**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company for Adoption of Electric Revenue Requirements and Rates Associated with its 2023 Energy Resource Recovery Account (ERRA) and Generation Non-Bypassable Charges Forecast and Greenhouse Gas Forecast Revenue Return and Reconciliation. (U39E).	Application 22-05-029

CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S OPENING BRIEF

Evelyn Kahl
General Counsel and Director of Policy
Willie Calvin
Regulatory Case Manager
CALIFORNIA COMMUNITY CHOICE ASSOCIATION
One Concord Center
2300 Clayton Road, Suite 1150
Concord, CA 94520
Telephone: (415) 254-5454
E-mail: regulatory@cal-cca.org

Tim Lindl
Nikhil Vijaykar
KEYES & FOX LLP
580 California Street, 12th Floor
San Francisco, CA 94104
Telephone: (510) 314-8385
E-mail: tlindl@keyesfox.com
nvijaykar@keyesfox.com

On behalf of
California Community Choice Association

October 14, 2022

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- Enact the procedural recommendation in D.20-02-047 to create a more permanent crediting framework for banked renewable energy credits in the Power Charge Indifference Adjustment rulemaking, R.17-06-026.

- Adopt CalCCA's uncontested recommendations to adjust PG&E's revenue requirement to address (1) the sale of PG&E's San Francisco headquarters, (2) the correct on-peak and off-peak load weights, and (3) Witness Shuey's accounting methodology to reflect PG&E's Modified Cost Allocation Mechanism procurement.

- Adopt CalCCA's uncontested recommendation to transfer the final year of Energy Resource Recovery Account-PCIA Financing Subaccount amortization to the vintage 2020 consistent with Commission direction in D.22-02-002.

- Apply the legal standard enumerated in this Brief to PG&E's October 17, 2022 updated testimony, *i.e.*, the October Update.

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Application of Pacific Gas and Electric Company for Adoption of Electric Revenue Requirements and Rates Associated with its 2023 Energy Resource Recovery Account (ERRA) and Generation Non-Bypassable Charges Forecast and Greenhouse Gas Forecast Revenue Return and Reconciliation. (U39E).	Application 22-05-029

CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S OPENING BRIEF

Pursuant to Rule 13.12 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission) and the July 25, 2022 Scoping Memo and Ruling setting the schedule for this proceeding,[1] California Community Choice Association[2] (CalCCA) hereby submits this Opening Brief regarding the *Application of Pacific Gas and Electric Company (PG&E) for Adoption of Electric Revenue Requirements and Rates Associated with its 2023 Energy Resource Recovery Account (ERRA) and Generation Non-Bypassable Charges Forecast and Greenhouse Gas Forecast Revenue Return and Reconciliation. (U39E)* (Application).[3]

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1 Application (A.) 22-05-029, *Assigned Commissioner's Scoping Memo and Ruling* (August 4, 2022) (Scoping Ruling).

2 California Community Choice Association represents the interests of 24 community choice electricity providers in California: Apple Valley Choice Energy, Central Coast Community Energy, Clean Energy Alliance, Clean Power Alliance, CleanPowerSF, Desert Community Energy, East Bay Community Energy, Energy For Palmdale's Independent Choice, Lancaster Choice Energy, Marin Clean Energy, Orange County Power Authority, 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, Santa Barbara Clean Energy, Silicon Valley Clean Energy, Sonoma Clean Power, and Valley Clean Energy.

3 A.22-05-029, *Application of Pacific Gas and Electric Company for Adoption of Electric Revenue Requirements and Rates Associated with its 2023 Energy Resource Recovery Account and Generation Non-*

Five years removed from Decision (D.) 18-10-019, most implementation details of the Commission's revised framework for the Power Charge Indifference Adjustment (PCIA) have been settled. Evidence of this can be seen in the few contested issues remaining in this proceeding. However, the high energy prices in California, and the implementation of recently adopted mechanisms such as the modified Cost Allocation Mechanism (ModCAM) and the Voluntary Allocation and Market Offer (VAMO) process create novel issues the Commission will need to address. These factors, as well as errors within PG&E's prepared testimony and workpapers, implicate the following issues in the Scoping Ruling:[4]

1. Whether PG&E's requested 2023 ERRA Forecast revenue requirement is reasonable, including but not limited to consideration of the following:

    a. forecast costs for fuel and purchased power expenses;

    b. disposition of PG&E's forecast December 31, 2022 year-end balancing account balances;

    c. disposition of recorded Voluntary Allocation Market Offer Memorandum Account (VAMOMA) balances; and

    d. approval of PG&E's methodology to include 2021 and 2022 renewable energy credits (RECs) toward the 2023 Power Charge Indifference Adjustment (PCIA) revenue requirement calculation and to allocate the value of 2021 and 2022 RECs to benefit bundled and departing load customers responsible for applicable Portfolio Allocation Balancing Account (PABA) vintage costs.

5. Adopt rate design proposals associated with PG&E's total electric procurement revenue requirements to be effective in rates on January 1, 2023, including Green Tariff Shared Renewables (GTSR) rates.

6. Whether PG&E has adequately supported its new proposed REC

Bypassable Charges Forecast and Greenhouse Gas Forecast Revenue Return and Reconciliation (May 31, 2022) (Application).

4 Scoping Ruling at 2-3.

Tracking and Accounting Methodology, and whether the Commission should rule that the consideration of that methodology beyond the 2023 Renewables Portfolio Standard (RPS) Compliance year is beyond the scope of this proceeding. At the PHC PG&E confirmed that its proposal was strictly limited to 2023 and was [*sic*] PG&E was not seeking, nor relying on any approval, for subsequent years.

7. That PG&E should continue to return the ERRA-PCIA Financing Subaccount (ERRA-PFS) credit to bundled and unbundled customers by amortizing the final year of that credit through the PABA consistent with Decision 22-02-002.

On Issue 1, the Commission should adopt CalCCA's uncontested recommendations to adjust PG&E's revenue requirement to reflect (1) the sale of PG&E's San Francisco headquarters, (2) the correct on-peak and off-peak load weights, and (3) CalCCA's proposed accounting methodology for PG&E's ModCAM procurement.

On Issue 5, California's high energy prices have led to the likelihood of forecasted negative indifference amounts for the first time. In response, PG&E unlawfully proposes to set rates differently between vintages, using the forecasted indifference amounts for some customer vintages (those that are positive) but not other customer vintages (those that are negative). This rate proposal intentionally overcharges customers in vintages with negative indifference amounts. It conflicts with the Commission's past elimination of all limits on PCIA rate changes, including the elimination of the rate floor (D.18-10-019) and the rate cap (D.21-05-030). The only policy reason PG&E has identified for its proposal is that negative forecasted indifference amounts, and the resulting PCIA rate credits, may not come to pass because they are forecasts. That reasoning ignores the same forecasted nature of PCIA rate charges, Commission policy behind the use of forecasted revenue requirements to set rates, the Commission's implementation of a true-up to resolve the delta between forecasted and recorded net revenues, and the potential for volatility that inaccurate ratesetting creates. The proposal's vintage-specific, adverse impacts affect bundled and unbundled customers alike. The only assured beneficiary of a delaying PCIA rate credits is PG&E, not customers.

Regarding Issue 6, the VAMO and other market factors will require PG&E (as well as Southern California Edison (SCE)) to utilize banked RECs to meet its RPS obligations in 2023. Such RECs should be credited to the Indifference Amount at the level of today's RPS Adder. This temporary solution, proposed by PG&E, is unopposed but unlikely to withstand REC allocations and sales in the near future. A permanent crediting framework for banked RECs is needed. An ordering paragraph stating the Commission will develop such a framework in the PCIA rulemaking, R.17-06-026, is permitted in this case, similar to D.20-02-047.

Regarding Issue 7, the Commission should adopt CalCCA's uncontested recommendation to transfer the final year of ERRA-PFS amortization to the vintage 2020 consistent with Commission direction in D.22-02-002.

PG&E's October 17, 2022 updated testimony (October Update) will modify some of the revenue requirements and rates resulting from these issues, as well as the other issues in scope in this proceeding. CalCCA looks forward to addressing those issues in its November 1, 2022, comments on the October Update.

I. LEGAL STANDARD

The magnitude of the impact of PG&E's application on both departed and bundled customers requires cautious and careful consideration under the applicable standards of proof. As the applicant, PG&E has the burden of affirmatively establishing the reasonableness of all aspects of its application,[5] and that burden of proof generally is measured based upon a preponderance of the evidence.[6]

The Scoping Ruling categorized this proceeding as ratesetting.[7] The Commission has previously determined that Section 1757 of the Public Utilities Code applies to ratesetting,[8] meaning the final decision must be "supported by the findings," and those findings must be "supported by substantial evidence in light of the whole record," *i.e.*, they must be based on the record or inferences reasonably drawn from the record.[9] As a result, the Commission cannot grant the relief requested in PG&E's Application without substantial evidence to support the rates requested.[10] California courts will overturn Commission decisions that lack substantial evidence.[11] Mere rubber-stamping of uncorroborated, disputed evidence does not meet this standard.[12] The

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5 R.11-02-019, *Decision Mandating Pipeline Safety Implementation Plan, Disallowing Costs, Allocating Risk of Inefficient Construction Management to Shareholders, and Requiring Ongoing Improvement in Safety Engineering,* p. 42 (December 28, 2012) (D.12-12-030).

6 *See, e.g.,* A.17-06-005, *Decision Adopting Pacific Gas and Electric Company's 2018 Energy Resource Recovery Account Forecast and Generation Non-Bypassable Charges and Greenhouse Gas Forecast Revenue and Reconciliation*, pp. 9-10 (January 16, 2018) (D.18-01-009); R.11-02-019, *Order Modifying Decision (D.) 12-12-030 and Denying Rehearing, as Modified,* p. 29 (July 27, 2015) (D.15-07-044) (observing that the Commission has discretion to apply either the preponderance of evidence or clear and convincing standard in a ratesetting proceeding, but noting that the preponderance of evidence is the "default standard to be used unless a more stringent burden is specified by statute or the Courts.").

7 Scoping Ruling at 6.

8 Cal. Pub. Util. Code § 1757; *see, e.g.,* R.14-07-002, et. al, *Order Denying Rehearing of Decision (D.) 18-06-027*, pp. 5-6 (May 8, 2020) (D.20-05-027) (stating "As an initial matter, SDG&E cites to the wrong statute, because Public Utilities Code section 1757.1 does not set forth the applicable standards for a ratesetting proceeding like this one. Rather, section 1757 provides the appropriate standard and requires a finding as to whether the Commission's findings are not supported by substantial evidence in light of the whole record.").

9 *See, e.g.*, D.20-05-027, p. 6.

10 Cal. Pub. Util. Code § 1757(a)(4). *See, e.g., The Utility Reform Network v. Pub. Util. Comm'n*, 223 Cal. App. 4th 945, 958-59 (February 5, 2014).

11 Cal. Pub. Util. Code § 1757(a)(4). *See, e.g., The Utility Reform Network v. Pub. Util. Comm'n*, 223 Cal. App. 4th 945, 958-59 (February 5, 2014).

12 *See id*.

Commission, therefore, must require PG&E to support its assertions with sufficient evidence or reject the components of PG&E's Application that are unsupported by substantial evidence.

In addition, pursuant to Public Utilities Code Section 451:

> All charges demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge demanded or received for such product or commodity or service is unlawful.[13]

This foundational "just and reasonable" statutory requirement is applicable to all rates and charges, including those that will be established by this ERRA Forecast proceeding. Commission precedent supports cost-causation principles in setting "just and reasonable" rates, whereby customers are responsible for the costs incurred on their behalf.[14]

The Public Utilities Code also requires rates to be non-discriminatory. Public utilities are prohibited from establishing "any unreasonable difference as to rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service."[15]

Section 365.2 of the California Public Utilities Code mandates indifference for departed customers, requiring the Commission to "ensure that departing load does not experience any cost

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[13] Cal. Pub. Util. Code § 451.

[14] R.12-06-013, *Decision on Residential Rate Reform for Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company and Transition to Time-of-Use Rates*, p. 2 (July 13, 2015) (D.15-07-001) (citing *K N Energy, Inc. v. F.E.R.C.*, 968 F.2d 1295, 1300 (D.C. Cir. 1992) ("[I]t has been traditionally required that all approved rates reflect to some degree the costs actually caused by the customer who must pay them."); *Alabama Elec. Co-op., Inc. v. F.E.R.C.*, 684 F.2d 20, 27 (D.C. Cir. 1982) ("[I]t has come to be well established that electrical rates should be based on the costs of providing service to the utility's customers, plus a just and fair return on equity."); *So. Cal. Edison Authorized to Increase Rates for California Intrastate Electric Services*, 75 CPUC 641 (1973) (recognizing the desirability of each group's bearing its fair share of the cost of service, as such share is measured by the cost of service study); A.09-11-015, *Decision Approving Settlement Agreement* (September 2, 2010) D.10-09-010). The decision further notes: "For this reason a cost of service study is part of each general rate case for establishing electricity rates." D.15-07-001, pp. 2-3 n. 3.

[15] Cal. Pub. Util. Code § 453(c).

increases as a result of an allocation of costs that were not incurred on behalf of the departing load."[16] Under Section 366.2, unbundled customers are responsible solely for "estimated net unavoidable electricity costs" when determining indifference, and those costs must be reduced by the benefits in the IOUs' portfolios that accrue to bundled customers.[17]

In the Commission's unique ERRA Forecast applications, where policymaking is largely forbidden,[18] the utility rarely requests the recovery of costs that have not already been approved via a prior decision, and the allocation of costs among different customer groups and classes is pre-determined via the utility's general rate case (GRC). Here, PG&E's requested revenue requirements, rate proposals, and issue-specific requests must be reasonable.[19] Its proposed PCIA rates must be reasonable and comply with all applicable rules, regulations, resolutions and decisions for all customer classes.[20]

As described in detail below, PG&E's proposed, arbitrary rate floor for the PCIA contradicts a number of the statutory provisions described above and Commission precedent. The modifications to the revenue requirement, and the approach to the ERRA-PFS, agreed upon by parties must be made to ensure rates are just and reasonable.

PG&E's October Update will modify its currently requested 2023 ERRA forecast revenue requirement of $4.486 billion.[21] The same standards enumerated in this Opening Brief will apply

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[16] Cal. Pub. Util. Code § 365.2.

[17] Cal. Pub. Util. Code § 366.2(f)(2), (g).

[18] D.18-01-009, p. 10 (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).

[19] *See* Scoping Ruling at 2.

[20] While not specifically memorialized in this year's scoping ruling, this standard has long been acknowledged as the standard for ERRA Forecast proceedings. *See, e.g.,* A.21-06-001, *Assigned Commissioner's Scoping Memo and Ruling*, p. 6 (August 11, 2021); A.13-05-015, *Scoping Memo and Ruling of Assigned Commissioner*, p. 4 (September 12, 2013).

[21] Application at 4.

equally to the calculation of PG&E's 2023 rates included in that October Update, including, but not limited to, the reasonableness of PG&E's proposed treatment of (a) Resource Adequacy (RA) resources and associated costs in the PCIA, (b) the treatment of RPS resources with excess RPS value and allocation of RPS sales across vintages, (c) the calculation of the 2023 indifference amount, (d) the calculation of the 2022 year-end PABA balance, and (e) the allocation of indifference charges among vintages and customer classes.[22]

II. CONTESTED ISSUES

A. Scoping Issue 5: PG&E Must Remove Its Zero-Dollar Rate Floor and Allow PCIA Rate Credits When Negative Indifference Amounts Exist.

Scoping Issue 5 requires the Commission to determine whether to "[a]dopt rate design proposals associated with PG&E's total electric procurement revenue requirements to be effective in rates on January 1, 2023, including Green Tariff Shared Renewables (GTSR) rates."[23] The 2023 forecast represents an historic shift, as PG&E's long-underwater generation portfolio moves "into the money." At issue is how quickly that expected change should flow through to customers. The Commission has been clear that customers should receive the good from the portfolio in the same way they have received the bad these past many years. PG&E says customers should wait on forecasted portfolio net revenues, leading to the present ratesetting dispute. That position contravenes Commission precedent, unjustifiably discriminates between customers in its service territory, will result in inconsistent PCIA ratemaking between IOUs, is unreasonable and unsupportable, and must be rejected.

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22 *Id*.

23 A.22-05-029, *Assigned Commissioner's Scoping Memo and Ruling*, p. 2 (August 4, 2022) Scoping Ruling).

1. Negative Indifference Amounts Mean the Forecasted Value of PG&E's Generation Portfolio Outweighs Its Costs.

CalCCA Witness Shuey's direct testimony contains an extensive and uncontested explanation of how PCIA rates are set.[24] Those rates depend on two key components: (1) the forecasted Indifference Amount and (2) the 2022 year-end balance in the PABA.[25] Key to understanding the disputed rate design issue is PG&E's 2023 forecasted Indifference Amount, *i.e.*, the difference between the forecasted cost of PG&E's generation portfolio in 2023 and the forecasted market value of PG&E's generation portfolio in 2023:[26]

PG&E's Total Portfolio Cost includes capital investment recovery and fixed maintenance costs for utility owned generation (UOG), purchased power such as that from power purchase agreements (PPA), fuel costs for UOG and PPAs with tolling agreements, and California Independent System Operator grid charges and revenues, net of any sales.[27]

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24 Exh. CalCCA-01 at 4:12-9:7.

25 Exh. CalCCA-01 at 4:12-9:7. Prior to Decision 18-10-019, the PCIA rate was set only on a forecast basis with no after-the-fact true-up for unbundled customers. Decision 18-10-019 approved a true-up for the PCIA using actual recorded net costs for PCIA-eligible resources and billed revenues from both bundled and departing load customers. This true-up now occurs via the PABA, a rolling true-up between the forecasted costs and revenues used to determine the Indifference Amount and the actual costs and revenues PG&E realizes during the year related to its PCIA eligible resource portfolio. Because rates are determined during 2022, including the true-up for 2022, this true-up is developed using (1) actual values that are available to date and (2) a forecast of actual values for the remainder of the year. PG&E's May Application includes an estimate of the 2022 year-end PABA balance comprising a combination of actual entries from January through March 2022 and a projection of activity from April through December 2022. *Id.*

26 Exh. CalCCA-01 at 4:12-9:7.

27 D.11-12-018, pp. 8-9.

However, it is the second component, the Portfolio Market Value, that drives the dispute here. Portfolio Market Value is derived from total eligible resource output multiplied by the Market Price Benchmarks (MPBs), an administratively determined set of proxy values that represents the market value of the IOU's resource portfolio.[28] Portfolio Market Value consists of three principal components: Energy Value, RPS Value,[29] and RA Value.[30]

The Energy Value is determined by multiplying the relevant portfolio volume, *i.e.*, how much energy will be generated by PG&E's generation resources, by the Energy Index.[31] The Energy Index reflects the estimated market value of each unit of energy in PG&E's portfolio, in dollars value per megawatt hour ($/MWh).[32] The high price of non-RPS energy in California for 2022 and 2023 has increased the forecasted Energy Value component substantially compared to PG&E's original forecast. The result is that the forecasted value of PG&E's generation portfolio is likely to outweigh its costs, resulting in negative indifference amounts in some vintages.

2. Energy Division's Published Energy Index Likely Will Result in Negative Indifference Amounts for Some Vintages.

As CalCCA Witness Shuey lays out in his direct testimony, rising wholesale market prices increase the possibility that the value of PCIA-eligible resources will be greater than their cost, resulting in a negative Indifference Amount for PG&E for certain vintages.[33] PG&E's October

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28 D.19-10-001, p. 6 ("Market Value is the estimated financial value, measured in dollars, that is attributed to a utility portfolio of energy resources for the purpose of calculating the Power Charge Indifference Adjustment for a given year.").

29 RPS Value is the estimated financial value, measured in dollars, that is attributed to the renewable energy component of a utility portfolio for a given year above and beyond the Energy Value. *Id*.

30 RA Value is the estimated financial value, measured in dollars, that is attributed to the resource adequacy component of a utility portfolio for a given year. *Id*.

31 *Id*.

32 *Id*. at 7.

33 Exh. CalCCA-01 at 27:5-30:16.

Update will be filed on October 17, 2022, and will include an Energy Index based on forward market prices the Commission's Energy Division calculated and served on parties on September 30, 2022.[34] The Energy Index price is $84.22/MWh, which is more than 30% greater than the index originally forecasted in PG&E's Prepared Testimony.[35] Replacing PG&E's filed energy prices from March with the Energy Division Energy Index would cause the market value of several of PG&E's individual resource vintages to exceed their costs, creating negative indifference amounts for those vintages.[36]

PG&E Witness Klingler's testimony does not contest these facts but deflects the issue, stating that negative indifferences amounts have "not been confirmed by PG&E at this time" because the October Update has not been filed.[37] While PCIA rates will change twice more after the October Update, and before their implementation on January 1, 2023,[38] the likelihood of negative PCIA rates warrants that the mid-December decision in this proceeding address the issue of whether PG&E's PCIA rates may go negative and become rate credits in 2023.

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34 *Id.*; CPUC Energy Division, *Calculation of the Market Price Benchmarks for the Power Charge Indifference Adjustment Forecast and True Up*, p. 1 (September 30, 2022) (PCIA Benchmarks).

35 *Compare* Exh. CalCCA-01-C at 28:3-8 *to* PCIA Benchmarks at 1.

36 *See* Exh. CalCCA-01 at 28:17-29:2 (reaching a similar conclusion with regard to NYMEX futures for the NP-15 market in 2023 that are *lower* than the published Energy Division Energy Index).

37 Exh. PGE-3 at 6:23-28.

38 The first change will take place as part of the Tier 2 Advice Letter PG&E will submit as its Annual Electric True-Up (AET) on November 15, 2022. That advice letter will include projected year-end balances in the ERRA and PABA, updating them "with recorded balances through October 31 and projected balances for November and December." The second change will take place as part of the Tier 1 Advice Letter PG&E will submit as its AET on December 31, 2022. That advice letter will include projected year-end balances in the ERRA and PABA, updating them with "either October 31 or November 30" data, "based on the available recorded data included in the revenue requirements used to calculate January 1 rates, and projected balances through December 31." Resolution E-5217 at Ordering Paragraphs 1-3.

3. PG&E's Tariff Addressing Negative PCIA Rates is Obsolete.

PG&E admits that language addressing forecasted negative indifference amounts in its tariffs is obsolete. PG&E's current Electric Schedule CCA-CRS tariff (which delineates the PCIA rates charged to CCA customers) includes the following language in Special Condition 4:[39]

> Should the total indifference amount be less than zero, the negative indifference amount will be used to offset future positive indifference amounts after September 1, 2006. The resulting CRS will not be negative, will not result in any net payment to customers who leave utility service, and will not be applied against other nonbypassable charges. Modifications to these charges will not affect other nonbypassable charges.[40]

When asked in discovery whether PG&E would allow PCIA rates to fall below zero for unbundled customers, the utility responded that Special Condition 4 as written has been rendered obsolete by PCIA reforms adopted in D.18-10-019 and D.19-10-001.[41] PG&E also indicated it plans to update Special Condition 4, although it did not say when.[42]

4. Commission Precedent Has Eliminated All PCIA Rate Limits, Including Rate Floors.

Despite admitting its tariff is obsolete, PG&E offers an unlawful and unreasonable position that fails to meet the requirements of the Commission's indifference framework. Witness Klingler proposes that if the utility forecasts a negative indifference amount for a given vintage in 2023, PG&E would implement a floor for that vintage and set the rate for that component at zero rather than allowing it to go negative.[43] That means in the likely scenario that certain vintages have negative indifference amounts in 2023, PG&E would not apply a rate credit reflecting that

39 Exh. CalCCA-01 at 29:3-16.

40 *Id*. (citing to PG&E Electric Schedule CCA-CRS, Special Condition 4).

41 *Id*. (citing PG&E's response to CalCCA data requests 2.15 and 2.16).

42 *Id*. (citing PG&E's response to CalCCA data request 2.12).

43 Exh. PG&E-03 at 7:4-13.

indifferent amount to those customers' bills; instead, it would subject those customers to a rate floor that is not authorized by any statute or Commission decision. The floor would only be removed if a negative indifference amount actually accrued to the PABA by the end of 2023, *i.e.*, in next year's true-up of forecasted PCIA rates.[44] In that case, the recorded credit would be allowed to offset the PCIA rate in the subsequent year for return to customers.[45] That is, customers would not see the rate credits due to them until 2024.

Decision 18-10-019 interpreted the mandates in Sections 365.2 and 366.2 of the California Public Utilities Code to set forth a new framework on indifference in California.[46] The decision eliminated any rate floor associated with PCIA rates,[47] but it adopted a PCIA rate cap. The Commission later dismantled the rate cap in D.21-05-030,[48] meaning the Commission's indifference framework currently has no limits on PCIA rate changes.

As part of D.18-10-019, the Commission made clear that PCIA rate credits should be permitted when the Indifference Amount is negative, or, in other words, the market value of PG&E's PCIA-eligible resources is greater than its cost. It specifically stated that "the PCIA rate should be able to go negative and should credit departing customers when IOU portfolio value exceeds costs."[49] PG&E's position would prevent such negative rates and credits if they are due to forecasted portfolio revenues exceeding forecasted costs, creating an artificial limit on PCIA rates in violation of this decision and the Commission's indifference framework.

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44 *Id.*

45 Exh. CalCCA-01 at 29:21-22 (citing to PG&E's response to CalCCA data request 2.14).

46 Cal. Pub. Util. Code § 365.2; Cal. Pub. Util. Code § 366.2(f)(2), (g).

47 D.18-10-019, p. 88; FOF 20 at 155; COL 21 at 158.

48 D.21-05-030 at Ordering Paragraph 1.

49 D.18-10-019, p. 88; FOF 20 at 155; COL 21 at 158.

PG&E's non-attorney Witness Klingler ignores the above-quoted language in D.18-10-019 and does not address it. Instead, he focuses on a finding of fact and conclusion of law that actually *support* the concept of negative PCIA rates to somehow suggest D.18-10-019 *prohibits* forecasted rates from going negative.[50] Conclusion of Law 21 in D.18-10-019 states: "The PCIA framework should allow for a net credit to departing load customers if utility portfolios provide positive net market value as demonstrated through actual recorded market transactions and realized revenues," and Finding of Fact 20 includes similar language.[51] Relying on this language, he suggests the Commission meant to limit the application of PCIA credits to the true-up process, *i.e.*, only allowing credits based on recorded revenues instead of forecasted revenues, stating such an approach is "the Commission's direction." [52]

PG&E's witness is wrong. Neither of those provision states "the PCIA framework should allow for a net credit to departing load customers" ***only*** "if utility portfolios provide positive net market value as demonstrated through actual recorded market transactions and realized revenues."[53] They simply acknowledge one instance that may lead to negative rates, in support of the idea that negative rates *should* exist.

The context provided in the rest of the decision makes clear that the only limit the Commission placed on the PCIA in D.18-10-019 was tied to the (now defunct) PCIA rate cap. The issue of negative PCIA rates is discussed only in the context of PCIA rate caps in a section entitled

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50 Exh. PG&E-3 at 7:20-8:20.

51 D.18-10-019 at COL 21 and FOF 20 (the latter stating "The PCIA rate can produce a credit to departing load if a utility portfolio provides positive net market value as demonstrated through actual recorded market transactions and realized revenues.").

52 Exh. PGE-03 at 8:7.

53 D.18-10-019 at COL 21 and FOF 20 (the latter stating "The PCIA rate can produce a credit to departing load if a utility portfolio provides positive net market value as demonstrated through actual recorded market transactions and realized revenues.").

"Should the Commission 'Cap' the PCIA rate?" [54] That section was a subsection of section 6.2.3, which *followed* the section discussing a true-up, section 6.2.2, meaning the concept of negative rates was not tied to the true-up but to the rate cap. The Commission concluded: "We revise the cap mechanism to remove the floor. We agree with comments by Brightline and [The Utility Reform Network (TURN)] that the PCIA should be able to go negative and should credit departing customers when IOU portfolio value exceeds costs." This context, when combined with D.21-05-030's elimination of the rate cap, demonstrates how the Commission has sought to eliminate all limits on PCIA rate changes.

5. A Rate Floor Unjustifiably Discriminates Between Groups of PG&E Customers and Will Result in Inconsistent Implementation Between IOUs.

PG&E's rate floor violates Public Utilities Code §453(c)'s prohibition against "any unreasonable difference" in "rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service" for a utility's customers."[55] Under the Commission's PCIA framework, each generation resource and departing customer is assigned a vintage, and a distinct portfolio of generation resources is identified for each vintage year based on when a commitment to procure each resource was made.[56] Customers are assigned to vintage years according to the date departing bundled IOU service.[57] Customers continuing to receive bundled service from the IOU are included in the latest vintage (*e.g.*, vintage 2023 in the current

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[54] D.18-10-019, pp. 82-88 (discussing negative PCIA rates in a section entitled "6.2.3.2. Should the Commission "Cap" the PCIA rate?").

[55] Cal. Pub. Util. Code § 453(c).

[56] Exh. CalCCA-01 at 7:1-17.

[57] *Id*. Unlike portfolio resources, customers are assigned to vintages using a July to June calendar period. For example, customers departing bundled service between July 2019 and June 2020 are assigned to the 2019 vintage.

Application). Each vintage is assigned a separate Indifference Amount,[58] and customers are responsible for the cumulative PCIA rates for their vintage.[59]

PG&E's proposal would set rates differently between customer vintages. For customers in vintages with positive indifference amounts, PG&E will set rates based on the forecasted indifference amounts. For customers in vintages with negative indifference amounts, PG&E will set rates based on something less than the forecasted indifference amount. That approach creates a difference in ratesetting between customers, a difference that would exist for customers with similar load profiles in each of PG&E's rate classes. For example, one residential customer on schedule E-1 would pay the PCIA calculated in one manner, and a similar residential customer on schedule E-1 would pay the PCIA calculated in a different manner. As discussed in the following sections, there is no reasonable basis to support these differences, and therefore they violate §453(c).

Moreover, customers in SCE's service territory would benefit from negative indifference amounts and forecasted PCIA credits in a timely manner while customers in PG&E's service territory would not. SCE's October 10, 2022, updated testimony in its on-going 2023 ERRA forecast application forecasts negative indifference amounts and PCIA rate credits in 2023 for ***nine*** of its vintages.[60] "The updated Energy Index for 2023 is over $20/MWh higher than the actual energy value received by SCE's PABA portfolio of resources in 2022 (through August 2022). This results in negative PCIA rates for the majority of departing load vintages – *meaning SCE will record debits (instead of credits) in the PABA for most departing load customer revenue in 2023* … ."[61]

[58] D.11-12-018, p. 9.

[59] Exh. CalCCA-01 at 7:1-17.

[60] A.22-05-014, Exh. SCE-05 at Appendix B (October 10, 2022).

[61] A.22-05-014, Exh. SCE-05 at 119:14-120:4 (October 10, 2022) (emphasis added).

No party in that case currently opposes the implementation of PCIA rate credits based on forecasted negative indifference amounts. Only PG&E opposes PCIA rate credits.

6. The Rate Floor Has No Sound Policy Basis, and is Unjust and Unreasonable.

PG&E's arbitrary rate floor violates Public Utilities Code Section 451 because it is unjust and unreasonable.[62] There simply is no good policy reason to prohibit negative PCIA rates and intentionally overcharge customers. When a negative indifference amount exists, PG&E's portfolio of resources is worth more than the costs to operate it, producing net revenues for ratepayers. PG&E's approach denies conveying the full value of this economic benefit back to customers in a timely manner. It would only pass along the forecasted net revenues necessary to earn the portion of the revenue requirement that would allow for $0/kWh PCIA rates and fail to return the rest of it. PG&E's approach would require customers in vintages with negative indifference amounts to overpay the PCIA in 2023 on the basis that actual, recorded revenues had not yet been realized.

The only policy justification Witness Klingler offers for the special treatment PG&E requests appears to be that a forecasted, negative "net market value may or may not materialize in the test-year."[63] This argument fails for numerous reasons, including the reason discussed above, *i.e.*, D.18-10-019 did not limit the implementation of negative indifference amounts to those that have materialized in a test year.

a. The Commission Sets Rates Based On a Forecast and True-Up Methodology That Undermines PG&E's Sole Justification For its Proposal.

In essence, PG&E argues that while *positive* PCIA rates should be set on a forecast basis, *negative* PCIA rates should be set on an actual basis. No policy supports this distinction. California

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62 Cal. Pub. Util. Code § 451.

63 Exh. PGE-03 at 8:9-10.

sets generation rates based on forecasted revenue requirements with a true-up to correct for the delta between that forecast and the actual recorded net revenues. As noted in PG&E's Application, "Section 454.5(d)(3) requires the Commission to: Ensure timely recovery of prospective procurement costs incurred pursuant to an approved procurement plan. The commission shall establish rates based on forecasts of procurement costs adopted by the commission, actual procurement costs incurred, or combination thereof, as determined by the commission. …."[64] The use of forecasted rates has the specific purpose of implementing the most accurate rates possible in a timely manner; the true-up ensures customers end up paying only what they owe.

PG&E is willing to follow this policy for PCIA charges but not credits. In response to CalCCA data request, Witness Klingler admits that the converse of PG&E's justification for its proposal is true: "PCIA *charges* based on forecast net market costs (Portfolio Cost less the Market Value of Portfolio based on the calculation from the CPUC authorized Market Price Benchmark) may not materialize in the test year," either. [65] That is, the drawback PG&E identifies in suggesting the Commission refrain from moving forward with PCIA credits—that they are based on forecasts and, therefore, may not materialize—also exists for positive indifference amounts that result in PCIA charges. PG&E's position is inconsistent: the utility has no issue implementing forecasted PCIA *charges* in a timely manner, but it is unwilling to implement forecasted PCIA *credits* in a timely manner.

Not only is it inconsistent, the true-up mechanism addresses the concern Witness Klingler identifies. The purpose of the PABA adopted in D.18-10-019 is to record the actual above market costs of PCIA-eligible resources and capture the variance between the forecasted Indifference

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[64] Application at 6-7; Cal. Pub. Util. Code § 454.5(d)(3) (emphasis added).

[65] Exh. CalCCA-02 (PG&E's response to CalCCA data request 6.01) (emphasis added).

Amount and actual recorded values.[66] This mechanism obviates the need for artificial floors on the Indifference Amount forecast.[67] As Witness Klinger states, the true-up will "ensure that any forecast-related errors in the annual PCIA are reconciled and cost-shifting is prevented."[68]

b. Arbitrary Limits on PCIA Rates Create Volatility.

The Commission found in D.21-05-030 that arbitrary limits on PCIA rates result in more harm than good. With regard to the PCIA cap, all parties agreed in 2021 "that the PCIA cap must be removed," citing concerns over "the unintended consequences of increasing rate volatility" (CalCCA and TURN) and "a material risk of continual cost-shift to bundled service customers" (the IOUs).[69] The Commission agreed with CalCCA and TURN, finding "the PCIA cap does not serve its intended purpose of reducing volatility and uncertainty."[70] PG&E's proposal would have the same unintended effect of delaying credits owed to customers, risking volatility. If wholesale prices continue to climb, or some other market or regulatory factor results in overcollecting PCIA revenue in 2023, PG&E's proposal will exacerbate the resulting rate changes.

c. The Proposal Harms Bundled and Unbundled Customers Alike.

This issue does not pit bundled customer against unbundled customer. PG&E's approach impacts any customers in vintages with a negative indifference amount. It can be felt by bundled customers as well as unbundled customers. If, in a given year, the only vintage that has a forecasted negative indifference amount is the current vintage, taking PG&E's approach would withhold rate relief *only* from bundled customers.

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[66] Exh. CalCCA-01 at 30:1-30:16.

[67] *Id*.

[68] Exh. PGE-3 at 8, n. 14.

[69] D.21-05-030, pp. 6-7.

[70] *Id*. at FOF 1.

The rate floor is unjust. Because the PCIA rate cap mechanism has been discontinued, there is no longer any limit on PCIA rate increases, including increases driven by lower market prices for energy.[71] Consequently, and in the interest of fairness, there should not be a limit placed on PCIA rate decreases.[72] Such a limit only benefits PG&E and harms customers. For the numerous legal and policy reasons discussed herein, PG&E should be ordered to update its obsolete tariff. The Commission should direct PG&E to implement PCIA rates credits resulting from forecasted negative indifference amounts.

B. Scoping Issue 6: A Need Exists for the Timely Development of a REC-Tracking Framework in the PCIA Proceeding.

PG&E's proposal to apply excess 2021 and 2022 RPS credits to meet its obligations for the 2023 forecast year is not in dispute and should be approved, but, as all parties agree, only as a temporary solution for 2023.[73] Witness Shuey explains in detail the adjustments that would be made to enact PG&E's solutions,[74] and PG&E's rebuttal testimony does not take issue with those adjustments.[75] The amount of such adjustments will need to be updated in the October Update,[76] and CalCCA reserves the right to address this issue in forthcoming comments, as necessary.

The currently disputed part of this issue stems from CalCCA's recommendation that the Commission require a more permanent crediting framework for banked RECs be developed in the PCIA proceeding, R.17-06-026, to ensure all RPS energy is appropriately valued in the PCIA.[77]

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71 Exh. CalCCA-01 at 30:1-30:16.

72 *Id*.

73 *Id*. at 23:1-27:4.

74 *Id*. at 24:10-25:4.

75 Exh. PGE-3 at 24:7-9.

76 Exh. CalCCA-01 at 24:10-25:4.

77 *Id*. at 25:6-27:4.

The problem is that PG&E's proposal may not be workable going forward; indeed, PG&E acknowledges that it is only a temporary solution.[78] The viability of PG&E's proposal for 2023 hinges on the availability of excess RECs from prior years within the applicable RPS compliance period (2021 and 2022) that were already paid for by bundled customers in those years.[79] If PG&E experiences a Retained RPS shortfall in future years similar to the one it forecasts for 2023, PG&E may not have sufficient excess RECs (within the RPS compliance period) to meet its Retained RPS requirements in those years.[80] In fact, Witness Shuey's testimony demonstrates that if PG&E attempts to repeat its 2023 solution for 2024, it is likely to have insufficient banked RECs for the solution to work.[81]

The issue is pressing for two other reasons. First, the on-going implementation of the Voluntary Allocation and Market Offer process will result in the allocation of RECs to other LSEs, further impacting the degree to which PG&E could be left short of its annual RPS compliance target.[82] Second, the issue is ripe for other California utilities, as well. SCE's October Update includes a similar short-term solution for a similar issue, where currently SCE forecasts the results of the VAMO process will leave that utility short of sufficient RECs to meet its 2023 compliance obligations.[83] SCE has proposed to use recently generated, unsold RECs to meet its obligations.[84] It acknowledges further refinement of this method may be necessary for future years.[85]

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78 *Id*.

79 *Id*.

80 *Id*.

81 *Id*.

82 *Id*.

83 A.22-05-014, Exh. SCE-05 at 123:16-124:3.

84 *Id*.

85 *Id*. (calling its approach "an interim methodology that may be subject to further refinement in future years").

PG&E's rebuttal testimony does not dispute any of Witness Shuey's assertions. Instead, it takes issue with Witness Shuey recommendation that the Commission address the issue in R.17-06-026: "PG&E recognizes the merits of [CalCCA's] testimony, and does not oppose this suggestion, but views a recommendation for a going-forward proceeding to address matters related to REC tracking outside of the scope of this proceeding."[86]

This statement ignores the fact the Commission has already identified the proceeding in which the issue should be considered. The Commission stated in D.20-02-047: "Under the current PABA framework, it cannot be determined whether retired RECs in PABA were 'unsold' or 'retained for compliance.' A tracking framework within PABA and mechanisms to value banked RECs at the end of the compliance period may help resolve these issues. These issues are however, more appropriately addressed by the Commission in the PCIA proceeding."[87] The Commission need only agree with its prior direction as part of this proceeding to address the issue in a timely manner.

CalCCA therefore urges the Commission to order the development of a framework to credit banked RECs in the PCIA proceeding, R.17-06-026. Such an order should include issues such as a 'lookback' period over which the IOU can go back to use excess RECs, the quantity of excess RECs that can be used from each vintage, what to do if there are insufficient excess RECs available, the value that will be placed on the RECs, and specific methodologies for tracking excess RECs and whether they have been previously charged to customers.[88]

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86 Exh. PGE-03 at 3:1-8.

87 D.20-02-047, pp. 15-16.

88 Exh. CalCCA-01 at 25:6-27:4.

III. UNCONTESTED ISSUES AND ISSUES TO BE ADDRESSED IN THE OCTOBER UPDATE.

A. Scoping Issue 1: Issues Impacting PG&E's Revenue Requirement.

1. Reflecting the Sale of the San Francisco General Office (SFGO).

Witness Shuey recommended PG&E correct an error in the calculation used to determine the amount of annual amortization of the gain on sale of its SFGO headquarters included in the 2023 Indifference Amount.[89] He also recommended PG&E adjust the GRC revenue requirement included in the Indifference Amount because it is based on PG&E's 2020 GRC and does not reflect the SFGO sale.[90] PG&E has agreed with these recommendations,[91] and it has committed to making these adjustments in the October Update.[92]

Further, in discovery issued in lieu of hearings, PG&E clarified that it will request "the Commission authorize PG&E to remove any SFGO revenue requirement (RRQ) credit adopted" in this case "upon the implementation of the 2023 GRC in rates" to avoid double counting.[93] CalCCA supports this approach.

2. On-Peak and Off-Peak Load Weights

Witness Shuey recommended PG&E correct an error in the On-Peak and Off-Peak Load Weights used to calculate the Load Weighted Average Price used as the Energy Index MPB.[94] PG&E agreed to make this change in the October Update.[95]

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[89] *Id*. at 11:9-13:19.

[90] *Id*.

[91] Exh. PGE-03 at 9:25-11:23.

[92] *Id*. at 2:16-19. CalCCA reserves the right to address those adjustments, if necessary, in forthcoming comments.

[93] Exh. CalCCA-02 (PG&E's response to CalCCA data requests 6.02-6.04)

[94] Exh. CalCCA-01 at 10:4-11:8.

[95] Exh. PGE-03 at 9:6-24. CalCCA reserves the right to address this adjustment, if necessary, in forthcoming comments.

3. Accounting Related to the Modified Cost Allocation Mechanism

Witness Shuey recommended PG&E update the PCIA and ERRA forecast to include the impact of procurement required for bundled customers pursuant to D.19-11-016, consistent with Commission direction in D.22-05-015.[96] His direct testimony lays out in considerable detail how doing so requires three steps: 1) determining bundled customers' share of the total procurement, 2) quantifying the cost of the contracts, and 3) identifying the capacity benefits of those contracts, *i.e.*, whether the contract capacity is used to meet PG&E's RA compliance obligations and, if so, applying the System RA Adder to compute the value of Retained RA.[97] Table 8 of his testimony illustrates the various entries required to properly transfer the net procurement costs incurred in 2022 to the 2019 PABA vintage and to reflect the corresponding accounting for Retained RA in the PABA and ERRA balancing accounts. [98]

It is disappointing PG&E's rebuttal testimony gives this issue little attention, stating no more than it "appreciates CalCCA's review of PG&E's Modified Cost Allocation Mechanism (ModCAM) testimony, and recognition that, based on its issuance date, ModCAM cost recovery matters addressed in D.22-05-015 could not be reflected in the Prepared Testimony."[99] The Commission should consider Witness Shuey's framework unopposed, adopt it as part of this proceeding, and implement updated figures based on the correct amounts in the October Update. To the extent necessary, CalCCA will address the issue further in its comments on the October Update.

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96 Exh. CalCCA-01 at 17:1-22:14.

97 *Id*.

98 *Id*.

99 Exh. PGE-03 at 2:19-22.

B. Scoping Issue 7: PCIA Financing Subaccount.

Witness Shuey recommended PG&E transfer the final year of ERRA-PFS amortization to PABA vintage 2020 consistent with Commission direction in D.22-02-002.[100] PG&E agreed to make this change in the October Update.[101]

IV. CONCLUSION

For the foregoing reasons, the CalCCA respectfully requests the Commission:

- Order PG&E to remove the obsolete and unlawful rate floor in its tariff and adopt PCIA rate credits for vintages where the forecasted, cumulative indifference amount is negative.
- Enact the procedural recommendation in D.20-02-047 to create a more permanent crediting framework for banked RECs in the PCIA rulemaking, R.17-06-026.
- Adjust PG&E's revenue requirement to address (1) the sale of PG&E's San Francisco headquarters, (2) the correct on-peak and off-peak load weights, and (3) Witness Shuey's accounting methodology to reflect PG&E's Modified Cost Allocation Mechanism procurement.
- Transfer the final year of ERRA-PFS amortization to the vintage 2020 consistent with Commission direction in D.22-02-002.
- Apply the legal standard enumerated in this Brief to the October Update.

CalCCA reserve their right to modify these recommendations based on updated information presented in PG&E's October Update, and to address other issues raised therein, via comments on the October Update or any further process the Commission may adopt.

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[100] Exh. CalCCA-01 at 14:1-16:21.

[101] Exh. PGE-03 at 11:24-12:2. CalCCA reserves the right to address this adjustment, if necessary, in forthcoming comments.

Respectfully submitted,

Tim Lindl
Nikhil Vijaykar
KEYES & FOX LLP
580 California Street, 12th Floor
San Francisco, CA 94104
Telephone: (510) 314-8385
Email: tlindl@keyesfox.com
nvijaykar@keyesfox.com

Counsel to CalCCA

October 14, 2022