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Decision 90-03-032 March 14, 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Allied Temporaries, Incorporated,)
Complainant,)

vs.)

Pacific Gas and Electric Company,)
Defendant.)

Case 88-08-048
(Filed August 24, 1988)

Walter C. Cook, Attorney at Law, for Allied
Temporaries Incorporated, complainant,
Roger J. Peters and Shirley Woo, Attorneys at Law,
for Pacific Gas and Electric Company, defendant.

O P I N I O N

This complaint was filed on August 24, 1988 by Allied Temporaries Incorporated (Allied) against Pacific Gas and Electric Company (PG&E). The complaint alleges that PG&E declined to contract with Allied on the basis of racial discrimination and in violation of General Order (GO) 156.

Following the filing of Allied's complaint, PG&E requested that this matter be referred to staff pursuant to Rule 10 of the Commission's Rules of Practice and Procedure. The assigned administrative law judge granted the request. The parties could not resolve this matter informally. Accordingly, hearings were held on May 15, 16, and 19, 1989. The matter was submitted on June 22, 1989.

This decision finds that although PG&E did not discriminate against Allied on the basis of race, PG&E's erroneous checking of Allied's references resulted in rejection of the Allied bids for reasons that, at least in part, were factually inaccurate.

and unrelated to the competitiveness of the bids. The decision orders PG&E to consider bids which Allied may propose for the next contracting period and to comply with the letter and spirit of GO 156 and the statutes that GO 156 implements.

I. Allied's Complaint

Allied's complaint alleges that, on the basis of racial discrimination, PG&E declined to contract with Allied for temporary services. Allied is a minority-owned business located in San Francisco, California, owned and operated by Clarence Hunt. In 1987, Allied submitted bids for two contracts with PG&E for temporary clerical and computer programming services to be provided during 1988-89. Allied believes that its bids were competitive with the bids of selected vendors. Its complaint asserts that PG&E did not speak with references provided by Allied for confirming Allied's capability to perform proposed services.

Allied believes PG&E has "discredited the spirit and intent of AB 3678," which provides statutory guidance for utility, women and minority business enterprise (WMBE) contracting. Allied asks that the Commission require PG&E to award contracts to Allied for temporary clerical and computer programming services. Allied also asks the Commission to penalize PG&E in the amount of \$1.7 million to discourage future racial discrimination.

II. PG&E's Response

PG&E's response denies Allied's allegations. The response states that Allied's bids for clerical services were not competitive with those of selected vendors. Although the prices in its bids for computer programming services were competitive, PG&E states that the three references provided by Allied indicated that they could not remember using Allied's services.

PG&E also states it has provided Allied with the information Allied requested regarding the competitiveness of its bids. Its vice president in charge of PG&E's WMBE program met with Allied and declined to accept additional references because the deadline for submitting such information had passed.

PG&E argues that the Commission does not have the authority to require PG&E to award a contract to Allied or to award damages to parties alleging loss.

III. Allied's Cause of Action

In D.88-04-047 we adopted GO 156, establishing rules and guidelines for increasing participation of women and minority owned business enterprises in procurement of contracts from utilities. The guidelines were modified in Decision (D.) 88-09-024.

The guidelines provide that in the event a WMBE believes that an act or omission of a utility violates any provision of law, or any rule or order of the Commission, the WMBE may file a complaint with the Commission. The guidelines further provide that the Commission will not entertain complaints which do not allege violations of any law, rule, order, decision, or tariff, but which instead involve only general contract disputes between a utility and a contractor.

As we have often stated:

"As a general rule this Commission has no jurisdiction to adjudicate contract disputes merely because one party is a public utility. However, the Commission does adjudicate contract disputes in the exercise of its regulatory jurisdiction. The adjudication of reparation claims and service disconnection disputes, for example, are clearly within Commission jurisdiction even though the interpretation of contracts may be involved."
(64 Cal PUC 496, 1965.)

Under GO 156 the Commission has determined that it will also adjudicate contract disputes between a WMBE and a utility, provided that the complaint alleges a violation of a law, rule, order, or tariff, and involves more than a general contract dispute.

Allied's complaint alleges that PG&E denied it a contract based on race or racial discrimination, and that PG&E had violated complainant's civil rights.

Allied was represented by legal counsel at the hearings and filed opening and closing briefs. Upon review of the record and the briefs, we now have a factual understanding of the transactions which occurred between Allied and PG&E. However, despite a full opportunity to present evidence and legal argument, Allied's counsel has failed to cite the specific law, rule, or tariff which PG&E is alleged to have violated.¹

Allied's brief generally asserts that PG&E has engaged in discrimination which violates the Unruh Civil Rights Act, and Title VII of the 1964 Civil Rights Act. The brief fails to explain how these laws are applicable to the facts before us.

The Unruh Act does not apply to the employment relationship. (Gavin v. Trombatore (1972) 682 F.Supp 1067.) "This is true in the instant case whether the relationship between the

1 Subsequent to the issuance of the ALJ's proposed decision in this proceeding, Allied filed a Motion to Amend Complaint; Memorandum of Points and Authorities; Declaration of Walter C. Hunt in Support Thereof; Proposed First Amended Complaint. This filing, which was strenuously opposed by PG&E, was designed to conform the complainant's pleadings in this case to the proof represented by the proposed decision.

In a ruling dated December 21, 1989, the ALJ noted that "Once a case has been submitted, the Commission does not accept further evidence, argument, or amendments to the pleadings absent a petition to set aside submission and good cause shown," and that "Allied has not petitioned to set aside submission," and directed the Docket Office to strike Allied's pleading from the docket. We hereby affirm the ALJ's ruling.

parties is characterized as employer-employee or contractor-subcontractor. The Unruh Act only applies to business establishments in the context of the supply of services or facilities to clients, patrons or customers." (Id.)

Complainant further alleges that PG&E's action violates Title VII of the 1964 Civil Rights Act. However, complainant's brief does not state which provisions of this act PG&E is alleged to have violated. Nor has complainant even attempted to plead, much less prove, a cause of action under Section 1981 or 1983 of this Act.

Allied's brief further states that PG&E's obligation toward women and minority contractors "may be found in one or more" authorities, including Public Utilities (PU) Code §§ 8281-8285, GO 156, various decisions, and PG&E's internal Equal Opportunity Programs. Complainant's brief states that "Together, these authorities establish a clear policy and mandate that public utilities, including PG&E, must establish and maintain verifiable programs and guidelines for developing and cultivating WMBE contracts." Yet complainant's brief fails to state, with any specificity whatsoever, the particular provisions of these various authorities which PG&E is alleged to have violated.

In these circumstances, the Commission must look beyond the legal allegations and review the factual allegations set forth in the complaint. PU Code § 1702 requires a complaint only to set forth some act or omission of a utility in violation or claimed to be in violation of any provision of law or of any order or rule of the Commission. The Commission has held that a "complaint is not required to set forth a theory of relief; it is only necessary to allege facts upon which the Commission may act." (Sunland Refining Corp. (1976) 80 CPUC 807, 809).

At the heart of the complaint is the contention that complainant was treated differently than other similarly situated bidders seeking contracts with PG&E because of complainant's race.

The facts do not disclose racial discrimination in PG&E's handling of this matter. What the facts do disclose is that PG&E wound up rejecting Allied's bids partly on account of PG&E's own errors and for reasons unrelated to the competitiveness of the terms bid by Allied. Such conduct by PG&E, if it reflects a pattern, could jeopardize attainment of the goals of the WMBE program.

Some background is necessary in order to place complainant's contentions in context. PG&E established its Equal Opportunity Purchasing Program (EOPP) on January 1, 1981, to ensure that women and minority-owned business enterprises are provided an equal opportunity to participate in contract opportunities to supply products and services required by the company. The primary objective of the program is to increase the participation by women and minority owned businesses, while continuing to purchase on the basis of quality, competitive price and service.

In a series of decisions through the 1980s, the Commission closely monitored the progress of PG&E and other utilities in increasing the procurement of goods and services from women and minority-owned businesses. In 1986, the Legislature enacted PU Code §§ 8281-8285, which require the Commission to establish guidelines for utilities to follow in establishing programs to increase procurement of goods and services from women and minority owned business enterprises (WMBEs). GO 156 was adopted to implement this legislation in light of the knowledge gained by the Commission in its past reviews of utilities' WMBE procurement programs.

A fundamental premise of GO 156, and the legislation upon which it is based, is that it is not sufficient for a utility merely to avoid discriminatory procurement practices. The Legislature directed the Commission to require utilities to submit plans for increasing women and minority business procurement. By taking positive steps to increase competition for contracts to provide goods and services to utilities, the Commission through GO

156 serves both social equity and the ratepayer interest in keeping utility costs down through competitive procurement practices. The policy of the general order is "that women and minority owned business enterprises shall have the maximum practicable opportunity to participate in the performance of contracts." (See GO 156, 4.3.5.a.)

In summary, despite the generality of complainant's pleadings, we conclude that the case before us does fairly raise the issue of whether PG&E's conduct in this matter is consistent with the goals of the WMBE program. We conclude that it is not consistent with those goals.

IV. Discussion

A. Were Allied's Bids Competitive With the Bids of Successful Firms?

We first address Allied's allegations that PG&E should have accepted Allied's bids because they were competitive with those of successful bidders. Two bids submitted by Allied to PG&E are at issue in this proceeding. One is Allied's bid for temporary clerical services. The other is Allied's bid for temporary computer programming services.

Allied argues that both its clerical services bid and its computer programming bid were competitive. It claims that the bids were rejected because Allied had previously complained about being discouraged from bidding for PG&E contracts, and that PG&E discriminated against it on the basis of race.

Allied states that PG&E used improper procedures in handling Allied's 1988-89 contract bid. Finally, Allied believes that PG&E's bid specifications are vague and ambiguous, creating stumbling blocks for new vendors who do not have the experience which would allow them to anticipate PG&E's requirements.

PG&E testified that it treated Allied fairly and according to guidelines established for all bidders. PG&E provided uncontroverted evidence during the hearings that a significant proportion of its clerical and programming contractors are WMBEs.

In addition, Allied contracted with PG&E for temporary services between 1984 and 1987. PG&E states that it had assisted Allied in the past with contracting procedures. Such "special treatment" was warranted because few WMBE vendors were available at the time. Assisting Allied with its bid in 1987 would have been unfair to other vendors, according to PG&E, and was not required since numerous WMBE vendors were available.

We address the competitiveness of the contracts and PG&E's procedures in more detail below.

1. Allied's Clerical Services Bid

Allied's complaint states that Allied's clerical services bid was competitive with the bids of successful vendors. Specifically, Allied asserts that PG&E failed to consider the volume discounts proposed by Allied, and that PG&E failed to clarify ambiguities cited by PG&E regarding the volume discounts. Allied believes PG&E should have contacted Allied for such clarification since PG&E's bid specifications were vague and conflicting.

PG&E argues that Allied's bids were not competitive even considering the volume discounts, since Allied proposed volume discounts only in the first year. Averaging the mark-up rate (that is, the price to PG&E above the standard labor wage) over the two-year contract period, the total mark-up is higher than any successful bidder.

PG&E also commented that it was concerned that Allied did not provide benefits to its employees.

Discussion. Whether Allied's bid for clerical services is competitive is not clear. Its rates appear to be somewhat higher than successful vendors especially if, as PG&E believes, the

volume discounts were only in effect during the first year. In addition, PG&E is understandably concerned that Allied offers its employees no benefits, which may impede Allied's ability to recruit and keep high quality employees. We believe it is reasonable that PG&E rejected Allied's clerical services bid with the information it had at hand. A decision to reject that contract could have been made on the basis of sound business judgment.

2. Allied's Computer Programming Services Bid

Allied alleges that its bid for computer programming services was competitive, and that PG&E improperly rejected the bid following a reference check. Allied's complaint initially alleged that PG&E did not call Allied's references. It provided affidavits from Allied's references who stated that they could not recall talking to PG&E.

PG&E does not take issue with Allied's assertion that its computer programming bid was competitive on the basis of price. Rather, PG&E states that it rejected the contract because Allied's references could not confirm that Allied had provided the services it claimed to have provided. PG&E provided evidence to show that it had made a call to each of the references and that none of them could recall using Allied's services. PG&E's witnesses testified that they were somewhat surprised with the results of their phone calls to Allied's references, but that no PG&E employee took any further action to confirm those results.

Discussion. It is undisputed that Allied's bid for computer programming services was competitive.

Allied has not offered specific evidence of the racial discrimination it alleged in its complaint. There is no pattern of racial discrimination during the 1988-89 contract review period since a significant portion of PG&E's temporary clerical and programming contracts are with WMBE vendors. However, the evidence shows that PG&E rejected Allied's bid for computer programming

services after an inadequate and erroneous check of Allied's references.

We begin with the fact that PG&E required third party reference checks of Allied. We are not opposed to third party reference checks, but PG&E's decision to rely on them exclusively in this case is surprising, given PG&E's own testimony regarding its standard practices. Allied was under contract to PG&E and provided clerical services to PG&E in 1987 and several years before that. PG&E normally requires PG&E user reference checks for current vendors.² In such instances, PG&E users of the vendor's services are asked about the vendor's abilities. In its decision to reject Allied's bids, PG&E relied exclusively on inadequate third party reference checks even though its own employees could have provided insights regarding Allied's performance.

In addition, unlike its procedure for other bidders, PG&E had its EOPP group check Allied's references. PG&E states that it did so following a series of complaints by Allied against PG&E's Human Resource Services Department, because the EOPP group did not have a history of contacts with Allied. PG&E argues this procedure was designed to protect Allied from unfair treatment; it appears, however, to have had the opposite effect. Reference checks appear to have been unfruitful because an inexperienced and inadequately supervised EOPP employee was assigned to the task. The testimony of that witness indicated confusion regarding the nature of her

² Exhibit 37, a letter from PG&E Employment Representative Susan W. Lee to Clarence Hunt of Allied Temporaries states in pertinent part that: "Your firm has been awarded a contract to provide permanent and temporary agency employees for Pacific Gas and Electric Company's offices. This contract will be effective from January 1, 1986, through December 31, 1987, and applies to all your branch offices as well." The record contains no evidence that this contract was terminated during 1987. Accordingly, Allied was providing services to PG&E at or about the time that Allied submitted the bids at issue in this proceeding.

task and the responses she received from the three references. As evidence of this confusion, the witness testified that the references stated they had not used Allied's services. In fact, her initial report stated that those references could not recall using Allied's services.

Having been unable to confirm the references of a current vendor with a competitive bid, PG&E erred in its failure to follow up with Allied's references when they could not recall whether Allied had contracted with them. Allied provided uncontroverted evidence that it had in fact contracted with all three references. It is reasonable to assume that an employee of a large corporation, such as Koret, may not immediately recall every contractor it uses. A follow-up call or letter by PG&E would have been simple and should have been routine.³

We find that PG&E's reliance on these inadequate reference checks in rejecting Allied's computer programming bid was a failure to maximize WMBE participation in the contracting process. PG&E does not claim that Allied's employees were unqualified or that Allied's services were inadequate. PG&E rejected a competitive bid, a decision which may have added to its operational costs.

3 PG&E claims the need for uniform treatment of bidders precluded PG&E from following up after its initial attempt to check Allied's references produced an anomalous result. We are not persuaded. Nothing in our discussion requires or authorizes PG&E to give preferential treatment to a given bidder or class of bidders. Rather, we are holding PG&E responsible for the accuracy of its own work in reviewing bids.

In this instance, PG&E did not follow its usual procedure with regard to current vendors, such as Allied. We are not faulting PG&E for failing to treat Allied as a current vendor. We are saying that, having elected to treat Allied as a new vendor, PG&E performed an inadequate reference check. It is no justification to suggest, as PG&E's argument would have us believe, that PG&E would have done an equally inadequate job in checking the references of any other new vendor.

Overall, we conclude that PG&E rejected Allied's contracts on some basis other than sound business practices; it follows that PG&E did not properly perform its obligations under GO 156 and PU Code §§ 8281-8285.

V. Allied's Remedies

Allied requests relief in the amount of \$1.7 million as punitive damages. It is well-settled that the Commission cannot award damages. Only the courts may award such damages. (San Mateo Junior College District v. Pacific Tel. & Tel. Co. (1974) 77 CPUC 197, Industrial Communications Systems, Inc. v. Pacific Tel. & Tel. Co (1973), 75 CPUC 472.)

Allied also requests that the Commission order PG&E to contract with it for temporary clerical and programming services. PG&E states such treatment would be unfair to other bidders and that the decision of whether to enter into a contract with a particular bidder is one left properly to PG&E management.

Although we do not wish to involve this Commission in the day-to-day management of utility supplier contracts, the case before us presents an exceptional circumstance. Legislation directs this Commission and the utilities to promote WMBE contracting for the purpose of improving economic efficiency and expeditiously improving the economically disadvantaged position of WMBEs. Our program is relatively new and this is the first case of its kind before us. Even though GO 156 was not in place during 1987, the legislation was signed in September 1986, providing explicit guidance to the utilities. Further, the utilities have been aware of our views since 1982, when we issued D.82-12-101. That decision found that WMBE contracting should be promoted to fulfill both efficiency and equity objectives. Under these circumstances, we feel compelled to take action to ensure that the

inadequacies we noted in PG&E's treatment of Allied's bid are not repeated.

The contracting period for which Allied submitted its bids is over. Requiring PG&E to reconsider Allied's bids for 1988-1989 would be illogical since the period for providing temporary services has passed. Based on the time-frame in which PG&E undertook its bidding process for the 1988-1989 contract period, we expect that the bidding process for the next contract period is underway now.

In order to redress any inequity suffered by Allied and to promote the goals of GO 156, PG&E shall, at Allied's request, consider bids submitted by Allied for temporary services contracts during the 1990-1991 and 1991-1992 contracting periods. PG&E shall abide by the spirit and letter of GO 156.

We will also order PG&E to clarify specifications, procedures, and requirements for all bidders, not just Allied. In its comments on the proposed decision, PG&E suggests that this could be accomplished through a joint meeting for all prospective bidders. This approach would allow all bidders to benefit from questions asked by any one of them, and would ensure that all bidders, including Allied, have an equal opportunity to obtain clarification of bid specifications, contract procedures, and qualifications requirements. We will order PG&E to hold a bidders' meeting, or "pre-bid conference," sufficiently prior to the bid deadline to allow Allied and all other prospective bidders adequate opportunity to prepare and submit informed bids.

VI. PG&E's Bidding Procedures

This case has raised doubts concerning the efficacy of PG&E's bidding process in general. We are primarily concerned about Allied's allegations that PG&E's 1988-89 bidding specifications were not clear in all respects. For example, the

specifications did not state that references should be provided for the specific type of work for which bidders were competing, although the PG&E witness testified that they should have been. If the specifications are unclear regarding how bidders should provide information regarding employee rates, volume discounts, and agency mark-ups, then the likelihood is increased that competitive bidders, including WMBEs, will lose out solely because of miscommunication between them and PG&E. That would be very undesirable. A bidders' meeting can somewhat alleviate this problem but is no substitute for putting out clear specifications in the first place.

If PG&E is to promote WMBE participation, it should take steps to assure that WMBE bids are only rejected because they are not competitive. PG&E's handling of Allied's contract bids suggests that PG&E's bidding program for clerical and programming services should be improved to promote a more efficient and fair bidding process. A sound contracting process is especially important considering that PG&E expected to spend \$17 million during 1988 and 1989 for temporary clerical services alone. We are also concerned that without clear bidding specifications and procedures, PG&E's WMBE program will not fulfill intended legislative and Commission goals. In this context, Allied requests that we order PG&E to make certain program changes to mitigate the problems Allied experienced. The pre-bid conference that we have ordered above is responsive to this request. We also put PG&E on notice that we will continue to review the progress of its WMBE program.

The potential effects of PG&E's actions are to reduce the pool of WMBE vendors and to call into question PG&E's commitment to increasing WMBE participation in contracting. These are serious problems, and if we discover a pattern of them we are within our authority to take steps to remedy them. In addition, we will continue to review utility compliance with GO 156 more generally.

If we find that any utility is not complying with the spirit and letter of the general order, it is our duty to compel appropriate utility action or provide appropriate incentives for utility compliance.

In light of these general concerns over PG&E's bidding procedures, we will require PG&E to consider and report to us on certain aspects of those procedures. Specifically, no later than 90 days after the effective date of today's decision, PG&E shall submit to the Executive Director a report addressing the following matters:

- a. What measures have been or will be implemented to insure consistency and clarity in the preparation, review, and evaluation of bids for all temporary services.
- b. What measures have been or will be implemented to permit potential bidders to question or seek clarification of bid specifications.
- c. What measures have been or will be implemented to train PG&E personnel in conducting its WMBE program to ensure that WMBE bidders have optimal opportunities to compete for contracts.

In preparing this report, PG&E shall consider the critique of its performance in today's decision but should otherwise use its own initiative to devise generic solutions to the inadequacies we have noted. PG&E shall also serve the report on Allied.

VII. Comments on the Proposed Decision

PG&E submitted comments on the proposed decision and Allied filed reply comments. PG&E filed a response to Allied's comments. Allied supports the proposed decision.

We have modified the proposed decision in several respects in response to these comments. The chief of these

modifications is to convert, at PG&E's suggestion, the bid clarification procedure in the proposed decision to a "pre-bid conference" open to all prospective bidders.

PG&E asserted in its comments that the analysis in the proposed decision would transform the WMBE complaint procedure into a vehicle for litigating general contract disputes. We have clarified the analysis to emphasize that our criticism of PG&E in this matter is based squarely on PU Code Sections 8281-8285, as implemented by GO 156.

The ALJ's proposed decision would find that the conduct of PG&E complained of by Allied is in violation of PU Code Section 453(a). We make no finding with respect to that statute. Having found a violation of GO 156 and the underlying code sections, we consider any discussion of Section 453(a) to be unnecessary, and we express no opinion on its application to the facts before us.

Findings of Fact

1. Allied filed this complaint against PG&E alleging PG&E declined to contract with it on the basis of race and in contravention of GO 156.

2. Allied's complaint did not state a specific cause of action against PG&E; the Commission, however, has determined a cause of action upon review of the pleadings and the facts stated therein.

3. PG&E could have reasonably determined that Allied's bid for clerical services was not competitive on the basis of price.

4. PG&E declined to contract with Allied for computer programming on the basis that Allied's references could not provide PG&E with appropriate information regarding Allied's services.

5. It is uncontroverted that the rates in Allied's bid for computer programming services were competitive with those of successful vendors.

6. For the 1988-1989 period, PG&E contracted with a significant number of WMBE vendors for temporary clerical and computer programming services.

7. PG&E delegated to its EOPP group the task of checking Allied's references. The reference check was undertaken by an employee who does not normally perform tasks related to utility contracting and who had no experience in checking references.

8. PG&E's reference check provided incomplete information. PG&E did not follow up with the references.

9. Allied did not provide evidence that PG&E discriminated against Allied on the basis of race.

10. The potential effects of PG&E's treatment of Allied are to reduce the pool of WMBE vendors and call into question PG&E's commitment to increasing WMBE participation in contracting.

11. PG&E's bid specifications are unclear in some respects.

12. The effect of PG&E's unclear bid specifications could lead to uncertainty regarding whether successful bidders offer the most competitive services, and may frustrate Legislative and Commission goals of promoting WMBE contracting.

Conclusions of Law

1. The Commission cannot award damages.

2. GO 156 provides guidelines for the development and implementation of utility WMBE contracting programs in order that women and minority owned business enterprises have the maximum practicable opportunity to participate in competitive provision of goods and services to utilities.

3. PU Code § 1702 requires a complaint only to set forth an act or omission of a utility in violation or claimed to be in violation of any provision of law or of any order or rule of the Commission. A "complaint is not required to set forth a theory of relief; it is only necessary to allege facts upon which the Commission may act." (Sunland Refining Corp., (1976) 80 CPUC 807, 809).

4. PG&E, in rejecting Allied's bids partly on account of PG&E's own errors and for reasons unrelated to the competitiveness of the terms bid by Allied, acted in a manner inconsistent with GO 156 and with PU Code §§ 8281-8285.

5. PG&E should be required, at Allied's request, to consider Allied's bids for temporary services during the 1990-1991 and 1991-1992 contract periods.

6. Except as provided in this decision, this complaint should be denied.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company (PG&E) shall, at complainant's request, consider contract bids for temporary clerical and programming services during the 1990-1991 and 1991-1992 contracting periods consistent with General Order (GO) 156. PG&E shall abide by the spirit and letter of Commission rules and pertinent law, and shall specifically:

- a. Make available to WMBE contractors lists of utility purchase/contract categories which offer them the best opportunity for success, pursuant to GO 156, paragraph 4.2.1.5; and
- b. Break apart purchases and contracts as appropriate to accommodate the capabilities of all WMBE bidders, pursuant to GO 156, paragraph 4.2.1.6.

2. PG&E shall hold a bidders' meeting, or "pre-bid conference," sufficiently prior to future bid deadlines to allow Allied and all other prospective bidders adequate opportunity to prepare and submit informed bids.

3. No later than 90 days after the effective date of today's decision, PG&E shall submit to the Executive Director a report addressing the following matters:

- a. What measures have been or will be implemented to insure consistency and clarity in the preparation, review, and evaluation fo bids for all temporary services.
- b. What measures have been or will be implemented to permit potential bidders to question or seek clarification of bid specifications.
- c. What measures have been or will be implemented to train PG&E personnel in conducting its WMBE program to ensure that WMBE bidders have optimal opportunities to compete for contracts.

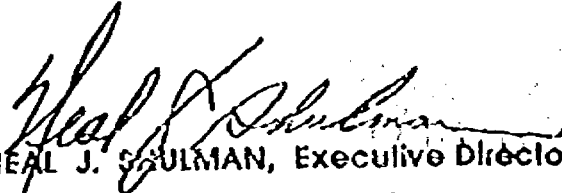
In preparing this report, PG&E shall consider the critique of its performance in today's decision but should otherwise use its own initiative to devise generic solutions to the inadequacies we have noted. PG&E shall also serve the report on the complainant.

4. In all other respects, this complaint is denied.
This order is effective today.

Dated March 14, 1990, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY


NEAL J. SAULMAN, Executive Director