

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

Order Instituting Rulemaking to Review, Revise,
and Consider Alternatives to the Power Charge
Indifference Adjustment.

R.17-06-026

**REPLY COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E),
SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E) AND PACIFIC GAS AND
ELECTRIC COMPANY (U 39 E) ON PROPOSED DECISION ADOPTING
FRAMEWORK AND EVALUATION CRITERIA FOR THE POWER CHARGE
INDIFFERENCE ADJUSTMENT PREPAYMENT AGREEMENTS**

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Dated: **July 27, 2020**

I. INTRODUCTION

Pursuant to California Public Utilities Commission (CPUC or Commission) Rule 14.3(d), Southern California Edison Company (SCE), on behalf of itself and San Diego Gas & Electric Company (SDG&E) and Pacific Gas and Electric Company (PG&E) (collectively, the Joint Utilities),¹ respectfully submits these Reply Comments on the pending June 30, 2020 Proposed Decision (PD). As noted throughout the Joint Utilities' Opening Comments, the Joint Utilities strongly support the adoption of the PD, with the minor modifications set forth in those Opening Comments. Other parties' opening comments, however, propose wholesale changes to the PD that attempt to re-litigate positions they asserted during the proceeding that were not adopted – or set forth new proposals entirely – and introduce untested and unsupported factual assertions.² Those advocacy positions do not constitute “factual, legal or technical errors” in the PD and therefore must be “accorded no weight.”³ Finally, the Joint Utilities express support for The Utility Reform Network's (TURN) comments to clarify the PD to ensure that the necessary “risk premium” the PD requires for Power Charge Indifference Adjustment (PCIA) pre-payment transactions also reflects volumetric load risk, in order to uphold the statutory mandate of customer cost indifference to departing load. As the Joint Utilities have stated repeatedly throughout all phases of this proceeding, the Joint Utilities' interest here is to uphold the law by avoiding impermissible cost-shifting, in the interests of all customers.

¹ Pursuant to Rule 1.8(d), counsel for SCE affirms that SDG&E and PG&E have authorized SCE to file these Reply Comments on behalf of the Joint Utilities.

² See, e.g., AReM/DACC Opening Comments at pp. 2-3 (asserting that the economic principle that transactions only occur between parties “if there is ‘room for a deal,’ meaning both parties gain,” signifies that Commission-mandated prepayment negotiations offer an inherent and quantifiable benefit to bundled service customers.).

³ See Rule 14.3(c).

II. PARTIES' ATTEMPTS TO RE-LITIGATE POLICY POSITIONS MUST BE REJECTED

In their opening comments, several parties, including TURN, California Community Choice Association (CalCCA), and Protect Our Communities Foundation (POC), attempt to re-litigate positions that were not adopted in the Working Group 2 Final Report (Final Report) submitted by the Working Group 2 co-chairs (Co-Chairs) and/or that were not adopted in the PD, contrary to Rule 14.3(c). For example, both POC and CalCCA continue to argue that the PD should be modified to allow for various kinds of “partial” PCIA prepayments. But the PD correctly determines that those proposals are inconsistent with the Phase 1 Decision.⁴ POC’s argument that failure to adopt a partial prepayment option would serve as a practical barrier to the use of prepayment,⁵ and CalCCA’s argument that allowing “partial” prepayment would obviate the need for Load-Serving Entities (LSEs) choosing prepayment to finance their entire PCIA obligation,⁶ are irrelevant. The Commission’s statutory obligation is to maintain customer cost indifference, not to facilitate voluntary PCIA prepayment arrangements or “to protect the economic viability of CCAs or ensure they remain viable concerns.”⁷ Similarly, TURN’s opening comments again advocate for its “circuit breaker” proposal. The PD correctly determined that “true-ups,” which TURN’s “circuit breaker” clearly would be, are not permitted by the Phase 1 Decision.⁸ As the PD makes clear, “the goal of Phase 2 is not to relitigate party positions, but [rather is to] address the issues listed in the [Phase 2] Scoping Memo.”⁹

⁴ See PD at p. 26 (“In D.18-10-019, the Commission explicitly specified the form that a prepayment must take: (1) a one-time payment; or (2) a series of levelized payments over 2-5 years. Parties did not present any compelling reasons to deviate from this form. Therefore, we will not allow for a segment of a PCIA obligation to be prepaid.”). Note that SDG&E, as one of the Working Group 2 Co-Chairs, supported a *mutually agreed-upon* partial prepayment option subject to strict conditions. SCE and PG&E opposed that position and the PD does not adopt it.

⁵ POC Opening Comments at pp. 4-5.

⁶ CalCCA Opening Comments at pp. 8-10.

⁷ D.19-08-014 at p. 12.

⁸ See PD at p. 18.

⁹ PD at p. 20.

III. CALCCA’S PROPOSAL TO UPEND THE CONSENSUS FRAMEWORK FOR THE PREPAYMENT NEGOTIATION PROCESS SHOULD BE REJECTED

As explained in the Final Report, the proposed methodology for negotiating prepayments follows a sequential process: First, parties establish a “starting point” for calculation of the PCIA prepayment price. This involves a simple calculation of the estimated cost of the prepayer’s PCIA obligation based on the Investor-Owned Utility’s (IOU) total PCIA portfolio cost for the relevant customer vintage, reduced by the value of the energy, reliability, and renewable attributes of that portfolio.¹⁰ Second, “each negotiating party would then conduct *independent* modeling and analysis to further develop its proposed prepayment price, each considering its own proprietary assumptions regarding forward pricing and risk.”¹¹ Third, once each party has individually developed its proposed prepayment price for the full prepayment period, the parties would negotiate a mutually-agreeable final prepayment price discounted to present value.¹²

In their opening comments and for the first time, CalCCA proposes a completely different approach for development of the negotiation “starting point.” In doing so, CalCCA’s proposal misrepresents the nature and purpose of Step 1 of the prepayment negotiation. CalCCA proposes that the PD be modified to require the IOUs to provide all LSEs, as a precursor to pursuing a prepayment, with certain information related to PCIA-eligible costs, including imputed future fuel costs relying on “industry accepted forward price curves.”¹³ CalCCA proposes that “[t]his cost data should encompass the full term of PCIA eligible resources, or, at a minimum, 20 years into the future.”¹⁴ As noted above, Step 1 of the consensus prepayment framework does not involve application of forward price curves or development of assumptions regarding forward pricing. Rather this analysis occurs in Step 2 and is conducted on an

¹⁰ Final Report, pp. 8-9; Appendix B, Slides 59, 65.

¹¹ *Id.* at p. 8 (emphasis added).

¹² *Id.*

¹³ CalCCA Opening Comments at p. 4.

¹⁴ *Id.*

individual basis by each negotiating party. That is appropriate. Any LSE or sophisticated individual Direct Access (DA) customer who is contemplating PCIA prepayment has independent and equal access to the proprietary information (e.g., Platts data) used to forecast forward price curves. The entire point of prepayment is premised on an arms-length negotiation between the IOU (on behalf of non-prepaying customers) and the prepayer. But as in any arms-length negotiation about predicted future price outcomes, each party must make its own, *independent* judgment about those future events. CalCCA’s recommendation is inconsistent with the consensus position set forth in the Final Report and should therefore be rejected.

IV. TURN’S AND POC’S SHAREHOLDER RESPONSIBILITY PROPOSAL IS INCONSISTENT WITH STATUTE

POC supports TURN’s proposal to “make investor-owned utilities’ (IOU) shareholders responsible for any costs on non-prepaying customers when PCIA prepayments are below actual PCIA rates and allow shareholders to benefit when PCIA prepayments are greater than actual PCIA rates.”¹⁵ Neither TURN nor POC explain how that proposal would be consistent with Assembly Bill (AB) 57 (as codified in Public Utilities Code (P.U.C.) Section 454.5), which straightforwardly sets forth the decades-old quid pro quo of IOU utility energy procurement on behalf of customers: IOU shareholders do not earn a rate of return on procurement expenses and in return those expenses are passed through to, and recoverable from, customers at cost.¹⁶ TURN’s and POC’s proposal is contrary to that longstanding and uncontroversial statutory principle, which the Commission has faithfully upheld for decades in dozens of decisions.¹⁷

¹⁵ POC Opening Comments at pp. 2-3.

¹⁶ See P.U.C. § 454.5(d)(3) (“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.”).

¹⁷ See, e.g., D.20-01-022 (adopting SCE’s 2020 forecasted costs of electric procurement at cost); D.20-05-004 (approving SCE’s 2018 at cost procurement entries as appropriate, correctly stated, and compliant with applicable Commission decisions).

V. ANY PCIA PREPAYMENT MUST INCLUDE A RISK PREMIUM TO UPHOLD STATUTORY INDIFFERENCE AND SHOULD ALSO INCLUDE VOLUMETRIC RISK

CalCCA claims that “[t]he mere adoption of a risk premium violates the indifference principle: it would require that any agreed-upon prepayment amount be manipulated to favor one group of customers at the expense of another.”¹⁸ CalCCA claims this violates P.U.C. Section 366.3, which requires the Commission to “protect all customers equally.”¹⁹ But nothing in that statute requires the Commission to protect individual DA customers (or a CCA on behalf of its retail customers and presumably without their knowledge) making a *voluntary choice* to prepay their uncertain future PCIA obligation from market risk. To the contrary, the statute flatly prohibits the Commission from allowing “[b]undled retail customers ... [from] experience[ing] *any* cost increase” due to other customers’ choices to depart bundled retail procurement.²⁰ The risk premium that the PD appropriately adopts is necessary to uphold that statutory requirement for the millions of California customers -- both bundled service and departing load alike -- who do *not* (or cannot) make that voluntary choice to prepay.

In its opening comments, TURN states that “[t]he PD should clarify that the risk premium applies to both *market forecast* risk ... and *volumetric risk* associated with potential increases in usage by the prepaying customers.”²¹ This proposed clarification has merit. As TURN correctly notes, incorporating a volumetric risk premium would reduce “the potential for prepaying customers to engage in ‘load gaming’ by entering into a prepayment agreement tied to historic[al] usage despite an intention to increase their onsite load in the coming years [and therefore] to intentionally underpay their share of PCIA costs.”²²

¹⁸ CalCCA Opening Comments at p. 10.

¹⁹ CalCCA Opening Comments at p. 10.

²⁰ P.U.C. Section 366.3 (emphasis added).

²¹ TURN Opening Comments at pp. 2-3 (emphasis in original).

²² TURN Opening Comments at p. 3.

VI. CONCLUSION

For all the reasons stated in the Joint Utilities' Opening Comments and in these Reply Comments, the Commission should adopt the PD with the minor proposed modifications set forth in Appendix A of the Joint Utilities' Opening Comments.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of **REPLY COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E), SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E) AND PACIFIC GAS AND ELECTRIC COMPANY (U 39 E) ON PROPOSED DECISION ADOPTING FRAMEWORK AND EVALUATION CRITERIA FOR THE POWER CHARGE INDIFFERENCE ADJUSTMENT PREPAYMENT AGREEMENTS** on all parties identified on the attached service list(s) **R.17-06-026**. Service was effected by one or more means indicated below:

- Transmitting the copies via e-mail to all parties who have provided an e-mail address.
- Causing copies to be placed in sealed envelopes with such envelopes to be delivered via United States mail with first-class postage prepaid to the offices of the Assigned ALJ or other addressee(s).

**ALJ Nilgun Atamturk
California Public Utilities Commission
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Executed on **July 27, 2020**, at Rosemead, California.

/s/ Edith Leon

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