FILED
04/21/26
04:59 PM
R2506019

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE

STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue Oversight of Electric Integrated Resource Planning and Procurement Processes.	Rulemaking 25-06-019

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) RESPONSE TO APPLICATION FOR REHEARING OF DECISION 26-02-057 BY THE ALLIANCE FOR RETAIL ENERGY MARKETS, CALIFORNIA COALITION OF LARGE ENERY USERS, THE REGENTS OF THE UNIVERSITY OF CALIFORNIA AND SHELL ENERGY NORTH AMERICA (US), L.P.

JANET S. COMBS
CATHY A. KARLSTAD
PAUL I. SUNG

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770
Telephone: (626) 302-1096
E-mail: Cathy.Karlstad@sce.com

Dated: **April 21, 2026**

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) RESPONSE TO APPLICATION FOR REHEARING OF DECISION 26-02-057 BY THE ALLIANCE FOR RETAIL ENERGY MARKETS, CALIFORNIA COALITION OF LARGE ENERY USERS, THE REGENTS OF THE UNIVERSITY OF CALIFORNIA AND SHELL ENERGY NORTH AMERICA (US), L.P.

Table of Contents

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) RESPONSE TO APPLICATION FOR REHEARING OF DECISION 26-02-057 BY THE ALLIANCE FOR RETAIL ENERGY MARKETS, CALIFORNIA COALITION OF LARGE ENERY USERS, THE REGENTS OF THE UNIVERSITY OF CALIFORNIA AND SHELL ENERGY NORTH AMERICA (US), L.P.

Table of Authorities

Page

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE

STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue Oversight of Electric Integrated Resource Planning and Procurement Processes.	Rulemaking 25-06-019

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) RESPONSE TO APPLICATION FOR REHEARING OF DECISION 26-02-057 BY THE ALLIANCE FOR RETAIL ENERGY MARKETS, CALIFORNIA COALITION OF LARGE ENERY USERS, THE REGENTS OF THE UNIVERSITY OF CALIFORNIA AND SHELL ENERGY NORTH AMERICA (US), L.P.

Pursuant to Rule 16.1(d) of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission" or "CPUC"), Southern California Edison Company ("SCE") respectfully submits this response to the Alliance for Retail Energy Markets ("AReM"), California Coalition of Large Energy Users ("CLEU"), the Regents of the University of California ("UC"), and Shell Energy North America (US), L.P.'s ("Shell Energy") (collectively referred to as the "Rehearing Parties") Application for Rehearing ("Application") of Decision ("D.") 26-02-057 (the "Decision").

I.

INTRODUCTION

The Application fails to demonstrate legal error and should be denied. The Rehearing Parties claim that, given the cap on Direct Access ("DA"), the Commission committed legal error in the Decision by allocating electric service providers ("ESPs") equal responsibility with all other load-serving entities ("LSEs") for procuring the 6,000 megawatts of net qualifying capacity the Commission determined is needed to maintain electric system reliability. The Rehearing Parties largely reassert arguments that were thoroughly considered and rejected by the

Commission during the proceeding. Indeed, the Rehearing Parties' primary goal appears to be the expansion of DA, an issue that is outside the scope of the Integrated Resource Planning ("IRP") proceeding and within the authority of the Legislature. The Rehearing Parties' request that the Commission reconsider D.21-06-033 and recommend expansion of DA is procedurally improper and should be dismissed.

Furthermore, the Rehearing Parties' disagreement with the Commission's policy determinations does not constitute legal error. The Commission acted within its statutory authority, applied a reasonable and equitable methodology for allocating reliability procurement requirements, and supported its Decision with substantial evidence in the record. The Commission's allocation of reliability procurement obligations based on each LSE's share of managed peak load is consistent with Public Utilities Code Section 397 and longstanding Commission precedent and does not result in unlawful cost shifting. The Commission reasonably concluded that all LSEs, including ESPs, contribute to and benefit from system reliability and must therefore share in the responsibility for procuring the resources necessary to maintain that reliability. The Rehearing Parties' assertion that the DA cap should prevent ESPs and their customers from being required to contribute to necessary system reliability procurement mischaracterizes the nature of the procurement need and the statutory framework governing the Commission's authority.

For the reasons set forth herein, the Application fails to meet the burden of demonstrating legal error. The Commission should deny the Application in its entirety.

II.

DISCUSSION

A. The Rehearing Parties Did Not Meet Their Burden of Demonstrating Legal Error

The Application should be dismissed because the Rehearing Parties fail to demonstrate that the Commission's Decision committed legal error. An application for rehearing must do more than express policy disagreement or reargue prior positions that were already considered and rejected by the Commission.[1] To warrant rehearing, the applicant bears the burden of clearly identifying legal error and demonstrating how that error requires modification or reversal of the decision. The Rehearing Parties fail to meet that burden here.

The Decision's allocation of the procurement requirements is consistent with Public Utilities Code Section 397. The Commission's allocation of reliability procurement requirements based on each individual LSE's share of the managed peak on the electric system is appropriately "based on the contribution of the load-serving entity's load and resource portfolio to the electrical system conditions that created the need for the procurement" as required under Section 397.[2] The Rehearing Parties fail to identify how the statutory language in Section 397 specifically prohibits the Commission's allocation methodology, and merely asserting that the DA cap restricts ESPs' ability to serve future load growth does not demonstrate a violation of Section 397. All customers, including ESP customers, benefit from system reliability, and ESP customers and their existing load (even if capped)[3] contribute to peak demand and the need for system reliability resources. It is therefore reasonable and consistent with Section 397 to allocate every LSE their fair share of the procurement needed to maintain a reliable grid.

The Rehearing Parties likewise fail to demonstrate that the Decision results in unlawful cost shifting in violation of Public Utilities Code Sections 454.52(c), 366.2(d)(1), 365.2, or 366.3. Allocating ESPs a share of reliability procurement based on each individual LSE's share of the managed peak does not result in unlawful cost shifting because ESPs and their customers benefit from, and contribute to, the need for system reliability, even if the total load that can switch to service by ESPs is limited by the DA cap. The Decision is also consistent with past Commission procurement allocations, including D.19-11-016, D.21-06-035, and D.23-02-040,

1 *See* CPUC Rule of Practice and Procedure 16.1(c); Cal. Pub. Util. Code § 1732.

2 Cal. Pub. Util. Code § 397(a)(1).

3 The DA cap limits the total energy of customers that can switch to service by ESPs expressed in gigawatt-hours (GWh) for each investor-owned utility ("IOU") service area. The cap does not limit the ESPs' contribution to peak demand conditions or their customers' reliance on system reliability during critical peak hours. Nor does it limit existing DA customer accounts' load growth after they switch to DA service. Because the procurement ordered in the Decision is driven by peak reliability needs rather than aggregate energy consumption, the Commission's allocation is reasonable.

all of which were ordered when the DA cap was in effect and appropriately recognized that all LSEs and their customers share responsibility for system reliability. Exempting ESPs and their customers from any responsibility for new system reliability procurement would inappropriately shift costs to other LSE customers and allow ESP customers to free ride on system reliability investments without bearing any of the costs.

The Decision's allocation of reliability procurement requirements to ESPs is also supported by substantial evidence in the record.[4] The Commission relied on record evidence addressing system peak conditions, reliability risk, and the relationship between load contributions and procurement obligations when allocating reliability requirements among the LSEs. Furthermore, the Rehearing Parties allege that the Decision's discussion on allocation was too brief and failed to address Section 397 or cost shifting. However, the Decision already explicitly considered and rejected the same DA cap-based arguments being raised again in this Application,[5] and that the Decision did not include a discussion to the degree the Rehearing Parties deem necessary does not warrant rehearing. In fact, should the Commission choose, it could rectify this alleged deficiency by revising the Decision to add language addressing these limited concerns.

Ultimately, the Application makes clear that that the Rehearing Parties disagree with the Commission's policy judgment regarding how reliability procurement obligations should be allocated among LSEs, but the Rehearing Parties fail to demonstrate how the Commission's Decision constitutes legal error, abuse of discretion, or a violation of statutory mandates. Rather,

---

[4] The Rehearing Parties assume, without any support, that the standard of review governing their Application is Public Utilities Code Section 1757, not Section 1757.1, and that the Commission's Decision is therefore also subject to "substantial evidence" review under Section 1757(a)(4), not "abuse of discretion" review under Section 1757.1. *See Cal. Comm. Choice Assn. v. Pub. Util. Comm*. (2024) 103 Cal. App. 5th 845, 853-856 (citing relevant legislative history and concluding that Section 1757.1 governed because the Commission's actions to prevent cost shifting were quasi-legislative, not quasi-adjudicative). However, because the Commission's Decision here was supported by substantial evidence in light of the whole record, the Application should be dismissed regardless of which standard of review applies.

[5] *See* Decision at 43, 123.

the record demonstrates that the Decision is consistent with Public Utilities Code Section 397, does not result in unlawful cost shifting, and is supported by findings and evidence. The Application fails to satisfy the burden of demonstrating legal error, and rehearing should be denied.

B. <u>Reconsidering D.21-06-033 and Recommending the Expansion of DA is Outside the Scope of the IRP Proceeding</u>

As demonstrated by the main relief sought in the Application and several of the Rehearing Parties' concurrently filed Petition for Modification of D.21-06-033, the Rehearing Parties' primary goal is the reopening of DA. The Rehearing Parties claim the "simplest remedy" for the alleged legal errors in the Decision "is that the Commission should act to remove the cap on DA and permit all non-residential customers to freely select the supplier of their choice."[6] They ask the Commission to "expeditiously reconsider Decision 21-06-033, that rejected reopening of Direct Access, and issue a new positive recommendation to the Legislature."[7] As an alternative, only if the Commission is unwilling to reconsider D.21-06-033 and the Legislature does not expand DA, the Rehearing Parties argue the Commission should then reallocate the Decision's procurement requirements.[8]

The Rehearing Parties' request that the Commission reconsider D.21-06-033 and issue a new recommendation to the Legislature to expand DA is procedurally improper and outside the scope of the IRP proceeding. The IRP proceeding, Rulemaking ("R.") 25-06-019, is focused on ensuring that California LSEs plan for and procure the resources needed to meet the state's greenhouse gas ("GHG") reduction and clean energy goals and maintain reliability in an affordable manner for customers. The potential expansion of DA is not within the scope of the IRP proceeding.[9] In contrast, D.21-06-033 was issued in R.19-03-009, a proceeding that was

---

[6] Application at 19.
[7] *Id.* at 4.
[8] *See id.* at 4, 19.
[9] *See* Assigned Commissioner's Scoping Memo and Ruling, R.25-06-019, October 28, 2025.

specifically established to evaluate the advisability of expanding DA and make recommendations to the Legislature.[10] In D.21-06-033, the Commission concluded, based on a comprehensive record, that expansion of DA would "create unacceptable risks to electric system reliability" and "is not consistent with the state's GHG emission reduction goals"; therefore, the Commission recommended that the Legislature not expand DA transactions.[11] The Rehearing Parties' request that the Commission revisit that determination and recommend legislative action to expand DA is not part of the issues resolved in the Decision and is not properly raised in an application for rehearing of procurement requirements issued in the IRP proceeding. As such, that request should be rejected as beyond the appropriate scope of an application for rehearing of the Decision in the IRP proceeding.

Several of the Rehearing Parties have raised the same issue in a Petition for Modification of D.21-06-033 filed in R.19-03-009. SCE intends to separately respond to that Petition for Modification.

C. The Decision's Allocation of Reliability Procurement Requirements to ESPs Based on Their Share of Managed Peak is Consistent with Statute and Does Not Result in Cost Shifting

1. All LSEs and Their Customers Benefit from Electric System Reliability and Must Share the Responsibility for Procuring the Resources Needed to Maintain a Reliable System

Members of the Rehearing Parties have argued during this proceeding that "the Commission must exempt ESPs from the procurement requirement unless and until ESPs are directly authorized to serve new large-load customers or to exceed the DA cap."[12] The Decision

---

[10] *See* Amended Scoping Memo and Ruling of Assigned Commissioner, R.19-03-009, December 19, 2019.

[11] D.21-06-033 at Conclusion of Law 1-3, Ordering Paragraph 1.

[12] *See*, *e.g.*, Reply Comments of Shell Energy on the Administrative Law Judge's Ruling Seeking Comments on Electricity Portfolios for 2026-20276 Transmission Planning Process and Need for Additional Reliability Procurement, R.25-06-019, October 31, 2025, at 11.

correctly rejected this argument because all LSEs and their customers, including ESPs, benefit from a reliable electrical system and must share responsibility for procuring the resources necessary to maintain that reliability.[13] ESP customers are protected during heat waves, extreme weather events, and other contingency conditions by the same system-wide resource portfolio that protects all other customers. When sufficient capacity is available to meet peak demand and operational contingencies, every customer connected to the grid benefits. Conversely, when capacity is insufficient, outages do not distinguish among customer classes or service providers. System reliability is a shared benefit that requires shared procurement and cost responsibility.

Even assuming ESPs could not serve any new load under the DA cap (which is incorrect),[14] this does not reduce or eliminate the real, ongoing contribution of ***existing*** DA load to system demand and reliability needs. The existence of a cap on DA may limit future load migration, but even under a capped regime, ESP customers and their existing load continue to grow and contribute to peak demand and drive the need for system reliability resources. It was reasonable for the Commission to allocate procurement responsibility and costs to ESPs and their customers based on their share of the managed peak on the electric system because ESP customers participate, and will continue to participate, in the very conditions that necessitate procurement of reliability resources. Exempting ESPs and their customers from any responsibility for new system reliability procurement would result in impermissible cost shifting and allow ESP customers to free ride on the reliability investments funded by other LSE customers. The reliability procurement ordered in the Decision is driven by and benefits all customers, and ESP customers must share the responsibility needed to maintain a reliable grid.

---

[13] *See* Decision at 43 ("[A]ll customers contribute to the overall need to add resources to meet reliability standards and … all customers and providers benefit from a reliable electric system. Therefore, all LSEs should be required to procure for the reliability needs.").

[14] It is undisputed that DA cap space is available in SCE's service area. *See* Application at 3, fn 6. Furthermore, as discussed above, the cap does not limit existing DA customer accounts' load growth after they switch to DA service. The Legislature could also further increase the DA cap as it has previously done in Senate Bill ("SB") 695 and SB 237 as the Rehearing Parties acknowledge in their Application. *See* Application at 6-7.

2. The Decision Does Not Violate Public Utilities Code Section 397

The Rehearing Parties' assertion that the Decision violates Public Utilities Code Section 397 is without merit.

a) Legal Framework of Section 397

Public Utilities Code Section 397(a)(1), enacted through Assembly Bill 1584 (Stats. 2019, ch. 397), provides:

> The commission shall, in an existing or a new proceeding, develop methodologies for allocating electrical system integration resource procurement needs to each load-serving entity, as defined in Section 380, ***based on the contribution of the load-serving entity's load and resource portfolio to the electrical system conditions that created the need for the procurement*** and for determining any costs resulting from a failure of a load-serving entity to satisfy its allocated procurement needs.[15]

The Rehearing Parties argue that the Commission violated Section 397 by allocating ESPs their proportional share of the new reliability procurement needed to serve anticipated load growth despite the cap on DA that allegedly prevents ESPs from serving this new load.[16] In particular, they focus on the fact that the procurement needs identified in the Decision were based in part on forecast load growth from large loads such as data centers and argue that ESPs should not be responsible for procurement for this load because "customers are extremely limited in their ability to enroll in the DA program."[17] In effect, the Rehearing Parties suggest that Section 397's requirement to consider LSEs' contributions to the electrical system conditions that created the need for procurement equates to a narrow "who will serve the new megawatt" test. That is not the case.

Section 397 requires the Commission to develop methodologies for allocating certain procurement needs based on the contribution of both LSEs' load and LSEs' resource portfolios

---

[15] Emphasis added. "Those needs and costs shall be limited to those that are subject to the commission's jurisdiction pursuant to Section 380, 454.51, or 454.52." Cal. Pub. Util. Code § 397(a)(1).

[16] *See* Application at 2.

[17] *Id.* at 3. *See also id.* at 8.

to the electrical system conditions that created the need for the procurement. The statute does not mandate a rigid formula for the Commission to assess LSE contributions to electric system resource needs. Nor does it prohibit the Commission from implementing interim allocation methodologies while it continues to consider whether a more refined approach is needed.

The California Supreme Court recently determined that the standard of review set forth in *Yamaha Corp. of America v. State Board of Equalization* (1998) 19 Cal. 4th 1 applies to the Commission's interpretation of the Public Utilities Code.[18] In *Yamaha*, the court distinguished between: (1) "quasi-legislative regulations adopted by an agency to which the Legislature has confided the power to 'make law'" and (2) "[a]n agency interpretation of the meaning and legal effect of a statute."[19] "An agency interpretation of the meaning and legal effect of a statute is entitled to consideration and respect by the courts; however, unlike quasi-legislative regulations adopted by an agency to which the Legislature has confided the power to 'make law,' and which, if authorized by the enabling legislation, bind this and other courts as firmly as statutes themselves, the binding power of an agency's interpretation of a statute or regulation is contextual: Its power to persuade is both circumstantial and dependent on the presence or absence of factors that support the merit of the interpretation."[20] Quasi-legislative regulations are subject to a substantially narrower scope of review: "If satisfied that the rule in question lay within the lawmaking authority delegated by the Legislature, and that it is reasonably necessary to implement the purpose of the statute, judicial review is at an end."[21]

Under Section 397, the Legislature delegated to the Commission the authority to develop methodologies for allocating electrical system integration resource procurement needs to each LSE based on the contribution of the LSE's load and resource portfolio to the electrical system conditions that created the need for the procurement. The Commission's methodology is a quasi-legislative regulation that is entitled to deference. The Commission's methodology for

---

[18] *See Center for Biological Diversity, Inc. v. Public Util. Comm.* (2025) 18 Cal. 5th 293, 305-306.
[19] *Yamaha Corp. of America v. State Board of Equalization* (1998) 19 Cal. 4th 1, 7.
[20] *Id.*
[21] *Id.* at 10-11.

allocating the procurement in the Decision is within the Commission's authority delegated under Section 397 and reasonably necessary to implement the purpose of the statute.

b) **The Commission's Reliability Procurement Allocation Methodology is Consistent with Section 397**

The Commission allocated the Decision's reliability procurement requirements based on each LSE's share of the managed peak on the electric system as of the resource adequacy program year 2026, taking into account the energy load forecasts for the IOUs and community choice aggregators ("CCAs"), in the same basic manner as the procurement requirements were allocated under prior mid-term reliability procurement orders.[22] This approach is a reasonable proxy for each LSE's contribution to the electric system conditions creating the need for the procurement. In particular, allocating reliability procurement to ESPs based on their load share during the critical peak reliability hours satisfies Section 397 because ESP load and resource portfolios contribute to overall system reliability needs as discussed above in Section II.C.1.

Contrary to the Rehearing Parties' suggestion, the reliability procurement needs identified in the Decision were not based solely on the need to serve anticipated load growth from large new loads like data centers. The increases in forecast peak load in the 2024 Integrated Energy Policy Report ("IEPR") resulted from data centers, continuing vehicle and building electrification, and lower adoption of and lower capacity factors for behind-the-meter solar and storage.[23] The existing resource portfolios of all LSEs, including ESPs, also play a large role in determining whether new resources are needed to maintain system reliability. Additionally, in ordering procurement, the Commission considered other factors like the rapid phase out of federal tax credit benefits over the next few years and other federal actions such as tariffs and limiting or delaying renewables siting on federal land.[24] Further, reliability is a

[22] *See* Decision at 44.
[23] *See id.* at 9-10.
[24] *See id.* at Finding of Fact ("FOF") 2.

collective attribute of the grid: every LSE's load, even if not growing,[25] contributes to the total demand that must be met on the system peak, and every LSE's resource portfolio contributes (or not) to meeting that demand. By virtue of being part of the integrated grid, all LSEs help create the need for new resources to maintain reliability standards.

The Rehearing Parties' argument that ESPs should not share in the responsibility for procuring the new resources needed to meet peak system reliability needs mischaracterizes the nature of the procurement need and the role of ESPs in the electric system. The peak system needs identified in the Decision affect all LSEs, and their customers, including those served by ESPs. As the Commission correctly found, "all customers contribute to the overall need to add resources to meet reliability standards" and "all customers and providers benefit from a reliable electric system"; therefore, "all LSEs should be required to procure for the reliability needs."[26] ESPs' existing load contributes to system peak demand and relies on the same shared grid infrastructure and reliability services as other LSEs. Exempting ESPs from the procurement obligations would be contrary to Section 397's requirement to consider all LSEs' contribution to procurement needs, and also result in inequitable cost shifting to bundled service and CCA customers.

c) **<u>The Commission Followed Prior Decisions Regarding the Allocation of Reliability Procurement Requirements</u>**

The Commission's procurement allocation in the Decision follows prior Commission precedent for allocating IRP reliability procurement needs, including D.19-11-016, D.21-06-035, and D.23-02-040, which similarly required all LSEs (including ESPs) to procure new resources

---

[25] As noted above, while customers' ability to switch to DA service is capped, the Application also acknowledges that the cap has not been reached in SCE's service area. *See* Application at 3, fn. 6. Moreover, existing DA customer accounts' load can continue to grow after customers switch to DA service, and the DA load in San Diego Gas & Electric Company's service area is in excess of the cap in the Commission's most recent DA implementation activity report from February 2026. *See* https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/direct-access-implementation-activity-reports/2026/todate_february_2026_web.xlsx.

[26] Decision at 43.

to meet reliability needs and allocated the procurement among LSEs using similar methodologies.[27] The Rehearing Parties note that D.21-06-035 recognized Section 397 as applicable to IRP-related procurement.[28] They also claim that D.21-06-035 stated that "the Commission would later comply with Section 397 after doing after doing 'more work to design and vet the finer points of a methodology…in a process to be conducted later in this proceeding,'" and that this "work was never completed."[29] This does not correctly summarize the Commission's findings in D.21-06-035. The Commission did not determine it would only "later comply with Section 397."

In D.21-06-035, the Commission stated that "to date we have allocated procurement requirements to all LSEs based on load share, because we have not made any findings that any LSE has created any differential need for system integration resources. ***Should we make such a determination in the future, we would need to develop methodologies to allocate the responsibilities differentially***."[30] The Commission pointed out that a different allocation methodology considering LSEs' individual contract positions "is not a self-executing methodology and has many complexities that are based on distinctions between types of resources that are not readily obvious."[31] The Commission noted that many parties pointed out issues with the method, that the Commission would need to do more work to vet the finer points of a methodology taking into account contract positions of all LSEs, and that the Commission intended to explore this option more fully "before potentially pivoting to this type of allocation."[32]

---

27 *See* D.19-11-016 at 39-40; D.21-06-035 at 53-56; D.23-02-040 at 30-31. While ESPs and CCAs were allowed to opt-out of the D.19-11-016 procurement requirements and have IOUs procure on their behalf, their customers had cost responsibility for their share of the procurement.

28 Application at 5.

29 *Id.* at 5-6.

30 D.21-06-035 at 52 (emphasis added).

31 *Id.* at 53.

32 *Id.*

The Commission did not conclude that a load share-based methodology does not comply with Section 397. To the contrary, the Commission decided to use a similar methodology of assigning procurement allocations to LSEs based on load share as in D.19-11-016 and found that "[a]t present, the system integration needs are not attributable to any particular LSE as distinguished from any other LSE."[33] Consistent with Section 397, the Commission determined that "[b]y allocating procurement responsibility to all LSEs, we are ensuring fair distribution of costs across the customer base, for system integration resources."[34] Notably, the DA cap was in place when the Commission issued the procurement requirements to ESPs in D.19-11-016, D.21-06-035, and D.23-02-040.

Just as in D.21-06-035, the Commission did not conclude that the reliability procurement needs identified in the Decision are attributable to any particular LSEs as distinguished from any other LSEs. As discussed above, the Rehearing Parties have not demonstrated that ESPs create no need for additional reliability procurement because of the DA cap. Existing ESP load and resource portfolios contribute to the overall peak system reliability needs and ESP customers benefit from, and depend on, the reliability of the electric grid.

Moreover, there is no record supporting an alternative methodology for allocating the Decision's procurement requirements. The Rehearing Parties did not propose an alternative allocation methodology that considers all of the factors in Section 397. If the Legislature does not expand DA, the Rehearing Parties argue that the Commission should reallocate the Decision's procurement requirements "accounting for the cap on DA and ESP load constraints."[35] The Commission should deny the Application for all of the reasons stated herein. However, if the Commission determined an alternative methodology was needed, which it is not, such alternative methodology should consider all LSEs' contribution to the procurement need, not just ESPs' contribution. In addition, Section 397 provides for consideration of the

---

[33] *Id.*
[34] *Id.*
[35] Application at 4.

contribution of LSEs' resource portfolios to the procurement need, not just their load. There is no record supporting such an alternative methodology for allocating the Decision's procurement requirements and there is not sufficient time to establish a new methodology in time for 2030 procurement. LSEs are already in the market to meet their procurement requirements pursuant to the Decision and require certainty on their procurement allocations.

3. The Decision Does Not Result in Unlawful Cost Shifting

The Rehearing Parties also fail to demonstrate that the Decision results in unlawful cost shifting in violation of Public Utilities Code Sections 454.52(c), 366.2(d)(1), 365.2, or 366.3. Each of these provisions reflects a common legislative intent that procurement costs must be allocated consistent with cost-causation principles so that no group of customers bears costs incurred on behalf of others. The Decision is fully consistent with that legislative intent and with past Commission decisions, including D.19-11-016, D.21-06-035, and D.23-02-040, all of which were ordered when the DA cap was in effect and appropriately recognized that all LSEs and their customers share responsibility for system reliability.

Section 454.52(c) provides, in relevant part, "the commission shall ensure that the costs are allocated in a fair and equitable manner to all customers consistent with Section 454.51, that there is no cost shifting among customers of load-serving entities." Section 454.52(c) requires the Commission to ensure that IRP procurement requirements are fair, reasonable, and consistent with cost-causation principles. The Decision meets this standard by allocating reliability procurement obligations based on each LSE's share of the managed peak on the electric system. The Decision does not shift costs between LSE customers; rather, it ensures that all LSEs and their customers bear a proportionate share of reliability procurement obligations and costs associated with maintaining system reliability. Nothing in Section 454.52(c) requires the Commission to exempt a class of LSEs from procurement obligations simply because their ability to serve new load may be constrained. The Commission acted within its discretion in adopting an allocation that reflects actual system needs and customer benefits.

Furthermore, Section 366.2(d)(1) provides, in relevant part, "[i]t is further the intent of the Legislature to prevent any shifting of recoverable costs between customers." Section 366.2(d)(1) reflects a general legislative intent to prevent cost shifting that is expressly implemented in the IRP proceeding through Section 454.52(c) as set forth above. Similarly, Sections 365.2 and 366.3 both provide in relevant part that "[t]he commission shall also ensure that 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." Sections 365.2 and 366.3 protect customer indifference and provide that neither bundled service customers nor departing load should bear costs not incurred on their behalf.

The Commission's Decision does not violate Sections 366.2(d)(1), 365.2, or 366.3 for the same reasons it does not violate Section 454.52(c) as discussed above. Allocating procurement responsibility based on each LSE's contribution to and share of maintaining system reliability is a reasonable and lawful application of Sections 366.2(d)(1), 365.2, and 366.3. The fact that customers' ability to switch to DA service is capped does not negate the contribution of existing ESP load to system peak demand or its reliance on system reliability. Allocating reliability procurement requirements to ESPs based on their contribution to system reliability fairly assigns costs to ESP customers who benefit from enhanced system reliability. In fact, exempting ESPs from the procurement requirements would allow ESP customers to free ride on the reliability investments made by others and result in unlawful cost shifting to bundled service and CCA customers.

Read together, Sections 454.52(c), 366.2(d)(1), 365.2, and 366.3 articulate a consistent legislative intent that customers should bear their fair share of the costs associated with the system conditions to which they contribute and from which they benefit. The Decision applies that principle by allocating reliability procurement obligations to all LSEs based on their share of the managed peak on the electric system. The Rehearing Parties' contrary interpretation would create, rather than prevent, unlawful cost shifting. The Decision allocates procurement obligations consistent with statutory cost-causation requirements and long-standing Commission practice and does not result in unlawful cost shifting.

4. The Decision's Allocation of Reliability Procurement Requirements to ESPs is Supported by Substantial Evidence

The Rehearing Parties' claim that the Decision lacks evidentiary support is also unfounded. The Commission's allocation of procurement obligations to all LSEs, including ESPs, is grounded in the evidentiary record of R.25-06-019 and satisfies the substantial evidence standard under Public Utilities Code Section 1757(a)(4).[36]

Under Section 1757(a)(4), a reviewing court may not disturb a Commission decision unless "[t]he findings in the decision of the commission are not supported by substantial evidence in light of the whole record." "Nothing in this section shall be construed to permit the court to hold a trial de novo, to take evidence other than as specified by the California Rules of Court, or to exercise its independent judgment on the evidence."[37] The Commission's findings of fact "are not open to attack for insufficiency if they are supported by any reasonable construction of the evidence."[38] "When conflicting evidence is presented from which conflicting inferences can be drawn, the [Commission's] findings are final."[39]

Here, the Commission's allocation of the procurement requirements to all LSEs was based on a detailed record including:

- The updated 2024 IEPR load forecast projecting significant load growth in 2028-2032, federal tax credit benefits rapidly being phased out over the next few years, and

---

[36] As stated above, the Rehearing Parties assume, without any support, that the standard of review governing their Application is Public Utilities Code Section 1757, not Section 1757.1, and that the Commission's Decision is therefore also subject to "substantial evidence" review under Section 1757(a)(4), not "abuse of discretion" review under Section 1757.1. Because the Commission's Decision was supported by substantial evidence in light of the whole record, the Application should be dismissed regardless of which standard of review applies.

[37] Cal. Pub. Util. Code § 1757(b).

[38] *Southern California Gas Co. v. Pub. Util. Comm.* (2023) 87 Cal. App. 5th 324, 339 (citation omitted).

[39] *Id.* (citations omitted).

other federal actions that have been taking imposing tariffs and limiting or delaying renewables siting on federal lands.[40]

- Commission staff's analysis of electric reliability needs between 2028 and 2032 showing an estimated need for a cumulative total of 6,267 MW of perfect capacity to be online by June 1, 2032.[41]
- The Commission's experience with prior reliability procurement orders, including D.19-11-016, D.21-06-035, and D.23-02-040, which successfully used load-share-based allocation methodologies to assign procurement obligations to all LSEs, including ESPs.[42]

The Commission also considered and rejected objections to the Commission's allocation based on the DA cap, including Shell Energy's objection to allocating procurement requirements to ESPs until the DA cap is lifted, AReM's argument that ESPs should be exempted from requirements to procure to meet load growth because allegedly ESPs' load cannot currently grow, and AReM's objection to being required to procure to meet data center load.[43]

The Rehearing Parties claim that this discussion was insufficient and fails to address Public Utilities Code Section 397 or cost shifting.[44] However, the Decision explicitly considered the Rehearing Parties' argument that ESPs' procurement requirements should be adjusted (or eliminated) because of the DA cap. To the extent the Commission determines additional findings are needed on Section 397 or other statutory provisions, it should revise the Decision to add such findings as in D.21-06-035, not grant rehearing.

The Commission specifically found that that "all customers contribute to the overall need to add resources to meet reliability standards" and "all customers and providers benefit from a reliable electric system."[45] Therefore, "all LSEs should be required to procure for the reliability

---

[40] *See* Decision at FOF 2, FOF 6.
[41] *See id.* at FOF 1, FOF 3.
[42] *See id.* at 40-45.
[43] *See id.* at 41, 43, 122-124.
[44] *See* Application at 16-19.
[45] Decision at 43. *See also id.* at 123.

needs."[46] The Application refers to this as a "hoary and tired rationale,"[47] but the fact that the Rehearing Parties disagree with the Commission's policy judgment does not warrant rehearing. As discussed above, the need for additional reliability resources to maintain electric system reliability during peak periods is based on the contribution of all LSEs and all LSE customers benefit from these system reliability resources. Accordingly, the Commission's findings in the Decision reflect a reasoned determination that all LSEs contribute to and benefit from system reliability and should therefore share in the responsibility for procuring new resources. The Rehearing Parties have failed to meet their burden under Section 1757(a)(4), and their Application should be rejected.

III.

CONCLUSION

For the reasons set forth in this response, the Commission should deny the Rehearing Parties' Application.

Respectfully submitted,
JANET S. COMBS
CATHY A. KARLSTAD
PAUL I. SUNG

/s/ Cathy A. Karlstad
By: Cathy A. Karlstad

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770
Telephone: (626) 302-1096
E-mail: Cathy.Karlstad@sce.com

Dated: April 21, 2026

---

[46] *Id.* at 43.
[47] Application at 8.