BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Application of SAN DIEGO GAS & ELECTRIC COMPANY (U902-E) for Approval of its 2026 Electric Procurement Revenue Requirement Forecasts, 2026 Electric Sales Forecast, and GHG-Related Forecasts.	A.25-05-012

SAN DIEGO COMMUNITY POWER AND CLEAN ENERGY ALLIANCE'S APPLICATION FOR REHEARING OF DECISION 25-12-008

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January 5, 2026

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Commission Decisions

Commission Rules of Practice and Procedure

SPECIFICATION OF ERROR

By setting PCIA[1] rates based on a 2025 PCIA revenue requirement that incorporated the new methodology to calculate the 2025 Final RA MPB, the Commission commits four legal errors in D.25-12-008. The Commission:

- × Fails to act within its power or jurisdiction by implementing a rate retroactively, despite the fact that the rate: (1) was set after the consideration of many variables to formulate broad policy regarding indifference, and the rate-setting involved more than ministerial calculations involving actual costs that could be readily determined by reference to the utilities' ledgers; and (2) resulted in significant impacts to LSEs and customers that would not have occurred in the ordinary course of events. The Commission's failure subjects the Decision to reversal on appeal under Section 1757(a)(1) of the Public Utilities Code.

- × Fails to proceed in a manner required by law by implementing a rate retroactively in violation of Public Utilities Code Section 728, despite the fact that the rate: (1) was set after the consideration of many variables to formulate broad policy regarding indifference, and the rate-setting involved more than ministerial calculations involving actual costs that could be readily determined by reference to the utilities' ledgers; and (2) resulted in significant impacts to LSEs and customers that would not have occurred in the ordinary course of events. The Commission's failure subjects the Decision to reversal on appeal under Section 1757(a)(2) of the Public Utilities Code.

- × Fails to support the Decision with findings by presenting vague conclusions regarding the implications of the new methodology to set the RA MPB and the retroactive nature of the Commission's actions. The Commission's failure subjects the Decision to reversal on appeal under Section 1757(a)(3) of the Public Utilities Code.

- × Abuses its discretion by refusing to consider—and denying itself the ability to even be presented with—the impact of its decision, and arbitrarily and capriciously applies the new RA MPB methodology retroactively despite the evidence, reasoning, and economic implications militating against such a decision. The Commission's abuse of discretion subjects the Decision to reversal on appeal per Section 1757(a)(5) of the Public Utilities Code.

On these grounds, San Diego Community Power and Clean Energy Alliance respectfully request that the Commission grant rehearing and permit a consolidated oral argument with any forthcoming Applications for Rehearing of D.25-12-027 and D.25-12-028.

[1] Acronyms used herein are defined in the body of this document.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E) for Approval of its 2026 Electric Procurement Revenue Requirement Forecasts, 2026 Electric Sales Forecast, and GHG-Related Forecasts	A.25-05-012

SAN DIEGO COMMUNITY POWER AND CLEAN ENERGY ALLIANCE'S APPLICATION FOR REHEARING OF DECISION 25-12-008

Pursuant to Public Utilities Code Section 1731(b)(1)[2] and Rule 16.1 of the California Public Utilities Commission (Commission) Rules of Practice and Procedure,[3] San Diego Community Power and Clean Energy Alliance (together, the SD CCAs) submit this Application for Rehearing (AFR) of Decision (D.) 25-12-008 (D.25-12-008 or the Decision).[4] The Commission approved the Decision on December 4, 2025, and issued the Decision on December 5, 2025. Commission Rule 16.1(a) requires that an AFR be filed within 30 days of the date the Commission mails the decision. This AFR is timely filed.

I. INTRODUCTION

In D.25-12-008, the Commission set unlawful Power Charge Indifference Adjustment (PCIA) rates by approving San Diego Gas & Electric Company's (SDG&E) proposed retroactive use of a new methodology to calculate the value of its Resource Adequacy (RA) generation portfolio in 2025. The PCIA rate is meant to ensure that bundled customers remain "indifferent" to the departure of unbundled customers (including customers who receive electric service from

[2] All subsequent code sections cited herein are references to the California Public Utilities Code unless otherwise specified.

[3] California Public Utilities Commission, *Rules of Practice and Procedure, California Code of Regulations Title 20, Division 1, Chapter 1* (May 2021), available at https://webproda.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/rules-of-practice-and-procedure-may-2021.pdf.

[4] Decision (D.) 25-12-008 (Dec. 5, 2025).

community choice aggregators (CCAs)). To do that, PCIA rates are set to recover any above-market costs of resources procured to serve those customers before they departed bundled service.

SDG&E originally forecasted the value and cost of its PCIA portfolio resources in its 2025 Energy Resource Recovery Account (ERRA) Forecast case.[5] In that case, SDG&E calculated the RA capacity value of its generation portfolio using a Forecast RA Market Price Benchmark (MPB), which was calculated based on a settled methodology approved by the Commission in D.18-10-019 and D.19-10-001. State law and the PCIA framework, as modified by these decisions, require SDG&E to true-up the RA value of its portfolio in this 2026 ERRA Forecast proceeding using a Final RA MPB calculated using the same methodology.

That did not happen.

Instead, in June 2025, the Commission issued D.25-06-049, which changed the methodology the Commission would use for calculating the value of the RA MPB. In addition to changing the methodology prospectively, D.25-06-049 required that the new methodology be used to calculate the **2025 Final** RA MPB, which SDG&E proposed to do in the instant proceeding, despite the fact that SDG&E was already collecting PCIA rates calculated using the prior methodology. Decision 25-12-008 approved that proposal and adopted PCIA rates calculated using the 2025 Final RA MPB (calculated under the new methodology) to value the capacity provided by SDG&E's generation resources in 2025. That value flowed into the 2025 PCIA revenue requirement. That revenue requirement forms the basis of the 2026 PCIA rates

[5] Application (A.) 24-05-010, *Application of San Diego Gas & Electric Company (U 902-E) for Approval of its 2025 Electric Procurement Revenue Require Forecasts, 2025, Electric Sales Forecast, and GHG-Related Forecasts* (May 15, 2025).

D.25-12-008 adopts. Therefore, there has been no true-up this year of forecasted 2025 PCIA rates. Instead, there has been an unlawful retroactive ratemaking.

The SD CCAs, through their trade association the California Community Choice Association (CalCCA),[6] sought rehearing of D.25-06-049 on the grounds that it constitutes unlawful retroactive ratemaking in violation of Section 728, as interpreted by the California Supreme Court in *Southern Cal. Edison Co. v. Pub. Util. Comm'n* (1978) 20 Cal.3d 813 (*Edison*). The Commission and investor-owned utilities (IOUs) have put forward other interpretations of the relevant court decisions interpreting Section 728, but those interpretations either misstate the relevant cases or are so narrow as to render the statute meaningless. The Commission rejected CalCCA's AFR of D.25-06-049 in D.25-10-061. CalCCA subsequently filed a Petition for Writ of Review in the Third Appellate District, alleging that D.25-06-049's directive to retroactively apply the new methodology for calculating the RA MPB to 2025 rates constitutes unlawful retroactive ratemaking.[7]

Meanwhile, the Commission issued this Decision in SDG&E's 2026 ERRA Forecast proceeding, where the Commission sets the 2025 PCIA revenue requirement and resulting rates. The Decision errs in at least four ways.

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[6] California Community Choice Association (CalCCA) represents the interests of 24 community choice electricity providers in California, including the SD CCAs. In addition, CalCCA represents the interests of: Apple Valley Choice Energy, Ava Community Energy, Central Coast Community Energy, Clean Power Alliance of Southern California, CleanPowerSF, Desert Community Energy, Energy For Palmdale's Independent Choice, Lancaster Energy, Marin Clean Energy, Orange County Power Authority, Peninsula Clean Energy, Pico Rivera Innovative Municipal Energy, Pioneer Community Energy, Pomona Choice Energy, Rancho Mirage Energy Authority, Redwood Coast Energy Authority, San Jacinto Power, San José Clean Energy, Santa Barbara Clean Energy, Silicon Valley Clean Energy, Sonoma Clean Power, and Valley Clean Energy.

[7] *See California Community Choice Association v. California Public Utilities Commission,* Case No. C105174 (Cal. Court of Appeal, Third Appellate District) (filed Dec. 1, 2025) (CalCCA D.25-06-049 Appeal).

First, D.25-12-008 results in the Commission acting outside of its powers and jurisdiction (*i.e.*, is an *ultra vires* act) and failing to proceed in the manner required by law in violation of Sections 1757(a)(1) and (2). Second, D.25-12-008 and D.25-06-049 violate Sections 1757(a)(1) and (2), as together they constitute a course of conduct that violates Section 728's prohibition on retroactive general ratemaking. Third, D.25-12-008 is unlawful and erroneous because it approves the retroactive application of the new RA MPB methodology with only a series of broad findings that do not adequately or logically support the Commission's conclusions or reflect adequate consideration of the substantial economic impact of its decision on departed customers, in violation of Section 1757(a)(3). Fourth, the Commission abused its discretion and acted arbitrarily and capriciously in approving the retroactive implementation of the new RA MPB methodology in this case, in violation of Section 1757(a)(5). It relied on erroneous factual and legal conclusions, and refused to permit parties, ratepayers, or the Commission itself the opportunity to precisely calculate the substantial economic impact of the change to the RA MPB methodology.

The Commission should therefore grant rehearing. Due to the complexity of the issues raised in this AFR, their importance, their relationship to similar issues raised in Southern California Edison Company's (SCE) and Pacific Gas and Electric Company's (PG&E) 2026 ERRA Forecast cases, and the considerable public interest they have generated, the Commission should set a consolidated oral argument for this Application for Rehearing and any forthcoming AFRs in SCE's and PG&E's 2026 ERRA Forecast cases.

II. STANDARD OF REVIEW

Per Commission Rule 16.1(c) and Section 1732, an AFR must set forth specifically the grounds on which a decision in question is "unlawful or erroneous." The purpose of an AFR is

"to alert the Commission to a legal error, so that [it] may correct it expeditiously"[8] and to "provide[] the Commission with sufficient notice to respond to [the] claims."[9] The SD CCAs therefore refer the Commission to the following specific portions of the Decision that are unlawful and erroneous:

Location in Decision	Unlawful or Erroneous Statement
Section 6.11.2	"Pursuant to D.22-01-023, the Commission's Energy Division issues updated PCIA benchmarks in the beginning of October which SDG&E utilizes in order to calculate its updated proposed vintage PCIA rates."
Section 6.11.2	"The methodology for calculating PCIA rates as well as the 2026 forecast benchmarks are shown and explained in Exhibit SDGE-13. Parties do not object to SDG&E's proposed vintage PCIA in rates except for the Joint CCAs' objection to the use of pre-2019 banked RECs. Overall, we find that the evidence submitted supports SDG&E's PCIA forecasts for 2026."
Finding of Fact (FOF) 3	"The 2026 ERRA revenue requirement and 2025 year-end balance forecasts changed due to the 2026 forecast RA and RPS MPBs released in October 2025 compared to the RA and RPS MPB values used in the May application."
FOF 4	"The 2026 revenue requirement forecasts for PABA and the 2025 PABA year-end balance increased significantly in large part due a true-up to the lower 2025 Final MPBs."
Conclusion of Law (COL) 2	"SDG&E's forecast for the 2025 year-end balance in the ERRA balancing account is reasonable and should be authorized."

[8] Commission Rule 16.1(c).

[9] *Util. Consumers' Action Network v. Pub. Util. Comm.* (2010) 187 Cal.App.4th 688, 705.

Location in Decision	Unlawful or Erroneous Statement
COL 3	"SDG&E's 2026 forecasts for the [Portfolio Allocation Balancing Account (PABA)] and PABA 2025 year-end balance are supported by the record and should be authorized."
Ordering Paragraph (OP) 1	"San Diego Gas & Electric Company is authorized a revenue requirement of $824.1 million for its 2026 Energy Resource Recovery Account (ERRA) Forecast effective January 1, 2026. Specifically, this decision adopts the following (negative balances are in parenthesis): a. 2026 ERRA revenue requirement of $382.0 million; b. 2025 ERRA year-end balance of ($14.0) million; c. Portfolio Allocation Balancing Account (PABA) revenue requirement of $187.5 million; d. 2025 PABA year-end balance of $274.2 million; . . . . "
OP 2	"Within 30 days of the effective date of this decision, San Diego Gas & Electric Company shall file a Tier 1 Advice Letter with tariffs to implement the rates authorized by this decision. The tariffs shall become effective on or after the filing of the advice letter subject to review by the Commission's Energy Division."

Commission decisions in ratemaking proceedings such as the instant case are reviewed pursuant to Section 1757.[10] As set forth below, the SD CCAs respectfully request rehearing of the Decision's retroactive application of the redesigned RA MPB, based on the fact that the

[10] Section 1757(a).

Commission: (1) acted without, or in excess of, its powers or jurisdiction;[11] (2) has not proceeded in the manner required by law,[12] (3) did not support D.25-12-008 with adequate findings,[13] and (4) abused its discretion.[14]

III. THE COMMISSION SHOULD GRANT REHEARING TO REMEDY THE DECISION'S LEGAL ERRORS RELATING TO THE RA MPB

A. Legal and Factual Background

1. The Commission Adopted PCIA Rates in this ERRA Forecast Proceeding that Implement Prohibited Retroactive Ratemaking

Several Public Utilities Code sections require the Commission to ensure indifference and prevent cost shifts between bundled customers and unbundled customers.[15] To achieve these objectives with respect to a customer departing IOU service for a CCA, the IOUs may recover any net unavoidable electricity costs incurred while the CCA customer was served as an IOU bundled

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[11] Section 1757(a)(1). The interpretation of statutes that define or circumscribe the Commission's jurisdiction is a question of law that is subject to *de novo* independent judicial review. *See Center for Biological Diversity, Inc. v. Pub. Util. Comm'n* (2025) 18 Cal.5th 293, 305 (citing *Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 7, 8). "A court does not defer to the agency's view of whether the regulation lies within the scope of the lawmaking authority delegated by the Legislature." *Id*. at 305-06 (citing *Yamaha*, 19 Cal.4th at 11).

[12] Section 1757(a)(2); The Commission fails to "proceed[] in the manner required by law" when it violates its own procedural rules, its own decisions, or applicable statutes. *Calaveras Telephone Co. v. Pub. Util. Comm'n* (2019) 39 Cal.App.5th 972, 983; *see also Southern California Edison Co. v. Pub. Util. Comm'n* (2006) 140 Cal.App.4th 1085, 1104-1106 (interpreting the parallel language in section 1757.1(a)(2): "The commission has not proceeded in the manner required by law"). A failure to proceed in the manner required by law occurs when the Commission fails to correctly apply a legal standard, or relies on an "unreasonable interpretation" of a statute. *See City of Marina v. Board of Trustees of Cal. State Univ.* (2006) 39 Cal.4th 341, 355; *The Utility Reform Network v. Pub. Util. Comm'n* (2014) 223 Cal.App.4th 945, 958.

[13] Section 1757 (a)(3); "[F]indings afford a rational basis for judicial review. . . . The more general the findings, the more difficult it is for the reviewing court to ascertain the principles relied upon by the administrative agency. Even when the scope of review is limited, as in this case . . . findings on material issues enable the reviewing court to determine whether the commission has acted arbitrarily." *Cal. Motor Transport Co. v. Pub. Util. Comm.* (1963) 59 Cal. 2d 270, 274 (citation omitted).

[14] Section 1757(a)(5); "In determining whether the Commission abused its discretion, [courts] consider 'whether the decision was arbitrary, capricious, or entirely lacking in evidentiary support.'" *California Community Choice Assn. v. Pub. Util. Comm'n* (2024) 103 Cal.App.5th 845, 856 (citing *Securus Technologies, LLC v. Pub. Util. Comm'n* (2023) 88 Cal.App.5th 787, 803).

[15] *See* Sections 365.2, 366.1, 366.2, and 366.3.

customer.[16] However, the Commission must reduce the amount of estimated "unavoidable [IOU] electricity costs" paid by CCA customers "by the value of any benefits that remain with bundled service customers, unless the customers of the [CCA] are allocated a fair and equitable share of those benefits."[17] The PCIA is the tool the Commission adopted "intend[ing] to equalize cost sharing" between these two groups of customers.[18] The 2026 PCIA level was determined in this proceeding, in part, from the unlawful retroactive application of a revised PCIA ratesetting formula.[19]

a. SDG&E's 2025 ERRA Forecast Decision Used the Then-Existing Methodology to Calculate the PCIA Rates that Load-Serving Entities Collected in 2025

In December 2024, the Commission issued D.24-12-040 in SDG&E's 2025 ERRA Forecast case. That case approved the PCIA revenue requirement and rates that SDG&E has collected from unbundled customers throughout the course of 2025.[20] As a part of setting the 2025 PCIA revenue requirement, the Commission calculated the forecast cost and value of the RA resources in SDG&E's generation portfolio. When determining the forecast value of this capacity, the Commission multiplied the forecast quantities of RA (that SDG&E's portfolio was expected to provide) by the forecast price of those quantities. This forecast price was an administratively generated approximation of the value of the capacity in SDG&E's generation portfolio, published by Energy Division in October 2024, called the Forecast RA MPB.[21]

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16 Sections 366.2(d), (f).
17 Section 366.2(g).
18 D.18-10-019 (Oct. 19, 2018) at 3.
19 D.25-12-008 at Ordering Paragraph (OP) 1, Finding of Fact (FOF) 3-4, Conclusion of Law (COL) 12.
20 D.24-12-040 (Dec. 23, 2024) at COL 15, OP 1.
21 Cal. Pub. Util. Comm'n, *Calculation of the Market Price Benchmarks for the Power Charge Indifference Adjustment Forecast and True Up* (Oct. 2, 2024). Available at https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/community-choice-aggregation-and-direct-access/calculation-of-the-market-price-benchmarks-2024-2025.pdf.

Decision 24-12-040 utilized this Forecast RA MPB, which was generated using the then-existing, Commission-approved methodology of calculating the value of RA resources, in its calculation of the PCIA rate collected from customers in 2025.[22]

This Forecast RA value (multiplying Forecast RA quantity by Forecast RA MPB) from SDG&E's 2025 ERRA Forecast case was to be trued-up using the Final RA value (multiplying actual RA quantity by Final RA MPB) in this case—SDG&E's 2026 ERRA Forecast. Prior to D.18-10-019, the PCIA rate was set only on a forecast basis with no after-the-fact adjustment to the forecasted PCIA revenue requirement for unbundled customers.[23] Decision 18-10-019 approved such an adjustment via the Portfolio Allocation Balancing Account (PABA), a rolling balancing account tracking the difference between costs and revenues used to determine the forecasted PCIA revenue requirement and the actual costs and revenues SDG&E realizes during the year related to its PCIA-eligible resource portfolio.[24] Until D.25-06-049, the true-up for 2025 simply would have utilized the same RA MPB methodology to calculate a final value of SDG&E's capacity portfolio for that year.

b. D.25-06-049 Retroactively Changed the Methodology for Calculating the Value of RA Midstream Between the 2025 ERRA Forecast and Final Valuations

In June 2025, the Commission issued D.25-06-049, changing the methodology for calculating the RA MPBs. Among other changes, the Commission: (1) combined the existing categories of Local RA, Flex RA, and System RA into a single RA category—calculating one price instead of three; and (2) expanded the set of transactions used to calculate the single RA MPB to a three year period (rather than the one year period previously applicable to Flex and

22 D.24-12-040 at 33-34.
23 D.18-10-019 at FOF 15-16, COL 16-17.
24 *Id*. at FOF 15-16, COL 15-17, OP 1-2, 7-8.

System RA).[25] Decision 25-06-049 required that methodological change be applied for the year 2026 going forward,[26] and the SD CCAs take no issue with that prospective application of this new methodology.

However, the Commission also applied that methodological change retroactively to the 2025 Final RA MPB.[27] Decision 25-06-049 specifically instructed Energy Division to calculate the Final 2025 RA MPB using the new methodology,[28] even though Energy Division had used the existing methodology to calculate the Forecast 2025 RA MPB. Energy Division published a 2025 Final RA MPB using the new methodology on October 1, 2025.[29] Energy Division retains the information necessary to publish the Final 2025 RA MPB as calculated using the prior methodology,[30] but to date has refused to publish the Alternate Final 2025 RA MPB or share the underlying information in a non-public manner that would enable stakeholders to estimate that proxy value.[31] In its briefing preceding D.25-06-049, CalCCA argued that the application of a

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[25] D.25-06-049 (Jun. 27, 2025) at 17, COL 2, OP 1.

[26] *Id*. at COL 10.

[27] *Id*. at OP 2 ("The methodology adopted in this decision shall be effective immediately."), COL 10 ("The changes adopted should be applied to the calculation of the 2025 Final and 2026 Forecast RA MPB and all succeeding forecast and final MPB calculations").

[28] *Id*. at 30 ("[T]he Energy Division is directed to apply the new methodology in the calculation of the 2025 Final RA MPB and in succeeding forecast and final MPBs").

[29] Cal. Pub. Util. Comm'n, *Market Price Benchmark Calculations 2025* (Oct. 1, 2025). Available at https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/community-choice-aggregation-and-direct-access/2025-mpbs.pdf.

[30] The RA MPB using the older methodology was calculated using a shorter time-period than was necessary for the new methodology. D.25-06-049, at COL 2 (requiring four years' of calculation for Final RA MPB). Energy Division also still collects—but excludes—affiliate, swap, and (one half of) sleeve transactions. D.25-06-049 at COL 5 and 8. The Commission still collects information from load-serving entities (LSEs) on their local and flexible RA resources. *See* Cal. Pub. Util. Comm'n, Resource Adequacy Compliance Materials, *2026 Final Local/Flex/CPE Data Collection Template*. Available at https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/electric-power-procurement/resource-adequacy-homepage/resource-adequacy-compliance-materials.

[31] CalCCA has requested the underlying information informally on at least seven occasions through emails and meetings with Energy Division, as well as requested the information in Rulemaking (R.) 25-02-005. *See, e.g.*, Rulemaking (R.) 25-02-005, *CalCCA's Comments on the Proposed Decision* (Jun. 12, 2025), pp. 5-6; *CalCCA's Reply Comments on the Order Instituting Rulemaking* (Apr. 2, 2025), pp. 14-

new RA MPB methodology to the Final 2025 RA MPB calculation constituted unlawful retroactive ratemaking.[32]

c. Decision 25-12-008 Implements D.25-06-049

Decision 25-12-008 states the Commission "directed" Energy Division "to apply a revised methodology when calculating the RA MPBs utilized in calculating PCIA"[33] and notes "the new methodology took effect immediately."[34] Thus, in testimony and briefing leading to D.25-12-008, SDG&E used the Final 2025 RA MPB Energy Division calculated on October 1, 2025, to determine the final 2025 portfolio value, used it as an input to the actual 2025 Indifference Amount, and used it to finalize the 2025 revenue requirement.[35] That finalized revenue requirement was added to a forecasted Indifference Amount for 2026 that resulted in 2026 PCIA rates, as shown below in **Figure 1**.[36]

15. CalCCA has acknowledged the confidentiality of at least some of the information and has indicated its willingness to receive the information either anonymized or aggregated. It is also the SD CCAs' understanding that both Ava Community Energy and Sonoma Clean Power have requested the information through formal Public Records Act Requests. Energy Division has refused to answer, or delayed its answer, to all of these requests.

[32] *See*, *e.g.*, R.25-02-005, *CalCCA's Opening Brief* (Apr. 21, 2025), pp. 8-16; R.25-02-005, *CalCCA's Reply Brief* (Apr. 30, 2025), pp. 3-7; R.25-02-005, *CalCCA's Comments on Proposed Decision* (Jun. 12, 2025), pp. 11-15; R.25-02-005, *CalCCA's Reply Comments on the Proposed Decision* (Jun. 17, 2025), pp. 4-5.

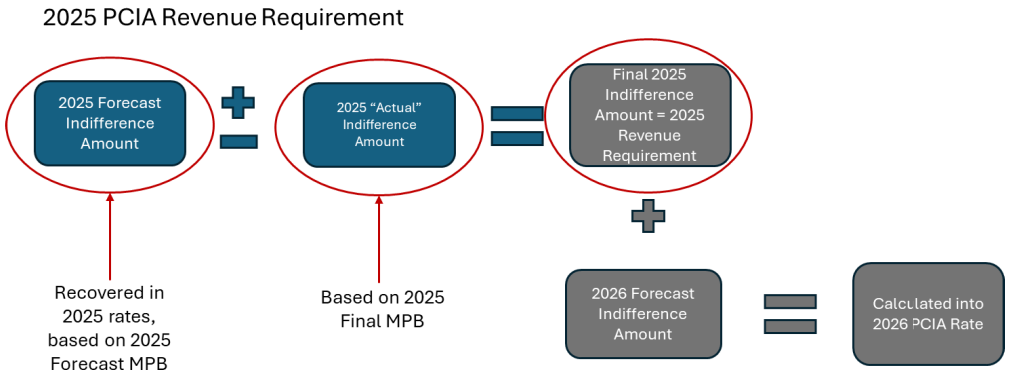
[33] D.25-12-008 at 26.

[34] *Id*.

[35] *See id*. at 18.

[36] *See id*. at 9, 18.

FIGURE 1



In this way, the Commission set SDG&E's PCIA rates for 2026 in D.25-12-008 based on two components: (1) the forecasted Indifference Amount, *i.e.*, the difference between the forecasted cost of SDG&E's generation portfolio in 2026 and the forecasted market value of SDG&E's generation portfolio in 2026; and (2) the final 2025 PCIA revenue requirement based on a year-end balance in the PABA that was calculated using a modified methodology for the RA MPB.[37] The Indifference Amount and the final 2025 PCIA revenue requirement were added together to form the 2026 PCIA revenue requirement, which is used to set the 2026 PCIA rates approved for bundled and unbundled customers in D.25-12-008.[38]

Decision 25-12-008 explains how SDG&E utilizes "updated PCIA benchmarks" published by Energy Division on October 1, 2025, to "calculate its updated proposed vintage PCIA rates,"[39] which incorporate the Final 2025 RA MPB. The Commission goes on to conclude SDG&E's 2026 ERRA Forecast and 2025 year-end balance in the ERRA balancing account—which, again, incorporates the Final 2025 RA MPB—were "reasonable and should be

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[37] The final December 31, 2025, advice letter implementing the rates approved in D.25-12-008 included actual entries through November 2025. *See* San Diego Gas & Electric Company Advice Letter (AL) 4757-E, *Consolidated Filing to Implement January 1, 2026, Electric Rates* (Dec. 31, 2025) (SDG&E Consolidated Rate Change AL).

[38] *See* D.25-12-008 at 8-9, 18, 20.

[39] *Id*. at 27.

authorized."[40] It also concludes that SDG&E's 2026 forecasts for the PABA and PABA 2025 year-end balance were "supported by the record and should be authorized."[41] Based on those conclusions, the Commission authorizes a PABA revenue requirement of $187.5 million,[42] a ($14) million 2025 ERRA year-end balance, and a $274.2 million 2025 PABA year-end balance.[43] In sum, the Commission adopted PCIA rates in this 2026 ERRA Forecast proceeding that resulted from a retroactive modification to how the RA MPB is calculated, and, in turn, how PCIA rates are set.

2. CalCCA Appealed D.25-06-049's Order to Retroactively Apply the New RA MPB Methodology

After the Commission issued D.25-06-049, CalCCA filed an AFR maintaining its position that the Decision establishes a new ratemaking scheme and applies it retroactively, instead of merely conducting a true-up, which constitutes unlawful retroactive ratemaking.[44] SDG&E, SCE, and PG&E (collectively the Joint IOUs) responded to the AFRs for D.25-06-049.[45] That response erred in several respects by: (1) relying on a reading of *Edison* that erroneously suggests the Commission applied a new fuel clause adjustment retroactively in the underlying proceeding; (2) asserting an interpretation of *Cal. Mfrs. Ass'n v. Pub. Utils. Comm'n,* (1979) 24 Cal.3d 251 that ignored subsequent case law continuing to apply *Edison*'s definition of general ratemaking; and (3) applying a narrow definition of "general ratemaking" that none of

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40 *Id*. at COL 1 and 2.
41 *Id*. at COL 3.
42 *Id*. at OP 1.
43 *Id*.
44 R.25-02-005, *California Community Choice Association's Application for Rehearing of Decision 25-06-049* (July 28, 2025) (CalCCA AFR), pp. 13-31. Ava Community Energy Authority (Ava) and San Jose Clean Energy (SJCE) also filed an AFR that challenged D.25-06-049 on other grounds. *See* D.25-10-061 (Oct. 31, 2025) at 2.
45 R.25-02-005, *Joint Response of Southern California Edison Company (U 338-E), Pacific Gas and Electric Company (U 39-E), and San Diego Gas & Electric Company (U 902-E) on the Applications for Rehearing of Decision 25-06-049* (Aug. 12, 2025), pp. 7-17 (Joint IOUs' Response to AFRs).

the Commission's rate-setting proceedings today would meet, including SDG&E's most recent Phase I 2025 General Rate Case (GRC).[46]

The Commission denied CalCCA's AFR of D.25-06-049 in D.25-10-061.[47] Decision 25-10-061 briefly stated the Commission's understanding of *Edison* and its progeny.[48] While the Commission relied on a number of mistakes or misunderstandings regarding the facts and application of that precedent, the Commission's ultimate error in D.25-06-049 and D.25-10-061 is its conclusion that modifying the PCIA methodology in the PCIA Rulemaking (R.25-02-005), and then ordering that modification be applied in this proceeding, is not general ratemaking.[49]

On December 1, 2025, CalCCA filed a Petition for Writ of Review with the California Court of Appeal, Third Appellate District, seeking to set aside D.25-06-049 and D.25-10-061. In that Petition, CalCCA seeks among other relief that D.25-06-049 and D.25-10-061 be set aside on the basis that the Commission violated the prohibition against retroactive ratemaking.[50]

B. By Developing and Utilizing a New RA MPB Methodology to Establish the 2025 PCIA Revenue Requirement, the Commission Acted in Excess of Its Power and Jurisdiction, and Failed to Proceed in a Manner Required by Law

1. Decision 25-12-008 is Unlawful Because it Establishes PCIA Rates that Implement and Perpetuate an Unlawful Decision

"An agency that exceeds the scope of its statutory authority acts *ultra vires* and the act is void."[51] Subsequent acts taken in furtherance of the agency's unauthorized activity are

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[46] A.25-05-012, *Opening Brief of San Diego Community Power and Clean Energy Alliance* (Oct. 3, 2025), pp. 10-12.

[47] D.25-10-061 also denied the Ava/SJCE AFR.

[48] D.25-10-061 at 6.

[49] *See* D.25-06-049 at 29; D.25-10-061 at 6.

[50] *See* CalCCA D.25-06-049 Appeal, Petition for Writ of Review (Petition), at 49, Memorandum of Points and Authorities (MPA) at 19. CalCCA also argues that D.25-06-049's retroactive application of the new methodology was not supported by adequate findings or substantial evidence in the record. *Ibid*.

[51] *Water Replenishment Dist. of So. Cal. v. City of Cerritos* (2012) 202 Cal.App.4th 1063, 1072.

themselves *ultra vires* and unlawful.[52] Here, D.25-12-008 is unlawful because it implements and perpetuates an unlawful decision.

Decision 25-06-049 is an unlawful decision. Section 728 grants the Commission the authority to "fix, by order," the "just, reasonable, or sufficient rate, classifications, rules, practices, or contracts to be *thereafter* observed and in force."[53] The California Supreme Court directs that Section 728 limits the Commission's jurisdiction by prohibiting ratemaking from being applied retroactively.[54] Significantly, Section 728 applies not only to rates themselves, but also to "rules" or "practices" affecting the rates—including methods for calculating rates such as rate-setting formulas.[55]

In *Edison,* the Court observed that "before there can be retroactive ratemaking there must at least be *ratemaking*."[56] The Court summarized the hallmarks of "general ratemaking" to be that: (1) the Commission considered "many variables" and formulated "broad policy" in its setting of the "general rates"; and (2) the Commission's action had a significant financial impact

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[52] *Turlock Irrigation Dist. v. Hetrick* (1999) 71 Cal.App.4th 948, 951 (holding that the provision of natural gas exceeds the scope of power granted to irrigation districts, and therefore acts taken in furtherance of this unauthorized activity, such as the execution of gas supply, would be *ultra vires*); *see also Carr v. Kamins* (2d Dist. May 31, 2007) 151 Cal. App. 4th 929, 933 ("If a judgment is void, an order giving effect to the void judgment is subject to appeal even if the underlying judgment was also appealable); *MaJor v. Miraverde Homeowners Assn.* (1992) 7 Cal.App.4th 618, 628 (in an analogous context, concluding that where an association exceeds its scope of authority granted to it, any rule or decision resulting from such an *ultra vires* act is invalid, "whether or not it is a 'reasonable' response to a particular circumstance").

[53] Section 728 (emphasis added). CalCCA also argued that the Commission committed other reversible errors by: (1) failing to harmonize Section 728 with Sections 365.2, 366.1, 366.2, and 366.3; (2) basing its Decision on insufficient evidence in light of the whole record; and (3) issuing a Decision when the findings do not support the conclusion. R.25-02-005, CalCCA AFR at 31-35.

[54] *Pacific Tel. & Tel. Co. v. Pub. Utils. Comm'n* (1965) 62 Cal.2d 634, 650-652 (*Pacific Tel.)*; *Edison,* 20 Cal.3d 813, 817-818 (1978) (reaffirming *Pacific Tel.'s* conclusion that "*general rate making* is legislative in character and looks to the future" (emphasis added)).

[55] *See City of Los Angeles v. Pub. Util. Comm'n* (1975) 15 Cal.3d 680, 697 (*City of Los Angeles II)* (acknowledging that a rate-setting formula may be validly included as part of a rate).

[56] *Edison*, 20 Cal.3d at 817 (emphasis in original).

on customers and load-serving entities (LSEs) affected that would not have otherwise occurred.[57] In contrast, the Court clarified that the ministerial and semi-automatic calculation of rates using approved formulas and actual costs that could be calculated with reference to the utilities' ledgers did *not* constitute general ratemaking.[58]

In arriving at the new RA MPB methodology in D.25-06-049*,* the Commission's process of setting the RA MPB methodology easily cleared the first *Edison* hurdle. The Commission took many variables into account to formulate broad ratemaking policy, including the key questions of how to determine: (1) the value of the utilities' portfolios of generation assets; and (2) the relative cost share of above-market generation costs between bundled and departed customers.[59] Decision 25-06-049 itself summarized that "questions that predominate this track of the [rulemaking] are of *policy.*"[60]

As for the second *Edison* hurdle—causing a significant economic impact that would not have occurred in due course—the substantial impact presaged in CalCCA's AFR of D.25-06-049 has now come to pass in rates approved by D.25-12-008.[61] In *Edison*, the Court emphasized how the Commission's decision under review simply balanced over-collections or under-collections for fuel costs that would have naturally balanced themselves under the weather averaging method used in the original methodology.[62] The Court held that the Commission's order

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57 *Id*. at 828-830.
58 *Ibid*.
59 *See* R.25-02-005, CalCCA AFR at 19-22.
60 D.25-06-049 at 10 (emphasis added).
61 *See* R.25-02-005, CalCCA AFR at 22-24.
62 *Edison*, 20 Cal.3d at 824-826 ("Inasmuch as the two methods achieve the identical result – a final balancing of fuel clause over- and under-collections – and Edison itself embraces the former, the commission rightly concluded that it has not subjected Edison to retroactive ratemaking by choosing the latter because of a perceived need to institute the new energy clause without delay").

therefore left the utility no worse and no better off than if the Commission had not ordered the refunds.[63]

That is not the case for D.25-06-049 (as implemented in the Decision), where the Commission's actions result in the kind of "disruptive financial consequences of true retroactive ratemaking" that the *Edison* Court described as one of the hallmarks of general ratemaking.[64] The RA MPB is an administratively determined proxy value calculated by the Commission. There was no inherent balance built into the RA MPB methodology that would have inevitably canceled out any over- and under-estimates over time. In D.25-06-049, the Commission administratively altered the benchmark by which any over- or under-collections would be measured. In doing so, it altered the truth of the nebulous concept of the "portfolio value" of capacity, a concept that is not definitively set in, and cannot be solely derived from, the IOUs' accounting books. That is, the Commission did not simply require SDG&E to compare forecasted capacity value to actual capacity value when it required SDG&E to apply the Final 2025 RA MPB. It instead revised what constitutes the actual capacity value of SDG&E's portfolio in 2025, ordering unbundled customers to suffer an enormous financial impact as a result. To use an analogy from civil proceedings, in D.25-12-008, the Commission 'perfects' the prior 'judgment' levied on CCAs and unbundled customers in D.25-06-049.[65]

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63 *Ibid*.

64 *Ibid*.

65 *See, e.g.*, SD CCAs' Opening Brief at 4-5 (explaining that retroactive application of the new RA MPB methodology would have an enormous impact on CCAs and unbundled customers in the October Update); *see also* A.25-05-012, *Comments of San Diego Community Power and Clean Energy Alliance on October Update* (Oct. 30, 2025) (SD CCAs' October Update Comments), pp. 1-3 (noting that per the proposals set forth in SDG&E's October Update, unbundled residential customers would see a bill increase of 30.1 percent, unbundled CARE residential customers would see a bill increase of 44.2 percent, and highlighting an 85,000 percent increase in the system average PCIA rate for Vintage 2017).

The Commission continues to keep parties in the dark on *precisely* how significant this impact was. Despite having the information necessary, the Commission has not published what the Final RA MPBs *would have been* had they been calculated under the prior methodology. However, the SD CCAs have sought to estimate this approximate impact. The SD CCAs applied the change between the Forecast 2025 RA MPB and the modified Final 2025 RA MPB to SDG&E's Retained RA quantity during 2025. Setting aside the two other IOUs, in SDG&E's territory alone this produced a decreased value of capacity by approximately $70.7 million.[66] This $70.7 million impact is a substantial part of the enormous increases in PCIA rates approved set forth in SDG&E's Advice Letter 4757-E (SDG&E Consolidated Rate Change AL), which, for example, included an 90,145 percent year-over-year increase in the system average PCIA rate for some unbundled customers.[67]

Finally, D.25-12-008 and D.25-06-049 are retroactive in effect. The courts have consistently determined that adjusting future rates to account for past under-collections is retroactive in effect.[68] Here, SDG&E has already collected and recorded revenue to its PABA in

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[66] The SD CCAs calculated the $70.7 million reduction in the market value of capacity by using SDG&E's PCIA model workpaper underlying SDG&E's Consolidated Rate Change AL. The difference between the Forecasted 2025 System, Local, and Flex RA Benchmark ($/kW-Year) values and the modified Final 2025 RA Benchmark of $11.21 per kW-Month ($134.52 per kW-Year) applied in the SDG&E Consolidated Rate Change AL PCIA model workpaper, produces a difference in the Market Value of Capacity of approximately $70.7 million. Note that this figure has been updated from the SD CCAs' Comments on the October Update. At that time, the value of capacity in SDG&E's territory decreased by $98 million.

[67] *See* SD CCAs' October Update Comments at 2 (explaining that Vintage 2017 would experience an approximately 85,000% year-over-year increase in the PCIA rate. The SD CCAs have since updated this figure based on the PCIA model workpaper underlying SDG&E's Consolidated Rate Change AL).

[68] *Pacific Tel.*, 62 Cal.2d at 641-653 (explaining that a new rate structure took effect "unlawfully retrospectively" because after the Commission conducted an extensive investigation of the rates charged by the utility in question, it found them to be unreasonably high, and fixed new, lower rates ordering the utility to refund to its customers all charges collected in excess of a new rate level since the beginning of the investigation); *City of Los Angeles v. Public Utilities Commission* (1972) 7 Cal.3d. 331, 357 (*City of Los Angeles I*) ("To permit the commission to redetermine whether the preexisting rates were unreasonable as of the date of its order and to establish new rates for the purpose of refunds would mean

2025 based on PCIA rates approved by the Commission under a final order in the 2025 ERRA Forecast proceeding in D.24-12-040. Those rates were set based on a PCIA revenue requirement that was calculated, in part, by comparing the forecasted market value of SDG&E's RA capacity portfolio during 2025 (a value determined in part by the RA MPB calculated under the then-existing methodology) to the cost of SDG&E's RA capacity portfolio.[69] The modification to the RA MPB and 2025 revenue requirement that was ordered in D.25-06-049, and was effectuated in D.25-12-008, is retroactive in effect: it *changes* future rates (2026 PCIA rates adopted in D.25-12-008) to account for past under- or over-collections (calculated from 2025 PCIA rates adopted in D.24-12-040) that would not have naturally occurred solely via recorded costs and revenues.

The Commission therefore acted in excess of its jurisdiction and failed to act in a manner required by law when it issued D.25-06-049. Decision 25-06-049 establishes general rates and directs the retroactive application of those general rates. Decision 25-12-008 implements D.25-06-049—it approves PCIA rates that implement D.25-06-049's unlawful directive to apply the new RA MPB methodology to the 2025 true-up.[70] Thus, D.25-12-008 itself exceeds the Commission's authority and constitutes a failure to proceed in a manner required by law.

2. Decision 25-12-008 is Unlawful Because D.25-06-049 and D.25-12-008 Constitute a Course of Conduct that Violate the Prohibition on Retroactive Ratemaking

Courts recognize—across multiple areas of California law—that multiple unlawful actions can and should be understood as components of a broader, unlawful course of conduct.

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that the commission is establishing rates retroactively rather than prospectively."); *Edison*, 20 Cal.3d at 815, 822, 830 ("Because the increased charges thus imposed were not the products of ratemaking, they were not rendered inviolable by the rule against *retroactive* ratemaking. To put it another way, the commission's decision to further adjust those rates so as to compensate for substantial past overcollections may well be retroactive in effect, but it is not retroactive *ratemaking*." (emphasis in original)).

[69] R.25-02-005, CalCCA AFR at 5-10.

[70] *See* D.25-12-008 at 26-27.

For example, in the context of the Fair Employment and Housing Act, courts have held that an employer's series of failures to accommodate an employee's disability should be viewed as a single, actionable course of conduct under certain circumstances.[71] Similarly, in the context of the Rosenthal Fair Debt Collection Practices Act, courts have held a pattern of violations can constitute a single actionable course of conduct in their entirety.[72]

Here, the Commission's action in D.25-06-049, and its subsequent action in D.25-12-008 (and in the other IOUs' respective 2026 ERRA Forecast decisions) operate as a similarly coordinated set of actions, and can be viewed as components of a broader, unlawful course of conduct. That is because the PCIA ratemaking framework requires the development of PCIA ratemaking *policy* (including the development of methodologies and formulae that will impact rates) in a rulemaking, and the establishment of revenue requirements and rates in annual ERRA Forecast proceedings.

To be clear, D.25-06-049, standing alone, violates the prohibition on retroactive ratemaking because it establishes general rates (the new RA MPB calculation methodology) and directs the retroactive application of those general rates. The Commission's claim that general ratemaking did not take place there ignores the functional truth of what the Commission accomplished in the PCIA rulemaking, *i.e.*, the same policymaking tasks for the PCIA as a GRC accomplishes for other rates:[73] setting the formula to determine a revenue requirement, allocate that revenue requirement, and design rates for different customer categories to recover that revenue requirement.[74] Moreover, the Commission has made clear that ERRA proceedings are

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71 *Richards v. CH2M Hill, Inc.* (2001) 26 Cal.4th 798, 802.
72 *Komarova v. Nat'l Credit Acceptance, Inc.* (2009) 175 Cal.App.4th 324, 345.
73 R.25-02-005, CalCCA AFR at 25.
74 *See id*. at 26-27.

not proceedings in which policy is evaluated and set relating to PCIA rates.[75] That policy analysis and adjudication for the PCIA rates happens in PCIA rulemakings—there is no other proceeding or process where it could happen.[76]

What D.25-12-008 and the other IOUs' respective 2026 ERRA Forecast decisions accomplish is to *implement* the new RA MPB calculation methodology in what should have been the 2025 true-up, but was instead retroactive ratemaking, and approve PCIA rates reflecting that retroactive ratemaking. In this manner, D.25-06-049, D.25-12-008 and the other IOUs' 2026 ERRA Forecast decisions are logically connected and, together, violate the prohibition on retroactive ratemaking. The elements that define "general ratemaking" that the CCAs laid out in their briefing in R.25-02-005 still apply, and considering those elements under that definition, the Commission undertook "general ratemaking" in R.25-02-005 to develop the RA MPB methodology adopted in D.25-06-049 and *applied* in D.25-12-008.

The PCIA rates approved in D.25-12-008, implementing the methodology of D.25-06-049, constitute a significant portion of SDG&E's generation rate and are billed to nearly every customer in SDG&E's service territory, appearing alongside "Generation," "Transmission," and "Distribution" charges as a separate line item on those bills.[77] The $70.7 million impact on customers in SDG&E's service territories on account of D.25-12-008 would not have occurred absent the unlawful implementation of an unlawful decision (*i.e.,* D.25-06-049).

Thus, while the SD CCAs maintain the Commission conducted unlawful retroactive ratemaking in D.25-06-049 standing alone, D.25-12-008 nevertheless clearly acts in conjunction with D.25-06-049 to violate the prohibition on retroactive ratemaking. The Commission's course

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75 *Id*. at 28.

76 *Ibid*.

77 D.20-03-019 (Apr. 6, 2020) at 21 (the same is true in PG&E's and SCE's service territories).

of conduct in those decisions (as well as the other IOUs' 2026 ERRA Forecast decisions), therefore exceeds the Commission's authority and constitutes a failure to proceed in the manner required by law.

3. The Commission Cannot Escape the Prohibition on Retroactive Ratemaking by Spreading its Ratemaking Activities Across Multiple Proceedings

As CalCCA's D.25-06-049 Appeal explains, whereas the Commission once largely established general rates in GRCs, the Commission now "conducts substantial swaths of its business outside of general rate cases," dispersing its ratemaking activities into several side proceedings.[78] But this practice cannot and does not insulate the Commission from the prohibition against retroactive ratemaking. In the context of PCIA ratemaking, the Commission conducted general ratemaking in the PCIA Rulemaking (R.25-02-005) when D.25-06-049 established a new RA MPB calculation methodology, and it directed the retroactive application of the new methodology in the same decision. In D.25-12-008, the Commission implements the 2025 RA MPB true-up for SDG&E, and by implementing D.25-06-049's directives for the purposes of that true-up, perpetuates retroactive ratemaking. In this manner, D.25-06-049 and the 2026 ERRA Forecast decisions work in tandem and are collectively and individually unlawful.

C. Decision 25-12-008's Utilization of D.25-06-049's New RA MPB Methodology to Establish the 2025 PCIA Revenue Requirement is Not Adequately Supported by the Commission's Findings

By approving the use of the new RA MPB methodology to calculate the 2025 PCIA revenue requirement and to set resulting rates, D.25-12-008 reaches conclusions that are not supported by the Decision's findings. Decisions are subject to reversal if a reviewing court concludes that the conclusions are insufficiently supported by the findings.[79] "[F]indings afford a

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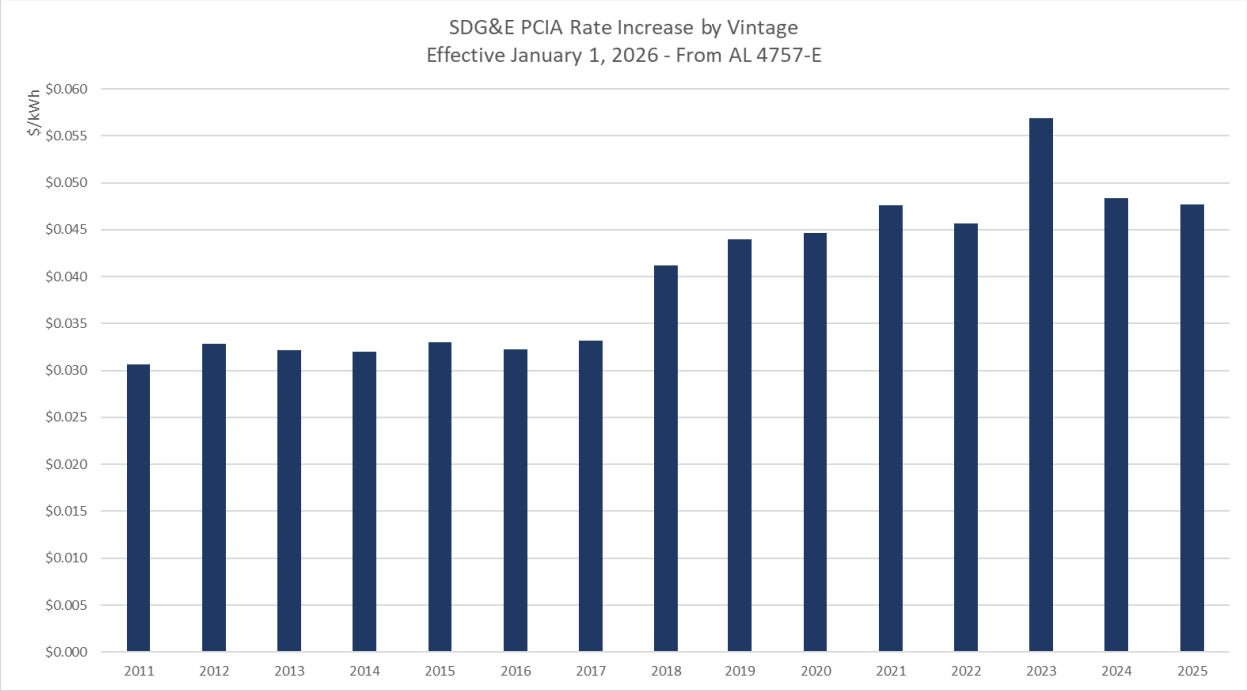
78 *See* CalCCA D.25-06-049 Appeal, MPA at 86-87.

79 Section 1757(a)(3).

rational basis for judicial review. . . . The more general the findings, the more difficult it is for the reviewing court to ascertain the principles relied upon by the administrative agency. Even when the scope of review is limited, . . . findings on material issues enable the reviewing court to determine whether the commission has acted arbitrarily."[80]

Table 1 from the SD CCAs' Comments on SDG&E's October Update (updated below to reflect information from SDG&E's Consolidated Rate Change AL, AL 4757-E) presented the Commission with the estimated size of the massive PCIA rate increases that different vintages in SDG&E's territory would experience because of D.25-12-008.

Table 1: PCIA Rate Increase by Vintage Post-SDG&E AL 4757-E[81]



80 *Cal. Motor Transport Co.*, 59 Cal.2d at 274 (citation omitted).

81 SD CCAs' October Update Comments at 2.

Both the lack of discussion in D.25-12-008 and the silence of the five sitting Commissioners from the dais[82] as they adopted it betray a lack of concern for the California families that bear these costs of the Commission's decision-making.

Decision 25-12-008's findings relating to the use of the new RA MPB are overly broad and prevent any ratepayer, much less a reviewing court, from ascertaining the Commission's reasoning in picking winners (bundled customers) and losers (unbundled customers). Findings of Fact 3 through 5 are the only findings relating to the PABA or the RA MPB and only consist of conclusory statements such as: "[t]he evidence SDG&E presented supports the 2026 PABA forecast and 2025 PABA year-end balance."[83] The dicta of D.12-25-008 also fails to lend any support for the Commission's conclusions. Section 6.11.2 appears to suggest the SD CCAs do not object to SDG&E's PCIA rates on the basis of the retroactive application of the new RA MPB methodology.[84] The SD CCAs Opening Brief makes clear that is not the case. While the Commission's denial of parties' AFRs of D.25-06-049 did render moot the procedural recommendations in that brief,[85] the SD CCAs certainly and clearly object to the underlying

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[82] The Commission approved D.25-12-008 on its Consent Agenda on December 4, 2025, swinging approximately $100 million from unbundled customers to bundled customers by applying this new RA MPB methodology without any discussion, explanation, or acknowledgment of the substantial increase that would result in certain customer bills. *See* California Pub. Util. Comm'n, Voting Meeting Dec. 4, 2025. Available at https://www.adminmonitor.com/ca/cpuc/voting_meeting/20251204/.

[83] D.25-12-008 at FOF 5.

[84] *See id*. at 27 ("Parties do not object to SDG&E's proposed vintage PCIA in rates except for the Joint CCAs' objection to the use of pre-2019 banked RECs.").

[85] While the AFRs of D.25-06-049 were still pending, the SD CCAs filed an Opening Brief in this proceeding on October 3, 2025. The SD CCAs' Opening Brief included recommendations on how the Commission should handle a potential grant of CalCCA's AFR. On October 30, 2025, the Commission issued D.25-10-061 denying the AFRs of D.25-06-049. As D.25-12-008 notes, D.25-10-061 mooted the specific recommendations the SD CCAs included in their Opening Brief as to how the Commission should handle a grant of CalCCA's AFR. However, the underlying illegality of the Commission's actions here stems from its implementation of D.25-06-049. The SD CCAs did not forfeit any arguments with respect to the Commission's implementation of D.25-06-049 and preserved the issue in briefing. *See* SD CCAs' Opening Brief at 3-4; A.25-05-012, *Reply Brief of San Diego Community Power and Clean Energy Alliance* (Oct. 10, 2025), p. iii. Moreover, the CalCCA D.25-06-049 Appeal had not been filed as

retroactive ratemaking as set forth in their trade association's (CalCCA's) Appeal of D.25-06-049. Section 6.11.2 then inserts the unsupported conclusion that "[o]verall, we find that the evidence submitted supports SDG&E's PCIA forecasts for 2026."[86]

Adopted and issued after the CalCCA D.26-06-049 Appeal was filed, these findings in D.25-12-008 do not adequately wrestle with how the use of the new, unlawfully applied methodology has changed rates, the magnitude of those changes, or why the Commission believes such changes are legal and justified in the face of allegations that they are unlawfully retroactive. Such an insufficiency in reasoning, and the deafening silence from the Commission with regard to the rate increases it adopts, serve as an injustice to the communities the Decision impacts and contributes to the need for rehearing of D.25-12-008 to correct these errors.

D. Decision 25-12-008's Evidentiary, Procedural, and Logical Flaws Relating to Utilizing D.25-06-049's New RA MPB Methodology to Establish the 2025 PCIA Revenue Requirement Demonstrate the Commission's Arbitrariness and Abuse of Discretion

The Commission abused its discretion in D.25-12-008 by arbitrarily approving the retroactive application of the new RA MPB methodology to the calculation of rates set in this proceeding. "In determining whether the Commission abused its discretion, [courts] consider 'whether the decision was arbitrary, capricious, or entirely lacking in evidentiary support.'"[87]

Here, the Commission's decision is arbitrary and capricious because the Commission has willfully blinded itself to the precise economic impact its decision to apply the new RA MPB

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of the deadline for opening and reply comments on D.25-12-008. As such, the SD CCAs arguably could not have raised the issue of the illegality of D.25-06-049 without such arguments being labeled a collateral attack of that decision because, with the AFR being denied and no Writ yet filed, the decision at that time was final. *See also* A.25-05-012, *SDG&E Reply Brief* (Oct. 10, 2025), p. 3 (discussing the prohibition on collateral attack for "final" decisions).

[86] D.25-12-008 at 27.

[87] *California Community Choice Assn.*, 103 Cal.App.5th at 856 (citing *Securus Technologies, LLC*, 88 Cal.App.5th at 803).

retroactively has caused. This course of conduct extends back to the beginning of the Commission's consideration of whether and how to change the RA MPB methodology, and reflects a concerted effort to keep the Commission ignorant as to the impacts of its decisions. Decision 25-06-049 relied entirely on a Staff Report to support its factual findings.[88] However, despite repeated requests to access the data underlying that Staff Report, parties were denied permission to examine these data and thereby could not fairly confront the Report.[89] CalCCA and other CCA parties drew attention to the Commission's refusal to contemplate facts in their Comments on the Proposed Decision and AFRs of D.25-06-049.[90] In this docket, the SD CCAs have also pointed out that Energy Division has not published what the Alternate Final 2025 RA MPB would have been using the old methodology.[91] This Alternate Final 2025 RA MPB is necessary to identify the precise impact of the Commission's decision to calculate the 2025 Final RA MPB using the new RA MPB methodology instead of the existing RA MPB methodology. By denying parties access to this Alternate Final 2025 RA MPB, the Commission has continued its pattern of refusing to even contemplate the consequences of its decisions.[92]

The SD CCA's presented their best estimate of this impact to the Commission in briefing. In this ERRA case alone, the Commission's determination to apply the new RA MPB methodology will result in an estimated $70.7 million swing.[93] Across all three ERRA cases, the

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88 D.25-06-049 at 11.

89 *See* R.25-02-005, *California Community Choice Association's Opening Comments on the Order Instituting Rulemaking and Energy Division Staff Report* (Mar. 18, 2025), p. 25; R.25-02-005, *CalCCA's Reply Comments on OIR* (Apr. 2, 2025), pp. 14-15; R.25-02-005, *Ava Community Energy Authority Opening Comments on Proposed Decision Adopting Changes to the Calculation of the Resource Adequacy Market Price Benchmark* (Jun. 12, 2025), p. 5.

90 *See*, *e.g.*, R.25-02-005, CalCCA's Comments on PD at 5-6; R.25-02-005, CalCCA AFR at 33-35; R.25-02-005, *Joint Application for Rehearing of Decision 25-06-049* (Jul. 28, 2025), pp. 6-7 (Ava and SJCE AFR).

91 *See* SD CCAs' Opening Brief at 19 (explaining that Energy Division has remained silent as to what the RA MPBs would have been under a pre-D.25-06-049 methodology).

92 *Id.*; R.25-02-005, Ava and SJCE AFR at 6.

93 *See* SD CCAs' Opening Brief at 5.

combined impact is estimated to be well over one billion dollars. Yet aside from two offhand statements, D.25-12-008 does not acknowledge, much less address, this significant economic impact.[94] Finding of Fact 4's broad acknowledgement (that the 2025 PABA year-end balance "increased significantly in large part due" to the new RA MPB methodology) demonstrates the lack of precision and seriousness with which the Commission approached this significant economic impact.

Because of this and the Commission's failure to explain its reasoning by producing adequate findings, the Commission reached arbitrary conclusions regarding the legality and reasonableness of applying the new RA MPB methodology to establish the 2025 PCIA revenue requirement. These failures demonstrate the Commission's abuse of its discretion in D.25-12-008 regarding the setting of the 2025 PCIA revenue requirement.

IV. THE COMMISSION SHOULD SET A CONSOLIDATED ORAL ARGUMENT TO CONSIDER THIS AND ANY RELATED APPLICATIONS FOR REHEARING

Pursuant to Commission Rule 16.3, the SD CCAs seek a consolidated oral argument on this AFR and any other AFRs of the related SCE and PG&E 2026 ERRA Forecast decisions should such AFRs be filed (referred to herein as Related ERRA Forecast AFRs).[95] Oral argument is appropriate under Commission Rule 16.3 to "materially assist the Commission in resolving the application," and "demonstrate that the application raises issues of major significance for the Commission."[96] Such issues of major significance exist when the Commission's decision: (1) "adopts new Commission precedent or departs from existing precedent without adequate

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94 D.25-12-008 at FOF 4 (noting that the 2025 PABA year-end balance increased "significantly in large part due [to] a true-up to the lower 2025 Final MPBs," and 20-21 ("The record supports that increases to the 2026 PABA and 2025 PABA year-end balance forecasts were in large part due to the lower Final 2025 MPBs and a true-up to said lower 2025 Final MPBs").

95 *Id.*; D.25-12-027 (Dec. 23, 2025).

96 Commission Rule 16.3.

explanation;" (2) "changes or refines existing Commission precedent;" (3) "presents legal issues of exceptional controversy, complexity, or public importance;" or (4) "raises questions of first impression that are likely to have significant precedential impact."[97]

Oral argument will materially assist the Commission in resolving this AFR and any Related ERRA Forecast AFRs. The underlying PCIA regulatory ecosystem is complex (involving RA MPBs, Indifference Amounts, the portfolio allocation balancing account, ERRA proceedings using different underlying data, and more). How rates are set in ERRA proceedings, and tracing D.25-06-049's and D.25-12-008's impacts through this interlocking web, is complex. There are many intricacies to how exactly the Commission acted unlawfully here. Teasing apart the different ratemaking steps, where the unlawful retroactive ratemaking occurred, how the Commission bound itself in D.25-06-049, and the development of the evidentiary record across these different proceedings are the kinds of challenges—exploring grey areas, complex interactions between prior instructions, hypotheticals, and identifying other analogous situations—are best handled in the dynamic give and take of an oral argument than by simply relying on paper submissions.

This AFR and any Related ERRA Forecast AFRs also warrant oral argument because they concern issues of major significance. As noted above, the questions at issue in this and any Related ERRA Forecast AFRs are exceptionally complex, controversial, and of public interest. There has already been significant public interest in the Decision and its $70.7 million impacts, let alone the hundreds of millions of dollars of impacts in the other IOUs' 2026 ERRA Forecast decisions.[98] Additionally, the question of whether the Commission retroactively sets rates in ERRA Forecast proceedings when implementing Decisions in past rulemakings appears to be a

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97 *Id*. at 16.3(a)(1)-(3).

98 D.25-12-028; D.25-12-027.

question that will set significant precedent on an issue that may reappear quickly depending on the Commission's actions in the existing PCIA rulemaking.

For these reasons, consolidated oral argument (on this AFR and any Related ERRA Forecast AFRs), is appropriate under Commission Rule 16.3, and the Commission should grant the SD CCAs' request for oral argument.

V. CONCLUSION

For the foregoing reasons, the SD CCAs respectfully request that the Commission grant this AFR and permit a consolidated oral argument with Related ERRA Forecast AFRs relating to the D.25-12-027 and D.25-12-028 2026 ERRA Forecast decisions, on the issues raised therein.

Respectfully submitted,

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January 5, 2026