BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Application of Southern California Edison Company (U338E) For Approval of Its 2024 ERRA Forecast Proceeding Revenue Requirement.	Application No. 23-06-001

REPLY BRIEF AND COMMENTS OF THE CALIFORNIA COMMUNITY CHOICE ASSOCIATION

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SUMMARY OF RECOMMENDATIONS

- Southern California Edison (SCE) takes an unreasonable opposite position regarding the use of post-2018 renewable energy credits (RECs) – the complete opposite position it took twelve months ago. The rate impacts in this case are the same type of impacts in that case; and the law and the policy have not changed. The parties agree on the valuation of post-2018 RECs and, because SCE will deplete its bank within the next five years, the only question is when to value those RECs: in 2024 or in later years. Given the controversy surrounding the use of pre-2019 RECs, valuing them now makes sense until the SCE-caused controversy in R.17-06-026 is resolved.

- The Commission should require SCE to forecast the value of its energy storage assets based on the way all parties agree stored energy will be discharged, *i.e.*, during peak pricing periods to earn net revenue for SCE.

- The Commission should adopt the changes to the Energy Resource Recovery Account, Cost Allocation Mechanism, and Power Charge Indifference Adjustment revenue requirements stemming from issues that are no longer contested.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) For Approval of Its 2024 ERRA Forecast Proceeding Revenue Requirement.	Application No. 23-06-001

REPLY BRIEF AND COMMENTS OF THE CALIFORNIA COMMUNITY CHOICE ASSOCIATION

Pursuant to Rule 13.12 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission) and the *Assigned Commissioner's Scoping Memo and Ruling* (Scoping Ruling),[1] the California Community Choice Association (CalCCA)[2] hereby submits this Reply Brief regarding the *Application of Southern California Edison Company (U 338-E) (SCE) For Approval of Its 2024 ERRA Forecast Proceeding Revenue Requirement*, submitted on June 1, 2023 (Application).[3] Consistent with the Scoping Ruling, CalCCA also includes reply comments on *SCE's Updated Testimony Energy Resource Recovery Account (ERRA) 2024 Forecast of Operations,* Exhibits SCE-06, SCE-07, and SCE-08 (October Update), submitted on October 13, 2023.[4]

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[1] Application (A.) 23-06-001, *Assigned Commissioner's Scoping Memo and Ruling*, pp. 5-6 (Aug. 3, 2023) (Scoping Ruling).

[2] California Community Choice Association represents the interests of 24 community choice electricity providers in California: Apple Valley Choice Energy, Ava Community Energy, Central Coast Community Energy, Clean Energy Alliance, Clean Power Alliance, CleanPowerSF, Desert Community Energy, Energy For Palmdale's Independent Choice, Lancaster 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.23-06-001, *Application of Southern California Edison Company (U 338-E) for Approval of Its Forecast 2024 ERRA Proceeding Revenue Requirement* (Jun. 1, 2023) (Application).

[4] Scoping Ruling at 5-6.

The solutions to the issues in this case are quite simple despite the everything-but-the-kitchen-sink approach to SCE's Opening Brief,[5] where the utility attempts to overwhelm the Commission with complexity. To resolve the controversy surrounding the use of banked Renewable Energy Credits (RECs) to meet SCE's Renewable Portfolio Standard (RPS) obligations, the Commission need only adopt the same approach it adopted in last year's ERRA Forecast case. That solution prioritizes the use of post-2018 RECs until the SCE-caused controversy in a Petition for Modification (PFM) in Rulemaking (R.) 17-06-026 (SCE PFM) is resolved.[6] The October Update has made last year's solution available to the Commission when it was not available before.

SCE's opposition to that solution contradicts the position it took just twelve months ago. The rate impacts SCE cites in its Opening Brief this year are the same type of rate impacts that existed last year, and they are much smaller than SCE suggests they are. The post-2018 RECs SCE would use to enact last year's solution are likely to be used in future years, given current trajectories of the Voluntary Allocation and Market Offer (VAMO) process. SCE itself forecasts it will use all of its REC bank for bundled customer compliance within approximately the next five years.[7] The Commission's choice in this case, therefore, is simply whether to value post-2018 RECs now or in later years. That choice is not a difficult one. The parties agree on the valuation

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[5] A.23-06-001, *Southern California Edison Company's (U 338-E) Opening Brief* (Oct. 27. 2023) (SCE Opening Brief).

[6] R.17-06-026, *Southern California Edison Company's (U 338-E) Petition for Modification of D.23-06-006*, p. 5 (Sep. 11, 2023) (SCE PFM).

[7] *See, e.g.,* R.18-07-003, *Southern California Edison Company's (U 338-E) Track 2 Final 2022 Renewables Portfolio Standard Procurement Plan*, p. 23, Table IV-3 (showing SCE will deplete its bank of RECs and be short sometime after 2027 in the 2028-2030 compliance period).

of post-2018 RECs in this case; it is the valuation of pre-2019 RECs that are controversial. Valuing the former today avoids that controversy and builds on existing Commission precedent.

Alternatively, the Commission can accept SCE's invitation to wade into that controversial topic and adopt SCE's first in, first out (FIFO) proposal despite SCE's PFM remaining outstanding. Doing so will require the Commission to determine how to value RECs in 2024 that SCE valued at the benchmark in prior years. Decision (D.) 23-06-006 makes clear the Commission should value those RECs at the 2024 RPS Adder benchmark, *i.e.*, in the year in which they are forecasted to be used. SCE's Opening Brief opposes that approach by doing two things that should not sway the Commission. First, it attempts to litigate its PFM in this proceeding, including, for example, raising arguments about REC ownership that no party has made.

Second, it includes four laundry lists of undeveloped legal and policy arguments against the approach D.23-06-006 established; however, litigating D.23-06-006 is not in scope here, implementing it is. SCE's arguments target the issue of ratepayer indifference with respect to the wrong group of customers, *i.e.*, customers that had already departed when the RECs in question were generated (Then Departed Customers). The customers at issue in CalCCA's proposal are customers that were *bundled* customers when the RECs were generated—customers that paid for those RECs via the RPS Adder in place at the time and then later departed SCE's bundled service (Now Departed Customers). By acknowledging the issues actually in play in this case, and by ignoring red herring arguments targeting the wrong group of customers, the Commission can follow the approach it already followed on an interim basis in Pacific Gas & Electric's (PG&E) 2023 ERRA Forecast proceeding, the consensus one likely to be adopted in PG&E's 2024 ERRA Forecast proceeding, and the approach required by D.19-10-001, as clarified by D.23-06-006. If

the Commission opts for the more difficult path SCE would like it to follow, it should proceed in this manner.

The other controversial issue in this case should be resolved in favor of the approach that results in the most accurate forecast. SCE should value the market revenues from its storage assets based on (1) the way all parties agree stored energy will be discharged, *i.e.*, during peak pricing periods to earn net revenue for SCE, and not (2) the way no party believes stored energy will be discharged, *i.e.*, during periods with average market prices resembling the Energy Index. As noted in CalCCA's Opening Brief, the question is really a timing issue – should the storage resources be properly valued during the forecast as part of this year's proceeding or during next year's true-up of the Portfolio Allocation Balancing Account (PABA). The answer is the resources should be properly valued during the forecast to mirror the operation of the resources and prevent hundreds of millions of dollars of volatility in Power Charge Indifference Adjustment (PCIA) rates. SCE's Opening Brief continues to rely on the same arguments it raised in its testimony on this issue—arguments erroneously suggesting D.18-10-019 requires SCE's preferred path. Those arguments have already been addressed in CalCCA's Opening Brief and will not be addressed again here.[8]

Finally, CalCCA clarifies in this Reply Brief that the values it discussed in its Opening Brief with regard to uncontested issues are the values CalCCA initially calculated in its testimony in this proceeding. SCE and CalCCA agree on these issues, and SCE reflected their correct, updated value in the October Update. No further adjustments are required to enact them.

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[8] A.23-06-001, *Opening Brief and Comments of the California Community Choice Association*, pp. 22-29 (Oct. 27, 2023) (CalCCA Opening Brief).

I. THE COMMISSION SHOULD ADOPT THE SIMPLE SOLUTION BEFORE IT.

A. Valuing Post-2018 RECs at the 2024 Benchmark Builds on Prior Commission Precedent Enacting Established Commission Policy.

In SCE's 2023 ERRA Forecast proceeding, SCE concluded it would be short of the RECs needed for 2023 RPS compliance if it only relied on the RECs generated in the forecast year.[9] As an interim methodology to solve for this shortfall, SCE determined there were enough post-2018 banked RECs to cover its forecasted need and applied the 2023 Forecast RPS Adder to those RECs.[10] This approach prioritized the use of more recently generated RECs that had previously been valued at $0 (as Unsold RPS) to meet SCE's compliance obligations.[11] Parties and the Commission agreed on this approach as an acceptable interim solution in last year's case until the PCIA proceeding (R.17-06-026) addressed the issue. It was adopted in D.22-12-012.[12]

Little has changed between this year and last year. The only reason SCE gives for opposing the application of last year's interim approach to this year's ratemaking is ratepayer impacts, which are larger this year than they were last year. However, SCE admits the rate impacts will not be the large debit to the ERRA balancing account the utility cites in the body of its brief. Bundled customers will be credited back a significant portion of that debit via the simultaneous credit to the PABA, *i.e.*, in a portion equal to the *pro rata* share of the PABA that bundled customers pay. SCE admits as much in a rather vague footnote: "A portion of those costs that will record in the

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9 Exh. SCE-06C at 123:16-124:3.

10 D.22-12-012 at 59-61; Exh. SCE-06C at 123:16-124:3.

11 Exh. CalCCA-01C at 9:8-10; D.22-12-012 at 59-61.

12 D.22-12-012 at 59-61.

ERRA [Balancing Account] will be partially offset by credits recorded in the PABA."[13] Thus, the size of the rate impacts are much smaller than what the utility includes in the body of its brief.

To further support its position, SCE all but states that concerns stemming from setting rates incorrectly—concerns about customers paying higher rates than they should and the resulting issues of affordability and cost shifts—matter more to bundled customers than unbundled customers.[14] The Commission should dismiss those arguments. Even if the Commission adopts SCE's rather callous position that their bundled customers matter more than unbundled customers, the same impacts existed last year, and the increase in the size of those impacts is an unreasonable and unjust reason for the utility to change its position—the policy and the law remain the same.

Finally, both parties agree about how to value post-2018 RECs—the question is simply when to value them.[15] Recent experience with the VAMO has shown that SCE's banked RECs are likely to be in high demand, meaning RECs generated and banked in both 2012 and 2020, for example, are likely to be used for compliance in the near term. Witness Dickman's testimony—which SCE does not dispute—explains how the VAMO process demonstrated extremely high demand for these attributes over the past two years.[16] SCE itself forecasts it will use all of its REC bank for bundled customer compliance within approximately the next five years.[17] Thus, the only issue before the Commission is which RECs to value now in an expedited ERRA proceeding—the

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13 SCE Opening Brief at 16, n. 29.

14 *Id*. at 16 (stating "doing so imposes an additional cost burden on bundled service customers at a time when rate affordability is a pre-eminent concern").

15 Exh. SCE-05C at 5:1-4.

16 Exh. CalCCA-01C at 8:19-9:12.

17 *See, e.g., id*; R.18-07-003, *Southern California Edison Company's (U 338-E) Track 2 Final 2022 Renewables Portfolio Standard Procurement Plan*, p. 23, Table IV-3 (showing SCE will deplete its bank of RECs and be short sometime after 2027 in the 2028-2030 compliance period).

RECs with a value that is subject to a dispute and an outstanding PFM (pre-2019 RECs), or the RECs with a value that is not subject to dispute (post-2018 RECs). That should not be a difficult choice.

B. The Commission Can Implement D.23-06-006 in this Proceeding if it Chooses to Do So.

If the Commission opts for addressing the more controversial FIFO valuation, as SCE's position requires it to do, it should value pre-2019 banked RECs at the 2024 benchmark. SCE's Opening Brief makes much of various CCAs' prior statements on this issue, but those statements only support CalCCA's position in this case. SCE cites extensively to the Southern California (SoCal) Community Choice Aggregators' (CCAs') protest in last year's ERRA Forecast case; but that protest addresses an entirely different issue altogether.[18] The SoCal CCAs' protest addressed a new program to sell RECs to large commercial and industrial customers, called GreenShare, which SCE proposed for the first time in an ERRA Forecast case.[19] That type of policymaking—creating a new program the Commission had never before considered—is the type of policymaking the Commission forbids in an expedited ERRA Forecast proceeding, and, therefore, the Commission rejected its consideration.[20]

Adopting a new green tariff program is far from what CalCCA asks the Commission to do here, which is to apply existing Commission decisions to SCE's forecast of Retained RPS. That

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[18] SCE Opening Brief at 14.

[19] *Id*.; A.22-05-014, *Protest of Clean Power Alliance of Southern California, California Choice Energy Authority, and Central Coast Community Energy To the Application of Southern California Edison Company*, pp. 5-11 (Jun. 20, 2022).

[20] SCE Opening Brief at 14, n. 26 (citing to A.22-05-014, *Assigned Commissioner's Scoping Memo and Ruling*, p. 3 (Aug. 12, 2022).

issue is not only in scope in this case but also must be resolved in order to set 2024 rates.[21] "Hotly contested" or not,[22] resolving these types of thorny implementation questions is something the Commission has done time and again in recent ERRA Forecast proceedings.[23] This year is no different.

It is true the SoCal CCAs agreed to SCE's proposed interim solution regarding banked RECs in last year's case, supporting that approach based on the idea the Commission would address how to credit banked RECs in the PCIA docket.[24] In response, the Commission found that "SCE's methodology for valuing banked RECs for the purposes of its 2023 forecast PCIA Indifference Amount to be reasonable."[25] It also stated that "the current scope of the PCIA proceeding includes consideration of whether to modify or clarify the calculation of the PCIA for VAMO transactions, so we do not address SoCal CCAs' request here."[26] In this way, the Commission agreed to value post-2018 RECs first, *i.e.*, via a last in, first out (LIFO) methodology, until the Commission addresses the issue in the PCIA proceeding.

In D.23-06-006, the Commission did just that. In response to an ALJ Ruling and Proposed Decision in R.17-06-026, CalCCA and other parties asked for the Commission to address the

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21 Scoping Ruling at 3-4 ("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.").

22 SCE Opening Brief at 10.

23 *See, e.g.*, D.19-02-023 at 20-22, 26-28, Conclusion of Law 5, and Ordering Paragraph 1 (adopting an Alternate Proposed Decision regarding a vehemently contested brown power true-up in PG&E's 2019 ERRA Forecast case); D.20-02-047 at 13-16 (establishing in PG&E's ERRA Forecast case that the annual RPS compliance target is the minimum quantity of RPS generation that must be recognized as Retained RPS and credited to the PABA annually; PG&E filed an application for rehearing regarding this determination, which the Commission rejected (*see* D.20-12-012)).

24 D.22-12-012 at 59-61.

25 *Id*. at 61.

26 *Id*.

issue.[27] In response to calls, the Commission clarified in Decision D.23-06-006 it had already addressed banked RECs. The decision states that banked RECs should be valued at the RPS Adder for the year in which the banked REC is used for bundled customer compliance, building on the approach established in D.19-10-001.[28] Despite the different iterations of this procedural argument in SCE's brief, the facts remain that parties requested clarification, the Commission provided it, and rates must now be set based on that clarification.

SCE dislikes the result in D.23-06-006 and has sought "clarification" via a PFM that SCE hopes simultaneously will block implementation in this proceeding. That is, the Commission and parties again find themselves in the position of valuing RECs while the Commission resolves an SCE-caused controversy in R.17-06-026. Given the controversy stirred in the PFM, adopting the LIFO approach again this year makes sense, as discussed in the previous section.

However, if the Commission chooses to wade into the controversy surrounding pre-2019 banked RECs in this proceeding, it can do so. In unique ERRA Forecast applications, where policymaking is largely forbidden,[29] the Commission implements prior decisions, resolving any ambiguity in those decisions that is necessary to enact rates for the forecast year. Here, SCE's requested revenue requirements, rate proposals, and issue-specific requests must be reasonable.[30] Its proposed PCIA rates must be reasonable and comply with all applicable rules, regulations, resolutions and decisions for all customer classes.[31] Its proposed PCIA rates must ensure

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27 R.17-06-026, *Administrative Law Judge's Ruling Requesting Comments on Supplemental Greenhouse Gas-Free Proposal And Issues In Scope*, pp. 1-2 (Mar. 3, 2023); D.23-06-006 at 44.

28 D.23-06-006 at 44.

29 D.18-01-009 at 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).

30 *See* Scoping Ruling at 2-4.

31 *See id*.

indifference among bundled and unbundled customers,[32] which includes taking actions to make customers whole when they have paid for resources that solely benefit the other customer group. SCE's PCIA rates must ensure that departed customers receive the value of any benefits from PCIA-eligible resource that "remain with bundled customers."[33] Implementing D.23-06-006 is within scope in this proceeding if the Commission chooses to do so.[34]

1. D.23-06-006 and its Progeny All Support Valuing All RECs at the 2024 Benchmark.

Following precedent set in prior Commission decisions does not create new compliance obligations or new policy, as SCE suggests;[35] it enforces existing ones. In fact, the decision in this proceeding will be the *fifth time* the Commission has addressed this issue. First, the Commission established a requirement to value all RECs that are used for Retained RPS at the RPS Adder in D.19-10-001.[36] Second, the Commission applied the RPS Adder to banked RECs previously valued as Unsold RPS (*i.e.*, valued at $0) an interim basis in SCE's 2023 ERRA Forecast Case in D.22-12-012.[37] Third, the Commission applied the RPS Adder to banked RECs previously valued as Retained RPS (*i.e.*, valued at the benchmark for the year in which the REC would be used) on an interim basis in PG&E's 2023 ERRA Forecast case in D.22-12-044.[38] Fourth, the Commission clarified that these approaches—*all of which value all RECs used for bundled RPS compliance at*

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[32] Cal. Pub. Util. Code § 366.2(a)(4). *See also id.* at § 365.2, § 366.3 (the Commission generally refers to these requirements as a statutory mandate to ensure "bundled customer indifference").

[33] Cal. Pub. Util. Code § 366.2(g).

[34] A.23-06-001, *Assigned Commissioner's Scoping Memo and Ruling*, pp. 2-4 (Aug. 3, 2023).

[35] SCE Opening Brief at 10.

[36] D.19-10-001 at Ordering Paragraph 2, Attachment B.

[37] D.22-12-012 at 59-61.

[38] *See* D.22-12-044 at Ordering Paragraph 1 (adopting revenue requirements calculated based on PG&E's proposed methodology for valuing banked RECs).

the RPS Adder for the year in which they are forecasted to be used—on a permanent basis in D.23-06-006.[39]

Both SCE's PFM and its Opening Brief ask the Commission to disrupt this line of precedent and value RECs differently. SCE's Opening Brief includes four laundry lists of undeveloped arguments to make its points,[40] two of which are largely cut and pasted from SCE's reply to CalCCA's response to the PFM.[41] This strategy is intended to make it appear as though resolution of these issues is so complex the Commission should not undertake the task. However, three arguments easily address each and every item in SCE's lists: (1) SCE applies D.19-10-001 incorrectly; (2) SCE's policy arguments center on the wrong group of customers; and (3) SCE mischaracterizes CalCCA's position on REC ownership, which is not at issue in this proceeding.

a. D.19-10-001 Supports CalCCA's Proposed Implementation of D.23-06-006.

In its third and fourth laundry lists, SCE discusses the findings and conclusions in D.19-10-001 and D.23-06-006 in order to suggest D.23-06-006 does not mean what it says.[42] SCE's arguments here err in two ways. First, they ignore the fact that D.19-10-001 required *all* RECs forecasted to be used towards bundled customer Retained RPS compliance in any given year to be valued at the RPS benchmark for that year and credited to the PCIA.[43] Ordering Paragraph 2 and Attachment B to that decision create three classes of RECs: Retained (valued at the RPS Adder), Sold (valued at the sales price), and Unsold (valued at $0). The requirement to apply the RPS

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39 D.23-06-006 at 44.

40 SCE Opening Brief at 12-13, 17-19.

41 R.17-06-026, *Southern California Edison Company's (U 338-E) Reply To Responses On Its Petition For Modification Of D.23-06-006*, pp. 3-5 (Oct. 23, 2023).

42 SCE Opening Brief at 17-19.

43 D.19-10-001 at Ordering Paragraph 2, Attachment B.

Adder to all Retained RPS carries no distinction between banked RECs or un-banked RECs, or between pre-2019 banked or post-2018 banked RECs.

SCE's proposal in this case would separate out one set of banked RECs and treat them like Unsold RPS. That approach makes no sense. If the Commission determines D.19-10-001 is vague on this issue, a banked REC that had previously been valued at the RPS Adder, was then banked for future use, and will now be used for RPS compliance, certainly resembles Retained RPS more than it resembles Unsold RPS. It would be an absurd result for a REC used for bundled compliance to be valued as Unsold RPS.

Second, SCE argues that in D.19-10-001 and D.18-10-019, the Commission created a January 1, 2019 "effective date" for the valuation of banked RECs at the RPS Adder MPB for the year in which those RECs are applied towards bundled customer compliance.[44] This argument is unpersuasive in briefing for the same reason it was unpersuasive in testimony. D.19-10-001 established a January 1, 2019 effective date for assigning Unsold RECs zero value.[45] D.18-10-019 revised inputs to the MPBs, including the addition of the RPS Adder, used to calculate the PCIA with an effective date of January 1, 2019.[46] Neither decision supports SCE's assertion that there is a parallel January 1, 2019 effective date with respect to the valuation of banked RECs used to meet the utility's Minimum Retained RPS requirement. The Commission confirmed this in D.23-06-006, stating, "IOUs should apply the MPB for the year in which they use the banked REC."[47] No part of D.19-10-001 prevents the Commission from adopting CalCCA's proposal.

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44 SCE Opening Brief at 18.

45 D.19-10-001 at 28, n. 22.

46 D.18-10-019 at 3.

47 D.23-06-006 at 44.

b. D.23-06-006 is Sound Policy.

In its first, third and fourth laundry lists, SCE raises as many questions as possible regarding whether D.23-06-006 is good policy. These arguments obscure the reason D.23-06-006 makes sense: it treats Now Departed Customers fairly and in compliance with the Public Utilities Code Section 366.2(g), as discussed extensively in CalCCA's Opening Brief.[48]

SCE states repeatedly that bundled customers paid the value of banked RECs in the year in which the RPS-eligible generation created those RECs.[49] CalCCA agrees. Under CalCCA's approach to implementing D.23-06-006, one group of customers (bundled customers) pays another group of customers (Now Departed Customers) back for the RECs Now Departed Customers paid for in a prior year (when they were bundled customers) but can no longer use.[50] Now Departed Customers are paid back via a credit to the PCIA for the value of RECs forecasted to be used as Retained RPS, leaving them indifferent relative to current bundled customers' planned use of those RECs.[51] It is for this reason:

- The cost shift results from SCE's proposal, not CalCCA's proposal;[52]
- No customer is being double-charged for the same RECs;[53] and
- Neither the lack of a true-up nor the difference in benchmarks between 2024 and prior years should impact the Commission's analysis of the issue.[54]

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48 CalCCA Opening Brief at 15-22.

49 SCE Opening Brief at 12-13 and 17-19.

50 CalCCA Opening Brief at 2, 15-22.

51 *Id*. at 15-22.

52 Exh. CalCCA-01C at 10:17-15:12, 16:1-18:2.

53 CalCCA Opening Brief at 15-22.

54 *See* Exh. CalCCA-01C at 10:17-15:12, 16:1-18:2.

The distinction between CalCCA's position and SCE's position is that CalCCA focuses its arguments on Now Departed Customers, those that paid the value of banked RECs in a prior year and then later departed.[55] It is *those* customers that are treated unfairly under SCE's approach.[56]

SCE's arguments about cost-shifting, double-payment, the lack of a true-up before 2019, and the values at the time different RECs were generated all focus on the wrong group of customers: customers that were already departed, *i.e.*, Then Departed Customers (the customers in the green box in Figure 1 of CalCCA's Opening Brief). SCE's counter-arguments make little sense. Valuing pre-2019 banked RECs at the 2024 RPS benchmark has nothing to do with Then Departed Customers; those customers did not pay for the RECs in question. Rather, Then Departed Customers received the value of those RECs based on the methodology in place at the time the RECs were generated. No party suggests pre-2019 banked RECs should be valued at the 2024 benchmark on account of Then Departed Customers.

c. SCE Mischaracterizes CalCCA's Position regarding REC Ownership, which is not at Issue in this Proceeding.

SCE's second laundry list starts with the false premise that "CalCCA appears to claim that departing load customers have an ownership interest in pre-2019 banked RECs."[57] SCE does not provide a reference for this statement, and the statement is odd since CalCCA has not addressed this issue on the record at all in this proceeding. The utility may be referring to a section of CalCCA's response to the SCE PFM; however, if that is the case, SCE misconstrues that section.

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55 *Id*.

56 *Id*.

57 SCE Opening Brief at 12.

SCE makes the statement in its PFM that customers that previously paid for RECs "own the RECs." [58] CalCCA does not agree with that statement in its response. Instead, in its response, CalCCA points out that the steady departure of bundled customers in SCE's service territory means that today's bundled customers did not pay the full cost of RECs generated prior to 2019.[59] A portion of those RECs were paid for by customers who were bundled at the time, but have since departed, *i.e.*, Now Departed Customers.[60] SCE is correct that those Now Departed Customers purchased the RECs banked prior to 2019 and have a cognizable interest in those RECs – one recognized by D.23-06-006 and its progeny.[61] As such, when RECs banked prior to 2019 are used by today's bundled customers towards compliance, today's customers should compensate Now Departed Customers (who, *in SCE's words*, still "own the RECs").

CalCCA's statements are couched in that case in the same premise in which they are couched in this proceeding: the law and the Commission's PCIA framework, as most recently enacted by the Commission in D.23-06-006, provide for the fair treatment of Now Departed Customers by recognizing their cognizable interest in the value of RECs for which they already paid. Nothing about that fair treatment relies on the ownership of renewable attributes – that language is SCE's language, not CalCCA's language. SCE's second laundry list should have no bearing on the Commission's decision—no party is making the argument SCE is rebutting.

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58 SCE PFM at 5.

59 R.17-06-026, *Response of the California Community Choice Association to Southern California Edison's Petition For Modification Of D.23-06-006*, pp. 18-19 (Oct. 11, 2023).

60 *Id*.

61 *Id.*

2. Both the Record and Due Process Permit the Commission to Rely on Prior Commission Precedent.

SCE has failed to rebut the fact that adopting its approach in this proceeding would create inconsistency between the consensus approach in PG&E's cases and SCE's approach in this case. PG&E's methodology for valuing banked RECs in its 2023 ERRA Forecast[62] and its pending 2024 ERRA Forecast[63] is the same methodology SCE argues is contrary to D.23-06-006, D.19-10-001, and D.18-10-019.[64] Recognizing this vulnerability, SCE stretches in its Opening Brief to suggest relying on that precedent somehow presents evidentiary or due process problems for the Commission. Those arguments have zero merit.

a. Substantial Evidence Supports Adopting CalCCA's Proposal.

SCE's Opening Brief ignores *four exhibits* (five exhibits if CalCCA's October 17, 2023 opening comments on the October Update are included) directly addressing banked RECs to suggest "CalCCA has not met its burden" regarding its banked REC proposals.[65] SCE's argument begins by turning the burden of proof on its head, suggesting CalCCA bears the evidentiary burden in this case.[66] In support of its contention, SCE cites D.87-12-067, which states:

> *[W]here other parties propose a result different from the utility, they have the burden of going forward to produce evidence, distinct from the ultimate burden of proof. The burden of going forward to produce evidence relates to raising a reasonable doubt as to the utility's position and presenting evidence explaining the counterpoint position.*[67]

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62 A.22-05-029, Pacific Gas & Electric Company's 2023 ERRA Forecast.

63 A.23-05-012, Pacific Gas & Electric Company's 2024 ERRA Forecast.

64 *See* Exh. CalCCA-04 and Exh. CalCCA-05.

65 SCE Opening Brief at 5.

66 *Id*. at 4-5.

67 *Id*. at 4 (*citing Re Pacific Bell*, D.87-12-067, p. 25, 27 CPUC 2d 1, 22.)

Omitted from SCE's Brief is the broader discussion surrounding the context of how the burden of going forward relates to the utility's burden of proof. In its Order, the Commission agreed that the burden of proof and the burden of going forward are two distinct concepts.[68] The burden of going forward simply requires that a party proposing a different result from the utility produce evidence raising a reasonable doubt as to the utility's position, and that it present evidence explaining its own position.[69] While the quotation referenced by SCE describes the burden of going forward, it is important to note that *the burden of proof never shifts*.[70] As discussed in CalCCA's Opening Brief, it is well-settled law that SCE, as the applicant, has the burden of affirmatively establishing the reasonableness of all aspects of its application.[71]

Additional cases referenced by SCE provide helpful context. In D.04-04-074, the Commission found that Universal had not met its burden of going forward because it did not offer any evidence through rebuttal testimony or cross examination as to its position.[72] In addition, in D.07-11-037, the Commission found that the Division of Ratepayer Advocates had not met its burden of going forward as it did not submit surrebuttal testimony to refute the utility's extensive rebuttal arguments, and dedicated minimal cross examination to the relevant issue.[73] It is clear from these examples that the burden of going forward is a low threshold, and SCE's Opening Brief provides no analysis to support its contention that this burden has not been met.

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68 D.87-12-067 at 21.

69 *Id*. at 22.

70 *Id*. at 20.

71 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 (Dec. 28, 2012).

72 *Universal Studios, Inc. vs. Southern California Edison Company*, D.04-04-074, p. 47, 2004 Cal. PUC LEXIS 173 (Apr. 28, 2004).

73 *Re Golden State Water Co*., D.07-11-037, Footnote 41, 2007 Cal. PUC LEXIS 648.

Even if the Commission determines CalCCA bears a burden regarding SCE's ratemaking, CalCCA easily meets the low standard via Exhibits CalCCA 01 to 04.[74] The solutions CalCCA supports are detailed in Witness Dickman's testimony, including not only explanations of those solutions, but also both the numerical details necessary to implement them and the context of their adoption in PG&E's past case and its on-going case.[75] PG&E's solution themselves are included in the record in PG&E's own words in Exhibits CalCCA-03 and CalCCA-04.[76] SCE has not disputed any of the facts contained in three exhibits (CalCCA-02, 03 and 04) or the foundation or accuracy of any of the four exhibits CalCCA has put forward on the banked REC issue. CalCCA has also discussed this interim solution in its comments on the October Update, including how the October Update has modified the circumstances regarding the Commission's consideration of this issue.[77] The argument the Commission does not have before it the evidence it needs to render a decision adopting CalCCA's proposals in this proceeding is not credible.

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[74] SCE Opening Brief at 3-4 (citing *Re Pacific Bell, D.87-12-067, p. 25, 27 CPUC2d 1, 22. See also Universal Studios Inc. v. Southern California Edison Co., D.04-04-074, p 32, 2004 Cal. PUC LEXIS 173; Re Golden State Water Co., D.07-11-037, p. 101, 2007 Cal. PUC LEXIS 648.*). Not only do CalCCA Exhibits 1-4 meet this low standard, those exhibits also meet the substantial evidence standard *SCE* must meet in this proceeding, which requires the Commission's final decision be "supported by the findings," and those findings be "supported by substantial evidence in light of the whole record," *i.e.*, they are based on the record or inferences reasonably drawn from the record. The Scoping Ruling categorized this proceeding as ratesetting. Scoping Ruling at 7. The Commission has previously determined that Section 1757 of the Public Utilities Code applies to ratesetting, establishing that the Commission's 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 are based on the record or inferences reasonably drawn from the record. Cal. Pub. Util. Code § 1757; *see, e.g.,* D.20-05-027 at 5-6 (Order Denying Rehearing of D.18-06-027, 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.").

[75] Exh. CalCCA-01C at 8:3-18:2.

[76] *See* Exh. CalCCA-03 and CalCCA-04.

[77] CalCCA Opening Brief at 7-15.

b. The Commission Has Provided Abundant Process to SCE.

SCE next throws a Hail Mary to suggest adopting a REC crediting approach that has been the focus of testimony, discovery and exhibits, submitted in lieu of hearings, within the evidentiary record, as well as legal briefing, in this proceeding will deprive it of due process.[78] It states that "[t]o treat a bilateral, interim solution in PG&E's ERRA Forecast precedential [*sic*] would deprive SCE and other stakeholders of due process on this important matter." [79]

It is true the Commission is bound by constitutional due process requirements,[80] and failure to afford parties adequate due process is grounds for reversal of a Commission decision. [81] However, due process only requires that parties be given adequate notice and opportunity to be heard.[82] The Commission has often stated that it applies elements of due process the U.S. Supreme Court articulated in *Mullane v. Central Hanover Bank & Trust Co*.:

> An elementary and fundamental requirement of due process . . . is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. [Citation omitted.] The notice must be of such nature as reasonably to convey the required information, [citation omitted], and must afford a reasonable time for those interested to make their appearance. . . [83]

While the "opportunity to be heard" does not require the exact same process or procedure in every case, the key is that parties have an opportunity to participate at a meaningful time and in a

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78 SCE Opening Brief at 15.

79 *Id*.

80 *People v. Western Airlines Inc.* (1954) 42 Cal.2d 621; *Railroad Commission of California v. Pacific Gas and Electric Compan*y (1938) 302 U.S. 388.

81 *See* Cal. Pub. Utils. Code § 1757.1(a)(6).

82 *People v. Western Air Lines, Inc.* (1954) 52 Cal.2d at 632.

83 *Mullane v. Central Hanover Bank & Trust Co*. (1950) 339 U.S. 306, 314; *see e.g.*, D.01-10-036, Order Modifying Decision 01-09-060 and Denying Rehearing as Modified.

meaningful manner.[84]

SCE has been given multiple procedural opportunities to participate at a meaningful time and in a meaningful manner on the issues pertaining to CalCCA's proposals, including how those proposals relate to PG&E's proposals in other proceedings. SCE Witness Lee chose not to respond to Witness Dickman's discussion of PG&E's proposal in his rebuttal testimony.[85] SCE chose not to cross examine Witness Dickman with regard to the assertions he made with regard to PG&E's proposals.[86] SCE has not issued any discovery in this case on Witness Dickman's testimony regarding PG&E's proposals—or any other subject. The unutilized opportunity for testimony, cross examination, and discovery does not amount to a lack of due process.

SCE also does not allege that it had no notice of last year's PG&E ERRA forecast case, A.22-05-014, or that the Commission failed to give interested parties an opportunity to participate. Neither is true, of course, because the docket was properly noticed, and a number of parties fully participated in each phase of that case. The parties to PG&E's case litigated the issue of banked RECs in that proceeding. CalCCA even raised the fact PG&E was litigating the issue *for SCE in SCE's case* describing to SCE via Witness Dickman's testimony that the issue was being litigated concurrently in another proceeding.[87] SCE had the opportunity to intervene in that case and voice

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84 *See e.g., Ryan v. California Interscholastic Federation-San Diego Section* (2001), 94 Cal.App.4th 1048, 1071-1072.

85 *See* Exh. SCE-05C.

86 A.23-06-001, *Email Ruling Removing Evidentiary Hearing, Directing Future Motions, And Adjusting Procedural Schedule* (Jul. 19, 2023).

87 A.22-05-014, *Prepared Direct Testimony of Brian Dickman on Behalf of SoCal CCAs In Southern California Edison Company's 2023 ERRA Forecast Proceeding*, at 31:4-9 (stating "PG&E proposes such an approach in its 2023 ERRA Forecast Application (A.22-505-029), where it finds itself in a similar position with respect to Retained RPS after assuming 100% of VAMO allocations were sold. PG&E proposes to count banked RECs retained in excess of its compliance targets for 2021 and 2022 toward meeting its target for 2023, and to credit the 2023 Indifference Amount based on the Forecast RPS Adder applied to the additional RECs required for Retained RPS.").

its objections. It did not do so. An unseized opportunity to timely intervene in another proceeding does not amount to a lack of due process.

In no way has the Commission failed to afford SCE sufficient due process. The fact is SCE chose not to exercise its procedural rights. The Commission has no obligation to remedy the consequences of that choice.

II. CLARIFICATION ON THE VALUE OF UNCONTESTED ISSUES IN CALCCA'S OPENING BRIEF.

CalCCA presented figures in its Opening Brief regarding required changes to the PCIA and Cost Allocation Mechanism revenue requirements in this proceeding.[88] In reviewing CalCCA's Opening Brief in preparation of this reply brief, it became clear that some confusion may exist regarding whether CalCCA is still proposing those changes. For the avoidance of doubt, CalCCA wishes to make clear that SCE and CalCCA agree on these issues, and SCE reflected their correct, updated value in the October Update. No further adjustments are required to effectuate them.

III. CONCLUSION

For the foregoing reasons, CalCCA respectfully urges the Commission to take the actions discussed herein, in its Opening Brief, and any other relief the Commission deems just and reasonable.

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[88] Opening Brief at 29-30.

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