

From: Ken Celli
To: Docket Optical System
Date: 7/31/2009 4:21 PM
Subject: Fwd: RE: Filing for Docket Number 00-AFC-1C:GatewayGeneratingStation

Ms. Behles:

Just to be clear, I read your response below to indicate that there will be no new information contained in Exhibit 20, it is merely a chart of other evidence which you've provided to Mr. Galati. As to Exhibit 21, it is merely a Declaration stating that he supports the complaint, with no new information. Otherwise, if either of these exhibits contain new information, YOU MUST PROVIDE THE NEW INFORMATION TO MR. GALATI TODAY.

Further, the Summary of Testimony To Be Offered by the five witnesses listed in your Witness List is inadequate. You must summarize the substance of each witnesses testimony with sufficient detail to enable the respondent to prepare a defense. Please amend your Prehearing Statement to provide the substance of the witnesses' testimony and email it to all parties and me TODAY.

Thank you,

Kenneth D. Celli
Hearing Advisor II
California Energy Commission
Hearing Office
1516 9th Street, MS 9
Sacramento CA 95814-5512
(916) 651-8893

DOCKET	
00-AFC-1C	
DATE	<u>July 31 2009</u>
RECD.	<u>July 31 2009</u>

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>>> "Deborah Behles" <dbehles@ggu.edu> 7/31/2009 3:53 PM >>>
Scott -

I just got a call from Mr. Celli and it cleared up some of your confusion and concern. When questions like this arise, feel free to call me directly at 415-369-5336.

Exhibits 20 and 21 erroneously state that they are documents dated July 29, 2009. These documents are currently being prepared and will be ready next week. I plan to get them to you before the hearing. The documents will contain the following:

1. Exhibit 20 - Summary of statements and information taken from the other publicly available and PG&E generated exhibits listed on our

exhibit list.. As you will see, many of our exhibits are the same. This summary chart will summarize the factual information that forms the basis of ACORN's Complaint which was filed in June 2009.

2. Exhibit 21 - Declaration of Bob Sarvey - This declaration will include Mr. Sarvey's support of the Complaint, similar to what was filed by Mr. Cox, and describe and attach Mr. Sarvey's previous comments for this facility. These comments have been attached to the EAB docket by Mr. Simpson. If you do not have these comments, let me know and I will send you a copy.

As for the witness summaries, an outline of each of the witness' testimony is provided in the complaints filed by the parties. Our witnesses plan to explain what evidence supports the allegations of non-compliance alleged in these complaints. The information that the witnesses will refer to is in the exhibits described in the exhibit list. We have specifically provided a description for each exhibit that describes what the witnesses plan to use each exhibit for.

As mentioned above, if you have further questions, give me a call at 415-369-5336.

Thank you,

Deborah N. Behles
Visiting Assistant Professor
Environmental Law and Justice Clinic
Golden Gate University School of Law
536 Mission Street
San Francisco, CA 94105-2968
Phone: 415.369-5336
Fax 415.896.2450

>>> "Scott Galati" <SGalati@gb-llp.com> 7/31/2009 3:28 PM >>>

My reading of the order was that Each Prehearing Statement shall set forth under a separate heading:

1. The identity of each witness called to testify; a brief summary of the testimony to be offered by each witness; qualifications of each witness; and the time required to present direct testimony by each witness (emphasis added).

The summaries you provided for each witness "Statements, documents, and information underlying ACORN's complaint for PG&E's noncompliance" is not sufficient of a summary for my client to prepare meaningful cross-examination of your witnesses. As you can see from our filing, you have a complete copy of our direct testimony so that you may prepare for hearing. I copy the Hearing Officer, Ken Celli, on this email in attempt to get clarification on this issue. I again ask for you to please provide adequate summaries of your witness testimonies so that PG&E may properly prepare.

Scott A. Galati
GALATI|BLEK
455 Capitol Mall, Suite 350
Sacramento, CA 95814
Tel. (916) 441-6575
Fax (916) 441-6553
Cell (916) 505-6570

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From: Lucas Williams [\[mailto:lwilliams@ggu.edu\]](mailto:lwilliams@ggu.edu)
Sent: Friday, July 31, 2009 3:22 PM
To: Scott Galati
Cc: Deborah Behles
Subject: RE: Filing for Docket Number 00-AFC-1C:
GatewayGeneratingStation

Mr. Galati:

In accordance with the 7/27 order we will provide you with copies of all of the exhibits before the hearing next week. We will not be asking for stipulations on Exhibits 20 and 21. Deborah will give you a call next week to discuss the exhibits.

Thank you,

Lucas Williams
Graduate Fellow
Environmental Law and Justice Clinic
Golden Gate University School of Law
536 Mission Street
San Francisco, CA 94105-2968
Phone: 415.369.5351

Fax 415.896.2450

>>> "Scott Galati" <SGalati@gb-llp.com> 7/31/2009 2:43 PM >>>

Thank you Mr. Williams. Can you please send me Exhibits 20 and 21 as identified on your Exhibit List?

Scott A. Galati
GALATI|BLEK
455 Capitol Mall, Suite 350
Sacramento, CA 95814
Tel. (916) 441-6575
Fax (916) 441-6553
Cell (916) 505-6570

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From: Lucas Williams [\[mailto:lwilliams@ggu.edu\]](mailto:lwilliams@ggu.edu)
Sent: Friday, July 31, 2009 2:32 PM
To: Scott Galati
Cc: Deborah Behles
Subject: Fwd: Filing for Docket Number 00-AFC-1C: Gateway GeneratingStation

Mr Galati:

Your email address as indicated by the service list bounced back.
Please find attached the Joint Prehearing Statement of ACORN, CARE, and LCEA.

Lucas Williams
Graduate Fellow
Environmental Law and Justice Clinic
Golden Gate University School of Law
536 Mission Street
San Francisco, CA 94105-2968
Phone: 415.369.5351
Fax 415.896.2450

>>> Lucas Williams 7/31/2009 2:17 PM >>>

Dear Docket Office, Parties, and Committee:

Please find attached the Complainants' Joint Prehearing Statement for filing in the Gateway Generating Station compliance proceedings, Docket No. 00-AFC-1C. The Prehearing Statement is being submitted pursuant to the Notice of Hearing, Decision, and Order issued by the Committee on July 27, 2009.

Please also note that the Service List for this proceeding (revised on 7/28/09) does not contain the correct e-mail addresses for service to the Environmental Law & Justice Clinic, who represents ACORN in this matter. Please send any documents or correspondence related to this proceeding to the following: dbehles@ggu.edu, lwilliams@ggu.edu, and hkang@ggu.edu.

Please contact Deborah Behles at (415) 369-5336 or Lucas Williams at (415) 369-5351 if you have any questions about this filing.

Thank you,

Lucas Williams
Graduate Fellow
Environmental Law and Justice Clinic
Golden Gate University School of Law
536 Mission Street
San Francisco, CA 94105-2968
Phone: 415.369.5351
Fax 415.896.2450