2.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

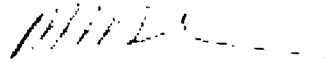
<sup>10</sup> *See Attachments 1 and 2 to the Affidavit of James Schichtl at 8-9.*

<sup>11</sup> *See Application of El Paso Electric Company to Change Rates, Docket No. 46831, Order (Dec. 18, 2017).*

Dated: May 14, 2020

Respectfully submitted,

Lori Cobos  
Chief Executive & Public Counsel  
State Bar No. 24042276



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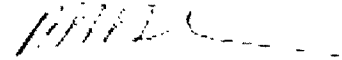
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**CERTIFICATE OF SERVICE**

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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 14th day of May 2020 by facsimile, electronic mail, and/or first class U.S. mail.



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Chris Ekoh