Decision 25-10-061 October 30, 2025

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

ORDER DENYING REHEARING OF DECISION 25-06-049

I. INTRODUCTION

The Commission issued Decision (D.) 25-06-049 (Decision) on June 27, 2025. The Decision implements revisions to the methodology the Commission uses when calculating the Resource Adequacy (RA) Market Price Benchmark (MPB), which is used to calculate the Power Charge Indifference Adjustment (PCIA). The PCIA is a ratemaking element intended to ensure indifference to both bundled and unbundled customers as required by the Public Utilities Code. The PCIA is calculated annually as part of each Investor Owned Utility's (IOU's)[1] Energy Resource Recovery Account (ERRA) Forecast proceeding. (Decision, pp. 4-5.)

Applications for rehearing of the Decision were timely filed on July 28, 2025 by the California Community Choice Association (CalCCA) and jointly by Ava Community Energy Authority (Ava) and San Jose Clean Energy (jointly, the Joint Applicants).

In its rehearing application, CalCCA contends that:

1) The Commission failed to act within its jurisdiction and failed to proceed in the manner required by law by engaging

[1] The IOUs refer to Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE).

in unlawful retroactive ratemaking in violation of section 728;[2]

2) The Commission failed to proceed in the manner required by law by not harmonizing section 728's prohibition on retroactive ratemaking with the indifference statutes; and

3) The Commission failed to support the Decision with findings and failed to make findings supported by substantial evidence in light of the whole record.

CalCCA also requests that the Commission hold oral argument as part of rehearing.

In their jointly filed rehearing application, the Joint Applicants allege that:

1) The Decision is unsupported by substantial evidence;

2) The Commission violated Rule 13.6[3] and the U.S. Constitution by failing to afford parties due process; and

3) The Decision is inconsistent with the statutory framework governing the RA MPB.

We have carefully considered the claims raised in both rehearing applications and find no basis for granting rehearing of the Decision.

II. BACKGROUND

The Commission issued *Order Instituting Rulemaking (OIR) to Update and Reform Energy Resource Recovery Account and Power Charge Indifference Adjustment Policies and Processes* on February 26, 2025. The Commission opened the proceeding to consider changes to rules and processes applicable to the ERRA annual forecast and compliance proceedings, as well as changes to the PCIA.

The OIR establishes separate proceeding tracks, with Track 1 addressing potential changes to the RA MPB calculation on an expedited basis. (OIR, p. 18.) The OIR establishes that the goal of expediting Track 1 is to allow Energy Division to issue

[2] Unless otherwise specified, all section references are to the Public Utilities Code.

[3] Unless otherwise specified, all rule references are to the Commission's Rules of Practice and Procedure.

MPBs in the ERRA proceedings by October 2025. (*Id.* at pp. 18-19.) The OIR also sets forth various issues to be considered in Track 2 and states that the issues identified in Track 1 may be revisited as part of the Track 2 process. (*Id*. at p. 23.)

As part of the Track 1 proceeding, the Chief Administrative Law Judge (ALJ) issued a ruling serving the *Energy Division Staff Report of the 2024-2025 Resource Adequacy Market Price Benchmark* (Staff Report) on the service list and making the Staff Report part of the proceeding record. (*Chief Administrative Law Judge's Ruling Adding Energy Division Report to the Record and Setting the Schedule for Comments on the Report*, Rulemaking (R.) 25-02-005 (Feb. 26, 2025) [February 26, 2025 Ruling].) Parties were afforded the opportunity to file opening and reply comments on the OIR and the Staff Report, on March 18, 2025 and April 2, 2025, respectively.

Following an April 7, 2025 prehearing conference, the assigned Commissioner issued the *Assigned Commissioner's Scoping Memo and Ruling* (Scoping Memo) on April 8, 2025. The Scoping Memo identified several issues to be included as the scope of the Track 1 proceeding, including whether the Commission should expand the data considered when determining the RA MPB. Per the schedule set forth in the Scoping Memo, parties were afforded a briefing opportunity on issues such as retroactive ratemaking and other "substantive arguments." (Scoping Memo, p. 3.) As set forth in the Scoping Memo, parties were permitted to file supporting information along with their briefs, and requested to identify contested issues of material fact in their reply briefs. (*Ibid*.) The Scoping Memo also identified May 2025 as the target date for a Proposed Decision. (*Id*. at p. 4.)

Per the directive in the Scoping Memo, parties filed opening and reply briefs on April 21, 2025 and April 30, 2025, respectively. In addition to briefing, the IOUs jointly filed a motion to move testimony into the record. (*Joint Motion for Admission of Testimony into the Record*, R.25-02-005 (April 21, 2025).) CalCCA, the Direct Access Customer Coalition and the Alliance for Retail Energy Markets, and Shell Energy North America (US), L.P., all filed responses opposing the Joint IOUs' motion.

On April 30, 2025, CalCCA filed its own motion to move testimony into the record. (*California Community Choice Association's Motion for Admission into the Record of Rebuttal Testimony of Brian Dickman in Response to the Joint Investor-Owned Utilities' Testimony Filed in Support of Their Opening Brief*, R.25-02-005 (April 30, 2025).) On May 2, 2025, the Coalition of California Utility Employees (CUE) also filed a motion to move its own testimony into the record. (*Motion of the Coalition of California Utility Employees for Admission of Testimony into the Record*, R.25-02-005 (May 2, 2025).) On May 5, 2025, the IOUs jointly filed a response to CalCCA's motion to move its testimony into the record.

The Commission issued a Proposed Decision (PD) on May 23, 2025, and opening and reply comments on the PD were filed by various parties on June 12, 2025 and June 17, 2025, respectively.

The Commission issued the Decision on June 27, 2025. The Decision implements revisions to the methodology the Commission uses when calculating the RA MPB, and directs the Commission's Energy Division to apply the new methodology in the calculation of the 2025 final RA MPB, as well as in succeeding forecasts and final MPBs.

III. DISCUSSION

A. The Commission did not engage in retroactive ratemaking.

CalCCA's primary contention on rehearing is that applying the revised RA MPB methodology to the 2025 ERRA proceeding constitutes retroactive ratemaking in violation of section 728. (*CalCCA Application for Rehearing of D.25-06-049*, R.25-02-005 (July 28. 2025), pp. 13-31 [CalCCA Rehg. App.].) As CalCCA acknowledges however, section 728 does not prohibit all retroactive activity, but instead, only prohibits retroactive ratemaking in the context of "general ratemaking." (See *CalCCA's Opening Brief*, R.25-02-005 (April 21, 2025).) As such, CalCCA's contention is based on the proposition that the Decision constitutes general ratemaking. (See CalCCA Rehg. App., pp. 3-4.)

The cases CalCCA cites do not support its position. CalCCA relies heavily on *Southern California Edison Co. v. Public Utilities Com.* (1978) 20 Cal.3d 813. In this case however, the California Supreme Court found that the Commission did *not* engage in general ratemaking, and thus, did not engage in prohibited retroactive ratemaking, when it ordered SCE to amortize fuel costs it had over-collected in rates back to its customers as a sur-credit. (*Id*. at 817, 830.) The Court explained that while section 728 vests the Commission with power to fix rates prospectively only, the statute does not require that "each and every act of the commission operate solely in futuro" but is "limited to the act of promulgating 'general rates.'" (*Id.* at 816, 817 ["before there can be retroactive ratemaking, there must at least be *ratemaking*"].) The court defined a general ratemaking as follows: "[t]he basic principle [of ratemaking] is to establish a rate which will permit the utility to recover its cost and expenses plus a reasonable return on the value of property devoted to public use." (*Id.* at 818 quoting *City and County of San Francisco v. Public Utilities Com.* (1971) 6 Cal.3d 119, 129.) The Court further explained that a "true ratemaking proceeding," contains many variables that are taken into account, and includes the formulation of "broad policies." (*Id*. at 816, 828.) The Court contrasted "true ratemaking" with the "narrowly restricted and semi-automatic functioning of [the fuel] adjustment clause," at issue in the proceeding, finding that the latter does not constitute general ratemaking. (*Ibid*.) Among other things, the Court emphasized that the operation of the adjustment clause was "intended to contain no element of profit whatever." (*Id.* at 818.)

CalCCA also points to *The Ponderosa Telephone Co. v. Public Utilities Com*. (2011) 197 Cal.App.4th 48, in which Ponderosa challenged a Commission decision that allocated the proceeds from the redemption of Rural Telephone Bank (RTB) stock to the company's ratepayers as opposed to Ponderosa itself. Ponderosa contended that the Commission's ordered allocation constituted retroactive ratemaking because the Commission previously set rates in a general rate case (GRC) based on a forecast of costs that did not include the allocation of RTB shares. The Court agreed, finding that because rates had previously been forecasted and deemed reasonable in a GRC, the re-allocation

of RTB shares amounted to a Commission "reset" of the rates forecasted in the GRC. (*Id*. at 61.) As summarized in *Ponderosa*, "[t]he rule against retroactive ratemaking prevents the agency from forcing a utility to disgorge the proceeds of rates that have been finally approved and collected, as well as the fruits of those proceeds." (*Id*. at 62.)

These cases do not support CalCCA's argument that the Decision constitutes general ratemaking. The Court in *Southern California Edison* explains that while fuel costs were initially part of a forecast, the Commission subsequently granted the utility's request for an adjustment mechanism to account for unexpectedly high fuel costs. The fuel cost adjustment was a mechanism outside the GRC, intended to be a "dollar-for dollar reimbursement." (*Southern California Edison, supra*, 20 Cal.3d at 819.) In *Ponderosa*, in contrast, a forecast was developed in a GRC, then subsequently rolled-back via the Commission's subsequent order on the allocation of the RTB shares. *(Ponderosa, supra*, 197 Cal.App.4th at 61.)

CalCCA fails to point to any legal authority for the notion that changing the RA MPB methodology as part of the ERRA true-up process constitutes general ratemaking. Similar to the fuel adjustment clause at issue in *Southern California Edison*, ERRA proceedings do not establish a rate of return and instead pass through costs "meaning that the utility recovers from customers the exact expenditure for the commodities and related costs without applying a rate of return, otherwise known as profit." (OIR, p. 4.)

CalCCA also relies on the fact that the Commission categorized this proceeding as ratesetting. (CalCCA Rehg. App., p. 5.) However, ratesetting is a broad category applied to many types of proceedings at the Commission. The "ratesetting" category is not synonymous with general ratemaking. (See Rule 1.3(g).) Indeed, some Commission ratesetting proceedings have nothing to do with rates at all. For instance, Commission approval of new railroad and light rail crossings are classified as ratesetting proceedings. (See e.g., A.25-08-010 [the City of Oceanside's application for one pedestrian trail rail crossing underpass, which is categorized as a ratesetting proceeding].)

Finally, CalCCA states in its rehearing application that 2025 ERRA costs are already being collected. However, the 2025 ERRA costs adopted in the ERRA forecast proceeding have always been subject to true-up based on actual costs. The Decision's determination to apply the revised RA MPB methodology to the 2025 ERRA forecast proceeding means that when the true-up occurs, the methodology used to calculate costs will be in compliance with the Public Utilities Code's indifference requirements. CalCCA fails to cite to any authority for the notion that this process constitutes retroactive ratemaking and otherwise fails to show legal error in the Decision.

B. The Decision has adequate findings.

CalCCA alleges that the Commission fails to support the Decision with adequate findings regarding applying the redesigned RA MPB "retroactively." (CalCCA Rehg. App., pp. 33-34.) Similarly, CalCCA alleges that the Decision fails to make findings consistent with what CalCCA calls the "Edison analysis,"[4] to explain why the Decision does not set general rates. (*Id*. at 34.)

CalCCA ignores the Decision's conclusion regarding retroactive ratemaking. Conclusion of Law (COL) 9 states that "[a]pplication of these changes to the 2025 Final RA MPB does not violate the prohibition against retroactive ratemaking." (Decision, p. 34, COL 9.) CalCCA does not fully elaborate on why this conclusion is insufficient.

Determining whether the current proceeding constitutes general ratemaking and whether applying the changes adopted in the Decision to the final 2025 RA MPB constitutes retroactive ratemaking are legal conclusions. This issue is addressed by COL 9. (Decision, p. 34, COL 9.) No additional findings or conclusions are needed to explain this conclusion. (See *Toward Utility Rate Normalization v. Public Utilities Com.* (1978) 22 Cal.3d 529, 540 ["findings and conclusions are sufficient if they provide a statement which will allow us a meaningful opportunity to ascertain the principles and facts relied upon by the [Commission] in reaching its decision"] [internal quotations omitted].) The

[4] Referring to *Southern California Edison, supra,* 20 Cal.3d 813.

Commission's conclusion is further explained in the Decision itself, which specifically addressed the retroactive ratemaking issue raised by CalCCA in briefs. (See Decision, pp. 28-30; *Toward Utility Rate Normalization*, *supra*, 22 Cal.3d at 540 [the entirety of the Commission's decision can be used to determine the adequacy of the findings].) There is likewise no requirement that the Commission address every argument made in its conclusions. (*Clean Energy Fuels Corp. v. Public Utilities Com.* (2014) 227 Cal.App.4th 641, 659; *Toward Utility Rate Normalization, supra,* 22 Cal.3d at 540.) The Commission's conclusion specifically addressing retroactive ratemaking is sufficient and CalCCA fails to show legal error.

C. The Decision is based on an adequate evidentiary record.

CalCCA and the Joint Applicants assert that the Decision's findings related to the alleged flaws of the current RA MPB are not based on substantial evidence. (CalCCA Rehg. App., p. 34; *Joint Application for Rehearing of Decision 25-06-049*, R.25-02-005 (July 28, 2025) [Joint Rehg. App.], p. 3.) CalCCA and the Joint Applicants argue that the only evidentiary support in the record to support the Decision's findings with regard to the flaws in the prior RA MPB methodology is the Staff Report. The rehearing applicants allege that the Staff Report is an insufficient evidentiary basis to rely on to make changes to the PCIA calculation methodology. (CalCCA Rehg. App., p. 34; Joint Rehg. App., pp. 3-4.) The Joint Applicants also take issue with several conclusions drawn in the Staff Report. (Joint Rehg. App., pp. 4-5.)

The rehearing applicants assert that sole reliance on the Staff Report constitutes a legal error because parties attempted to discern additional information regarding the Staff Report's findings but were unable to do so. In the Joint Applicants' rehearing application, the Joint Applicants explain that Ava issued a Public Records Act (PRA) request seeking non-confidential historical RA transaction data. (*Id*. at p. 7.) The Joint Applicants explain that they did not receive a response to this request prior to the final Decision, and as such, were unable to test the veracity of the Staff Report's findings. (*Ibid*.) Similarly, CalCCA asserts that it and "several parties" requested data from Energy Division supporting the conclusions in the Staff Report but did not receive data

"demonstrating how the factors identified in the Decision lead to a lack of indifference," and likewise "could not verify the Energy Division's conclusions independently." (CalCCA Rehg. App., p. 34.)

CalCCA and the Joint Applicants fail to show legal error. CalCCA and the Joint Applicants ignore the support for the conclusions and policy recommendations set forth in the Staff Report proffered on the record by an array of parties. For instance, both the IOUs and consumer advocates such as The Utility Reform Network (TURN) and the California Public Advocates Office (Cal Advocates) agreed with the need to address price volatility and the resulting cost-shift by revising the RA MPB. Further, the issue addressed in Track 1 of the proceeding – whether to revise the RA MPB to rectify ratepayer indifference issues – is a purposefully narrow issue. (Decision, p. 2; OIR, pp. 18-19.) The Staff Report and the various comments and briefs submitted by multiple parties is a sufficient evidentiary record on which the Commission can make a determination.

The Joint Applicants criticize the conclusions drawn in the Staff Report. However, the Commission provided parties with notice and an opportunity to comment on the Staff Report; the Joint Applicants did not comment on the Staff Report and did not submit briefs when given the opportunity.

In short, there is a sufficient evidentiary basis for the Commission to find evidence of an impermissible cost shift and likewise find that revisions to the RA MPB methodology are necessary to remedy the cost shift issue. While the rehearing applicants may disagree with the conclusions set forth in both the Staff Report and the Decision, this does not equate to the Commission committing legal error. (See *Order Denying Rehearing of Decision 21-03-056* (2021) [D.21-09-045], p. 7 [merely because the Commission did not reach the applicant's preferred finding does not constitute legal error].)

D. The Commission afforded the parties due process.

The Joint Applicants contend that the Commission failed to provide parties with adequate due process in violation of Rule 13.6 and the U.S. Constitution. (Joint

Rehg. App., p. 6.) The Joint Applicants' contention that the Commission violated their due process stems largely from the assertion that the Joint Applicants should have been provided the data underpinning the Staff Report to meaningfully participate in this proceeding. (Joint Rehg. App., p. 6.) The Joint Applicants are incorrect and fail to show any due process violations.

Due process requires that parties be given notice and an opportunity to be heard. (*Drummey* v. *State Bd. of Funeral Directors* (1939) 13 Cal.2d 75, 80-81.) The Joint Applicants were notified of the proceeding as respondents to the OIR, the Staff Report was provided to parties via the February 26, 2025 Ruling, and the Joint Applicants had an opportunity to comment on the OIR and Staff Report and submit briefs for the Commission's consideration. The Joint Applicants were thus provided notice and an opportunity to be heard as due process requires. The Joint Applicants fail to show that due process also requires certain data used by Energy Division to formulate its recommendations.

Further, other parties were able to present an analysis of the Staff Report and provide the Commission with their own evaluation of RA transaction pricing. For instance, CalCCA provided an analysis of capacity transactions from the Federal Energy Regulatory Commission's (FERC's) Electronic Quarterly Reports, contending that such data "can act as a public proxy for the confidential transactions reported to Energy Division to calculate the RA MPB." (*California Community Choice Association's Opening Comments on the Order Instituting Rulemaking and Energy Division Staff Report*, R.25-02-005 (March 18, 2025), pp. 28-29.)

The Joint Applicants also complain that parties were only given "two rounds each of comments and the opportunity to brief the issues," and that "none of these pleadings were opportunities to bring new evidence into the proceeding." (Joint Rehg. App., p. 8.) First, the Scoping Memo authorized parties "to file briefs along with supporting information . . ." (Scoping Memo, p. 3.) Parties were all notified of the opportunity to comment on the OIR and Staff Report, and submit briefs, with only CalCCA (of the rehearing parties) opting to do so. Further, no party objected or

otherwise raised concerns with this proceeding schedule after the Scoping Memo was issued.

Along similar lines, the Joint Applicants state that "[t]he Commission even refused to consider any additional evidence that parties proffered, such as expert testimony." (Rehg. App., p. 8.) It is not clear whether the Joint Applicants are contending that the denial of three motions to move testimony into the record constitutes a legal error. Regardless, the determination to deny each of the three motions is explained in the Decision. (See Decision, pp. 10-11.) The Joint Applicants fail to engage with the Decision's rationale for denying these requests and fail to show legal error.

Finally, the Joint Applicants compare this proceeding to R.17-06-026, which led to D.18-10-019, the decision that revised the PCIA methodology. (Joint Rehg. App., p. 8 referring to *Decision Modifying the Power Charge Indifference Adjustment Methodology* (2018) [D.18-10-019].) The Joint Applicants state that D.18-10-019 was reached "after several rounds of comments, workshops, opening and rebuttal testimony, five days of evidentiary hearings, submission of opening and reply briefs, as well as supplemental briefs, and oral argument." (Joint Rehg. App., p. 8.) While this may be correct, this fails to show legal error. Merely because additional procedural steps were held in one proceeding, does not necessitate those same steps being held in all proceedings.

In sum, due process requires notice and an opportunity to be heard. The Joint Applicants were provided these due process components but failed to participate throughout much of the proceeding. While the Joint Applicants did hold several ex parte meetings regarding this proceeding, the Joint Applicants also failed to submit comments or briefs in this matter, and Ava only submitted a substantive pleading once the proposed decision was issued. The Joint Applicants have failed to demonstrate that due process requires additional procedural steps.

E. The Decision is consistent with the statutory framework governing the RA MPB.

The Joint Applicants assert that the Decision is inconsistent with section 366.2. (Joint Rehg. App., p. 9.) Section 366.2(g) requires that RA valuation reflect portfolio value. (§ 366.2(g).) The Joint Applicants assert that this provision has been violated because, the Decision extends the MPB transaction look-back period "to include data as far back as 2021." (Joint Rehg. App., p. 9.) The Joint Applicants argue that data this far back is irrelevant to 2025 market conditions, and thus the Decisions revised methodology is inconsistent with section 366.2(g). (*Ibid*.)

Determining the appropriate number of years to include in the look-back period is ultimately a policy choice, which is within the Commission's discretion. (*SFPP L.P. v. Public Utilities Com* (2013) 217 Cal.App.4th 784, 791 [the Commission's decision regarding the treatment of partnerships for tax purposes is a policy question, and thus, not subject to reversal by this court].) While section 366.2 requires that RA valuation reflect portfolio value, the Joint Applicants fail to show that this provision is violated by including data as far back as 2021. The statute says nothing about inclusion of specific years, and the Joint Applicants fail to show how this policy determination constitutes a legal error.

IV. CONCLUSION

CalCCA and the Joint Applicants fail to show legal error in the Decision. As such, both rehearing applications are denied. Given this conclusion, the Commission also denies CalCCA's request for oral argument.

THEREFORE, IT IS ORDERED that:

1. The applications for rehearing of Decision 25-06-049 are denied.
2. This proceeding remains open.

This order is effective today.

Dated October 30, 2025, at Sacramento, California.

ALICE REYNOLDS
President
DARCIE L. HOUCK
JOHN REYNOLDS
KAREN DOUGLAS
MATTHEW BAKER
Commissioners