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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation into the policies, practices, procedures and costs of women and minority business enterprises programs established under General Order 156 for the year 1990, and related matters.

FILED
PUBLIC UTILITIES COMMISSION
FEBRUARY 23, 1990
SAN FRANCISCO OFFICE
I.90-02-044

ORIGINAL

ORDER INSTITUTING INVESTIGATION

Summary

This order opens an Investigation for the year 1990 to address issues involving the policies, practices, procedures, and costs of Women and Minority Business Enterprises ("WMBE") programs established by participating utilities under General Order ("G.O.") 156. Such issues encompass all matters concerning the 1989 & 1990 WMBE compliance of each utility with G.O. 156 and related issues, and pre-1990 and 1990 WMBE program costs and 1991 projected program costs.¹ This Investigation is instituted pursuant to Decision (D.) 89-08-026.

1. Because Pacific Gas and Electric Company ("PG&E") and Southern California Gas Company ("SoCalGas") recently underwent a Commission review of their WMBE programs based on their 1989 annual reports and their 1990 program costs during their general rate cases for the test year 1990, they need not participate in the instant investigation concerning WMBE compliance issues for 1989 and costs for 1990. However, these two utilities are still required to "participate in the generic 1990 proceeding to the extent necessary to enable the Commission to decide the questions of: (1) WMBE compliance based on their March 1990 annual reports and (2) projected 1991 program costs." (D.89-08-026, p. 2, fn. 2 (slip op.).)

Background

Under Public Utilities Code Sections 8281-8285, which became effective on January 1, 1987, regulated gas, electric and telephone utilities with gross annual revenues exceeding \$25 million (and their Commission-regulated subsidiaries and affiliates) must submit annually, for Commission review, detailed and verifiable plans for increasing the participation of women and minority business enterprises in the utilities' procurement programs. (Pub. Util. Code, §8281-8285.) Pursuant to Section 8283 of the Public Utilities Code, these participating utilities must include in their annual plans short and long-term goals and timetables for accomplishment of these goals. (Pub. Util. Code, §8283.)

The Commission implemented Public Utilities Code Sections 8281-8285 through a rulemaking proceeding, R.87-02-026. On April 27, 1988, it issued in this proceeding D. 88-04-057, which promulgated G.O. 156. This general order sets forth the rules and guidelines for increasing participation of WMBEs in the procurement of contracts from participating utilities. The Commission subsequently modified D.88-04-057 and G.O. 156 in D.88-09-024 (September 14, 1988) and D.88-08-41 (August 3, 1989).²

Pursuant to G.O. 156, each utility is required to submit details about its WMBE compliance in an annual report,

2. In D.88-09-024, the Commission extended the terms of Advisory Board representatives; added representatives for small utilities and interexchange telecommunication corporations and more representatives from the WMBE community; and required a special report on WMBE fuel suppliers. In D.89-08-041, the Commission modified G.O. 156 to reflect a reorganization and reassignment of WMBE oversight duties from the CACD director to the Executive Director's office, and to address issues surrounding the definition of "women-owned business."

which is due by March 1 of each year. (General Order 156, §7.) This annual report is submitted to the Executive Director.

On August 3, 1989, the Commission issued D.89-08-026, in which it determined that the proper forum for addressing policies, practices, procedures, and costs of the utilities' WMBE program would be an annual generic proceeding. Previously, such issues had been a part of the general rate case proceeding for each of the participating utilities. (See e.g. In the Matter of the Application of Southern California Gas Company (January 9, 1990) D.90-01-016, pp. 69-71 (slip op.); Application of Pacific Gas and Electric Company (December 20, 1989) D.89-12-057, pp. 155-157 (slip op.); Application of General Telephone Company of California (January 11, 1989) D.89-01-015, pp. 3-15 (slip op.).) However, in D.89-08-026, the Commission found that an annual generic proceeding was preferable to a rate case in allowing parties more time to analyze and address WMBE issues; facilitating a uniform investigation of the WMBE policies, practices, procedures, and costs of the participating utilities; eliminating the significant duplication efforts of WMBE intervenors among the numerous rate cases; and dealing with the postponement of Pacific Bell's 1989 general rate case as a result of I.87-11-033, which would have delayed the Commission's review of this utility's WMBE program. (D.88-08-026, p. 17 (slip op.).) Accordingly, the Commission decided that an Order Instituting Investigation ("OII") should be issued on an annual basis to deal with the issues of participating utilities' compliance with General Order 156 and costs associated with the WMBE programs. (Id. at pp. 17-18 (slip op.).)

Therefore, by this OII, the Commission is initiating the Investigation for the year 1990. All the utilities subject to Sections 8281-8285 shall be respondents in this generic proceeding. (See D.89-08-026, p. 12 (slip op.).) See Appendix A for a list of the respondents.

Further, in D.88-08-026, the Commission set forth the schedule for the Investigation for the year 1990 as well as

subsequent years, including deadlines for each utility's filing of an annual report and cost exhibit (including costs authorized in memorandum accounts) and the Executive Director's designee's submission of a written report to the Assigned Administrative Law Judge ("ALJ"), and time periods for discovery and workshops. Therefore, the parties to this Investigation shall adhere to this schedule. However, the Assigned ALJ shall have the discretion to adjust filing dates unless such changes prevent a timely final Commission decision in January 1991. (See D.88-08-026, p. 20 (slip op.).)

Scope of the Proceeding

This Investigation will deal with the issues arising from the review by the Executive Director's designee's of the respondents' 1989 and 1990 annual reports and consideration of related compliance matters. Such issues may include, but are not limited to, matters concerning each utility's internal program to provide overall WMBE program direction and guidance to its employees and to implement WMBE program requirements, external outreach program, subcontracting program, complaint procedures, and its goals for use of WMBE contractors; WMBE status and the WMBE Central Clearinghouse verification process; and other areas related to G.O. 156.

Further, this Investigation will deal with the issues surrounding the review of projected program costs through 1990 for all respondents, except for PG&E and SoCalGas, and projected 1991 program costs for all respondents.

As to the specificity of the issues mentioned above, they will be developed as a result of the Executive Director's designee's written evaluation of the 1989 WMBE annual reports and his review of the 1990 WMBE annual reports and cost exhibits, which all utilities must file by March 1, 1990, and from discovery engaged in by the parties and any workshops conducted by the Executive Director's designee for the purpose reviewing

the utilities' WMBE programs, and identifying and narrowing the issues.³ Further, in his written report, which must be submitted to the Assigned ALJ by June 1, 1990, the Executive Director's designee is required to summarize these specific issues, including those matters which are disputed or undisputed among the parties, as well as identify which parties request hearings, and make a recommendation for further proceedings. (See D.89-08-026, p. 20 (slip op.)) Consequently, part of this Investigation is to frame and narrow these specific disputed or undisputed issues. For matters which are in dispute, a prehearing conference will be held to schedule hearings on these issues.

IT IS ORDERED that:

1. An Investigation on the Commission's own motion is hereby instituted to address the following:

- a. The WMBE compliance issues centering on the review of the 1989 annual reports of each respondent, except PG&E and SoCalGas, and the 1990 annual reports of all respondents, and the consideration of related compliance matters.
- b. The issues surrounding the review of projected program costs through 1990 for all respondents, except for Pacific Gas and Electric Company and Southern California Gas Company, and projected 1991 program costs for all respondents.

3. To facilitate the framing of these issues, a record of these transcripts should be made of these workshops conducted by the Executive Director's designee.

2. After each respondent has filed its annual report and cost exhibit, including costs authorized in memorandum accounts, on March 1, 1990, parties shall pursue discovery and workshops conducted by the Executive Director's designee for the purposes of reviewing the utilities' WMBE programs, and identifying and narrowing issues.

3. The Executive Director's designee shall submit a written report to the assigned ALJ on June 1, 1990, indicating which issues are in dispute between which parties and which parties desire that hearings be held. A copy of this report shall be mailed to all parties. Within 30 days after the submission of the report, parties desiring to do so may submit comments on the report to the Commission.

4. If there are factual matters in dispute, a prehearing conference will be held to schedule hearings and frame the issues. Such a prehearing conference and hearings will be held before the assigned ALJ at a time and place to be determined, at which time and place all interested parties may appear and be heard.

5. The parties to this Investigation shall adhere to the schedule set forth in D.88-08-026. However, the assigned ALJ shall have the discretion to adjust filing dates to the extent such changes are consistent with a timely final Commission decision in January 1991.

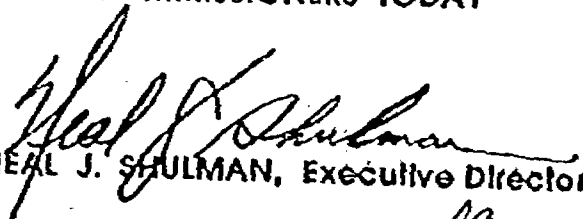
6. The Executive Director is directed to cause a certified copy of this order to be served by mail on all respondents listed in Appendix A and all other appearances listed on the service list for R.87-02-026.

This order is effective today.

Dated February 23, 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. SHULMAN, Executive Director

APPENDIX A

The following utilities are respondents to this Investigation:

AT&T Communications of California

Citizens Utilities Company of California

Contel of California, Inc.

CP National Corporation

GTE California Incorporated

MCI Communications Corporation

Pacific Gas & Electric Company

Pacific Bell

Pacific Power and Light Company

Roseville Telephone Company

San Diego Gas & Electric Company

Sierra Pacific Power Company

Southern California Edison Company

Southern California Gas Company

Southwest Gas Corporation

US Sprint Communications Company

(End of Appendix A)