



COM/MBK/nd3 8/18/2026

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08/18/26

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R2502005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to
Update and Reform Energy Resource
Recovery Account and Power Charge
Indifference Adjustment Policies and
Processes.

Rulemaking 25-02-005

**ASSIGNED COMMISSIONER'S SECOND
AMENDED SCOPING MEMO AND RULING**

The scoping memo and ruling issued on April 8, 2025 (Initial Scoping Memo) set forth the issues, need for a hearing, schedule, category and other matters necessary to scope this proceeding pursuant to Public Utilities Code Section 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure (Rules). The February 3, 2026 assigned Commissioner's amended scoping memo and ruling (First Amended Scoping Memo) set the scope and schedule for Track 2. This second amended scoping memo and ruling (Second Amended Scoping Memo) sets the scope for Track 3 and Track 4, and sets the schedule for Track 3. Unless stated otherwise in this Amended Scoping Memo, all rulings in the Initial Scoping Memo and First Amended Scoping Memo remain unchanged.

1. Procedural Background

The Commission initiated Rulemaking (R.) 25-02-005 in February 2025, to address issues related to the Energy Resource Recovery Account (ERRA) and the Power Charge Indifference Adjustment (PCIA) policies and processes. A prehearing conference (PHC) was held on April 7, 2025, and the initial phase of the proceeding considered reforms to the resource adequacy Market Price

Benchmark (RA MPB) element of the PCIA. Track One issues were resolved via Decision (D.) 25-06-049.

A second PHC was held on January 23, 2026, and subsequently the First Amended Scoping Memo set the scope for Track 2, focusing on issues related to the appropriate valuation of Pre-2019 Banked Renewable Energy Certificates (RECs) and related use of the Renewables Portfolio Standard (RPS) MPB. Track 2 is currently underway.

A Track 3 Planning Workshop was held on July 8, 9, and 15, 2026 to discuss and inform the remaining issues to potentially address. Parties had the opportunity to file Workshop Comments on these issues.

Whereas the scope to date has focused sequentially on discrete issues - the first related to the RA MPB and the second related to treatment of a specific set of RPS resources - the instant scoping memo sets the comprehensive scope of issues for the remainder of this proceeding. Parties have weighed in extensively on how and whether to address the multiple potential Track 3 issues.

After considering the OIR comments, workshop comments, and discussion at the prehearing conferences and Track 3 Workshop, I have determined the issues and initial schedule of the proceeding to be set forth in this scoping memo. I have also determined that no environmental and social justice issues have been raised at this time.

2. Initial Guidance for Track 3

As set forth in the scope of issues in Section 3 of this ruling, Track 3 of this proceeding will be split into two parts: Track 3A and Track 3B. Track 3A will begin first, and I expect Track 3B to begin before Track 3A is concluded. To guide stakeholders in proposal development related to the scope of issues, I revisit the objectives from this proceeding's Order Instituting Rulemaking and provide

more detailed objectives for Track 3. The bold statements are the objectives reproduced from the OIR document,¹ with sub-bullets representing my specific objectives for Track 3. Some of these objectives will apply specifically to Tracks 3A or 3B, while others are cross-cutting, as specified below.

Objectives

- 1. Consider and identify reasonable improvements to existing ERRA and PCIA rules, mechanisms, and processes to ensure best practices in utility forecasting and other procurement plan activities;**
 - a. Provide transparency of the underlying costs, to the extent allowed by confidentiality requirements (applies to Tracks 3A and 3B).
- 2. Identify ways to mitigate and respond to rate volatility, whether resulting from market conditions or ratemaking constructs;**
 - a. Reduce the year over year volatility in the PCIA (3A and 3B).
 - b. Minimize excess and/or uneconomic costs in the portfolio (3B).
- 3. Best ensure indifference among bundled and departed customers; and**
 - a. Reform the MPBs to most accurately capture the market value of the portfolio (3A).
 - b. Ensure accurate assignment of cost responsibility, in terms of resource vintage year (3A).
 - c. Consider market mechanisms that efficiently recover and transact the value of new “legacy assets” that can be created through ongoing procurement (3B).

¹ Order Instituting Rulemaking to Update and Reform the Energy Resource Recovery Account and Power Charge Indifference Adjustment Policies and Processes, February 20, 2025, at 16.

Available at:

<https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M557/K860/557860748.PDF>.

4. Provide policy guidance to ensure that individual utility forecast ratemaking proceedings function as efficiently and consistently as possible.

These are the crucial issues relevant to the scope of Track 3 that I will continue to prioritize as I further develop the schedule for Track 3. I anticipate providing further guidance on Track 3B going forward. These objectives do not necessarily imply that different structural frameworks would be the only or best path forward for indifference. This proceeding will consider refinements to the PCIA in Track 3A that can be implemented in the near-term. In Track 3B, I encourage stakeholders to put forward proposals that either substantially stabilize the costs litigated in the PCIA or put forward new structural frameworks for achieving indifference.

3. Issues

Track 3 will be split into two sub-tracks. Track 3A will consider refinements to the existing PCIA framework to better achieve indifference. My intent in Track 3A is to identify solutions which can be considered and implemented efficiently. I expect that Track 3A will contribute to implementation of the PCIA framework, by potentially reducing the volatility of the PCIA and/or improving the accuracy of benchmarks to capture the market value of utilities' portfolios.

Track 3B will examine alternative structural frameworks for indifference and determine whether entirely different frameworks would improve upon the current framework. My goal for Track 3B is to consider proposals for alternative structural frameworks that can ensure California ratepayers remain indifferent to load departure as required by law.

The issues to be determined or otherwise considered in Track 3 are:

Track 3A: Refinements to Existing PCIA Structures

1. Whether and how the Commission should modify the Market Price Benchmark (MPB), including:
 - a. Refinements to Renewables Portfolio Standard (RPS) MPB to include longer-term resources or other changes;
 - b. Refinements to the Energy Price Index Market Price Benchmark (EPI MPB) to reduce undercollections and rate volatility;
 - c. Refinements to the GHG-free MPB, including changing the method of accounting for the value of GHG-free attributes and/or modifications to or elimination of the GHG-free allocations;
2. Whether and how the Commission should provide additional policy guidance regarding re-vintaging of existing resources. This issue will include consideration of the situations in which changes impacting a resource justify changing its vintage. It will also include consideration of whether the Commission can and should adopt principles and/or a framework for evaluating and addressing re-vintaging issues as they arise in other proceedings.

Track 3B: Structural Framework Changes

1. Whether the PCIA - while successful at achieving statutorily-mandated indifference - results in technical, policy, or implementation challenges that warrant consideration of alternative approaches to achieving indifference;
2. Whether the Commission should pursue structural framework changes to utilities' resource portfolio that substantially reduce the magnitude of the indifference process, such as securitization, mandatory allocation of resources, cost allocation mechanisms, rate stabilization funds, or other alternatives to better manage excess or uneconomic resources;

3. Whether structural framework changes that achieve indifference could:
 - a. achieve indifference more efficiently and with fewer of the technical or implementation challenges posed by the existing PCIA structure, or overall reduce complications in the implementation of the indifference process;
 - b. result in sufficient net benefits to all ratepayers;
 - c. recover costs and/or allocate resources in more straightforward and transparent ways;
4. Whether structural framework changes to achieving indifference are reasonable, implementable in an efficient manner, will improve existing processes, and meet statutory requirements;
 - a. And if so, whether any such changes should be adopted, in place of or in addition to current PCIA processes and under what timeframe.

Track 4: Additional Issues

1. Whether the Commission should make additional MPB refinements, such as changes to the RA MPB calculations to account for Slice-of-Day (SOD) changes in the RA program, or other reforms;
2. Additional ERRA process-related refinements, such as ERRA-specific implementation guidance for RA program changes, including SOD; ERRA/PABA trigger reforms; or other reforms;
3. Whether additional guidance or rules applicable to ERRA compliance reviews should be adopted to better inform whether utilities have complied with their Bundled Procurement Plans;
4. Considerations related to negative indifference amount calculations; and
5. Whether other options to mitigate PCIA volatility or achieve other objectives should be considered.

4. Direction to Meet and Confer on Data Access Issues

In their various comments and at the Track 3 Workshop, parties raised issues regarding access to utility data. In particular, CCA parties argue that they need additional data to engage in this proceeding and make recommendations and proposals; utilities expressed concerns about the relevancy and necessity of the requested data.

Discovery disputes are generally dealt with among parties, or if parties cannot resolve them, by the ALJ. At the workshop, the ALJ discussed with parties a potential pathway for resolving data access issues in the interest of moving the proceeding forward without the delays that can accompany multiple iterative discovery disputes. The ALJ's June 19, 2026 ruling authorizing post-workshop comments sought party input on a process whereby parties meet and confer on these issues and subsequently file a report containing proposed compromise approaches to resolve each data access issue. The ruling sought input on a template for this report, including all data access issues related to scoped issues.

Parties which are load-serving entities shall meet and confer on data access issues within 60 days of the issuance of this ruling. Other parties may also participate. Within 75 days of the issuance of this ruling, participating parties shall jointly file and serve a report on the outcome of their discussions that includes the following table. Table formatting may be amended, but the report should provide all the noted information.

The purpose of this directive is to encourage compromise on these data access issues. The meet and confer process should address all data access issues relevant to the scope of Tracks 3 and 4, particularly because the schedule for these tracks may overlap.

Template for data access issues report

Type of data desired	Timeframe of data desired; confidential or reviewing representative required	Why this data is necessary and relevant to scope	Providing party's concerns with providing this data	Joint options for addressing providing party's concern
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5. Schedule

The following schedule for Track 3A is adopted here and may be modified by the ALJ as required to promote the efficient and fair resolution of the rulemaking.

Track 3A Schedule	
EVENT	DATE
Parties file Joint Case Management Statement	75 days after issuance of scoping memo
Staff report and/or proposal	October 2026
Parties file and serve proposals	60 days after staff report/proposal
Workshop	Approximately 30 days after parties' proposals
Opening comments addressing Track 3A issues; deadline to request hearings	14 days after workshop
Deadline to request hearings	15 days after workshop
Reply comments	14 days after comments (record submitted)
Proposed decision	90 days after submission
Commission decision	No sooner than 30 days after proposed decision

The Track 3B schedule will be issued in Q4 2026. I anticipate it including additional guidance to parties and parties subsequently filing proposals on these

issues in the first half of 2027, followed by workshops, comments and replies. I then anticipate parties will have the opportunity to file updated proposals, with comments and replies, followed thereafter by the Track 3B PD.

6. Need for Evidentiary Hearing

Previous phases of this proceeding have required evidentiary hearing. At this time, no party has specifically indicated the need for evidentiary hearing in Tracks 3 and 4, but various parties have indicated the need for hearings may arise. Therefore I determine that evidentiary hearing may be needed, provided a party moves to request an evidentiary hearing in accordance with the requirements outlined in the next paragraph.

Any party who believes that an evidentiary hearing is required shall file and serve a motion requesting such a hearing in accordance with the schedule as indicated in this Scoping Memo and Ruling. Any such motion must identify and describe (i) the material issues of disputed fact, (ii) the evidence the party proposes to introduce at the requested hearing, and (iii) the schedule for conducting the hearing. The motion shall also state a justification for hearing and what the moving party would seek to demonstrate through hearing. It shall also contain anything else necessary for the Commission to make an informed decision on the motion. Any right that a party may otherwise have to an evidentiary hearing will be waived if the party does not submit a timely motion requesting an evidentiary hearing. If requested, the need for evidentiary hearing will be determined by the assigned ALJ and further instructions provided at a later date. The record shall be composed of all filed and served documents and shall include evidence received at a hearing if a motion for hearing is granted.

7. Alternative Dispute Resolution Program and Settlements

The Commission's Alternative Dispute Resolution (ADR) program offers mediation, early neutral evaluation, and facilitation services, and uses ALJs who have been trained as neutrals. At the parties' request, the assigned ALJ can refer this proceeding to the Commission's ADR Coordinator. Additional ADR information is available on the Commission's website.²

Any settlement between parties, whether regarding all or some of the issues, shall comply with Article 12 of the Rules and shall be served in writing. Such settlements shall include a complete explanation of the settlement and a complete explanation of why it is reasonable in light of the whole record, consistent with the law and in the public interest. The proposing parties bear the burden of proof as to whether the settlement should be adopted by the Commission.

8. Category of Proceeding and *Ex Parte* Restrictions

As previously determined in prior scoping memos, I reaffirm that this is a ratesetting proceeding. Accordingly, *ex parte* communications are restricted and must be reported pursuant to Article 8 of the Rules.

9. Response to Public Comments

Parties may, but are not required to, respond to written comments received from the public. Parties may do so by posting such response using the "Add Public Comment" button on the "Public Comment" tab of the online docket card for the proceeding.

² <https://www.cpuc.ca.gov/PUC/adr/>.

10. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <http://cpuc.ca.gov/pao> or contact the Commission's Public Advisor at 866-849-8390 or send an email to public.advisor@cpuc.ca.gov.

11. Filing, Service, and Service List

The official service list has been created and is on the Commission's website. Parties should confirm that their information on the service list is correct and serve notice of any errors on the Commission's Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.³

When serving any document, each party must ensure that it is using the current official service list on the Commission's website.

This proceeding will follow the electronic service protocol set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail whenever possible, transmitted no later than 5:00 p.m. on the date scheduled for service to occur. Parties are exempted from the Rule 1.10 requirement to serve both an electronic and a paper copy of filed or served documents on the ALJs. Only electronic copies should be served on the ALJs.

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must not send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

³ The form to request additions and changes to the Service list may be found at: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/additiontoservicelisttranscriptordercompliant.pdf>.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at process_office@cpuc.ca.gov to request addition to the “Information Only” category of the official service list pursuant to Rule 1.9(f).

The Commission encourages those who seek information-only status on the service list to consider the Commission’s subscription service as an alternative. The subscription service sends individual notifications to each subscriber of formal e-filings accepted by the Commission. Notices sent through subscription service are less likely to be flagged by spam or other filters. Notifications can be for a specific proceeding, a range of documents and daily or weekly digests.

12. Receiving Electronic Service from the Commission

Parties and other persons on the service list are advised that it is the responsibility of each person or entity on the service list for Commission proceedings to ensure their ability to receive emails from the Commission. Please add “@cpuc.ca.gov” to your email safe sender list and update your email screening practices, settings and filters to ensure receipt of emails from the Commission.

13. Assignment of Proceeding

Matthew Baker is the assigned Commissioner and Eileen Odell and Maria Sotero are the assigned ALJs for the proceeding.

IT IS RULED that:

1. The scope of Track 3 and Track 4 are described above and are adopted.
2. The schedule of Track 3A is set forth above and is adopted.
3. Parties which are load-serving entities are directed to, and other parties may, meet and confer as described in Section 3 within 60 days of the issuance of

this scoping ruling, and file and serve a joint report on the meet and confer within 75 days. The joint report shall contain information specified in the template in Section 4 of this ruling.

4. The category of the proceeding is ratesetting.

5. Hearings may be necessary and parties may request hearings as described in this ruling.

6. The presiding officers are Administrative Law Judges Eileen Odell and Maria Sotero.

Dated August 18, 2026, at San Francisco, California.

/s/ MATTHEW BAKER

Matthew Baker
Assigned Commissioner