

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



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Application of Southern California Edison
Company (U 338-E) for Approval for Its
Building Electrification Programs.

Application 21-12-009
(Filed December 20, 2021)

**SIERRA CLUB AND NATURAL RESOURCES DEFENSE COUNCIL
OPENING COMMENTS ON THE PROPOSED DECISION**

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Dated: November 16, 2023

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	DISCUSSION	2
	A. The Commission Should Approve SCE’s Application with Modifications or Grant SCE Leave to Amend Its Application.	2
	1. SCE’s proposal meets a critical need.	2
	2. Rejecting SCE’s proposal risks negative consequences for low-income customers faced with rising gas bills and major economic barriers to electrification.	3
	3. SCE’s proposal furthers state environmental policies.	4
	4. SCE’s proposal was supported by several parties.	5
	5. Sierra Club, NRDC, and other parties have proposed modifications to the proposal that would address many of the concerns expressed in the PD.	5
	6. Approving SCE’s application with modifications or allowing SCE to amend the application is a reasonable and efficient way forward.	7
	B. The PD’s Conclusion that SCE’s Proposal Is Not Reasonable Relies on Numerous Factual and Legal Errors and Many of Its Findings Are Not Supported By The Record.	8
	1. SCE’s application learns from and builds upon existing ratepayer programs.	8
	2. SCE’s application complements existing and anticipated state and federal policies and funding sources.	9
	3. SCE’s GHG reduction estimates and marginal abatement costs are reasonable.	12
	4. SCE’s proposal is a prudent use of ratepayer funds that will have reasonable rate and bill impacts, especially if the Commission adopts NRDC and Sierra Club’s recommendations.	13
III.	CONCLUSION	15

SUMMARY OF RECOMMENDATIONS

The Commission should withdraw the Proposed Decision (“PD”) and either (1) approve Southern California Edison Company’s (“SCE”) proposed building electrification portfolio (the “BE portfolio” or “SCE’s proposal”) with modifications proposed by Sierra Club and the Natural Resources Defense Council (“NRDC”) or (2) allow SCE to amend its proposal to incorporate these and other modifications that will address concerns with the original proposal raised in the PD. If the Commission does not withdraw the PD and leave the door open to approving the approve SCE’s proposal in some form, it should correct numerous factual and legal errors in the PD and provide clearer guidance about the analyses needed to support future building electrification program applications.

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Pursuant to Rule 14.3 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure and Administrative Law Judge Zhen Zhang’s October 27, 2023 PD, Sierra Club and NRDC respectfully submit these Opening Comments.

I. INTRODUCTION

Sierra Club and NRDC ask the Commission to reconsider the PD, which fails to acknowledge substantial record evidence that supports SCE’s proposed building electrification portfolio, as well as evidence that supports program modifications identified by intervenors. The PD recognizes that SCE’s proposal will advance the “urgent and critical” goal of reducing California’s greenhouse gas (“GHG”) emissions in line with state policy and statutory targets, but finds that the proposal would impair affordability, based on mischaracterizations of the record and misapplication of the Commission’s just and reasonable standard.¹ The PD presents a narrow view of affordability, one that does not consider the long-term impacts of failing to invest in decarbonization now or the risks of leaving low-income and environmental and social justice (“ESJ”) customers behind by failing to provide adequate energy transition assistance. The PD holds SCE’s application to an unreasonable standard of maximizing benefit-to-cost ratio, in effect imposing a cost-effectiveness requirement that the Commission already rejected in its Scoping Memo.² Last, the PD completely fails to address testimony and briefing from Sierra Club, NRDC, and other parties that present evidence in support of SCE’s proposal. Proposed modifications from intervenors, including accompanying testimony are not even considered in the PD even though they must be, by law.³

¹ Proposed Decision on S. Cal. Edison Co. Proposed Bldg. Elec. Programs at 1, 18-20, 45 [hereinafter “PD”].

² Assigned Comm’r’s Scoping Memo and Ruling at 4-6 (listing factors that determine program reasonableness).

³ Cal. Code Civ. Proc. § 387.

We urge the Commission to significantly amend, withdraw, or decline to finalize the PD, which, if finalized, would set back urgent low-income decarbonization efforts, discourage utilities from proposing building electrification (“BE”) programs in the future, and cement serious factual and legal errors. The Commission should pursue one of these three paths forward (listed in order of preference):

- 1) Withdraw the PD, correct its factual and legal errors, and approve SCE’s proposal with modifications recommended by Sierra Club and NRDC that address remaining concerns articulated in the PD;
- 2) Grant SCE leave to amend its application by incorporating modifications to address concerns raised in the PD. The Commission’s consideration of an amended application could involve minimal additional evidentiary proceedings;
- 3) Significantly revise the PD to correct factual and legal errors, provide clear guidance on the showings that similar future applications must make to warrant approval, and dismiss SCE’s proposal without prejudice.⁴

II. DISCUSSION

A. The Commission Should Approve SCE’s Application with Modifications or Grant SCE Leave to Amend Its Application.

1. SCE’s proposal meets a critical need.

The PD “strongly support[s]” the primary goal of SCE’s proposal “to pursue carbon neutrality with unprecedented urgency and commitment,” recognizing that there is “no dispute” about the importance of this goal.⁵ However, the PD mischaracterizes state decarbonization goals, the proposal’s role in advancing them, and how they interact with affordability considerations to determine the program’s reasonableness.

California has set a science-based target of achieving carbon neutrality by 2045, with several interim and sector-specific targets guiding its trajectory to that goal.⁶ Multiple state agencies have analyzed viable pathways to achieving these targets, and determined that rapid building electrification is a core strategy across pathways.⁷ SCE’s *undisputed* gap analysis has further specified the level of near-term heat pump adoption in its service area needed to maintain a trajectory consistent with state targets.⁸ And as demonstrated in both Sierra Club’s and

⁴ See D.22-09-010 (dismissing an application without prejudice).

⁵ PD at 42 (quoting SCE Opening Br. at 14), 18.

⁶ PD at 18.

⁷ Sierra Club Opening Br. at 8 (discussing Cal. Energy Comm’n and Cal. Air Res. Bd. findings); see also D.22-09-026 at 2-3.

⁸ Ex. SCE-01E at 3:12-14.

NRDC’s testimony and briefing—which the PD failed to even acknowledge—upcoming federal and state investments in BE measures do not diminish the validity of SCE’s gap analysis.⁹

The proposal’s contributions to state climate policy should therefore be evaluated based on its effectiveness in bringing the market into alignment with these well-established decarbonization pathways. Instead, the PD evaluates the proposal strictly based on tons of avoided emissions, as though rapid, economy-wide decarbonization can be achieved by only pursuing emissions reductions where convenient.¹⁰ That is not possible; necessary emissions reductions cannot be achieved without deliberate policy interventions. As noted in the 2021 Integrated Energy Policy Report: “reducing building-sector GHG emissions will require large-scale deployment of electric heat pumps, large investments in existing buildings, and an information campaign to familiarize consumers with high-efficiency electric appliances.”¹¹ Inaction and delay will only increase the ultimate cost of the energy transition. The Commission must act now to pursue every no-regrets emissions reduction intervention available, many of which are included in SCE’s proposal and our recommended modifications to it.¹² Even if the Commission declines to approve a full-scale portfolio with modifications proposed by NRDC and/or Sierra Club, at the very least, it should approve an initial pilot of the portfolio along the lines of that proposed by the California Public Advocates Office.¹³

2. Rejecting SCE’s proposal risks negative consequences for low-income customers faced with rising gas bills and major economic barriers to electrification.

The PD takes a narrow and short-sighted view of affordability. Because California must transition to an electrified, decarbonized energy system, the most affordable solution is the one that enables the most vulnerable Californian to make this transition with the least financial burden and disruption. This paradigm is reflected in the Commission’s ESJ Objectives¹⁴ and was recently affirmed in the November 3, 2023 Proposed Decision in Rulemaking 19-01-011, which

⁹ Sierra Club Reply Br. at 9-10, 13-14; Sierra Club Opening Br. at 9, 17-20.

¹⁰ PD at 39-45.

¹¹ Cal. Energy Comm’n, *Final 2021 Integrated Energy Policy Report, Vol III: Decarbonizing the State’s Gas Sys.* at 81, available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=242233>.

¹² As NRDC has noted, parties opposed to SCE’s proposal have offered no alternative pathway to meeting equitable BE targets. NRDC Opening Br. at 6-8.

¹³ Cal Advocates Opening Br. at 3.

¹⁴ See Cal. Pub. Utils. Comm’n, *Env’t and Soc. Just. Action Plan 2.0* at 23, available at <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/news-and-outreach/documents/news-office/key-issues/esj/esj-action-plan-v2jw.pdf> (“Goal 2: Increase investment in clean energy resources to benefit ESJ communities, especially to improve local air quality and public health.”).

brought electric line extension policies into better alignment with an affordable transition by eliminating line extension subsidies for mixed-fuel new construction.¹⁵

SCE's proposal would advance the Commission's vision of affordability by accelerating the market's curve toward low-cost electrification, and by helping low-income households exit a gas system with increasing costs that they are least-equipped to bear.¹⁶ As multiple parties noted in briefing and testimony, low-income customers face two unaffordable options under the status quo: 1) they remain reliant on gas for heating their homes, leaving them vulnerable to higher and higher gas bills as affluent customers leave the gas system; or 2) they finance upfront electric appliance capital costs that they cannot afford, either on their own, or through rent hikes. Both Sierra Club's and NRDC's proposed modifications to the BE portfolio would directly address these affordability hurdles. But the PD entirely ignores broader affordability considerations, instead focusing solely on the proposal's cost and rate impacts while ignoring party recommendations that reduce project costs. The PD goes so far as to characterize low-income program participation as a threat to affordability, reflecting a deeply flawed view of how we will achieve an equitable and affordable transition.¹⁷

3. SCE's proposal furthers state environmental policies.

The PD also fails to address the many additional state policies that Sierra Club and others have shown SCE's proposal will advance, including the Commission's ESJ Objectives and state air quality, public health, and climate resilience goals.¹⁸ Sierra Club's analysis found that the proposal would avoid dozens of premature deaths, hundreds of respiratory symptoms, and other health harms, translating into hundreds of millions of dollars in public health benefits.¹⁹ These benefits are especially important for ESJ disadvantaged and low-income communities, which often face compounding environmental, social, and economic burdens.²⁰

¹⁵ Proposed Decision Eliminating Elec. Line Extension Subsidies for Mixed-Fuel New Construction and Setting Reporting Requirements, R.19-01-011 (Nov. 3, 2023).

¹⁶ See Ex. SC-01 at 30-34.

¹⁷ PD at 48-49; see *infra* Section II.B.4.

¹⁸ Sierra Club Opening Br. at 9-10, 15, 24, 33-34.

¹⁹ Sierra Club Opening Br. at 10; Ex. SC-01 at 9.

²⁰ Sierra Club Opening Br. at 9, 11; Cal. Air Res. Bd, Cal. Indoor Air Quality Program Update, Res. 20-32 at 3; Ex. SC-01 at 9:10-12:10.

4. SCE's proposal was supported by several parties.

The PD further errs by mischaracterizing party support for the proposal. The PD states that “[n]o parties support SCE’s Proposal without modifications.”²¹ While Sierra Club, NRDC, Environmental Defense Fund (“EDF”), International Brotherhood of Electrical Workers (“IBEW”), and Small Business Utility Advocates (“SBUA”) each recommended modifications to SCE’s proposal, this does not mean these parties support outright denial of the proposal if all of their recommendations are not adopted in full, as the PD suggests. Neither Sierra Club nor NRDC has made any such representation about its position; in fact, both have repeatedly expressed support for the proposal.²² While we believe the portfolio will be most effective if our recommended modifications are adopted, we recognize the Commission must balance competing priorities and recommendations and that the final portfolio will not exactly mirror the recommendations of any one party. But rather than evaluating party recommendations to determine which set of modifications would result in the most reasonable, approvable portfolio, the PD entirely ignores these recommendations and denies a version of the proposal that has not benefited from party input. Indeed, nothing in the PD indicates that the Commission considered whether a modified BE portfolio as proposed by Sierra Club or NRDC would be just and reasonable. Nor does the PD mention anywhere consideration of The Utility Reform Network (“TURN”) and California Public Advocates Office’s (“Cal Advocates”) alternative BE pilot proposals. This lack of consideration constitutes an abuse of discretion.²³

5. Sierra Club, NRDC, and other parties have proposed modifications to the proposal that would address many of the concerns expressed in the PD.

Sierra Club and NRDC proposed several modifications that would directly address concerns raised in the PD, including incentive layering, portfolio costs, free-ridership, and others.²⁴ The PD errs by declining to consider an application with one or more of these proposed modifications, instead rejecting the Application wholesale. The Sierra Club and NRDC recommendations most relevant to addressing the PD’s concerns are outlined here, and the ways they address specific concerns are described in Section II.B below.

²¹ PD at 13.

²² Sierra Club Opening Br. at 21 (“Sierra Club generally supports SCE’s proposal...”); NRDC Opening Br. at 6.

²³ Cal. Pub. Res. Code § 21168.5 (“[a]buse of discretion is established if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence.”).

²⁴ These modifications directly address Finding 13 in the PD: “SCE’s Proposal fails to maximize benefits, reduce costs, avoid duplications, and incorporate lessons learned relative to Commission-authorized building electrification programs” by maximizing benefits and reducing costs. PD at 54.

For incentive layering, Sierra Club recommended applying SCE incentives only after exhausting available non-ratepayer funds and allowing SCE incentives for low-income customers only up to the total project cost.²⁵ NRDC made a similar recommendation, but would reduce any SCE incentive amount by the amount of applicable non-ratepayer incentives.²⁶ Sierra Club also provided recommendations for coordinating marketing, education, and outreach (“ME&O”) efforts with those of existing programs.²⁷

To reduce project costs, Sierra Club recommended reserving larger equity incentives for low-income residential customers, rather than all ESJ customers, to ensure these incentives are used where they are needed most, matching larger incentives to the original TECH incentives.²⁸ NRDC recommended reserving electrical system upgrades for homes with the greatest electrical system constraints, reducing the panel upgrade budget by 50 percent.²⁹ Both organizations recommended expensing panel upgrades rather than capitalizing them. While the PD declines to address the issue of regulatory asset treatment, this recommendation would promote affordability by significantly reducing the portfolio’s total net present cost, by over \$150 million.³⁰ Sierra Club also recommended eliminating the BE Catalina program to reduce costs and maximize benefits.³¹ To avoid free-ridership concerns, Sierra Club recommended allocating 100 percent of incentives to ESJ communities, where households face barriers to electrification that make free-ridership far less likely.³²

Sierra Club and NRDC not only proposed these cost-saving recommendations, but also submitted bill impacts analyses demonstrating positive long-term rate impacts from the portfolio modifications. According to its undisputed analysis, NRDC and Sierra Club’s modifications each

²⁵ Ex. SC-11 at 9-10.

²⁶ NRDC Opening Br. at 9.

²⁷ Ex. SC-11 at 9.

²⁸ Sierra Club Opening Br. at 28-29.

²⁹ NRDC Opening Br. at 2.

³⁰ Sierra Club Opening Br. at 32-33.

³¹ Sierra Club Opening Br. at 29; NRDC’s made additional recommendations for program implementation that would maximize the benefits of the program while lowering costs to ratepayers. For example, NRDC recommended that the BE portfolio utilize smart controls and enroll customers in load management programs that would create additional system cost savings by ensuring that new load from heat pump water heaters does not contribute to peak demand. NRDC Opening Br. at 9-10.

³² Sierra Club Reply Br. at 17-18; NRDC similarly recommended allocating 69 percent of incentives to low-income households. NRDC Opening Br. at 3.

would reduce the net present value (“NPV”) of portfolio costs by nearly \$240 million, more than double the NPV of total bill savings, and nearly double the number of ESJ participants.³³

The PD neither considers approving a program with one or all of the above revisions nor acknowledges the resulting bill impacts. This failure represents clear abuse of discretion, as the PD provides no evidentiary support for not approving a proposal with modifications..³⁴

6. Approving SCE’s application with modifications or allowing SCE to amend the application is a reasonable and efficient way forward.

Prior Commission decisions regarding emissions reductions programs display a considered and moderate approach, rather than the wholesale application rejection here. For example, the Commission has approved smaller budgets than requested (e.g., approved \$432 million for the Charge Ready program instead of SCE’s requested \$760.1 million),³⁵ approved pilots instead of full scale programs,³⁶ and substantially modified the program proposed by the utility based on intervenor recommendations.³⁷ Where a program has been summarily dismissed or rejected, the Commission has done so in advance of the development of a full record and the expenditure of substantial resources by the applicant, other parties, and staff.³⁸

Here, the Commission denied the Application outright after over a year of active proceedings, multiple days of hearings, multiple rounds of testimony and supplemental testimony, and extensive briefing and comments. The PD is unique in its categorical dismissal after such substantial record development. In prior cases, where applications have been dismissed, the Commission has provided a clear path forward for the applicant and other parties. For example, D.21-07-005 set forth guidance for a new application, with six specific asks for program design or analytical support for the program in a future application. And a new application was a realistic possibility after D.21-07-005 because there had been little record development to date. This PD offers nothing that would assist SCE in submitting an application

³³ NRDC Opening Br. at 2-5, 12-18; Ex. SC-12 at 7-8; Ex. SC-13 at 4.

³⁴ *SFPP, L.P. v. Pub. Utils. Comm’n*, 217 Cal.App.4th 784, 794 (Cal. App. 4th Dist. 2013) (Commission abuses its discretion when its decision is “not supported by substantial evidence in light of the whole record”).

³⁵ D.20-08-045.

³⁶ D.18-12-006 (approving pilot bridge funding before the Commission considers larger transportation electrification program application).

³⁷ D.20-12-022 (adopting voluntary renewable natural tariff with substantial modifications proposed by parties).

³⁸ On the gas side, the Commission has been judicious not to waste party time and resources where an application will be outright denied, dismissing in 2022 the Southwest Gas Corporation Move2Zero Application (D.22-09-010) and in 2021 the Joint Utilities Hydrogen Blending Program and Renewable Hydrogen Application (D.21-07-005) without prejudice *before testimony* was even filed.

for a modified BE program. It risks dissuading utilities from putting forth proposals to reduce emissions and reduce rates. Furthermore, it dissuades parties with limited resources from engaging in Commission dockets by giving no credence to intervenor testimony, hearing participation, and briefing.

If the Commission does not approve a modified BE portfolio, it must grant SCE leave to amend its application so that the substantial effort parties have devoted to developing the record is not wasted, and so that an improved application based on recommendations that are already in that record may be approved in an expedited manner. As it has done in the past, we encourage the Commission to identify, specifically, the modifications that must be made to SCE's program to merit expedited approval and to detail any additional analyses needed to support program approval. If these requirements are too burdensome, SCE can decline to move forward. But the parties in this case, not to mention low-income Californians for whom electrification is a financial barrier, deserve a chance to craft a path forward, incorporating the existing record.

B. The PD's Conclusion that SCE's Proposal Is Not Reasonable Relies on Numerous Factual and Legal Errors and Many of Its Findings Are Not Supported By The Record.

The PD includes serious factual error in that it misconstrues record evidence, makes findings with no support in the record, and fails to consider evidence and recommendations from NRDC and Sierra Club that directly address the PD's affordability concerns.

1. SCE's application learns from and builds upon existing ratepayer programs.

The PD errs in determining that SCE "fail[ed] to avoid duplication and incorporate lessons learned relative to already authorized ratepayer-funded building electrification programs."³⁹ This determination overstates the reach, relevance, and maturity of existing ratepayer programs. Programs such as the San Joaquin Valley Pilot, the Wildfire and Natural Disaster Resiliency Rebuild Program, and the Clean Energy Homes Pilot are whole home retrofit programs that present an entirely different set of challenges than incentive programs. The Energy Savings Assistance Program, Residential Energy Efficiency Fuel Substitution Equity Program, and Small/Medium Business Energy Efficiency and Fuel Substitution Equity Programs are energy efficiency programs that cover far more than space and water heaters; they are also subject to strict cost-effectiveness standards. And the TECH and the Self-Generation Incentive Program ("SGIP") Heat Pump Water Heater ("HPWH") Programs, most relevant to BE's

³⁹ PD at 1.

proposed programs, are in their early stages. TECH has just begun to gather data on the incentive programs most relevant to the BE portfolio, while SGIP HPWH only began offering incentives this summer.

Nevertheless, SCE *does* incorporate learnings from existing ratepayer programs, when those findings are generalizable. The PD states that “SCE’s instant proposal does not show how it meaningfully coordinates with [] other programs and initiatives to avoid duplication, minimize mistakes, conserve resources, and maximize ratepayer benefits by incorporating lessons learned.”⁴⁰ While we have been critical of certain elements of SCE’s proposal, we recognize that SCE’s Supplemental Testimony identifies lessons learned from seven different programs that can inform implementation and outlines how to layer incentives to optimize ratepayer use of funds.⁴¹ In addition, SCE outlines its plans to coordinate with existing programs to continue to incorporate lessons on layering incentives: “SCE will monitor programs such as TECH and SGIP HPWH for any lessons learned or developments on how to optimally incorporate [Inflation Reduction Act] tax credits into program incentives.”⁴² The PD ignores this testimony.

2. SCE’s application complements existing and anticipated state and federal policies and funding sources.

The PD erroneously finds that SCE’s proposal does not adequately consider interactions with new state and federal funding programs, and that the proposal will duplicate these efforts.⁴³ This finding rests on two flawed assumptions, neither of which is supported by the record: first, that state and federal programs do not leave a significant role and need for SCE’s proposal, and second, that SCE’s proposed approach to incentive layering will not adequately avoid duplication where its proposal may overlap with state and federal programs.

As for the first assumption, no party disputes SCE’s gap analysis finding that even after adding the Inflation Reduction Act (“IRA”) and state budget to existing electrification policies and funds, a significant role will remain for SCE’s proposal in deploying the 1.3 to 1.4 million

⁴⁰ PD at 27.

⁴¹ Ex. SCE-22 at 6-11; Ex. SCE-21 at 14-26.

⁴² *Id.* at 25-26; Intervenor recommendations unacknowledged by the PD were also tied to lessons learned from other Commission-authorized building electrification programs. For example, Sierra Club presented evidence that the state’s TECH program has fallen short of its equity goals, allocating just 8 percent of incentives to households in disadvantaged communities (“DACs”), and as a result proposed an increased allocation to ESJ communities to mitigate such inequitable distribution. Sierra Club Reply Br. at 16, n.85.

⁴³ PD at 32-38.

additional heat pumps needed in SCE’s service area to meet state climate goals.⁴⁴ The PD itself does not and indeed cannot dispute this finding either. Instead, the PD offers the bare statement that SCE’s gap analysis does not account for the Federal Infrastructure Investment and Jobs Act (“IIJA”).⁴⁵ The existence of IIJA funds cannot reasonably be found to negate the need for SCE’s proposal, for at least two reasons. First, as the PD acknowledges, the IIJA represents just five percent of the funds available under the IRA.⁴⁶ The IRA and state budget do not come close to closing the undisputed heat pump gap, even under SCE’s conservative analysis of their impact,⁴⁷ so the record cannot support a finding that the much smaller pot of IIJA funds would do so. Second, there is no guarantee—and indeed nothing in the record to suggest—that *any* IIJA funds will in fact be deployed in SCE’s service area.

As for the second assumption, SCE has committed to avoiding duplication by applying the Commission’s incentive layering guidance set forth in D.21-11-002, among other strategies.⁴⁸ Sierra Club and NRDC have recommended additional implementation strategies to avoid duplication and maximize the impact of ratepayer funds, both by spreading SCE incentives across the greatest number of customers and by ensuring that customers facing the greatest barriers to electrification receive adequate support.⁴⁹ Because layering incentives up to the total project cost is the only way to make electrification accessible to many low-income customers,⁵⁰ SCE’s portfolio would maximize the uptake and effectiveness of multiple programs (while prioritizing the use of non-ratepayer funds), rather than duplicating those programs.

Sierra Club also supported coordinated ME&O efforts, such as leveraging The Switch is On website and database, to help identify the best incentive layering opportunities.⁵¹ NRDC

⁴⁴ Ex. SCE-23 at 5; Sierra Club Reply Br. at 13-15; Sierra Club Opening Br. at 18-19; SCE Opening Br. at 19-20; *see* PD at 35 (acknowledging that SCE’s analysis shows a “remaining gap of 1.3 to 1.4 million heat pumps in SCE’s service area even after accounting for the IRA and CEC Equitable Building Decarbonization Program.”). The PD notes that SCE focuses on the upper end of its estimated heat pump gap, but it does not give any reason to focus on the low-end estimate rather than the upper end or somewhere in the middle. PD at 18, 33-34. Given the urgent need to decarbonize, which the PD recognizes, and the eventual need to electrify nearly all of California’s buildings, underestimating the near-term need for heat pump deployment carries far greater risks than overestimating that need. *See* Sierra Club Reply Br. at 8; Sierra Club Opening Br. at 16-17.

⁴⁵ PD at 35.

⁴⁶ PD at 34-35, Table 4 (showing \$11 billion nationwide available through the IRA and \$550 million available nationwide through the IIJA).

⁴⁷ Ex. SCE-23 at 5:5 to 6:11; Sierra Club Opening Br. at 18.

⁴⁸ PD at 32, 37-38; *see* Sierra Club Reply Br. at 14; Ex. SCE-23 at 7-8.

⁴⁹ Sierra Club Opening Br. at 17.

⁵⁰ Sierra Club Reply Br. at 14-15; Sierra Club Opening Br. at 17-18, 28 (noting that SGIP equity incentives cover 85 to 100 percent of project costs); Ex. SC-13 at 7; Ex. SC-11 at 3, 9-10; Ex. SC-01E at 31-33.

⁵¹ Ex. SC-11 at 9-10; Sierra Club Opening Br. at 13-14, 16, 32; Ex. SC-01E at 28-29, 32-33.

recommended reducing SCE incentives by the amount of available non-ratepayer incentives, which would go even further in avoiding duplication and allow portfolio funds to reach even more customers, although it would not give as much support to customers facing the greatest barriers to electrification.⁵² The PD does not address how *any* of these recommendations could address its concerns regarding incentive layering or making the most of ratepayer funds.

The PD offers no basis for its finding that a proposal to follow the Commission’s own guidance is not “adequately developed,”⁵³ and that finding is not supported by the Commission’s just and reasonable standard or the record before it. First, the PD represents a sharp break from numerous Commission decisions approving demand-side management programs that address overlapping programs and incentive layering at a similar level of detail to SCE’s proposal.⁵⁴ Second, the IRA and state budget were enacted after SCE filed its application, and it remains uncertain whether and how many of those funds will be deployed in SCE’s service area.⁵⁵ It is unreasonable to require SCE to design its proposal around the details of programs that are yet to be finalized—especially because the landscape of BE policies and funding is expected to continue evolving as California rapidly aligns its energy system with its climate targets. Relatedly, many details about the final design and implementation of SCE’s proposal, including how it will interact with existing programs, cannot be reasonably known until implementation begins. This is exactly why NRDC, Sierra Club, and others have recommended regular reporting and a mid-cycle review to ensure compliance with the D.21-11-002 guidance and to allow SCE to adjust incentive layering and other portfolio elements as it gains experience.⁵⁶

For these reasons, the Commission should provide a generally-applicable framework for incentive layering (as it has in D.21-11-002), approve applications that explain how they will comply with that guidance (as SCE’s proposal has done), and require reporting and adjustments over the program lifecycle to ensure that compliance (as NRDC and others have proposed),

⁵² NRDC Opening Br. at 20.

⁵³ PD at 32. Instead, the PD relies heavily on Cal Advocates’ bald assertion that the existence of overlapping incentives will lead to harmful duplication, despite their witness’s concession at hearing that SCE’s proposal contemplates incentive layering in order to avoid duplication and windfalls for customers. Sierra Club Opening Br. at 18; Evidentiary Hr’g Tr. at 299:5-20 (Cal Advocates, Burns); *see also* Ex. SCE-02E at 44.

⁵⁴ *See, e.g.* D.22-04-036 at 47-52 (recognizing challenges with incentive layering, but authorizing program administrators flexibility to determine appropriate approaches); D.20-03-027 (establishing multiple building decarbonization pilot programs and encouraging bidders to consider innovative approaches to incentive layering, but not setting detailed layering requirements).

⁵⁵ *See, e.g.* Sierra Club Opening Br. at 9, 17, 18, n.87.

⁵⁶ Sierra Club Reply Br. at 15-16.

rather than deny applications that meet critical needs because they cannot meet the PD's impossible standard of preemptively addressing interactions with unknown and constantly-evolving programs at a high (but unspecified) level of detail.

3. SCE's GHG reduction estimates and marginal abatement costs are reasonable.

The PD finds that SCE overestimated the GHG reductions from its proposal, and consequently that it underestimated the proposal's marginal abatement costs, by basing its estimates on only one out of the ten climate zones in SCE's service area (CZ 10).⁵⁷ The PD relies on evidence from Cal Advocates showing that SCE's method could overestimate GHG reductions from some climate zones in SCE's service area by up to 31%.⁵⁸ The PD erroneously concludes from this that "SCE's claimed climate change benefits could be 30 percent less than SCE claims."⁵⁹ The PD commits *exactly* the same error that it claims SCE has made, because the Cal Advocates scenario that shows a 31 percent lower GHG benefit is also based on a single climate zone (CZ 6).⁶⁰

More important, the PD represents legal error where it suggests that SCE's proposal must precisely estimate its climate benefits or achieve a specific level of GHG reductions. To be sure, SCE must put forth evidence to establish the reasonableness of its proposal, of which its climate benefits are an important part. But the proposal is not meant to satisfy any specific GHG reduction requirement or "GHG per dollar" threshold as implied by the PD.⁶¹ Instead, it is being proposed as a market transformation initiative that will advance California's climate goals,⁶² and the record clearly shows that it will achieve this. Multiple state agencies have concluded that the vast majority of buildings must be electrified to meet state climate targets.⁶³ SCE has shown, through its gap analysis and other evidence, that its proposal will play a critical role in advancing this needed market transformation. The fact that GHG impacts vary somewhat across climate zones is largely irrelevant to this showing. While the proposal's GHG reductions are used in calculating its marginal abatement cost, SCE's proposal falls comfortably within the \$118 to

⁵⁷ PD at 39-44.

⁵⁸ PD at 40-41 44 (citing Ex. CA-01 at 1-27).

⁵⁹ PD at 42.

⁶⁰ See Ex. CA-01 at 1-25:3-7, 1-26:4-10; And neither Cal Advocates nor the PD responds to SCE's testimony that CZ 10 is more representative than CZ 6, both because it has the largest number of single-family homes in SCE service area and because it falls between SCE's milder and hotter climate zones. Ex. SCE-06 at 25.

⁶¹ See PD at 42.

⁶² SCE BE Appl. at 5,7; SCE Opening Br. at 23-24.

⁶³ Sierra Club Opening Br. at 7-8.

\$188 per ton range discussed in California Energy Commission’s Building Decarbonization Report—especially if cost-saving recommendations from NRDC and Sierra Club are adopted.⁶⁴ Even if SCE’s proposal achieves different rates of GHG reductions in different climate zones, the record clearly shows that it will play a critical market transformation role aligned with state climate goals, and that it can make wise use of ratepayer funds to do so.

4. SCE’s proposal is a prudent use of ratepayer funds that will have reasonable rate and bill impacts, especially if the Commission adopts NRDC and Sierra Club’s recommendations.

The PD rejects SCE’s evidence that its proposal will reduce residential rates beginning in 2028, citing uncertainties related to climate zones, rates of California Alternate Rates for Energy (“CARE”) customer participation, and free-ridership.⁶⁵ These concerns are founded upon factual errors.

First, The PD takes issue with SCE’s use of a single climate zone to estimate bill and rate impacts.⁶⁶ Modeling and forecasting invariably require simplifying assumptions,⁶⁷ and as discussed above SCE’s rationales for selecting CZ 10 as most representative are unrebutted. Moreover, as support for this discussion, the PD cites a section of TURN’s testimony focused expressly on *participant* bill savings, rather than the portfolio’s effect on rates in general (which is the subject of the PD’s discussion).⁶⁸ This constitutes clear factual error.

Next, the PD finds that the bill and rate impact of SCE’s proposal depends on the level of adoption by low-income and ESJ customers, and that uncertainty about this level undermines SCE’s analysis.⁶⁹ This finding rests on at many factual errors. First, the PD conflates ESJ communities with CARE customers, adopting SCE’s incorrect assumption that all ESJ residents receive the low-income CARE rate discount. As Sierra Club has repeatedly shown, ESJ communities are defined using a range of criteria, many of which are unrelated to income, and 39

⁶⁴ Cal. Energy Comm’n, *Bldg. Decarbonization Assessment*, available at <https://www.energy.ca.gov/data-reports/reports/building-decarbonization-assessment>.

⁶⁵ PD at 47-51. The PD also notes that residential rates will increase in the near-term, and that non-residential rates will increase slightly (by less than 1 percent, or up to \$5 per month for a commercial customer paying \$620 per month). SCE has shown that these near-term residential rate increases and modest commercial rate increases are justified by the portfolio’s many benefits, including its long-term residential rate benefits, and nothing in the PD suggests otherwise.

⁶⁶ PD at 47-48.

⁶⁷ See, e.g., Ex. SC-12 at 4:14-19; Evidentiary Hr’g Tr. at 366:23-26.

⁶⁸ Compare PD at 47-48 (citing TURN-01 at 12-13) with TURN-01 at 12-13 (discussing “Forecast Participant Bill Savings”).

⁶⁹ PD at 48-49.

percent of ESJ community residents in SCE’s service area are not low-income.⁷⁰ The PD therefore overstates the expected level of CARE participation for a given allocation of funds to ESJ communities and the corresponding reduction in rate benefits, by at least 39 percent. Second, the PD states that rate and bill savings “are heavily dependent on the assumed level of adoption” by CARE customers.⁷¹ Again, Sierra Club has repeatedly shown that increasing the number of CARE participants has only modest impacts on rate benefits.⁷² NRDC has similarly shown that its proposal, which specifically allocates 69 percent of incentives to low-income customers, produces even *more* rate benefits than SCE’s proposal.⁷³ The record therefore does not support the PD’s concern that low-income participation may be somewhat higher than SCE has assumed. Third, experience from the TECH program has shown that without clear budget allocations to low-income customers, electrification incentives are disproportionately used by non-low-income customers, contrary to the PD’s suggestion that low-income participation may significantly exceed the “floor” in SCE’s proposal.⁷⁴

Next, the PD criticizes SCE’s analysis for not accounting for free-ridership.⁷⁵ Sierra Club has repeatedly shown that increasing the portfolio’s ESJ focus will reduce free-ridership by directing more incentives to customers facing significant barriers to electrification.⁷⁶ The PD does not grapple with the impacts of increasing low-income participation. As TURN conceded, low-income customers do not have the financial ability to free ride incentive programs.⁷⁷ The PD includes no consideration of a BE portfolio with a greater emphasis on low-income customers. Sierra Club also noted that TURN based its admittedly speculative free ridership concerns on a single study that was not analogous to SCE’s proposal.⁷⁸ The study analyzed free ridership for heating, ventilation, and air conditioning (“HVAC”) equipment, a more widespread technology

⁷⁰ Sierra Club Reply Br. at 11; Sierra Club Opening Br. at 23, 26-27; Ex. SC-13 at 2-3; Ex. SC-10; Ex. SC-01 at 20-21; *see also* NRDC Opening Br. at 4-5.

⁷¹ PD at 48-49 & n.160 (repeatedly describing rate benefits as “so dependent on” this level of adoption).

⁷² Increasing the percentage of participants on the CARE rate from 32 percent to 61 percent (among other changes) still results in residential bill savings starting in 2028. Ex. SC-12 at 5:18-19, 7:20-21, 8, Table 1 & n.17.

⁷³ NRDC Opening Br. at 3; Ex. NRDC-01 at 12.

⁷⁴ Sierra Club Reply Br. at 16, n.85.

⁷⁵ PD at 50-51.

⁷⁶ Sierra Club Opening Br. at 14, 28; Ex. SC-01 at 31-32. Note that many of these barriers are not directly financial. This means the reductions in free-ridership from greater ESJ focus are consistent with the fact that many ESJ customers are not low-income, as discussed above.

⁷⁷ Sierra Club Opening Br. at 24-25, 28 (citing Evidentiary Hr’g Tr., Volume 3 at 463:17-464:7 (TURN, Hawiger)).

⁷⁸ Sierra Club Reply Br. at 17.

than heat pumps, and examined free ridership by HVAC equipment resellers.⁷⁹ Resellers have the capital necessary to free ride, whereas SCE’s BE program participants—individual customers and contractors—have far less ability and motivation to do so. As Sierra Club noted, no credence should have been given to a behavioral study that drew conclusions from a pool of unrelated participants.⁸⁰ The PD is undermined by a dearth of record evidence of free ridership in customer-facing programs.

Finally, the PD makes the vague finding that “[i]f SCE’s Proposal is implemented, rates will not decline for SCE’s customers.”⁸¹ The Commission, in its Senate Bill 695 report, notes that rising wildfire mitigation, transmission, and distribution costs, rather than electrification programs, are driving rate increases.⁸² It is shortsighted to undermine efforts to make decarbonization affordable because those efforts don’t solve California’s electric affordability issues.

III. CONCLUSION

Sierra Club and NRDC respectfully urges the Commission to withdraw the PD and either approve SCE’s proposal with intervenor modifications that address issues raised in the PD, or grant SCE leave to amend the BE portfolio by incorporating these modifications and additional analyses. If the Commission does not grant leave to amend the application, its final decision should address evidence and arguments offered by Sierra Club and NRDC that address concerns in the PD and offer additional guidance on how future applications can overcome the remaining hurdles.

⁷⁹ Sierra Club Reply Br. at 17.

⁸⁰ *Id.*

⁸¹ PD at 54.

⁸² 2022 Senate Bill 695 Report at 23. According to the Energy Division, building electrification will not be a significant driver of rising energy costs and also will not be a silver bullet for affordability. *Util. Costs and Affordability of the Grid of the Future* at 82-88 (May 2021).

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