

**DOCKET**

**00-AFC-1**

DATE 9/21/2009

RECD. 9/21/2009

September 21, 2009

California Energy Commission  
Docket Unit  
1516 Ninth Street  
Sacramento, CA 95814-5512

Subject: **PG&E'S OPPOSITION TO CARE'S REQUEST FOR  
RECONSIDERATION  
DOCKET NO. (00-AFC-1C)**

Enclosed for filing with the California Energy Commission is the original of **PG&E's  
OPPOSITION TO CARE'S REQUEST FOR RECONSIDERATION**, for the  
Gateway Generating Station Docket No.(00-AFC-1C).

Sincerely,



Marie Mills

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STATE OF CALIFORNIA

Energy Resources  
Conservation and Development Commission

In the Matter of:

Gateway Generating Station

**DOCKET NO. 00-AFC-1C**

**PG&E'S OPPOSITION TO CARE'S  
REQUEST FOR RECONSIDERATION**

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On August 27, 2009, the California Energy Commission (CEC) approved an amendment to the Gateway Generating Station (GGS), which included approving the use of a diesel engine fire pump, use of a dewpoint heater, and minor changes to the Air Quality conditions.<sup>1</sup> On September 4, 2009, CARE filed a document entitled Notice of Intent to file Citizens Suit Pursuant to 42 USC § 7604 and Motion for Reconsideration of Amendment<sup>2</sup>.

Pursuant to Title 20, §1720(a) of the California Code of Regulations<sup>3</sup>, a Petition for Reconsideration must set forth either, "new evidence... or... an error in fact or change or error in law." "The petition must fully explain why the matters set forth could not have

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<sup>1</sup> Notice of Decision by the California Energy Commission, Log Number 53027, filed August 27, 2009

<sup>2</sup> CARE's Petition is confusing in that while it is entitled a "Petition For Reconsideration" CARE has elected to also attempt to use it as "60-day Notice to File a Clean Air Act Citizen Suit". CARE fails to clearly lay out the basis for reconsideration but rather concentrates its efforts in the Petition on providing a basis for its purported suit against the CEC under the Clean Air Act.

<sup>3</sup> Title 20, Division 2, Chapter 5, section 1720(a)

been considered during the evidentiary hearings, and their effects upon a substantive element of the decision.” CARE has failed to identify or introduce any new evidence that was not considered by the Commission Staff or the Commission during its August 26, 2009 Business Meeting. Additionally, CARE has not identified any error in fact or a change in law. In fact, the Petition does not state any basis for reconsideration. The Petition does allege that the facility did not have a valid PSD Permit. This issue was fully discussed and considered at the Business Meeting on August 26, 2009 and in fact addressed in great detail at the evidentiary hearing held on August 5, 2009.

### **CONCLUSION**

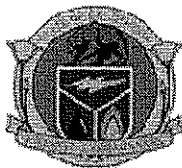
CARE has failed to introduce any new evidence that was not considered by the Commission in approving the GGS amendment and on that basis the Petition For Reconsideration should be denied.

Respectfully Submitted,

Dated: September 21, 2009



Scott A. Galati  
Counsel to PG&E



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA  
1516 NINTH STREET, SACRAMENTO, CA 95814  
1-800-822-6228 – [WWW.ENERGY.CA.GOV](http://WWW.ENERGY.CA.GOV)

IN THE MATTER OF THE COMPLAINT AGAINST  
  
**GATEWAY GENERATING STATION**

**Docket No. 00-AFC-1C**  
**PROOF OF SERVICE**  
*(Revised 7/28/09)*

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**DECLARATION OF SERVICE**

I, Ashley Y. Garner, declare that on September 21, 2009, I served and filed copies of the attached **PG&E'S OPPOSITION TO CARE'S REQUEST FOR RECONSIDERATION**. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list. The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

**(Check all that Apply)**

**For service to all other parties:**

sent electronically to all email addresses on the Proof of Service list;

by personal delivery or by depositing in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked "email preferred."

**AND**

**For filing with the Energy Commission:**

sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (**preferred method**);

**OR**

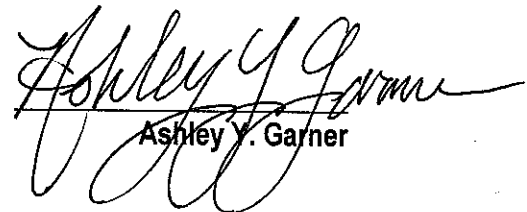
depositing in the mail an original and 12 paper copies, as follows:

**CALIFORNIA ENERGY COMMISSION**

Attn: Docket No. 00-AFC-1C  
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[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

I declare under penalty of perjury that the foregoing is true and correct.

  
Ashley Y. Garner