# Energy Manifesto for the People and the Planet

*This manifesto outlines the reasons El Paso City Council must listen to their constituents, oppose the proposed buyout of El Paso Electric by JP Morgan, and perform their due diligence in order to negotiate for what is in the best interest of the people of El Paso.*


The [Sunrise Movement] is a youth led, not-for-profit, national climate justice organization. Sunrise is a movement to stop climate change and create millions of good jobs in the process. We are a generation rising to make climate change an urgent priority to all of our representatives, and to organize against those who would choose to ignore the common good in the name of temporary profits. It is with these values that Sunrise El Paso opposes JP Morgan's proposed acquisition of El Paso Electric.

This sale will perpetuate the climate crisis by consolidating the power of known bad climate actors, while simultaneously bringing financial exploitation onto our community. The greater El Paso community opposes the deal, and so should you. If you choose to vote in favor of transferring the Franchise Agreement on February 4th, 2020, we will take that as a sign of your inability to perform the most basic duties as a member of a legislative body. You have the absolute power to reject this entire deal should you choose to exercise your right on behalf of the people of El Paso.

We regret to inform you that you have been misled by your City Staff of attorneys and JP Morgan lobbyists. All in which stem to benefit from this deal. You have been misled through direct deceit and through omission of information.

We hope this fact-sheet serves as useful information and as a guide for an extremely important issue in our community with generational consequences. After reading it, you will understand why your constituents need you to DELAY or DENY the approval of the Franchise Agreement on Feb 4th.

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***FRANCHISE AGREEMENT***

*You are being misled by City Staff and JP Morgan lobbyists. Here's the truth.*

On Dec 17th, the "terms" of the sale have been approved by City Council. We believe this was a grave mistake. But this does not mean the buyout is a done deal. In order for the deal to be finalized, City Council must approve the Franchise Agreement. No Franchise Agreement, means no buyout. Period. This puts our elected representatives in the driver's seat. They have all the leverage in this negotiation, should they so choose to. City Staff and JP Morgan lawyers have spread disingenuous information on the Franchise Fee to scare City Council into fast-tracking the approval of the Franchise Agreement.

1. **This 'once-in-a-generation' vote will either be praised for the courageous leadership necessary to stand your ground and fight for the most basic due process.** Or this vote can be what haunts your 'legacy' in local politics for decades to come. As the deal stands right now, JP Morgan proposes to lock in their control over our electric utility for 40 years. If you approve of the Franchise Agreement, its repercussions will be felt for decades. Say you approve the Franchise Agreement on Feb. 4th. When our city rises up to demand meaningful renewable energy integration and is stonewalled by JP Morgan's control over our electric grid, the blame will fall on your vote--your mistake.

2. **You have all of the leverage in this negotiation; act like it.** On the Monday Jan 6th Council meeting, Councilmembers discussed the importance of the Franchise Agreement. Mayor Dee Margo proposed a myth: if we deny the Franchise Agreement now, "you will have no say in the sale for the next entity." This is simply a lie. Councilmember Svarzbein correctly pointed out that the City will always maintain its leverage in the deal: "If there's not Franchise Agreement, then there is no sale." The Mayor insisted: "that's after the sale; it's after the sale." Even if the terms of the sale are negotiated *before* the Franchise Agreement, nonetheless the Franchise Agreement is the linchpin of any proposed buyout. Council, if any buyer wants to purchase the privilege to use the City's infrastructure, they have to go through you first. JP Morgan/IIF knows this and is scared that you will figure this out. This means that now--even after the terms of the sale have been approved--you still have *all* of the say in the sale be means of the Franchise Agreement.

3. **A "Right to Purchase" Provision is necessary.** President of Environmental Services Inc. Paul Hughes produced a report for the American Public Power Association titled, "*Renegotiating A Municipal Franchise During Electricity Restructuring and Deregulation*" *(Renegotiating a Franchise)*. This is a great resource--a document that you, as City Council members, MUST read before you vote on Feb 4th. The report explained: "The 'right to purchase' is a critically important tool when local citizens are not satisfied with the rates, reliability and service provided by the investor-owned utility." By not including a "right to purchase" provision, you lose an essential safeguard to keep JP Morgan accountable and project your constituents--especially considering JP Morgan/IIF's history of financial crimes.

4. **You have not done your due diligence as a City Council.** There are three ways you, as a City Council, have not done your due diligence and therefore are unprepared to vote for the monumentally important vote on Feb. 4th.
   a. *No Franchise Agreement Study*. No study has been conducted to understand the true implications of the transfer of the Franchise Agreement. No expert or consultant has been hired. Take San Diego's municipal government as the example. From the San Diego Union Tribune: "In an indication of how serious the city is taking the renegotiation, the San Diego City Council last month approved the hiring of a pair of consulting groups for nearly $1 million to help advise the city how to bargain for the best deal." Investing in studying the implications of the Franchise Agreement.
   b. *No valuation study*. Council, it would be irresponsible for you to purchase a used car without first checking the Bluebook or Carfax value. It is unthinkable for you to approve of this deal without conducting an objective, accurate valuation study to find out the true value of the electric utility.
   c. *The Feasibility Study isn't finished*. In December, City Council, you unanimously voted to direct the City Staff to look into conducting a Feasibility Study for the municipalization of the electric utility. This study helps answer important questions about City Council's alternatives to the JP Morgan buyout of EPE. It would be premature and irresponsible to approve the Franchise Agreement before the Feasibility Study that *you* ordered is completed.

5. **The Franchise Fee Myth.** In the context of this buyout, the Franchise Fee as it stands is not some sort of generous, philanthropic corporate investment in the community. El Paso Electric Co. does not pay the Franchise Fee with their profits. This Franchise Fee--the cost of purchasing the rights to use the City's infrastructure--is paid with consumer ratepayer dollars. It is essentially a tax imposed by a private corporation. Losing the Franchise Fee does not mean that the consumer loses from a corporation's investment in the community. It would mean that a tax burden is lifted and the consumer's rates would decrease.

6. **The MCA myth**: In yet another disingenuous argument made to City Council, Mayor Dee Margo argued that the Franchise Agreement should not be rejected because it would mean a portion of the Franchise Fee would not go to the MCA (Medical Center of the Americas Foundation). In reality, the funding of the MCA and the approval of the Franchise Agreement are two very distinct issues that should not be conflated. Let's remind ourselves. EPE does not buy the Franchise Fee with its profits. The Franchise Fee, and therefore the MCA, is funded by an added line item on the ratepayer's bill. The Council can in fact decide to reject the Franchise Agreement on the grounds that it would like to increase funding to the MCA. The private corporations that propose to own our utility do not fund the MCA. We do not need them.

7. **JP Morgan's concessions so far are breadcrumbs; we are worth more.** Yes, JP Morgan/IIF has conceded on some aspects and very minimal progress has been made to improve the terms of the buyout. But these concessions are woefully insufficient. The 6-month presentation and the renewable energy study is an insult to the scale of the crisis of climate change. At the very least, City Council should demand that the buyout include:

    a. *a firm commitment to 100% clean, renewable energy (not including nuclear) by 2030*
    b. *A robust green jobs program with job retraining/transition program for fossil fuel workers*

    JP Morgan/IIF claims that they can't commit to renewable energy goals because it might not be "feasible." That is a total lie. The Hecate solar project proposed for Santa Teresa can prove to be lowest costs of solar MW's: "At 1.5 cents per kilowatt-hour (kWh), the rate is possibly lower than any solar PPA in the US." Additionally, we now have the energy battery capacity to go full renewable without worrying about peak demand issues. For example, Tesla's recent unveiling of the MegaPack allows them to expand even greater than it's already groundbreaking clean energy storage capacity (i.e. Tesla's 129MWh energy storage facility in South Australia). As the *Renegotiating a Franchise* report demonstrates, it is within the City's rights to demand the Franchise Agreement include a "minimum renewable portfolio standard." Lastly, the breadcrumbs of commitments for keeping jobs and headquarters is also a farce. In the likely event of a bankruptcy (see: Energy Transfer Holdings case below), all commitments are off the table. Any "protections" granted by JP Morgan can almost instantaneously become null and void.

8. **40 years is way too much of a commitment**. A Franchise Agreement structure with a month-to-month commitment--such as Las Cruces' City government--keeps the

private entity that owns the electric utility more accountable. It gives the City more leverage by threatening a withholding of Franchise Agreement renewal to advocate for the community more effectively. Quoting from the *Renegotiating a Franchise* report: "The city may increase its leverage by considering a franchise extension of one to two years or a new shortened franchise term of just 5-10 years in order to 'buy time' for the city to assess other options given the rapid changes occurring in the electricity marketplace today. A shorter franchise period will allow time to gather more in-depth information on the technical and economic feasibility of competitive bidding for an alternative franchisee or energy service supplier, or the feasibility of the municipalization option."

9. **Questions are left unanswered at a federal level**. Approving this deal on a local level right now would be premature because of the Federal Energy Regulation Commission's concerns. In December, they deemed JP Morgan/IIF's application insufficient for failure to properly disclose IIF's connection to JP Morgan chase.

***FINANCIAL JUSTICE***

*How this buyout is a form of financial exploitation on our city*

1. **Private equity funds are not structured to serve the interests of the community**. They are specifically designed to benefit the wealthy stockholders at the expense of the average El Pasoan. If the deal goes through, the El Paso community faces the risk of massive lay-offs at the electricity utility, spiked electricity rates, and bankruptcy.

2. **We cannot trust JP Morgan to run our electric utility with integrity**. In total, this organization has been fined over $38 billion for illegal financing actions. Notably, they were forced to pay $410 million for manipulating prices in the electricity market in California and Michigan. As journalist David Dayden writes, their "bank subsidiary charg[ed] electricity grids in California and the Midwest 'as much as 80 times the prevailing power prices at certain hours of the day.' The market manipulation yielded $125 million in 'unjust profits.'"

3. **This has happened before, and it did not end well.** A private equity fund known as Energy Transfer Holdings bought Texas' largest utility, TXU Energy, in 2007 in what was the largest leveraged buyout ever, only to result in one of the largest energy bankruptcies ever just 7 years later, second only to Enron's bankruptcy. JPMorgan IIF is already using a complicated ownership chain as vehicles to increase the debt leverage in their proposed purchase which adds a tremendous amount of financial risk as evidenced by the huge fallout of Energy Transfer Holdings. Private equity

funds are explicitly designed for wealthy stockholders not the local communities they claim to serve.

4. **$4.3 Billion, is an overtly inflated cost of El Paso Electric.** There has yet to be any evidence of how JP Morgan and its affiliates assessed the value of El Paso Electric. 4.3 billion dollars is the price someone pays to monopolize a market and buyout the competition.

## *CLIMATE JUSTICE*

*Why we oppose the deal for environmental concerns.*

1. **JP Morgan makes money off of the Climate Crisis.** This Wall Street bank is the world's top financier of fossil fuel infrastructure, investing over $75 billion in environmentally destructive projects globally--from Tar Sand extraction in Canada to Arctic Oil Drilling to Fracking in the Permian Basin (currently within El Paso Electric's service territory). They have demonstrated a blatant disregard for the climate crisis and cannot be trusted to manage El Paso's transition to clean, renewable energy.

2. **Private ownership means less democracy and less possibility for a clean energy future**. An electric utility system controlled by a private equity fund means that the El Paso community will have virtually no democratic voice in determining our city's energy policy. Since a private equity fund structure is specifically designed to extract short-term profits, the buyout will make it nearly impossible to enact bold, climate justice energy policy that prioritizes community investment and long-term prosperity.

3. **JP Morgan already has plans to continue their pattern of market manipulation through more fossil fuels.** Texas' Permian Basin is one of the most fracked regions in the world. Fracking is a destructive method of extracting natural gas that contaminates local water/soil and contributes to the climate crisis by emitting methane (a greenhouse gas about 24 times more powerful than carbon dioxide). A portion of this region is currently within the service territory of El Paso Electric. JP Morgan has previously invested in the fracking industry in this region so they have a financial incentive to see this region grow. Tyson Slocum, Energy Directory of consumer advocacy group Public Citizen, puts it this way: "Fracking is power hungry...You're hooking up a jet engine to force chemicals and water into shale formation. El Paso Electric is in a good geographic position to become a pure utility for the Permian."

4. **For-profit electric utilities discourage rooftop solar and overall renewable energy.** Sunrise El Paso organizers conducted an interview with Tyson Slocum, Energy Directory of consumer advocacy group Public Citizen. He explained a basic conflict of incentives between for-profit electric utilities and rooftop solar. A for-profit electric utility would be incentivized to exist as the sole producer of electricity and increase their customer base. Yet, through rooftop solar panels El Pasoans can produce their own electricity and become energy independent. Rooftop solar panels, while good for the environment and consumers, do not help the profit margins of privatized electric utilities.

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