STATE OF CALIFORNIA GAVIN NEWSOM

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

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September 25, 2026

Agenda ID #24554
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 22-05-015 et al:

This is the proposed decision of Administrative Law Judges Minh LeQuang and John H. Larsen. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's October 29, 2026 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4).

/s/ MICHELLE COOKE

Michelle Cooke
Chief Administrative Law Judge

MLC: vj4
Attachment

Decision **PROPOSED DECISION OF ALJS LEQUANG AND LARSEN (Mailed 9/25/2026)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Gas Company (U904G) for Authority, Among Other Things, to Update its Gas Revenue Requirement and Base Rates Effective on January 1, 2025	Application 22-05-015
And Related Matter.	Application 22-05-016

DECISION DENYING PETITION TO MODIFY DECISION 24-12-074 AS IT RELATES TO RULE 45

Summary

This decision denies the November 25, 2025 petition to modify Decision (D.) 24-12-074, *Decision Addressing the 2024 Test Year General Rate Cases of Southern California Gas Company and San Diego Gas & Electric Company* (the Decision), filed by the Natural Resources Defense Council, CALSTART, Inc., Powering America's Commercial Transportation, Advanced Energy United, Tesla, Inc., Walmart Inc., the City of San Diego, Electrify America, LLC, EVgo Services, LLC, and the Electric Vehicle Charging Association (collectively, Joint Petitioners). Joint Petitioners request modification of the Decision to remove the funding cap for the Electric Rule 45 Electric Vehicle Infrastructure Memorandum Account and ensure that Rule 45 remains open to all eligible applications through at least

the current rate case cycle, as required by Public Utilities Code (Pub. Util. Code) § 740.19.

Joint Petitioners' request is denied because the Commission does not find that Petitioners presented any new or changed facts within the meaning of Rule 16.4(b). The Commission also finds that they used the petition for modification improperly to allege legal errors outside the 30-day window for an application for rehearing.

This proceeding remains open.

1. Procedural Background

On December 23, 2024, the Commission issued Decision (D.) 24-12-074. Protect Our Communities Foundation (PCF) timely filed an application for rehearing of D.24-12-074 on January 22, 2025. On July 24, 2025, the Commission issued D.25-07-044 denying PCF's application for rehearing.

On November 25, 2025, Natural Resources Defense Council (NRDC), CALSTART, Inc. (CALSTART), Powering America's Commercial Transportation (PACT), Advanced Energy United (United), Tesla, Inc. (Tesla), Walmart Inc. (Walmart), the City of San Diego (City), Electrify America, LLC (Electrify America), EVgo Services, LLC (EVgo), and the Electric Vehicle Charging Association (EVCA)(collectively, Joint Petitioners) jointly filed a Petition for Modification (the Petition) of D.24-12-074, *Decision Addressing the 2024 Test Year General Rate Cases of Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E)* (the Decision). Joint Petitioners seek to strike the Electric Rule 45 (Rule 45) Electric Vehicle Infrastructure Memorandum Account (EVIMA) cap established in D.24-12-074. On December 19, 2025, San Diego Gas & Electric Company (SDG&E) timely filed a response in support of the Petition. There were no protests against the Petition.

2. Relief Requested

Assembly Bill (AB) 841 (Ting, 2020) required the large investor-owned utilities (IOUs), including SDG&E, to file advice letters with the Commission to establish a new tariff that authorizes each IOU to design and deploy all electrical distribution infrastructure on the utility side of the customer's meter for all non-single family residence customers, or applicants, installing separately metered infrastructure, to support charging stations.[1] On February 26, 2021, pursuant to AB 841, SDG&E filed Advice Letter (AL) 3705-E, which was disposed on October 7, 2021 via Resolution E-5167. In Resolution E-5167, the Commission, among other things:

- Established SDG&E's Electric Rule 45, SCE's Electric Rule 29, and PG&E's Electric Rule 29, (collectively, EV Infrastructure Rules) and their associated respective memorandum accounts,[2]
- Moved recovery for utility-side distribution infrastructure costs that support electric vehicle (EV) charging out of individual applications or ALs to the IOUs' respective General Rate Cases (GRCs).[3]

In A.22-05-016, SDG&E requested to close the EVIMA and replace it with a two-way balancing account.[4] In the Decision, the Commission denied SDG&E's request for a two-way balancing account and instead implemented a cap of $7.58 million for the EVIMA.[5] The Commission further notes that memorandum accounts (e.g., the EVIMA) do not generally have caps and directs SDG&E to

[1] Public Utilities Code § 740.19(c)

[2] Resolution E-5167 at 59.

[3] *Id*. at 3.

[4] D.24-12-074 at 556 – 557.

[5] *Id*. at 563 – 564.

"record costs in the [EVIMA] pursuant to [Resolution] E-5167 and a reasonableness review of these costs will take place in the next GRC cycle."[6]

Pursuant to Rule 16.4 of the Commission's Rules of Practice and Procedure,[7] on November 25, 2025, Joint Petitioners filed the Petition seeking to modify the Decision to strike the funding cap for the EVIMA and to confirm that Rule 45 must remain open to all eligible applications through at least the current GRC cycle, as required by Pub. Util. Code §740.19(c). Joint Petitioners filed declarations in support of their claim of new and materially changed facts, namely, SDG&E's request in Advice Letter 4705-E to close Rule 45 to new applications and its proposed termination of any Rule 45 contracts for which SDG&E has not issued a Notice to Proceed. None of the Joint Petitioners were a party to the present proceeding at the issuance of the Decision except for City of San Diego.[8] The Joint Petitioners provide four grounds for modification of the Decision:

1. Joint Petitioners argue that SDG&E's implementation of the EVIMA funding cap has created a conflict with the requirements of AB 841 and Pub. Util. Code § 740.19(c).
2. Joint Petitioners argue that SDG&E did not advise the Commission that it had already received Rule 45 applications at the time the Decision was issued.[9]
3. Joint Petitioners argue that once the funding cap was reached, it created a conflict with AB 2700 (McCarty, 2022), which directed the Commission to ensure that IOU

[6] *Id*. at 564.

[7] Except for SDG&E's Electric Rule 45, references to Rule or Rules are to the Commission's Rules of Practice and Procedure.

[8] Counter to its claim in the Petition at 9, City of San Diego moved for party status in A.22-05-016 on July 26, 2022, and was granted party status via ALJ ruling on July 27, 2022.

[9] *Id*. at 20 – 21.

distribution planning aligns with the State's zero-emission vehicle, air-quality, and climate goals.

4. Joint Petitioners argue that the funding cap and closure of Rule 45 undermine California's equity commitments, as many public agencies, school districts, and transit operators would use the Rule 45 mechanism to receive the utility-side service for electrification projects.[10]

3. Discussion

3.1. Application for Rehearing

An application for rehearing at the Commission is a formal legal document filed by a party asking the Commission to reconsider, modify, or set aside a previous order or decision on the grounds of legal error. The record shows that the Commission published the Decision on December 23, 2024. Under the Commission's Rules of Practice and Procedure, Rule 16.1(a) provides:

> Application for rehearing of a Commission order or decision shall be filed within 30 days after the date the Commission mails the order or decision….

Here, the parties to the Decision had until January 22, 2025 to file an application for rehearing.[11] The City of San Diego, a Joint Petitioner and party to the Decision, did not file a timely application for rehearing. The City of San Diego could have filed an application for rehearing and argued points 1, 2, 3, and 4 from the petition for modification, and the Commission would have considered the arguments for legal or factual error.[12]

Rule 16.1(c) states:

> Applications for rehearing shall set forth specifically the grounds on which the applicant considers the order or decision of the

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[10] *Id*. at 22 – 23.

[11] It is noted that PCF timely filed their application for rehearing on January 22, 2025.

[12] The Joint Petitioners' arguments are addressed in the Petition for Modification section.

> Commission to be unlawful or erroneous and must make specific references to the record or law. The purpose of an application for rehearing is to alert the Commission to a legal error, so that the Commission may correct it expeditiously.

The application for rehearing is the mandatory vehicle parties use to allege a legal or factual error in our decisions, to preserve their appellate rights, and carries a strict 30-day deadline.[13] The distinction between an application for rehearing and a petition for modification matters because each serves a different purpose and follows a different deadline.

3.2. Petition for Modification

3.2.1. New or Changed Facts Requirement

Rule 16.4(b) states:

> A petition for modification of a Commission decision must concisely state the justification for the requested relief and must propose specific wording to carry out all requested modifications to the decision. Any factual allegations must be supported with specific citations to the record in the proceeding or to matters that may be officially noticed. Allegations of new or changed facts must be supported by an appropriate declaration or affidavit.

Joint Petitioners must provide evidence of new or changed facts. The following section reviews the new or changed facts they claim to present. First, Joint Petitioners argue that SDG&E's implementation of the EVIMA funding cap has created a conflict with the requirements of AB 841 and Pub. Util. Code § 740.19(c). In doing so, Joint Petitioners are alleging a legal error in the Decision. That type of argument belongs in an application for rehearing, not in a petition for modification. We find that Joint Petitioners' first argument does not meet the Petitioners' burden of proof to present a new or changed facts.

[13] Rule 16.1.

Second, Joint Petitioners argue that SDG&E did not advise the Commission that it had already received Rule 45 applications at the time the Decision was issued.[14] SDG&E rejects this characterization in its response to the Petition. SDG&E argues that it acted in good faith to support the record with accurate and complete information in the GRC, noting that at the time the Decision was issued, a large majority of the Rule 45 projects were still in the early scoping stages, and that SDG&E had no reasonable way of anticipating the status of existing Rule 45 costs.[15] We find SDG&E's response reasonable and find that the Joint Petitioners' second argument does not meet the Petitioners' burden of proof to present new or changed facts.

Third, Joint Petitioners argue that once the funding cap was reached, it created a conflict with AB 2700 (McCarty, 2022), which directed the Commission to ensure that IOU distribution planning aligns with the State's zero-emission vehicle, air-quality, and climate goals. Similar to their first argument, Joint Petitioners again allege a legal error, this time involving AB 2700. As explained above, a legal error must be raised through an application for rehearing, not a petition for modification. We find that this argument does not meet the Petitioners' burden of proof to present any new or changed facts.

Fourth, Joint Petitioners argue that the funding cap and closure of Rule 45 undermine California's equity commitments, as many public agencies, school districts, and transit operators would use the Rule 45 mechanism to receive the utility-side service for electrification projects.[16] The Joint Petitioners' fourth argument is speculative and supported by little to no evidence. Even if we

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[14] *Id*. at 20 – 21.

[15] SDG&E Response to the Petition at 3 – 5.

[16] *Id*. at 22 – 23.

accepted it, the record contains no evidence showing that the Decision failed to contemplate the scenario they describe. We therefore find that the Joint Petitioners' fourth argument does not meet the Petitioners' burden of proof to present new or changed facts.

3.3. Improper Use of a Petition for Modification

An application for rehearing is the proper vehicle parties use to allege legal or factual error. It carries a strict 30-day deadline, and one party, PCF, used it. The City of San Diego could have raised the Joint Petitioners' arguments in an application for rehearing but chose not to do so. Joint Petitioners cannot use a petition for modification to allege legal errors. Using a petition for modification in that way is improper.

Based on the above, we deny the Joint Petitioners' petition for modification because: 1) we reviewed the Joint Petitioners' arguments and find that they do not present any new or changed facts within the meaning of Rule 16.4(b); and 2) we find that the Joint Petitioners used the petition for modification improperly to challenge past legal errors outside the 30-day window for an application for rehearing.

On June 15, 2026, SoCalGas and SDG&E filed their Test Year 2028 General Rate Case (GRC) applications.[17] The Joint Petitioners may request to become parties to SoCalGas and SDG&E's current GRC and litigate the appropriateness of the EVIMA cap in that proceeding. Review of the EVIMA cap will not necessarily be part of the scope of any application proceeding to separately review the reasonableness of costs recorded in the EVIMA.

The Petition is denied.

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[17] Proceedings A.26-06-014 and A.26-06-015.

4. Summary of Public Comment

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the "Public Comment" tab of the online Docket Card for that proceeding on the Commission's website. Rule 1.18(a) requires that all written public comment submitted prior to the submission of the proceeding are part of the administrative record of the proceeding. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding.

There were five public comments in support of the Petition from City of Solana Beach, City of Encinitas, County of San Diego, Center for Sustainable Energy, and Port of San Diego. The County of San Diego, City of Encinitas, City of Solana Beach, and Port of San Diego all note that the closure of Rule 45 significantly impacts their ability to meet CARB Advanced Clean Fleet requirements. Center for Sustainable Energy asserts that the inadequacy of the Rule 45 funding cap has been made apparent by the fact that the funding cap was reached only eight months after the Decision was issued, not the end of the 2024 – 2027 GRC cycle. Center for Sustainable Energy argues that keeping Rule 45 open will enhance the collection of data needed to inform future Rule 45 cost forecasts, potential legislative policy direction, and will facilitate affordable deployment of EVE infrastructure needed to achieve California's climate and clean transportation goals.

5. Comments on Proposed Decision

The proposed decision of ALJ John Larsen and ALJ Minh LeQuang in this matter was mailed to the parties in accordance with § 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of

Practice and Procedure. Comments were filed on __________, and reply comments were filed on _____________ by ________________.

6. Assignment of Proceeding

Darcie L. Houck is the assigned Commissioner and John Larsen and Minh LeQuang are the assigned Administrative Law Judges in this proceeding.

Findings of Fact

1. D.24-12-074 was published on December 24, 2024.
2. Rule 16.1 and Rule 16.4 set forth the formal procedural requirements for an application for rehearing and petition for modification, respectively.
3. The deadline to file an application for rehearing of D.24-12-074 was January 22, 2025.
4. Protect Our Communities Foundation filed an application for rehearing of D.24-12-074 on January 22, 2025 which did not address the issues presented in the Joint Petitioners' November 25, 2025 petition for modification.
5. City of San Diego was a party to D.24-12-074.
6. City of San Diego did not file an application for rehearing.
7. The Joint Petitioners' petition for modification was filed on November 25, 2025.
8. The Joint Petitioners' first and third arguments allege legal errors in D.24-12-074.
9. The Joint Petitioners' second argument is rebutted by SDG&E.
10. The Joint Petitioners' fourth argument is speculative and not supported by evidence.
11. SDG&E's filed Advice Letter 4705-E on August 22, 2025, attempting to close its Rule 45 tariff to new applications and terminating Rule 45 contracts for

any projects for which SDG&E has not yet issued a Notice to Proceed due to the EVIMA funding cap, does not constitute changed facts.

12. Joint Petitioners may become parties in SoCalGas and SDG&E's current GRC application, A.26-06-014 et al.

Conclusions of Law

1. The Joint Petitioners' arguments for new and changed facts are not persuasive.

2. SDG&E's request in Advice Letter 4705-E and subsequent termination of all Rule 45 contracts that had not yet reached SDG&E's Notice to Proceed milestone or that were pending do not constitute material changed facts since the issuance of D.24-12-074.

3. Joint Petitioners improperly used a petition for modification to address alleged legal errors.

4. Joint Petitioners may litigate the EVIMA cap issue in SoCalGas and SDG&E's current GRC proceeding, A.26-06-014 et al.

5. The Petition should be denied.

O R D E R

IT IS ORDERED that:

1. The November 24, 2025, Petition for Modification of Decision 24-12-074 filed by the Natural Resources Defense Council, CALSTART, Inc., Powering America's Commercial Transportation, Advanced Energy United, Tesla, Inc., Walmart Inc., the City of San Diego, Electrify America, LLC, EVgo Services, LLC, and the Electric Vehicle Charging Association, is denied.

2. Application 22-05-015, et al., remains open.

This order is effective today.

Dated ___________________________, at San Francisco, California.