

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



FILED

01/20/26

04:59 PM

R2509004

Order Instituting Rulemaking to Enhance
Demand Response in California.

Rulemaking 25-09-004

**OPENING COMMENTS OF THE PUBLIC ADVOCATES OFFICE
ON THE ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENTS
ON STAFF PROPOSAL TO EXTEND FLEX ALERT FUNDING TO 2026**

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January 20, 2026

I. INTRODUCTION

The Public Advocates Office at the California Public Utilities Commission (Cal Advocates) submits these Comments pursuant to the December 30, 2025 *Administrative Law Judge’s Ruling Seeking Comments on Staff Proposal to Extend Flex Alert Funding to 2026* (ALJ Ruling).¹ The ALJ Ruling provided notice of a Staff Proposal, which requests comments on four questions concerning the continuation of the California Public Utilities Commission’s (Commission) Flex Alert Marketing Program.²

The Staff Proposal considers Commission renewal of the 2025 Flex Alert Marketing Program budget of \$22 million budget and contract extension for the Flex Alert Marketing Program for the remainder of 2026.³ As discussed below, the Commission should not authorize additional funds or a contract extension of the Flex Alert Marketing Program.

II. BACKGROUND

The Flex Alert Marketing Program was created in response to the energy crisis of 2000 and 2001 and is intended to reduce consumer demand through calls for voluntary conservation during emergency supply shortages.⁴ The Flex Alert Marketing Program is a statewide program that targets both investor-owned utility (IOU) and non-IOU

¹ Rulemaking (R.) 25-09-004, *Administrative Law Judge’s Ruling Seeking Comments on Staff Proposal to Extend Flex Alert Funding to 2026*, December 30, 2025 (ALJ Ruling).

² R.25-09-004, *Attachment A – Staff Proposal: Extend Flex Alert Funding to 2026*, December 30, 2025 (Staff Proposal).

³ Staff Proposal at 1.

⁴ Decision (D.) 12-05-015, *Decision Providing Guidance on 2013-2014 Energy Efficiency Portfolios and 2012 Marketing, Education, and Outreach*, May 18, 2012, Finding of Fact 108, at 380; issued in Rulemaking (R.) 09-11-014. See also, D.12-04-045, *Decision Adopting Demand Response Activities and Budgets for 2012 Through 2014*, April 30, 2012, at 78; issued in Application (A.) 11-03-001, et. al.: “The Commission created the Flex Alert campaign as a statewide marketing program that encourages residential customers to reduce their demand when CAISO [the California Independent System Operator] calls a Stage I Emergency.” See also, D.13-04-021, *Decision on Phase I Issues: Utility Budgets for the Flex Alert Program for 2013 and 2014*, April 26, 2013, at 4; issued in A.12-08-007 et. al.: “Today, the Flex Alert program continues to support the State’s and the California Independent System Operator’s (CAISO or ISO) emergency efforts for summer preparedness in the event of system emergencies or power shortages.”

customers. However, the program has been funded by bundled IOU, Community Choice Aggregator (CCA), and Direct Access (DA) ratepayers since its inception.

In 2013, the Commission determined that the Flex Alert Marketing Program should be administered and funded by the California Independent System Operator (ISO), the entity controlling the program, rather than IOU ratepayers.⁵ Two years later,⁶ on July 31, 2015, the ISO filed a proposal in which it described a process to transfer administration and funding of the Flex Alert Marketing Program to the ISO by 2016 (ISO Transfer Proposal).⁷ In Decision (D.) 15-11-033, the Commission approved the ISO Transfer Proposal and established that Flex Alert Marketing Program administration and funding would transfer to the ISO beginning in 2016.⁸ The Commission also ordered the IOUs to remove Flex Alert Marketing Program funding from their respective 2016 revenue requirements.⁹

Following the issuance of D.15-11-033, two emergency events occurred that affected ratepayer funding of the Flex Alert program: (1) a gas leak at Southern California Gas Company's (SCG) Aliso Canyon gas storage facility, and (2) the summer heat waves of 2020.

⁵ D.13-04-021, Finding of Fact 8, at 24. "It is logical that the entity controlling the Flex Alert program also be responsible for administering and securing funding for the program, and that the funding is provided by all customers who benefit from the conservation and load reduction due to Flex Alerts, not just the ratepayers of the investor-owned utilities."

⁶ In the intervening two years, the Commission ordered Southern California Edison Company (SCE) to work with the ISO to develop a proposal for the transfer of administration and funding of the Flex Alert Marketing Program to the ISO by 2015. (D.13-04-021 at 22 – 23.) SCE filed its *Flex Alert Transfer Proposal* (SCE Transfer Proposal) on April 1, 2014. (See, *Southern California Edison Company's Flex Alert Transfer Proposal, April 1, 2014*, filed in Application (A.) 12-08-007, et. al.) However, the Commission found that the SCE Transfer Proposal lacked sufficient support for the Commission to render a decision on the transfer of administration and funding of the Flex Alert Marketing Program to the ISO. (D.14-12-026, *Decision Setting Utility Budgets for the Flex Alert Program for 2015*, Finding of Fact 7, at 19; issued in A.12-08-007.) Therefore, in Decision (D.) 14-12-026, the Commission directed the assigned Administrative Law Judge (ALJ) to initiate discussions between the ISO, the IOUs, and stakeholders to explore possible post-2015 funding sources and program administrators. (D.14-12-026, *Decision Setting Utility Budgets for the Flex Alert Program for 2015*, Finding of Fact 7, at 19; issued in A.12-08-007.) The process ordered in D.14-12-026 led to the ISO Transfer Proposal.

⁷ See, D.15-11-033 at 7.

⁸ D.15-11-033, Ordering Paragraph 1, at 15.

⁹ D.15-11-033, Ordering Paragraph 1, at 15.

First, on October 23, 2015, a gas leak was discovered at the Aliso Canyon gas storage facility which is owned and operated by SCG.¹⁰ Governor Brown declared a state of emergency due to the Aliso Canyon leak on January 6, 2016.¹¹ The Aliso Canyon leak was subsequently sealed on February 18, 2016.¹² ¹³ The Aliso Canyon gas storage facility is the only gas fuel source for gas-fired electric generators in the Los Angeles basin and is, thus, crucial for meeting customer electric demand during times of peak demand.¹⁴ The closure of the Aliso Canyon storage facility, therefore, risked curtailment of electricity generation in the Los Angeles area during times of peak summer demand.¹⁵ Governor Brown’s emergency declaration directed the Commission, the California Energy Commission (CEC), and the ISO to take all necessary steps to ensure electric reliability during peak demand months.¹⁶ As a result, in a series of decisions, the Commission determined that, among other things, it was reasonable to approve \$5 million in Flex Alert Marketing Program funding to be used in the Los Angeles area from 2016 through 2019.¹⁷

Second, in August 2020, California experienced an extreme heat wave that led to electric demand that exceeded supply which caused rolling blackouts to occur across the state.¹⁸ In response to the August 2020 heatwave and ensuing blackouts, the Commission

¹⁰ D.16-04-039, *Decision Authorizing Southern California Gas Company to Provide Up To \$11 Million for Aliso Canyon-Related Messaging*, April 27, 2016, issued in A.12-08-007, et. al., at 2 – 3.

¹¹ D.16-04-039 at 3.

¹² D.16-04-039 at 3.

¹³ Due to the nature of the well rupture, and to ensure safety, SCG was not permitted to withdraw gas from the wells located at the Aliso Canyon gas storage facility until July 2017

¹⁴ D.16-04-039 at 3.

¹⁵ D.16-04-039 at 3.

¹⁶ D.16-04-039 at 3.

¹⁷ See, D.16-04-039, Ordering Paragraph 1, at 30; D.17-05-004, *Decision Authorizing Southern California Gas Company to Provide up to \$11 Million for Aliso Canyon-Related Messaging*, Ordering Paragraph 1 and 2, at 22; D.18-07-008, *Decision Regarding 2018 Aliso Canyon-Related Messaging*, Ordering Paragraph 1 and 2, at 16, issued in A.12-08-007, et. al.

¹⁸ *Final Root Cause Analysis, Mid-August 2020 Extreme Heat Wave*, January 31, 2021, at 2; accessed on January 14, 2026 at: <https://www.caiso.com/Documents/Final-Root-Cause-Analysis-Mid-August-2020-Extreme-Heat-Wave.pdf>

authorized \$12 million per year for 2021 and 2022 for the Flex Alert Marketing Program in an effort to educate electric consumers of the benefits and need to conserve energy when electricity supplies are short.¹⁹ The California State Legislature also approved a one-time \$10 million allocation from the State General Fund for Flex Alert Marketing Program funding for 2021.²⁰

In D.21-12-015, the Commission continued funding for the Flex Alert Marketing Program through 2023.²¹ Notably, in D.21-12-015, the Commission increased the annual budget for the Flex Alert Marketing Program to \$22 million for the years 2022 through 2023.²² The Commission reasoned that the increase matched the total 2021 Flex Alert media campaign budget (the Commission adopted budget of \$12 million plus the legislature’s \$10 million appropriation).²³

In 2023, the Commission approved \$22 million in annual funding for the Flex Alert Marketing Program for 2024 through 2025.²⁴ In the proceeding leading to D.23-12-005, “parties expressed reservations about the continuation of the Flex Alert Campaign, in particular that a statewide benefit should not be solely funded by IOU ratepayers.”²⁵ Each of the state’s three large electric IOUs opposed continued ratepayer funding for the Flex Alert Marketing Program.^{26, 27} The Commission stated that party

¹⁹ D.21-03-056, *Decision Directing Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company to Take Actions to Prepare for Potential Extreme Weather in the Summers of 2021 and 2022*, Finding of Fact 8, at 63, and Ordering Paragraph 2, at 84; issued in R.20-11-003.

²⁰ See, Assembly Bill 128, (Ting, 2021 Reg. Sess.). Budget Act of 2021.

²¹ See, D.21-12-015, *Phase 2 Decision Directing Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company to Take Actions to Prepare for Potential Extreme Weather in the Summers of 2022 and 2023*, December 6, 2021, issued in R.20-11-003.

²² D.21-12-015 at 71.

²³ D.21-12-015 at 71.

²⁴ See, D.23-12-005, *Decision Directing Certain Investor-Owned Utilities’ Demand Response Programs, Pilots, and Budgets for the Years 2024 – 2027*, December 20, 2023, issued in A.22-05-002, et. al.

²⁵ D.23-12-005 at 28.

²⁶ D.23-12-005 at 28 – 30.

²⁷ Note that Pacific Gas and Electric Company (PG&E) generally opposed additional Flex Alert funding but stated that it would accept a more limited budget. See, D.23-12-005 at 29.

concern over ratepayer funding for a statewide media campaign that benefits both IOU and non-IOU customers is “legitimate”.²⁸ However, as described in greater detail in Section III below, the Commission also noted that the Flex Alert Marketing Program is “a key means of noticing customers that a Power Saver Rewards (PSR) event had been called and that it is therefore integral to the design of that program.”²⁹ Based on the role the Flex Alert Marketing Program plays in the functionality of the PSR program, the Commission approved funding for the Flex Alert Marketing Program through December 31, 2025, the date that the PSR program expired.³⁰

On December 30, 2025, the assigned Administrative Law Judge (ALJ) issued the ALJ Ruling seeking comment on the *Staff Proposal: Extend Flex Alert Funding to 2026* (Staff Proposal).³¹ The Staff Proposal recommends funding for the Flex Alert Marketing Program through 2026 and poses four questions.³² The ALJ Ruling seeks party comments on the four questions posed, which are:

1. Should the Flex Alert Marketing Program continue in 2026?
2. Should the Commission order Southern California Edison (SCE) to extend or renew the existing Flex Alert Marketing Program contract with DDB through 2026, and if so, under what conditions or modifications, if any?
3. How much should the Flex Alert Marketing Program Budget be in 2026?
4. Are there any further issues, procedural requirements, contingencies, or program elements not addressed above that parties believe are necessary for the continuation and administration of the Flex Alert Program?³³

²⁸ D.23-12-005 at 31.

²⁹ D.23-12-005 at 30.

³⁰ D.23-12-005 at 30 – 31.

³¹ *Administrative Law Judge’s Ruling Seeking Comments on Staff Proposal to Extend Flex Alert Funding to 2026*, December 30, 2025 (ALJ Ruling).

³² See ALJ Ruling, Attachment A, *Staff Proposal: Extend Flex Alert Funding to 2026* (Staff Proposal).

³³ Staff Proposal at 2 – 3.

III. RESPONSES TO QUESTIONS IN THE STAFF PROPOSAL

A. The Commission should sunset the Flex Alert Marketing Program.

Question 1: Should the Flex Alert Marketing Program continue in 2026?

The Commission should not continue the Flex Alert Marketing Program in 2026. Rather, the Flex Alert Marketing Program should sunset due to its inequitable funding structure. As stated previously, the Flex Alert Marketing Program is funded by bundled IOU, CCA, and DA ratepayers,³⁴ even though it is a statewide media campaign that targets both IOU and non-IOU customers. IOU ratepayers should not be required to subsidize a statewide program in which all load serving entities (LSE) in the state, and their customers, benefit. Therefore, the appropriate funding source for the Flex Alert Marketing Program is the State's General Fund. Alternatively, the program could be funded on a proportional basis by all LSE ratepayers that benefit from the program.

The Commission has the obligation to ensure that all funds it approves are just and reasonable.³⁵ Continued IOU-only funding maintains an inequitable cost allocation and is neither just nor reasonable because it forces IOU ratepayers to fund a program that benefits both IOU and non-IOU ratepayers.

Further, the Commission previously declined to authorize long-term funding for the Flex Alert Marketing Program, beyond 2025. On January 27, 2023, the Assigned Commissioner of Application (A.) 22-05-002 issued a ruling seeking comment on an Energy Division Staff Proposal on demand response issues.³⁶ This Energy Division Staff Proposal contemplated continued Flex Alert Marketing Program funding from 2024 through 2028.³⁷ Ultimately, in D.23-12-005, the Commission rejected the five-year

³⁴ D.21-03-056, Ordering Paragraph 3, at 84-85; D.21-12-015, Ordering Paragraph 5, at 161-162; and D.23-12-005, Ordering Paragraph 13, at 219.

³⁵ See, Public (Pub.) Utilities (Util.) Code Section 451.

³⁶ *Assigned Commissioner's Ruling Directing Response to Questions and Energy Division Staff Proposals Related to Application 22-05-002 Phase II Issues and Directing Southern California Edison Company to Submit a Capacity Bidding Program Elect Proposal for Program Years 2024-2027 (ACR)*, January 27, 2023; issued in Application (A.) 22-05-002.

³⁷ ACR, Appendix A, at 17.

funding proposal and instead authorized Flex Alert Marketing Program funding for only two years: program years 2024 and 2025³⁸ The Commission justified the funding by stating it was needed to support the PSR pilot.³⁹

Notably, the Commission explicitly acknowledged concerns regarding the inequitable funding structure and the ineffectiveness of the Flex Alert Marketing Program.⁴⁰ Despite these concerns, the Commission justified the extension of the Flex Alert Marketing Program through 2025 in order for it to operate in tandem with the PSR pilot, stating that:

While the concerns of parties in the record of this proceeding regarding the appropriateness of ratepayer funding for statewide Flex Alert media campaigns and the effectiveness of past Flex Alert paid media campaigns are legitimate, the programmatic need for Flex Alert paid media campaigns through 2025 to support Power Saver Rewards is clear, immediate and compelling. In addition, as Power Saver Rewards is a ratepayer-funded program open only to customers of the IOUs, it is appropriate for ratepayers to also fund the mechanism, Flex Alert paid media advertising, that triggers and gives notice of a Power Saver Rewards event.⁴¹
⁴²

PSR was a sub-group of the Emergency Load Reduction Program (ELRP) pilot which provided payment to residential customers for load reduction during PSR events.⁴³ However, the Commission sunset the PSR pilot in 2025 due to concerns regarding its cost-effectiveness, free ridership, and high program costs.⁴⁴ Given that the Commission relied on PSR as the primary justification for extending the Flex Alert Marketing

³⁸ D.23-12-005 at 31.

³⁹ D.23-12-005 at 31.

⁴⁰ D.23-12-005 at 31.

⁴¹ D.23-12-005 at 31.

⁴² The electric IOUs fund the Flex Alert Marketing Program using the Public Purpose Program balancing accounts, which are collected from bundled IOU, Community Choice Aggregator, and Direct Access customers.

⁴³ D.21-12-015 at 46.

⁴⁴ D.23-12-005 at 136 – 137.

Program through 2025, the sunset of PSR eliminates the basis for further extension of the Flex Alert Marketing Program.

B. A Flex Alert Marketing Program contract extension or renewal conflicts with the directives of the Governor’s Executive Order N-5-24.

Question 2: Should the Commission order Southern California Edison to extend or renew the existing Flex Alert Marketing Program contract with DDB [Doyle Dane Bernbach Communications Group] through 2026, and if so, under what conditions or modifications, if any?

The Commission should not order SCE to extend or renew the existing Flex Alert Marketing Program contract through 2026. A contract extension or renewal of the existing Flex Alert Marketing Program conflicts with the Governor’s Executive Order (EO) N-5-24. On October 30, 2024, the Governor issued EO N-5-24, which directs the Commission to modify or sunset any underperforming or underutilized orders whose costs exceed the value and benefits to electric ratepayers.⁴⁵ A contract extension or renewal would require electric IOU ratepayers to exclusively fund the Flex Alert Marketing Program despite its statewide scope and benefits accruing to all LSEs and their customers. Since the program’s benefits are distributed across the state, the costs borne by bundled IOU, Community Choice Aggregator, and Direct Access ratepayers likely exceed any benefits they receive. Moreover, the ISO has not issued a Flex Alert since 2022.⁴⁶ The lack of Flex Alerts in recent years further indicates that the program is unneeded, underutilized, or does not provide sufficient value to justify continued ratepayer funding. Therefore, consistent with EO N-5-24, the Commission should sunset

⁴⁵ Executive Order (EO) N-5-24, Gavin Newsom, Governor of California, October 30, 2024 (EO N-5-24) (“Californians have seen their electric bills rise in recent years, outpacing the rate of inflation. ... The California Public Utilities Commission is requested to examine the benefits and costs to electric ratepayers of programs it oversees and rules and orders it has promulgated pursuant to statutory mandates that may be unduly adding to electric rates, or whose funding might more appropriately come from a source other than ratepayers.”). Accessed at <https://www.gov.ca.gov/wp-content/uploads/2024/10/energy-EO-10-30-24.pdf>.

⁴⁶ CAISO, *Grid Emergencies History Report*, accessed January 13, 2026. Available at: <https://www.caiso.com/documents/grid-emergencies-history-report-1998-to-present.pdf>

the Flex Alert Marketing Program and not order SCE to extend or renew the existing contract.

C. The Staff Proposal contemplates an unreasonable 2026 budget for the Flex Alert Marketing Program.

Question 3: How much should the Flex Alert Marketing Program Budget be in 2026?

There should be no IOU ratepayer funded budget for the Flex Alert Marketing Program in 2026. The Staff Proposal unreasonably considers maintaining an annual budget of \$22 million and extending the existing Flex Alert Marketing Program contract through 2026.⁴⁷ As discussed above, the Commission authorized continued funding for the program in 2024 and 2025 despite concerns. The Commission decided that Flex Alert funding should not extend beyond 2025 to match the end date of the PSR pilot.⁴⁸ In D.23-12-005, the Commission found that the Flex Alert Marketing Program was an integral design component of the PSR pilot.⁴⁹ Thus, the Commission ordered SCE to extend the existing contract, or if necessary, “issue a new solicitation for a vendor to administer Flex Alert and Power Saver Rewards marketing, with a budget of \$22 million per year for calendar years 2024 and 2025.”⁵⁰ While the Commission authorized \$22 million for the Flex Alert Marketing Program, that funding level was intended to support marketing activities for *both* the Flex Alert Marketing Program and the now discontinued PSR pilot. Since the PSR pilot has sunset and no associated marketing activities will occur in 2026, a \$22 million annual budget for the Flex Alert Marketing Program is unreasonable.

Additionally, an additional \$22 million budget would result in a disproportionate allocation of ratepayer funds for the Flex Alert Marketing Program relative to the budgets for other demand response marketing, education, and outreach (ME&O) activities. In D.23-12-005, the Commission adopted demand response program budgets for the

⁴⁷ Staff Proposal at 1.

⁴⁸ D.23-12-005, Conclusion of Law 9, at 206.

⁴⁹ D.23-12-005, Finding of Fact 22, at 195.

⁵⁰ D.23-12-005, Ordering Paragraph 13, at 219.

2024-2027 cycle,⁵¹ authorizing \$22 million annually for the Flex Alert Marketing Program in 2024 and 2025, or \$44 million total across the four-year cycle. Meanwhile, the Commission authorized a cumulative budget of \$31.12 million for all other demand response ME&O activities combined over the entire 2024-2027 cycle.⁵² An incremental \$22 million budget for the Flex Alert Marketing Program for 2026 would increase total funding to \$66 million, more than double the \$31.12 million authorized for all other demand response ME&O activities over the entire 2024-2027 cycle.

The Commission must ensure that ratepayer funds are used in a just and reasonable manner.⁵³ It is neither just nor reasonable for ratepayer funds to be allocated imprudently and out of proportion to demonstrated program value. With the discontinuation of the PSR pilot, the fact that no recent Flex Alerts have been issued, and the Flex Alert Marketing Program's disproportionately high budget compared with the budget for all other demand response ME&O, a \$22 million Flex Alert Marketing Program budget for 2026 is not reasonable.⁵⁴ IOU ratepayers should not fund the statewide Flex Alert Marketing Program budget. However, if the Commission finds the continuation of the Flex Alert Marketing Program necessary, any adopted budget should consider the reduced program scope and demonstrated need that results from the sunset PSR program.

IV. CONCLUSION

The Commission should decline to adopt the Staff Proposal recommendation to extend the Flex Alert Marketing Program through 2026 with a \$22 million budget. The program's inequitable funding structure, the sunset of the PSR pilot, the requirements of

⁵¹ D.23-12-005, Attachment 3, Demand Response Program Budgets.

⁵² D.24-12-029, Attachment 3, Demand Response Program Budgets.

The \$31.12 million budget includes all of the following: SCE ME&O, San Diego Gas & Electric Company's ME&O and AC saver decommissioning ME&O, Pacific Gas and Electric Company's demand response core marketing & outreach, smart air conditioner market, and education and training.

⁵³ See, Pub. Util. Code 451.

⁵⁴ A one-year \$22 million Flex Alert Marketing Budget equates to 70% of the total ME&O budget for all demand response programs combined over the four-year 2024 – 2027 cycle.

the Governor's EO N-5-24, the disproportionate program funding relative to other demand response ME&O activities, and the limited recent use of Flex Alerts collectively demonstrate that continued funding is not reasonable or justified.

Respectfully submitted,

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