



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

**FILED**

01/27/26

02:42 PM

A2505011

Application of Pacific Gas and Electric Company for Adoption of Electric Revenue Requirements and Rates Associated with its 2026 Energy Resource Recovery Account (ERRA) and Generation Non-Bypassable Charges Forecast and Greenhouse Gas Forecast Revenue Return and Reconciliation.

Application 25-05-011  
(Filed May 15, 2025)

Expedited Application of Pacific Gas and Electric Company Pursuant to the Commission's Approved Energy Resource Recovery Account (ERRA) Trigger Mechanism

Application 25-09-015  
(Filed September 30, 2025)

[CONSOLIDATED]

**PACIFIC GAS AND ELECTRIC COMPANY'S (U 39 E) RESPONSE TO  
APPLICATION FOR REHEARING**

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## TABLE OF CONTENTS

|  | <b>Page</b> |
|--|-------------|
| I. INTRODUCTION .....  | 1           |
| II. SUMMARY OF ARGUMENT .....  | 2           |
| III. CALCCA’S RETROACTIVE RATEMAKING CHALLENGE IS AN<br>IMPROPER COLLATERAL ATTACK ON D.25-06-049 AND D.25-10-061<br>AND LEGALLY WRONG .....                                     | 3           |
| A. CalCCA’s Retroactive Ratemaking Challenge of the Decision is An<br>Improper Attack on D.25-06-049 and Should be Rejected on that Basis .....                                  | 3           |
| B. The Application of D.25-06-049 to the Decision is Lawful .....  | 5           |
| 1. The Commission Does Not Exceed its Authority in Establishing<br>PCIA Rates.....   | 9           |
| 2. Because the Commission Did Not Engage in Prohibited<br>Retroactive Ratemaking, CalCCA’s “Course of Conduct”<br>Argument Fails.....  | 10          |
| 3. The Decision is Supported by Relevant Findings.....   | 10          |
| 4. It is Not an Abuse of the Commission’s Discretion to Apply the<br>Final 2025 RA MPB .....   | 11          |
| IV. THERE IS NO LEGAL ERROR IN THE COMMISSION’S RESOLUTION OF<br>PRE-2019 RECS FOR 2026 RATESETTING .....  | 12          |
| 1. The Indifference Framework Does Not Require PG&E to Value<br>Pre-2019 RECs it Uses for Bundled Service Customers’<br>Compliance at the RPS MPB.....                           | 17          |
| 2. The Decision Correctly Assigns Pre-2019 RECs Zero Value .....   | 20          |
| 3. The Commission’s Findings Are Adequate.....   | 20          |
| 4. A Reasonable Person Can Readily Conclude That Bundled Service<br>Customers Should Not Incur a New Charge for Attributes Already<br>Fully Paid for In Prior Years’ Rates. .... | 21          |
| 5. The Commission Did Not Act Arbitrarily and Capriciously in<br>Assigning Zero Valuation.....   | 23          |
| V. CONSOLIDATED ORAL ARGUMENT SHOULD BE DENIED.....  | 24          |

TABLE OF AUTHORITIES

Page(s)

CALIFORNIA AUTHORITIES

Statutes and Regulations

Pub. Util. Code, § 365.2... passim
Pub. Util. Code, § 366.2... 14
Pub. Util. Code, § 366.2(a)(4)... 9, 12, 13, 14
Pub. Util. Code, § 366.2(d)(1) ... 13, 19
Pub. Util. Code, § 366.2(g)... 12, 14, 18
Pub. Util. Code, § 366.3... passim
Pub. Util. Code, § 728... 6, 9
Pub. Util. Code, § 1709... 4
Pub. Util. Code, § 1731(b)... 4
Pub. Util. Code, § 1756(a) ... 4

Case Law

California Community Choice Association v. California Public
Utilities Commission, Case No. C105174... 2
California Community Choice Assn. v. Public Utilities Com.
(2024) 103 Cal.App.5th 845 ... 14
Carr v. Kamins (2d Dist. 2007) 151 Cal.App.4th 929 ... 10
Clean Energy Fuels v. Pub. Utilities Commission
(2014) 227 Cal.App.4th 641 ... 11, 21
City of Los Angeles v. Public Utilities Commission (1972) 7 Cal.3d 331 ... 7
Lamere v. Superior Court (2005) 131 Cal.App.4th 1059
(31 Cal. Rptr. 3d 880) ... 9
MaJor v. Miraverde Homeowners Assn. (1992) 7 Cal.App.4th 618 ... 10
Marin Municipal Water Dist. v. North Coast Water Co.
(1918) 178 Cal. 324 ... 4
Miller v. Railroad Comm. of California (1937) 9 Cal.2d 190 ... 4
Pacific Tel. & Tel. Co. (1965) 62 Cal.2d 634 ... 7
People v. Moody, (2002) 96 Cal.App.4th 987 ... 18
Southern Cal. Edison Co. v. Public Utilities Com. (1978) 20 Cal.3d 813... 6, 7, 8
The Ponderosa Telephone Co. v. Public Utilities Com. (2011)
197 Cal.App.4th 48 ... 8
Toward Utility Rate Normalization v. Public Utilities Com.
(1978) 22 Cal.3d 529 ... 11, 21
Turlock Irrigation Dist. v. Hetrick (1999) 71 Cal.App.4th 948... 10

**TABLE OF AUTHORITIES**  
**(Cont'd)**

**Page(s)**

**California Public Utilities Commission**

**Decisions**

|  |               |
|--|---------------|
| D.00-11-042, 2000 Cal. PUC LEXIS 930 ..... | 25            |
| D.06-07-030 .....                          | 16            |
| D.08-09-012 .....                          | 16            |
| D.10-03-004 .....                          | 24            |
| D.11-12-018 .....                          | 15            |
| D.18-10-019 .....                          | 15, 23        |
| D.19-10-001 .....                          | 16, 17, 21    |
| D.22-02-008 .....                          | 4             |
| D.23-06-006 .....                          | 23            |
| D.23-11-094 .....                          | 19, 22        |
| D.23-12-022 .....                          | 19, 22        |
| D.24-05-068 .....                          | 12            |
| D.24-08-004 .....                          | 19            |
| D.24-12-038 .....                          | 6             |
| D.24-12-039 .....                          | 19, 22        |
| D.25-05-028 .....                          | 24            |
| D.25-06-049 .....                          | <i>passim</i> |
| D.25-10-061 .....                          | <i>passim</i> |
| D.25-12-027 .....                          | 2, 10, 12, 25 |
| D.26-01-025 .....                          | 25            |

**Tariffs**

|                               |    |
|-------------------------------|----|
| PG&E Electric Rule 17 .....   | 22 |
| PG&E Electric Rule 17.1 ..... | 22 |
| PG&E Electric Rule 17.2 ..... | 22 |

**Rules of Practice and Procedure**

|                    |    |
|--------------------|----|
| Rule 16.1(d) ..... | 1  |
| Rule 16.3 .....    | 24 |
| Rule 16.3 .....    | 24 |

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**PACIFIC GAS AND ELECTRIC COMPANY’S (U 39 E) RESPONSE TO  
APPLICATION FOR REHEARING**

**I. INTRODUCTION**

Pursuant to Rule 16.1(d) of the California Public Utilities Commission’s (“CPUC” or “Commission”) Rules of Practice and Procedure, Pacific Gas and Electric Company (“PG&E”) offers its Response to the *California Community Choice Association’s Application for Rehearing of Decision Approving Pacific Gas and Electric Company’s 2026 Energy Resource Recovery Account Related Forecast Revenue Requirement and 2026 Electric Sales Forecast* (the “AFR”), dated January 12, 2026. Decision (“D.”) 25-12-027 (“Decision”) resolving PG&E’s 2026 Energy Resource Recovery Account (“ERRA”) Forecast Application fell well within the Commission’s legal authority. The California Community Choice Association’s (“CalCCA”) AFR does not demonstrate legal error in the Commission’s issuance of the Decision and the AFR should be denied.

## II. SUMMARY OF ARGUMENT

While the AFR is lengthy in its criticisms of the Commission, the AFR does not demonstrate any legal error in the Commission's issuance of the Decision. CalCCA makes two primary challenges to the Decision. Firstly, CalCCA claims that the Commission errs by *not* applying a resource adequacy ("RA") Market Price Benchmark ("MPB") that was found to be flawed and vulnerable to manipulation,<sup>1/</sup> and that led to outcomes inconsistent with law<sup>2/</sup> for the purpose of PG&E's 2025 balancing account true-up. Referring to and regurgitating its various pleadings made before this Commission and in a Petition for Writ of Review throughout its AFR,<sup>3/</sup> CalCCA wrongfully contends that a "true-up" of PG&E's 2025 costs has not occurred and, instead, that retroactive ratemaking has occurred.<sup>4/</sup> The Commission should not entertain CalCCA's retroactive ratemaking challenge because it is an improper attack on D.25-06-049, a final Commission decision that remains in effect while CalCCA pursues judicial review. Even if the Commission is to *again* entertain CalCCA's novel re-invention of the retroactive ratemaking doctrine, CalCCA is wrong. The retroactive ratemaking doctrine does not apply to the generation-related pass-through costs that are at issue in the Decision. The Decision's application of the Final 2025 RA MPB calculated under the methods required by D.25-06-049 is correct.

Second, CalCCA argues that the Decision errs in determining that pre-2019 renewable energy certificates ("REC") PG&E intends to use for its bundled service customers' renewables portfolio standard ("RPS") compliance do not impart value to departing load customers forecast rate-setting on an interim basis.<sup>5/</sup> The AFR repeats CalCCA's positions in the underlying proceeding. But no amount of CalCCA's argument on the topic of pre-2019 RECs merits rehearing the Decision because no law or Commission decision entitles CCA customers to a payment for RECs that were fully valued in Commission-adopted rates years ago, under a former

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<sup>1/</sup> D.25-06-049, p. 31, Finding of Fact ("FOF") 1.

<sup>2/</sup> D.25-06-049, p. 33, Conclusion of Law ("COL") 1.

<sup>3/</sup> See, AFR, p. 3, (citing *California Community Choice Association v. California Public Utilities Commission*, Case No. C105174 (Cal Court of Appeal, Third Appellate District) (filed Dec. 1, 2025)) [hereinafter "Writ"].

<sup>4/</sup> AFR, p. 2.

<sup>5/</sup> AFR, p. 4.

PCIA methodology. PG&E met its burden in the proceeding to demonstrate that a zero value is the correct outcome for the purpose of 2026 ratesetting. Moreover, a zero valuation of pre-2019 RECs *does not shift any costs subject to recovery in the Decision to CCA customers*. The cost of pre-2019 RECs were fully recovered in rates, years ago. It is CalCCA that would invent 2026 costs for bundled service customers in its demand for departing load customer compensation. The Commission has never interpreted customer indifference obligations to require today's departing load customers to receive compensation for attributes fully valued in rates years ago. While the issue of pre-2019 RECs is a subject matter to be addressed in Rulemaking ("R.") 25-02-005, the Decision does not legally err in declining to require departing load customer compensation for pre-2019 RECs on an interim basis.

Finally, CalCCA seeks a consolidated Oral Argument on the AFR, as well as its similar AFRs filed in San Diego Gas & Electric Company's and Southern California Edison Company's 2026 ERRA Forecast decisions, referred to as "Related ERRA Forecast AFRs." CalCCA's request for any oral argument should be denied as unwarranted.

### **III. CALCCA'S RETROACTIVE RATEMAKING CHALLENGE IS AN IMPROPER COLLATERAL ATTACK ON D.25-06-049 AND D.25-10-061 AND LEGALLY WRONG**

#### **A. CalCCA's Retroactive Ratemaking Challenge of the Decision is An Improper Attack on D.25-06-049 and Should be Rejected on that Basis**

In alleging legal error on retroactive ratemaking grounds, the AFR spends multiple pages recounting and referring to CalCCA's litigation in R.25-02-005, a separate proceeding. CalCCA has sought judicial review of the Commission's Decision to apply a RA MPB methodology change in compliance with the Public Utilities Code's ("Pub. Util. Code") indifference requirements to be applied to the Final 2025 MPB.<sup>6/</sup> CalCCA's theory is (1) the application of a new RA MPB methodology to the Final 2025 RA MPB calculation as set forth in D.25-06-049 is unlawful retroactive ratemaking;<sup>7/</sup> (2) D.25-12-027's implementation of the Final 2025 RA MPB is unlawful retroactive rulemaking;<sup>8/</sup> and (3) by applying the Final 2025 RA MPB, the

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<sup>6/</sup> D.25-10-061, p. 7.

<sup>7/</sup> AFR, pp. 3-4, 8-24.

<sup>8/</sup> AFR, pp. 14-20.

Commission acted without, or in excess of its powers and jurisdiction, had not proceeded in the manner required by law, did not support the Decision with adequate findings, and abused its discretion.<sup>9/</sup>

CalCCA reasserts the same arguments against the application of a Final 2025 RA MPB adherent to statutory indifference requirements that it asserted in R.25-02-005 and that the Commission rejected in D.25-06-049. CalCCA re-asserted that same argument in its Application for Rehearing to D.25-06-049 and that was rejected by D.25-10-061. The Commission should not *for the third time* entertain CalCCA’s retroactive ratemaking theories that were fully litigated, and determined to be invalid in rehearing.<sup>10/</sup>

With the Commission’s issuance of D.25-10-061 addressing CalCCA’s challenge to D.25-06-059, D.25-06-049 is final.<sup>11/</sup> The California Public Utilities Code is clear that once a Commission Decision is final, it is conclusive in all collateral actions and proceedings.<sup>12/</sup> That CalCCA has filed a Writ challenging the legality of D.25-06-049 and D.25-10-061 does not change the finality of D.25-06-049 now or at the time the Decision was rendered. CalCCA’s Writ does not permit CalCCA to relitigate the same legal issues it litigated and lost in R.25-02-005 in PG&E’s 2026 ERRR Forecast proceeding and CalCCA’s related AFR.<sup>13/</sup>

While CalCCA continues to disagree with the outcome of D.25-06-049 and D.25-10-061, CalCCA’s disagreement does not change the conclusiveness of the Commission’s findings, conclusions, and orders established for the calculation of the Final 2025 RA MPB for the

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<sup>9/</sup> AFR, pp. 14-24.

<sup>10/</sup> D.25-10-061, p. 6 (in denying CalCCA’s retroactive ratemaking claim explaining “CalCCA fails to point to any legal authority for the notion that changing the RA MPB methodology as part of the ERRR true-up process constitutes general ratemaking.”)

<sup>11/</sup> Following the Commission’s denial of a rehearing Application, the decision is final. See, e.g., *Marin Municipal Water Dist. v. North Coast Water Co.* (1918) 178 Cal. 324, 328-329; *Miller v. Railroad Comm. of California* (1937) 9 Cal.2d 190, 195-196; Pub. Util. Code, §§ 1709 and 1731(b)) and 1756(a). All statutory references herein are to the California Public Utilities Code.

<sup>12/</sup> Pub. Util. Code, § 1709.

<sup>13/</sup> D.22-02-008, p. 4 (“[A] rehearing application is not a permissible vehicle for a party to relitigate issues determined by the Commission... .”)

purpose of PG&E’s 2026 ERRRA Forecast proceeding or in any other relevant proceeding.<sup>14/</sup> CalCCA’s filing of a Writ does not operate as a stay, nor does it suspend a Commission decision or require the Commission to adopt CalCCA’s interpretation or produce alternative MPBs as CalCCA demands. To be clear: no court has stayed or enjoined the Commission from implementing D.25-06-049. D.25-06-049 continues to have the force of law for the purpose of the Decision, and CalCCA’s retroactive ratemaking challenge to the Decision should be denied on those grounds alone.

**B. The Application of D.25-06-049 to the Decision is Lawful**

The central contention of CalCCA’s AFR is that D.25-06-049, which required the use of an MPB in ratesetting that complies with the Commission’s indifference mandate for the purpose of the 2025 true-up, is unlawful. As is evident throughout CalCCA’s AFR, its challenge to the Decision’s application of the Final 2025 RA MPB is a reprisal of its flawed challenge to D.25-06-049 correcting the MPB calculation to preserve and ordering its application of the purpose of the investor-owned-utilities’ 2025 RA true-up.<sup>15/</sup> As explained above, rehearing of D.25-06-049 was denied by D.25-10-061, judicial review is ongoing, and no court has issued a stay of D.25-06-049. The Decision therefore properly implements binding Commission directives for the purpose of PG&E’s 2026 ERRRA Forecast proceeding.<sup>16/</sup>

CalCCA wrongly argues that the RA MPB methodology in effect *prior to D.25-06-049* is required to be applied for the purpose of the 2025 true-up due to the fact that, in 2025, PG&E was collecting rates calculated using the Forecast MPB, implicating unlawful retroactive

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<sup>14/</sup> Notably, however, CalCCA did not challenge D.25-12-007, which also applied the Final 2025 RA MPB for the purpose of the true-up of costs related to the Diablo Canyon Power Plant.

<sup>15/</sup> PG&E does not debrief the entirety of the merits of D.25-06-049 in this Response as the core legal arguments advanced by CalCCA’s AFR are the same arguments that the organization raised in R.25-02-005. PG&E’s response to those merits were fully briefed in the *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 Application for Rehearing of Decision 25-06-049* (Aug. 12, 2025), p. 19.

<sup>16/</sup> D.25-06-049, p. 30 and p. 35, Ordering Paragraph (“OP”) 2. See also D.25-10-061, p. 4.

ratemaking concerns.<sup>17/</sup> CalCCA has been on notice that a new methodology could apply to PG&E's 2025 RA true-up activities for *over a year*,<sup>18/</sup> before 2025 rates went into effect.

The rule against retroactive ratemaking arises from section 728 of the Public Utilities Code, which states:

Whenever the commission, after a hearing, finds that the rates or classifications, demanded, observed, charged, or collected by any public utility for or in connection with any service, product, or commodity, or the rules, practices, or contracts affecting such rates or classifications are insufficient, unlawful, unjust, unreasonable, discriminatory, or preferential, the commission shall determine and fix, by order, the just, reasonable, or sufficient rates, classifications, rules, practices, or contracts *to be thereafter observed and in force*.

That statute, however, does “not require that each and every act of the commission operate solely in future....”<sup>19/</sup> As *Edison* explained, “[T]he Legislature has not undertaken to bestow on the commission the power to roll back *general rates* already approved by it under an order which has become final, or to order refunds of amounts collected by a public utility pursuant to such approved rates and prior to the effective date of a commission decision ordering a *general rate* reduction.”<sup>20/</sup> Put simply, the retroactive ratemaking doctrine does not extend to PG&E's ERRA-related balancing account true-up process effectuated by the Decision. The establishment of ERRA and PCIA rates are not general ratesetting actions subject to the doctrine. Moreover, it would be legal error for the problematic methodology that the Commission found “flawed and vulnerable to manipulation” and inconsistent with statutory indifference<sup>21/</sup> to continue to be applied to the true-up.

CalCCA argues that D.25-06-049 is retroactive ratemaking, relying upon select excerpts from *Edison* to do so.<sup>22/</sup> In CalCCA's view, *Edison* establishes two hallmarks of general

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<sup>17/</sup> AFR, p. 3.

<sup>18/</sup> D.24-12-038, pp. 21-22.

<sup>19/</sup> *Southern Cal. Edison Co. v. Public Utilities Com.* (1978) 20 Cal.3d 813, 816 (*Edison*).

<sup>20/</sup> *Ibid.*

<sup>21/</sup> D.25-06-049, p. 31, FOF 1; p. 33, COL 1.

<sup>22/</sup> AFR, pp. 14-17 (citing *Southern Cal. Edison Co. v. Put. Util. Comm'n* (1978) 20- Cal.3d 813 ).

ratemaking, specifically 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.”<sup>23/</sup> CalCCA argues that both of these “hurdles” are met by D.25-06-049. <sup>24/</sup> But *Edison* did not establish these factors, and the Commission has already concluded that *Edison* does not support CalCCA’s theory.<sup>25/</sup> And CalCCA misses the fundamental point of the retroactive ratemaking doctrine.

*Edison* explains that rate mechanisms are not subject to the retroactive ratemaking doctrine where they are designed to be adjusted and implicate no element of utility profit.<sup>26/</sup> As the Commission explained in considering and rejecting CalCCA’s interpretation of *Edison*, the doctrine applies “to the act of promulgating **general rates**,” which are actions that implicate utility profit.<sup>27/</sup> Specifically, D.25-10-061 explains:

The court defined a general ratemaking as follows: “[t]he basic principle [of ratemaking] is to establish a rate which will permit the utility to recover its cost and expenses plus a reasonable return on the value of property devoted to public use.” ([*Edison*] at 818 quoting *City and County of San Francisco v. Public Utilities Com.* (1971) 6 Cal.3d 119, 129.) The Court further explained that a “true ratemaking proceeding,” contains many variables that are taken into account, and includes the formulation of “broad policies.” ([*Edison*] at 816, 828.) The Court contrasted “true ratemaking” with the “narrowly restricted and semi-automatic functioning of [the fuel] adjustment clause,” at issue in the proceeding, finding that the latter does not constitute general ratemaking. (*Ibid.*) Among other things, the Court emphasized that the operation of the adjustment clause was “intended to contain no element of profit whatever.” (*Id.* at 818.)<sup>28/</sup>

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<sup>23/</sup> AFR, p. 15.

<sup>24/</sup> AFR, p. 15.

<sup>25/</sup> See D.25-10-061, p. 5.

<sup>26/</sup> *Edison*, pp. 816-819 (distinguishing the ratemaking that occurred in the *Pacific Tel. & Tel. Co.* (1965) 62 Cal.2d 634 and *City of Los Angeles v. Public Utilities Commission* (1972) 7 Cal.3d 331 cases, which both impacted general rates charged by utilities following an extensive investigation of the rates charged, from rate changes arising from a pass-through fuel cost account).

<sup>27/</sup> D.25-10-061, p. 5 (emphasis added) (citing *Edison*).

<sup>28/</sup> *Id.*

Just as the retroactive ratemaking doctrine does not apply to the correction of the RA MPB, the doctrine does not apply to the ratemaking that occurs in the ERRA Forecast proceeding. As the doctrine was further summarized in *Ponderosa*, “[t]he rule against retroactive ratemaking prevents the agency from forcing a utility to disgorge the proceeds of rates that have been finally approved and collected, as well as the fruits of those proceeds.”<sup>29/</sup> The ERRA Forecast proceeding and the application of the Final RA MPB does nothing of the sort.

The ERRA Forecast proceeding sets rates associated with pass-through costs to customers “meaning that the utility recovers from customers the exact expenditure for the commodities and related costs *without* applying a rate of return, otherwise known as profit.”<sup>30/</sup> The application of a MPB that meets the Commission’s statutory obligations to the 2025 true-up does not implicate PG&E’s profit or rate-of-return. In contrast, general ratemaking subject to the retroactive ratemaking doctrine involves setting authorized utility revenue—which includes establishing the utility’s rate base, capital structure, rate of return, and many other factors—through a final Commission order. A utility’s general rates stay fixed until its next general rate case (“GRC”) regardless of actual utility operating costs during the GRC period. General rates, therefore, are categorically different from the ratesetting occurring in the ERRA Forecast or the establishment of the MPB. Both are designed to be set on a forecast basis and later “trued-up,” including to actual costs and revenues and updated, Final MPBs. Just like the rate adjustment authorized in *Edison*, the balancing account true-up effectuated through the Decision provides PG&E a “dollar for reimbursement to the utility for its procurement costs and is designed to adjust the forecasted rates.”<sup>31/</sup>

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<sup>29/</sup> D.25-10-061, p. 6 (citing *The Ponderosa Telephone Co. v. Public Utilities Com.* (2011) 197 Cal.App.4th 48, 62) .

<sup>30/</sup> D.25-10-061, p. 6 (citing [R.25-02-005] OIR, p. 4) (emphasis added).

<sup>31/</sup> *Edison*, p. 819 (explaining that the purpose of the clause was “to permit prompt rate adjustment to offset unusual changes in fuel costs, and no portion of such a rate increase may lawfully represent a profit to the utility.”) .

The retroactive ratemaking doctrine simply does not apply here.<sup>32/</sup> The Commission’s actions to calculate and authorize rates applying the Final 2025 RA MPB, just like its actions in rendering D.25-06-049 revising that MPB, adhere to statutory requirements requiring indifference and are not subject to the retroactive ratemaking doctrine.

1. The Commission Does Not Exceed its Authority in Establishing PCIA Rates

In asserting that the Commission acted *ultra vires*, or exceeded its statutory authority in issuing the Decision, CalCCA argues that the Decision is unlawful because it perpetuates an unlawful decision.<sup>33/</sup> As described above, the Commission’s implementation of D.25-06-049 through the Decision is lawful. Unless and until a reviewing court sets aside D.25-06-049, it remains operative law and its application in the Decision is not an *ultra vires* act of the Commission. “[A] governmental agency that acts outside of the scope of its statutory authority acts *ultra vires* and the act is void.”<sup>34/</sup> Again, CalCCA’s challenge to the Commission’s establishment or application of a revised Final 2025 RA MPB adherent to its statutory obligation to ensure indifference has not been found by any court of law as an action outside of the Commission’s statutory authority. CalCCA’s citations do not support the argument that the Commission acted beyond its authority.<sup>35/</sup> Here, the Commission acted squarely within its

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<sup>32/</sup> Even if it did, PG&E notes that the doctrine against retroactive ratemaking is rooted in statute. (Pub. Util. Code, § 728.) But the establishment of the PCIA, too, flows from statutory requirements: to ensure cost indifference when customers depart. (See, e.g., Pub. Util. Code, §§ 366.2(a)(4), 365.2, 366.3, discussed in Section IV, below). If the doctrine applied to the Commission’s actions, which it does not, there is no basis to conclude that the application of a Final 2025 MPB adherent to the Commission’s statutory obligations to ensure indifference. Rather, the Commission would need to harmonize and reconcile these statutes and determine which statute would govern. This has not occurred as the Commission determined the doctrine does not apply in D.25-10-061. Thus, there is no basis to conclude that even if CalCCA’s Writ is successful, a Final 2025 MPB compliant with the Commission’s indifference obligations cannot be applied to the 2025 true-up.

<sup>33/</sup> AFR, p. 14.

<sup>34/</sup> *Lamere v. Superior Court* (2005) 131 Cal.App.4th 1059, 1065, fn. 4 [31 Cal. Rptr. 3d 880].

<sup>35/</sup> The *ultra vires* authorities cited in AFR footnote 55 are inapposite. Those cases (1) address actions taken by an entity that lacked statutory authority to act at all with regard to natural gas

jurisdiction to establish a new methodology to calculate its RA MPB by D.25-06-049, deny CalCCA’s re-hearing by D.25-10-041, and apply the RA MPB in ERRA Forecast proceedings. Unless and until a reviewing court sets aside D.25-06-049, it remains final, operative law, and the application of the MPB in D.25-12-027 is not an *ultra vires* act of the Commission. CalCCA’s allegation that the Commission acted outside of its jurisdiction has no merit.

2. Because the Commission Did Not Engage in Prohibited Retroactive Ratemaking, CalCCA’s “Course of Conduct” Argument Fails

CalCCA argues that the Commission’s act of issuing D.25-06-049 and D.25-12-027 comprises of “multiple unlawful actions” that can and should be understood as “components of a broader, unlawful course of conduct.”<sup>36/</sup> CalCCA also decries the application of the Final 2025 RA MPB methodology in SCE’s and SDG&E’s respective ERRA Forecast Decisions.<sup>37/</sup> Citing its Writ, CalCCA describes these decisions as “collectively and individually unlawful.”<sup>38/</sup> Again, CalCCA’s judicial challenge does not render the application of D.25-06-049 as unlawful. The actions undertaken by the Commission to establish a Final 2025 MPB adherent with the requirements of D.25-06-049, and approve the application of that Final 2025 RA MPB in the IOUs’ ERRA Forecast proceedings is a lawful act.

3. The Decision is Supported by Relevant Findings

Expressing concern that the application of the Final 2025 RA MPB impacts the PCIA rates, CalCCA challenges the Decision on the grounds that the decision’s findings and

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service, rendering the challenged conduct void ab initio (i.e., *Turlock Irrigation Dist. v. Hetrick* (1999) 71 Cal.App.4th 948 ;(2) address a property action between individual citizens, with one citizen asserting “she was not personally served in the action and respondent committed extrinsic fraud in obtaining an order for service by publication” (i.e., *Carr v. Kamins* (2d Dist. 2007) 151 Cal.App.4th 929, 933); (3) address a homeowners association acting beyond the terms of its governing Declaration of Covenants, Conditions and Restrictions in restricting a non-resident from using a tennis court on the property (i.e., *MaJor v. Miraverde Homeowners Assn.* (1992) 7 Cal.App.4th 618).

<sup>36/</sup> AFR, p. 18.

<sup>37/</sup> AFR, p. 19.

<sup>38/</sup> AFR, pp. 19-20.

conclusions are too general.<sup>39/</sup> CalCCA’s argument appears grounded in assertions that, in establishing rates, the Commission picked winners and losers and its findings do not address how the Final RA MPB changed rates or how the rates are appropriate in the face of CalCCA’s allegations.<sup>40/</sup> But this proceeding’s scope did not include consideration of the reasonableness of the Final 2025 RA MPB. Instead, D.25-06-049 determined that a Final 2025 MPB calculated in a manner adherent to the Commission’s statutory obligations was required to be applied immediately and ordered its in PG&E’s ERRA Forecast proceeding. As described exhaustively above, there is no legal infirmity with the application of the Final 2025 RA MPB for the purpose of the 2025 balancing account true-up.

Commission findings must be sufficient to permit judicial review, and the Commission is not required to address each and every argument of parties.<sup>41/</sup> The entirety of the decision can be used to determine the adequacy of the findings.<sup>42/</sup> There is no requirement for the Commission to make additional findings on CalCCA’s novel retroactive ratemaking theories or the impact of the Commission’s issued MPB to its particular customer constituencies.

#### 4. It is Not an Abuse of the Commission’s Discretion to Apply the Final 2025 RA MPB

Finally, CalCCA argues, without any meaningful analysis of legal authority, that the Decision presents as “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.”<sup>43/</sup> CalCCA alleges that there is a “concerted effort to keep the Commission ignorant as to the impacts of its decision.”<sup>44/</sup> CalCCA’s attack on the Commission’s actions as arbitrary and capricious is bereft of any meaningful legal analysis and is meritless.

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<sup>39/</sup> AFR, p. 20.

<sup>40/</sup> AFR, pp. 21-22.

<sup>41/</sup> *Clean Energy Fuels v. Pub. Utilities Commission* (2014) 227 Cal.App.4<sup>th</sup> 641, 659.

<sup>42/</sup> *Toward Utility Rate Normalization v. Public Utilities Com.* (1978) 22 Cal.3d 529, 530.

<sup>43/</sup> AFR, pp. 22-23.

<sup>44/</sup> AFR, p. 23.

As the Commission has explained, “[c]onclusory statements without any legal support or analysis are insufficient to establish that the Commission acted in an arbitrary and capricious manner or committed legal error.”<sup>45/</sup> To be clear, the Commission did not act in an arbitrary and capricious manner. In rendering the Decision, the Commission followed D.25-06-049, which requires the use of the corrected RA MPB methodology for the purpose of the 2025 Final RA MPB and future calculations. The Decision also recognized that AFRs challenging D.25-06-049 were denied.<sup>46/</sup>

Moreover, there is no obligation for the Commission to publish an Alternate Final RA MPB, as CalCCA demands.<sup>47/</sup> In rendering the Decision, the Commission acted in accordance with its standard practices of issuing Forecast and Final MPBs calculated in accordance with its Decisions, including D.25-06-049. CalCCA’s legal challenges to D.25-06-049 do not change the fact that D.25-06-049 remains in effect and must be applied nor does it require the Commission to perform calculations based on CalCCA’s legal theories. There is no judicial order staying or suspending D.25-06-049 and the Commission does not act arbitrarily or capriciously in applying its own final and lawful decisions.

#### **IV. THERE IS NO LEGAL ERROR IN THE COMMISSION’S RESOLUTION OF PRE-2019 RECS FOR 2026 RATESETTING**

CalCCA further challenges the Decision on the basis that the Commission’s adoption of PG&E’s banked REC valuation methodology “violates the indifference framework established by multiple sections of California Public Utilities Code, including 366.2(a)(4), 365.2, 366.3, and 366.2(g).”<sup>48/</sup> CalCCA claims that the Decision’s treatment of pre-2019 RECs presents cost shifts to departing load customers. But CalCCA does not successfully make this demonstration. In its proceeding, PG&E did not seek to recover *any* costs for these RECs from departing load

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<sup>45/</sup> D.24-05-068, p. 32.

<sup>46/</sup> D.25-12-027, p. 14.

<sup>47/</sup> AFR, pp. 10-11 and p. 23.

<sup>48/</sup> AFR, p. 24.

customers.<sup>49/</sup> PG&E’s cost recovery of pre-2019 RECs is complete, occurred years ago under a former ratesetting mechanism, and CalCCA’s cost shift assertion is inconsistent with the fact that PG&E did not propose to recover any costs associated with these pre-2019 RECs. Instead, it is CalCCA’s demand that pre-2019 RECs be valued at the RPS MPB that would impose a *new cost* on bundled service customers *to compensate* departing load customers through a reduction to the PCIA. This result would be contrary to the Commission’s obligations to bundled service customers, and the Commission was correct to decline to impose a new cost on bundled service customers.

Multiple provisions of the Public Utilities Code establish a clear and broad rule against cost shifting and bundled service customer cost increases as a result of CCA formation, and direct the Commission to enforce that rule using the same broad (and compulsory) terms.

- “It is further the intent of the Legislature to prevent any shifting of recoverable costs between customers.”<sup>50/</sup>
- “The implementation of a community choice aggregation program shall not result in a shifting of costs between the customers of the community choice aggregator and the bundled service customers of an electrical corporation.”<sup>51/</sup>; and
- “Bundled retail customers of an electrical corporation shall not experience any cost increase as a result of the implementation of a community choice aggregator program.”<sup>52/</sup>

This language parallels the provision barring cost shifting upon the departure of bundled service customers to direct access or other service providers:

- “The Commission shall ensure that bundled retail customers of an electrical corporation do not experience any cost increases as a result of retail customers of an electrical corporation electing to receive service from other providers.”<sup>53/</sup>

Section 366.2(g) provides that:

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<sup>49/</sup> In its ERRA Forecast Application, PG&E sought to track these RECs, however, PG&E’s tracking mechanism imposed no *costs* on departing load customers.

<sup>50/</sup> Pub. Util. Code, § 366.2(d)(1).

<sup>51/</sup> Pub. Util. Code, § 366.2(a)(4).

<sup>52/</sup> Pub. Util. Code, § 366.3.

<sup>53/</sup> Pub. Util. Code, § 365.2.

“Estimated net unavoidable electricity costs paid by the customers of a community choice aggregator shall be reduced by the value of any benefits that remain with bundled service customers, unless the customers of the community choice aggregator are allocated a fair and equitable share of those benefits.”

For pre-2019 RECs, section 366.2(g) was satisfied under the pre-2019 (i.e., pre-D.18-10-019) PCIA framework, described below. Under that framework, unavoidable electricity costs (PCIA rates) paid by customers of CCAs were reduced by the value of benefits (energy, REC, and capacity) that remained with bundled service customers. Nothing in section 366.2(g) requires that attributes be valued multiple times under different frameworks.

What is required, however, is that bundled service customers do not experience any cost increases as a result of departing load. The Legislature commanded that the CCA program “shall not result in a shifting of costs” between customers.<sup>54/</sup> And the Legislature’s forceful language in establishing the Commission’s enforcement charge, states that “[t]he commission *shall ensure*” that remaining bundled service customers are indifferent.<sup>55/</sup> The Commission’s authority to prevent cost shifting is not constrained and the Commission has expansive jurisdiction to prevent it.<sup>56/</sup>

In the proceeding, PG&E developed an expansive record demonstrating that increasing bundled service customer rates to provide compensation to now departing load customers as CalCCA demands conflicts with the Commission’s statutory obligations to bundled service customers and is poor public policy. PG&E’s testimony showed that CalCCA was in effect seeking a rate adjustment for rates implemented in years 2013-2018.<sup>57/</sup> No Commission decision or law requires that departing load customers be refunded for rates they paid as bundled service customers, years ago, under a former ratesetting methodology.

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<sup>54/</sup> Pub. Util. Code, § 366.2(a)(4).

<sup>55/</sup> Pub. Util. Code, § 365.2 (italics added).

<sup>56/</sup> *See California Community Choice Assn. v. Public Utilities Com.* (2024) 103 Cal.App.5<sup>th</sup> 845, 858 (clarifying that the Commission’s obligation to prevent cost shifting is not constrained by other elements of the statutory scheme under Section 366.2 governing CCAs).

<sup>57/</sup> Exh. PGE-04, p. 4-9, line 15 to p. 4-10, line 4.

In reforming the PCIA in D.18-10-019, the Commission did not direct a review or true-up of the former methodology,<sup>58/</sup> despite finding that the former methodology did not prevent cost shifts between customers.<sup>59/</sup> Potential valuation of pre-2019 RECs, and unwinding a cherry-picked component of the pre-2019 framework, while meeting the Commission’s statutory obligations are not ultimately not well-suited for PG&E’s ERRRA Forecast proceeding. The question of whether the Commission can meet its obligations to bundled service customers to impose a *new charge* for pre-2019 RECs already valued under a methodology that could not prevent cost shifts is one to be explored in R.25-02-005. The Decision correctly declines to impose new costs on bundled service customers to compensate departing load customers for pre-2019 RECs.

CalCCA introduces a view on PCIA ratemaking that should be disregarded.<sup>60/</sup> CalCCA wrongly frames valuation of pre-2019 RECs at the MPB as a natural continuation of the Commission’s ratesetting practices since 2011. What CalCCA omits from its AFR is that the indifference framework prior to 2019 revolved around a *total portfolio indifference calculation methodology* that calculated above market costs, by vintage, for the total portfolio of PCIA-eligible resources.<sup>61/</sup> The above market costs, by vintage, were then used to set PCIA rates paid by non-exempt departing load customers.<sup>62/</sup> And necessarily, as required by D.11-12-018, *the value of RECs forecast to be generated* were considered (that is to say, credited) in an indifference calculation that separated the total portfolio costs into: (1) at market costs and (2) above market costs. Bundled service customers paid for the at-market costs for those RECs generated and their share of the above market costs through generation rates. Non-exempt departing load customers paid for their share of the above market costs through PCIA rates.

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<sup>58/</sup> D.18-10-019, p. 3 (stating that “The revised methodology will be used to calculate the PCIA that takes effect as of January 1, 2019.”).

<sup>59/</sup> *Id.*, p. 153, FOF 1.

<sup>60/</sup> AFR, p. 26.

<sup>61/</sup> *See* Exh. PGE-04, p. 4-4, line 4 to p. 4-6, line 4.

<sup>62/</sup> *See* D.11-12-018, p. 113, OP 1.

PCIA rates were set on a forecast basis and were not subject to true-up.<sup>63/</sup> The decision **not** to true-up rates was established according to a Settlement Agreement memorialized in D.06-07-030<sup>64/</sup> and extended to vintaged PCIA rates approved in D.08-09-012<sup>65/</sup> Bundled service customers' generation rates, however, were trued-up for actual costs and revenues each year.

The total portfolio indifference calculation prior to 2019 credited the total portfolio cost with the value of energy, the value of RECs, and the value of RA using MPBs set by the Commission. In contrast, CalCCA framing the historical indifference calculation framework as a methodology that values only RECs used by bundled service customers is an attempt to rewrite history using the newly adopted PCIA ratemaking framework articulated in D.18-10-019 and D.19-10-001 for RECs generated after January 1, 2019.<sup>66/</sup>

CalCCA's reframing of D.19-10-001 to muse that "nothing exempts [a REC] from being valued at the benchmark" and to argue that PG&E's practice does not comport with D.19-10-001<sup>67/</sup> is simply wrong. D.19-10-001 plainly states that it governs RECs generated from RPS-eligible generation on or after January 1, 2019. Its Finding of Fact 8, states "The methods adopted in this Decision apply to RECs generated commencing January 1, 2019, and going forward." D.19-10-001 is bereft of any language that would support the retroactive application of the methods adopted in the Decision to RECs generated before January 1, 2019.

The Decision notes that while PG&E and CalCCA, co-chairs to the working group leading to the issuance of D.19-10-001, disagreed on the valuation of unsold RECs, "they agree that the general principles apply to RECs generated commencing January 1, 2019 and going

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<sup>63/</sup> For a discussion of the former methodology, see Exh. PGE-04, p. 4-4, line 1 to p. 4-6, line 16.

<sup>64/</sup> See, D.06-07-030, pp. 10-11 and Exh. PGE-04, p. 4-4, footnote ("FN") 10.

<sup>65/</sup> See D.08-09-012, pp. 105-106, COL 14 and 15.

<sup>66/</sup> See D.19-10-001, p. 47, FOF 8 (stating "The methods adopted in this Decision apply to RECs generated commencing January 1, 2019 and going forward.").

<sup>67/</sup> AFR, pp. 26-27 (*see also* p. 33, "PG&E'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.")

forward.”<sup>68/</sup> This observation concerning the application of the methods prospectively is consistent with the working group process preceding D.19-10-001. This process was led by PG&E and CalCCA and their working group report documented that CalCCA did not seek to re-visit valuation of pre-2019 RECs because the RECs “have already been bought and paid for by bundled customer [sic] at previous years’ RPS Adders.”<sup>69/</sup>

While the Commission will revisit this issue in R.25-02-005, the methods of D.19-10-001 do not apply to RECs generated prior to January 1, 2019. The approach adopted by the Decision adheres to the Commission’s statutory duties to bundled service customers under section 365.2 by not imposing new costs on bundled service customers to pay departing load customers. The compensation that CalCCA claims that departing load customers are entitled to would also be a cost increase as a result of load departure, conflicting with Section 366.3. There is no legal deficiency in the application of a zero valuation for pre-2019 RECs.

1. The Indifference Framework Does Not Require PG&E to Value Pre-2019 RECs it Uses for Bundled Service Customers’ Compliance at the RPS MPB

Citing to Public Utilities Code section 366.2(g), CalCCA argues that “[w]hen bundled customers retain the value of any benefits associated with PG&E’s PCIA portfolio, the law requires PG&E to credit unbundled customers with their proportionate share of those

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<sup>68/</sup> D.19-10-001, p. 28, FN. 22 noting that the co-chairs (which included CalCCA) “disagree on the valuation of unsold RPS, but they agree that the general principles apply to RECs generated commencing January 1, 2019 and going forward.” In other words, the principles set forth in D.19-10-001 regarding banked REC valuation do not apply to RECs generated prior to January 1, 2019.

<sup>69/</sup> R.17-06-026, Pacific Gas and Electric Company (U-39E) and California Community Choice Association Working Group One Report on Brown Power, RPS and RA True-Up (Issues 1 through 7) (May 31, 2018), Exhibit A, p. 14 (presenting the Co-Lead proposal and stating “These principles apply to RPS generated commencing January 1, 2019 and going forward. Existing RECs that were generated in 2018 or before have already been bought and paid for by bundled customer at previous years’ RPS Adders”), available at: <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M309/K592/309592367.PDF> (accessed Jan. 26, 2026).

benefits.”<sup>70/</sup> As explained above, section 366.2(g) states that “estimated net avoidable electricity costs paid by customers of a community choice aggregator shall be reduced by the value of any benefits that remain with bundled service customers, unless the customers of the community choice aggregator are allocated a fair and equitable share of those benefits.” However, PG&E demonstrated that pre-2019 RECs that CalCCA is demanding be valued have already been valued under the former PCIA methodology (with no true-up) that remained in place until 2018.<sup>71/</sup>

Section 366.2(g) was satisfied as part of the ratemaking framework in effect prior to 2019. Section 366.2(g) also does not establish any requirement that the valuation of attributes occur more than one time. Similarly, there is no provision in this statute, or in the statutory language governing cost allocation, that bundled service customers’ generation rates paid in prior years are subject to *refund* once a CCA program is implemented. Even if there is a tension between section 366.2(g) and the Commission’s obligation to prevent cost shifting, the Commission’s statutory obligation to prevent cost increases to bundled service customers should prevail.<sup>72/</sup> Departing load compensation for pre-2019 RECs can be construed as nothing other than a bundled service customer cost increase.

CalCCA’s blanket assertions that PG&E’s proposal adopted by the Decision “plainly violates the indifference framework and the Commission decisions implementing that framework” are wrong. On the contrary, for the minority customer group to compensate departing load customers for the use of pre-2019 RECs would conflict with the Commission’s statutory obligation to protect bundled service customers from increased costs due to load departure. The Commission’s Decision was correct to not require current bundled service

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<sup>70/</sup> AFR, p. 27.

<sup>71/</sup> Exh. PGE-04, p. 4-5, line 21 to p. 4-7, line 14.

<sup>72/</sup> As PG&E explained in its Opening Brief, following the addition of Section 366.2(g) to the Pub. Util. Code in 2011, in 2015, § 365.2 and § 366.3 were added to the statutory scheme. The Commission should not interpret an earlier in-time statute in a manner that subordinates a later-in-time statute. See e.g., *People v. Moody*, (2002) 96 Cal.App.4th 987, 993.

customers to pay *a second time, years later* for the same product that the IOU bundled service customers paid for previously is wrong and unjust. It is clearly contrary to the Legislature’s “intent ... to prevent *any* shifting of recoverable costs”<sup>73/</sup> and implementation of that intent by adopting provisions barring “any cost increase,”<sup>74/</sup> and “any cost increases,”<sup>75/</sup> as a result of load departure.

Throughout the AFR, CalCCA construes the Decision and PG&E’s proposal concerning pre-2019 RECs as departure from PG&E’s prior practices.<sup>76/</sup> But PG&E’s application of interim Orders and/or strategies concerning banked REC valuation are not relevant. Certain of PG&E’s former ERRA Forecast proceedings applied interim solutions pending resolution of the matter in the former PCIA OIR.<sup>77/</sup> SCE’s ERRA Forecast Decisions of similar vintages considered the same issue, and reached the opposite conclusion.<sup>78/</sup> Moreover, in SCE’s 2025 Forecast proceeding, the Commission recognized D.24-08-004 and approved as reasonable SCE’s ability to use pre-2019 RECs without a credit to PABA.<sup>79/</sup> In rendering its Decision, there were no longer any active Commission directives requiring PG&E to provide any credit to departing load customers for the forecasted use of pre-2019 RECs.

The Commission’s Decision does not legally err by denying CalCCA the ability to cherry pick aspects of the pre-2019 ratesetting methodology that is now settled, particularly where other aspects of the pre-2019 ratesetting methodology that resulted in cost shifts requiring the reform of the PCIA have been left untouched.

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<sup>73/</sup> Pub. Util. Code, § 366.2(d)(1) (italics added).

<sup>74/</sup> Pub. Util. Code, § 366.3.

<sup>75/</sup> Pub. Util. Code, § 365.2.

<sup>76/</sup> CalCCA Opening Brief, pp. 34-38; DACC Opening Brief, p. 2.

<sup>77/</sup> D.23-12-022, p. 17.

<sup>78/</sup> D.23-11-094 and D.24-12-039 each adopted zero-dollar value for PCIA ratemaking for pre-2019 RECs.

<sup>79/</sup> D.24-12-039, pp. 67–68 (approving SCE’s treatment of banked RECs).

## 2. The Decision Correctly Assigns Pre-2019 RECs Zero Value

CalCCA argues that the Decision’s application of a zero-dollar credit to departing load customers results in a cost shift to departing load customers. Again, costs are not shifted to departing load customers when PG&E uses pre-2019 RECs. All costs associated with pre-2019 RECs were recovered by PG&E in rates approximately a decade ago under a former PCIA methodology. In discharging its indifference obligations, the Commission must ensure that departing load customers do not experience any cost increases as a result of an allocation of costs that were not incurred on behalf of departing load.<sup>80/</sup> Through the Decision, the Commission’s obligation to departing load customers is not impacted because the Decision does not allocate any costs of pre-2019 RECs to any customer group.

What CalCCA as alleges is a “cost shift” to their constituency in the AFR is not reflective of amounts in PG&E’s ERRA revenue requirement request. Rather, it is CalCCA that would create new costs for bundled service customers in demanding that bundled service customers pay compensation for PG&E’s forecasted RPS shortfalls.<sup>81/</sup> In its demand, CalCCA argues it is in error to “delay” departing load customers value as the Commission considers the matter in the PCIA OIR.<sup>82/</sup> But any question as to whether the Decision erred by failing to require current bundled service customers to pay a *second time* for pre-2019 RECs must be “no” because to do so risks impermissible cost increases to current bundled service customers as a result of load departure.

## 3. The Commission’s Findings Are Adequate

CalCCA argues that the Decision lacks findings to support the decision, other than finding that adopting PG&E’s methodology is reasonable.<sup>83/</sup> This is not legal error. No

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<sup>80/</sup> Pub. Util. Code, §§ 365.2, 366.3.

<sup>81/</sup> AFR, p. 31.

<sup>82/</sup> AFR, p. 35.

<sup>83/</sup> AFR, pp. 35-36.

additional findings or conclusions are needed to explain the Commission’s decision.<sup>84/</sup> There is likewise no requirement that the Commission address every argument made by parties in its conclusions.<sup>85/</sup> The Decision adequately explains the Commission’s actions in Section 5.2, wherein the Commission explains that parties offered various perspectives and legal positions on the issue of pre-2019 RECs, and whether D.19-10-001 required any particular valuation of pre-2019 RECs. In Section 5.3 of the Decision, the Commission agreed with PG&E that the methodology established in D.19-10-001 applied to post-2019 banked RECs. The Commission also determined that D.19-10-001 did not conclusively determine how to value pre-2019 RECs, and that there are conflicting understandings appropriate for a statewide rulemaking. This dicta explains precisely why PG&E’s interim application is reasonable – there is no controlling precedent squarely addressing the issue and requiring valuation. An interim application of zero dollars pending further consideration is therefore clearly explained in the Decision. Further, as PG&E explains above, it is required by law for the Commission to discharge its statutory duties to bundled service customers.

4. A Reasonable Person Can Readily Conclude That Bundled Service Customers Should Not Incur a New Charge for Attributes Already Fully Paid for In Prior Years’ Rates.

CalCCA challenges the Commission’s outcome on pre-2019 RECs on grounds “that, based on the evidence before the Commission, a reasonable person could not reach the same conclusion.”<sup>86/</sup> In addition to the clear conflict with indifference requirements, as detailed above, PG&E presented evidence in the proceeding that the compensation CalCCA asserts its customers are entitled to is in conflict with Commission practices, tariffs, and other precedents. As

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<sup>84/</sup> See *Clean Energy Fuels Corp.*, *supra*, 227 Cal.App.4<sup>th</sup> at p. 659 (citing *Toward Utility Rate Normalization*, *supra* 22 Cal.3d at p. 540 “findings and conclusions are sufficient if they provide a statement which will allow us a meaningful opportunity to ascertain the principles and facts relied upon by the [Commission] in reaching its decision.” (internal quotations omitted))

<sup>85/</sup> *Clean Energy Fuels Corp.*, *supra*, 227 Cal.App.4<sup>th</sup> at p. 659; *Toward Utility Rate Normalization*, *supra*, 22 Cal.3d 529, 540.

<sup>86/</sup> AFR, p. 36.

PG&E’s witness explained, CalCCA’s proposal ran counter to the regulatory compact: if valuation were to occur, rates previously approved by the Commission as just and reasonable would, in effect, be overturned, with credits back to customers many years after the fact, and long after they departed bundled service.<sup>87/</sup> PG&E’s generation and PCIA rates, authorized by the Commission in multiple ERRA Decisions preceding 2019, were *not* subject to true-up or refund. And the record demonstrated that valuation of pre-2019 RECs would function as a partial refund for a component of generation rates that PG&E charged over a decade ago at the expense of current bundled service customers.<sup>88/</sup> As PG&E’s witness explained “the Commission does not typically engage in this type of ratemaking and existing tariffs do not support such actions.”<sup>89/</sup> Under PG&E’s tariffs, charges lawfully imposed by PG&E pursuant to and consistent with PG&E’s tariffs are generally not subject to refund, except for limited circumstances not applicable here.<sup>90/</sup>

The Commission has also considered the question of whether pre-2019 RECs should have value in SCE’s ERRA Forecast decisions. In those cases, the Commission has recognized that using a zero-dollar valuation is appropriate for pre-2019 banked RECs.<sup>91/</sup> That previous PG&E ERRA Forecast decisions adopted different ratemaking treatment should be irrelevant.<sup>92/</sup> As PG&E’s witness explained, while the question of valuation of pre-2019 RECs was unresolved, PG&E sought to comply with interim Commission directives arising in its own

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<sup>87/</sup> Exh. PGE-04, p. 4-8, lines 3-10.

<sup>88/</sup> Exh. PGE-04, p. 4-8, lines 10-14.

<sup>89/</sup> Exh. PGE-04, p. 4-8, lines 10-11.

<sup>90/</sup> Exh. PGE-04, p. 4-8, lines 14-16 (citing PG&E’s Electric Rules 17, 17.1, and 17.2).

<sup>91/</sup> See D.23-11-094, p. 60 (“[s]hould SCE determine that the use of RECs banked in or before 2018 is necessary for its bundled service RPS compliance, it should value those RECs at zero, as it proposed”) (citation omitted); D.24-12-039, p. 68.

<sup>92/</sup> D.23-12-022, p. 17 and p. 23, OP 5.

ERRA Forecast proceedings.<sup>93/</sup> PG&E’s witness clarified that PG&E’s application of interim approaches in compliance with interim orders was not intended to set precedent.<sup>94/</sup>

Requiring current bundled service customers to compensate now departing load customers under the PCIA is also incompatible with the post-2019 PCIA framework, which relies upon observable market value of resources.<sup>95/</sup> The evidence presented before the Commission showed that there are distinct differences between PCIA-eligible RPS products delivering in the current year which are valued at the MPB and the pre-2019 RECs. Unlike a RPS resource delivering in the current year, the pre-2019 RECs are not tradeable or transferable to another LSE.<sup>96/</sup> Further, unlike a RPS resource delivering in the current year, pre-2019 RECs cannot be used to meet GHG-free obligations, nor will the pre-2019 RECs appear as a delivered resource on PG&E’s Power Content Label.<sup>97/</sup> In sum, there are substantial differences between a pre-2019 REC and those RECs generated/delivered in 2026 that are valued as “retained” under the current PCIA calculation methodology. Any reasonable person would be able to conclude that valuation of pre-2019 RECs at \$0 is appropriate for 2026 ratesetting while the Commission resolves its legal obligations and policy proposals on the matter in a statewide rulemaking.

#### 5. The Commission Did Not Act Arbitrarily and Capriciously in Assigning Zero Valuation

Again, CalCCA argues that the Commission acted “arbitrarily and capriciously” in determining zero valuation as appropriate, arguing that zero valuation is a departure from the Commission’s prior, consistent practice. However, as explained above, PG&E’s prior ERRA Forecast applications presented interim solutions not intended to be precedential in this

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<sup>93/</sup> See Exh. PGE-04, p. 4-12 line 24 to p. 4-14, line 8.

<sup>94/</sup> Exh. PGE-04, 4-13, lines 4-11. See also Tr. Vol. 1, 103:25 to 104:21, PG&E/Barry.

<sup>95/</sup> See, e.g., D.18-10-019, p. 152 (rejecting proposals for valuation of GHG-free attributes based on insufficient data in the record to support a finding that there is an observable market premium); D.23-06-006 (establishing a premium for GHG-free resources contingent upon a minimum threshold of transactions).

<sup>96/</sup> Exh. PGE-04, p. 4-21, line 29 to p. 4-22, line 14.

<sup>97/</sup> Exh. PGE-04, p. 4-22, lines 15-23 and p. 4-23, lines 3-7.

proceeding. Moreover, SCE's prior ERRA Forecast decisions, when confronted with the issue of pre-2019 REC valuation, determined that no valuation was necessary. With conflicting decisions in the IOUs' ERRA Forecast proceedings, and no binding precedent on whether the Commission can discharge its statutory duties and require bundled service customers to incur increased costs in 2026 to pay departing load customers for attributes valued in rates, many years ago, any reasonable person can conclude that the Commission has not established a consistent prior practice on this issue required to be applied for the purpose of Decision. Thus, an interim valuation of zero dollars is appropriate as the Commission addresses the question of potential pre-2019 REC valuation, with finality, in R.25-02-005.

#### **V. CONSOLIDATED ORAL ARGUMENT SHOULD BE DENIED**

The Commission should deny CalCCA's request for a consolidated oral argument in the related ERRA Forecast AFRs. The Commission has discretion under Rule 16.3 to grant or deny Oral Arguments.<sup>98/</sup> CalCCA bases its request on overbroad grounds that the issues before the Commission are "complex." Such conclusory statements fall short of the demonstration that is required to justify oral argument.<sup>99/</sup> Further, as described herein, CalCCA's AFR, in part, masquerades as an improper attack on D.25-06-049 and D.25-10-061. There is no question whether the Commission should apply its own final decisions. While CalCCA construes the issues in its AFR as "complicated," the legal question before the Commission of whether it should apply its own decisions is not so complex.<sup>100/</sup>

Next, valuation of pre-2019 RECs that CalCCA demands is not clearly supported by the relevant indifference statutes or applicable Commission decisions. CalCCA's AFR re-iterates its positions in its proceedings, positions that were already thoroughly addressed in its briefing and the Proposed Decision's opening comments and reply comments. The record before the

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<sup>98/</sup> Rule 16.3(a) (stating "The Commission has complete discretion to determine the appropriateness of oral argument in any particular matter.")

<sup>99/</sup> D.10-03-004, Attachment, p. 22 (denying application that "merely state[d] that oral argument is requested because the issues 'have major significance.'")

<sup>100/</sup> See D.25-05-028, p. 20 (in denying Oral Argument, distinguishing the contentions of the applicant from the reality before the Commission).

