

**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
(Filed June 29, 2017)

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S COMMENTS
IN RESPONSE TO E-MAIL RULING REQUESTING COMMENTS ON MARKET
PRICE BENCHMARK ISSUE DATE**

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On behalf of
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The California Community Choice Association¹ (“CalCCA”) submits the following opening comments in response to the questions posed in Administrative Law Judge (“ALJ”) Wang’s August 25, 2021 E-mail Ruling (“Ruling”) in the above-captioned proceeding.² The questions address further analysis from Energy Division Staff’s May 20, 2021 proposal to revise the publication date for the Power Cost Indifference Adjustment (“PCIA”) Market Price Benchmarks (“MPBs”) from November 1 to October 1 of each year (“Staff Proposal”).³

The analysis served on August 25, 2021 (“Staff Analysis”), while inconclusive, supports prior assertions from staff and parties that the impact of the Staff Proposal to change from a November Update to an October Update is likely to be minor. The only data permanently “lost”

¹ California Community Choice Association represents the interests of 22 community choice electricity providers in California: Apple Valley Choice Energy, Baldwin Park Resident Owned Utility District, Central Coast Community Energy, Clean Energy Alliance, Clean Power Alliance, CleanPowerSF, Desert Community Energy, East Bay Community Energy, Lancaster Choice Energy, Marin Clean Energy, Peninsula Clean Energy, Pico Rivera Innovative Municipal Energy, Pioneer Community Energy, Pomona Choice Energy, Rancho Mirage Energy Authority, Redwood Coast Energy Authority, San Diego Community Power, San Jacinto Power, San José Clean Energy, Silicon Valley Clean Energy, Sonoma Clean Power, and Valley Clean Energy.

² Rulemaking (R.) 17-06-026, *E-mail Ruling Requesting Comments On Market Price Benchmark Issue Date* (August 25, 2021).

³ R.17-06-026, Energy Division Staff, *Revision of the of the Power Cost Indifference Adjustment Market Price Benchmarks Calculation Date from November 1 to October 1 of each year* (May 20, 2021) (“Staff Proposal”).

in the MPB framework will be part of the calculations for the *final* MPBs, which will now exclude transactions concluded in September for the balance of the same year; historically, a small percentage of such transactions. While other impacts, including most of the sensitivities staff ran in its analysis, may increase or decrease PCIA rates in the near term, such changes cannot be predicted with certainty, and all will be trued up with actual data the following year.

While the impacts of Staff’s policy are likely to be small, the only analysis that can bring certainty to the question of the extent of those impacts is a *post hoc* analysis. Therefore, CalCCA recommends the Commission include a review of the policy’s impacts at least two years after it has been enacted in any decision adopting the proposal to determine whether the policy should be revisited.

More importantly, the bigger and more critical impact of Staff’s proposal to move the update forward by one month will be to the already truncated, pre-update process in the ERRA proceedings. As discussed at the June 4, 2021 workshop (“Workshop”), and within CalCCA’s June 15 comments (“June 15 Comments”) and June 22 reply comments (“June 22 Reply Comments”) on these same issues, the Staff Proposal can address the underlying problems with the ERRA forecast timelines, while improving community choice aggregators’ (“CCAs”) and other parties’ ability to effectively participate within the proceedings, if the Commission:

- Maintains the current, typical procedural framework for the ERRA forecast proceedings that occur prior to each year’s update; and
- Requires SCE and PG&E to file their ERRA forecast applications on May 1 each year instead of June 1, or, at the very least, on a filing date in the first half of May.

A proposed decision adopting the Staff Proposal without these corresponding procedural changes must be rejected. The obstacles to effective participation in these cases are too tall. Substantive policy issues, as many as five sets of utility testimony, and constant discovery disputes all must

be addressed and resolved within seven months within each proceeding. Intervenors simply cannot exercise their rights to investigate the rates their customers will pay if an entire month of the pre-update procedural schedule is excised to accommodate Staff's Proposal.

I. REVIEW OF WORKSHOP HIGHLIGHTS

ALJ Wang's Ruling poses the following question with regard to a document summarizing the June 4 workshop addressing Energy Division's MPB proposal ("Workshop"):

- 1. Please review the attached workshop highlights prepared by Energy Division staff (including corrections to the staff proposal). Do you have any corrections or refinements to the workshop highlights?*

Per CalCCA's notes and recollections, the due process concerns in the "workshop highlights" document overstate the depth and breadth of that discussion at the Workshop, which formed a much smaller portion of the workshop's time than that document suggests. Moreover, for the reasons stated within the June 15 Comments, the due process question is narrow and easily addressed in this instance, especially on account of the PCIA service list including most of the "usual suspects" that participate in the ERRA forecast proceedings, including the utility applicants, various CCA parties, direct access groups, The Utility Reform Network, the agricultural parties, and CalAdvocates. Reviewing the service list from the 2021 ERRA forecast proceedings for the past several years reveals few parties that are not on the PCIA service list. However, as discussed in the June 15 Comments, moving the application date forward should only assist intervenor parties, not inhibit them.

In recognition that such changes are already in scope in this case and can be addressed without raising significant due process issues, the ALJ ruling correctly takes on the issue of the ERRA forecast application deadline. However, language in the "workshop highlights" addressing the limitations on scope appear to contradict this conclusion and should be refined. Specifically, the following sentence in the fourth bullet on page 1 should be revised to state:

~~“Because some~~ While few stakeholders in the ERRA proceeding are not included in the PCIA service list, ~~the changes~~ regarding the fiscal structure of the GRC and ERRA rate changes considered by the ~~Alternate Proposal~~ pose ~~significant~~ sufficient issues of due process that the Commission should not consider in this proceeding changes to the January 1st target date for rate implementation. However, the Commission should reconsider whether the proceedings can begin sooner to accommodate Staff’s Proposal while maintaining existing procedural timelines.”

Further, and for the same reasons, in the last sentence on page one, the phrase “while the ERRA schedule is not within scope” should either be (1) deleted, (2) clarified to only address the specific dates each judge will determine as part each case’s procedural schedule (apart from the application date in ALJ Wang’s ruling and the general framework described below in these comments), or (3) qualified as a staff assertion rather than an acknowledgement.

II. ENERGY DIVISION ANALYSIS OF THE IMPACT OF STAFF’S PROPOSAL

ALJ Wang’s Ruling poses the following question with regard to Energy Division’s analysis of the impact of Staff’s Proposal:

2. *Please review the attached analysis by Energy Division staff of the impact of changing the issue date of the Market Price Benchmark calculations on the annual PCIA calculations in the ERRA forecast proceedings.*
 - a. *Do you agree with the conclusion of the staff analysis that the impact of implementing the May 2021 staff proposal on Market Price Benchmark calculations and PCIA rates appears to be minor? Why or why not?*
 - b. *What is a reasonable expectation (in percentage terms) for changes to the energy index as a result of using September forwards instead of October forwards?*

While not conclusive, Energy Division’s analysis supports the assumptions of most of the parties at the Workshop: the impact of the proposal is likely to be minor.

A. CalCCA Largely Agrees With Staff’s Conclusions.

Staff was unable to complete the analysis they sought to complete, *i.e.*, to review data from the past few years and analyze how the benchmarks would have changed under the Staff Proposal.⁴ Instead, the analysis states Staff conducted sensitivity analyses “by directly adjusting the values of previously calculated MPBs and then re-running PCIA calculations using these *estimated* data.”⁵ The results of these sensitivities are not surprising. For example, in Tables 3 and 5, if the value of the RPS and RA Adders increase, the PCIA rate in each service territory decreases.⁶ The sample size of the years analyzed prevents broad conclusions, however, and the actual impacts are likely to vary from year to year.

Yet the analysis provides support to prior assertions from parties that the change from a November Update to an October Update is likely to be minor. First, the only data permanently “lost” in the MPB framework will be part of the calculations for the *final* MPBs, which will now exclude transactions in September for the balance of that same year, *i.e.*, transactions completed in September of year n for delivery in October through December of year n.⁷ Historically, especially for resource adequacy, balance-of-year transactions form a small percentage of such transactions.⁸ Tables 2 and 4 in the analysis clearly confirm that this impact will be small,⁹ meaning the only permanent impact of the Staff Proposal appears to be minor.

The other, more major changes the report describes regarding *forecast* MPBs also do not raise substantial concerns. All of the PCIA increases or decreases presented in Tables 3, 5, and 6, including the “worst-case scenario”, will eventually be trued up under the process adopted in

⁴ Staff Analysis at 3.

⁵ *Id.* (emphasis in original).

⁶ *Id.* at 5, Table 3, and at 7, Table 5.

⁷ *Id.* at 3-6, Tables 2 and 4.

⁸ *Id.* at 4, 6.

⁹ *Id.* at 3-6, Tables 2 and 4.

D.18-10-019 and D.19-10-001. Staff correctly observes that “[a]ny increase or decrease in PCIA rates is important because it has a direct effect on electric ratepayers” but also that such impacts are likely to be mild in this case.¹⁰ Thus, while the accuracy of the MPBs could be reduced to some extent because market data for September will not be included in the MPB until the following year, or in the case of the Final MPBs will be excluded altogether, such concerns do not override the benefits of moving up the benchmark calculation.

Nonetheless, the only analysis that can bring certainty to the question of the impacts of Staff’s policy is a *post hoc* analysis conducted over the course of the next few years. For example, it is possible, although unlikely, that market participants could change their behavior in order to take advantage of the new approach, seeking to put as much value into transactions that are now lost in order to overstate the PCIA. Given the difficulty in obtaining the data Staff originally sought to conduct their analysis, CalCCA recommends the Commission collect data over the next few ERRRA cycles to conduct a review of the policy’s impacts after it has been enacted in any decision adopting the proposal.

Lastly, there is one error in Table 6 that should be addressed to ensure the table is internally consistent. Given the increases in the Energy Index described in the first and second columns of that table the “Percent rate change” in each of the remaining columns should be negative. Further, the PCIA rate changes illustrated in Table 6 are opposite in direction relative to the Staff conclusion discussed in the narrative above the table. That is, Staff estimates that an energy index calculated in September would be *lower* than an index calculated in October, but Table 6 illustrates the impacts of a progressively *higher* energy index.

¹⁰ Staff Analysis at 9.

B. Changes to the Energy Index

In order to calculate a reasonable expectation (in percentage terms) for changes to the energy index as a result of using September forwards instead of October forwards, parties require access to data from prior years that falls under a Platt's proprietary license. CalCCA was unable to obtain the necessary licenses and data in the timeline provided for these comments but reserves the right to reply to the other parties' analyses, if any, in reply comments.

III. MODIFICATION OF THE ERRA FORECAST APPLICATION DEADLINES

Regardless of the substantive impact, the procedural questions surrounding the Staff Proposal are deeply concerning for intervenor parties, and it will be important to avoid trading one set of procedural problems for another set of problems. ALJ Wang's Ruling poses the following question with regard to modification of the ERRA forecast application deadlines:

3. *The schedules of the ERRA forecast proceedings will be determined in each ERRA forecast proceeding. However, we will consider in this proceeding whether to change the ERRA forecast application filing deadlines.*
 - a. *If the Commission implements the May 2021 staff proposal, should the Commission direct any of the utilities to file its ERRA forecast application earlier?*
 - b. *Are there any barriers or drawbacks to earlier filing of any of the ERRA forecast applications?*

The numerous reasons Staff cited at the Workshop as support for revising the MPB publication dates are irrefutable,¹¹ with many having been raised by CCA parties in the utilities' individual ERRA forecast proceedings in recent years.¹² Moving the MPB publication from late October to

¹¹ R.17-06-026, *Commission Staff Presentation, Energy Division Workshop on the PCIA Market Price Benchmark Release Date*, slides 6, 8 (June 4, 2021).

¹² See, e.g., A.19-06-001, *Protest of the Joint CCAs to the Application of Pacific Gas and Electric Company (U 39 E) for 2020 Energy Resource Recovery Account and Generation Non-Bypassable Charges Forecast And Greenhouse Gas Forecast Revenue Return And Reconciliation*, pp. 26-29 (July 5, 2019).

late September, thereby replacing the “November Update” with an “October Update”, will give the Commission and parties sufficient time to reach a reasoned decision, without the need to stipulate to shortened timelines subsequent to the October Update, in time for January 1 implementation. However, the Staff Proposal should be adopted only if the PG&E and SCE application dates move forward, and the SDG&E application date remains on or before May 15, allowing the existing procedural timelines between the application date and reply briefs to be kept.

A. The Commission Should Direct the IOUs to File Their Applications on May 1 or in the First Half of May.

The CCAs’ underlying issue for the ERRA forecast proceedings has been, and continues to be, the compression of the cases’ procedural schedules. While CalCCA proposed moving the November Update timeline up one week as part of its comments in January, the CCAs did not support moving it up a full month. Presently, there is insufficient time to fully vet each part of the ERRA forecast cases. If the ultimate resolution the Commission reaches is to shift some of the schedule compression from one part of the proceeding to another, such a resolution would fail to address the CCAs’ underlying concerns.

1. Revisions to the MPB Publication Date Should Avoid Trading One Set of Procedural Problems for Another.

CalCCA’s June Comments provided the following as a schedule framework to help illuminate the concerns with simply deleting one month of the pre-update schedule, with the major milestones highlighted in blue:

Date	Procedural Step
April 15	SDG&E files its Application ¹³
May 1	PG&E and SCE file their Applications
Early June	Protests to Applications due
Mid-June	Replies to Protests due and Prehearing Conference
Late June/Early July	Scoping Ruling published
Early August	Intervenor testimony due
Mid-August	Rebuttal testimony due
Late August	Hearings
Mid-September	Opening briefs due
Late September	Reply briefs due
End of September	Energy Division publishes the MPBs
Early October	Updates filed
Late October	Comments on updates filed
Mid-November	Proposed Decision issued
Last Commission Business Meeting in December	Decision adopted
January 1	Rates implemented

While the judges for each ERRA forecast proceeding will ultimately decide the specific schedule for each case, providing broad guidance targeting the schedule above will accomplish the goals in the Staff Proposal without causing collateral procedural problems.

Failing to undertake this type of comprehensive revision to the ERRA forecast process, while still adopting the Staff Proposal, will cause problems in October of each year and beyond. For example, the typical procedural schedules for SCE and PG&E’s ERRA forecasts utilize October for some combination of testimony, hearings, and briefing.¹⁴ Simply moving the update forward one month will result in witnesses responsible for testimony and hearings concurrently

¹³ The SDG&E procedural dates do not need to shift to accommodate Staff’s Proposal. Thus, the dates in this table between May 1 and the “End of September” only apply to PG&E and SCE’s cases. However, SDG&E has recently requested the Commission allow it to file future ERRA forecast applications by June 15, which would provide even less time for review than what is currently provided in the PG&E and SCE proceedings. A.21-08-010, *Application of San Diego Gas & Electric Company (U 902-E) for Approval of Its 2022 Electric Sales Forecast*, p. 8 (Aug. 13, 2021).

¹⁴ See, e.g., A.20-07-004, *Assigned Commissioner’s Scoping Memo and Ruling*, p. 4 (Sept. 10, 2020); A.19-06-002, *Assigned Commissioner’s Scoping Memo and Ruling*, p. 4 (Aug. 22, 2019); and A.20-07-002, *Assigned Commissioner’s Scoping Memo and Ruling*, pp. 4-5 (Sept. 10, 2020).

working on (a) testimony and hearings and (b) either “October Update” testimony or comments responding to that testimony. Facts on which those witnesses may be testifying will be changing simultaneously with the publication of the updates. Discovery on the updates will coincide with discovery in preparation for hearing. Briefs will need to be written concurrently with comments on the update or somehow incorporate those comments. Judges and staff will need to analyze these various components of the record at the same time rather than in the type of sequential order that might allow for drafting of Proposed Decisions on some issues while issues related to the updates are still pending. The intense administrative burdens on Staff, judges, witnesses, and attorneys currently felt in November and December will simply switch to intensive burdens in October and November.

To avoid this result, it will be important to move the rest of the procedural schedule forward in addition to the publication of the MPBs. Implicit in the timelines between procedural steps in the table above, this approach allows parties and the Commission to complete the record on any issues unrelated to the update prior to the update being published. This staggering of issues has allowed for efficient resolution of certain issues in these proceedings over the past few years, and that efficiency is one successful part of the current process that should not be altered.

2. The Increasing Complexity of These Proceedings Warrants an Approach That “Does No Harm” to Existing Procedural Challenges.

It is critical the Commission maintain the current amount of time that exists in each proceeding prior to either an October or November update being filed. Shifting each aspect of the proceeding up by one month, while maintaining the current filing dates, will squeeze the beginning of the proceeding in two untenable ways: (1) the effect on the timing of protests, responses, prehearing conferences, scoping rulings and direct testimony and (2) the corresponding ability for intervenors to effectively prosecute these cases in light of the multiple

rounds of IOUs testimony now filed in each case and the need to resolve repeated discovery disputes.

PG&E and SCE both file June 1, with protests due the first week in July., and SDG&E has asked the Commission to file on June 15 instead of April 15 in order to consolidated their load forecast proceeding with their ERRRA forecast proceeding. Protests for this year's proceedings were due July 6 and July 12, in PG&E and SCE's cases respectively, with the IOUs' replies due July 16 and July 22. If the rest of the schedule shifts forward by a month, there would be only 2-4 weeks between the due date for replies and intervenor testimony, leaving a short amount of time for the Commission to hold a prehearing conference and issue a Scoping Ruling. Despite it occurring the few years prior to this year, it is deeply unfair to expect parties to draft testimony within a week or two of the issuance of a Scoping Ruling, especially in cases where disputes over scope are not uncommon,¹⁵ and parties may not know if certain issues can be raised in testimony.

Exacerbating these procedural questions is the fact that a substantial amount of work is done in these proceedings prior to the updates, including ratemaking, policy and implementation work the Commission has punted to these cases from other cases, including prior ERRRA forecast cases. Examples of these issues in just the past few years include:

¹⁵ See, e.g., A.13-05-015, *Scoping Memo and Ruling of Assigned Commissioner*, p. 4 (Sept. 12, 2013) (rejecting the inclusion of certain issues in scope and finding that policy issues and other industry-wide practices such as changes to the PCIA methodology are properly addressed in rulemaking dockets, such as R.17-06-026); A.17-06-005, *Scoping Memo and Ruling of Assigned Commissioner*, pp. 3-4 (Aug. 24, 2017) (finding certain issues raised in protests would constitute changes to existing methods of calculation and not allegations of non-compliance with Commission rules, decisions, and resolutions on the part of PG&E); A.18-06-001, *PG&E Reply to Protests and Responses*, pp. 2-3 (July 16, 2018) (arguing issues the Joint CCAs raised in their Protest issue are out of scope, including that “challenges to the Commission’s existing policy and/or rules are beyond the scope of this proceeding and must be raised via a petition for modification of the decision that established the policy and/or rule in question.”).

For PG&E:

- The methodology to refund a Cost Allocation Mechanism (“CAM”) misallocation;¹⁶
- The methodology to return ERRA overcollections in an equitable manner;¹⁷ and
- The methodology to calculate the RA component of GTSR rates.¹⁸

For SDG&E:

- The right billing determinants to reflect departing load when setting 2021 rates;¹⁹ and
- Questions regarding the correct rate to form the basis for the PCIA rate cap.²⁰

All three IOUs:

- Implementation of changes to the methodology used to calculate the PCIA from D.18-10-019 and D.19-10-001;²¹
- Questions surrounding funding for the Solar on Multi-family Affordable Housing program;²² and
- Issues related to transparency and data access.²³

It is unlikely the need to resolve ratemaking, policy and implementation issues will diminish. This year, the parties to PG&E’s ERRA forecast case will need to address the accounting treatment for PG&E’s “emergency” Green Tariff Shared Renewables (“GTSR”) Petition for Modification (“PFM”), if granted, and the utility’s proposal to shift certain Public Purpose Program (“PPP”)-related costs out of the non-vintaged PCIA and into the PPP.²⁴ These significant policy issues require a thorough examination over an already truncated period.

Going forward, the ERRA forecast proceedings will continue to modify the PCIA methodology, and other Commission decisions will continue to impact the forecast cases. For example, since no two parties read a Commission decision the same way, implementation of the Voluntary Allocation and Market Offer component of the Commission’s Working Group 3

¹⁶ D.20-02-047 at 10.

¹⁷ *Id.* at 11-12.

¹⁸ D.20-12-038 at 28-29.

¹⁹ D.21-01-017 at 42-44.

²⁰ *Id.* at 34-38.

²¹ *See, e.g.*, D.18-10-019 at Ordering Paragraphs (“OPs”) 8 and 10; D.19-10-001 at OPs 2-4.

²² *See* D.17-12-022 at OP 4.

²³ D.20-12-035 at OP 8; D.20-12-038 at OP 4; D.21-01-017 at OP 6.

²⁴ A.21-06-001, *Assigned Commissioner’s Scoping Memo and Ruling*, p. 4 (Aug. 1, 2021).

decision, D.21-05-030, is likely to introduce new implementation issues for the 2023 ERRRA forecast case. In addition, recent RA decisions are almost certain to introduce new accounting issues to both the 2022 and 2023 ERRRA forecast proceedings, *e.g.*, ensuring that if existing resources are procured by the Central Procurement Entity (D.20-06-002), to meet 2021 summer reliability targets (D.21-02-028), or to meet the incremental procurement targets 2021-2023 (D.19-11-016), they are accounted for correctly in the CAM balancing accounts, Modified CAM balancing accounts and the Portfolio Allocation Balancing Account. In sum, significant policy and implementation issues are frequently addressed in these proceedings, and the loss of a month of pre-update litigation will undermine parties' ability to address these issues and, in turn, diminish the adequacy of the record upon which the Commission relies to address them.

Further burdening the ERRRA forecast cases, the filing of three to five sets of utility testimony has become commonplace. These rounds of testimony are frequently the result of parties and the Commission needing to better understand or incorporate recently completed proceedings that impact the forecast cases. SCE just filed supplemental testimony on September 10, 2021 to incorporate its August general rate case decision.²⁵ Notice to the CCAs of this supplemental testimony was provided in a discovery request response.²⁶ In addition to its prepared testimony and its November Update, there are now three rounds of utility testimony in that case, two before intervenor testimony, with this supplement provided less than three weeks before intervenor testimony is due.

PG&E, without providing any prior notice to parties, filed supplemental testimony in this year's ERRRA Forecast on September 2nd, just before the Labor Day weekend and also less than

²⁵ A.21-06-003, *Supplemental Testimony Supporting Southern California Edison Company's Application For Approval of Its 2022 ERRRA Forecast Proceeding Revenue Requirement* (Sept. 10, 2021).

²⁶ A.21-06-003, *SCE Response to SoCal CCAs 2.07* (July 29, 2021).

three weeks before intervenor testimony is due.²⁷ This supplemental testimony included significant changes to the original application, and the timing and lack of notice restricts parties' ability to review such changes.²⁸ PG&E will end up filing four sets of testimony in this case, due to the supplemental testimony that had already been filed on August 25.²⁹ This is not uncommon. PG&E submitted *five versions* of testimony over the course of last year's case, Application (A.) 20-07-001, including its prepared testimony and the November Update.³⁰

Further, while they only sometimes rise to the level of commanding a judge's attention, discovery disputes abound in these proceedings. The utilities frequently object to discovery requests, requiring intervenors to spend the time and resources necessary to navigate such disputes. For example, last year SCE initially refused to provide the RA and RPS-eligible volumes it forecasted would remain unsold in the forecast year, 2021. The parties met and conferred, and resolved the issue, but nearly 1.5 months passed between the SoCal CCAs' July 20, 2020 original data request and the final supplement to SCE's first responses, which were provided on September 1, 2020.³¹ Sometimes untenable objections are walked back once opposing counsel questions the objection, again requiring an unnecessary, intermediate step (and delay) to obtain discoverable information. In this year's case,³² the SoCal CCAs have faced repeated requests for an extension of time in responding to discovery requests. Even after an

²⁷ A.21-06-001, *Pacific Gas and Electric Company 2022 Energy Resource Recovery Account and Generation Non Bypassable Charges Forecast and Greenhouse Gas Forecast Revenue Return and Reconciliation Supplemental Testimony* (Sept. 2, 2021).

²⁸ *Id.* at 1-2.

²⁹ A.20-07-001, *Assigned Commissioner's Scoping Memo and Ruling*, p. 4, (Aug. 11, 2021).

³⁰ See, e.g., A.20-07-002, *Protest of the Joint CCAs to the Application of Pacific Gas and Electric Company*, p. 6 (Aug. 5, 202).

³¹ See A.20-07-004, *Joint Opening Brief of the Clean Power Alliance of Southern California and California Choice Energy Authority (The "SoCal CCAs") and the California Community Choice Association*, pp. 14-15 (Oct. 26, 2020).

³² A.21-06-003, *Application of Southern California Edison Company (U 338-E) For Approval of Its 2022 ERRR Forecast Proceeding Revenue Requirement* (June 1, 2021).

extension is agreed upon, SCE's responses sometimes require supplemental data requests to obtain straightforward responses or clarifications.

Similar disputes have plagued PG&E's and SDG&E's proceedings.³³ While the CCAs have hoped the Commission's recent decisions regarding data access and transparency would ease these tensions,³⁴ PG&E refused to provide confidential data to the Joint CCAs' reviewing representatives for weeks, delaying their ability to review confidential workpapers. The utility is also refusing to provide basic data in this year's case that PG&E provided in last year's, requiring the Joint CCAs to file a motion to compel to simply gain access to the same data the CCAs need to draft their testimony that the utility had in drafting its testimony.³⁵

In SDG&E's case, SDG&E simply refused, without initially offering an objection, to provide certain baseline data supporting current PCIA rates in its discovery responses. The CCA Parties were forced to meet and confer with SDG&E before it ultimately explained its objection, eventually requiring the CCA Parties to file a motion to compel. While the judge ultimately denied the CCA Parties' motion, he provided very limited explanation for doing so. The importance of these data and the challenges posed by SDG&E's obstinacy in refusing to provide them are described in the CCA Parties' testimony in A.21-04-010, and parallel issues experienced by other CCAs in the other IOUs' forecast case will be raised in testimony in the hopes of achieving a consistent result across all IOUs that ensures parties have the data they need to ensure the rates their customers pay are just and reasonable.

³³ See, e.g., A.19-06-001, *Motion to Compel of the Joint CCAs*, pp.1-10 (Nov. 11, 2019); A.21-04-010, *Motion to Compel Discovery of San Diego Community Power and Clean Energy Alliance*, Exhibit C (June 16, 2021).

³⁴ D.20-12-035 at OP 8; D.20-12-038 at OP 4; D.21-01-017 at OP 6.

³⁵ A.21-06-001, *Motion to Compel Discovery of the Joint CCAs*, pp. 1-3 (Aug. 31, 2021).

SDG&E also takes an extreme approach to redacting its PCIA data under the guise of D.06-06-066 and provides only the most superficial of justifications for such redactions. When ordered by the judge to supplement its justifications, SDG&E withdrew some of its confidentiality designations, but maintains an overbroad confidentiality approach, particularly in comparison to the other two IOUs.³⁶ Redacting such large portions of the PCIA places arbitrary limitations on the ability of the CCAs' attorneys and experts to communicate with their clients, but challenges to confidentiality designations under D.06-06-066 are extremely complex, causing a significant drain on the resources of parties.

The CCAs continue to pursue these issues in these individual cases, as necessary. However, they provide clear evidence of the types of unnecessary and frustrating disputes intervenors continue to face in getting timely access to relevant data. These disputes only add to parties' burdens of addressing policy issues and keeping up with multiple rounds of testimony prior to intervenor testimony being due. Parties will not be able to litigate these cases if one month of the schedule is simply excised.

B. The Barriers or Drawbacks to Earlier Filing of the ERRA Forecast Applications that the IOUs have Identified Are Easily Addressed.

While it is clear the pre-update timelines of these cases should shift forward, such a shift must also accommodate the timing of load forecast data. SCE's Petition for Modification, filed in R.01-10-024 ("SCE PFM"), resulted in that utility's current June 1 filing date.³⁷ The purpose of moving from May 1 to June 1 was to incorporate more accurate departing load forecasts, provided in April as a result of Resolution E-4907, which modified the process and timeline by

³⁶ A.21-04-010, *San Diego Gas & Electric Company's (U 902-E) Notice of Compliance with Ruling Denying Motion to Compel Public Disclosure of Information Designated as Confidential* (July 22, 2021).

³⁷ D.18-10-042 at 4 and Ordering Paragraph 2; *see also* R.01-10-024, *Petition for Modification of Southern California Edison Company (U 338-E) of Decision 14-05-006 to Establish New Filing Date For Its Annual ERRA Forecast Application* (Aug. 3, 2018).

which CCA load forecasts and RA obligations are determined.³⁸ Moving the update back a month squeezes the proceeding up against that mid-April load forecasting date.

The IOUs' filings undoubtedly are better with the most accurate CCA departing load information. However, the vast majority of load departures in major metropolitan areas have already taken place in California, or will take place in the next year. If load forecasts need to be modified, those modifications are likely to be less dramatic than those experienced over the past few years in the State, suggesting the "October Update" filing itself could accommodate changes brought on by newly departing load.

On balance, a May 1 filing date for SCE and PG&E would be the ideal date to accomplish Energy Division's goals while preserving the current pre-update timelines. The IOUs' June 22 reply comments include a cursory response to CalCCA's concerns, summarizing the reasoning behind SCE's move to June 1 and stating:

An annual May 1st filing date would be incompatible with PG&E's obligations concerning presenting a load forecast and, to the extent SDG&E is required to address load forecasting in its annual ERRA filing, it will need more, not less, time to develop this additional input into its ERRA Forecast application.³⁹

As stated in CalCCA's June 15 Comments, if the CCA load forecasts cannot be incorporated by a May 1 filing date, and the Commission determines the update filing is an inappropriate vehicle to incorporate the CCAs' mid-April load forecasts, then a filing date in the first half of May for SCE and PG&E would also make sense.

The Joint IOUs June 22 reply comments do not put forward a workable compromise on timing, or even give credence to the Joint CCAs' concerns. Changes that would result in *less*

³⁸ D.18-10-042 at Finding of Fact 2.

³⁹ R.17-06-026, *Joint Reply Comments of Southern California Edison Company (U 338 E), Pacific Gas and Electric Company (U 39 E) and San Diego Gas & Electric Company (U 902 E) On the Energy Division Staff Proposal Concerning the Timing Of The Market Price Benchmarks*, p. 2 (June 15, 2021).

time for intervenors to analyze the application, or could lead to more issues being scoped into these proceedings, are almost certain to be more harmful than helpful. The Joint IOUs' request to modify standard procedural timelines for protests and replies appears aimed at reducing the time allowed for those procedural mechanisms.⁴⁰

Similarly, establishing a "set" procedural scope supporting January 1 rate implementation,⁴¹ with additional issues as part of a second procedural track in each case, could open the floodgates to even more policy issues being considered in these recurring cases. Prolonged litigation that increases costs for intervenors, and the potential for multiple, off-cycle, rate changes that increase rate uncertainty, weigh heavily against such an approach. The Commission already has the ability to create parallel tracks in ERRA proceedings, as appropriate, and has done so, including the original PCIA working group that led to the Commission instituting the instant proceeding,⁴² or the Phase 2 in PG&E's 2017 ERRA forecast proceeding to address cost responsibility for pre-2009 direct access customers.⁴³

The oft-repeated chorus from the IOUs, which is included in the Joint IOUs' June 15 comments, is that these cases, and particularly the November Update, are formulaic and mechanical ignore reality and are unhelpful.⁴⁴ The CCAs, both in the ERRA forecast proceedings and throughout this proceeding, have refuted this position time and again, and the IOUs' repeatedly short memories on the intense efforts and disputes that recur both before and in

⁴⁰ Joint IOU Comments at 4.

⁴¹ *Id.*

⁴² A.14-05-024, *Southern California Edison Company's (U 338-E) Submission of the Final Report of the PCIA Working Group*, p. 1 (April 5, 2017) (implementing D.16-09-044 on behalf of SCE and Sonoma Clean Power Authority).

⁴³ D.19-12-010 at 1.

⁴⁴ R.17-06-026, *Joint Opening Comments of Southern California Edison Company (U 338 E) and Pacific Gas and Electric Company (U 39 E) on the Energy Division Staff Proposal Concerning the Timing Of The Market Price Benchmarks*, pp. 1-2, n. 2 (June 15, 2021).

November each year must be given little weight. The CCAs have found hundreds of millions of dollars of errors and unfair policies in these cases in the past five years. The IOUs' real concern seems to be that a group of motivated and well-equipped parties are now paying close attention to these cases; have the right to access the same data the IOUs have when putting together their applications; have exercised those rights to the limited degree allowed by the Commission's onerous confidentiality requirements; and have had some success in identifying the IOUs' errors and refuting unreasonable policy proposals aimed at solely benefitting the IOUs. In response, and at every turn, the IOUs have attempted to make these proceedings more difficult for intervenors to litigate, and the Commission should not tolerate such advocacy.

IV. CONCLUSION

CalCCA respectfully requests the Commission adopt the Staff Proposal commensurate with the recommendations herein with the requirement that SDG&E, PG&E and SCE all file their applications on or earlier than May 1 or, at the very least, a date in the first half of May.

Respectfully submitted,



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On behalf of
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