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

Order Instituting Rulemaking Concerning Energy Efficiency Rolling Portfolios, Policies, Programs, Evaluation, and Related Issues.	Rulemaking 13-11-005

COMMENTS OF SMALL BUSINESS UTILITY ADVOCATES IN RESPONSE TO ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENT ON MARKET TRANSFORMATION WORKING GROUP REPORT

Ivan R. Jimenez
Regulatory Attorney

Small Business Utility Advocates
548 Market St., Suite 11200
San Francisco, CA 94104
Telephone: (650) 395-7025
Email: ivan@utilityadvocates.org

SBUA
Small Business Utility Advocates

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I. INTRODUCTION

Pursuant to the April 10, 2019 *Administrative Law Judge's Ruling Seeking Comment on Market Transformation Working Group Report* ("Ruling"), Small Business Utility Advocates ("SBUA") submits the following comments on the Market Transformation ("MT") Framework proposed by the California Energy Efficiency Coordinating Committee ("CAEECC").

SBUA participated in the MTWG to ensure the ultimately adopted Framework ensured small businesses and other hard-to-reach customers will benefit from MT programs. SBUA supports the consensus items of the Report and requests that the Commission not modify those sections. The following comments focus on SBUA's positions on non-consensus issues and on areas that the Report did not present a clear recommendation.

II. PROCEDURAL BACKGROUND

On August 29, 2018, Administrative Law Judge ("ALJ") Julie A. Fitch issued the *Ruling Seeking Comment on Market Transformation Staff Proposal* and the Commission held an initial workshop on September 25, 2018 to discuss the Staff Proposal.[1] On October 5, 2018, SBUA and other interested parties submitted comments on the Staff Proposal and on issues discussed during

[1] Ruling, p. 2.

the first workshop.[2] The ALJ suspended the deadline for reply comments, originally set for October 22, due to the scheduling of the November 6th workshop.[3] Subsequently, the CAECC convened a MT working group ("MTWG") to provide a forum for interested parties to further discuss MT issues and develop a MT framework. On March 19, 2019, the Natural Resource Defense Council submitted the Framework developed by the MTWG ("Report").

III. DISCUSSION

SBUA's comments mirror the order of the questions posed by the ALJ. Questions where SBUA does not have an answer have been left out.

1. Please comment on the overall energy efficiency market transformation framework suggested in Attachment A and other consensus recommendations in the report. Should the Commission adopt this framework? Why or why not?

SBUA supports approval of the consensus recommendations in the Report because they are the product of a robust process with skilled facilitators that incorporates the input of a diverse group of stakeholders. The CAEECC process undertaken to produce the Report provided more opportunity for stakeholder input than what was originally contemplated by the Staff Proposal. In addition to the all-day meetings, subgroups discussed specific issues and submitted proposed language to the larger MTWG. These opportunities for participation allowed for the development of a well thought-out framework that address many concerns parties originally expressed with the Staff Proposal.

3. Comment specifically on your preferred resolution of the first non-consensus issue identified in Attachment A (see pages 24-31) with respect to the appropriate choice for Market Transformation Administrator.

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[2] *See* Opening Comments of Small Business Utility Advocates on the Administrative Law Judge's Ruling Seeking Comment on Market Transformation Staff Proposal (Oct. 5, 2018) (SBUA Comments on Proposal).
[3] *See* E-Mail Ruling Suspending Due Date for Reply Comments on Market Transformation Staff Proposal (Oct. 15, 2018).

As indicated in the Report, SBUA supports Option 2, the administration by a single, independent statewide administrator.[4] Other jurisdictions that have implemented a MT framework and experienced success have relied on independent administrators.[5] Rather than reinvent the wheel and go through a trial period where different administration models are tested, the Commission should take the best practices of other jurisdictions and implement them here. The Commission should also implement a statewide administrator model as this will promote uniformity and take into account best practices for MT initiatives ("MTIs").[6] If in practice an independent administrator model does not work in California's energy market, revisiting this issue and considering IOU administration would be appropriate at that moment. A statewide administrator will also facilitate coordination as MT activities need to be integrated with other Rolling Portfolio activities and having fewer administrators will best facilitate this. SBUA also believes that a single statewide administrator will be best suited to assist with program evaluation as the administrator will collect data on an ongoing basis and, if appropriate, compare programs in different regions with one another to determine how these programs can learn from each other.

SBUA does not support the IOUs' proposal to have existing program administrators ("PAs") administer MTIs because of concerns that existing PAs may not have the capacity to take on additional oversight responsibilities. Energy efficiency ("EE") programs already approved by the Commission continue to struggle to meet the EE needs of hard-to-reach customers, including small businesses. Therefore, adding MTIs to the responsibilities of PAs of EE programs will be less effective than having an independent statewide administrator.

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[4] Report, p. A-35.
[5] *Id.*, pp. A-36 – A-37.
[6] *Id.*, p. A-37; *see also* Building a Policy Framework to Support Energy Efficiency Market Transformation in California," Prahl, R. and Keating, K., December 9, 2014, p. 16.

As the Commission recognizes (*see* concerns indicated in question 10 of the Ruling), MTIs like any new program run the risk of needing modification or termination prior to completion of a cycle. This means that MTIs will require significant oversight because the innovative nature of these programs means that administrators will have to carefully track progress made, evaluate the performance of the initiative on an on-going basis, and perhaps implement changes prior to the cycle's completion. In contrast, other EE programs are evaluated at the end of cycles, so less time is dedicated to evaluation during the implementation. Adding these additional responsibilities to PAs of current EE programs may further limit the time and resources dedicated to targeting hard-to-reach customers, inhibiting the Commission's goal of making EE programs accessible to all customers.

However, if the Commission decides that existing PAs should also administer MTIs, then the procurement review groups ("PRGs") should be given significant opportunities for participation. In this scenario, the PAs should consult with the PRGs prior to modifying or terminating any MTI, in addition to consulting with other relevant stakeholders.

4. <u>Comment specifically on your preferred resolution of the second non-consensus issue identified in Attachment A (see pages 36-38) with respect to the cost-effectiveness threshold that should be required for market transformation initiatives?</u>

SBUA strongly supports a TRC of 1.25 (Option 1) instead of a TRC of 1.5 because setting a TRC that is too high will encourage MTIs to target the easiest, most cost-effective customers to serve at the expense of serving disadvantaged and hard-to-reach customer groups. A TRC of 1.25 provides financial flexibility so that MTIs can also prioritize the non-financial goal of helping these hard-to-reach customers gain access to the most innovative EE programs. Meeting the needs of these customers tends to be costlier, necessitating the need for some flexibility in determining cost effectiveness. In addition, due to the likelihood that costs will be higher and savings lower during the initial stages of MT implementation,[7] achieving a TRC of 1.25 for MTIs will likely be more challenging than achieving this TRC for EE Portfolios. Therefore, setting the same TRC for MTIs as for the EE Portfolios does not necessarily mean that the programs will achieve the TRC with ease.

6. Should a budget allocation to market transformation be incremental to the rolling portfolio budgets, or should a portion of the energy efficiency rolling portfolio budgets be redirected to market transformation? Why?

Given that MT programs will fund new activities not contemplated by the Rolling Portfolio budgets already adopted, budget allocation to MT should be incremental. Otherwise the EE budgets run the risk of being stretched thin and insufficient.

7. How much should the initial funding allocation be for market transformation, and for what duration?

As the report indicates, the budget associated with each MTI should not be predetermined or subject to caps.[8] In determining the appropriate budget to set aside for each initiative, the Commission should also consider the target customer base and the likely benefits the initiative will provide to hard-to-reach customers, including small businesses.

10. If a market transformation initiative, once approved, begins to perform poorly:

    a. How will the Commission become aware there is a problem?

The PA(s) should report to the Commission if MTIs are not making reasonable progress toward meeting the cost-effectiveness goals. Though these initiatives are likely to result in more savings as time goes on, due to the challenges inhibiting early adoption, there should be yearly progress toward overall program delivery goals. If progress becomes stagnant then the PA should

[7] Report, p. A-47.
[8] Originally, staff proposed to set budgets for MT activities at the PA basis. If the Commission disagrees with SBUA and other parties that a statewide PA should be selected, then SBUA reiterates its suggestion that the total budget for MT should be $100 million with each PA receiving $12 million for MT programs and the remaining funds being used to incentivize programs that target hard-to-reach customers. SBUA Comments on Proposal, pp. 2-3.

flag this for the Commission as well as to the MT advisory board and initiative review committee so that stakeholders can begin paying close attention to program delivery and begin discussing potential modifications if underperformance becomes a trend, and not just a one off observation.

The Commission should also require the PA to submit progress reports on a semi-annually basis so that programs that are significantly underperforming are not funded for a prolonged time only to find that its performance was questionable early on. In contrast to reporting at the completion of a MTI, these reports can provide high level details such as funds spent and savings observed at a program level. More specific reporting presenting data at the customer-class level, geographic location, etc., can be required when certain milestones are reached.

b. <u>What should the process be to determine if a market transformation initiative with questionable performance should be amended or terminated?</u>

The PA(s) should have to consult with the MT advisory board and initiative review committee prior to amending or terminating a MTI.[9] This will allow stakeholders to provide input into how the underperformance of the MTI can be addressed so that decisions to modify or terminate a program are not done prematurely. The Commission will have to play an active role in this process to ensure this is the case.

11. <u>The MTWG report references "financial commitments to the target market(s)" (see page 17) and a market transformation plan that "solidifies a commitment to the market and relevant actors" (page 18). What kinds of commitments should a market transformation initiative make to the market(s) and market actors? What kinds of commitments are not appropriate, if any?</u>

Financial commitments for customers with low participation rates are needed. The Commission has recognized that certain customer bases have had low participation rates in EE

[9] *Id.*, pp. 4-5.

programs due to various barriers.[10] Allocating funds for programs targeting these customers is needed to incentivize targeting these customers. EE programs have low adoption rates among hard-to-reach customers and, as recognized in the Report, MTIs generally have low adoption rates in the early years. Combined, these two observations indicate that adoption of MTIs among hard-to-reach customers will have the lowest rates of customer classes, which can disincentivize targeting these customers. Therefore, the Commission should set-aside funds for programs targeting hard-to-reach customers. The Commission should either set aside a specific amount of funds that will serve as "bonuses" for MTIs that target hard-to-reach customers[11] or set aside a percent of the total MT budget that will only fund activities targeting hard-to-reach customers.

IV. CONCLUSION

SBUA respectfully requests that the Commission approve the consensus recommendations made by the MT framework submitted by the CAEECC MTWG and incorporate the above comments regarding non-consensus items.

Dated: May 6, 2019

Respectfully Submitted,

By: ______________________
Ivan R. Jimenez

Small Business Utility Advocates
548 Market St., Suite 11200
San Francisco, CA 94104
T: (650) 395-7025
Email: ivan@utilityadvocates.org

[10] D.18-05-041, Decision Addressing Energy Efficiency Business Plans (June 5, 2018), pp. 41-45.
[11] SBUA Comments on Proposal, pp. 2-3.