

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



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Application of Southern California Edison  
Company (U 338-E) For Approval of Its 2024  
ERRA Forecast Proceeding Revenue  
Requirement

Application 23-06-001

**COMMENTS OF CALIFORNIA COMMUNITY CHOICE ASSOCIATION IN  
RESPONSE TO ALJ ORDER REGARDING FIXED GENERATION COSTS**

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## SUMMARY OF RECOMMENDATIONS

- Resolution of the issues raised in the Administrative Law Judge’s August 1, 2023, ruling requires a clear definition of the term “Fixed Generation Costs” that is analyzed and considered consistently across the three IOU service territories.
- A consolidated Phase II of this proceeding will ensure the Commission can develop the record necessary to ensure a reasonable and consistent resolution without violating the Commission’s *de facto* prohibition on policymaking in the ERRR Forecast proceedings.
- Solutions beyond including “Fixed Generation Costs” in a new or existing nonbypassable charge should be included within scope in a consolidated Phase II.
- The Commission should target developing a record on this issue after the October Update and proposed decisions in the current phase of the ERRR Forecast proceedings have passed.

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RESPONSE TO ALJ ORDER REGARDING FIXED GENERATION COSTS**

The California Community Choice Association<sup>1</sup> (CalCCA) hereby submit these comments in response to Administrative Law Judge O’Rourke’s August 1, 2023 Ruling (ALJ Ruling),<sup>2</sup> regarding the “Fixed Generation Costs” within *Application of Southern California Edison Company (SCE) (U 338-E) for Approval of Its 2024 ERRA (Energy Resources Recovery Account) Forecast Proceeding Revenue Requirement* submitted on June 1, 2023 (Application).<sup>3</sup>

The ALJ Ruling causes a number of concerns for community choice aggregators (CCAs) and the departed customers they represent. Primary among them are (1) the ruling being construed as an invitation to include as many “Fixed Generation Costs” into a new or existing nonbypassable charge (NBC) as possible; and (2) the potential for re-litigating the Power Charge Indifference Adjustment (PCIA) Rulemaking (R.) 17-06-026 within an expedited ERRA forecast proceeding.

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<sup>1</sup> 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 (EBCE), Energy for Palmdale’s Independent Choice, Lancaster Choice Energy, Marin Clean Energy (MCE), Orange County Power Authority, Peninsula Clean Energy (PCE), 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 (SJCE), Santa Barbara Clean Energy, Silicon Valley Clean Energy, Sonoma Clean Power, and Valley Clean Energy.

<sup>2</sup> Application (“A.”) 23-06-001, *Administrative Law Judge’s Ruling Directing Parties To Comment Regarding Fixed Generation Costs*, p. 1 (August 1, 2023) (“ALJ Ruling”).

<sup>3</sup> A.23-06-001, *Application of Southern California Edison Company (SCE) (U 338-E) for Approval of Its 2024 ERRA (Energy Resources Recovery Account) Forecast Proceeding Revenue Requirement* (June 1, 2023) (“Application”).

The Commission should provide parties the litigation tools and timelines necessary to scrutinize the investor-owned utilities' (IOUs) responses to the questions the ALJ raises. The current timeline of SCE's ERRA forecast proceeding does not meet this standard given the other issues with which the Commission must contend, and neither does the *one-week* timeline provided by the ALJ for parties to respond to the IOUs' opening comments.

Given the Commission's *de facto* prohibition on policymaking in the expedited ERRA cases, a second phase of the instant proceedings is required. Ideally, that timeline provides for record development to take place after the storm of expedited discovery, comments and briefing surrounding the October Update and proposed decision has passed.

There simply is no urgent need that requires straining further the parties' and the Commission's resources to answer this question before rates are put in place on January 1, 2024. None of the three service territories, including SCE's, is near the drastic and unrealistic scenario of the "last bundled customer" the ALJ ruling lays out. There are already difficult issues in each case with which the Commission will need to contend, including a new Energy Index weighting methodology, how to value the potential use of banked RECs to meet bundled compliance obligations, addressing accounting issues tied to mid-term reliability procurement, and errors in the accounting treatment for energy storage resources. The new issues each IOU tends to raise in its October Update each year will only further tax parties' resources.

On top of this burden, the ALJ Ruling raises a number of new issues:

- What is the appropriate definition of Fixed Generation Costs?
- Whether the IOUs' responses to the ALJ Ruling demonstrate a consistent definition of "Fixed Generation Costs" such that the same types of costs are included for each of SCE, Pacific Gas and Electric Company (PG&E), and San Diego Gas & Electric (SDG&E);

- Whether the accounting procedures for each IOU would allow “Fixed Generation” costs to be shown separately from other generation costs and accounted for in a manner that may be different than current practices; if not, whether modifications to prior Commission decisions are needed to ensure consistent accounting treatment across IOUs; and
- At what threshold of remaining bundled customers should the Commission consider alternatives to cost recovery mechanisms for Fixed Generation Costs, including but not limited to the potential for utility divestment of UOG.

These issues should form the basis of an amended scoping ruling to be considered in a later, consolidated Phase II of this proceeding.

**I. A REVISED SCOPING RULING SHOULD CREATE A SECOND PHASE TO CONSIDER THE ISSUES RAISED IN THE ALJ RULING.**

**A. Questions 1 and 2 Trigger a Number of Potential Scoping Issues for A Second Phase of this Proceeding.**

The ALJ Ruling asks the parties to “1. Identify and briefly describe each category of Fixed Generation Costs in this proceeding;” and 2. Complete a table listing different costs, the balancing accounts used for tracking those costs, the estimated 2023 costs, and the “Estimated 2023 Cost for a Hypothetical Last Remaining Bundled Customer.”<sup>4</sup> The different costs include the following:

- Competitive Transmission Charge Contract Costs;<sup>5</sup>
- California Independent System Operator and North American Electric Reliability Corporation Costs;
- Hedging-Related Costs;
- Western Renewal Energy Generation Information System Costs;
- ERRA-related Cogeneration/Renewables Costs;
- Electric Supply Administration Costs;

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<sup>4</sup> ALJ Ruling at 1-2.

<sup>5</sup> It appears the ALJ Ruling misstated this category of costs. CalCCA assumes this is meant to be the “Competition Transition Charge” as we are not aware of a “Competitive Transmission Charge” that would be functionalized as generation and/or fall under the Commission’s jurisdiction.

- Replacement Resource Adequacy (RA) Costs; and
- Other Costs.

As noted in the ALJ Ruling,<sup>6</sup> CCAs typically do not have easy access to the data necessary to respond to Question 2, and the ruling left insufficient time for both discovery and the development of robust comments on the question.<sup>7</sup> However, the Assigned Commissioner’s office might include an updated version of these two questions – and the additional questions they trigger – as scoping items in an amended scoping ruling for a future phase of this proceeding.

It is difficult to discern from the ALJ Ruling the type of costs the Commission envisions as being “Fixed Generation Costs.” The ALJ Ruling defines the term as IOU “generation costs recovered through the Energy Resource Recovery Account (ERRA) Balancing Account that do not change based on the amount of electricity customers use or the amount of operating time associated with the electricity generation.”<sup>8</sup> It also includes “debits transferred to the ERRA Balancing Account from other regulatory accounts.”<sup>9</sup> A scoping item for parties to consider in a future Phase II might be “What is the appropriate definition of Fixed Generation Costs?” in order to more clearly delineate what is being considered.

To wit, CalCCA finds the list of categories of “fixed” costs in the table comprising most of Question 2 odd. Nearly all of these categories of costs are already spread among all customers, with bundled customer departures leading to departed customers taking on more of the costs. To the extent there are any truly “fixed” electric generation costs, those costs flow through the PCIA for PCIA-portfolio resources (or other NBCs, like those for Cost Allocation Mechanism (CAM)

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<sup>6</sup> ALJ Ruling at 1, n. 2.

<sup>7</sup> *Id.* at 1 (giving parties two weeks for opening comments in the context of a 10-business day discovery timeline).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 1, n. 1.

resources, that apply to all customers), and are therefore recovered from bundled and unbundled customers as a matter of course. For example, if there are *zero* remaining bundled customers, the costs for PCIA-eligible utility-owned generation (UOG) – including fixed and variable costs – would be recovered through CAISO market revenues (the at-market costs) and PCIA rates (the costs that are above market or are tied to resource attributes that could not be sold).

Questions 1 and 2 within the ALJ Ruling create two key concerns. The first is whether the IOUs have a consistent definition of “Fixed Generation Costs” such that their respective responses to the ruling include the same types of costs for SDG&E and SCE as for PG&E. This concern of consistency across IOUs should form the basis of another issue in an amended scoping ruling for Phase II if the Commission chooses to go that route.

The second concern is whether the accounting procedures for each IOU would allow the IOUs to separate those fixed costs from other (variable) generation costs and account for them in a manner different than current practices. For example, PG&E clearly reports Electric Supply Administration (ESA) costs as a separate cost category when seeking approval of its revenue requirement in Phase I General Rate Cases, and it is not clear SCE and SDG&E can follow PG&E’s practice without violating prior Commission decisions. Sufficient time and process should be afforded to answer these questions. However, even after that process unfolds, the Commission may need still need to modify prior decisions. Another scoping item for Phase II could ask whether the accounting procedures between utilities allow for alignment and, if not, whether such modifications to prior decisions are required.

Leaving space for other parties to propose alternatives to an NBC approach is also critical to ensure sufficient context and record development for the Commission to address the questions raised in the ALJ ruling. An important piece of context might include the pending resolution of

two vintaging proposals in the PG&E and SDG&E Phase I General Rate Cases to ensure (1) there are no “forever PCIA assets” and (2) the IOUs cannot simply add costs to existing UOG to expand generation capacities or change basic functionality with the expectation that already departed load will continue to pay for those costs.<sup>10</sup> Adoption of these proposals could help control “Fixed Generation Costs” going forward, depending on the definition of that term the Commission ultimately adopts. Regardless of who ultimately pays for significant upgrades of UOG, the Commission should be wary of approving such upgrades when there is no evidence, they are needed to serve the IOUs current and expected bundled load. Without bundled load to serve, it makes little sense for IOUs to add to their generation costs by continually investing in UOG that is likely to be left stranded.

Moreover, the Commission may want to establish different thresholds to investigate different questions tied to this issue. None of the three service territories, including SDG&E’s, is near the “last bundled customer” scenario the ALJ ruling lays out. Twenty percent of customers in SDG&E’s service territory remain bundled customers, and the utility itself is forecasting that at least ten percent of its total load will remain bundled customers through 2024.<sup>11</sup> The Commission’s own data for SDG&E’s bundled customers forecasts 3,694 GWh of load in 2030, growing to 3,787 GWh in 2035.<sup>12</sup> That is, not even the Commission plans on SDG&E serving one lonely customer anytime soon. Even less urgent, 37% of customers in PG&E’s service territory remain bundled customers, and 67% of customers in SCE’s service territory remain bundled customers.

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<sup>10</sup> See, e.g., A.21-06-021, Opening Brief of the Joint Community Choice Aggregators at Section 5, filed on November 4, 2022; A.22-05-016, Opening Brief of San Diego Community Power and Clean Energy Alliance at sections 18 and 19 (Aug. 14, 2023).

<sup>11</sup> R.20-05-003, *2022 Individual Integrated Resource Plan of San Diego Gas & Electric Company (U 902 E)*, p. 96 (Nov. 1, 2022).

<sup>12</sup> The load forecast is available here: <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/electric-power-procurement/long-term-procurement-planning/2022-irp-cycle-events-and-materials>.



One threshold the Commission could establish is to determine a level of departed load to trigger a Commission investigation into whether an IOU should remain in the business of generating electricity as a public utility or, either, (1) be required to sell its UOG assets or (2) modify its business to spinoff the generation side to operate as an independent power producer. These questions should form a part of the conversation if the Commission is considering allowing the IOUs to retain rate-based generation assets in order to serve one bundled customer. This threshold-related scoping item could read: “At what threshold of remaining bundled customers should the Commission consider alternatives to cost recovery mechanisms for Fixed Generation Costs, including but not limited to the potential for utility divestment of UOG.”

**B. Question 3: Adopting a Second Phase With an Extended Timeline Can Ensure the Scrutiny Necessary to Resolve the Issues Raised in the ALJ Ruling.**

Question 3 asks:<sup>13</sup>

*Should any issues associated with Fixed Generation Costs be addressed in this proceeding? If your answer is yes, briefly identify those issues and state whether those issues should be addressed with the other issues in this proceeding or in a separate phase after the other issues are addressed in a Commission decision.*

The issues associated with Fixed Generation Costs raised in the ALJ Ruling should only be addressed in a second phase of this proceeding. Those issues should include the suggested scoping items discussed in response to Questions 1 and 2, *supra*.

As the IOUs’ applications state,<sup>14</sup> the limited purpose of the ERRA Forecast proceedings is to fulfill the IOUs’ obligation under Pub. Util. Code Section 454.5(d)(3) to forecast generation rates

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<sup>13</sup> ALJ Ruling at 3.

<sup>14</sup> Application at 6-16; A.23-05-012, *Application of Pacific Gas and Electric Company (PG&E) for Adoption of Electric Revenue Requirements and Rates Associated with its 2024 Energy Resource Recovery Account (ERRA) and Generation Non-Bypassable Charges Forecast and Greenhouse Gas Forecast Revenue Return and Reconciliation*, pp. 6-22 (May 15, 2023); *but see* Application (A.) 23-06-001, *Application of Southern California Edison Company (U338E) for Approval of Its 2024 ERRA*

for the following year based on forecasted load and forecasted balances in the ERRA and other balancing accounts established by prior Commission decisions. Those balancing accounts already include the Fixed Generation Costs referenced in the ALJ Ruling. The approval of cost recovery frameworks, the appropriate rate mechanisms to recover those costs, and the allocation of those costs among different customer vintages is pre-determined via authorizing Commission decisions in other proceedings and the utility's general rate case. The scope of ERRA forecasting proceedings is limited to evaluating the IOUs' compliance with prior Commission orders, rules or policies.<sup>15</sup>

The Commission has largely forbidden policymaking in ERRA Forecast cases unless a prior Commission decision has ordered such policymaking.<sup>16</sup> For example, the Scoping Memo in A.17-06-005 (PG&E's 2018 ERRA Forecast application) rejected the inclusion of certain CCA-proposed changes to the PCIA ratemaking methodology, stating:

The CCA parties are proposing changes to existing methods of calculation, and do not allege non-compliance with Commission rules, decisions, and resolutions on the part of PG&E. Such proposals should be addressed in proceedings with input from other investor-owned utilities and interested parties.<sup>17</sup>

Utilities rarely request modifications to cost recovery in the ERRA forecast proceeding that have not already been approved via a prior decision; but when they do, or when a policymaking issue needs to be addressed, it is the result of another Commission decision directing that issue be included in scope of the ERRA. This precedent can be seen in the ratemaking, policy and

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*Forecast Proceeding Revenue Requirement*, pp. 1-2 and 7-8 (June 1, 2023) (relying on the Commission's general ratesetting authority in Cal. Pub. Utils. Code §454).

<sup>15</sup> See, e.g., A.13-05-015, *Scoping Memo and Ruling of Assigned Commissioner*, p. 4 (September 12, 2013).

<sup>16</sup> See, e.g., D.18-01-009 at 10 (finding that policy issues are properly addressed in other dockets); see also *id.* at 14, Conclusion of Law ("COL") 2 and Ordering Paragraph ("OP") 2 (denying PG&E's request to modify its line loss calculation).

<sup>17</sup> A.17-06-005, *Scoping Memo and Ruling of Assigned Commissioner*, pp. 3-4 (August 24, 2017).

implementation work completed in ERRA forecast proceedings in the past few years, all of which stem directly from Commission decisions:

For all three IOUs:

- Implementation of changes to the methodology used to calculate the PCIA from D.18-10-019 and D.19-10-001;<sup>18</sup>
- Questions surrounding funding for the Solar on Multi-family Affordable Housing program;<sup>19</sup> and
- Issues related to transparency and data access.<sup>20</sup>

For PG&E:

- The methodology to refund a CAM misallocation;<sup>21</sup>
- The methodology to return ERRA overcollections in an equitable manner;<sup>22</sup> and
- The methodology to calculate the RA component of GTSR rates.<sup>23</sup>

For SDG&E:

- The right billing determinants to reflect departing load when setting 2021 rates;<sup>24</sup> and
- Questions regarding the correct rate to form the basis for the PCIA rate cap.<sup>25</sup>

This proceeding itself will continue to consider policymaking from recent decisions. Recent RA decisions introduce accounting issues to the 2024 ERRA forecast proceedings. These issues include consideration of whether 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 for 2021-2023 (D.19-11-016), and if they are accounted for correctly in the applicable CAM balancing account, Modified CAM memorandum account, and the Portfolio Allocation Balancing Account. Consideration of all of these policy issues in ERRA forecast proceedings hinges on prior Commission decisions. There is simply no

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<sup>18</sup> See, e.g., D.18-10-019 at Ordering Paragraphs (“OPs”) 8 and 10; D.19-10-001 at OPs 2-4.  
<sup>19</sup> See D.17-12-022 at OP 4.  
<sup>20</sup> D.20-12-035 at OP 8; D.20-12-038 at OP 4; D.21-01-017 at OP 6.  
<sup>21</sup> D.20-02-047 at 10.  
<sup>22</sup> *Id.* at 11-12.  
<sup>23</sup> D.20-12-038 at 28-29.  
<sup>24</sup> D.21-01-017 at 42-44.  
<sup>25</sup> *Id.* at 34-38.

“bandwidth” to consider issues related to the Fixed Generation Costs issues raised in the ALJ Ruling within the narrow scope and typical timeline of an expedited ERRA Forecast proceeding.

While policymaking is prohibited in a typical ERRA on account of those timelines, the CalCCA recognizes it makes little sense for the Commission to issue an Order Instituting Rulemaking (OIR) in order to address issues tied to the ALJ Ruling. A second phase of the ongoing ERRA Forecast proceedings can balance the prohibition against policymaking in expedited ERRA forecast cases while avoiding the unnecessary burdens of the Commission initiating what could be a single-issue OIR.

Comments received in response to the ALJ Ruling can reveal the level of parties’ understanding of what are considered Fixed Generation Costs, the consistency of those views, and the degree of controversy they stir. Those factors can inform a prehearing conference and, eventually, the timelines, procedural mechanisms and litigation tools to be included in an amended scoping ruling for a second phase of the proceedings. That schedule should target the development of a record after the storm of the October Update and proposed decisions in the first phase of the cases has passed to avoid overwhelming party and Commission resources.

**C. Question 4: Consolidation Makes Sense to Resolve the Issue Raised in the ALJ Ruling in a Consistent Manner Across IOU Service Territories.**

Question 4 asks:

*Should the three 2024 ERRA Forecast proceedings be consolidated for the sole purpose of addressing any issues associated with Fixed Generation Costs? Please explain your answer and, if your answer is yes, state when the consolidation should occur.*

The three 2024 ERRA Forecast proceedings should be consolidated for the sole purpose of addressing any issues associated with Fixed Generation Costs. As the IOUs have argued previously, dockets like rulemakings and consolidated applications apply to all California utilities and are

noticed to, and generally include as parties, a broader set of stakeholders.<sup>26</sup> Consolidation also will ensure an efficient approach, preserving parties and the Commission’s resources. The ALJ Ruling, which appears to be reproduced verbatim in three different proceedings, and these CCA-sponsored comments, which have been reproduced in all three proceedings with case-specific modifications, are evidence of the benefits of such an approach. Surely the administrative burdens of all parties and the Commission will be reduced by only having to analyze one set of pleadings and rulings as opposed to three as the Commission builds its decision-making record.

## II. CONCLUSION

For the foregoing reasons, CalCCA respectfully requests the Commission initiate a consolidated Phase II of this proceeding, with timelines beginning in December, to consider:

- What is the appropriate definition of Fixed Generation Costs?
- Whether the IOUs’ responses to the ALJ Ruling demonstrate a consistent definition of “Fixed Generation Costs” such that the same types of costs are included for each of SDG&E, SCE and PG&E;
- Whether the accounting procedures for each IOU would allow “Fixed Generation” costs to be shown separately from other generation costs and accounted for in a manner that may be different than current practices; if not, whether modifications to prior Commission decisions are needed to ensure consistent accounting treatment across IOUs; and
- At what threshold of remaining bundled customers should the Commission consider alternatives to cost recovery mechanisms for Fixed Generation Costs, including but not limited to the potential for utility divestment of UOG.

CalCCA appreciates the opportunity to submit these opening comments and look forward to continuing the discussion in reply comments.

Respectfully submitted,

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<sup>26</sup> See A.18-06-001, *PG&E Reply to Protests and Responses*, pp. 2-3 (July 16, 2018) (addressing rulemakings).

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