

**From:** Ken Celli  
**To:** Docket Optical System  
**Date:** 7/31/2009 5:20 PM  
**Subject:** Fwd: RE: Filing for Docket Number00-AFC-1C:GatewayGeneratingStation

Dockets:  
Please docket this email.  
Thank you,

<b>DOCKET</b>	
<b>00-AFC-1C</b>	
<b>DATE</b>	Jul 31 2009
<b>RECD.</b>	Aug 03 2009

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

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>>> "Deborah Behles" <[dbehles@ggu.edu](mailto:dbehles@ggu.edu)> 7/31/2009 5:03 PM >>>  
Mr. Celli and Mr. Galati:

Our witnesses will testify to the following:

ACORN Witnesses

- We are trying to consolidate this testimony into one or two witnesses. I will provide an outline of what each witness will testify to in an abundance of caution. If I know we will not call one of the witnesses, I will notify you both before the hearing.

John Adams

1. Background / Qualification - Experience with ACORN, experience in political and community organizations including Oregon State capital, educational background which is a BS in political science at the University of Oregon and currently working on Masters at JFK University.
2. ACORN Contra Costa description - Who the organization is, who they represent, what issues they work on
3. Basis for Knowledge About GATEWAY facility - Description of review of complaint, review of Exhibits 1-14, 23-24 that are listed in our exhibit list.
4. ACORN's Non-compliance Issues:
  - a. General Compliance with Certification - based on reference to statements in Ex 14
  - b. Definition of Commissioning Period - based on reference to statements in Ex. 14, Ex. 6, Ex. 13
  - c. Change to Gas Preheater related to AQ5, AQ24, AQ47 -based on reference to statements Sept 2008 PG&E report (Ex. 9), Ex. 11, Ex. 13, Ex. 14, Ex. 3
  - d. Change to Fire Water Pump - based on reference to statements in Ex. 1, Ex. 3, Ex. 6, Ex. 13, Ex. 3, Ex. 23

- e. Change in Cooling Conditions and Cumulative Emissions Measurements in reference to AQ 24 - based on reference to statements in Ex. 6, Ex. 13, Ex. 24
- f. Power Augmentation in AQ 20, AQ 26, and AQ 30 - based on reference to statements in Ex. 14, Ex. 6, Ex. 13
- g. Changes to Optional Monitoring of O2 - based on reference to statements in Ex. 14, Ex. 1, Ex. 4
- h. Requirements for Petition for Changes to Certification - based on reference to statements in Ex. 1, general conditions, Ex. 7
- i. Air Quality Requirements and Conditions - based on reference to statements in Ex. 15, Ex. 23, Ex. 24
- j. Commissioning Period Issues - based on reference to statements in Ex. 10, Ex. 12

5. Conclusion Based on Review of Above Referenced Documents

Erik Kochketola

- 1. Background / Qualification - Experience with ACORN, experience before regulatory agency public hearing, studied history at Indiana University.
- 2. ACORN Contra Costa description - Who the organization is, who they represent, what issues they work on
- 3. Basis for Knowledge About GATEWAY facility - Description of review of complaint, review of Exhibits 1-14, 23-24 that are listed in our exhibit list.
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  - e. Change in Cooling Conditions and Cumulative Emissions Measurements in reference to AQ 24 - based on reference to statements in Ex. 6, Ex. 13, Ex. 24
  - f. Power Augmentation in AQ 20, AQ 26, and AQ 30 - based on reference to statements in Ex. 14, Ex. 6, Ex. 13
  - g. Changes to Optional Monitoring of O2 - based on reference to statements in Ex. 14, Ex. 1, Ex. 4
  - h. Requirements for Petition for Changes to Certification - based on reference to statements in Ex. 1, general conditions, Ex. 7
  - i. Air Quality Requirements and Conditions - based on reference to statements in Ex. 15, Ex. 23, Ex. 24
  - j. Commissioning Period Issues - based on reference to statements in Ex. 10, Ex. 12

5. Presentation of Summary Based on Review of Documents as detailed and described above

Marie Dreyer

- 1. Background / Qualification - Experience with ACORN, experience in political and community organizations including Oregon State capital, educational background which is a BS in political science at the University of Oregon and currently working on Masters at JFK University.

2. ACORN Contra Costa description - Who the organization is, who they represent, what issues they work on

3. Basis for Knowledge About GATEWAY facility - Description of review of complaint, review of Exhibits 1-14, 23-24 that are listed in our exhibit list.

4. ACORN's Non-compliance Issues:

a. General Compliance with Certification - based on reference to statements in Ex 14

b. Definition of Commissioning Period - based on reference to statements in Ex. 14, Ex. 6, Ex. 13

c. Change to Gas Preheater related to AQ5, AQ24, AQ47 -based on reference to statements Sept 2008 PG&E report (Ex. 9), Ex. 11, Ex. 13, Ex. 14, Ex. 3

d. Change to Fire Water Pump - based on reference to statements in Ex. 1, Ex. 3, Ex. 6, Ex. 13, Ex. 3, Ex. 23

e. Change in Cooling Conditions and Cumulative Emissions Measurements in reference to AQ 24 - based on reference to statements in Ex. 6, Ex. 13, Ex. 24

f. Power Augmentation in AQ 20, AQ 26, and AQ 30 - based on reference to statements in Ex. 14, Ex. 6, Ex. 13

g. Changes to Optional Monitoring of O2 - based on reference to statements in Ex. 14, Ex. 1, Ex. 4

h. Requirements for Petition for Changes to Certification - based on reference to statements in Ex. 1, general conditions, Ex. 7

i. Air Quality Requirements and Conditions - based on reference to statements in Ex. 15, Ex. 23, Ex. 24

j. Commissioning Period Issues - based on reference to statements in Ex. 10, Ex. 12

5. Presentation of Summary Based on Review of Documents as detailed and described above

I've been working with the other parties and will send similar summaries of their testimony shortly. Mr. Celli, we will amend our prehearing statement to reflect these changes and send to all the parties.

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

>>> "Ken Celli" <[Kcelli@energy.state.ca.us](mailto:Kcelli@energy.state.ca.us)> 7/31/2009 4:19 PM >>>  
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

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>>> "Deborah Behles" <[dbehles@ggu.edu](mailto: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](mailto: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>]  
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](mailto: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  
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Cell (916) 505-6570

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From: Lucas Williams [<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](mailto:dbehles@ggu.edu), [lwilliams@ggu.edu](mailto:lwilliams@ggu.edu), and [hkang@ggu.edu](mailto: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