

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Application of Southern California Edison Company)
(U338E) for Approval of its 2016 Rate Design)
Window Proposals.)

Application No. 16-09-003
(Filed September 1, 2016)

**PROTEST OF THE
CITY OF LANCASTER**

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receive generation services from Lancaster, not SCE, and they continue to receive transmission, distribution, billing and other services from SCE.

Rate Design Window applications are optional filings that allow investor-owned utilities (“IOUs”) to revisit rate design issues from their previous General Rate Case (“GRC”) Phase II decisions, as well as any rate design issues that have arisen in the time between GRCs. In its 2016 RDW Application, SCE seeks Commission approval of four proposals to modify SCE’s rate structure. Particularly relevant to Lancaster is SCE’s fourth proposal: that the Commission eliminate the existing Power Charge Indifference Adjustment exemption (“PCIA Exemption”) for customers on California Alternate Rates for Energy (“CARE”) and Medical Baseline (“MB”) rates.¹

Lancaster has a direct interest in this proposal. Eliminating the PCIA Exemption for CARE and MB customers would negatively impact low-income households, medical patients on life support, and other Lancaster customers who are financially reliant on CARE and MB rates. SCE’s proposal would have a disproportionate impact on Lancaster, as nearly 40% of Lancaster’s customers are on CARE.

Rule 2.6(b) states that a party may file “[a] protest objecting to the granting, in whole or in part, of the authority sought in an application.” At this time, Lancaster protests SCE’s application on three grounds. First, as a procedural matter, in light of intervening events it is more appropriate to consider SCE’s proposal to remove the PCIA Exemption in another proceeding: either Pacific Gas and Electric Company’s (“PG&E”) Phase 2 GRC proceeding (A.16-06-013) (“PG&E GRC2”), the current statewide CARE proceeding (A.14-11-007 *et seq.*) (“Current CARE Proceeding”) or a successor CARE rulemaking proceeding, or Phase 2 of

¹ See, e.g., SCE Application at 10.

SCE's 2018 GRC proceeding. Second, SCE's arguments in support of its proposal are significantly flawed and should be rejected, both on substantive grounds and because the arguments fail to justify SCE's proposal as required by the Decision ("D")07-07-004 RDW Rules.² Third, SCE's proposal should be rejected based on the practical consequences of approving the proposal, including significant harm to vulnerable CCA ratepayers. Lancaster also reserves the right to address and protest additional issues in the course of this proceeding as such issues arise and are further developed.

II. PROTEST

For the reasons set forth below, SCE's proposal to eliminate the PCIA Exemption is procedurally flawed, based on flawed and unreasonable arguments of fact and law, and is unjustified in light of the significant negative consequences of approving the proposal.

A. SCE's Proposal To Eliminate The PCIA Exemption Should Not Be Addressed In The Instant Proceeding

In light of intervening events, this RDW proceeding is not the most appropriate venue for the Commission to consider SCE's proposal to eliminate the PCIA Exemption. Lancaster acknowledges that, in previous communication from the Commission, SCE was invited to bring forth its PCIA Exemption proposal in a RDW proceeding, among other ratemaking proceedings. Specifically, in response to SCE's Advice Letter ("AL") 3214-E, and in light of protests filed by Lancaster and other concerned parties, the Commission Energy Division staff issued a disposition letter, dated October 6, 2015 ("Disposition Letter") that rejected SCE's PCIA Exemption proposal without prejudice, finding that SCE's request is not appropriate for an advice letter filing, "but rather should be taken up in a formal proceeding such as SCE's GRC

² D.07-07-004, Appendix A, at A-27.

Phase II filing, rate design window or any future ratesetting proceeding relating to [Direct Access or CCA] or CARE issues.”³ Certain intervening events, however, now make it more appropriate for SCE to refile its PCIA Exemption proposal in another proceeding.

As briefly mentioned above, PG&E is addressing a similar PCIA Exemption proposal in the PG&E GRC2 proceeding.⁴ Since these PCIA Exemption proposals are of interest statewide, and presumably will be used by San Diego Gas & Electric Company (“SDG&E”) as a model for a similar proposal, these proposals should be addressed in a consolidated, coordinated fashion. At a minimum, this means that the Commission, in this proceeding, should establish a separate phase or track for SCE’s PCIA Exemption proposal and specifically consolidate this issue with the similar issue framed in the PG&E GRC2 proceeding. More appropriately, however, the Commission should direct that SCE and PG&E raise their respective PCIA Exemption proposals in the Current CARE Proceeding or another CARE-related proceeding (ideally a forthcoming rulemaking proceeding). CARE proceedings are the proceedings in which low-income and consumer ratepayers are most actively involved on CARE-related matters. A CARE proceeding would allow for a full and robust review of the PCIA Exemption proposals. As such, Lancaster urges the Commission to direct that SCE and PG&E refile or otherwise transfer their respective PCIA Exemption proposals to a CARE proceeding.

There are other reasons, however, why this RDW proceeding is not best-suited for the PCIA Exemption proposal. RDW is a procedural mechanism that acts as a stopgap between

³ Disposition Letter at 1.

⁴ See PG&E Application in A.16-06-013 at 9 (briefly describing PG&E’s proposal to “[e]liminate PCIA exemption for DA/CCA customers that receive a medical allowance). Pursuant to Rule 13.9 and Evid. Code § 452(d), the Commission may take official notice in this proceeding of the existence of this issue in SDG&E’s and SCE’s respective ERRA proceedings.

GRCs, allowing IOUs to revisit rate design issues from an IOU's previous GRC Phase II or address *new* rate design issues that have come up in the time between the IOU's general rate cases. SCE does not claim that its proposal to eliminate the PCIA Exemption revisits an unresolved rate design issues from SCE's previous GRC Phase II, and SCE did not propose to eliminate the PCIA Exemption in that proceeding. Nor does SCE's proposal address new issues that have come up in the time between its general rate cases. As SCE admits, the PCIA Exemption, in various forms, has been in place since the early 2000s.⁵ SCE has had every opportunity to address this longstanding Exemption in Phase II of its prior GRCs, but chose not to.

In addition, SCE's proposal to eliminate the PCIA Exemption is procedurally deficient. D.07-07-004, the Commission Decision adopting the RDW mechanism, requires that all RDW proposals must be complete, and must include, among other things, "An explanation why the revision should be considered prior to the next general rate case."⁶ Neither SCE's Application⁷ nor its accompanying Testimony⁸ provide *any* reason why the proposal cannot wait until SCE's upcoming GRC Phase II filing, which SCE admits will commence in June 2017, less than a year away.⁹

See, e.g., D.16-01-014 at 20 (affirming, among other things, that the Commission may "take official notice of the existence of pleadings...in other proceedings...").

⁵ See Exhibit SCE-01 at 123-124.

⁶ D.07-07-004, Appendix A, at A-27.

⁷ SCE Discusses its Proposal to eliminate the PCIA Exemption at pages 5-6 and 8 of its Application.

⁸ SCE Discusses its Proposal to eliminate the PCIA Exemption at pages 116-132 of its Testimony.

⁹ See SCE Application at 3.

If the Commission elects to not consider SCE's proposal (and also PG&E's similar proposal) in a CARE proceeding, considering SCE's proposal in its 2018 GRC Phase II is significantly more efficient for both the Commission and interested parties. The purpose of having a GRC Phase II is to allow the Commission and parties to consider rate design issues holistically, and to assess the impacts of rate design proposals both individually and in aggregate. Considering SCE's proposal to eliminate the PCIA Exemption in this proceeding, divorced from its context and all of SCE's other Phase II proposals, would run contrary to this purpose. Doing so would also unnecessarily complicate the instant proceeding, and would unnecessarily burden Lancaster, which is already a party to SCE's 2018 GRC proceeding, by requiring that Lancaster participate in a proceeding in which it does not have an interest in three of the four proposals at issue.

B. SCE's Arguments In Support Of Its Proposal Are Unreasonable And SCE Has Failed To Fully Justify Its Proposal

Under the RDW rules adopted in D.07-07-004, SCE's RDW proposal must include "full justification" for each proposed revision to SCE's rates.¹⁰ In testimony, SCE offers several arguments in favor of its proposal to eliminate the PCIA Exemption. Each of these arguments is significantly flawed and should be rejected by the Commission on substantive grounds. In addition, SCE's arguments, taken individually or in aggregate, fall short of the "full justification" of SCE's proposal required by D.07-07-004. SCE's proposal is thus procedurally inadequate, and the Commission should not consider the proposal in the instant RDW proceeding. If the Commission does consider the proposal, the reasonableness of each of SCE's legal and factual arguments in favor of the proposal should be issues in this proceeding.

¹⁰ D.07-07-004, Appendix A, at A-27.

SCE's first major argument in favor of the proposal is that the PCIA Exemption for CARE and MB customers no longer serves the purpose it was intended for, and therefore should be eliminated. SCE asserts that the Exemption was originally intended to protect CARE and MB departing load ("DL") customers from energy-crisis related surcharges, and because those surcharges have been removed from DL rates, the Commission should remove the protections from those surcharges for DL and CARE customers by eliminating the PCIA Exemption.¹¹ This argument significantly distorts and confounds the basis for the current PCIA Exemption. As SCE has admitted,¹² the Commission did not *remove* the energy-crisis related surcharges at all. Rather, through a gradual process, the Commission modified the surcharges, adapting them to changing circumstances. Throughout the course of this evolution, from one iteration of the surcharges to the next, the PCIA Exemption for CARE and MB customers remained in place. Each time the Commission updated the surcharges while allowing the PCIA Exemption to remain in place, the surcharge *and the PCIA Exemption* were adapted to a new purpose. SCE is not challenging a stale exemption to a non-existent surcharge. Rather, the PCIA Exemption is a *current* exemption to a *current* surcharge. SCE's assertion that the surcharges have evolved tremendously while the PCIA Exemption has remained frozen in time is a fiction that should be disregarded by the Commission.

While the specific surcharges may have changed over time, the fundamental policy goal underlying the Commission's adoption of the Exemption in Resolution E-3813 remains the same: protecting vulnerable CARE and MB eligible DL customers from "market price

¹¹ SCE Opening Testimony at 116.

¹² See SCE Opening Testimony at 123-124.

disruptions.”¹³ Just as the PCIA Exemption originally protected CARE and MB customers from the price disruptions caused by the electricity crisis of the early 2000s, today the Exemption protects the same CARE and MB customers from the market price disruptions caused by a variety of factors, not least of which IOU failure to accurately project CCA load departure. IOUs are required to incorporate reasonable anticipated CCA departing load in their procurement planning in order to minimize the stranded costs levied on CCA customers.¹⁴ Since CCA customers are not responsible for the IOU procurement costs once the customers’ load is projected to depart, had the IOUs accurately incorporated reasonably anticipated CCA departing load in their procurement planning, certain market price disruptions would have been reduced. Protecting CARE and MB customers from this type of disruption is one of the key reasons why the PCIA Exemption was originally adopted, and is one of the prevailing reasons why the PCIA Exemption has persisted over several generations of surcharges.

Second, SCE argues that the PCIA Exemption constitutes prohibited cost-shifting and is unfair. This argument is flawed, as it is based, in significant part, on the unsupported factual assertion that SCE’s “bundled service CARE and MB customers pay costs that CCA CARE and MB customers do not.”¹⁵ SCE, however, has not provided any documentation or testimony establishing that the specific, above-market costs recovered by the PCIA are included in the rates that its bundled service CARE and MB customers actually pay.

¹³ Resolution E-3813 at 36 (Ordering Paragraph 7).

¹⁴ D.04-12-048 at 60

¹⁵ Exhibit SCE-01 at 116

Third, SCE attempts to justify its proposal on the grounds that the PCIA Exemption violates Commission precedent.¹⁶ This justification is based on the assertion that PG&E’s 2008 GRC settlement agreement, which eliminated the PCIA Exemption for certain (but not all) customers, is binding Commission “precedent.”¹⁷ This assertion is incorrect as a matter of law, and the suspension of the PCIA Exemption in a settlement agreement has no precedential value, even if the settlement agreement was approved by the Commission. The Commission did not fully consider the suspension on its merits, nor did it reach a fully informed, reasoned decision on the suspension, supported by findings of facts, conclusions of law, and substantial evidence. In addition, PG&E’s action did not extend as far as SCE wishes to extend its PCIA Exemption proposal. As SCE admits,¹⁸ PG&E is currently seeking to extend its previous action to now also include elimination of the PCIA Exemption for MB customers. As such, PG&E’s previous action under its settlement agreement in no way establishes a “precedent” supporting SCE’s proposed elimination of the PCIA Exemption for CARE and MB customers.

C. Eliminating the PCIA Exemption Would Harm Vulnerable Ratepayers And Create Unreasonable Barriers to CCA Formation, Growth, and Operation

If the Commission does consider SCE’s proposal in this proceeding, it should carefully consider the practical consequences of eliminating the PCIA Exemption. At this point, three practical consequences are of particular concern to Lancaster. First, eliminating the Exemption will increase the electricity rates paid by Lancaster’s CARE and MB customers. These are Lancaster’s most financially vulnerable customers, individuals and families who are battling poverty, living under fixed incomes, and dealing with serious medical issues. Even small rate

¹⁶ *Id.* at 116; note 136

¹⁷ *Id.*

¹⁸ *Id.*

increases can have a major impact on customers who struggle to buy food, pay rent, and keep up with medical bills.

A second concern relates to the uncertainty added by requiring CARE and MB customers to pay the PCIA. The PCIA can vary from year to year, often dramatically, and it would be difficult for CARE and MB customers, in particular, to absorb the variability associated with the charge. This latter concern bears significant attention by the Commission, and thankfully it appears that this concern is being heard. In D.15-12-022, the Commission described various concerns raised by parties about the volatility of the PCIA and its disproportionate impact on CARE customers.¹⁹ In response, the Commission has undertaken certain steps and is taking further steps to review the PCIA, including volatility associated with the charge.²⁰ The ongoing nature of these PCIA investigations should give the Commission further pause for considering SCE's PCIA Exemption proposal in isolation; consolidated review is necessary.

Third, eliminating the PCIA Exemption and increasing the rates of CCA CARE and MB customers would reduce the economic incentive for CCA formation. Reducing the incentive to form CCAs runs directly contrary to California's expressly stated policy of: "provid[ing] for the consideration, formation, and implementation of community choice aggregation programs."²¹ This policy is an outgrowth of previously expressed policy goals set forth in Assembly Bill 117

¹⁹ See D.15-12-022 at 7-15.

²⁰ See D.15-12-022 at 22-23 (Ordering Paragraph 4) (ordering a PCIA workshop and related proceedings) and D.16-09-044 at 25 (Ordering Paragraphs 7-8) (ordering further proceedings related to the PCIA).

²¹ Senate Bill ("SB") 790 (2011), § 2(a). See also D.12-12-036 at 6 (citing SB 790, § 2(h), and Pub. Util. Code § 707(a)(4)(A)) ("In SB 790, the legislature directed the Commission to develop rules and procedures that 'facilitate the development of community choice aggregation programs, ... foster fair competition, and ... protect against cross-subsidization paid by ratepayers.'").

(2002).²² Moreover, the reduced incentive would also be inherently discriminatory against low-income individuals and communities, as it would disproportionately impact poorer communities with a higher share of CARE and MB customers.

These concerns, as well as any other practical and policy impacts of suspending the PCIA Exemption, should be addressed as issues in this proceeding if the Commission considers SCE's proposal. Moreover, if the Commission considers SCE's proposal, it should expressly address and require mitigation measures and transition periods. An example of this approach is described in D.11-05-047. In D.11-05-047, the Commission approved a proposal by PG&E (the so-called Conservation Incentive Adjustment ("CIA") proposal), which was aimed at CCA programs and resulted in restructured residential rates, with tier rate differentials being reflected in delivery charges instead of generation charges. After an extensive examination of PG&E's CIA proposal, the Commission found merit in PG&E's proposal, but nonetheless directed a one-year transition period:

The implementation of the PG&E proposal, however, could potentially impact how a CCA may design its own rates to compete for retail customers. Thus, while we find merit in PG&E's CIA proposal, we conclude that before the CIA rate component implementation takes effect, some period of time should be allotted to allow CCAs an opportunity to adjust their rate structures and billing practices in anticipation of the effects of PG&E's new CIA component on their customers. We therefore shall defer the implementation of the generation and distribution rate flattening for a one-year period in order to provide an adequate transition period for CCAs.²³

²² See D.04-12-046 at 3 (emphasis added) ("The state Legislature has expressed the state's policy to permit *and promote* CCAs by enacting AB 117...."). See also D.10-05-050 at 13 (emphasis added) "Certainly, Section 336.2(c)(9) [the provision in AB 117 that requires cooperation from the utilities] evidences a substantial governmental interest in *encouraging the development* of CCA programs and allowing customer choice to participate in them.").

²³ D.11-05-047 at 66.

If the Commission entertains SCE's PCIA Exemption proposal in this proceeding, the scoping memo should clearly state the Commission's desire to explore mitigation measures and transition periods.

III. PROCEDURAL MATTERS

Pursuant to Rule 2.6(d), Lancaster provides the following procedural comments:

A. Proposed Category

The instant proceeding is appropriately categorized at "ratesetting."

B. Need for Hearing

Lancaster believes that evidentiary hearings will be necessary if SCE's proposal to eliminate the PCIA Exemption is considered in this proceeding.

C. Issues to be Considered

Lancaster is still evaluating the RDW Application and issues associated with SCE's proposal, and therefore Lancaster reserves the right to identify additional issues that should be addressed in this proceeding. The following is an initial, non-exhaustive list of key issues that the Commission should address in this proceeding:

1. Whether the RDW Application includes "An explanation why the revision should be considered prior to the next general rate case" as required by D.07-07-004.
2. Whether it is more appropriate to consider SCE's PCIA Exemption proposal within the context of a CARE proceeding, or alternative, whether it is reasonable, and less burdensome to the Commission and parties, to consider SCE's proposal in its upcoming 2018 GRC Phase II.
3. Whether it is appropriate to consider the proposal in an RDW application, given the fact that the proposal neither revisits an unresolved rate design issues from its previous GRC Phase II, nor addresses a new issue that has arisen between GRCs.
4. Whether SCE's arguments of fact and law in support of its proposal are adequate, on their face, to satisfy the D.07-07-004 justification requirement.

5. The reasonableness of each of SCE's arguments in favor of the proposal, including the accuracy and adequacy of SCE's factual assertions, and the validity of SCE's legal arguments.
6. Whether the PCIA Exemption protects CCA CARE and MB customers from a "market price disruption" in a manner consistent with the Exemption's purpose.
7. The reasonableness of SCE's proposal in light of the clearly foreseeable practical consequences of eliminating the PCIA Exemption, including increased rates and increased uncertainty for the most vulnerable CCA customers, and reducing the financial incentive for CCA formation in a way that disproportionately impacts poorer communities.
8. Whether SCE's proposal is consistent with State and Commission policy goals, including encouraging CCA, protecting disadvantaged customers, and not discriminating against disadvantaged individuals or communities.
9. Whether mitigation measures or transition periods should be considered in the context of SCE's PCIA Exemption proposal.

D. Proposed Schedule

Lancaster has no comments on the proceeding's schedule at this time.

IV. PARTY STATUS

Pursuant to Rule 1.4(a)(2), Lancaster hereby requests party status in this proceeding. As described herein, Lancaster has a material interest in the matters being addressed in this proceeding. Lancaster designates the following person as the "interested party" in this proceeding:

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V. CONCLUSION

Lancaster appreciates the Commission's consideration of the matters addressed herein.

Dated: October 7, 2016

Respectfully submitted,

/s/ Scott Blaising

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