

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



November 18, 2024

Advice Letter RI-CalMTA-3

Lynette Curthoys
Vice President of Market Transformation
Resource Innovations, Inc.

SUBJECT: RI-CalMTA's 2025 Energy Efficiency Annual Budget Advice Letter

Dear Lynette Curthoys,

The CPUC Energy Division (ED) approves Resource Innovations Advice Letter RI-CalMTA-3 with an effective date of September 16, 2024. ED has analyzed the advice letter, the protest submitted by Cal Advocates, and Resource Innovations' reply, and finds the AL provides sufficient documentation to comply with applicable CPUC policy and guidance.

Background

In Decision (D.) 19-12-021, the CPUC adopted guidance and authorized funding for up to eight years of operations for a Market Transformation Administrator to develop and implement a portfolio of Market Transformation Initiatives. The decision authorized PG&E to select and contract a Market Transformation Administrator (MTA).¹ D.19-12-021 authorized an initial budget of up to \$20 million per year for up to three years to develop and propose an initial set of Market Transformation Initiatives (MTIs). The decision directs that the initial set of MTIs be submitted in an Application to the CPUC in compliance with D.19-12-021, upon which the CPUC may approve up to five years of funding not to exceed \$250M.

D.19-12-021 directs that during the three-year startup phase, the Market Transformation Administrator is to file its proposed annual budget using a process like the rolling portfolio, where an annual budget advice letter (ABAL) is filed each year seeking funding approval for the upcoming budget year. Similar to the intentions of the Rolling Portfolio ABAL process, the Market Transformation ABAL should balance flexible and timely budgeting with sufficient budget oversight and authorization by the CPUC.² D.19-12-021 also requires the Market Transformation ABAL to include a report and recommendation to the CPUC from the members of the oversight board, the Market Transformation Advisory Board, or "MTAB".³

On November 23, 2022, the CPUC approved PG&E Advice Letter 4674-G/6747-E approving the contract between PG&E and Resource Innovations for Resource Innovations to undertake the

¹ D.19-12-021, at 91, Ordering Paragraph 11

² D.19-12-021 at 126

³ D.19-12-021 at 127

responsibilities of the Market Transformation Administrator pursuant to the guidance in D.19-12-021.⁴

On August 16, 2024, the Market Transformation Administrator, branded “CalMTA,” submitted Advice Letter RI-CalMTA-3 requesting approval for its 2025 annual budget. On September 6, 2024, the Public Advocates Office (Cal Advocates) filed a Protest of Resource Innovations’ Advice Letter RI-CalMTA-3. On September 13, 2024, Resource Innovations timely responded to the Cal Advocates protest. Details of the protest and reply are discussed below.

Events not directly related to the 2025 ABAL are also referenced in Cal Advocates protest. Specifically, on August 9, 2023, Cal Advocates submitted a data request to Resource Innovations to which Resource Innovations did not respond. On September 18, 2023, Cal Advocates filed a motion to compel data request responses from Resource Innovations. On January 29, 2024, the assigned Administrative Law Judge (ALJ) issued the *Administrative Law Judge’s Ruling Granting Motion of Public Advocates Office to Compel Data Responses from Resource Innovations*. Resource Innovations timely submitted its data request response on February 15, 2024. Finding the data request response insufficient, Cal Advocates filed a motion to Find Resource Innovations in violation of Commission Rule 1.1⁵ on June 28, 2024.

Cal Advocates protest of Resource Innovations 2025 ABAL

Cal Advocates’ protest of Resource Innovations’ 2025 ABAL is based on the following objections:

1. Cal Advocates protests RI’s 2025 ABAL on the grounds that it is deficient and omits key analyses, calculations, and data used to calculate labor costs

Cal Advocates notes that Resource Innovations’ 2025 ABAL does not specify labor hours and rates. It requests a budget of \$19.6 million, of which 88 percent are labor costs, but presents only a list of activities, cost estimates for each activity, and number of full-time equivalent personnel associated with each activity. In its protest Cal Advocates asserts this approach does not provide sufficient supporting data and analyses for stakeholders and the CPUC to validate the budget forecasts. Cal Advocates further argues there is no basis to determine whether the budget forecasts are the result of accurate and reasonable inputs.

2. Cal Advocates also protests RI’s 2025 ABAL pursuant to GO 96-B General Rule 7.4.2(6), on the grounds that the relief it requests is unjust and unreasonable.

Cal Advocates argues that because Resource Innovations omitted information needed to support the reasonableness of its labor costs, the labor costs are unjust and unreasonable. Cal Advocates argues that the ABAL presents no information regarding the potential of Resource Innovations’ executives to work on the Market Transformation Administrator activities, and whether the budget plan complies with firewall provisions that restrict

⁴ Advice Letter Submittal of Contract Resulting from the Statewide Market Transformation Administrator Solicitation and Executed Between Resource Innovations, Inc. and PG&E, Advice Letter 4674-G/6747-E

⁵ *Public Advocates Office Motion to Find Resource Innovations in Contempt of this Commission, to Find it in Violation of Commission Rule 1.1, to Adopt Adverse Inferences, and to Impose Fines for Resource Innovations Failure to Comply with a Commission Ruling*. June 28, 2024

Resource Innovations' executives' participation in the contract. Due to this uncertainty Cal Advocates also questions whether the ABAL is sufficient to demonstrate the requested funds will be used for activities not related to the Market Transformation Administrator responsibilities.

Cal Advocates also states that Resource Innovations' data response provided to Cal Advocates on February 15, 2024, lacked labor rate information which indicates there is no basis to determine that Resource Innovations can provide a reasonable justification for the labor costs in the 2025 ABAL.⁶

Resource Innovations' Reply to Cal Advocates' Protest

Resource Innovations makes the following points in its Reply to Cal Advocates' Protest:

1. Resource Innovations provided all relevant components of the ABAL required by the CPUC.

Resource Innovations asserts that the CPUC's requirements for the Rolling Portfolio ABALs are applicable to the 2025 ABAL for Market Transformation Administration, because D. 19-12-021 states the Market Transformation ABAL process is based on the Rolling Portfolio ABAL process.⁷ Resource Innovations further asserts that a review of the items the CPUC requires for the Rolling Portfolio ABAL demonstrates that Resource Innovations' ABAL provided the required content in sufficient detail.

In D.15-10-028, Ordering Paragraph (OP) 4, the CPUC outlined the required components of the Rolling Portfolio ABAL. Resource Innovations states that it met two of the three required components but could not present forecasts of savings by sector because it does not yet have approved Market Transformation Initiatives.

Resource Innovations also cites direction in D.18-05-041, where the CPUC provided additional direction on ABAL requirements and criteria for CPUC staff approval.⁸ Resource Innovations argues the only relevant requirement for the Market Transformation Administrator's ABAL is to stay below the budget cap of \$19.6 million, which its ABAL does.

Resource Innovations maintains that it is not required to justify the assumptions on the number of hours a year a full-time employee would work. However, it had intended to include details in the footnote next to "#FTEs" heading in Table 3 of its 2025 ABAL. The footnote should have explained that the "FTE calculations are based on the assumption that fully dedicated staff will bill approximately 80% of their time to the project, which allows for paid time off and other non-billable time." This omission was corrected via a substitution sheet submitted on September 16, 2024.

⁶ Cal Advocates Protest (PUBLIC) at 7

⁷ "The Annual Budget Advice Letter (ABAL) model described in this section is adapted from the EE Rolling Portfolio cycle and balances flexible and timely budgeting with sufficient budget oversight and authorization by the Commission." D.19-12-021 at 126

⁸ D.18-05-041, at 125-26

2. Cal Advocates seeks to hold Resource Innovations 2025 ABAL to a different standard of review than the CPUC intended.

Resource Innovations argues that the level of review that the CPUC intended for the ABAL during the Rolling Portfolio cycle is inconsistent with the detail that Cal Advocates seeks from CalMTA's ABAL and is contrary to the CPUC's intent. In D.15-10-028, the Commission made statements about the review process for the ABAL that demonstrate the level of data and evidence that is required. The decision states that "the annual review we contemplate here should be relatively ministerial. However, if a PA departs in significant ways from that PA's most recent budget, the PA can expect a higher degree of scrutiny from Commission Staff."⁹

Resource Innovations asserts its budget request does not depart in significant ways from the previous budget and therefore does not require the level of detail requested by Cal Advocates. Resource Innovations argues its ABAL review process should not be converted from the ministerial process the CPUC intended into a forum to litigate the budget details or demand a level of detail that is not required.

3. The level of detail provided in the ABAL satisfied all other members of the Market Transformation Advisory Board.

Eight of the nine Market Transformation Advisory Board members voted in support of Resource Innovations' 2025 ABAL; Cal Advocates was the single objecting member. Cal Advocates' concerns remained even though the ABAL was discussed at two MTAB meetings that Cal Advocates' representative attended, and in several additional meetings between Resource Innovations and Cal Advocates.

Discussion

D.19-12-021 provides guidance regarding ABAL filing, requirements and approval criteria, stating that the process is adapted from the Rolling Portfolio ABAL and should balance flexible and timely budgeting with sufficient budget oversight and authorization by the CPUC.¹⁰ The decision also states that the ABAL should include funding for general Phase I and Phase II activities.¹¹ Resource Innovations' 2025 ABAL specifies the activities it proposes to fund and the total costs and total labor allocations associated with each activity. D.18-05-041 states that ABAL approval is subject to only a ministerial review except where the submitted budget represents a substantial departure from previous budgets.¹² Advice letter dispositions are not a place for policy making or introducing new types or levels of evaluation.¹³

⁹ D.18-05-041, at. 60

¹⁰ D.19-12-021 at 126

¹¹ D.19-12-021 at 127

¹² D.18-05-041, at. 60 states "[T]he annual review we contemplate here should be relatively ministerial. However, if a PA departs in significant ways from that PA's most recent budget, the PA can expect a higher degree of scrutiny from Commission Staff."

¹³ GO 96-B at 16 states "Industry Division disposition is appropriate where statutes or Commission orders have required the action proposed in the advice letter, or have authorized the action with sufficient specificity, that the Industry Division need only determine as a technical matter whether the proposed action is within the scope of what has already been authorized by statutes or Commission orders."

The 2025 Market Transformation Administrator's ABAL budget is consistent with previous budgets and the amounts previously approved in D.19-12-021. With the addition of the substitute sheet providing additional insight to the FTE¹⁴ calculations for each activity, we find the level of detail sufficient to meet the standard of a "ministerial" review, and therefore Energy Division approves the 2025 ABAL. The budget for 2026 and the budget approval process for the remainder of the Resource Innovations' contract will be developed and considered in a separate proceeding as a result of an upcoming Application, as directed in D.19-12-021.

The *Public Advocates Office Motion to Find Resource Innovations in Contempt of this Commission, to Find it in Violation of Commission Rule 1.1, to Adopt Adverse Inferences, and to Impose Fines for Resource Innovations Failure to Comply with a Commission Ruling* (June 28, 2024) will be addressed separately in Rulemaking 13-11-005 (R.13-11-005).

Sincerely,

 FOR

Leuwam Tesfai
Deputy Executive Director for Energy and Climate Policy/
Director, Energy Division
California Public Utilities Commission

cc:

Shelly Lyser, Office of Public Advocates
Ky-An Tran, Office of Public Advocates
Jim Giordano, Resource Innovations
Lynette Curthoys, Resource Innovations
George Tagnipes, Energy Division, CPUC
Hal Kane, Energy Division, CPUC
Christina Torok, Energy Division, CPUC

¹⁴ Full Time Equivalent