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California Public Utilities Commission
Energy Division Tariff Unit (edtariffunit@cpuc.ca.gov)
505 Van Ness Avenue, 4th Floor
San Francisco, CA 94102

Subject: California Market Transformation Administrator's (CalMTA's) (U-1399-E) Reply to the Protest of California Public Advocates Office to CalMTA's Advice Letter RI-CalMTA-3

Dear Energy Division Tariff Unit:

In accordance with Section 7.4.3 of General Order (GO) 96-B, the California Market Transformation Administrator (CalMTA) hereby submits this reply to the protest of the California Public Advocates Office (Cal Advocates) to CalMTA's Advice Letter RI-CalMTA-3. CalMTA is a program of the California Public Utilities Commission (CPUC) and is administered by Resource Innovations, Inc.

Background

On August 16, 2024, CalMTA submitted Advice Letter RI-CalMTA-3 in compliance with the California Public Utilities Commission (Commission) Decision (D.) 19-12-021, which required CalMTA to file an annual budget advice letter (ABAL) for approval of the annual authorized budget.¹ The decision required CalMTA to include a report and recommendation on the ABAL to the Commission from the members of CalMTA's oversight board, the Market Transformation Advisory Board (MTAB).² The ABAL process described in the Adopted Market Transformation Framework was adapted from the process used in the energy efficiency Rolling Portfolio cycle and aims to balance flexible and timely budgeting with sufficient budget oversight and authorization by the Commission.³

On September 6, 2024, Cal Advocates submitted a protest of CalMTA's Advice Letter RI-CalMTA-3 raising the following objections:

¹ D.19-12-021, p. 127.

² Ibid.

³ D.19-12-021, pp. 126-27.

1. CalMTA's 2025 ABAL is deficient and omits key analyses, calculations, and data used to calculate labor costs.
2. The relief CalMTA's 2025 ABAL requests is "unjust, unreasonable, or discriminatory."⁴

Cal Advocates requests the Commission to reject CalMTA's 2025 ABAL.⁵

Furthermore, in the redacted section of its protest to CalMTA's 2025 ABAL, Cal Advocates points to CalMTA's responses to a data request to Cal Advocates sent on February 15, 2024, to support its assertion that the ABAL should not be approved.

CalMTA's Reply to Cal Advocates' Protest

1. CalMTA provided all relevant components of the ABAL required by the Commission.

While Cal Advocates claims that CalMTA's 2025 ABAL provided insufficient detail and lacked supporting evidence to justify the 2025 budget, a review of the items the Commission requires for the ABAL clearly shows that CalMTA provided all the required contents in sufficient detail.

The requirements, data, and criteria for Commission staff approval of ABALs were addressed in D.15-10-028 and D.18-05-041.

In D.15-10-028, Ordering Paragraph (OP) 4, the Commission outlined the required components of the ABAL. The advice letter is required to contain:

- a portfolio cost-effectiveness statement;
- application summary tables with forecast budgets and savings by sector and program; and
- a report on portfolio changes, annual spending, and fund shifting.

CalMTA's 2025 ABAL included all these components, with the exception of a summary table of savings by sector and program and a report on portfolio changes. Those items were not included because CalMTA is not authorized to run any Market Transformation Initiatives (MTIs)⁶ until the Commission approves the application Pacific Gas and Electric (PG&E) will file on CalMTA's behalf later this year requesting approval of the initial tranche of MTIs.⁷

⁴ Cal Advocates' Protest, at p. 1.

⁵ Ibid.

⁶ MTIs are equivalent to the programs that energy efficiency Program Administrators offer.

⁷ D.19-12-021, OP 9 states that PG&E shall file on behalf of the Market Transformation Administrator, an application for approval of the initial tranche of MTIs.

In D.18-05-041, the Commission provided additional direction on the ABAL requirements and included criteria for Commission staff approval of ABALs. Since Cal Advocates only objected to the lack of detail as it relates to CalMTA's 2025 budget, here are the required components of the ABAL as it relates to the budget:

- Budget: portfolio total, and broken out by sector and by program, for the relevant program year (i.e., the program year for which the Program Administrator (PA) is requesting budget authorization).
- Authorized budgets for each program and for each sector for the two most recent years.
- Actual expenditures for each program and for each sector for the two most recent years
- Table of authorized budgets and actual expenditures at the portfolio level for each program year beginning with the first year of the Rolling Portfolio, i.e., 2016.
- Table of budget forecasts and annual budget caps in business plan for the relevant program year (i.e., the program year for which the PA is requesting budget authorization) and each future year of the approved business plan period.⁸

Again, CalMTA's 2025 ABAL provided all this information, except where CalMTA has not been in operation long enough to establish the data, or for the last requirement, because CalMTA will not have the equivalent of an approved business plan budget cap until the upcoming application is approved.⁹

D.18-05-041 included Section 7.3, titled "Criteria for Approving Annual Budget Advice Letters", which directed Commission staff on how to evaluate ABALs for approval based on the type of PA who filed the ABAL.¹⁰ The only relevant requirement included in this section for CalMTA is to stay below the budget cap of \$19.6 million, which the 2025 ABAL did.

Finally, while CalMTA is not required to justify the assumptions on the number of hours a year a full-time employee would work, CalMTA staff noticed that the ABAL inadvertently omitted the text of footnote 1 next to "#FTEs" in Table 3. 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 will be corrected via a substitution sheet.

⁸ D.18-05-041, pp. 125-26.

⁹ CalMTA's contract with PG&E became effective on November 23, 2022, upon approval of PG&E's Advice Letter 4674-G / 6747-E.

¹⁰ D.18-05-041, pp. 133-134.

2. Cal Advocates seeks to hold CalMTA's 2025 ABAL to a different standard of review than the Commission intended.

As stated before, the ABAL that CalMTA is required to file for annual funding is based on the ABAL process developed during the energy efficiency Rolling Portfolio process.¹¹ Thus, it is important to understand the level of review that the Commission intended for the ABALs during the Rolling Portfolio cycle.

In D.15-10-028, the Commission made two statements about the review process for the ABAL that demonstrate that the level of data and evidence that Cal Advocates seeks from CalMTA's ABAL is contrary to the Commission's intent. First, the Commission stated that "our overarching goal with the budget filing [ABAL] requirement is to ensure meaningful budget review without turning the triennial fire drill¹² under the existing review process into a series of annual fire drills."¹³ Secondly, the Commission stated 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."¹⁴ (Emphasis in original.)

Given that CalMTA's budget as proposed in the 2024 ABAL was for \$19.53 million and the 2025 budget request is \$19.6 million, the 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.

The ABAL review process for CalMTA should not be converted from the ministerial process the Commission intended into a forum to litigate the budget details, raise issues not related to the 2025 ABAL or demand a level of detail not required by the Commission.

3. The level of detail provided in the ABAL satisfied all other members of the MTAB.

CalMTA has a nine-member oversight board, the MTAB, which advises CalMTA on market transformation plans and activities and whose membership was approved by the Commission via a Tier 2 advice letter.¹⁵ Of those nine members, only Cal Advocates' representative was not in support of CalMTA's 2025 ABAL. Cal Advocates' concerns remained even though the ABAL was discussed at two MTAB meetings that Cal Advocates' representative attended, and despite three additional meetings with Cal

¹¹ D.19-12-021, p. 125.

¹² This is a reference to the previous portfolio length before the Rolling Portfolio cycle, which was generally three years and often led to a rush or "fire drill" to approve the applications with sufficient time for the energy efficiency PAs to make any needed adjustments to their energy efficiency portfolios to account for policy changes.

¹³ D.18-05-041, p. 58.

¹⁴ D.18-05-041, p. 60.

¹⁵ See Advice Letter RI/CalMTA-1A.

Advocates, Energy Division, and CalMTA to try to understand and address Cal Advocates' concerns.

4. Cal Advocates' use of Resource Innovations' response to Cal Advocates' data request is not related to the ABAL and should not be considered in the ABAL review.

In the redacted version of its protest, Cal Advocates points to discrepancies in a data request response sent by Resource Innovations to Cal Advocates on February 15, 2024.

Upon review of the responses to the data requests triggered by Cal Advocates' comments, Resource Innovations discovered errors in the responses provided to Cal Advocates. Resource Innovations' investigation has determined that the errors were not a result of deficiencies in CalMTA's accounting practices or errors on Resource Innovations' invoices, but instead resulted during the manual transfer of the data from Resource Innovations' Oracle accounting system into the Excel template that Cal Advocates provided. Resource Innovations provided a corrected data table to Cal Advocates on September 13, 2024. The errors noted and corrected are not relevant to the budget estimates and forecasts in CalMTA's 2025 ABAL or Energy Division's review of the 2025 ABAL.

Conclusion

CalMTA thanks the Commission for consideration of this Reply and respectfully requests that Commission staff reject Cal Advocates' protest and approve the 2025 ABAL. Timely approval of CalMTA's 2025 ABAL is crucial. If the ABAL is not approved by the end of 2024,¹⁶ it is uncertain whether CalMTA will be able to participate in the early stages of the upcoming application proceeding to approve the first tranche of MTI Plans.

Sincerely,

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

¹⁶ In D.15-10-028, OP 5, the Commission stated that "If a calendar year ends before the Commission disposes of a Program Administrator's advice letter with the budget for the next calendar year, then the prior year's budget shall remain in place until disposition of the pending advice letter." However, it is uncertainty whether this rule applies to CalMTA's ABAL.

cc: Simon Baker, Director, Energy Division
Shelly Lyser, Program Manager, Cal Advocates
R.13-11-005 Service List