PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

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Ratesetting

TO PARTIES OF RECORD IN RULEMAKING 17-06-026:

This is the proposed decision of Administrative Law Judge Roscow. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's July 12, 2018, Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, ex parte communications are prohibited pursuant to Rule 8.3(c)(4)(B).

/s/ ANNE E. SIMON
Anne E. Simon
Chief Administrative Law Judge

AES:jt2

Attachment

Decision **PROPOSED DECISION OF ALJ ROSCOW (Mailed 6/12/2018)**

Order Instituting Rulemaking to Review, Revise, and Consider Alternatives to the Power Charge Indifference Adjustment.	Rulemaking 17-06-026

DECISION RESOLVING TRACK 1 ISSUES IN THE SERVICE TERRITORIES OF SOUTHERN CALIFORNIA EDISON COMPANY AND SAN DIEGO GAS & ELECTRIC COMPANY

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DECISION RESOLVING TRACK 1 ISSUES IN THE SERVICE TERRITORIES OF SOUTHERN CALIFORNIA EDISON COMPANY AND SAN DIEGO GAS & ELECTRIC COMPANY

Summary

This decision resolves issues in Track 1 of this proceeding regarding current exemptions for certain departing load customers in the service territories of Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) from paying the Power Charge Indifference Adjustment (PCIA). This decision makes the following determinations:

- The current exemptions from paying the PCIA for SCE and SDG&E customers who participate in the California Alternate Rates for Energy (CARE) and the Medical Baseline (MB) programs are eliminated, with immediate effect;
- SCE shall ensure that no CARE or MB customers of newly forming Community Choice Aggregation programs (CCAs) in SCE's service territory receive any exemptions from paying the PCIA;
- SDG&E shall ensure that no CARE or MB customers customers of newly formed or now forming CCAs in SDG&E's service territory receive any exemptions from paying the PCIA; and
- The utilities shall initiate a collaborative effort with stakeholders and policymakers to implement an appropriate outreach plan to CARE and MB customers who will be impacted by the elimination of the PCIA exemption.

This proceeding remains open.

1. Background

The Commission opened this Order Instituting Rulemaking (OIR or Rulemaking) to review the current Power Charge Indifference Adjustment (PCIA). The PCIA that is in place today has its origins in statute enacted during the 2001 California energy crisis. The September 25, 2017 Scoping Memo and

Ruling of Assigned Commissioner Peterman (Scoping Memo) includes the detailed history of the PCIA.

The Scoping Memo determined that Track 1 of this proceeding will review and possibly revise the status of exemptions from paying the PCIA for SCE and SDG&E departing load customers who participate in the California Alternate Rates for Energy (CARE) and the Medical Baseline (MB) programs, and departing load customers in Pacific Gas and Electric's (PG&E) service territory who participate in the MB program.

The CARE and MB programs provide a reduction in energy bills to participating customers. As explained below, customers are eligible to participate in CARE if they participate in certain public assistance programs or if their annual household income is below a certain threshold. Customers are eligible to participate in the MB program if they have special energy needs due to certain qualifying medical conditions.

Cal. Pub. Util. Code §739.1(c)(1), enacted as part of Assembly Bill 327, requires that the investor-owned utilities maintain an "average effective" CARE discount between 30 and 35% relative to bills that non-CARE customers would have paid for the same usage. For example, SCE residually calculates a CARE discount such that the sum of the discount and the existing CARE customer exemptions to certain surcharges results in a total CARE rate (all rate components, including generation) that is within a range of 30-35% less than the total non-CARE rate. SCE provides this discount by reducing its distribution

rate, which is paid by bundled service as well as departing load CARE customers.[1]

The MB program provides customers with an additional daily allowance of kWhs, priced at the baseline rate, to cover additional energy needs required by their medical equipment or their medical condition. For example, an SCE MB customer with one qualifying medical condition receives an additional allowance of 16.5 kWh per day. That customer's monthly bill is then calculated in accordance with the terms and conditions of their otherwise applicable tariff.[2]

Today, SCE and SDG&E CARE and MB customers are exempt from paying the PCIA. These exemptions have their origins in the California energy crisis. In June, 2003 the Commission reiterated its policy to protect CARE- and MB-eligible customers from rate increases arising from the wholesale market price disruptions that occurred during the energy crisis. The Commission also affirmed its intent to "make every effort to adopt consistent treatment of analogous bundled and DA [Direct Access] customers." For those reasons, the Commission directed the utilities to provide for the exemption of CARE- and MB-eligible usage from all components of the DA Cost Responsibility Surcharge, except the Competitive Transition Charge component, which collects above-market costs of pre-restructuring procurement contracts and utility-owned generation.[3]

PG&E, SCE and SDG&E assert that it is no longer appropriate to exempt departing load CARE and MB customers from the PCIA, because the historical

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[1] Exhibit 8 at 13.

[2] *Id.* at 16-17.

[3] Commission Resolution E-3813, June 19, 2003, Ordering Paragraph 7.

energy crisis costs from which they were exempted have been paid in full. Instead, the utilities assert that any "above-market" costs in the utilities' generation portfolios consist largely of more recent Renewable Portfolio Standard (RPS)-eligible long-term contracts. As a result, while bundled service CARE and MB customers do pay for those costs, departing load CARE and MB customers that receive the exemptions do not.

2. Procedural History

The prehearing conference in this proceeding took place on August 31, 2017 and the Scoping Memo issued on September 25, 2017. Procedurally, parties at the PHC discussed whether the matter of exemptions from the PCIA is strictly a question of legal interpretation which could be resolved solely through legal briefing, or whether there are factual issues subject to dispute that will require evidentiary hearings. The Scoping Memo determined that the schedule for this track would begin with legal briefing, with an option for parties to request evidentiary hearings. The parties active in Track 1 decided that legal briefing would be difficult without a basic evidentiary record that included previous proposals made by the investor-owned utilities to eliminate the PCIA exemption, as well as their subsequent discovery responses regarding those proposals. The parties reached consensus that the evidentiary record for Track 1 should consist of the following:

1. SCE's and PG&E's previously-submitted testimony regarding the CARE and MB PCIA exemptions in, respectively, SCE's 2016 Rate Design Window proceeding (Application [A.]16-09-003) and PG&E's 2017 General Rate Case Phase 2 (A.16-06-013);
2. All exchanged and pending data request responses as of December 5, 2017 in this proceeding regarding Track 1 issues; and

3. An opportunity for non-utility parties to submit responsive testimony on Track 1 issues.

Parties also reserved their rights to request evidentiary hearings in order to further develop the evidentiary record in this proceeding, but no party ultimately exercised that right.

On December 5, 2017 PG&E submitted a joint motion on behalf of itself, SCE, SDG&E, California Choice Energy Authority (CCEA), Marin Clean Energy (MCE), and Center for Accessible Technology (CforAT) (together, the Filing Parties) for entry into evidence of prepared testimony and discovery responses listed above.[4] Pursuant to Rule 13.8(c) of the Commission's Rules of Practice and Procedure (Rules), the Filing Parties moved that the following information be admitted into evidence:

- Exhibit 1 Updated and Amended Prepared Testimony in PG&E's 2017 General Rate Case Phase II, A.16-06-013, Exhibit PG&E-8, Volume 1, Revenue Allocation and Rate Design, served December 2, 2016, pages 1-16 to 1-18 and Attachment C
- Exhibit 2 PG&E's Public/Non-Confidential Responses to Data Requests in PG&E's 2017 General Rate Case Phase II, A.16-06-013

[4] California Choice Energy Authority (CCEA) is a joint powers authority that provides support services to CCA programs, including CCA programs administered by the cities of Lancaster, Pico Rivera and San Jacinto in southern California. Marin Clean Energy is an operational CCA in northern California. The Center for Accessible Technology is an organization that is authorized by its bylaws to represent the interests of residential customers with disabilities before the Commission. The Filing Parties state that they also collaborated with additional parties interested in this proceeding, including ORA, TURN, Western Riverside Council of Governments (WRCOG), Coachella Valley Association of Governments (CVAG) , and Los Angeles Community Choice Energy (LACCE). Filing Parties state that these parties support or do not oppose the joint motion.

- Exhibit 3 PG&E's Public/Non-Confidential Responses to CforAT Data Requests 001 and 002 in PCIA OIR, R.17-06-026
- Exhibit 4 PG&E's Responses to MCE Data Requests 001, 002 and 003 in PCIA OIR, R.17-06-026
- Exhibit 5 CforAT Responses to PG&E Data Request 001 in PCIA OIR, R.17-06-026
- Exhibit 6 MCE Responses to PG&E Data Request 001 in PCIA OIR, R.17-06-026
- Exhibit 7 Testimony of Southern California Edison Company in Support of its Application for Approval of its 2016 Rate Design Window, A.16-09-003, Exhibit SCE-1, served September 1, 2016, at pp. 116-132
- Exhibit 8 SCE Responses to CCEA Data Requests 003, 003 (Supplemental), and 004 in PCIA OIR, R.17-06-026
- Exhibit 9 SCE Responses to CforAT Data Request 001 in PCIA OIR, R.17-06-026
- Exhibit 10 CCEA Responses to SCE Data Requests 001 and 002 in PCIA OIR, R.17-06-026

The December 5, 2017 joint motion of the Filing Parties is unopposed. Therefore, the joint motion is granted and the exhibits listed above are received into evidence.

Pursuant to the schedule ultimately determined by the assigned ALJ, opening briefs were filed on February 20, 2018 by SCE and SDG&E (jointly, as the Southern California Joint Utilities; any reference in this decision to "Joint Utilities" is also a reference solely to SCE and SDG&E), CCEA, WRCOG , LACCE and CVAG (jointly, as Joint Parties), ORA and CforAT. Reply Briefs were filed on March 13, 2018 by the Southern California Joint Utilities, CCEA, ORA and CforAT (jointly) and Brightline Defense.

After briefs and reply briefs were filed, several procedural motions were filed that we address in this decision. On March 13, 2018 SCE filed a Motion for

Submission of Additional Evidence into the Record. On March 28, 2018 ORA filed a Motion to Strike Declarations and Related References in the Reply Brief of Southern California Edison Company and San Diego Gas & Electric Company on Track 1 Issues.

Finally, in a procedural development that affects the scope of the instant decision, on March 28, 2018 PG&E filed and served on behalf of itself and CforAT, MCE, ORA, TURN, and Brightline Defense (collectively, Settling Parties), a "Joint Motion of the Settling Parties for Adoption of Settlement Agreement". The proposed PG&E Settlement Agreement resolves the availability of the exemption for medical baseline customers taking energy from community choice aggregators in PG&E's service territory and will be addressed in a separate decision.

Because the March 28, 2018 Settlement Agreement resolves all Track 1 issues in PG&E's service territory, the instant decision resolves all Track 1 issues with respect to PCIA exemptions in the service territories of SCE and SDG&E.

2.1. Motions

2.1.1. March 3, 2018 SCE Motion for Submission of Additional Evidence into the Record

SCE seeks the admission into the record of an update to one discovery response, its Response to CCEA SCE-003, Supplemental Question 1 (Amended Response), which it provided to CCEA on March 2, 2018. SCE explains that CCEA's original data request (DR) stated "[f]or the DR responses where SCE has not responded because 2018 rates are not yet available, please use the rates and sales volumes for 2018 as forecast in SCE's 2018 ERRA forecast filing (A.17-05-006)." SCE states that because more accurate 2018 data is now available, SCE provided updated information to CCEA in the amended response, which

also includes new assumptions about PCIA rates based on new information regarding costs related to the San Onofre Nuclear Generating Station, and to Lancaster Choice Energy generation rates. SCE asserts that good cause exists for receipt of this "limited" additional evidence into the record because SCE's updated responses include more recent information and clarifying assumptions: "the Commission should make a determination in Track 1 of this proceeding based on the most current and accurate information available."

For the reasons discussed below, SCE's motion is denied. We provide the timeline below to support our discussion.

Date	Event
December 5, 2017	Joint Motion states "After discussing several alternatives, the parties reached consensus that the evidentiary record for Track 1 should consist of …" Exhibits 1 – 10 attached to the Joint Motion.
February 20, 2018	Opening Briefs filed and served
March 2, 2018	SCE emailed CCEA several documents that SCE referred to as "updated responses" to Data Request CCEA-SCE-003 and Data Request CCEA-SCE-003 Supplemental
March 13, 2018	Reply Briefs filed and served
	SCE Motion for Submission of Additional Evidence into the Record filed and served

On March 22, 2018 CCEA and CforAT (Joint Respondents) filed a joint response to SCE's motion. Joint Respondents note that SCE provided the "updated responses" only to CCEA, but those responses are then relied on in the Joint Utilities' reply brief. Joint Respondents argue that SCE's motion is contrary to the active Track 1 parties' mutual agreement and is unfair, prejudicial, and a violation of their right to due process. Joint Respondents also note, as was also noted in a prior ruling in this proceeding, that the Commission has an interest in

ensuring that regulated utilities do not use their greater access to data as an unfair advantage over other parties in regulatory proceedings.[5]

SCE responded to the Joint Respondents on April 4, 2018. SCE addresses Joint Respondents' arguments in a fragmentary manner, but ignores the basic fact that SCE failed to act in a timely or transparent manner on March 2, when it could have, and should have, asked the Commission to accept its "updated responses" into the record in this proceeding. We agree with Joint Respondents that SCE's actions were unfair, prejudicial, and contrary to due process. Therefore, we deny SCE's March 13, 2018 Motion for Submission of Additional Evidence into the Record, and we have not relied on any information in the attachment to that motion in reaching our decisions on the issues in this proceeding.

2.1.2. March 28, 2018 ORA Motion to Strike Declarations and Related References in Joint Utilities Reply Brief

For the reasons discussed below, ORA's motion is granted.

In its Motion to Strike, ORA seeks to strike: (1) two declarations attached to the Joint Utilities' March 13, 2018 reply brief; and (2) the citations to the declarations that appear in the reply brief. The material in dispute discusses what the Joint Utilities describe as "the common-sense potential impacts that [proposals to] "phase-out" [the PCIA exemption] would likely have on the two utilities' ongoing Customer Service Re-Platform capital project (for SCE), and the

[5] Assigned Commissioner and Assigned Administrative Law Judge Ruling Confirming Scoping Memo Issues and Modifying Schedule at 17: "Finally, because the IOUs possess the greatest amount of data, preventing sharing creates an asymmetry in our administrative process that favors the utilities."

replacement of the legacy Customer Information System billing system (for SDG&E). Accordingly, the Southern California Joint Utilities submitted the Declarations with their Reply Brief."[6] Appendix A of ORA's motion includes a "strike-through" version of the disputed text in the Joint Utilities' Reply Brief.

ORA asserts that admitting the Joint Utilities' declarations and their citations to those declarations would be unfair, prejudicial, and a violation of their right to due process. ORA notes that due process requires, at a minimum, notice and opportunity to be heard. In ORA's view, the Track 1 parties did not receive adequate notice and were deprived of their opportunity to object to and present information counter to that contained in the Joint Utilities' declarations, which ORA suggests include factual statements that are in dispute. ORA also notes that Rule 13.11 states that in closing briefs, "factual statements must be supported by identified evidence of record" which in this case, by parties' mutual agreement, was submitted with the Joint Motion on December 5, 2017. For these reasons, ORA asks that the disputed information not be admitted into the record, or that discovery and the record be reopened so that parties may be heard.

The Joint Utilities responded to ORA's motion on April 10, 2018. The utilities' response again addresses the issues raised by ORA in a fragmentary manner, describing ORA's due process concerns as "overstated" while misrepresenting those concerns as focused on the Joint Utilities' billing system limitations, as opposed to the manner in which the Joint Utilities introduced the information. The Joint Utilities also argue that there is equivalency between the

[6] Joint Utilities' Response to Office of Ratepayer Advocates' Motion to Strike, April 10, 2018 at 2.

due process problems created by their additional declarations and the fact that ORA and other parties first made their PCIA "phase-in" proposals in opening briefs. We disagree. As will be seen below, the phase-in proposals are properly supported by the evidentiary record that parties moved to introduce into the record on December 5, 2017. We are also surprised that, in a somewhat disparaging tone, the Joint Utilities appear to question why the Commission would rely on that "frozen record" when newer information might be available, despite their agreement with the other Track 1 parties on December 5, 2017 as to what should be in that "frozen" record.

We grant ORA's March 28, 2018 "Motion to Strike Declarations and Related References in the Reply Brief of Southern California Edison Company and San Diego Gas & Electric Company on Track 1 Issues." The two declarations and the material marked with strike-through font in Appendix A of ORA's motion are struck from the Joint Utilities' reply brief. We agree with ORA that, far from being "overstated", its objections relate to the fundamental requirements of procedural due process: adequate notice and the opportunity to be heard. As with SCE's Motion for Submission of Additional Evidence into the Record, while there are procedurally fair and transparent means of seeking leave to supplement the record, inclusion of new information in reply briefs is not one of them. We have not relied on any information identified stricken as a result of ORA's motion in reaching our decisions on the issues in this proceeding.

3. Issues Before the Commission

Pursuant to direction in the Scoping Memo and based on our review of the evidence and the parties' briefs and reply briefs, in this decision we resolve the issues listed below with respect to PCIA exemptions in the service territories of the Southern California Joint Utilities:

1. Should the PCIA exemptions for current departing load CARE and MB customers be eliminated?
2. Should CARE and MB customers of new CCA programs receive PCIA exemptions?
3. If the PCIA exemptions are eliminated, should the resulting PCIA for current departing load CARE and MB customers be phased in over a period of time?
4. If the PCIA exemptions are eliminated, should the Commission order the utilities to educate departing load CARE and MB customers about how their bills will change?

4. Discussion and Analysis

4.1. Should the PCIA Exemptions for Current Departing Load CARE and Medical Baseline Customers be Eliminated?

None of the active Track 1 parties advocate for retention of PCIA exemptions for departing load CARE and MB customers, and we eliminate those exemptions in this decision.

The Southern California Joint Utilities argue that "exempting a small number of departing load customers from a rate that recovers costs that all other customers pay is unnecessary, contrary to Commission precedent, inequitable, and contrary to law" and recommend ending the PCIA exemption for CARE and MB departing load customers in the Southern California Joint Utilities' service territories.[7]

CCEA "is not categorically opposed to eventually eliminating or modifying the PCIA Exemption." However, CCEA states that the PCIA

[7] Southern California Joint Utilities Opening Brief at 2.

exemption should not be immediately eliminated, with no phase-in period for the PCIA or other mitigation measures.[8]

The Joint Parties acknowledge that the Commission may determine that the exemption should be eliminated on the basis that it is inconsistent with the principle of bundled customer indifference, and focus their brief on the timing of when the exemption would be eliminated for the Joint Parties' customers.

CforAT does not address the appropriateness of the exemption itself, but recommends that, if it is eliminated, the PCIA exemption should be phased out over time for customers currently receiving it. Furthermore, CforAT does not support extending the exemption to customers of future CCAs, including those that are currently being formed and are not yet serving residential customers.

ORA offers recommendations consistent with those summarized above and provides a succinct analysis of the facts, the relevant law, and how the facts and the law should guide our decision:

> The current PCIA exemptions provide an additional discount to departing load CARE and medical baseline customers that their bundled service CARE and medical baseline counterparts do not receive.
>
> To recover the cost of the discount provided to departing load CARE and medical baseline customers, the IOUs [investor-owned utilities] must collect this amount from bundled service customers in the following year by increasing the generation rate paid by all (including CARE and medical baseline) bundled customers.
>
> This increase in the generation rate results in an increase in the non-CARE customer-funded (including non-CARE departing load customers) surcharge that pays for the CARE discount.

[8] CCEA Opening Brief at 4.

> Exempting departing load CARE and medical baseline customers from the PCIA is both inequitable and a violation of Commission policy and state statutes on bundled customer indifference.[9]

ORA supports its conclusions by citing D.08-09-012 (generally) and Cal. Pub. Util. Code §365 and §366.3. These sections were added to the Public Utilities Code in 2015 by Senate Bill (SB) 350, and make explicit the dual statutory requirements that (1) bundled service utility customers do not experience any cost increases when other retail customers elect to receive service from other providers, or due to the implementation of a CCA program, and (2) customers who depart for another provider or due to formation of a CCA not experience any cost increases as a result of an allocation of costs that were not incurred on behalf of the departing load:[10]

> Section 365.2 provides:
>
> The commission shall ensure that bundled retail customers of an electrical corporation do not experience any cost increases as a result of retail customers of an electrical corporation electing to receive service from other providers. The commission shall also ensure that departing load does not experience any cost increases as a result of an allocation of costs that were not incurred on behalf of the departing load.

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[9] ORA Opening Brief at 3, citing what has now been received into evidence as Exhibit 7, "Testimony of SCE in Support of its Application for Approval of its 2016 Rate Design Window, A.16-09-003" at 131.

[10] Stats. 2015, ch. 547. We note that the term "indifference" is not used in the Code sections regarding CCAs and departing load. Rather, that term was introduced in Decision (D.) 02-11-022. The Scoping Memo identifies the issues within the scope of this proceeding by relying on statutory references only.

Section 366.3 provides:

> Bundled retail customers of an electrical corporation shall not experience any cost increase as a result of the implementation of a community choice aggregator program. The commission shall also ensure that departing load does not experience any cost increases as a result of an allocation of costs that were not incurred on behalf of the departing load.

We agree with the overall consensus expressed by the Track 1 parties regarding whether to continue to authorize exemptions from the PCIA for CARE and MB customers in the Southern California Joint Utilities' territories, and we find that all such exemptions should be ended.

The Joint Utilities provide a detailed history of the origins of the PCIA exemption in their opening brief.[11] We review the salient points of that history here and demonstrate how it supports the logical conclusion that the PCIA exemption should be ended.

When California's electric market restructuring took effect in 1998, the Legislature "froze" the rates of investor-owned utility (IOU) customers at June 1996 levels, with the intention that rates would remain at those levels until March 31, 2002. Unfortunately for all Californians, as the Joint Utilities explain, the "rampant market manipulation from 2000-2001" had two effects that would increase rates.

First, since IOU rates were frozen, PG&E, SCE and SDG&E each experienced immediate and significant generation rate revenue shortfalls, leaving them with insufficient funds to pay the exorbitant costs of the power they were obligated to purchase in California's dysfunctional electricity market.

[11] Joint Utilities' Opening Brief at 2-12.

This led to the second effect, where the Legislature authorized the California Department of Water Resources (DWR) to enter into long-term contracts on behalf of the IOUs' customers. The cost of those contracts exceeded $40 billion; the last of the DWR long-term contracts expired in 2015.

As the energy crisis unfolded, the utilities also requested Commission authorization to lift the rate freeze and increase customer rates. The Commission responded by first adopting a 1 cent/kWh Emergency Procurement Surcharge (EPS), shortly thereafter a 3 cent/kWh Procurement Energy Surcharge (PES). A significant portion of the surcharge revenues was immediately remitted to the DWR to cover that agency's contract costs.

Although the immediate costs of the crisis were now covered and future procurement needs met, the revenue shortfalls for the utilities also had to be addressed. The Joint Utilities' brief uses SCE as an example and explains that in October 2001, SCE entered into a settlement agreement with the Commission that (1) established the "Procurement Related Obligations Account (PROACT)," and (2) specified a balance to be recovered from bundled service customers in order to cover SCE's procurement costs in excess of the revenues recovered through bundled service generation rates, the EPS, and the PES from early 2000 to September 2001 (the "PROACT balance"). This PROACT balance, together with the ongoing DWR obligations, were collectively known as historical energy crisis liabilities. The Commission established "Settlement Rates" at the level required to collect the PROACT balance from bundled service customers.

The PROACT balance was fully recovered by August 2003. At that time, for the first time since customer rates were frozen in 1998, the Commission ended the Settlement Rates and terminated the 4 cent/kWh PES and EPS surcharges. The Commission's ratemaking practices returned to a from-the-bottom-up

approach, i.e., traditional cost-of-service ratemaking. It is important to note, however, that customer rates also collected costs of ongoing DWR power contracts, and the DWR Bond Charge (DWRBC) to recover the principal and interest of bonds totaling $10 billion that DWR issued to pay for energy for bundled service customers in the dysfunctional markets in late 2000 and early 2001.

The history recounted above covers only ratemaking for bundled-service customers who received their electricity from their utility. The energy crisis also required the Commission to adjust its ratemaking practices for departing load customers. The size and composition of this second group has changed over time. The size of the largest component, Direct Access customers, was capped during the energy crisis, with the level of the cap increased beginning in 2010. There were no CCAs represented in the departing load category until MCE began to serve customers in 2010.

In 2002 the Commission adopted a "Cost Responsibility Surcharge" (CRS) methodology in order to collect from departing load customers the costs that the Commission deemed to be their share of the overall costs incurred during the energy crisis, or prior to restructuring itself: the above-market costs of pre-restructuring procurement contracts and utility-owned generation, the utility shares of energy crisis liabilities, and the above-market costs of DWR power contracts through the DWR Power Charge component.

In 2006, the Commission renamed the "DWR Power Charge" component of the CRS to be the Power Charge Indifference Adjustment, and for the first time, expanded its composition from solely above-market costs of DWR power contracts to include the above-market costs of utility generation resources. The Commission adopted a "Total Portfolio Indifference Standard" approach to

calculating the non-DWRBC components of the CRS. Each utility's total power portfolio costs (pre-restructuring utility-owned generation costs, pre-restructuring procurement contract costs, and DWR power costs) were compared to a market price benchmark to determine an "Indifference Amount." The ongoing CTC was then subtracted from the Indifference Amount to residually determine the PCIA.

In 2008, the Commission significantly expanded the CRS to allow for the recovery of any above-market costs associated with utility-owned generation from fossil-fueled and renewable resources contracted for or constructed by the utilities subsequent to January 1, 2003. This category of resources was designated as New World Generation", and such costs would be recovered from customers who departed from utility service after the resources were procured. The Commission directed the utilities to expanded the PCIA to calculate, on a total portfolio basis, the above-market costs associated with the following types of resources: (1) pre-restructuring utility-owned generation, (2) DWR power contracts, and (3) New World Generation.

Finally, in the same decision the Commission also established the "vintaging" process—the process of assigning a departure date to departing load customers in order to determine those customers' generation resource obligations. The Commission intended the vintaging process to ensure that departing load customers are responsible for resources procured prior to their departure, but not held responsible for resources procured after their departure.

This general history of the ratemaking fallout from California's energy crisis will aid our explanation of our determinations regarding the PCIA exemption for CARE and MB customers.

First, regarding bundled service CARE and MB customers, the Commission's 2001 decisions adopting the 1 cent/kWh EPS and the 3 cents/kWh PES, that these customers should not be held responsible for any energy crisis liabilities, which exempted them from paying the EPS, the PES and the DWRBC. It was not until August 2003, when the EPS, PES and (for SCE) the Settlement Rates were all terminated, that CARE and MB ratemaking returned to normal, along with all other bundled service ratemaking.

Second, regarding departing load CARE and MB customers, in Resolution E-3813 the Commission articulated its policy of analogous treatment for bundled service and departing load CARE and MB customers, and exempted departing load CARE and MB customers from paying energy crisis costs collected from departing load customers: the DWR power charge, the DWRBC, and (for SCE) a "historical procurement charge" levied on other departing load to collect their share of SCE's crisis-related liabilities. The Commission summarized its determinations as follows:

> Our expressed policy is to protect the interests of CARE and medical baseline customers so that they are exempt from rate increases arising from the wholesale market price disruptions. We exempted bundled CARE and medical baseline usage from the 3-cent surcharge in D.01-05-064. Thus we clarify our intent to exempt CARE and Medical baseline DA customers from all components of the DA CRS, except for the CTC charges to be determined in the DA CRS Cap Proceeding, R.02- 01-011. This exemption will be effective on a going forward basis.[12]

The Southern California Joint Utilities rely on this history to support their argument that ending the CARE and MB PCIA exemptions is the proper

[12] Resolution E-3813 at 20.

outcome of this proceeding. Having clearly established that the departing load CARE and MB exemptions from the DWR Power Charge component of the CRS, and later the PCIA, "was intended to be an explicit exemption from Energy Crisis-related liabilities that have not been a part of SCE's portfolio since 2011 and SDG&E's portfolio since 2013, the exemption is no longer appropriate or necessary."[13] The Joint Utilities summarize their argument as follows:

> In 2003, the Southern California Joint Utilities' portfolios consisted almost exclusively of pre-restructuring resources and DWR contracts (i.e., Energy Crisis-related resources). As such, [departing load] CARE and MB customers were appropriately exempted from paying the DWR Power Charge component of the CRS, which recovered the above-market costs of Energy Crisis-related DWR contracts, but not exempt from paying the CTC, which recovered the above-market costs of utility-owned generation and contracts signed prior to deregulation.
>
> Similarly, in 2006 when the DWR Power Charge component of the CRS was renamed to the PCIA and the Southern California Joint Utilities' portfolios were still primarily comprised of pre-restructuring resources and DWR contracts, the Southern California Joint Utilities appropriately continued to exempt [departing load] CARE and MB customers from the PCIA.
>
> The Southern California Joint Utilities' portfolios today, on the other hand, consist almost exclusively of utility-owned generation and post-Energy Crisis procurement contracts, and do not include any DWR contracts.[14]

We agree with the logic of the Joint Utilities' argument. Before the 1998 electric market restructuring, before the 2000-2001 energy crisis, the Commission

[13] Joint Utilities Opening Brief at 12.

[14] *Ibid.*

acted consistently with CARE and MB statutes to ensure that these customers received the appropriate discounts on their utility bills. Following the energy crisis, the Commission explicitly determined that all CARE and MB customers, whether bundled service or departing load, should be "exempt from rate increases arising from the wholesale market price disruptions."[15] Today, any costs causing such rate increases have been recovered. It is indisputable that bundled load CARE and MB customers do pay the equivalent of the PCIA in the generation component of their bundled service utility bill. Therefore, there is no longer any basis in statute, or Commission policy such as was articulated in Resolution E-3813, for the Commission to require SCE or SDG&E to provide the PCIA exemption to departing load CARE and MB customers.

There is less agreement between the Track 1 parties regarding the remainder of the issues before us. We turn to those issues below.

4.2. Should CARE and Medical Baseline Customers of New CCAs Receive PCIA Exemptions?

Having found that the law and public policy require us to end exemptions from the PCIA for CARE and MB customers, we also find that such customers of new CCAs should not be exempted from the PCIA.

There is little disagreement between the parties on this issue. First, the Joint Parties, who represent newly formed or soon-to-form CCAs in Southern California, strongly urge the Commission to reach the same result:

> Should the Commission choose to eliminate the PCIA exemption for CARE and MB departing load customers, then it should be eliminated immediately as to the Joint Parties so that new customers

[15] Resolution E-3813 at 20.

> of LACCE, CVAG and WRCOG do not enjoy the benefit of the exemption upon the provision of new service in 2018, only to have it taken away.[16]

Joint Parties explain that if their customers receive the exemption for a few months, and it is then eliminated, this would have the effect of "bill shock" on their low income and special needs customers. These customers would become accustomed to the financial savings offered by the exemption in the first few months of service, only to see their electricity bills rise significantly once the exemption is effectively eliminated.[17] The Joint Parties are concerned that the exemption could remain in place until such time as SCE makes certain changes to its billing system, which Joint Parties believe could occur as late as 2019. Therefore, the Joint Parties recommend that any elimination of the exemption for their customers should be implemented by SCE promptly after the Commission's decision.[18] As noted above, CforAT makes a similar recommendation.[19]

The Joint Utilities state in their opening brief that ending the exemption now is critical because departing load in the Southern California Joint Utilities' service territories is accelerating rapidly: "under no circumstances should the anachronistic exemption be provided to a rapidly expanding population of [departing load] CARE and MB customers. The time to end the artificial exemption is now, when the number of customers affected by it is relatively

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[16] Joint Parties' Opening Brief at 3.

[17] *Ibid.*

[18] *Ibid.*

[19] CforAT Opening Brief at 1.

small."[20] The Joint Utilities revise or clarify their positions somewhat in their reply brief. SCE proposes to end the exemption on October 1, 2018.[21] SDG&E requests that it have up to one year from the date of this decision to eliminate the exemption.[22] SDG&E submits that it is not in its overall customers' collective best interest to inefficiently fast-track expensive billing system changes to implement ending the exemption, especially given the fact that even with the addition of CARE and MB customers that will soon be served by Solana Beach's CCA, there will be only approximately 650 affected customers in its service territory.

In light of our finding that customers of new CCAs should not be exempted from paying the PCIA, we also find that SCE and SDG&E must implement today's decision on a timeline that ensures that no CARE or MB customers of newly formed or now forming CCAs in SCE or SDG&E service territory receive any exemptions from paying the PCIA. Throughout this proceeding, up to and including their opening brief, the Southern California Joint Utilities have stressed the urgency of immediate Commission action to eliminate the PCIA exemptions. We have acted quickly, and we grant that relief in this decision. In return, the Joint Utilities shall be obligated to implement our decision promptly. The Joint Parties have emphasized the importance of rate and billing certainty for their customers and for departing load customers, and we find that immediate implementation of our decision is an important component of that certainty.

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[20] Joint Utilities'' Opening Brief at 26-27.

[21] Joint Utilities Reply Brief at 17.

[22] *Ibid*.

4.3. If the PCIA Exemptions Are Eliminated, Should the Resulting PCIA for Current Departing Load CARE and Medical Baseline Customers be Phase in Over a Period of Time?

As explained below, after review of parties' briefs we find that we should not require that the PCIA charge be phased in over a period of time.

In reaching this determination we have weighed parties' concerns about what they describe as "rate shock" or "bill shock" against the undisputed fact that at present, "the current PCIA exemptions provide an additional discount to departing load CARE and medical baseline customers that their bundled service CARE and medical baseline counterparts do not receive."[23] The Joint Utilities make a simple comparison between neighboring cities located in the Antelope Valley, Lancaster and Palmdale. Lancaster formed a CCA (Lancaster Choice Energy, or LCE) in 2015 and is supported by CCEA, an active Track 1 party. The residents of Palmdale are served by SCE as bundled service customers. It is entirely possible that two CARE or MB customers who live on the same street, but across the city lines from each other, pay significantly different monthly bills because one customer lives in Lancaster, taking service from LCE and benefiting from the current PCIA exemption, while their neighbor, living across the street in Palmdale, pays a higher bill to SCE because SCE's customers are not exempt from PCIA-related costs. This disparity is the result of current Commission policies, and we find that we should not leave in place a selectively applied

[23] ORA Opening Brief at 3, citing what has now been received into evidence as Exhibit 7, " Testimony of SCE in Support of its Application for Approval of Its 2016 Rate Design Window, A.16-09-003" at 131.

subsidy, the continuation of which is not supported by any party in this proceeding.

The notion of phasing in the PCIA for currently-exempted customers is advanced by several parties, each of which justifies its proposal by relying on calculations of bill impacts for the affected customers. CforAT argues for a four-year, phase-out of the PCIA exemption for the customers who currently receive it. CCEA and ORA support similar relief. The Joint Utilities oppose any phase-in and argue that the Commission should not consider bill impacts.

The parties on both sides of this issue present their arguments about bill impacts in a muddled fashion that is of little assistance to the Commission. Advocates of a phase-in calculate their estimated bill impacts incorrectly by representing the impact of new PCIA charges in relation to only the utilities' portion of the customer bill, not the entire bill, but appear to be relying on calculations provided by the utilities themselves. The Joint Utilities readily fault these parties for this error, but provide no alternative calculations for our consideration.

We provide here what we consider to be properly calculated bill impacts due to the removal of the PCIA exemption for CARE and MB customers in Lancaster. These calculations serve as the basis for our evaluation of parties' phase-in proposals. The following assumptions are used in the calculations, and have been taken from CforAT's opening brief (those assumptions, in turn, are taken from the jointly submitted exhibits in this proceeding, as cited below):

- The average bundled service CARE customer in Climate Zone 14 (where Lancaster is located) uses 617 kWh per month.[24]

[24] SCE Response to CCEA-SCE-003, Question 6, Exhibit 9 at 8.

- The average bundled service Medical Baseline customer in Climate Zone 14 uses 900 kWh per month.[25]
- SCE's forecast 2018 PCIA for the 2014 Vintage was $0.01889 per kWh as of October 10, 2017.[26]
- SCE's baseline "delivery rate" for CARE customers was $0.03453 per kWh, and the rate for usage between 101% and 400% of baseline was $0.09126 per kWh as of October 10, 2017.[27]
- SCE's baseline "delivery rate" for MB customers was $0.08722 per kWh as of October 10, 2017.
- SCE's "generation rate" for all residential customers, including CARE and MB, was $0.07477 per kWh as of October 10, 2017.[28]
- For Climate Zone 14, the summer baseline allowance is 16.1 kWh per day, and the winter baseline allowance is 10.5 kWh per day (for "Basic" non-all-electric customers).
- SCE's Medical Baseline customers receive an additional baseline allowance of 16.5 kWh per day.

Using these assumptions, we calculate a representative bill for the "average" CARE and MB customers in SCE's Climate Zone 14. We use SCE's generation rate as a proxy for whatever generation rate LCE may offer, because our purpose here is to calculate reasonably estimated bill impacts that all parties can agree are at least calculated accurately. Using this approach, assuming a 30 day month, we reach the following results:

For CARE customers:

- Total bill for SCE customer = $75.04, including $11.66 for PCIA[29]

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[25] *Ibid.*

[26] SCE Response to CCEA-SCE- 003, Question 11, Exhibit 9 at 20.

[27] Exhibit 9 at 44.

[28] *Ibid.*

- Total bill for LCE customer = $63.38 (exempt from PCIA)[30]
- If the LCE CARE customer is no longer exempt from the PCIA and must pay an additional $11.66, that is an 18.4% bill increase, or "bill impact" (= $11.66 divided by $63.38)

For Medical Baseline customers:

- Total bill for SCE customer = $145.79, including $17.00 for PCIA[31]
- Total bill for LCE customer = $128.79 (exempt from PCIA)[32]
- If the LCE MB customer is no longer exempt from the PCIA and must pay an additional $17.00, that is a 13.2% bill increase, or "bill impact" (= $17.00 divided by $128.79)

We do not dispute that, even when calculated correctly, the change in CARE and MB customer bills when the PCIA exemption is removed is not insignificant. However, this also illustrates why we find it important to remove this exemption immediately: there are no legal or policy-based reasons that a CARE or MB customer in Palmdale should pay a larger monthly bill to SCE than the similarly situated CARE or MB customer in Lancaster pays to LCE. All CARE and MB customers should receive the same level of discounts, regardless of where they live.

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[29] Calculation: (483 baseline kWh x $0.03453) + (184 non-baseline kWh x $0.09126) + (617 kWh x $0.07477) = $75.04

[30] Calculation: (483 baseline kWh x $0.03453) + (184 non-baseline kWh x $0.09126) + (617 kWh x $0.07477) = $75.04, minus (617 kWh x $0.01889) = $11.66

[31] Calculation: (900 baseline kWh x $0.08722) + (900 kWh x $0.07477) = $145.79.

PCIA = (900 kWh x $0.01889) = $17.00

[32] Calculation: (900 baseline kWh x $0.08722) + (900 kWh x $0.07477) = $145.79 - (900 kWh x $0.01889) = $17.00

4.4. If the PCIA Exemptions are Eliminated, Should the Commission Order the Utilities to Educate CARE and Medical Baseline Customers About How Their Bills Will Change?

A number of parties recommend that the Commission order the utilities to educate CARE and Medical Baseline customers about how their bills will change. ORA states that Commission should require the utilities to work with DA and CCA providers to educate their customers about this change. CforAT recommends (as part of its phase-in proposal, which we declined to adopt above) that SCE should be required to provide effective notice and education to customers so that they can take steps to respond to the changes in their utility bills.[33] CforAT notes that this Commission has repeatedly stressed the importance of customer outreach and education as a part of changes to rates or rate structures, most recently in the residential rate reform proceeding, where Principle 10 of the Commission's Rate Design Principles establishes the importance of "customer education and outreach that enhances customer understanding and acceptance of new rates."[34]

The Joint Utilities are silent in their briefs regarding customer education, so we rely on the record material cited by CforAT. In its opening brief, CforAT notes that "SCE has also rejected any obligation to communicate in advance with impacted CARE and Medical Baseline customers about eliminating the PCIA

[33] CforAT Opening Brief at 3.

[34] *Id.* at 11.

exemption."[35] We have reviewed the cited material, and we note that, if anything, CforAT understates SCE's unwillingness to cooperate:

> CCEA question (in relevant part): Does SCE believe that it is appropriate to communicate in advance with its CARE and MB customers regarding implementation of the Elimination Proposal? Please explain.
>
> SCE answer (in relevant part): No. **All** of SCE's CARE and MB customers – those who receive generation service from SCE or from CCAs – are currently provided and will continue to be provided their entire statutory CARE and MB baseline discounts through their SCE distribution rates. CCAs are free to communicate with their customers about their own generation rates.

SCE was asked whether it believed it was appropriate to communicate with its own customers, but did not answer that question at all. When any party provides a non-responsive answer to discovery questions, as SCE has done here, that party misses an opportunity to make the best record possible for the Commission to rely on in making a decision. While it would have been helpful to us to know why SCE does not believe that it is appropriate to communicate in advance with its CARE and MB customers regarding implementation of the removal of the PCIA exemption, we can rely on CforAT's thorough justification for its proposal that we direct SCE to provide effective notice and education to customers regarding the changes we order in today's decision. We also direct SCE and SDG&E to educate customers regarding any available payment plans or other options to manage their bills. Therefore, we adopt CforAT's proposal that we establish a "collaborative effort by stakeholders and policymakers to

[35] *Id.* at 3, citing Exhibit 9 at 29 (SCE Response to CCEA-SCE-03, Question 17; emphasis in the original).

implement an appropriate outreach plan to customers who would be impacted by the elimination of the PCIA exemption."[36] SCE and SDG&E shall initiate and jointly fund this collaborative effort, which should provide effective notice and education to impacted customers. This outreach plan should include educating impacted customers about other payment plans or options, if any, offered by the IOU for departing load CARE and MB customers. SCE and SDG&E shall submit Tier 1 Advice Letters within 30 days of the effective date of this decision, establishing a memorandum account to record and track their respective shares of the costs associated with this outreach effort.

5. Conclusion

This Decision establishes an equal footing for CARE and MB customers served by the Southern California Joint Utilities and those served by CCAs in Southern California. The PCIA exemptions established for these departing load customers are no longer justified as a matter of policy, and we remove those exemptions as a matter of fairness to all customers. The departing load customers in SCE's and SDG&E's territories remain customers of SCE and SDG&E for non-generation services, and it is reasonable for the Joint Utilities to provide effective notice and education about this significant change in their bills.

6. Comments on Proposed Decision

The proposed decision of Administrative Law Judge (ALJ) Roscow in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's

[36] *Id.* at 12.

Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____. .

7. Assignment of Proceeding

Carla J. Peterman is the assigned Commissioner and Stephen C. Roscow is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The current PCIA exemptions provide an additional discount to departing load CARE and medical baseline customers that their bundled service CARE and medical baseline counterparts do not receive.

2. Exempting departing load CARE and medical baseline customers from the PCIA is inequitable.

Conclusions of Law

1. The current provisions for exemptions from the PCIA for CARE and MB customers in the Southern California Joint Utilities' territories are inconsistent with Cal. Pub. Util. Code §365 and §366.3.

2. The currently authorized exemptions from the PCIA for CARE and MB customers in the Southern California Joint Utilities' territories should be ended.

3. CARE and medical baseline customers of new CCAs should not be exempted from the PCIA.

4. Proposals to phase in the PCIA for affected CARE and Medical Baseline customers would result in inconsistent treatment of otherwise similar departing load and bundled utility customers.

5. The utilities should be required to provide effective notice and education to CARE and Medical Baseline customers so that they can take steps to respond to the changes in their utility bills.

6. A fundamental requirement of procedural due process is adequate notice and the opportunity to be heard.

7. Rule 13.11 states that in closing briefs, factual statements must be supported by identified evidence of record.

8. Certainty about rates and billing are important to customers, so this decision should be implemented without delay.

O R D E R

IT IS ORDERED that:

1. The current exemptions from paying the Power Charge Indifference Adjustment for departing load customers of Southern California Edison and San Diego Gas & Electric Company who participate in the California Alternate Rates for Energy and Medical Baseline programs are eliminated and elimination of the exemptions shall take effect immediately.

2. Southern California Edison (SCE) shall ensure that no California Alternate Rates for Energy or Medical Baseline customers of newly forming Community Choice Aggregation programs, in SCE's service territory receive any exemptions from paying the Power Charge Indifference Adjustment.

3. San Diego Gas & Electric (SDG&E) shall ensure that no California Alternate Rates for Energy or Medical Baseline customers of newly formed or now forming Community Choice Aggregation programs in SDG&E's service territory receive any exemptions from paying the Power Charge Indifference Adjustment.

4. Southern California Edison and San Diego Gas & Electric shall initiate and jointly fund a collaborative effort with stakeholders and policymakers to

implement an appropriate outreach plan to provide effective notice and education to customers who will be impacted by the elimination of the Power Charge Indifference Adjustment exemption.

5. Southern California Edison shall submit a Tier 1 Advice Letter within 30 days of the effective date of this decision, establishing a memorandum account to record and track its share of the costs associated with the outreach effort established in Ordering Paragraph 4.

6. San Diego Gas & Electric Company shall submit a Tier 1 Advice Letter within 30 days of the effective date of this decision, establishing a memorandum account to record and track its share of the costs associated with the outreach effort established in Ordering Paragraph 4.

7. Southern California Edison's March 13, 2018 Motion for Submission of Additional Evidence into the Record is denied.

8. The Office of Ratepayer Advocates' March 28, 2018 Motion to Strike Declarations and Related References in the Reply Brief of Southern California Edison Company and San Diego Gas & Electric Company on Track 1 Issues is granted.

9. Rulemaking 17-06-026 remains open.

This order is effective today.

Dated _____, at San Francisco, California.