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Decision 92-09-085              September 16, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Energy Alternatives,  
                                Complainant,  
                                vs.  
Pacific Gas & Electric Company,  
                                Defendant

**ORIGINAL**

C.91-05-046  
(Filed May 22, 1991)

ORDER REOPENING C.91-05-046

This order reopens Complaint (C.) 91-05-046 by Energy Alternatives against Pacific Gas & Electric Company to examine charges made by Seale, General Manager of Energy Alternatives, concerning PG&E's behavior since the culmination of that proceeding in Decision (D.) 92-03-085. We have stated some of the facts in full in D.92-03-085; we restate them here in brief.

In the first year of this program, three bidders competed for the weatherization contracts in the pertinent area of the state. One of them, the Redwood Community Action Agency (RCAA), made a telephone call to PG&E to confirm whether certain practices permissible under similar programs in the past would be permissible under this new program. The PG&E employee who received the call, believing that the information requested would affect the bidding, arranged to have the answers put in a letter to be mailed to all bidders. Unfortunately, the employee had to leave his office for a few days and was unable to check the letter, which went out with only part of the information in it.

RCAA's was the winning bid for the year 1991. Upon learning about the information given to RCAA alone, Energy Alternatives (one of the other bidders) filed Complaint (C.) 91-05-046 in May, 1991. We agreed that RCAA had received an unfair bidding advantage, but could not determine who would have been awarded the contract if all bidders had been fully informed, and so

could order no adequate remedy for the 1991 program. Rather, we ordered that selection for the 1992 contract should not be governed by the 1991 bid results, that the 1992 contract should be rebid, and that the bidding should be limited to the three companies who had bid on the 1991 contract. Thus, we hoped to ensure that all three companies would have an even chance in the next year's program.

John Seale, General Manager of Energy Alternatives, has written to our Executive Director concerning PG&E's actions during the time we were considering the validity of the contract with RCAA, and in the wake of D.92-03-085. His letter, attached hereto, alleges that despite our proceedings, PG&E allowed RCAA to continue work on projects in the 1992 contract year as though there were no question as to its approval, and that by the time PG&E finally ordered RCAA to stop work, the company had already established itself in two-thirds of the units projected for 1992.[1] Seale alleges that this constituted another unfair advantage, and that PG&E's subsequent award of the 1992 bid to RCAA is therefore tainted.

These allegations raise serious questions about PG&E's bidding practices in the "Energy Partners" weatherization program with respect to its Humboldt Division. Here, as in the complaint case, it is not the result but the process that we must examine. We did not require PG&E to exclude RCAA from bidding on the 1992 contract, but to level the playing field for all three bidders. If

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1 The process of weatherization under the program begins with an "education interview;" once the contractor has conducted this interview, it will continue as contractor to the end of the project. The units claimed by RCAA were in various states of progress when D.92-03-085 issued; an indeterminate number of those had progressed only as far as the interview stage.

PG&E has not done so, it is not in compliance with the order. The fact alleged, that PG&E's actions prior to the issuance of our order but during the pendency of the complaint made ultimate compliance impossible, would not excuse the company in view of its more than adequate notice of the proceedings.

However, we have only been told one side of the story. Seale did not send copies of this letter to the parties involved in the earlier proceeding, and we cannot come to a conclusion about these questions without hearing at least PG&E's version of the facts. The company has not had the opportunity to counter these allegations. We do not believe it appropriate to open a new complaint case, as Seale has already prosecuted C.91-05-046 and prevailed. Further, it would be equally inappropriate to conduct the proceedings without incorporating the record in C.91-05-046.

Accordingly, we hereby reopen C.91-05-046. We order PG&E to submit a written response to the charges within 10 days of the issuance of this order, and to submit prepared testimony on its behalf 5 days before the hearing, which will take place in San Francisco 20 days after the issuance of this order. At the hearing, PG&E will produce the witness who prepares its testimony for cross-examination.

We will order that PG&E, RCAA, and Seale be served with copies of this Order, to which will be attached a copy of Seale's letter. The hearings held pursuant to this order will give these parties an opportunity to assist us in evaluating the evidence and testimony and, should we determine that remedies are justified, in fashioning appropriate ones, including providing procedures for the bidding process for 1993.

When this case first came before us, we did not specifically order PG&E to prevent any contractor from performing work on the contract under our scrutiny, and PG&E never sought clarification from us concerning this point. We do not wish to see

this matter brought before us a third time. Accordingly, we hereby suspend PG&E's 1993 bidding for its weatherization program in the Humboldt Division until the matter herein is resolved. At the same time, it is our hope and desire to conclude this proceeding with a minimum of disruption to the program and all its participants; therefore, we will begin the hearing process on an accelerated schedule.

Therefore, IT IS ORDERED that:

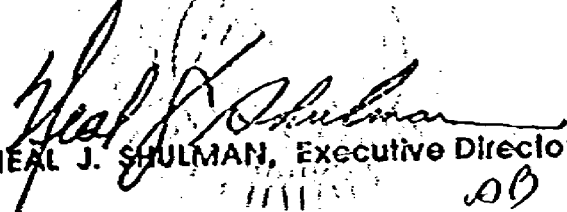
1. C.91-05-046 is hereby reopened.
2. A public hearing in this matter shall be held before an Administrative Law Judge of the Commission 20 days after the effective date of this order in San Francisco, at which time and place all interested parties may appear and be heard.
3. PG&E shall file a written response to the allegations in Seale's letter within 10 days of the effective date of this order.
4. PG&E shall submit written testimony on its own behalf 5 days before the hearing date, and shall produce the author of that testimony at the hearing for cross-examination.
5. PG&E's bidding process for the current program in its Humboldt Division is hereby suspended until the investigation herein is resolved.
6. The Executive Director is directed to cause a certified copy of this order, with attachments as specified herein, to be served personally forthwith on PG&E, RCAA, and Seale.

This order is effective today.

Dated September 16, 1992, at San Francisco.

DANIEL Wm. FESSLER  
President  
JOHN B. OHANIAN  
PATRICIA M. ECKERT  
NORMAN D. SHUMWAY  
Commissioners

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

  
NEAL J. SHULMAN, Executive Director

ATTACHMENT

July 8, 1992.

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Neal J. Shulman, Executive Director,  
California Public Utilities Commission  
505 Van Ness Street  
Fifth Floor  
San Francisco, CA 94102

Dear Commissioner:

Energy Alternatives is a full service weatherization company which was established in 1983. Over the years, we have grown into a multi-disciplined team that has provided planning, education, assessment, weatherization, and project management services to over 50,000 homes and businesses throughout Northern California. Most of this work has been completed under PG&E financed programs: Direct Weatherization, Community Weatherization, Low-Cost Weatherization, Direct Rebate for commercial buildings, Cash-Back, Zero Interest Loans, E.G.I.A Rebates, and Energy Partners. Since it's conception, Energy Alternatives has worked very hard to ensure it's customers are receiving the best services available to them.

Energy Alternatives began working in PG&E's Humboldt Division in the Fall of 1987. Since then, we have successfully educated and weatherized over 21,000 homes and businesses. During this time period, we maintained an average 97% pass rate on all inspections. Our last project in that division was completed in the Spring of 1990. E.A. has been, and is currently, working on a 1991-1992 Energy Partners contract in the Shasta Division. This contract is being administered by Richard

Shasta Division. This contract is being administered by Richard Heath and Associates.

Energy Alternatives has employed over 150 people in the past five years in conjunction with these PG&E sponsored programs. Whenever it was possible, we would hire locally in the town or area where we were working. The work forces we established consisted of 80% local personnel from each community. A large portion of our revenue was put back into these communities in which we worked. Energy Alternatives' track record has been impeccable.

In December of 1990 it was brought to our attention by Bing Lee, of Material Department in PG&E's San Francisco Office, that we could have possibly been caught up in the middle of an "unfair bid process". After further investigation, it was determined by the California Public Utilities Commission that Mr. Lee was correct in his assumption.

Energy Alternatives endured a long and costly process to prove beyond a reasonable doubt, that this injustice had occurred. A "Decision" was made, and an "Order" was given to Pacific Gas and Electric Company on March 31, 1992. The following information will show why PG&E should be held in contempt for not abiding by this order. PG&E has chosen to minimize this decision, in the form of withholding pertinent information and providing fraudulent documents to the C.P.U.C. in an attempt to cover up their actions.

On March 31, 1992 you voted unanimously in favor of Energy Alternatives in Case #91-05-046. This was a dispute between said contractor and Pacific Gas and Electric Company. The order that was signed and put into effect was that:

- 1) The motions of California/Nevada Community Action Association and Insulation Contractors Association to intervene are granted for the limited purpose of filing comments only to the proposed decision.
- 2) The award of Pacific Gas and Electric Company's (PG&E) Humboldt Division's 1992 low-income home weatherization program contract to 1991 contractors is declared null and void and of no legal effect.
- 3) PG&E's Humboldt Division's 1992 low-income home weatherization program contract shall be awarded through competitive bidding limited to bidders who bid on PG&E Humboldt Division's 1991 "Energy Partners" low-income home weatherization program contract.

There seemed to be much confusion on the part of PG&E as to how this "ORDER" was to be carried out. On April 6, 1992, I had a conversation with Mr. Robert McLennan, attorney for PG&E, about this very topic. He stated that PG&E and Richard Heath and Associates was working on a new bid package for the Humboldt Division. It was due to be out soon. He then asked me if I was comfortable with letting Redwood Community Action Agency have a couple of weeks to clean up the units they had already contacted prior to getting shut down, which he thought was going to be on 4/7/92. I told him that I did not care how long they wanted to give R.C.A.A. to finish this work, because as far as I was concerned, the C.P.U.C. ordered that the '92 contract was declared null and void and of no legal effect. The decision also stated that the '92 contract be put back out to bid to the three original

bidders. I told him that I understood this to mean the whole '92 contract whose units numbers totaled 1,300. Mr. McLennan on the contrary felt the remainder of the units left, which had not been completed by R.C.A.A. already this year, were the ones in question here. I told him that was not the way I interpreted the order. He said he would research the numbers topic, and get back to me. Mr. McLennan also stated that since the "ORDER" was vaguely written, and that it lacked some very important terminology, he felt it was up to PG&E to translate it however they choose. This attitude bothered me. I know from experience that unless PG&E is instructed step-by-step, they will mold and shape the end result with much bias.

On the morning of April 9, 1992, I faxed a letter to Mr. McLennan at the number he previous had given me, (See attachment 1). I have yet to receive a response from him.

On April 14, 1992, I received a copy of the bid package from Richard Heath and Associates. The total number of units they have put back out to bid, is 513 (See attachment 2). This means they are trying to account for 787 units already completed, or in some way satisfied under the 1992 contract. R.C.A.A. started work on or about January 15, 1992, and was ordered to stop on April 7, 1992 (See attachment 3). These figures reflect that in some 60 working days over 13 units a day were averaged. This in itself is far beyond the expectations of the original contract, ie 1,300 units to be completed between January 15, and November 15, 1992. The estimated numbers per "bench marks" to be



completed by April 15, was under 275. This fact alone shows an attempt to discredit the process.

On April 11, 1992, I received a copy of a "Petition for Writ of Mandamus and Temporary Stay with Memorandum of points and Authorities". This was addressed to Mr. Robert Wandruff, Court Administrator of the Supreme Court of California. (See attachment 4 - Cover Letter). This petition was a direct attempt to minimize the powers of the C.P.U.C. The foundation of R.C.A.A.'s request was very weak.

On April 15, 1992, attorneys for the C.P.U.C. filed their own comments on this attempt to stay the decision #92-03-085. (See attachment 5 - Cover Sheet). Thus, on April 16, 1992, the request for "Writ of Mandamus and Temporary Stay" was denied by the California Supreme Court.

In their response to the California Supreme Court, the lawyers for the C.P.U.C. clearly defended the observations and findings of Administrative Law Judge "ALJ" Robert L. Ramsey, as was detailed in his "Opinion" on Case #91-05-046 (filed May 22, 1991). This "Opinion" resulted in the "Decision" #92-03-085. (See Attachment 6 - Cover Letter).

In both the "Opinion" and "Decision", it clearly states that:  
The award of Pacific Gas and Electric Company's (PG&E) Humboldt Division's 1992 low-income home weatherization program Contract to 1991 contractors is declared null and void and of no legal effect. PG&E's Humboldt Division's 1992 low-income home weatherization

program contract shall be awarded through competitive bidding limited to bidders who bid on PG&E Humboldt Division's 1991 "Energy Partners" low-income home weatherization program contract.

Nowhere, does the ALJ, the four C.P.U.C Commissioners, or the four attorneys representing the C.P.U.C., make any reference to, or suggest any reduction of numbers of units to be weatherized, under the said contract, which was declared "NULL AND VOID" and to be re-bid. Yet, PG&E continues to appoint themselves "Master Translator", and disregards to respect the decision handed to them in black and white by the C.P.U.C.

On April 22, 1992, Dick Keyes from Richard Heath and Associates conducted a pre-bid meeting in Berkley, California for the re-bidding of the 1992 Energy Partners Program in Eureka. In attendance were the following: Dick Keyes, Bob Swinter, and Allison, from R.H.A. Bing Lee and Rodney Nelson from PG&E General Office. Val Martinez from R.C.A.A. Roger Reaves and John Seale from E.A. and a gentleman representing McMurray and Sons. There was no one in attendance representing PG&E local division, Humboldt.

Since this project was to take place in Eureka, it seemed proper to me that the local division be represented at the pre-bid meeting to field any questions. In previous situations of this nature, it was always mandatory. As the meeting progressed, it was obvious that answers to questions could be, and were side-stepped because of this parties' absence.

I had talked to Don Kasso on Friday, April 17, 1992, the week before this meeting. Don is the Humboldt Division Manager for PG&E. My main question to him was if he felt that this 513 units to be put back out to bid was an honest figure. He stated that he would rather not comment on this matter, and he had notified General Office San Francisco that he wanted his division to be removed from participating in the re-bid process as much as possible. Don explained to me that this whole process of the original "unfair bid" had caused a lot of hard feelings between his department and other departments at General Office in San Francisco. It was also putting a lot of pressure on Mike Osborne. Mike was then R.C.S. supervisor for the Eureka P.G.&E. office who wrote the memo explaining the original problem between R.H.A. and R.C.A.A. This was the main evidence used to determine the facts in the formal complaint hearing. Since it was written and dated December 12, 1990, there was no way to alter it's testimony. This was such a major conflict with PG&E's defense, that their lawyer tried to minimize it's validity. In his "COMMENTS", ALJ Ramsey commended Mr. Osborne on his efforts to report the correct information to all the bidders.

The bid meeting was being recorded by R.H.A. with everyone's knowledge and consent. At the beginning of the meeting, I requested a copy of the tapes and stated that I would be happy to pay for them. It was stated by both Dick Keyes and Bing Lee that they were not certain if the tapes would be made available to anyone other than PG&E and R.H.A. During this meeting, I

question the way the numbers to be re-bid were arrived at. Dick Keyes stated that those were how many units that were left out of the original 1,300 units of the 1992 contract. I had many question regarding this topic of how so many units could be completed by R.C.A.A. in such a short time frame. R.C.A.A. claimed to have completed or begun work on some 787 units in the first 57 working days of their '92 contract which was begun on January 15, 1992 and ordered to be stopped on April 7, 1992. It took R.C.A.A. approximately six months to complete the same number of units of their '91 Energy Partners Program last year. Roger Reaves stated how it seemed a bit odd that they were able to accomplish such a feat. This amount of work was over 300% of what PG&E recommended to be completed in this time frame. Again, it would have been very beneficial for a representative from PG&E's Humboldt Division to be present to address these matters. I also asked Dick Keyes if a list of these units supposedly completed by R.C.A.A., in this area opened back up for bidding, was going to be made available to all of the bidders. How could it be called "a fair bid process", if all the bidders were not privy to the same information? Mr. Keyes stated that R.H.A. would not be providing any such list to anyone unless ordered by PG&E. I then directed the same question to Bing Lee and Rodney Nelson. Bing stated that he doubted very seriously if this list would be made available. Rodney Neslon also agreed. Without this list of completed jobs being made available to E.A. and McMurray and Sons, it was very obvious that R.C.A.A. would have a great advantage of knowing what jobs were already completed in

the area. Thus, an unfair bid process was already taking shape!!

Val Martinez was outraged at this line of questioning and said that we were not here to discuss what had already been done, but that this was a meeting to talk about the future project. Dick Keyes agreed by saying that it did not matter how the numbers were arrived at, 513 units were all that was to be bid on. I could tell further discussion of this topic was useless, so I dropped it and let the meeting continue. A few more issues were discussed which R.H.A. and PG&E could not clearly explain, but none more pertinent than the unit count and the list of units already completed. The meeting lasted approximately 2 hours. At its conclusion, I again requested a copy of the recordings, but it seemed much less likely now that the tapes were going to be shared. Val Martinez was adamant in telling Bing Lee that she wanted a copy of the taped meeting, but he would not comment either way. Any unanswered questions were to be answered in writing the following week by R.H.A. No telephone calls were to be made to Heath and Associates by any of the bidders. Our bids were due to be turned in R.H.A. in Fresno on Friday May 1, 1992.

On Friday April 24, 1992, I called Scott Sanders with the C.P.U.C. Like many of our conversations prior to, and since this time, I was calling to vent my frustrations to him, and to seek help in obtaining a remedy. [ I began discussing this case with Mr. Sanders on or about February 20, 1992. From that time we have communicated via telephone, fax, and the mail. Scott has been very professional in his contact with Energy Alternatives.

It has been extremely challenging to get him to this present point, but PG&E has been very helpful with their consistent failures to provide the truth, and their adamant arrogance to minimize the situation. ) I explained to Scott how the bid meeting went on Wednesday. The fact that R.H.A. had no explanation as to how the 513 number of units was arrived at, other than that was just the way it was. I made it as clear as possible to Scott as to how important it was that this list of units which were supposedly completed, be shared with the other two bidders. The fact that R.C.A.A. had been working in the designated area, and that they had information as to which houses or apartments had already been weatherized, or had refused their services, was very pertinent. Again, I stressed the fact that all of the contractors who are bidding on the same project should be privy to the same information. How else can the playing field be made level?

On April 6, 1992, a letter was sent to R.C.A.A. from R.H.A. (see attachment #3). This letter instructed them to cease contacting any new customers, and to provide Energy Partner Services only to those customers already promised program services as of 4/6/92. It also requested a list of those customers scheduled for weatherization work beyond 4/6/92. This list was due by 4/10/92. This is the very document we have been asking to have a copy of. This would enable us to drive through the projected area and see which units are left to bid. In a normal situation, every house in the designated area built prior to January 1, 1989 is a possible client. In this situation, no one except R.C.A.A. knew

what units had been completed, or more important, which ones were still left to do. I know I seem to be spending a lot of time on this subject, but I am trying to emphasize the extreme importance of all the bidders having the same knowledge provided them prior to turning in their bids.

In fact, to this date, neither the tapes of the bid meeting nor the list in question have been provided to Energy Alternatives.

PG&E finally sent a copy of the "list" to Scott Sanders in late May, well after the bids were due, and the new contract had been awarded to R.C.A.A. This blatant attempt to conceal information from all deserving parties was compounded by PG&E placing a stamp of "CONFIDENTIAL INFORMATION" on said document. This placed Mr. Sanders in a difficult situation. I asked Scott to request in writing, as to why this "list" could not be shared with Energy Alternatives. I told him that the only reason I could think of was because it was a fraudulent document, and if I had it made available to me, I could research its validity. PG&E's response to him on this matter was that they could not put the reasons why it was confidential in writing, only that it was and asked that he respect that. I explained to Scott that PG&E knew he had neither the time or the man power to research this "list", so they were safe in providing him this false information.

The fact that R.C.A.A. had crews working in the field from the time that they were to suppose to stop, as mandated

by the letter from Heath and Associates all the way up until the new bid was awarded on May 11, 1992. This is another blatant example as for the disregard of the authority of the California Public Utilities Commission. When PG&E was asked by Scott Sanders, as to why R.C.A.A.'s crews were still working on the project long after they were told to stop, their reply was that they really didn't know one way or the other. Energy Alternatives had an employee in the field daily monitoring the actions of R.C.A.A.'s crews. I was keeping Scott Sanders up to date with the fact that three crews were still working on jobs that they had supposedly already completed. This fact can easily be proven by contacting the clients which were reportedly completed on the "list" and checking their paperwork. It will show that this list of completed jobs with times and dates is fraudulent. That is the reason PG&E does not want E.A. to have a copy of this list. They know E.A. will take the time and effort to prove the facts. Hopefully if this case is opened up for investigations, these truths will then be revealed.

#### FINDINGS OF FACT

- 1) On March 31, 1992, the C.P.U.C. voted unanimously in favor of Energy Alternatives in case #91-05046. This led to decision #92-03085.
- 2) Pacific Gas and Electric Company was ordered that the 1992 Low Income Home Weatherization Program be declared null and void and of no legal effect.
- 3) PG&E's Humboldt Divisions Low-Income Home Weatherization Program contract shall be awarded through competitive bidding limited to bidders who bid on PG&E's Humboldt Divisions 1991 "Energy Partners" Low-Income Home Weatherization Program Contract.

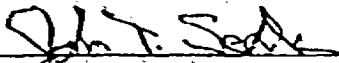


- 4) On April 6, 1992, R.H.A. ordered that work should be stopped by R.C.A.A. on their existing contract. The work was never stopped prior to May 11, 1992.
- 5) The total number of units put out to bid was 513, instead of total 1,300 units. This figure has yet to be proven and is only being substantiated by documents which have been made unavailable to all the bidders.
- 6) A pre-bid meeting was held in which no representative from the Humboldt PG&E Division was present.
- 7) The bid meeting was recorded, but the tapes have not been made available to all parties present.
- 8) Pertinent information on units completed by R.C.A.A. within the designated area to be bid was not shared with the other two contractors.
- 9) Units supposedly completed by R.C.A.A. totaled over 300% of what PG&E recommended to be completed in this time frame.
- 10) There is blatant disregard by Pacific Gas and Electric Company to carry out this decision, #92-03085.

Energy Alternatives has fought a long hard battle. We have endured the timely and laborious process set forth by the C.P.U.C. We have proven our complaint was worthy of a favorable decision, not only by the California Public Utilities Commission, but also the Supreme Court of California. Our only request to you now, is to not let this outcome be minimized by PG&E to a moral victory. From the beginning of this process in December 1990, through all the letters, conversations, meetings, hearings, opinions, comments, and decisions, we still have only one request. "That the field on which we play, be made level". Please instruct Pacific Gas and Electric Company that you are not satisfied with the way that this "ORDER" was carried out. Something needs to be done to let them know that they are not above the law. I urge you

to investigate and take action on the injustices that I have pointed out in this letter. The tax payers of the State of California and the rate payers of this Utility Company hold the Public Utilities Commission responsible to enforce the free and fair enterprise system of our state.

Sincerely Yours,

  
\_\_\_\_\_  
John T. Seale  
General Manager,  
Energy Alternatives

JTS/kls

ccs. Lynn T. Carew, Chief Administrative Law Judge / Peter Arth, Jr., General Counsel / Scott Sanders.

Enclosures

Robert B. McLennan

Attorney for  
Pacific Gas and Electric Company  
77 Beale Street  
P.O. Box 7442  
San Francisco, CA 94120

Dear Mr. McLennan:

As per our conversation on 4/6/92, there seems to be some confusion regarding the execution of the "ORDER" in case # 91-05-46.

On March 31, 1992, the California Public Utilities Commission so ordered that:

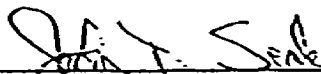
- 1) The award of Pacific Gas and Electric Company's (PG&E) Humboldt Division's 1992 low-income home weatherization program contract to 1991 contractors is declared null and void and of no legal effect.
- 2) PG&E's Humboldt Division's 1992 low-income home weatherization program contract shall be awarded through competitive bidding limited to bidders who bid on PG&E Humboldt Division's 1991 "Energy Partners" low-income home weatherization program contract.

The facts are clearly stated as to what has to be done. The questions as to when, where, and how PG&E is going to implement this process is still unclear to me.

Please list the details of your projected actions in this re-bidding situation.

Your expediency in this matter, is very much appreciated.

Yours Truly,

  
John T. Seale 4.9.92

BID SHEET - PAGE ONE

ORGANIZATION Energy Alternatives  
PROJECT AREA 117 - Humboldt DIVISION Humboldt

FOR THE FOLLOWING PROJECT DATES:

START Proposed 5/15/92 - 5/31/92 STOP 11/15/92

FOR THE FOLLOWING QUANTITIES:

<u>428*</u>	Single Family, Including 2,3,4 Plexes
<u>75*</u>	Multi-Family
<u>10*</u>	Mobile Homes
<u>513</u>	Total Allocation

\*Unit mix is approximate

MARKETING AND EDUCATION FEE PER UNIT

\$ _____	Single Family, Including 2,3,4 Plexes and Mobiles
\$ _____	Multi-Family I - When Education is Required
\$ _____	Multi-Family II - Marketing, No Education

MINOR HOME REPAIR LABOR: FLAT RATE FOR EACH UNIT

\$ _____	Singles
\$ _____	2,3,4 Plexes
\$ _____	Multi-Family
\$ _____	Mobile Homes

**R**ICHARD  
**H**EATH AND  
**A**SSOCIATES, INC.

2005 SAN JOAQUIN FREEMO, CA 95721 808 237-2825 FAX 209 237-0181

April 6, 1992

Ms. Val Martinez  
Redwood Community Action Agency  
904 G Street  
Eureka, California 95501

Dear Val,

We are sorry to inform you that as a result of a ruling by the California Public Utilities Commission (CPUC) in case #91-05-046, Energy Alternatives versus PG&E, the 1992 Energy Partners Bid Process for Project Area 19 in the Humboldt Division was ruled invalid, and the area must be re-bid.

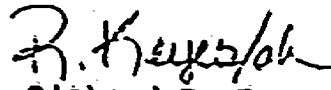
As of 4/7/92, you are required to cease all marketing and provide Energy Partners services only to those customers already promised program services as of 4/6/92. Please provide to RHA, by 4/10/92, a list of those customers scheduled for weatherization work beyond 4/5/92. Also include total count of Energy Partners customers in the following categories:

- a. Customers scheduled but not served as of 4/6/92.
- b. Customers who received Energy Partners Services, but have not been invoiced to Data Images.
- c. All customers who have been invoiced year-to-date under your 1992 Energy Partners Contract.

Ms. Val Martinez  
April 6, 1992  
Page Two

Because of the ruling, it will be necessary to prepare a new RFP, and hold a bidder's conference for Redwood CAA, and other eligible bidders in the area. You will be notified in writing of the forthcoming RFP and bid conference.

Regretfully,



Richard D. Keyes  
Program Manager

RK/ah

cc: A. Murray, PG&E  
R. Nelson, PG&E  
M. Osborne, PG&E

LAW OFFICES

PATRICK J. POWER

2101 WEBSTER STREET, SUITE 1500  
OAKLAND, CALIFORNIA 94612

TELEPHONE  
15101 446-7742

FAX  
15101 446-7812

April 10, 1992

VIA HAND DELIVERY

Mr. Robert F. Wandruff  
Court Administrator  
Supreme Court of California  
Marathon Plaza, South Tower  
303 2nd Street  
San Francisco, CA 94107-1317

Re: Redwood Community Action Agency v. Public Utilities  
Commission

Petition for Writ of Mandamus and Temporary Stay with  
Memorandum of Points and Authorities

Dear Mr. Wandruff:

On behalf of the Redwood Community Action Agency I submit for filing an original and 13 copies of the Petition for Writ of Mandamus and Temporary Stay with Memorandum of Points and Authorities on behalf of the Redwood Community Action Agency. In light of the request for a temporary stay of a decision by the California Public Utilities Commission, your immediate attention to this matter would be appreciated.

Thank you for your assistance.

Yours truly,

*Patrick J. Power*  
Patrick J. Power

cc: All parties to C. 91-05-046

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IN THE SUPREME COURT  
OF THE  
STATE OF CALIFORNIA

THE REDWOOD COMMUNITY ACTION  
AGENCY )  
  
Petitioner, )  
  
vs. )  
  
THE PUBLIC UTILITIES COMMISSION )  
OF THE STATE OF CALIFORNIA, )  
  
Respondent. )

S026079

ANSWER OF RESPONDENT AND MEMORANDUM OF POINTS  
AND AUTHORITIES IN OPPOSITION TO  
PETITION FOR WRIT OF MANDAMUS  
AND FOR TEMPORARY STAY

TO THE HONORABLE CHIEF JUSTICE MALCOLM LUCAS AND TO THE HONORABLE  
ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE STATE OF  
CALIFORNIA:

The Respondent California Public Utilities Commission  
(Commission) respectfully submits its answer in opposition to the  
petition of The Redwood Community Action Agency (RCAA) for writ  
of mandamus and for temporary stay of Decision (D.) 92-03-085,  
\_\_\_ Cal.PUC 2d \_\_\_,<sup>1</sup> and denies that a writ should be issued.

1. Petitioner did attach a copy of D.92-03-085 as Appendix A to  
its Petition; however, that copy only contains odd-numbered pages  
of the decision. For the Court's convenience, a full copy is  
attached hereto as Appendix 1. For the Court's further  
convenience, the decision in question will be referred to  
hereafter as D.92-03-085.



APR 1 1992

Decision 92-03-085 March 31, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Energy Alternatives,

Complainant,

vs.

Pacific Gas and Electric Company,

Defendant.

Case 91-05-046  
(Filed May 22, 1991)

O P I N I O N

Status of Case

On May 22, 1991, Energy Alternatives (complainant) filed a complaint with the Commission alleging that an "unfair" bid process was conducted by Richard Heath and Associates (RHA), administrators of Pacific Gas and Electric Company (PG&E) "Energy Partners" program, in conjunction with PG&E, in connection with the weatherization contract awarded to Redwood Community Action Agency (RCAA) in PG&E's Humboldt Division, for the 1991 "Energy Partners" program. This program involved the weatherization of approximately 1,600 low-income homes.

Pursuant to notice, a hearing on the complaint was held before Administrative Law Judge (ALJ) Robert L. Ramsey in Redding, on August 16, 1991. At the hearing, the complainant appeared by its president, John T. Sealé, PG&E and RHA appeared by counsel, Robert B. McLennan, both parties made opening statements, witnesses were called and examined and cross-examined under oath, seven exhibits were offered and admitted in evidence without objection, and closing arguments were made by each party. Post-hearing briefs were waived by the parties.