

**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

**OPENING COMMENTS OF SMALL BUSINESS UTILITY ADVOCATES ON THE
ADMINISTRATIVE LAW JUDGE'S RULING SEEKING COMMENT ON
MARKET TRANSFORMATION STAFF PROPOSAL**

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I. INTRODUCTION & BACKGROUND

Pursuant to Administrative Law Judge Julie A. Fitch’s August 29, 2018 ruling, Small Business Utility Advocates (SBUA) submits the following comments on the Market Transformation Staff Proposal (Proposal). SBUA became a party to this proceeding in order to ensure that ratepayer-funded energy efficiency (EE) programs also provide benefits to small businesses. Small businesses have historically had low enrollment rates in EE programs despite contributing to a significant portion of the state economy, as well as to the utilities’ ratepayer funded initiatives, indicating the need to develop programs that target this customer base. SBUA supports Market Transformation (MT) efforts, as innovative and aggressive efforts are needed in order to meet the statewide goals set in SB 350. SBUA believes this can be achieved by modifying the framework in the Proposal to require Program Administrators (PAs) to develop Market Transformation Initiatives (MTIs) that target small businesses, better utilize existing public forums, and add flexibility to budgets.

II. DISCUSSION

SBUA's answers to the ALJ's questions are presented in the order asked. Questions that SBUA does not have comments on have been omitted.

1. What are the best characteristics of the market transformation framework in the Staff Proposal? What attributes are the most valuable and should be retained?

SBUA supports various aspects of the MT framework proposed. In particular, SBUA supports requiring PAs to host public workshops on the development of the MTIs, requiring PAs to report on implementation progress, and the creation of a review committee to help develop MTIs.

2. Do you agree with the staff recommendation to begin the development of market transformation initiatives initially separately from the business plan portfolios? Why or why not?

SBUA partly agrees with this recommendation. Funding MTIs separately from the business plans would allow PAs to devise innovative projects not contemplated by the business plans while not reducing the business plan budgets. That said, while SBUA agrees with the recommendation to fund MTIs separately from EE business plans and rolling portfolios,¹ oversight of MTIs should occur in collaboration to business plan implementation. As expressed during the September 25, 2018 workshop hosted by Energy Division, coordination between the MTIs and implementation of the business plans is needed to avoid market confusion and avoid duplication and inefficiencies.

3. Do you agree with the budget limit of \$12 million per PA for operations outside of the business plan portfolios suggested in the Staff Proposal? Why or why not?

This budget seems appropriate; however, the Commission should consider adjusting the size of each MTI based on the MTI's scope. Because PAs serve varying numbers of customers,

¹ Proposal, at 4,

the individual MTIs will impact differing numbers of customers. A “one size fits all” approach could limit proposals, and SBUA therefore recommends that the Commission direct the PAs to adjust budgets according to project scopes.

Given that there are eight authorized PAs the total amount for the MTIs would be \$96 million. SBUA recommends the Commission to set the total budget at \$100 million and utilize extra funds for projects that specifically target hard to reach customers, including small businesses. Without the possibility of receiving compensation for engaging in more difficult projects, PAs may not devise MTIs that target hard to reach customers.

4. Should there be a limit to the time period for how long market transformation initiatives may operate outside of the business plans before being integrated with the overall portfolio? If so, what is your proposed time limit? Explain your rationale.

The Commission should not set a blanket time limit as the particulars of each MTI will necessitate different time limits. Instead, PAs should outline time limits in the finalized Accords so that limitations are developed on a case-by-case basis with the help of stakeholders and Commission approval. The Commission would have ultimate authority to adopt or modify a proposed time limit, allowing Commission staff to assess the appropriateness of suggested time limits.

5. Do you support the Staff Proposal elements with respect to cost-effectiveness? Why or why not? Describe in detail any changes you would suggest.

The Proposal indicates that cost-effectiveness of MTIs “should be addressed using different parameters, and on a different schedule than the rest of the portfolio.”² SBUA agrees that the Commission should determine the cost-effectiveness of MTIs differently than it does for the EE portfolio because MT has the dual purpose of addressing financial and non-financial market barriers. Current EE projects have struggled to reach particular subsets of residential and

² Proposal, at 5.

commercial customers, including residents who do not speak English and small businesses.

Therefore, the cost-effectiveness of MTIs should also consider how effective these projects are at reaching ratepayers that have historically had low participation in EE programs.

6. Do you support the concept identified in the Staff Proposal for Market Transformation Accords? Why or why not? Describe in detail your suggested improvements.

SBUA supports the concept of the Accords as this process mimics the process utilized in Commission proceedings reviewing IOU applications: developing an initial proposal, gathering public input, revising the proposal, and submitting it for Commission approval. The structure of the Accords can improve if PAs partner with the California Energy Efficiency Coordinating Committee (CAEECC). As further explained in questions 9, 11 and 16, PAs should be required to include CAEECC members in their Initiative Review Committee so that stakeholders already engaged in overseeing rolling portfolio implementation have an opportunity to provide recommendations on the development of the Accords and to track implementation progress.

9. Do you support the Staff Proposal recommendation for how to conduct evaluation, measurement, and verification on market transformation initiatives? Why or why not?

The Commission should clarify that PAs are required to consult with the Initiative Review Committee prior to making a determination of whether to terminate an MTI. The Proposal indicates that the Initiative Review Committee will provide recommendations and guidance “particularly if there are indications that strategies need adjustment, or where an initiative is not performing as expected.”³ At the same time, the Proposal indicates that PAs choose whether to discontinue an underperforming MTI or to extend it.⁴ PAs should make such decisions only after gathering input from the Review Committee so that they do not unilaterally decide to terminate a salvageable MTI or to extend one that is unworkable.

³ Proposal, at 18.

⁴ Proposal, at 18.

In addition, the framework should provide a process that allows stakeholders to conduct evaluation. The Proposal indicates that the Commission “may choose to actively evaluate and verify the value of ongoing Market Transformation Initiative-related activities.”⁵ The MTI Accord should provide access “to all data and information pertaining to the Market Transformation Initiative[,]” to Commission staff *and* to members of the Initiative Review Committee so that members of this committee can engage in independent evaluation if Commission staff is unable to do so.⁶ This would allow Review Committee members to help PAs identify which MTIs are underperforming at early stages when the problems are still remediable. To address confidentiality concerns, PAs could require Review Committee members to sign nondisclosure agreements as a condition to participation in this Committee.

10. Comment on the Staff Proposal’s discussion of milestone based performance assessments.

SBUA supports establishing savings-related milestones, as this can help determine that certain MTIs are “not progressing satisfactorily and should be terminated.”⁷ However, energy savings milestones alone are not sufficient to assess the effectiveness of an MTI. Participation-related milestones should also be included as a basis for incentive rewards. For example, an initiative’s ability to engage small businesses in MT efforts should be rewarded so that PAs have an incentive to partner with this group of ratepayers, which has not benefited from EE programs at comparable rates to larger commercial customers.

⁵ Proposal, at 15.

⁶ This is based on the notion that CAEECC members will comprise the Initiative Review Committee. If the Commission refuses to adopt this suggestion, then the final framework should specify that Commission staff will actively evaluate MTIs.

⁷ Proposal, at 17.

Furthermore, as the Proposal recognizes, some projects may not result in immediate savings so long-term savings should be assessed.⁸ This indicates that setting a timeline with milestones related to energy savings alone may not be an effective way to assess the success of an MTI, particularly during the early stages of implementation.

11. Do you support the Staff Proposal's recommendations for the administrative aspects of management of the Initiatives, particularly in Section 5 on procedural approach? Why or why not?

Yes, SBUA supports requiring PAs to host public workshops. However, the Commission should require PAs to partner with the CAEECC. The Proposal indicates that PAs should host a workshop with stakeholders to discuss the requirements for the Market Transformation Development Plans, present their Initiative Development Plans at a public forum like CAEECC, submit proposed Initiative Development Plans via a Tier 1 Advice Letter, host another workshop to present on key components of the Market Transformation Accord, file the complete Market Transformation Accords via Tier 3 Advice Letters, and report on a regular basis on progress of the MTIs.⁹ Instead of recommending PAs host public workshops, the Commission should *require* PAs to do so and to utilize CAEECC as the stakeholder input venue. CAEECC was used successfully to gather stakeholder input in the development of IOU Business Plans and can also serve to assist PAs in developing the Accords. Due to their involvement with the development of Business Plans, CAEECC members are familiar with many of the EE issues market transformation aims to address so their input will prove invaluable.

The Commission should also require PAs to solicit and implement public comments received at these workshops. Simply requiring PAs to present on progress made toward development of the Initiative Development Plans does not provide for meaningful public

⁸ Proposal, at 5.

⁹ Proposal, at 21-22.

participation. Additionally, PAs should be required to report to CAEECC on the progress of MTIs. This will allow meaningful public engagement in both the development and implementation of MTIs.

SBUA recommends that PAs report occur quarterly at CAEECC meetings so that stakeholders can track progress and provide feedback if needed.

12. Are there other ways (besides those represented in the Staff Proposal) to engage and leverage stakeholder expertise effectively? If so, describe them.

SBUA believes the most effective means to leverage stakeholder expertise is to utilize CAEECC, as described in SBUA's answer to questions 9, 11, and 16.

14. Are there elements in the Staff Proposal that are missing or unclear? Describe.

The Proposal does not specify a timeline for reporting requirements, indicating that progress "would be reported to the public on a regular basis, perhaps annually."¹⁰ Additional guidance is needed so that PAs understand their reporting requirements and stakeholders know when they can expect to receive updates on progress made by the MTIs. This is particularly important given that the Proposal indicates PAs may choose to end an initiative if a key milestone is not achieved within the specified timeframe (p. 8). If reporting requirements are not specified, then stakeholders may not become aware of an initiative's inability to produce the desired results, until that initiative is terminated.

SBUA recommends the Commission requires PAs to report on a quarterly or semi-annually basis, at a minimum. This would allow stakeholders to verify that implementation has not fallen behind schedule and could also assist PAs in determining that a modification to the original proposal is needed to prevent failing to meet key milestones, which triggers the termination requirement. These reports should include details on progress made toward meeting

¹⁰ Proposal, at 8.

milestones, as contemplated by the Report, but should emphasize initiatives that are not producing desired results, particularly those that are in danger of failing to meet key milestones. In addition, the reports should detail what steps PAs are taking or will take to ensure underperforming initiatives get back on track.

15. Ultimately, do you recommend that the Commission adopt this framework, or a version of the framework with your suggested modifications described in answers to the above questions? Why or why not?

SBUA supports adoption of the framework if the Commission requires stronger collaboration between PAs and CAEECC, and also requires PAs to develop *at least one MTI that targets small businesses*. According to the Staff Proposal, PAs will submit one or two proposals for MTIs for Commission Approval.¹¹ The Commission should either require each PA to propose an MTI that targets small businesses statewide or that targets this ratepayer class at the IOU service territory level.

16. Include any other comments or recommendations not covered by the above questions.

Initiative Review Committee

The Initiative Review Committee should include CAEECC members so that stakeholders can participate in the development of the Accords, instead of simply commenting on proposed Accords. As proposed, PAs would choose members for the Initiative Review Committee and Energy Division may appoint two additional members.¹² However, if Energy Division does not exercise its discretion, then PAs would unilaterally select members of the Review Committee even if stakeholders object. Without stakeholder input at the development stage, proposed MTIs may not address the most pressing needs of customers. PAs should solicit membership to the

¹¹ Proposal, at 4.

¹² Proposal, at 18.

Review Committee from CAEECC members, with Energy Division retaining the flexibility to add two members.

Targeting Markets

The finalized framework should also require PAs to target small businesses in MTIs. The Proposal “declines to recommend specific markets[.]”¹³ However, there is a need to target small businesses in MTIs as both the beneficiaries of the projects and the implementers. Despite accounting for such a large share of the market, small businesses often do not have the resources to adopt emerging technologies, highlighting the need to tailor projects to meet the EE needs of small businesses.

Small businesses often lack the capital to make EE investments, awareness and knowledge about EE benefits and how to apply to programs, if they qualify, and the time needed to research these issues.¹⁴ Additionally, small businesses may fear that EE retrofits would disrupt their business operations.¹⁵ Given that many have slim profit margins and poor cash flow,¹⁶ disruptions in business operations would pose a significant hurdle to overcome and may further discourage small businesses from implementing EE measures. Due to these limitations, small businesses need EE programs to provide benefits in a short time.¹⁷ The obstacles faced by small businesses result in their low participation in EE programs while also having relatively

¹³ Proposal at 7.

¹⁴ Seth Nowak, *Big Opportunities for Small Business: Successful Practices of Utility Small Commercial Energy Efficiency Programs*, American Council for an Energy-Efficient Economy (Nov. 2016) (“Big Opportunities for Small Business”), at iv; Greg Miller, *Why Is Improving the Efficiency of Small Businesses So Challenging?*, Greentech Media (Oct. 2, 2018) (“Efficiency of Small Businesses”), <https://www.greentechmedia.com/articles/read/why-is-improving-the-efficiency-of-small-businesses-so-challenging#gs.ByhjOAY>.

¹⁵ Big Opportunities, at 7.

¹⁶ Efficiency of Small Businesses.

¹⁷ Big Opportunities at 6-7.

high energy consumption so intervening and transforming the EE market for small businesses represents an opportunity for substantial savings.¹⁸

Small businesses account for about 48.8% of private sector employment in California and 43.2% of the state's exports.¹⁹ Given that small businesses hold such a significant share of the market, the Commission should require PAs to devise MTIs that will focus on partnering with small businesses for implementation of the new project. This would address the non-financial barriers of not having the time or knowledge necessary in order to adopt EE measures because the small businesses would get firsthand knowledge about the MTIs. As stated in the Proposal, "Market Transformation offers a superior policy tool for markets facing both financial and non-financial barriers,"²⁰ supporting the prioritization of MTIs would address both types of barriers.

By targeting small businesses, the MTIs would help provide EE services to a market that has historically had low EE participation while also helping the state meet its SB 350 EE goals. SB 350 directs the Commission to collaborate with the Energy Commission to develop "targets for *statewide* energy efficiency savings and demand reduction"²¹ This means the Commission should prioritize market sectors that have been left out of EE programs. Otherwise, these ratepayer segments will continue to fall behind and the goal of obtaining statewide EE savings will be hindered.

III. CONCLUSION

SBUA appreciates the efforts of staff in devising the Proposal and thanks the Commission for the opportunity to comment on this matter.

¹⁸ Efficiency of Small Businesses.


¹⁹ California Small Business Profile, U.S. Small Business Administration Office of Advocacy, *available at* <https://www.sba.gov/sites/default/files/advocacy/2018-Small-Business-Profiles-CA.pdf>.

²⁰ Proposal at 3.

²¹ Cal. Pub. Res. Code § 25310(c)(1) (emphasis added).

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Respectfully Submitted,

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