



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE **FILED**

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

A.23-06-001

JOINT CASE MANAGEMENT STATEMENT

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JOINT CASE MANAGEMENT STATEMENT

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
I. RESPONSE TO RULING	1
II. THE PARTIES DISAGREE ON WHETHER EVIDENTIARY HEARINGS ARE NEEDED.....	2
1. Treatment of pre-2019 banked RECs in 2024	2
2. Treatment of Storage Facility Costs and Revenues	5
3. SCE’s treatment of banked RECs in prior years.....	8
III. CONCLUSION.....	10

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JOINT CASE MANAGEMENT STATEMENT

Pursuant to the August 30, 2023 *Assigned Commissioner’s Scoping Memo and Ruling* (“Ruling”) issued August 3, 2023, Southern California Edison Company (“SCE”), on behalf of itself and California Community Choice Association (“CalCCA”), Direct Access Customer Coalition (“DACC”), and the Public Advocates Office at the California Public Utilities Commission (“Cal Advocates”)¹ (collectively, the “Parties”) hereby submits this Joint Case Management Statement.

I. RESPONSE TO RULING

On September 14, 2023, the Parties held a meet and confer to discuss the following topics set forth in the Ruling:

1. Whether any party believes evidentiary hearings are necessary in this case.
2. If hearings are deemed necessary by any party,
 - a. what disputed material issues of fact would be addressed in hearings;
 - b. the evidence each party proposed to introduce in hearings;
 - c. the estimated amount of time needed for hearings; and
 - d. a preliminary witness schedule.

¹ Pursuant to Rule 1.8(d) of the Commission’s Rules of Practice and Procedure, CalCCA, DACC and Cal Advocates have authorized SCE to submit this Joint Case Management Statement on behalf of their respective organizations.

The results of the meet and confer are reported below.

II. THE PARTIES DISAGREE ON WHETHER EVIDENTIARY HEARINGS ARE NEEDED

SCE and Cal Advocates submit that there are no material disputed facts that have been identified to this point requiring evidentiary hearings to resolve the matters in this proceeding. CalCCA submits that evidentiary hearings are needed to resolve three issues in dispute, and DACC agrees with CalCCA on one of those issues.

1. Treatment of pre-2019 banked RECs in 2024²

- a. What disputed material issues of fact would be addressed in hearings? CalCCA states that the disputed material issues of fact are the impact of CalCCA's proposed treatment and SCE's proposed treatment of pre-2019 banked RECs on bundled service customers and departing load customers. CalCCA contends that specific questions of fact to be addressed at hearing include determining:
 - i. Which RECs SCE forecasts it will use to meet its 2024 compliance obligations, when those RECs were generated, which customers, *i.e.*, bundled or unbundled customers, paid for which RECs in which year(s), how much those customers paid, the value of those RECs today compared to the value of those RECs when they were generated, and, ultimately, whether any customer will be double-charged for the same RECs; and
 - ii. Whether SCE believes its proposed treatment of pre-2019 RECs treats unbundled customers fairly.

² See CalCCA's direct testimony, Section III.A.1; see SCE's Rebuttal testimony, Section II.A.

- b. What evidence does each party propose to introduce in hearings? CalCCA proposes to introduce its direct testimony and one or more cross-examination exhibits. No other party proposes to introduce evidence in hearings on this issue at this time. SCE reserves the right to do so if hearings are ordered on this issue.
- c. What is the estimated amount of time needed for hearings? CalCCA estimates one-half day (inclusive of Issues 1, 2, and 3). While CalCCA's witness, Mr. Dickman, had reserved availability for the original hearing date, the change in schedule created a conflict. While he is not available the morning of September 25, 2023, he is available the afternoon of September 25 or the whole day of September 26, 2023.
- d. What is the preliminary witness schedule? CalCCA plans to cross-examine SCE's witness, Mr. Lee, who prefers the morning of September 26 over the afternoon of September 25. SCE reserves the right to cross-examine CalCCA's witness, Mr. Dickman.

CalCCA issued discovery to SCE on September 14, 2023 in an effort to resolve or narrow the dispute. SCE agrees to respond as promptly as possible in an effort to resolve or narrow the dispute.

DACC agrees with CalCCA that hearings are needed on this issue. SCE notes that DACC does not have a Non-Market Participating Reviewing Representative that has a Non-Disclosure Agreement (NDA) with SCE and so DACC does not have access to the confidential information contained in SCE's and CalCCA's testimonies on this issue and would be unable to participate in any portion of hearings, if any, involving such confidential information.

SCE and Cal Advocates submit that hearings are not needed on this issue. SCE submits that this issue does not involve disputed material facts, that CalCCA and DACC fail to articulate any material facts in dispute, fail to identify evidence they propose to introduce at hearings, and that this dispute is one of law and/or policy that does not require evidentiary hearings to resolve. CalCCA's proposed treatment (first alternative) hinges on the legal question of whether Decision

(D.) 23-06-006 requires SCE to use CalCCA’s proposed treatment for pre-2019 banked RECs. This is a legal question particularly because CalCCA alleges that SCE has failed to comply with D.23-06-006 in SCE’s proposed treatment of pre-2019 banked RECs in this case. SCE disagrees that D.23-06-006 requires SCE to use CalCCA’s proposed treatment for pre-2019 banked RECs and maintains that it has complied with applicable decisions. SCE believes this legal question is best addressed in the Power Charge Indifference Adjustment (PCIA) Rulemaking, R.17-06-026, because the legal question impacts not only customers in SCE’s service area but customers in the other investor-owned electric utilities’ (IOUs’) service areas. As such, SCE filed a Petition for Modification in R.17-06-026 on September 11, 2023 seeking clarification on whether D.23-06-006 adopted any requirements for the treatment of pre-2019 banked RECs.

CalCCA neither agrees with SCE’s statements regarding the need for hearing nor the substantive legal arguments it raises in a Joint Case Management Statement. The fact is scoping item 6 addresses this issue,³ and as the Scoping Ruling states: “Parties agreed that SCE’s proposed methodology for the use of banked RECs for RPS compliance is within the scope of this proceeding, and is included within the scope of issues listed above.”⁴ SCE makes a number of factual assertions in its rebuttal testimony regarding the use of banked RECs, including reiterating “its position that bundled service customers should not be required to pay twice at the RPS MPB value if using pre-2019 banked RECs for compliance purposes.”⁵ CalCCA Witness Dickman states in his testimony that is not the case: “crediting to the PCIA the value of banked RECs that were ‘already paid for’ by bundled customers in prior years does not result in a double charge to today’s bundled customers.”⁶ This is a clear issue of disputed fact that requires hearing

³ Scoping Ruling at 2-3 (“Whether SCE’s calculations of the Power Charge Indifference Adjustment (PCIA) and Competitive Transmission Charge are reasonable, including discussion of the following; ... b. Treatment of Renewables Portfolio Standard (RPS) resources with excess RPS value and allocation of RPS sales across vintages; c. Calculation of the indifference amount; d. Calculation of the year-end Portfolio Allocation BA balance;”).

⁴ Scoping Ruling at 3-4.

⁵ Exh. SCE-05 at 2:1-3.

⁶ Exh. CCA-1 at 16-18.

to resolve.

CalCCA further submits that hearings can address policy issues, as policy issues are factual issues, not legal issues. After all, the most important fact the Commission considers in each case is to determine the best policy being proposed. Questions such as, “What is the best policy for the most people?”, are critical to the Commission’s consideration. That is the type of factual issue CalCCA will explore during hearings. During legal briefing, the Commission can then consider whether that policy complies with the law and prior precedent. There is no prohibition considering fact-related policy questions in a hearing.

Finally, CalCCA has identified the evidence it plans to introduce above and declines to give away its cross examination strategy prior to hearing by more specifically identifying those exhibits and evidence. CalCCA will circulate its cross exhibits one business day before hearing, as Judge Sisto requires in the August 29, 2023 e-mail ruling.

2. Treatment of Storage Facility Costs and Revenues⁷

- a. What disputed material issues of fact would be addressed in hearings? CalCCA states that the disputed material issues of fact are the impact of CalCCA’s proposed treatment and SCE’s proposed treatment (as refined in Rebuttal testimony) on bundled service customers and departing load customers. CalCCA contends that specific questions of fact to be addressed at hearing include (1) determining which policy will more accurately forecast realized costs and revenues; (2) whether SCE agrees it supported CalCCA’s approach in last year’s ERRA Forecast proceeding; and (3) whether SCE has made statements in other contexts that support CalCCA’s proposed approach.
- b. What evidence does each party propose to introduce in hearings? CalCCA proposes to introduce its direct testimony and one or more cross-examination

⁷ See CalCCA’s direct testimony, Section III.B; see SCE’s Rebuttal testimony, Section II.C.

exhibits. No other party proposes to introduce evidence in hearings on this issue at this time. SCE reserves the right to do so if hearings are ordered on this issue.

- c. What is the estimated amount of time needed for hearings? CalCCA estimates one-half day (inclusive of Issues 1, 2, and 3). While CalCCA's witness, Mr. Dickman, had reserved availability for the original hearing date, the change in schedule created a conflict. While he is not available the morning of September 25, 2023, he is available the afternoon of September 25 or the whole day of September 26, 2023.
- d. What is the preliminary witness schedule? CalCCA plans to cross-examine SCE's witness, Ms. Salisbury, who prefers the morning of September 26 over the afternoon of September 25. SCE reserves the right to cross-examine CalCCA's witness, Mr. Dickman.

CalCCA issued discovery to SCE on September 14, 2023 in an effort to resolve or narrow the dispute. SCE agrees to respond as promptly as possible in an effort to resolve or narrow the dispute.

DACC takes no position on this issue. SCE notes that DACC does not have a Non-Market Participating Reviewing Representative that has an NDA with SCE and so DACC does not have access to the confidential information contained in SCE's and CalCCA's testimonies on this issue and would be unable to participate in any portion of hearings, if any, involving such confidential information.

SCE and Cal Advocates submit that hearings are not needed on this issue. SCE submits that this issue does not involve disputed material facts, that CalCCA fails to articulate any material facts in dispute, fails to identify evidence they propose to introduce at hearings, and that this dispute is one of law and/or policy that does not require evidentiary hearings to resolve. The dispute boils down to whether SCE, in setting the PCIA rates in this case, is required to use the Energy Index Market Price Benchmark to forecast the market value of energy revenues earned by storage facilities. SCE believes it is required to forecast the market value of energy revenues

at the Energy Index Market Price Benchmark pursuant to the PCIA methodology adopted in the Commission's recent PCIA decisions: D.18-10-019, D.19-10-019 and D.23-06-006. CalCCA disagrees and proposes that SCE use its own on-peak energy price forecast to value those energy revenues. Evidentiary hearings are typically necessary only when there are material facts in dispute.⁸ The Commission should, in the interest of efficient use of its and parties' resources, determine that evidentiary hearings are not needed because this disputed issue is one of law and/or policy. The record is sufficient for the parties to analyze the legal and policy issues in their opening and reply briefs, after which the Commission will have an adequate record on which to resolve these disputes.

CalCCA does not agree with SCE's statements. Remaining issues of disputed fact address issues raised in CalCCA's direct testimony that SCE's rebuttal testimony glossed over or was unwilling to admit. Those facts include those above: (1) determining which policy will more accurately forecast realized costs and revenues; (2) whether SCE agrees it supported CalCCA's approach in last year's ERRA Forecast proceeding; and (3) whether SCE has made statements in other contexts that support CalCCA's proposed approach.

CalCCA further submits that hearings can address policy issues, as policy issues are factual issues, not legal issues. After all, the most important fact the Commission considers in each case is to determine the best policy being proposed. Questions such as, "What is the best policy for the most people?", are critical to the Commission's consideration. That is the type of factual issue CalCCA will explore during hearings. During legal briefing, the Commission can then consider whether that policy complies with the law and prior precedent. There is no prohibition considering fact-related policy questions in a hearing.

Finally, CalCCA has identified the evidence it plans to introduce above and declines to give away its cross examination strategy prior to hearing by more specifically identifying those

⁸ See Rule 12.3 of the Commission's Rules of Practice and Procedure, stating "[i]f there are no material contested issues of fact, or if the contested issue is one of law, the Commission may decline to set hearing."

exhibits and evidence. CalCCA will circulate its cross exhibits one business day before hearing, as Judge Sisto requires in the August 29, 2023 e-mail ruling.

3. SCE's treatment of banked RECs in prior years⁹

- a. What disputed material issues of fact would be addressed in hearings? CalCCA seeks to verify the statements made in SCE's rebuttal testimony.
- b. What evidence does each party propose to introduce in hearings? CalCCA proposes to introduce stipulated discovery responses or one or more cross-examination exhibits. No other party proposes to introduce evidence in hearings on this issue at this time. SCE reserves the right to do so if hearings are ordered on this issue.
- c. What is the estimated amount of time needed for hearings? CalCCA estimates one-half day (inclusive of Issues 1, 2, and 3). While CalCCA's witness, Mr. Dickman, had reserved availability for the original hearing date, the change in schedule created a conflict. While he is not available the morning of September 25, 2023, he is available the afternoon of September 25 or the whole day of September 26, 2023.
- d. What is the preliminary witness schedule? CalCCA plans to cross-examine SCE's witness, Mr. Lee, who prefers the morning of September 26 over the afternoon of September 25. SCE reserves the right to cross-examine CalCCA's witness, Mr. Dickman.

CalCCA issued discovery to SCE on September 14, 2023 in an effort to resolve or narrow the dispute. SCE agrees to respond as promptly as possible in an effort to resolve or narrow the dispute.

DACC takes no position on this issue. SCE notes that DACC does not have a Non-

⁹ See CalCCA's direct testimony, Section III.A.3; see SCE's Rebuttal, Section II.B.

Market Participating Reviewing Representative that has an NDA with SCE and so DACC does not have access to the confidential information contained in SCE's and CalCCA's testimonies on this issue and would be unable to participate in any portion of hearings, if any, involving such confidential information.

SCE and Cal Advocates submit that hearings are not needed on this issue. SCE submits that this issue is not in scope because it involves recorded costs, not forecasted costs,¹⁰ does not involve disputed material facts, that CalCCA and DACC fail to articulate any material facts in dispute, fail to identify evidence they propose to introduce at hearings, and that this dispute is one of law and/or policy that does not require evidentiary hearings to resolve. The dispute boils down to whether SCE complied with D.19-10-001 in its use of banked RECs in prior years, which, in addition to being outside the scope, is a legal question that does not require evidentiary hearings to resolve. Evidentiary hearings are typically necessary only when there are material facts in dispute. The record is sufficient for the parties to analyze the legal issue in their opening and reply briefs, after which the Commission will have an adequate record on which to resolve this dispute.

CalCCA does not agree with SCE's statements. SCE's rebuttal asserts that CalCCA misunderstands a discovery response,¹¹ and that SCE has proceeded in a manner with which CalCCA might agree.¹² While CalCCA is hopeful that a good faith discovery response can clear up the question, meaning CalCCA can indeed agree with SCE's approach, it currently remains an issue of disputed fact.

CalCCA further submits that hearings can address policy issues, as policy issues are factual issues, not legal issues. After all, the most important fact the Commission considers in each case is to determine the best policy being proposed. Questions such as, "What is the best policy for the most people?", are critical to the Commission's consideration. That is the type of

¹⁰ Recorded costs are reviewed in SCE's annual ERRRA Compliance application.

¹¹ Exh. SCE-05C at 6:9-7:3.

¹² *Id.*

factual issue CalCCA will explore during hearings. During legal briefing, the Commission can then consider whether that policy complies with the law and prior precedent. There is no prohibition considering fact-related policy questions in a hearing.

Finally, CalCCA has identified the evidence it plans to introduce above and declines to give away its cross examination strategy prior to hearing by more specifically identifying those exhibits and evidence. CalCCA will circulate its cross exhibits one business day before hearing, as Judge Sisto requires in the August 29, 2023 e-mail ruling.

III. CONCLUSION

The Parties appreciate the opportunity to submit this Joint Case Management Statement.

Respectfully submitted on behalf of the Parties,

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