El Paso City Council
300 N. Campbell
El Paso, Texas 79901

Members of the El Paso City Council,

Good afternoon, my name is Elyse Schupak and I am a policy advocate with Public Citizen, a nonprofit consumer advocacy organization working to advance the public interest in government, with nearly 60,000 members and supporters in Texas.

I am testifying in support of item #37 relating to the termination of the Chapter 380 Economic Development Program Agreement and any related incentive agreements with Wurldwide LLC and Meta Platforms, in light of significant public concern.

In particular, I would like to highlight J.P. Morgan's potential conflict of interest in financing Meta's El Paso data center given the bank's control of El Paso Electric, the utility set to power the data center; and encourage the council to investigate whether J.P. Morgan violated affiliate rules in negotiating simultaneously with both Meta and El Paso Electric.

Bloomberg has reported that J.P. Morgan and Morgan Stanley are set to provide $13 billion of financing for Meta's data center. J.P. Morgan's financial stake in the project poses a serious conflict of interest as J.P. Morgan controls and is legally affiliated with El Paso Electric. J.P. Morgan's role on both sides of the negotiations risks abusive affiliate transactions that could leave El Paso residents paying even more for their utility bills.

In 2020, J.P. Morgan's Infrastructure Investment Fund (IIF) acquired El Paso Electric in a $4.3 billion deal. The purchase was part of a trend of private equity firms—or in this case a bank owned private fund—buying up electric utilities to profit from the increased power demand coming from the AI boom. In 2023, the Federal Energy Regulatory Commission determined that J.P. Morgan's total control over IIF renders the bank to be legally affiliated with IIF and all of its portfolio companies, including El Paso Electric. Now that investment is set to bear fruit as the Meta data center will significantly drive up power demand for El Paso Electric. To meet the demand, the utility is seeking regulatory approval to build a new gas plant to power the data center, which will add 366-megawatts of capacity to El Paso Electric's operations.

The financial arrangement is such that J.P. Morgan stands to profit from Meta's data center both as an investor in the data center project directly and as the owner of El Paso Electric. The El Paso

City Council must ensure costs of the data center aren't offloaded onto El Paso Electric ratepayers, while J.P. Morgan profits from the data center on both sides.

The El Paso City Council should be extra cautious about J.P. Morgan's financial involvement in the Meta data center, given the bank's obfuscation of its relationship to IIF during its acquisition of El Paso Electric. At the time J.P. Morgan denied having an affiliate relationship with IIF, including to the El Paso City Council, despite its obvious ties to the fund.

The El Paso City Council must investigate the conflicts of interest arising from J.P. Morgan's financial stake in both El Paso Electric and Meta's El Paso data center. J.P. Morgan's financial interest in both El Paso Electric's power generation and power demand has the potential to incentivize self-dealing that could raise utility prices for El Paso Electric customers. To protect El Paso residents, the City Council should prohibit any involvement of J.P. Morgan in the Meta project, and launch an investigation to determine whether J.P. Morgan violated affiliate rules in negotiating simultaneously with both Meta and El Paso Electric.

On behalf of Public Citizen, I encourage the council to support item #37. Thank you for your attention to this important issue.

Elyse Schupak
Public Citizen