BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Application of Southern California Edison Company (U338E) for Approval of its 2026 ERRA Forecast Proceeding Revenue Requirement.	Application 25-05-008 A2505008

CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S APPLICATION FOR REHEARING OF DECISION APPROVING SOUTHERN CALIFORNIA EDISON COMPANY'S 2026 ENERGY RESOURCE RECOVERY ACCOUNT-RELATED REVENUE REQUIREMENT FORECAST

PUBLIC VERSION

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SPECIFICATION OF ERROR

By setting PCIA[1] rates based on a 2025 PCIA revenue requirement that incorporates the new methodology to calculate the 2025 Final RA MPB, and by adopting SCE's proposal to assign zero value to the pre-2019 banked RECs it uses in 2025 and 2026 for bundled customer RPS compliance, the Commission commits at least eight legal errors in D.25-12-028 for which the Commission should grant rehearing. 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 Public Utilities Code Section 1757(a)(1).[2]

× Fails to proceed in the manner required by law by implementing a rate retroactively in violation of 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).

× 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).

× 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).

× Fails to act within its power or jurisdiction, and fails to proceed in the manner required by law by valuing any RECs banked before 2019 and used for RPS compliance in 2025 or 2026 at $0, depriving customers who departed bundled service after those RECs were banked with the value of those RECs in violation of Sections 365.2, 366.3, 366.2 (a)(4),

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

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

and 366.2(g) and the indifference principle reflected therein. The Commission's failure subjects the Decision to reversal on appeal under Section 1757(a)(1) and (a)(2).

- × Fails to support its decision to adopt SCE's pre-2019 banked REC valuation methodology with adequate findings. The Commission's failure subjects the Decision to reversal on appeal under Section 1757(a)(3).

- × Fails to support its findings regarding SCE's pre-2019 banked REC valuation methodology with substantial evidence in light of the whole record. The Commission's failure subjects the Decision to reversal on appeal under Section 1757(a)(4).

- × Abuses its discretion by adopting SCE's pre-2019 banked REC valuation methodology without evidentiary support. The Commission's abuse of discretion subjects the Decision to reversal on appeal per Section 1757(a)(5).

On these grounds, CalCCA respectfully requests the Commission grant rehearing, direct SCE to value the pre-2019 banked RECs it uses towards bundled customer compliance in both 2025 and 2026 at the applicable RPS MPB, and permit a consolidated oral argument with San Diego Community Power and Clean Energy Alliance's Application for Rehearing of D.25-12-008 and CalCCA's Application for Rehearing of D.25-12-027.

BEFORE THE PUBLIC UTILITIES COMMISSION
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Application of Southern California Edison Company (U338E) for Approval of its 2026 ERRA Forecast Proceeding Revenue Requirement.	Application 25-05-008

CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S APPLICATION FOR REHEARING OF DECISION APPROVING SOUTHERN CALIFORNIA EDISON COMPANY'S 2026 ENERGY RESOURCE RECOVERY ACCOUNT-RELATED REVENUE REQUIREMENT FORECAST

Pursuant to Public Utilities Code Section 1731(b)(1) and Rule 16.1 of the California Public Utilities Commission (Commission) Rules of Practice and Procedure,[3] the California Community Choice Association (CalCCA)[4] submits this Application for Rehearing (AFR) of Decision (D.) 25-12-028 (D.25-12-028 or the Decision).[5] The Commission approved the Decision on December 18, 2025, and issued the Decision on December 19, 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

The Power Charge Indifference Adjustment (PCIA) rate is meant to ensure that bundled customers remain "indifferent" to the departure of unbundled customers. 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. In D.25-12-028, the Commission set unlawful PCIA rates in two

[3] State of 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] California Community Choice Association (CalCCA) represents the interests of 24 community choice electricity providers in California: Apple Valley Choice Energy, Ava Community Energy, Central Coast Community Energy, Clean Energy Alliance, 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 Diego Community Power, San Jacinto Power, San José Clean Energy, Santa Barbara Clean Energy, Silicon Valley Clean Energy, Sonoma Clean Power, and Valley Clean Energy.

[5] Decision (D.) 25-12-028 (Dec. 19, 2025).

ways that have the effect of harming unbundled customers (including customers that receive electric service from community choice aggregators (CCA)). ***First***, the Commission approves Southern California Edison Company's (SCE) unlawful retroactive application of a new methodology to calculate the value of its Resource Adequacy (RA) generation portfolio in 2025. ***Second***, the Commission approves SCE's unlawful proposal to deny departed customers their fair share of the value of Renewable Energy Credits (RECs) generated prior to 2019 and used for RPS compliance on behalf of bundled customers in 2025 or 2026.

With respect to SCE's RA valuation proposal, SCE originally forecast the 2025 value and cost of its PCIA portfolio resources in its 2025 Energy Resource Recovery Account (ERRA) Forecast case.[6] In that case, SCE 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 SCE 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 SCE proposed to do in the instant proceeding, despite the fact that SCE was already collecting PCIA rates calculated using the prior *methodology*. Decision 25-12-028 approves SCE's proposal and adopts PCIA rates calculated using the 2025 Final RA MPB (calculated under the new methodology) to value the capacity provided by SCE's generation resources in 2025. That value flows into the 2025 PCIA revenue requirement. That revenue requirement forms the basis of the 2026 PCIA rates D.25-12-028 adopts. Therefore, there has been no true-up this year of forecasted 2025 PCIA rates. Instead, there has been an unlawful retroactive ratemaking.

CalCCA 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

[6] Application (A.) 24-05-007, *Application of Southern California Edison Company (U338E) For Approval of Its 2025 ERRA Forecast Proceeding Revenue Requirement* (May 15, 2024).

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 Public Utilities Code 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 SCE's 2026 ERRA Forecast proceeding, where the Commission sets the 2025 PCIA revenue requirement and resulting rates. By approving SCE's proposal to retroactively apply a new methodology to calculate the value of its RA portfolio in 2025, the Decision errs in at least four ways.

First, D.25-12-028 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.25-12-028 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.25-12-028 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.

In addition to approving SCE's unlawful RA valuation proposal resulting in unlawful retroactive ratemaking, the Commission also errs by unlawfully adopting SCE's proposal to

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[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).

assign zero value to the pre-2019 banked RECs it uses to satisfy its bundled customer Renewables Portfolio Standard (RPS) compliance obligations in 2025 and 2026. By adopting that proposal, the Commission violates California law mandating bundled and unbundled customer indifference, including Sections 366.2(a)(4), 365.2 and 366.3. The Commission also violates Section 366.2(g), which requires that SCE provide departed customers the value of any benefits associated with SCE's PCIA resources that remain with bundled service customers. SCE's proposal violates Section 366.2(g) because the departed customers who previously paid for a portion of the banked RECs SCE now seeks to use neither benefit from the use of the banked RECs nor ever receive a credit for SCE's use of those banked RECs towards bundled customer compliance. This outcome plainly violates Section 366.2(g).

Moreover, by adopting SCE's proposal, the Commission violates the settled indifference framework it has established over the past two decades via its decisions applying the law, including decisions addressing the Renewables Portfolio Standard (RPS) value of the IOUs' portfolios beginning with D.11-12-018. The indifference framework requires SCE to value RECs used by bundled customers at the RPS MPB when calculating PCIA rates. Decision 19-10-001 introduced several changes to the PCIA framework but left intact an important piece of the settled indifference framework: if RECs are used for compliance on bundled customers' behalf, departed customers must receive value for those benefits retained by bundled customers via a credit to the PCIA at the RPS Adder. By failing to convey that value, and by adopting SCE's banked REC valuation proposal, the Decision errs in at least the following four ways.

First, the Commission errs by failing to act within its power or jurisdiction as required by Section 1757(a)(1) and fails to proceed in the manner required by law as required by Section 1757(a)(2) by valuing any RECs banked before 2019 and used for RPS compliance in 2025 at $0, depriving customers who departed after those RECs were banked with their value in violation of Sections 365.2, 366.3, 366.2(a)(4), and 366.2(g) and the indifference principle reflected therein. Second, the Commission errs by failing to support its decision to adopt SCE's pre-2019 banked REC valuation methodology with adequate findings as required by Section 1757(a)(3). Third, the Commission errs by failing to support its findings regarding SCE's pre-2019 banked REC valuation methodology with substantial evidence in light of the whole record, as required by Section 1757(a)(4). Finally, the Commission errs by abusing its discretion through

the adoption of SCE's pre-2019 banked REC valuation methodology without evidentiary support.

As a result of the significant legal errors described herein, the Commission should therefore grant rehearing of D.25-12-028. Due to the complexity of the issues raised in this AFR, their importance, their relationship to similar issues raised in San Diego Gas and Electric Company's (SDG&E) 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 the AFRs in SDG&E'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] CalCCA therefore refers the Commission to the following specific portions of the Decision that are unlawful and erroneous:

Location in Decision	Unlawful or Erroneous Statement
Section 5.2.11	"SCE's Amended October Update incorporates the impacts of D.25-06-049, which modified the Commission's RA valuation methodology, combining the former three RA Adders (specific to local, system, and flexible capacity) into one RA Adder."
Section 8.2.2.2.2	"Under the Commission's preponderance of the evidence standard, SCE's proposal to value Pre-2019 Banked RECs used for bundled customer compliance in 2025 and forecast to be used as such in 2026 at $0 continues to be a reasonable methodology unless and until the Commission addresses the issue on an industry-wide basis."
Section 8.2.2.2.2	"The Commission has not provided further guidance as to a reading of D.19-10-001 that would suggest this obligation stems from that decision, notwithstanding the Finding of Fact noted above. Therefore, we find that SCE's

[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
	proposal is, more likely than not, a reasonable interpretation of existing Commission guidance."
Section 8.2.2.2.2	"Given the outstanding questions of fact and policy related to the mechanics and equity of CalCCA's proposal and the different ways these questions might be responded to on an industry-wide basis, it is reasonable for SCE to continue to use the procedure the Commission has previously found reasonable in SCE's prior two ERRA forecast proceedings."
Section 8.2.2.2.2	"SCE's proposal to value any Pre-2019 Banked RECs used for bundled customer compliance in 2025 at $0 is a reasonable application of existing Commission guidance and will not be revisited."
Section 8.2.2.3	"Pursuant to D.25-06-049, the Commission's Energy Division included a single Final 2025 RA Adder and single Forecast 2026 RA Adder in its Market Price Benchmark Calculations for 2025, released on October 1, 2025. SCE incorporates the single MPB in its forecast 2026 and final 2025 PCIA calculations."
Section 8.2.4.1	"D.25-06-049 modified the RA MPB and required the modified RA to be used not only to forecast 2026 RA values, but also to true up 2025 RA values."
Section 8.2.4.1	"CalCCA filed an application for rehearing (AFR) of D.25-06-049 on July 28, 2025, alleging that the Commission's application of the new RA MPB to 2025 PCIA true ups constituted impermissible retroactive ratemaking. CalCCA's AFR was denied by the Commission at its October 30, 2025 voting meeting. CalCCA notes that its arguments in this area are therefore moot."
Section 8.2.4.1	"SCE's forecast 2025 PCIA surcharge true ups have been calculated consistent with D.18-10-019, D.19-10-001, and D.25-06-049. SCE's proposed year-end 2025 ERRA BA and PABA balances are adopted. SCE is authorized to transfer the 2025 year-end ERRA balance to the 2025 subaccount of the

Location in Decision	Unlawful or Erroneous Statement
	PABA. Incorporation of these costs in the 2026 PCIA rates is reasonable and approved as requested."
Section 8.2.5	"As noted above, SCE incorporated the updated RA MPB ordered by the Track 1 decision in the PCIA rulemaking (D.25-06-049) into its Amended October Update, as described in Section 8.2.2.3."
Section 9	"Upon review of the record, including intervenor submissions and SCE's filings submitted in support of the inputs and assumptions that underlie SCE's ERRA procurement cost forecast and requests for recovery of other costs, we find SCE's 2026 ERRA forecast revenue requirement, as updated by SCE's Amended October Update, to be reasonable and adopt it."
FOF 116	"Pursuant to D.18-10-019 and D.19-10-001, the Total Portfolio Market Value is defined as the forecast output of the three streams of revenue produced by CTC- and PCIA eligible resources multiplied by the applicable MPBs (Energy Index, RA Ader, RPS Adder), calculated by the Commission and released in October of each year. D.25-06-049 recently updated the way the Commission calculates the RA MPB, referred to as the RA Adder; among other changes, instead of using separate adders to value local, flexible, and system capacity all relevant capacity [sic] is now valued at the same RA Adder."
FOF 126	"The Commission found SCE's proposed method of valuing Pre-2019 Banked RECs it may use for bundled service customer compliance at $0 to be reasonable on an interim basis in D.23-11-094 (the decision resolving SCE's 2024 ERRA forecast application) and also approved the treatment in D.24-12-039 (the decision resolving SCE's 2025 ERRA forecast application)."
Conclusion of Law (COL) 12	"SCE's forecast balancing and memorandum account balances, proposed balance true ups, and forecast rate components as depicted in Table 7-1 are reasonable and should be approved."

Location in Decision	Unlawful or Erroneous Statement
COL 14	"SCE's proposal to value Pre-2019 Banked RECs that it may use for bundled service customer compliance in 2025 or 2026 at $0 is a reasonable interim methodology."
COL 19	"SCE should implement the revenue requirement adopted in this proceeding, as updated to reflect October – November 2025 actuals and forecasts for November – December 2025, as available, in its advice letter for rates to be effective starting January 1, 2026."
Ordering Paragraph (OP) 1	"Southern California Edison Company is authorized to recover a total 2026 Energy Resource Recovery Account electric procurement cost revenue requirement forecast of $4.689 billion, consisting of both a generation service component and a delivery service component."
OP 2	"Within Southern California Edison Company's (SCE) 2026 generation service revenue requirement of $4.633 billion, SCE is authorized to recover the following: (1) $2.710 billion forecast 2026 Energy Resource Recovery Account Balancing Account (ERRA BA) costs and a negative $898.645 million year-end 2025 ERRA BA balance; (2) $1.494 billion forecast 2026 Portfolio Allocation Balancing Account (PABA) costs and a $1.318 billion year-end 2025 PABA undercollection; (3) $7.308 million in forecast 2026 Green Tariff Shared Renewables Program costs; and (4) $1.314 million in actual litigation costs incurred in 2025 and tracked in the Energy Settlement Memorandum Account. SCE is authorized to transfer the 2025 year-end ERRA BA balance to the vintage 2025 subaccount of the PABA."
OP 8	"Southern California Edison Company (SCE) shall file a Tier 1 Advice Letter and revised tariff sheets within 30 days of the issuance of this Decision to implement this Decision. The Advice Letter shall include supporting documentation for: . . . (d) The usage of Renewable Energy Certificates banked in or

Location in Decision	Unlawful or Erroneous Statement
	before 2019 for 2025 Renewables Portfolio Standard compliance for SCE's bundled customers."

Commission decisions in ratemaking proceedings such as the instant case are reviewed pursuant to Section 1757.[10] As set forth below, CalCCA respectfully requests rehearing of the Decision's retroactive application of the redesigned RA MPB, based on the fact that the 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.25-12-028 with adequate findings;[13] and (4) abused its discretion.[14]

CalCCA also requests rehearing of the Decision's approval of SCE's proposal to assign zero value to RECs banked before 2019 because the Commission: (1) has acted in excess of its powers or jurisdiction[15] and has not proceeded in the manner required by law;[16] (2) failed to

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[10] Section 1757(a).

[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] Section 1757(a)(1); *see* note 11 *supra*.

[16] *See* note 12 *supra.*

support its decision with adequate findings;[17] (3) failed to support its findings with substantial evidence in light of the whole record;[18] and (4) abused its discretion.[19]

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.[20] 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 customer.[21] 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."[22] The PCIA is the tool the Commission adopted "intend[ing] to equalize cost sharing" between these two groups of customers.[23] The 2026 PCIA level was determined in this

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17 *See* note 13 *supra*.

18 Section 1757(a)(4). A "substantial evidence" analysis considers whether the Commission relies on "such relevant evidence as a reasonable mind would accept as adequate to support a conclusion;" and whether "it is evidence which is reasonable in nature, credible, and of solid value." *Los Angeles County Dept. of Children & Family Services v. Superior Court* (2013) 222 Cal. App. 4th 149. While "it is for the agency to weigh the preponderance of conflicting evidence, consideration of the whole record means the court will not simply "isolate only the evidence which supports the [Commission's] findings and thus disregarded relevant evidence" that tends to undermine them. *See Ponderosa Tel. Co. v. Pub. Util. Comm.* (2019) 36 Cal. App. 5th 999, 1013; *see also Bixby v. Pierno* (1971) 4 Cal.3d 130, 149 n.22. The courts "must consider all relevant evidence in the administrative record including evidence that fairly detracts from the evidence supporting the agency's decision. *County of San Diego v. Assessment Appeals Bd. No. 2* (1983) 148 Cal. App. 3d 548, 554. When making that inquiry, the "court must ensure that an agency has adequately considered all relevant factors, and has demonstrated a rational connection between those factors, the choice made, and the purposes of the enabling statute." *Cal. Cmty. Choice Assn. v. Pub. Util. Comm.* (2024) 103 Cal. App. 5th 845, 861 (citing *Securus Technologies, LLC v. Pub. Util. Comm.* (2023)).

19 *See* note 14 *supra*.

20 *See* Sections 365.2, 366.1, 366.2, and 366.3.

21 Sections 366.2(d), (f).

22 Section 366.2(g) (emphasis added).

23 D.18-10-019 (Oct. 19, 2018) at 3.

proceeding, in part, from the unlawful retroactive application of a revised PCIA ratesetting formula.[24]

a. SCE'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.24-12-039 in SCE's 2025 ERRA Forecast case. That case approved the PCIA revenue requirement and rates that SCE has collected from unbundled customers throughout the course of 2025.[25] As a part of setting the 2025 PCIA revenue requirement, the Commission calculated the forecast cost and value of the RA resources in SCE's generation portfolio. When determining the forecast value of this capacity, the Commission multiplied the forecast quantities of RA (that SCE'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 SCE's generation portfolio, published by Energy Division in October 2024, called the Forecast RA MPB.[26] Decision 24-12-039 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.[27]

This Forecast RA value (multiplying Forecast RA quantity by Forecast RA MPB) from SCE'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—SCE'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.[28] 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 SCE realizes during the year related

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[24] D.25-12-028 at Ordering Paragraph (OP) 2, Finding of Fact (FOF) 95, 100, 116, Conclusion of Law (COL) 12, 19.

[25] D.24-12-039 (Dec. 23, 2024) at COL 3, OP 1, 2.

[26] 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.

[27] D.24-12-039 at 26-27.

[28] D.18-10-019 at FOF 15-16, COL 16-17.

to its PCIA-eligible resource portfolio.[29] 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 SCE's capacity portfolio for that year.

b. Decision 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 System RA).[30] Decision 25-06-049 required that methodological change be applied for the year 2026 going forward,[31] and CalCCA takes 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.[32] Decision 25-06-049 specifically instructed Energy Division to calculate the Final 2025 RA MPB using the new methodology,[33] 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.[34] Energy Division retains the information necessary to publish the Final 2025 RA MPB as calculated using the prior methodology,[35] but to date has refused to publish the Alternate Final 2025 RA MPB or share the

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29 *Id*. at FOF 15-16, COL 15-17, OP 1-2, 7-8.

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

31 *Id*. at COL 10.

32 *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").

33 *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").

34 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.

35 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. *Id*. at COL 5 and 8. The Commission still collects information from load-serving entities

underlying information in a non-public manner that would enable stakeholders to estimate that proxy value.[36] In its briefing preceding D.25-06-049, CalCCA argued that the application of a new RA MPB methodology to the Final 2025 RA MPB calculation constituted unlawful retroactive ratemaking.[37]

c. Decision 25-12-028 Implements D.25-06-049

Decision 25-12-028 claims that "D.25-06-049 modified the RA MPB and required the modified RA to be used not only to forecast 2026 RA values, but also to true up 2025 RA values."[38] Therefore, "[p]ursuant to" this Decision, "Energy Division included a single Final 2025 RA Adder . . . in its Market Price Benchmark Calculations for 2025, released on October 1, 2025."[39] "SCE incorporated the updated RA MPB ordered by the Track 1 decision in the PCIA rulemaking (D.25-06-049) into its Amended October Update,"[40] which resulted in "final 2025 PCIA calculations" that "incorporate" this updated RA MPB methodology.[41]

Thus, in testimony and briefing leading to D.25-12-028, SCE used the Final 2025 RA MPB Energy Division calculated on October 1, 2025, to determine the final 2025 portfolio value, used that as an input to its calculation of the actual 2025 Indifference Amount, and used that to

(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.

[36] 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.,* R.25-02-005, *CalCCA's Comments on the Proposed Decision* (Jun. 12, 2025) at 5-6; *CalCCA's Reply Comments on the Order Instituting Rulemaking* (Apr. 2, 2025) at 14-15. 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 CalCCA's 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.

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

[38] D.25-12-028 at 123.

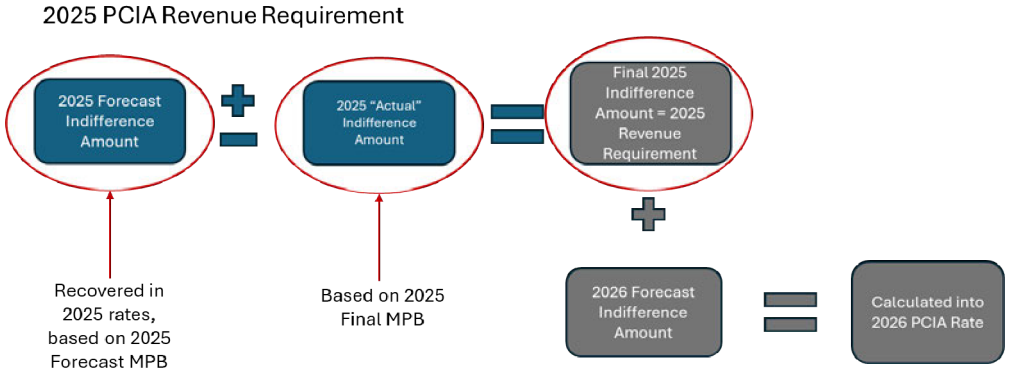
[39] *Id*. at 115-116.

[40] *Id*. at 128.

[41] *Id*. at 115-116.

finalize the 2025 revenue requirement.[42] 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**.[43]

FIGURE 1



In this way, the Commission set SCE's PCIA rates for 2026 in D.25-12-028 based on two components: (1) the forecasted Indifference Amount, *i.e.*, the difference between the forecasted cost of SCE's generation portfolio in 2026 and the forecasted market value of SCE'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.[44] The Indifference Amount and the final 2025 PCIA revenue requirement (the YE 2025 PABA, in Table 8-1 of D.25-12-028) 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.25-12-028.[45]

Decision 25-12-028 therefore implements D.25-06-049. SCE's PCIA revenue requirement is calculated using the PCIA Indifference Amount, which is "the difference between

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[42] *Id*. at 125. ("SCE's forecast 2025 PCIA surcharge true ups have been calculated consistent with D.18-10-019, D.19-10-001, and D.25-06-049. SCE's proposed year-end 2025 ERRA BA and PABA balances are adopted. SCE is authorized to transfer the 2025 year-end ERRA balance to the 2025 subaccount of the PABA. Incorporation of these costs in the 2026 PCIA rates is reasonable and approved as requested.")

[43] A.25-05-008, CalCCA Comments on October Update / Concurrent Opening Brief (Oct. 29, 2025) at 17. *See* D.25-12-028 at 80, Table 7-1, 99, Table 8-1.

[44] The final December 31, 2025, advice letter implementing the rates approved in D.25-12-028 included actual entries through November 2025. *See* SCE Advice Letter 5725-E at 7.

[45] *See* D.25-12-028 at 80, Table 7-1, 98-99, Table 8-1.

the Total Portfolio Cost and Total Portfolio Market Values of SCE's PCIA-eligible portfolio."[46] Decision 25-06-049 "updated the way the Commission calculates the RA MPB" which is a direct input in the tabulation of Total Portfolio Market Values.[47] The Commission concludes that SCE'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 approved."[48] It also concludes that SCE's 2026 forecast revenue requirement was "reasonable" and "adopt[ed] it."[49] Based on those conclusions, the Commission authorizes a 2026 ERRA BA forecast of $2.710 billion, a 2025 ERRA BA balance of negative $898.645 million, 2026 PABA costs of $1.494 billion, and a 2025 PABA under-collection of $1.318 billion.[50] 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.[51] SCE, SDG&E, and PG&E (collectively the Joint IOUs) responded to the AFRs for D.25-06-049.[52] 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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46 *See id*. at FOF 112.
47 *See id*. at FOF 116.
48 *Id*. at COL 12.
49 *See id*. at 133.
50 *See id*. at OP 2.
51 R.25-02-005, *California Community Choice Association's Application for Rehearing of Decision 25-06-049* (July 28, 2025) (CalCCA AFR) at 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.
52 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) at 7-17 (Joint IOUs' Response to AFRs).

the Commission's rate-setting proceedings today would meet, including SCE's most recent Phase I 2025 General Rate Case (GRC).[53]

The Commission denied CalCCA's AFR of D.25-06-049 in D.25-10-061.[54] Decision 25-10-061 briefly stated the Commission's understanding of *Edison* and its progeny.[55] 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.[56]

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.[57]

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 25-12-028 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."[58] Subsequent acts taken in furtherance of the agency's unauthorized activity are themselves *ultra vires* and unlawful.[59] Here, D.25-12-028 is unlawful because it implements and perpetuates an unlawful decision.

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[53] R.25-05-008, *CalCCA Comments on October Update / Concurrent Opening Brief* (Oct. 29, 2025) at 41-42.

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

[55] *Id*. at 6.

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

[57] *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.*

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

[59] *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 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."[60] The California Supreme Court directs that Section 728 limits the Commission's jurisdiction by prohibiting ratemaking from being applied retroactively.[61] 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.[62]

In *Edison,* the Court observed that "before there can be retroactive ratemaking there must at least be *ratemaking*."[63] 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 on customers and load-serving entities (LSEs) affected that would not have otherwise occurred.[64] 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.[65]

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

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decision resulting from such an *ultra vires* act is invalid, "whether or not it is a 'reasonable' response to a particular circumstance").

[60] 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.

[61] *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)).

[62] *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).

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

[64] *Id*. at 828-830.

[65] *Ibid*.

customers.[66] Decision 25-06-049 itself summarized that "questions that predominate this track of the [rulemaking] are of *policy*."[67]

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.25-12-028.[68] 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.[69] The Court held that the Commission's order therefore left the utility no worse and no better off than if the Commission had not ordered the refunds.[70]

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.[71] 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 SCE to compare forecasted capacity value to actual capacity value when it required SCE to apply the Final 2025 RA MPB. It instead revised what constitutes the actual capacity value of SCE's portfolio in 2025, ordering unbundled customers to suffer an enormous financial impact as a result. To use an analogy from

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66 *See* R.25-02-005, CalCCA AFR at 19-22.

67 D.25-06-049 at 10 (emphasis added).

68 *See* R.25-02-005, CalCCA AFR at 22-24.

69 *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").

70 *Id*.

71 *Ibid*.

civil proceedings, in D.25-12-028, the Commission 'perfects' the prior 'judgment' levied on CCAs and unbundled customers in D.25-06-049.[72]

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, CalCCA has sought to estimate this approximate impact. CalCCA applied the change between the Forecast 2025 RA MPB and the modified Final 2025 RA MPB to SCE's Retained RA quantity during 2025. Setting aside the two other IOUs, in SCE's territory alone this produced a decreased value of capacity by approximately $[redacted] million.[73] This $[redacted] million impact is a substantial part of the enormous increases in PCIA rates set forth in SCE's Amended October Update, which, for example, included a 4,151 percent year-over-year increase in the PCIA rate for some unbundled residential customers.[74] As **Table 1** below demonstrates, for many customers this will result in an almost 4 cent increase in the PCIA. Overall, the change in the PCIA cost responsibility for departed customers is more than *five times larger* than the change in cost responsibility for bundled customers,[75] costing some disadvantaged communities up to an additional $288 on average per year.[76]

Finally, D.25-12-028 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

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[72] *See, e.g.*, R.25-05-008, *CalCCA's Comments on October Update / Concurrent Opening Brief* at 2-5 (explaining that retroactive application of the new RA MPB methodology in the Amended October Update would have an enormous impact on CCAs and unbundled customers, noting that, per the proposals set forth in SCE's Amended October Update, unbundled customers in Vintage 2023 were expected to see a system average PCIA rate increase of 234 percent and highlighting a 3971 percent expected increase for residential customers in Vintage 2011).

[73] CalCCA calculated the $[redacted] million reduction in the market value of capacity by using SCE's Actual Retained RA Quantities for January through November 2025 provided by SCE in the PABA Monthly Activity Report. The difference between the Forecasted 2025 System, Local, and Flex RA MPB ($/kW-Year) values and the modified Final 2025 RA MPB of $11.21 per kW-Month ($134.52 per kW-Year) applied to Actual Retained RA volumes in that Report produces a difference in the Market Value of Capacity of approximately $[redacted] million.

[74] *See* R.25-05-008, *CalCCA's Comments on October Update / Concurrent Opening Brief* at 5 (discussing the percent increase for vintage 2011 residential customers, which was 3971 percent at the time, which has now increased to 4151 percent).

[75] *See* R.25-05-008, *CalCCA's Comments on the Proposed Decision Approving Southern California Edison Company's 2026 Energy Resource Recovery Account-Related Revenue Requirement Forecast* at 4.

[76] *Id.* at 5.

retroactive in effect.[77] Here, SCE has already collected and recorded revenue to its PABA in 2025 based on PCIA rates approved by the Commission under a final order in the 2025 ERRA Forecast proceeding in D.24-12-039. Those rates were set based on a PCIA revenue requirement that was calculated, in part, by comparing the forecasted market value of SCE'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 SCE's RA capacity portfolio.[78] The modification to the RA MPB and 2025 revenue requirement that was ordered in D.25-06-049, and was effectuated in D.25-12-028, is retroactive in effect: it *changes* future rates (2026 PCIA rates adopted in D.25-12-028) to account for past under- or over-collections (calculated from 2025 PCIA rates adopted in D.24-12-039) 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 the 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 25-12-028 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.[79] Thus, D.25-12-028 itself exceeds the Commission's authority and constitutes a failure to proceed in the manner required by law.

2. Decision 25-12-028 is Unlawful Because D.25-06-049 and D.25-12-028 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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[77] *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 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)).

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

[79] *See* D.25-12-028 at 123-125.

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.[80] 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.[81]

Here, the Commission's action in D.25-06-049, and its subsequent action in D.25-12-028 (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:[82] setting the formula to determine a revenue requirement, allocate that revenue requirement, and design rates for different customer categories to recover that revenue requirement.[83] Moreover, the Commission has made clear that ERRA proceedings are not proceedings in which policy is evaluated and set relating to PCIA rates.[84] That policy analysis and adjudication for the PCIA rates happens in PCIA rulemakings—there is no other proceeding or process where it could happen.[85]

What D.25-12-028 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

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80 *Richards v. CH2M Hill, Inc.* (2001) 26 Cal.4th 798, 802.
81 *Komarova v. Nat'l Credit Acceptance, Inc.* (2009) 175 Cal.App.4th 324, 345.
82 R.25-02-005, CalCCA AFR at 25.
83 *See id*. at 26-27.
84 *Id*. at 28.
85 *Id*.

retroactive ratemaking. In this manner, D.25-06-049, D.25-12-028 and the other IOUs' 2026 ERRA Forecast decisions are logically connected and, together, also violate the prohibition on retroactive ratemaking. The elements that define "general ratemaking" that CalCCA laid out in its 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.25-12-028.

The PCIA rates approved in D.25-12-028, implementing the methodology of D.25-06-049, constitute a significant portion of SCE's generation rate and are billed to nearly every customer in SCE's service territory, appearing alongside "Generation," "Transmission," and "Distribution" charges as a separate line item on those bills.[86] The $[redacted] million impact on customers in SCE's service territories on account of D.25-12-028 would not have occurred absent the unlawful implementation of an unlawful decision (*i.e.,* D.25-06-049).

Thus, while CalCCA maintains the Commission conducted unlawful retroactive ratemaking in D.25-06-049 standing alone, D.25-12-028 nevertheless clearly acts in conjunction with D.25-06-049 to violate the prohibition on retroactive ratemaking. The Commission's course 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.[87] 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.25-12-028, the Commission implements the 2025 RA MPB true-up for SCE, and by implementing D.25-06-049's directives for the purposes

[86] D.20-03-019 (Apr. 6, 2020) at 21 (the same is true in SDG&E and PG&E's service territories).
[87] *See* CalCCA D.25-06-049 Appeal, MPA at 86-87.

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 25-12-028'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

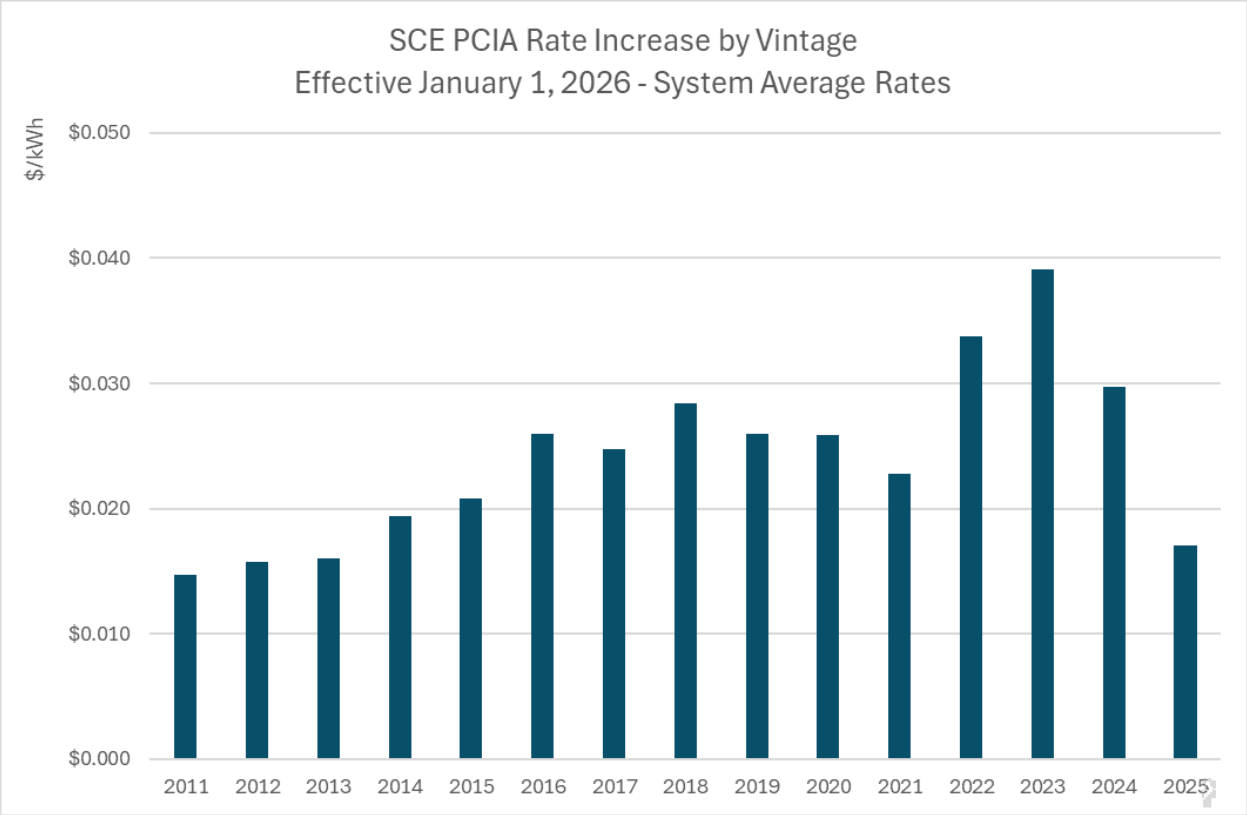
By approving the use of the new RA MPB methodology to calculate the 2025 PCIA revenue requirement and to set resulting rates, D.25-12-028 reaches conclusions that are not supported by the Decision's findings. Decisions are subject to reversal if a reviewing court concludes that the conclusions are insufficiently supported by the findings.[88] "[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, . . . findings on material issues enable the reviewing court to determine whether the commission has acted arbitrarily."[89]

Table 1 from CalCCA's Opening Brief and Comments on SCE's October Update (updated below) presented the Commission with the estimated size of the massive PCIA rate increases that different vintages in SCE's territory would experience because of D.25-12-028.

[88] Section 1757(a)(3).

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

Table 1: PCIA Rate Increase by Vintage Post-October Update[90]



Both the lack of discussion in D.25-12-028 and the silence of the five sitting Commissioners from the dais[91] as they adopted it betray a lack of concern for the California families that bear these costs of the Commission's decision-making.

Decision 25-12-028's findings relating to 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). Finding of Fact 100 simply states that "SCE's year-end 2025 ERRA BA and PABA balances changed significantly between SCE's May Filing and its Amended October Update, mostly due to application of the

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[90] *See* CalCCAs' Comments on October Update / Concurrent Opening Brief at 4 (containing original calculation based on Amended October Update, which has been updated in this filing).

[91] The Commission approved D.25-12-028 on its Consent Agenda on December 18, 2025, eliminating $[redacted] million of RA value 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. 18, 2025. Available at https://www.adminmonitor.com/ca/cpuc/voting_meeting/20251218/

Final 2025 and Forecast 2026 MPBs."[92] Finding of Fact 116 merely recites the ways D.25-06-049 changed the way "the Commission calculates the RA MPB."[93] Section 8.2.4.1 appears to suggest that CalCCA has claimed its arguments relating to the RA MPB are moot. But CalCCA's Reply 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,[94] CalCCA certainly and clearly objects to the underlying retroactive ratemaking as set forth in its Appeal of D.25-06-049. Section 6.11.2 then inserts the unsupported conclusion that incorporation of 2025 ERRA BA and PABA balances into 2026 PCIA rates is "reasonable and approved as requested."[95]

Adopted and issued after the CalCCA D.25-06-049 Appeal was filed, these findings in D.25-12-028 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 conspicuous 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.25-12-028 to correct these errors.

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92 D.25-12-028 at FOF 100.

93 *Id*. at FOF 116.

94 While the AFRs of D.25-06-049 were still pending, CalCCA filed its Comments on SCE's October Update and Concurrent Opening Brief in this proceeding on October 29, 2025. CalCCAs' 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.25-12-028 notes, D.25-10-061 mooted the specific recommendations CalCCA included in its Opening Brief as to how the Commission should handle a grant of CalCCA's AFR. D.25-12-028 at 125. However, the underlying illegality of the Commission's actions here stems from its implementation of D.25-06-049. CalCCA did not forfeit any arguments with respect to the Commission's implementation of D.25-06-049 and preserved the issue in briefing. *See* R.25-05-008, *CalCCA's Opening Brief* at 7, 38-55. Moreover, the CalCCA D.25-06-049 Appeal had not been filed as of the deadline for opening and reply comments on D.25-12-028. As such, CalCCA 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.25-05-008, *SCE Reply Brief* (Nov. 4, 2025), at 10 (discussing the prohibition on collateral attack for "final" decisions).

95 D.25-12-028 at 27.

D. Decision 25-12-028'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.25-12-028 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.'"[96]

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 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.[97] 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.[98] 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.[99] In this docket, CalCCA has also pointed out that Energy Division has not published what the Alternate Final 2025 RA MPB would have been using the old methodology.[100] 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

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

97 D.25-06-049 at 11.

98 *See* R.25-02-005, *CalCCA'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.

99 *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) at 6-7 (Ava and SJCE AFR).

100 *See* R.25-05-008, *CalCCAs' Comments on October Update / Concurrent Opening Brief* at 55 (explaining that Energy Division has remained silent as to what the RA MPBs would have been under a pre-D.25-06-049 methodology).

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.[101]

CalCCA presented its 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 $[redacted] million swing.[102] Across all three ERRA cases, the combined impact is estimated to approach two billion dollars. Yet aside from a few offhand statements, D.25-12-028 does not acknowledge, much less address, this significant economic impact.[103] Finding of Fact 100's broad acknowledgement (that the 2025 ERRA BA and PABA year-end balance "changed significantly . . . mostly due to" the new 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.25-12-028 regarding the setting of the 2025 PCIA revenue requirement.

IV. THE COMMISSION SHOULD GRANT REHEARING TO REMEDY THE DECISION'S LEGAL ERRORS RELATING TO THE VALUATION OF PRE-2019 BANKED RECS

A key contested issue in this proceeding concerned SCE's use of "banked" RECs towards its bundled customer RPS compliance requirements. SCE [redacted] It therefore [redacted]

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

102 *See* R.25-05-008, *CalCCAs' Comments on October Update / Concurrent Opening Brief* at 41 (calculation updated as reflected in note 72 *supra*).

103 D.25-12-028 at 10 ("SCE's October Update included significant changes to the projected year-end 2025 balances in SCE's ERRA BA and PABA, largely driven by the decreases in the 2025 Final Resource Adequacy (RA) and Renewable Portfolio Standard (RPS) MPBs."); 98 ("As illustrated in Table 8-1, below, SCE's forecast 2026 Indifference Amount decreased by 79 percent between its May Filing and Amended October Update, due largely to application of the Commission's Forecast 2026 MPBs, particularly the RA MPB, released on October 1, 2025."); 123 ("SCE's proposed true ups of the values of Retained RA and RPS recorded in these balancing accounts changed significantly from its May Filing to its Amended October Update, primarily due to incorporation of the 2025 Final MPBs."); FOF 100 ("SCE's year-end 2025 ERRA BA and PABA balances changed significantly between SCE's May Filing and its Amended October Update, mostly due to application of the Final 2025 and Forecast 2026 MPBs.").

[redacted] by using surplus RECs banked in prior years. Importantly, for any banked RECs used for RPS compliance, SCE proposed to value *only* those banked RECs generated in and after 2019 at the RPS MPB. In contrast, SCE proposed to assign *no value* to those banked RECs generated before 2019. In other words, SCE proposes [redacted] without compensating the departed customers who originally paid for a portion of those RECs.

By adopting SCE's proposal, the Decision violates the indifference framework established by multiple sections of the California Public Utilities Code, including Sections 366.2(a)(4), 365.2, 366.3 and 366.2(g). The indifference framework prohibits cost shifts and requires that departed customers receive their fair share of the value of any PCIA portfolio benefits that remain with bundled service customers. The Decision violates that framework by allowing SCE to use RECs towards bundled customer compliance—conferring a benefit upon those customers—without assigning the departed customers who had paid for the RECs an appropriate credit for their value.

As explained in detail below, the Decision results in legal error which subjects the Decision to reversal on appeal on several counts. First and foremost, the Commission acts in excess of its powers or jurisdiction and fails to proceed in the manner required by law, subjecting the Decision to reversal under Section 1757(a)(1) and (a)(2). The Decision is also subject to reversal on appeal under Section 1757(a)(3) for the failure of the Commission to adequately support its decision with findings, under Section 1757(a)(4) for failing to support its findings with substantial evidence, and under Section 1757(a)(5) for abusing its discretion. The Commission should therefore grant rehearing, remedy the legal errors in the Decision and direct SCE to credit any pre-2019 banked RECs it uses towards bundled customer compliance *in both 2025 and 2026* at the applicable RPS MPB.

A. Legal and Factual Background

1. California Law Prohibits Cost Shifts and Requires the Commission Ensure Both Bundled and Departed Customers Remain Indifferent to Load Departure

California law prohibits cost shifts between bundled and unbundled customers. Section 366.2(a)(4) states: "The implementation of a [CCA] program shall not result in a shifting of costs between the customers of the [CCA] and the bundled service customers of an electrical corporation." In a similar vein, Sections 365.2 and 366.3 require the Commission to ensure

bundled service customers do not experience any cost increases as a result of load departure and to ensure "departing load does not experience any cost increases as a result of an allocation of costs that were not incurred on behalf of the departing load." Further, the law prescribes specific ratemaking requirements to avoid cost shifts. Under Section 366.2(g), unbundled customers are responsible solely for "estimated net unavoidable electricity costs," which means those costs must be reduced by the benefits in the IOUs' portfolios that accrue to bundled customers. Taken together, these sections of the Public Utilities Code represent a statutory mandate to ensure customers—bundled and unbundled—remain indifferent to load departure.

Commission decisions have implemented the statutory indifference framework through a series of decisions stretching over multiple decades. Indeed, a version of the current indifference calculation, including MPBs to reflect IOU portfolio value, has existed for nearly 20 years since D.06-07-030 adopted reforms to the "Customer Responsibility Surcharge" that was the precursor to the PCIA.

Decision 11-12-018 added new components to that calculation to reflect important regulatory and industry changes occurring during the late 2000s.[104] In that decision, the Commission recognized that the PCIA framework, at the time, recognized only the IOUs' cost of renewable resources in the calculation of the Indifference Amount.[105] The Commission noted that the PCIA framework did not account for the *market value* of renewable resources via the MPB.[106] The Commission therefore created an RPS "Adder" to the MPB,[107] and required the IOUs to apply that Adder to the renewable resources in the IOUs' portfolios.[108] Therefore, following D.11-12-018, the indifference calculation appropriately reflected the incremental RPS value of RPS-eligible generation retained by bundled service customers via the RPS Adder. That means the RECs SCE forecasted to be delivered in each forecast year were retained at the RPS Adder in that year and credited to the indifference calculation for the benefit of customers that had already departed bundled service.

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104 D.11-12-018.

105 *Id.* at 10.

106 *Ibid*.

107 Whereas the MPB in effect at the time included an "adder" that reflected the cost of resource adequacy, it did not yet include an RPS Adder.

108 *See* D.11-12-018 at 10-11 ("The MPB used to determine the PCIA is multiplied by the entire amount of RPS-eligible energy in the IOU's portfolio.").

Decision 18-10-019 and D.19-10-001 modified the PCIA framework by, among other things, adding a true-up to the PABA, and by creating "Unsold" and "Sold" RPS categories within the IOUs' RPS-eligible generation. Decision 19-10-001, specifically, established a methodology for calculating the Forecast RPS value and true up for each category of RPS product in the IOUs' portfolios (Retained, Sold and Unsold).[109] Decision 19-10-001, however, left intact the fundamental requirement, created by D.11-12-018, that for RPS-eligible resources retained by bundled customers, the indifference calculation must reflect the incremental RPS value of RPS-eligible resources retained by bundled customers. Nothing in D.19-10-001 exempts pre-2019 banked RECs from being valued at the benchmark. This fact is unsurprising, because once an IOU uses a REC (for RPS compliance) for the benefit of bundled customers, the statutory indifference framework demands departed load receive its share of the value of that REC.[110]

2. The Indifference Framework Requires SCE to Value the RECs it Uses for Bundled Customer Compliance at the RPS MPB

As explained above, when SCE uses RPS-eligible generation from its PCIA resource portfolio to meet its bundled customer RPS compliance target, it must count that RPS-eligible generation as Retained RPS and credit the value of that generation to the PCIA using the RPS Adder.[111] More specifically, bundled customers pay for the RECs needed for RPS compliance via their generation rates—Retained RPS is debited to ERRA and credited out of the PCIA.[112] This accounting practice reflects the fundamental indifference principle that underpins the PCIA framework. When bundled customers use any benefits associated with SCE's PCIA portfolio, the law requires SCE to credit unbundled customers with their proportionate share of those benefits.[113]

SCE must retain a minimum volume of RPS-eligible generation corresponding to the utility's RPS compliance period requirement.[114] If RPS-eligible generation available to SCE in the Forecast year (in this case, 2026) is less than its annual RPS compliance requirement for bundled customers, SCE may use "banked" RECs to make up the difference and meet its

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109 D.19-10-001 at OP 3, Attachment B.
110 *See* Pub. Util. Code § 365.2; 366.3; 366.2(a)(4); 366.2(g).
111 Exh. CalCCA-01C at 16.
112 *Id*. at 17.
113 Pub. Util. Code § 366.2(g).
114 *See* Exh. SCE-05CA at 156.

compliance requirement.[115] "Banked" RECs are RECs SCE generated in previous years in excess of SCE's RPS compliance period requirement.

Banked RECs were paid for (as Retained RPS) by the customers who were bundled at the time the RECs were generated.[116] When banked RECs are ultimately used towards bundled customer RPS compliance, even years after they were initially generated, SCE's bundled customers are able to extract the *value* they previously paid for when the RECs were generated and banked.[117] In other words, bundled customers finally receive the benefit through SCE's use of the banked REC for RPS compliance in the year it is needed. If SCE were not able to use these banked RECs for RPS compliance, additional RPS resources would need to be procured in accordance with SCE's Commission-approved RPS Plan. Therefore, even if the REC was generated and banked in 2015, the use of that REC for RPS compliance in 2025 results in a benefit to the bundled customer *in 2025*.

SCE's bundled customer pool has evolved (and has generally dwindled) over time, as more customers depart for CCA service.[118] At the time a banked REC was generated, there would have been both bundled and unbundled customers (referred to herein as "Already-Departed" unbundled customers). The bundled customers paid for the REC, and the Already-Departed unbundled customers received a credit for the REC at that time. However, a specific subset of SCE's customers exist that were *bundled* at the time a banked REC was generated, but *departed* before SCE could use that REC towards compliance. These "Now-Departed" customers paid for the REC at the time it was banked. However, because they are no longer bundled, they do not benefit from SCE's later use of the banked REC towards *bundled* customer RPS compliance. In other words, that compliance only benefits the bundled customers *remaining* after the "Now-Departed" customes leave bundled service.[119] Given those "Now-Departed" customers were not credited at the time the REC was banked (because at that time the "Now-Departed" customers were still bundled), and do not receive the RPS compliance benefits of the bundled customers now, the "Now-Departed" customers are left with *no value* for the payment they

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115 *Id*. at 156-157.

116 Exh. CalCCA-01C at 23.

117 *Id*.

118 *Id*. at 24. Reducing from 90 percent in 2011 to [redacted] percent in 2026. CalCCA Comments on October Update and Opening Brief at 27.

119 Exh. CalCCA-01C at 23-24.

originally made for the REC. The PCIA framework, and over a decade of Commission decisions establishing that framework, demand that Now-Departed customers receive value for the banked RECs they previously paid for, through a credit to the PCIA at the RPS Adder.

An example helps clarify the moving pieces involved in this issue using an illustrative year prior to 2019. For instance, take any RECs SCE generated in surplus of its RPS compliance obligations in 2015. Decision 11-12-018 required SCE to value those RECs at the RPS Adder when those RECs were generated. As a result, SCE bundled customers in 2015 paid for those RECs (including the surplus, banked RECs) through their generation rates. In the years following 2015, a portion of the customers taking bundled service from SCE in 2015 departed SCE's bundled service and now take service from CCAs. Fast forwarding to 2026, and assuming SCE uses its 2015 banked RECs towards its bundled customer RPS compliance obligations, the customers who were bundled in 2015 and remain bundled in 2026 benefit from those banked RECs, as the RECs are used on those customers' behalf.

However, the customers who were bundled in 2015 but are Now-Departed in 2026 do not benefit from the use of those banked RECs for RPS compliance, *even though they previously paid for those RECs*. Consistent with the indifference requirements, those Now-Departed customers must therefore receive *value* for SCE's use of the 2015 banked RECs in 2026 via a credit to the PCIA. This is not a true-up, because neither the payment that bundled customers made in 2015 nor the credit Already-Departed unbundled customers received in 2015 is trued-up in this scenario. Rather, the Now-Departed customers are simply made whole because they finally receive a credit for SCE's use of the 2015 banked RECs for the benefit of bundled customers in 2026, as required by the statutory indifference framework.

Additionally, this outcome would not require customers to pay for the same RECs twice. No customer would receive double credit and the only net payment would be from currently bundled customers to reimburse Now-Departed customers for the *portion* of the banked RECs that those now-departed customers previously purchased.[120] Nor would such a credit require the Commission to "undo" previously litigated rates, because the PCIA framework would accommodate a credit to pre-2019 PCIA vintages in much the same way it routinely accommodates credits to post-2018 vintages.

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[120] R.25-05-008, *CalCCA Reply Brief* at 7-11.

In this proceeding, however, SCE proposed a banked REC valuation methodology that would not make its Now-Departed customers whole. Instead, SCE [redacted] past ERRA Forecast cases in which [redacted] the Commission's decisions were clearly limited and subject to caveat.[122] This treatment plainly violates the statutory indifference framework and the Commission decisions implementing that framework.

3. The Decision Permits SCE to Use Pre-2019 Banked RECs Towards Bundled Customer RPS Compliance in 2025 and 2026 Without Crediting the Departed Customers Who Paid for a Portion of Those RECs

D.25-12-028 approves SCE's unlawful proposal. Specifically, it permits SCE to [redacted]

The Decision states: "SCE's proposal to value Pre-2019 Banked RECs used for bundled customer compliance in 2025 and forecast to be used as such in 2026 at $0 continues to be a reasonable methodology unless and until the Commission addresses this issue on an industry-wide basis."[125] That finding rests not on an evaluation of the merits of SCE's methodology, but on the Commission's observation that the Commission has yet to conclusively resolve this question. As the Decision states: "the Commission has not, to this date, found that SCE's bundled service customers owe additional credits to [departed load] customer when SCE uses RECs banked in or before 2018" and that the Commission "has not provided further guidance as

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121 Exh. CalCCA-01C at 18.

122 *Id*. at 23.

123 *See* SCE AL 5757-E, CONFIDENTIAL_Appendix C_PCIA Workpapers for Final Consolidated Rate Change 010126

124 Exh. SCE-05CA at 156.

125 D.25-12-028 at 111.

to a reading of D.19-10-001 that would suggest this obligation stems from that decision[.]"[126] The Decision further states: "[g]iven the outstanding questions of fact and policy rated to the mechanics and equity of CalCCA's proposal and the different ways these questions might be responded to on an industry-wide basis, it is reasonable for SCE to continue to use the procedure the Commission has previously found reasonable in SCE's prior two ERRA Forecast proceedings."[127]

By denying departed load any credit for the pre-2019 banked RECs [redacted] By shifting costs in this manner and failing to credit Now-Departed customers with the value of PCIA portfolio benefits that accrue to bundled customers, the Commission fails to act in the manner required by law. The Commission also fails to support its decision with findings and fails to support its findings with substantial evidence in light of the whole record. Instead, it adopts SCE's zero-value proposal without establishing a connection between that conclusion and the record evidence. Finally, the Commission abuses its discretion by adopting SCE's methodology without evidentiary support. These failures, both individually and collectively, subject the Decision to reversal on appeal.

B. The Commission Failed to Act Within its Powers or Jurisdiction and Failed to Proceed in a Manner Required by Law Because the Decision Violates Statutory Requirements for the Commission to Ensure Indifference Between Bundled and Departed Customers

1. The Commission's Approval of SCE's Proposal Violates the Statutory Indifference Framework and Commission Precedent Implementing that Framework

The Commission errs by acting in excess of its powers or jurisdiction, as set forth in Section 1757(a)(1), when it ignores a statutory mandate. Further, the Commission fails to proceed in the manner required by law, as set forth in Section 1757(a)(2), when it violates its own procedural rules, its own decisions, and applicable statutes.[128] Here, the Commission acts in excess of its powers or jurisdiction, and fails to proceed in the manner required by law because the Decision violates the statutory indifference framework and the Commission decisions implementing that framework.

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126 *Id*. at 111-112.

127 *Id*. at 112.

128 *Calaveras Tel. Co. v. Pub. Util. Com.* (2019) 39 Cal. App. 5th 972, 983.

As explained above, SCE's bundled customer count has decreased over time as more customers depart for CCA service.[129] Therefore, certain SCE customers who were bundled at the time a banked REC was generated (in a year prior to 2019) departed bundled service before SCE could use that REC towards compliance in 2025 or 2026. Those "Now-Departed" customers are denied benefits to which they are statutory entitled as a result of the Commission's unlawful decision adopting SCE's proposal to assign pre-2019 banked RECs zero value.

Now-Departed customers *paid* for a portion of the RECs [redacted] But under SCE's proposal, "Now-Departed" customers neither have the pre-2019 banked REC credited to them at the RPS Adder, nor have the REC used for compliance on their behalf. In short, they have paid for RECs that provide value to current bundled customers, but that offer the Now-Departed customers no value.[130] This violates the indifference framework, including Section 366.2(g), which requires that departed load customers receive a credit for the value of any benefits of PCIA resources that remain with bundled service customers, unless those customers are allocated a fair and equitable share of those benefits. Under SCE's proposal, departed customers who pay for the cost of SCE's PCIA resources and paid for any pre-2019 banked RECs SCE now seeks to use would not receive the credit to which they are entitled under Section 366.2(g). SCE's approach therefore does not comport with the fundamental indifference principle underpinning the PCIA framework, nor does it follow Commission precedent, including D.19-10-001 and its predecessors.

To properly credit departed customers for the value of RECs used for current bundled customer compliance, SCE should apply a credit to the PCIA vintage corresponding to the year the RECs were generated, as CalCCA proposed in this proceeding. That credit should be equal to the value of any banked REC in the year in which it is used for compliance, which, for 2025, is the Actual 2025 RPS Adder, and, for 2026, is the 2026 Forecast RPS Adder. This accounting will ensure that Now-Departed customers receive their share of the value of the RECs now being used for bundled customers. It would also ensure that no customer pays for the same REC twice.

By adopting SCE's unlawful proposal to assign zero value to any pre-2019 banked RECs it uses for bundled customer RPS compliance in 2025 and 2026, the Decision violates Sections 365.2, 366.3 and 366.2(a)(4) of the Public Utilities Code which collectively require the

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129 Exh. CalCCA-01C at 28; Exh. CalCCA-02C (Answer to DR 4.03).

130 Exh. CalCCA-01C at 23-24; Exh. CalCCA-02C (Answer to DR 4.04 Supplemental).

Commission to ensure indifference, and Section 366.2(g) of the Public Utilities Code requiring the Commission to ensure departed customers receive the value of any PCIA portfolio benefits remaining with bundled customers. By failing to follow the statutory mandate, the Commission acts in excess of its powers or jurisdiction, and fails to proceed in the manner required by law and is subject to reversal on appeal on this basis, as set forth in Section 1757(a)(1) and (a)(2).[131]

2. The Fact that the Decision Directs a Process for Tracking RECs Used to Meet 2026 Compliance Does Not Remedy the Decision's Legal Errors

The Decision directs SCE to "track the quantity of Pre-2019 Banked RECs used to meet 2026 compliance obligations and the years in which each of those RECs was generated."[132] This, according to the Decision, "will allow any updated guidance from the Commission regarding the treatment of Pre-2019 Banked RECs to apply to Pre-2019 Banked RECs used for bundled compliance in 2026."[133] This directive does nothing to remedy the Decision's legal error.

First, SCE proposes [redacted] Specifically, SCE [redacted] The Decision directs SCE to track any pre-2019 banked RECs it will use to meet only *2026* compliance requirements.[134] Even if the Commission changed the methodology in the PCIA proceeding and allows Now-Departed customers to receive value for the use of pre-2019 banked RECs for 2026 compliance requirements, Now-Departed customers who paid for a portion of those banked RECs [redacted] under the process the Decision prescribes. In other words, for Now-Departed customers who paid for any pre-2019 banked RECs SCE uses towards bundled customer compliance in 2025, there is nothing "interim" about the methodology D.25-12-028 approves, contrary to the Commission's conclusion that SCE's methodology is "a reasonable **interim** methodology."[135] Despite the Commission having initiated a process to consider this

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131 Pub. Util. Code § 1757(a)(2).

132 D.25-12-028 at 112.

133 *Id*. at 113.

134 The ruling establishing a preliminary statement of issues for Track 2 of the PCIA OIR underlines this gap. That preliminary statement of issues addresses only RECs used in 2026 and later. It does not include any RECs used in 2025. *See* R.25-02-005, Administrative Law Judges Ruling Setting Prehearing Conference, Directing Parties to Meet and Confer, and Directing Filing of a Joint Prehearing Conference Statement at 3-4 (Dec. 26, 2025).

135 D.25-12-028 at COL 14 (emphasis added).

issue in the ongoing PCIA rulemaking early next year,[136] D.25-12-028 explicitly goes out of its way to state that this determination "will not be revisited."[137] Unless the Commission grants rehearing and fixes the legal errors in the Decision, those customers will be unlawfully and permanently denied any value for any pre-2019 banked RECs SCE uses in 2025.

Second, with respect to the Now-Departed customers who paid for pre-2019 banked RECs SCE [redacted], even if the Commission ultimately determines those customers *should* receive a credit following its consideration of this issue in the PCIA OIR, the indifference framework does not permit the Commission to delay the compensation those customers are entitle to receive. Section 366.2(g) requires the Commission to ensure that departed customers receive the value of any benefits that remain with bundled service customers. Neither that statute, nor any other statute, permits the Commission to deny or to keep customers indefinitely waiting for their fair share of the value of RECs used by bundled customers.

C. The Commission's Decision Adopting SCE's Pre-2019 Banked REC Valuation Methodology is Not Supported by the Findings

Under Section 1757(a)(3) of the Public Utilities Code, a reviewing court considers whether the Commission's decision is supported by the findings. As explained above, findings on material issues "enable the reviewing court to determine whether the commission has acted arbitrarily."[138] "The more general the findings, the more difficult it is for the reviewing court to ascertain the principles relied upon by the administrative agency."[139]

Here, the Decision concludes that SCE methodology is "reasonable," but lacks findings that would allow reviewing court to ascertain how and why the Commission adopted SCE's pre-2019 banked REC valuation methodology for any RECs used in both 2025 and 2026. While the Decision discusses banked REC valuation methodologies in detail in *dicta*, it does not wade into the merits of those methodologies in its Discussion (Section 8.2.2.2.2), instead acknowledging that the Commission will take up this issue in a separate proceeding, and resting on the fact that the Commission has not, to date, conclusively resolved the appropriate valuation of pre-2019 banked RECs.

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136 R.25-02-005, *Administrative Law Judges Ruling Setting Prehearing Conference, Directing Parties to Meet and Confer, and Directing Filing of a Joint Prehearing Conference Statement* at 3-4 (Dec. 26, 2025).

137 D.25-12-028 at 113.

138 *Cal. Motor Transport Co. v. Pub. Util. Comm.* (1963) 59 Cal. 2d 270, 274 (citation omitted).

139 *Id*.

The Commission's decision to adopt SCE's methodology, therefore, does not rest on findings with respect to the merits of that methodology, its impact on bundled or departed customers, its impact on rates, its fairness, its logic, or any other substantive factors discussed by the parties in testimony, in other evidentiary submissions, or in briefs. In short, the Commission's decision is arbitrary and unsupported and is therefore subject to reversal on appeal under Section 1757(a)(3).

D. The Commission's Decision Adopting SCE's Pre-2019 Banked REC Valuation Methodology is Not Supported by Substantial Evidence in Light of the Whole Record

Under Section 1757(a)(4) of the Public Utilities Code, a reviewing court considers whether the Commission's findings are supported by substantial evidence in light of the whole record.[140] A party challenging Commission findings for lack of substantial evidence must demonstrate that, based on the evidence before the Commission, a reasonable person could not reach the same conclusion.[141]

In the Decision, the Commission finds SCE's proposal to value any pre-2019 banked REC used in both 2025 and 2026 to be a "reasonable interim methodology."[142] A reasonable person could not have found SCE's methodology "reasonable" in light of the whole record. First and foremost, as discussed above, the Commission's finding is largely untethered from the voluminous record the parties developed regarding the *substance* of SCE's proposal. The Discussion portion of the Decision (Section 8.2.2.2.2) does not tie its finding that SCE's methodology is "reasonable" to any record evidence addressing the merits of that methodology. On the contrary, the Decision rests its conclusion on the Commission's failure to conclusively resolve the appropriate valuation of pre-2019 banked RECs in prior proceedings, and the Commission's upcoming investigation into that issue in the PCIA OIR.[143] However, when attempting to justify its treatment of pre-2019 banked RECs in this case based on those inconclusive decisions issued in prior years, D.25-12-028 completely disregards the critical facts in evidence that [redacted]

140 Pub. Util. Code § 1757(a)(4).
141 *Pac. Gas & Elec. Co. v. Pub. Util.Co.* (1st Dist., Jun. 16, 2015) 237 Cal. App. 4th 812.
142 D.25-12-028 at COL 14, p. 111.
143 *Id*. at 111-112.

[redacted][144] and D.25-12-028 did not reckon with how this evidence undermines the precedential value of the hypothetical treatment approved as interim solution in prior decisions.

Furthermore, when discussing the pre-2019 banked REC issue, D.25-12-028 does not provide any evidence for its claim that "outstanding questions of fact and policy" regarding the issue have not been fully considered "on an industry-wide basis" and that it is necessary to resolve this issue for SCE in this case. The Commission has been presented with briefing on this issue a dozen times now, including arguments from all three IOUs in each of the IOUs' ERRA forecast cases this year.[145]

Thus, the Decision is both fundamentally dissonant and erroneous—it avoids wading into the record (and misreads critical facts relating to prior decisions—and the arguments that were made by the parties in this and other ERRA Forecast cases this year—when glossing over this record) while simultaneously finding it "reasonable" for SCE to deny departed customers the value of the pre-2019 banked RECs it uses for bundled customers compliance in 2025 and 2026. The Commission's approval of SCE's methodology is therefore unsupported by substantial evidence in light of the whole record.

In fact, the record clearly demonstrates that certain customers who were bundled when SCE originally generated pre-2019 banked RECs have since departed SCE's bundled service.[146] And the record clearly demonstrates those Now-Departed customers paid for those pre-2019 banked RECs, but have never received *value* for those RECs (either as a credit to the PCIA, or via use for RPS compliance purposes).[147] As such, the record evidence cannot and does not support a methodology that conveys no value to Now-Departed customers for SCE's use of pre-2019 banked RECs. The findings in the Decision are therefore not supported by substantial evidence in light of the whole record, and the Decision is subject to reversal on appeal on this basis under Section 1757(a)(4) of the Public Utilities Code.

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144 Exh. CalCCA-01C at 23.

145 R.25-05-008, *CalCCA Comments on the Proposed Decision Approving Southern California Edison Company's 2026 Energy Resource Recovery Account-Related Revenue Requirement Forecast* (Dec. 4, 2025) at 9. Specifically, the Commission has received briefing on SCE's

146 Exh. CalCCA-01C at 28; Exh. CalCCA-02C (Answer to DR 4.03).

147 Exh. CalCCA-02C (Answer to DR 4.04 Supplemental).

E. The Decision Is an Abuse of Discretion Because it Lacks Evidentiary Support

Under Section 1757(a)(5) of the Public Utilities Code, a reviewing court considers whether the Commission's Order was an abuse of discretion. The abuse of discretion standard "can be restated as whether the Commission exceeded the bounds of reason."[148] In assessing whether the Commission abused its discretion, a reviewing court considers whether the Commission's decision was "arbitrary, capricious, or entirely lacking in evidentiary support."[149] In making that inquiry, the court must ensure an agency has "adequately considered all relevant factors, and has demonstrated a rational connection between those factors, the choice made, and the purposes of the enabling statute."[150]

Here, the Commission abused its discretion by adopting SCE's proposal to assign pre-2019 banked RECs zero value because that decision lacks evidentiary support. As discussed above, the Commission's decision approving SCE's methodology rests not on a discussion regarding the substantive merits of SCE's methodology, or any discussion demonstrating a "rational connection" between the relevant factors the Commission considered, the choice the Commission made, and the purposes of the statutory indifference framework. Instead, the Commission's decision rests on the observation that the Commission has not yet resolved the appropriate valuation of pre-2019 banked RECs, and its observation that the Commission will soon take up this issue in the PCIA OIR. Those observations, however, cannot and must not substitute for analysis that engages with the record evidence in this proceeding. Furthermore, as noted above, D.25-12-028 completely disregards that [redacted][151] undermining the precedential value of the hypothetical treatment approved as interim solution in prior decisions. And the Commission's claim that the IOUs have not had sufficient opportunity to evaluate and present argument on this issue flies in the face of the record and is arbitrary. The Commission abused its discretion by failing to support its decision with evidence and reaching erroneous conclusions regarding its

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148 *San Pablo Bay Pipeline Co. LLC v. Pub. Util. Com.* (5th Dist., Dec. 11, 2013) 221 Cal. App. 4th 1436, 1460.

149 *Cal. Community Choice Ass'n v. Pub. Util. Com.* (1st Dist., Jul. 15, 2024) 103 Cal. App. 5th 845, 856 (citing *Securus Techs., LLC v. Pub. Util. Com.* (2d Dist., Feb. 1, 2023) 88 Cal. App. 5th 787, 803).

150 *Securus Techs., LLC v. Pub. Util. Com.* (2d Dist., Feb. 1, 2023) 88 Cal. App. 5th 787, 803 (citing *American Board of Cosmetic Surgery v. Medical Board of Cal.* (2008) 16 Cal. App. 4th 534, 547-548).

151 Exh. CalCCA-01C at 23.

prior decisions and the opportunities other parties had to evaluate and provide testimony on the issue. Therefore, the Decision is subject to reversal on appeal under Section 1757(a)(5) of the Public Utilities Code.

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

Pursuant to Commission Rule 16.3, CalCCA seeks a consolidated oral argument on this AFR, and the AFRs of SDG&E's and PG&E's 2026 ERRA Forecast decisions (D.25-12-008 and D.25-12-027, referred to herein as Related ERRA Forecast AFRs).[152] 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."[153] Such issues of major significance exist when the Commission's decision: (1) "adopts new Commission precedent or departs from existing precedent without adequate 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."[154]

Oral argument will materially assist the Commission in resolving this AFR and the 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.25-12-028'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 rather than by simply relying on paper submissions.

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152 D.25-12-008 (Dec. 5, 2025); D.25-12-027 (Dec. 23, 2025).

153 Commission Rule 16.3.

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

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 including the $[redacted] million impact resulting from its retroactive ratemaking and the $[redacted] million impact resulting from its unlawful approval of SCE's REC valuation methodology, let alone the hundreds of millions of dollars of impacts in the other IOUs' 2026 ERRA Forecast decisions.[155] Additionally, the question of whether the Commission retroactively sets rates in ERRA Forecast proceedings when implementing Decisions in past rulemakings appears to be a 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 the Related ERRA Forecast AFRs), is appropriate under Commission Rule 16.3, and the Commission should grant CalCCA's request for oral argument.

VI. CONCLUSION

For the foregoing reasons, CalCCA respectfully requests that the Commission grant this AFR and permit a consolidated oral argument with the Related ERRA Forecast AFRs relating to the D.25-12-008 and D.25-12-027 2026 ERRA Forecast decisions, on the issues raised therein.

Respectfully submitted,

/s/ Tim Lindl

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[155] D.25-12-008; D.25-12-027.