

ALJ/SW9/mph

Date of Issuance 2/2/2022

Decision 22-01-023 January 27, 2022

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to
Review, Revise, and Consider
Alternatives to the Power Charge
Indifference Adjustment.

Rulemaking 17-06-026

**DECISION RESOLVING PHASE 2 ISSUES RELATED TO ENERGY
RESOURCES RECOVERY ACCOUNT PROCEEDINGS**

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DECISION RESOLVING PHASE 2 ISSUES RELATED TO ENERGY RESOURCES RECOVERY ACCOUNT PROCEEDINGS

Summary

This decision adopts improvements to support efficient consideration of Power Charge Indifference Adjustment (PCIA) issues in Energy Resource Recovery Account (ERRA) proceedings. This decision modifies the PCIA market price benchmark release date and deadlines for ERRA forecast applications to enable the Commission to timely issue decisions on ERRA forecast applications. This decision adopts party proposals to establish a policy for disposition of the year-end balance in the ERRA account and to modify the calculation of the ERRA trigger point and threshold. This decision also adopts party proposals to support efficient party access to ERRA forecast proceeding data.

This proceeding remains open to consider additional Phase 2 issues, including: (a) whether greenhouse gas-free resources are under-valued in the PCIA, and if so, whether to adopt an adder or allocation mechanism, (b) whether to adopt a new method to include long-term fixed-price transactions in calculating the Renewables Portfolio Standard adder, (c) whether to modify the calculation of the PCIA energy index market price benchmark, and (d) whether to provide community choice aggregators with access to confidential, market sensitive ERRA monthly reports information for the non-proceeding purpose of creating PCIA rate forecasts.

1. Background

The California Public Utilities Commission (Commission) opened Rulemaking (R.) 17-06-026 on June 26, 2017 to review, revise and consider alternatives to the Power Charge Indifference Adjustment (PCIA). The Commission adopted the PCIA to ensure that when electric customers of an

investor-owned utility (IOU or utility) depart from IOU service and receive their electricity from a non-IOU provider, those customers remain responsible for costs previously incurred on their behalf by the IOUs.

In Phase 1 of this proceeding, the Commission considered issues regarding exemptions from the PCIA for customers who participate in the California Alternate Rates for Energy program or are served by Medical Baseline rates. The Commission resolved these issues in Decision (D.) 18-07-009 and D.18-09-013. The Commission also examined the PCIA methodology and considered alternatives to that mechanism in Phase 1. In D.18-10-019, the Commission resolved those issues, implemented an annual 0.5 cent/Kilowatt-hour (kWh) cap on PCIA rate increases (PCIA Cap), and opened a second phase of this proceeding.

On December 19, 2018, the Commission held a prehearing conference to discuss the scope and schedule of Phase 2. On February 1, 2019, the assigned Commissioner issued a Scoping Memo and Ruling (2019 Scoping Memo), which established a working group process, scope and schedule for the proceeding.

The 2019 Scoping Memo organized Phase 2 issues into three working group processes and schedules:

1. Benchmarking issues;
2. Prepayment; and
3. Portfolio optimization.

The Commission resolved these three issues in D.19-10-001, D.20-03-019, D.20-08-004 and D.21-05-030. In D.19-10-001, the Commission directed the Commission's staff to propose a new method to include long-term fixed-price transactions in calculating the RPS Adder for consideration in this proceeding.

In D.21-05-030, the Commission also resolved one issue from the 2020 Scoping Memo (whether to modify or remove the PCIA cap) and added a new issue to Phase 2 (whether greenhouse gas (GHG) -free resources are under-valued in the PCIA and if so, whether to adopt a GHG-free adder or allocation mechanism).

On December 16, 2020, the assigned Commissioner issued an Amended Scoping Memo and Ruling (2020 Scoping Memo) to add issues to the scope of Phase 2 of this proceeding. California Community Choice Association (CalCCA), the Public Advocates Office of the Commission (Cal Advocates), The Utility Reform Network (TURN), Southern California Edison Company (SCE), Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), Coalition of California Utility Employees (CUE), and Alliance for Retail Energy Markets (AReM)/Direct Access Customer Coalition (DACC) filed opening comments on the 2020 Scoping Memo on January 22, 2021. CalCCA, AReM/DACC, SDG&E, SCE, PG&E, and CalCCA filed reply comments on February 9, 2021. Parties also filed comments in response to Phase 2 rulings issued by the assigned Administrative Law Judge (ALJ) on May 20, 2021 and August 25, 2021.

2. Issues Before the Commission

The Commission now considers these Phase 2 issues from the 2020 Scoping Memo:

- a. Should the Commission modify deadlines or requirements of Energy Resource Recovery Account (ERRA) and PCIA related submittals and reports in order to increase time for parties to review PCIA data and to facilitate timely implementation of decisions in the ERRA proceedings?
- b. Should the Commission adopt a methodology for crediting or charging customers who depart from the utility service

during an amortization period and who are responsible for a balance in the PCIA Undercollection Balancing Account, the Energy Resource Recovery Account, or any other bundled generation account?

- c. Should the Commission consider any other changes necessary to ensure efficient implementation of PCIA issues within ERRA proceedings?

The Commission will address these remaining Phase 2 issues in a subsequent decision:

- d. Are GHG-free resources under-valued in the PCIA, and if so, should the Commission adopt a GHG-free adder or allocation mechanism?
- e. Should the Commission adopt a new method (to be proposed by the Commission's staff as required by D.19-10-001) to include long-term fixed-price transactions in calculating the RPS Adder?

3. Whether to Modify ERRA Deadlines or Requirements

3.1. PCIA Market Price Benchmark Calculation Release Date

In D.02-10-062, the Commission established the ERRA, the energy procurement balancing account required by Pub. Util. Code Section 454.5(d)(3). Each year, the Commission considers whether to adopt the proposed forecast of each IOU's electric procurement cost revenue requirement and electricity sales for the upcoming year in ERRA forecast proceedings.

D.04-01-050 adopted an ERRA forecast proceeding schedule to enable the Commission to issue ERRA forecast decisions by the end of each year.¹ When approval of an ERRA forecast application is delayed, the forecasted procurement costs beginning on January 1 are recovered under rates set using the prior year's

¹ D.18-10-042 at 2.

approved revenue requirement, rather than rates that are intended to recover the procurement costs that are incurred beginning on January 1. When ERRA forecast decisions are delayed on a regular basis, there is a “systemic mismatch” in timing between the forecast period and the time at which the costs are recovered in rates as well as a mismatch between the procurement-related revenues and expenses.²

In D.19-10-001, the Commission adopted a revised methodology for Market Price Benchmarks (MPB) used to calculate the PCIA. In D.18-10-019, the Commission ordered its Energy Division staff to calculate MPB components: (1) the Brown Power Index (also called the Energy Index); (2) the renewable procurement standard adders; and (3) the resource adequacy adders. The MPB calculations are served upon each ERRA forecast proceeding service list at the beginning of November each year. Each utility then serves updated prepared testimony with updated PCIA rates based on the MPB calculations in its ERRA forecast proceeding. This updated testimony is generally referred to as the “November Update.”

On May 20, 2021, ALJ Wang issued a ruling (May 2021 Ruling) to request comments on a staff proposal to modify the schedule adopted in D.19-10-001 for issuing the MPB calculations (Staff Proposal). The Commission’s staff proposed to move the MPB release date from November 1 to October 1 each year to enable the Commission to direct utilities in the ERRA forecast proceedings to provide updated prepared testimony in October (an October Update) rather than in November.

² D.18-10-042 at 2-3.

The Staff Proposal explains that the current annual ERRA forecast proceeding schedule does not provide enough time for intervenors to review and comment on the November Update or for the Commission to review the November Update and issue a proposed decision in November for a vote by mid-December to meet the mandated January 1 rate implementation deadline. The Commission adopted many ERRA forecast decisions after January 1st during the last few years.³ Delays in ERRA forecast decisions result in delays in utility rate changes, which can result in under-collections.

CalCCA, PG&E, SCE, and SDG&E provided comments in response to the May 2021 Ruling. In comments on June 15, 2021, CalCCA asserted that the underlying problem for CCAs is that ERRA proceeding schedules do not provide enough time for CCAs to fully vet each part of the ERRA cases. CalCCA supported the Staff Proposal as a solution for this problem, with the caveat that it would be necessary to require the utilities to file their ERRA forecast applications by mid-May at the latest each year to prevent shifting the problem from not having enough time to review the November Update to not having enough time in October to concurrently work on testimony and hearings while reviewing the October Update.

PG&E, SCE and SDG&E (together, the Joint IOUs) similarly commented on June 15, 2021 that they support consideration of all aspects of the ERRA forecast proceeding schedules with the goal of improving the process for all parties rather than trading one set of challenges for others. The Joint IOUs commented that changing the MPB release date to facilitate an October Update was unlikely to provide parties additional relief. They noted that during the month of October,

³ For examples, see D.21-01-017, D.20-01-022, D.20-02-047, D.20-01-005, D.19-02-024, and D.19-02-023.

PG&E's ERRA forecast team would be hard pressed to work on an October Update since they would simultaneously have to prepare for evidentiary hearings, rebuttal testimony, and opening briefs.

SDG&E recommended that the Commission's staff provide an analysis of the probable range of impacts to benchmarks that could result from the Staff Proposal.⁴ In reply comments, the Joint IOUs and AReM/DACC agreed with this recommendation.

On June 4, 2021, the Commission's staff held a workshop to discuss the MPB Staff Proposal. On August 25, 2021, ALJ Wang issued a ruling (August 2021 Ruling) requesting comments on highlights from the June 2021 workshop (Workshop Highlights) and a staff analysis of changes to MPB calculations (MPB Staff Analysis) that would result from implementation of the Staff Proposal.

The Workshop Highlights include staff's explanation of the problems with the current process. The current MPB release date of November 1 was conceived when ERRA proceedings were much less complex. It is increasingly difficult for the Commission to issue ERRA forecast decisions in time to meet the January 1st rate implementation deadline. Failing to meet the January 1st deadline causes rate volatility and growing balance account surpluses or deficits.

The Workshop Highlights also address an alternate proposal raised at the workshop. Some parties proposed to leave the MPB release date on November 1 and instead move the ERRA rate implementation date to later in the first quarter of the next year (Alternate Proposal).

At the workshop, staff expressed its opinion that the Alternate Proposal would cause rate instability and impact stakeholders who do not participate in

⁴ SDG&E comments on June 15, 2021.

this proceeding. Rate changes from transmission rates⁵ and General Rate Case decisions are effective on January 1st each year.⁶ Implementing ERRa rate changes on different dates than other rate changes would cause rate instability and accrual of balancing account balances.

We agree that adjusting the January 1st deadline for ERRa forecast-related rate changes would have broad implications that are outside of the scope of this PCIA-focused proceeding. Accordingly, the Commission declines to adopt the alternate proposal in this decision.

The MPB Staff Analysis assessed the potential impact on PCIA rates if the MPB was calculated one month earlier per the Staff Proposal. The MPB Staff Analysis found that the effects of changes in the forecast RPS and RA adders on PCIA rates are relatively small, and the largest driver of changes to PCIA rates would be the energy index. The MPB Staff Analysis concluded that the Staff Proposal will likely have a minor impact on forecasted and final MPB values and PCIA values and should not result in PCIA rate instability.

AReM, Cal Advocates, CalCCA, PG&E, SCE, and SDG&E provided comments on the August 2021 Ruling.

AReM, Cal Advocates, PG&E, and CalCCA agreed with the conclusion of the MPB Staff Analysis but urged the Commission to take additional steps to address the potential for rate volatility in their September 2021 comments. AReM and Cal Advocates each recommended that staff perform additional analyses. AReM expressed interest in whether there are systemic differences between September and October forward prices, which SCE supported in reply

⁵ Transmission rate updates are effective on January 1st each year for PG&E, SCE and SDG&E per transmission owner tariffs filed with the Federal Energy Regulatory Commission.

⁶ D.20-01-002 at Appendix A.

comments. Cal Advocates recommended that staff analyze changes to the Energy Index based on Platts data rather than based on a sensitivity analysis, which PG&E and SDG&E supported in reply comments.

PG&E agreed that limited changes to the Energy Index would occur from moving to September forward prices per the Staff Proposal, and also recommended modernizing the Energy Index calculation to offset or minimize inaccuracies introduced by the use of September data. SCE made a similar recommendation to modify the Energy Index calculation, and SDG&E agreed with these recommendations. CalCCA countered that the IOUs have not demonstrated that PG&E's Energy Index proposal would mitigate decreases in accuracy that may result from the Staff Proposal. CalCCA argued that more analysis of the PG&E proposal is needed, and the issue belongs in a later phase of the proceeding.

CalCCA agreed that the impact of the Staff Proposal is likely to be minor and will be addressed in the true-up. CalCCA also asserted that the potential for reduced accuracy of MPBs does not override the benefits of moving up the benchmark calculation. CalCCA recommended that staff collect data over the next few ERRA cycles to conduct a review of the new policy's impacts after enactment. SDG&E and PG&E agreed with this recommendation. SDG&E agreed with CalCCA's point that "the only analysis that can bring certainty to the question of Staff's policy is a post hoc analysis conducted over the course of the next few years."

SDG&E and SCE disagreed with the conclusion of the MPB Staff Analysis and opposed adoption of the Staff Proposal in comments in September 2021. Both utilities argued that the staff analysis was insufficient to support the conclusion that the impact would be minor. SDG&E argued that removing a

month of data, one of the hottest in the year for its service territory, would reduce forecast accuracy, result in under-collections, and increase rate volatility.

SCE further argued that the Staff Proposal's benefit of "convenience" is outweighed by the potential reduction in accuracy.

SCE's characterization of the benefits of the Staff Proposal is incorrect. The purpose of the Staff Proposal is to provide sufficient time for the Commission and parties to thoroughly review ERRA forecast applications and to make it feasible for the Commission to meet its obligations to issue ERRA forecast decisions in time for January 1st rate changes each year. Further, as discussed at the June 2021 workshop, when the Commission does not issue a decision on an ERRA forecast by the end of the year, utilities must implement rate changes later in the year, resulting in rate volatility and accrual of balancing account balances.

Most parties agreed with the MPB Staff Analysis that the impact of the Staff Proposal is likely to be minor, but more analysis should be conducted. CalCCA asserted and SDG&E agreed that only a post hoc analysis conducted over the next few years can bring certainty to the question of whether the Staff Proposal will have a significant impact on rates. This approach is reasonable.

We conclude that the Commission should change the PCIA MPB release date from November 1 to October 1 each year. By March 1, 2024, the Commission's staff will file and serve upon the service list of this proceeding and any successor proceeding an analysis of the impact of changing the PCIA MPB release date on forecast accuracy.

The Commission will consider modifying the calculation of the PCIA energy index market price benchmark concurrently with the review of the balance of the issues remaining in this phase of the proceeding.

3.2. ERRa Forecast Application Filing Deadlines

Parties made various suggestions about changing ERRa forecast proceeding schedules to achieve the underlying goal of the Staff Proposal, namely providing sufficient time for the Commission and parties to thoroughly review ERRa forecast applications and issue ERRa forecast decisions in time to meet our compliance obligations.

The Commission will not establish ERRa forecast proceeding schedules in this decision. As noted in the ALJ ruling on May 20, 2021, the assigned Commissioner and assigned ALJ in each ERRa forecast proceeding are responsible for setting the schedule for the proceeding. However, the Commission will consider whether to modify deadlines for filing ERRa forecast applications.

CalCCA proposes to move ERRa forecast filing deadlines for utilities to May 1, or no later than mid-May each year, to allow for proceeding schedule adjustments that would reduce the potential for an October Update to result in too much work for parties to complete in October each year.⁷ CalCCA argued that significant policy and implementation issues are addressed in ERRa proceedings, and the loss of a month of pre-update litigation would undermine parties' ability to address those issues.⁸

AReM and CalCCA did not see a need for moving the ERRa forecast filing deadlines but did not oppose CalCCA's proposal.⁹

⁷ As of December 8, 2021, PG&E and SCE were required to file their ERRa forecast applications by June 1st each year. As of December 8, 2021, SDG&E was required to file its ERRa forecast application by April 15th each year but had a pending request to file its ERRa forecast application by June 15th each year.

⁸ CalCCA comments on September 13, 2021.

⁹ AReM/DACC comments on September 13, 2021.

PG&E, SCE and SDG&E each opposed moving up the deadlines for filing ERRR forecast applications.¹⁰ Each utility argued that moving up the filing dates would reduce the accuracy of the initial forecasts. PG&E pointed out, for example, that the new VAMO allocations won't be complete until May, with the result that the initial forecast applications would not include this information. However, the utilities did not provide a persuasive explanation of why reducing the accuracy of the initial forecasts is important in light of parties' and the Commission's historic reliance on the November Update rather than the initial forecasts. Further, the assigned Commissioner and ALJ in each ERRR forecast proceeding may direct utilities to file supplemental updates to increase the accuracy of utility forecasts prior to the October Update.

It is reasonable to require SCE, PG&E and SDG&E to each file their ERRR forecast applications no later than May 15th each year.

4. Whether to Adopt a Method for Crediting or Charging Customers who Depart During an Amortization Period

Due to a mismatch between PCIA and ERRR vintages, customers departing bundled service in the first half of a year are not included in that year's PCIA vintage (which begins in July) and are not charged or credited for costs accrued in the year they departed. Recently, ERRR forecast proceedings determined how to amortize balances from previous years on a case-by-case basis.

In comments on the 2020 Scoping Memo, the Joint IOUs proposed to place year-end ERRR balances in the corresponding subaccount of the Portfolio

¹⁰ Reply comments of PG&E, SCE and SDG&E on September 22, 2021.

Allocation Balancing Account (PABA)¹¹ each year. CalCCA agreed that there should be a consistent process across all three utilities. In comments on October 1, 2021, the Joint IOUs elaborated that in most circumstances, utilities should transfer the end-of-year ERRA balance to the most-recent vintage subaccount in PABA, allowing the year-end ERRA balance to be applied to both bundled and departing load customers that depart on or after July 1 of the preceding year. The Joint IOUs noted that in some unique circumstances, a utility may propose to transfer the ERRA balance to different PABA vintages in its ERRA forecast proceeding.

In comments on October 1, 2021, CalCCA and AReM/DACC agreed that the Commission should adopt the proposed policy. CalCCA asserted that the proposal “aligns cost responsibility with cost causation given the challenges that come from the mismatch between resource vintaging and customer vintaging.” It is reasonable to adopt this policy. However, CalCCA further argued that any variances from this policy should be addressed in this proceeding or a successor proceeding rather than in the ERRA forecast proceedings. While this proceeding or a successor proceeding may consider modifying policies the Commission adopts here today, we expect that the ERRA forecast proceedings will continue to consider utility-specific and fact-specific variances from the policies the Commission sets in this proceeding.

The Joint IOUs and AReM/DACC both commented that the Commission should implement this proposal by ordering each IOU to modify its Electric Preliminary Statements governing the ERRA and PABA accounts. The Joint IOUs specified that the modifications should clarify that disposition of the year-

¹¹ PABA records the costs of long-term, fixed-price contract costs and utility-owned generation costs for bundled and departed load customers.

end balance in the ERRA account should be made to the PABA upon submission or approval by the Commission of the applicable compliance advice letter addressing such balance. For PG&E, disposition of the balance in the account from ERRA to PABA would occur through the Annual Electric True-Up advice letter. For SCE and SDG&E, the disposition of the balance would occur in the advice letter implementing a final decision in their respective ERRA forecast proceedings.¹² This approach is reasonable.

5. Whether any other changes are necessary to ensure efficient implementation of PCIA issues within ERRA proceedings

In the 2020 Scoping Memo, the assigned Commissioner asked whether the Commission should consider any other changes necessary to ensure efficient implementation of PCIA issues within ERRA proceedings. Parties raised numerous proposals in response to this question in comments on the 2020 Scoping Memo. In this decision, the Commission addresses the proposals most likely to improve the efficiency of implementation of PCIA issues in ERRA proceedings in this decision.

5.1. Data Access

In comments on the 2020 Scoping Memo, CalCCA made several proposals to improve community choice aggregator (CCA) access to confidential ERRA monthly reports data, including:

- (a) Require all three IOUs to provide ERRA data that SCE was required to provide in D.20-12-035;
- (b) Require all three IOUs to comply with the Master Data Request process approved in D.20-12-038, which requires PG&E to provide data in response to a standard Master Data Request within 5 days; and

¹² See comments on October 1, 2021.

- (c) Require all three IOUs to provide year-round access to confidential ERRA monthly reports and underlying data and workpapers for the purpose of creating PCIA rate forecasts.

The Commission addresses each proposal separately below.

5.2. ERRA Data Required Under D.20-12-035

While the Commission previously addressed ERRA data access in the 2021 ERRA forecast decisions,¹³ CalCCA notes inconsistencies across the three decisions regarding what ERRA data must be disclosed. CalCCA proposes that the Commission require consistency with the requirements of the SCE 2021 forecast decision (D.20-12-035) across the three utilities.¹⁴ CalCCA notes that the ERRA data requirements for SCE and PG&E vary only by a few words, and SDG&E's requirements are substantially different.

The Joint IOUs do not deny that the requirements are inconsistent but replied that CalCCA has not provided justification for disregarding the orders in those recent decisions, which were based on the record of each proceeding. The Joint IOUs argue that the ERRA data requirements are different because each utility's operation and accounting systems are different.¹⁵

In this decision, the Commission seeks to balance the desire for consistent policies across proceedings with administrative efficiency. Since parties agree that SCE and PG&E's ERRA data requirements are substantially the same, there is no reason to modify PG&E's ERRA data disclosure requirements. The Commission directs SDG&E to meet and confer with the parties to the 2022 ERRA forecast proceeding to revisit ERRA data disclosure requirements and

¹³ D.20-12-035, D.20-12-038, and D.21-01-017.

¹⁴ Comments of CalCCA and Joint IOUs on October 1, 2021.

¹⁵ Reply comments of Joint IOUs on October 8, 2021.

include a proposal in its 2023 ERRR forecast application of how to adjust ERRR/PABA data disclosure requirements for consistency with SCE's and PG&E's ERRR data disclosure requirements.

5.3. Master Data Request

CalCCA asserted that the Master Data Request process for accessing PG&E ERRR monthly reports data authorized under D.20-12-038 saves CCAs valuable time and should apply to the other two utilities.¹⁶ In reply comments to the August 2021 Ruling, the Joint IOUs agreed that the Commission should apply the Master Data Request process to the other two utilities. No party disagreed.

However, the Joint IOUs recommend allowing the utilities to provide responses to the Master Data Requests within 10 business days rather than within 5 days. The Joint IOUs argue that 10 business days is consistent with the standard discovery response time.¹⁷ CalCCA replied that PG&E currently meets the 5-day deadline, and further it is not burdensome for utilities to provide underlying data and workpapers for ERRR monthly reports.¹⁸

D.20-12-038 concluded that PG&E should (a) provide non-confidential information from the Master Data Request response to all parties to the proceeding that request a copy "within 5 days of the request," and (b) provide confidential information from the Master Data Request response to all reviewing representatives that have signed a nondisclosure agreement "within 5 days after each of PG&E's monthly ERRR/PABA/PUBA activity reports is submitted to

¹⁶ Comments of CalCCA on October 1, 2021.

¹⁷ Comments of the Joint IOUs on October 1, 2021 and October 8, 2021.

¹⁸ Reply comments of CalCCA on October 8, 2021.

the Commission during the pendency of the applicable ERRA forecast proceeding.”¹⁹

Five calendar days may be insufficient time for a utility to respond to a data request, but we do not see the need to extend the response period to 10 business days to provide information that the utilities should have on hand. Each IOU should (a) provide non-confidential information from the Master Data Request response to all parties to the proceeding that request a copy within 5 business days of the request, and (b) provide confidential information from the Master Data Request response to all reviewing representatives that have signed a nondisclosure agreement within 5 business days after each of the utility’s monthly ERRA reports is submitted to the Commission during the pendency of the applicable ERRA forecast proceeding.

This decision does not revise the required contents of Master Data Request responses for PG&E under D.20-12-038. SCE and SDG&E shall include in their Master Data Request responses all ERRA and PABA monthly report information that they are required to provide pursuant to the applicable decision.²⁰

5.4. Data Access for PCIA Rate Forecasts

CalCCA proposed requiring the three IOUs to provide year-round access to confidential ERRA/PABA monthly reports (and underlying data and workpapers) for the non-proceeding purpose of creating PCIA rate forecasts with data received through nondisclosure agreements. While CCA reviewing representatives currently have access to confidential ERRA/PABA monthly report data, the existing nondisclosure agreements (i) limit use of this

¹⁹ D.20-12-038 at Conclusions of Law 12 and 14.

²⁰ D.20-12-035 (SCE) and D.21-01-017 (SDG&E).

information to participation in ERRA forecast proceedings, and (ii) prevent reviewing representatives from disclosing confidential information to the CCAs.

The Joint IOUs strongly opposed this proposal, arguing that the Commission's existing protections for confidential, market-sensitive IOU data under Pub. Util. Code Section 454.5(g), including the Model NDA, expressly limit the use of this type of information for the purpose of participating in an affected Commission proceeding. CalCCA argued that granting unbundled customers' representatives access to data that bundled customers' representatives have is necessary to enable CCAs to offer the same protection from rate volatility as investor-owned utilities can provide to their customers. However, as of November 2021, CalCCA did not provide sufficient information to support this point. Nor did CalCCA specify what data CCAs desire for reviewing representatives to disclose to CCAs as of November 2021. Without this information, the Commission cannot assess the risks of this proposal.

The Commission needs additional information about how CCA access to this information would serve a public interest and what specific data CCAs desire for reviewing representatives to disclose to CCAs for the purpose of creating PCIA rate forecasts. The assigned ALJ issued a ruling on November 5, 2021 with additional questions about this issue. The Commission's staff is currently reviewing and considering party comments in response to this ruling.

5.5. Data Confidentiality

In comments on the December 2020 scoping memo, CalCCA proposed that the Commission require consistency across IOUs regarding what information is considered confidential. The August 2021 Ruling asked proponents of this proposal to provide a chart showing which datasets or categories of data should

be public and which should be confidential, with a comparison to the current public or confidential designation by each utility and the confidentiality matrices adopted in D.06-06-066, as amended.

In opening comments on the August 2021 Ruling, the Joint IOUs argued that confidentiality of data and willingness to disclose it may vary by utility depending on respective portfolios, the form of the data, and the unique nature of the underlying data. In reply comments, the Joint IOUs also raised the concern that collaborating on making confidential data consistent among the utilities could violate antitrust rules. However, the Joint IOUs propose holding a workshop to further explore alignment on confidentiality.

In reply comments on the August 2021 Ruling, CalCCA clarified that it recommends the Commission correct the inconsistencies in the application of D.06-06-006 confidentiality requirements among the three IOUs. AReM/DACC also commented on the August 2021 Ruling to provide examples of inconsistencies and propose solutions for addressing these inconsistencies.

Inconsistencies between IOUs' treatment of ERRA data as confidential or public indicate that one or more utilities may be misapplying the confidentiality requirements of D.06-06-066.

General Order (GO) 66-D sets forth the Commission's procedures for implementing the California Public Records Act, Gov. Code § 6250 *et seq.*, which governs treatment of all records submitted to the Commission. GO 66-D, § 3, sets forth the requirements for submission of information to the Commission under a claim of confidentiality. Section 3.2 of GO 66-D states that an entity submitting the information "bears the burden of proving the reasons why the Commission shall withhold any information, or any portion thereof, from the public." To

request confidential treatment of any information submitted to the Commission, the information submitter must satisfy four requirements:

- a. Designate what portions of a document are confidential;
- b. State a specific legal basis for the claim;
- c. Provide a declaration in support of the claim; and
- d. Provide a name and email address of a person to contact regarding potential release of information.²¹

In formal proceedings, the ALJ and Assigned Commissioner have discretion over the requirements parties must follow for confidential treatment of information submitted in the proceeding.²² Rather than submitting a declaration, the parties would file a motion for leave to file these materials under seal under Rules 11.4 and 11.5 of the Commission's Rules of Practice and Procedure.

Nevertheless, parties requesting confidential treatment in a formal proceeding must meet the same burden to demonstrate with particular facts and citation to specific laws why the Commission should not disclose the alleged confidential information.²³ Parties opposing confidentiality claims may file responses to the motion within 10 days after the motion to file under seal is made.²⁴

These issues over confidentiality designations should be addressed in the proceeding in which the request for confidential treatment is or was made. In light of the concerns raised by parties about the inconsistent designation of ERRR proceeding data as confidential among the utilities, the Commission will thoroughly and efficiently review utility requests for confidential designations of data in the 2022 ERRR forecast proceedings.

²¹ GO 66-D at Section 3.2.

²² GO 66-D at Section 3.3.

²³ Article 11 of the Commission's Rules of Practice and Procedure.

²⁴ Rule 11.1 of the Commission's Rules of Practice and Procedure.

Each utility shall (a) meet and confer with parties to its 2022 ERRA forecast proceeding to discuss the application of D.06-06-066 and other Commission decisions to the designations of ERRA and PABA data as public or confidential prior to making a motion in its 2023 ERRA forecast proceeding for confidential treatment of data, and (b) report on the outcomes of the meet-and-confer process in its first motion in its 2023 ERRA forecast proceeding for confidential treatment of data.

5.6. ERRA Trigger Mechanism

In D.02-10-062, the Commission ordered the creation of ERRA accounts and created a “trigger mechanism” to alert the Commission to over-collections or under-collections in the ERRA account above or below the four percent trigger point and the Assembly Bill 57 five percent threshold²⁵ of the utility’s authorized fuel and power purchase revenue requirement approved in the previous year. If the four percent trigger point is exceeded and the balance is forecast to exceed the five percent threshold, the utility must either file an advice letter notification that the trigger point has been exceeded but no rate change is necessary since the balance is expected to self-correct within 120 days, or, if the exceedance will not self-correct within 120 days, file an expedited application to consider the appropriate way to adjust customer rates over a 90-day period to account for the over-collection or under-collection.²⁶

In comments on the 2020 Scoping Memo, the Joint IOUs recommended that the Commission adjust the ERRA trigger mechanisms to consider Portfolio Allocation Balancing Account balances or any other generation balancing accounts, which may “cancel out” under-collections in ERRA and reduce the

²⁵ Pub. Util. Code Section 454.5(d)(3).

²⁶ See also D.06-06-051 at Ordering Paragraph 3.

frequency of expedited ERRA trigger applications. The Joint IOUs urged the Commission to consider “net balances” associated with bundled customers’ generation costs and customer revenues, rather than considering the ERRA account on its own. The Joint IOUs asserted that the purpose of this proposal is to save valuable party and Commission resources.

The Joint IOUs noted that in 2019 and 2020, PG&E’s ERRA account was over-collected and was not forecast to self-correct, causing PG&E to file expedited trigger applications. However, in both instances, PG&E’s PABA account was significantly under-collected, and therefore PG&E did not pursue rate adjustments.²⁷

In comments on October 1, 2021, CalCCA supported adoption of the proposal, with the caveat that the Joint IOU proposal requires an ongoing calculation of bundled customers’ share of the PABA balance which will be used as an offset to the ERRA in the calculation of the ERRA trigger. CalCCA recommended requiring each IOU to include in its monthly reports the details supporting the PABA attribution to bundled customers and the determination of whether the combined ERRA and PABA balance reached or exceeded the ERRA trigger in that month. No party opposed this recommendation.

The ERRA trigger mechanism should be modified to consider ERRA account balances net of PABA balances when calculating whether over-collections or under-collections are above the four percent trigger point and five percent AB 57 threshold of the utility’s authorized fuel and power purchase revenue requirement approved in the previous year. Each utility shall include in its ERRA and PABA monthly reports: (a) a description of the attribution of PABA

²⁷ Joint IOUs’ comments on January 22, 2021.

balances to bundled customers, and (b) a description of whether the combined PABA and ERRA balance reached or exceeded the trigger.

6. Comments on Proposed Decision

The proposed decision of ALJ Stephanie S. Wang in this matter was mailed to the parties in accordance with Section 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 January 6, 2022 by AReM/DACC, CalCCA and the Joint IOUs, and reply comments were filed on January 11, 2022 by Cal Advocates, CalCCA and the Joint IOUs.

7. Assignment of Proceeding

Alice Reynolds is the assigned Commissioner and Stephanie S. Wang is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The current annual ERRA forecast proceeding schedule results in delays in ERRA forecast decisions.
2. Delays in ERRA forecast decisions cause delays in utility rate changes, which result in rate volatility and growing balancing account surpluses or deficits.
3. The Staff Proposal recommended moving the MPB release date from November 1 to October 1 each year to enable the assigned Commissioner or assigned ALJ to direct utilities in the ERRA forecast proceedings to provide an October Update rather than a November Update.
4. Moving the deadlines for utilities' ERRA forecast updates would provide more time for parties and the Commission to review the updates and for the Commission to timely issue decisions on the ERRA forecast applications.

5. The Staff Proposal will likely have a minor impact on forecasted and final MPB values and PCIA values and should not result in PCIA rate instability.

6. Moving the MPB release date without changing the deadlines for filing ERRR forecast applications could prevent the realization of the benefits of the Staff Proposal for some parties.

7. Due to a mismatch between PCIA and ERRR vintages, customers departing bundled service in the first half of a year are not included in that year's PCIA vintage and are not charged or credited for costs accrued in the year they departed.

8. The Master Data Request process improves the efficiency of party access to ERRR forecast proceeding data.

9. The inconsistencies between IOUs' treatment of ERRR data as confidential or public indicate that one or more utilities may be misapplying the confidentiality requirements of D.06-06-066.

10. Considering "net balances" associated with bundled customers' generation costs and customer revenues when calculating an ERRR trigger point and threshold, rather than considering the ERRR account on its own, will save party and Commission resources.

Conclusions of Law

1. The Commission should change the PCIA MPB release date from November 1 to October 1 each year.

2. By March 1, 2024, the Commission's staff should file and serve upon the service list of this proceeding and any successor proceeding an analysis of the impact of changing the PCIA MPB release date on forecast accuracy.

3. The Commission should consider modifying the calculation of the PCIA energy index market price benchmark in Phase 2 of this proceeding.

4. It is reasonable to require SCE, PG&E and SDG&E to each file its ERRA forecast application no later than May 15th each year.

5. Each utility should modify its respective Electric Preliminary Statements governing the ERRA and PABA accounts to place year-end ERRA balances in the most-recent vintage subaccount of PABA each year. The modifications should clarify that disposition of the year-end balance in the ERRA account shall be to the PABA upon submission (where a Tier 1 advice letter is currently required) or approval (where a Tier 2 advice letter is currently required) by the Commission of the applicable compliance advice letter addressing such balance.

6. SDG&E should meet and confer with the parties to the 2022 ERRA forecast proceeding to revisit ERRA and PABA data disclosure requirements and include a proposal in its 2023 ERRA forecast application on how to adjust ERRA and PABA data disclosure requirements for consistency with SCE's and PG&E's ERRA and PABA data disclosure requirements.

7. Each IOU should (a) provide non-confidential information from the Master Data Request response to all parties to the proceeding that request a copy within 5 business days of the request, and (b) provide confidential information from the Master Data Request response to all reviewing representatives that have signed a nondisclosure agreement within 5 business days after each of the utility's monthly ERRA reports is submitted to the Commission during the pendency of the applicable ERRA forecast proceeding.

8. This decision does not revise the required contents of Master Data Request responses for PG&E. SCE and SDG&E should include in their Master Data Request responses all ERRA and PABA monthly report information that they are required to provide pursuant to the applicable decision.

9. It is reasonable to direct each utility to (a) meet and confer with parties to its 2022 ERRA forecast proceeding to discuss the application of D.06-06-066 and other Commission decisions to the designations of ERRA and PABA data as public or confidential prior to making a motion in its 2023 ERRA forecast proceeding for confidential treatment of data, and (b) report on the outcomes of the meet-and-confer process in its first motion in its 2023 ERRA forecast proceeding for confidential treatment of data.

10. The ERRA trigger mechanism should be modified to consider ERRA account balances net of PABA balances when calculating whether over-collections or under-collections are above the four percent trigger point and five percent threshold of the utility's authorized fuel and power purchase revenue requirement approved in the previous year.

11. Each IOU should include in its ERRA and PABA monthly reports: (a) a description of the attribution of PABA balances to bundled customers, and (b) a description of whether the combined PABA and ERRA balance reached or exceeded the trigger.

O R D E R

IT IS ORDERED that:

1. The California Public Utilities Commission will release the Market Price Benchmarks for the Power Charge Indifference Adjustment by October 1st each year or the first business day thereafter if October 1st is on a Saturday or Sunday.

2. By March 1, 2024, the staff of the California Public Utilities Commission is authorized to file and serve upon the service list of this proceeding and any successor proceeding an analysis of the impact of changing the Power Charge Indifference Adjustment Market Price Benchmarks release date on forecast accuracy.

3. Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas & Electric Company shall each file its Energy Resource Recovery Account forecast application no later than May 15th each year.

4. Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas & Electric Company shall each modify its respective Electric Preliminary Statements governing the Energy Resource Recovery Account (ERRA) and Portfolio Allocation Balancing Account (PABA) accounts to place year-end ERRA balances in the most-recent vintage subaccount of PABA each year. The modifications shall clarify that disposition of the year-end balance in the ERRA account shall be to the PABA upon submission (where a Tier 1 advice letter is currently required) or approval (where a Tier 2 advice letter is currently required) by the Commission of the applicable compliance advice letter addressing such balance.

5. Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas & Electric Company shall each (a) provide non-confidential information from the Master Data Request response to all parties to the proceeding that request a copy within 5 business days of the request, and (b) provide confidential information from the Master Data Request response to all reviewing representatives that have signed a nondisclosure agreement within 5 business days after each of the utility's monthly Energy Resource Recovery Account reports is submitted to the California Public Utilities Commission during the pendency of the applicable Energy Resource Recovery Account forecast proceeding.

6. San Diego Gas & Electric Company shall meet and confer with the parties to its 2022 Energy Resource Recovery Account (ERRA) forecast proceeding to revisit ERRA proceeding data disclosure requirements and include a proposal in

its 2023 ERRA forecast application on how to adjust ERRA proceeding data disclosure requirements for consistency with Southern California Edison Company's and Pacific Gas and Electric Company's ERRA proceeding data disclosure requirements.

7. Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas & Electric Company shall each (a) meet and confer with the parties to its 2022 Energy Resource Recovery Account (ERRA) forecast proceeding to discuss the application of Decision 06-06-066 to the designations of ERRA and Portfolio Allocation Balancing Account monthly report data as public or confidential by May 1, 2022, and (b) propose changes to the public or confidential designations of data in its 2023 ERRA forecast application.

8. The Energy Resource Recovery Account (ERRA) trigger mechanism is modified to consider ERRA account balances net of Portfolio Allocation Balancing Account balances when calculating whether over-collections or under-collections are above the four percent trigger point and five percent threshold of the utility's authorized fuel and power purchase revenue requirement approved in the previous year.

9. Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas & Electric Company shall each include in its Energy Resource Recovery Account (ERRA) and Portfolio Allocation Balancing Account (PABA) monthly reports: (a) a description of the attribution of PABA balances to bundled customers, and (b) a description of whether the combined PABA and ERRA balance reached or exceeded the trigger.

10. Rulemaking 17-06-026 remains open.

This order is effective today.

Dated January 27, 2022, at San Francisco, California.

ALICE REYNOLDS

President

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

DARCIE HOUCK

Commissioners