



**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**

DOCKET	
00-AFC-1C	
DATE	<u>FEB 17 2010</u>
RECD.	<u>FEB 22 2010</u>

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

DOCKET No. 00-AFC-1C

**BROUGHT BY ACORN, LOCAL CLEAN ENERGY,
ALLIANCE, CARE, ET AL.**

ORDER No. 10-0217-02

COMMISSION ADOPTION ORDER

This Commission **ORDER** adopts the Proposed Decision of the Siting Committee on the Gateway Generating Station Complaint for noncompliance. The Proposed Decision is based upon the evidentiary record of these proceedings and considers the comments received at the February 17, 2010 business meeting. The text of the attached Proposed Decision contains a summary of the proceedings, the evidence presented, and the rationale for the findings reached and fines imposed.

FINDINGS

The Commission hereby adopts the following findings in addition to those contained in the accompanying text:

1. The Complaint filed by Californians for Renewable Energy (“CARE”), Bob Sarvey, and Rob Simpson, is dismissed based upon a determination of the insufficiency of the complaint and a determination of lack of merit.
2. The Gateway Generating Station (GGS) was constructed with a preheater different from the preheater approved in the Decision.
3. GGS was constructed with a diesel engine instead of the electric engine approved in the Decision.
4. The PSD permit is a federal requirement, so it is for the appropriate federal authorities, not the Energy Commission, to determine whether GGS was constructed or operated in violation of PSD requirements.
5. There is no substantive harm from the unapproved substitution of the preheater, because the new preheater has fewer emissions than the preheater approved in the Decision.

6. The substitution of the diesel engine for the approved electrical engine appears to have been made in good faith; that is, the diesel engine was installed in order to meet the directives of the local fire marshal. Moreover, although the diesel engine will probably cause greater adverse environmental impacts than the electric engine would have, the difference is not significant.
7. A fine of \$10,000 is appropriate.

ORDER

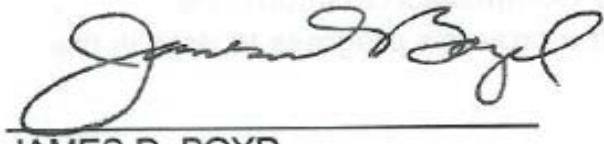
Therefore, the Commission **ORDERS** the following:

PG&E is ordered to pay \$10,000.00 to the Commission within 30 days of the date of this Order.

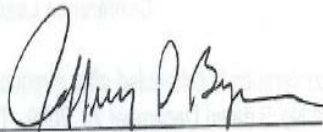
Dated: February 17, 2010, at Sacramento, California.



KAREN DOUGLAS
Chairman



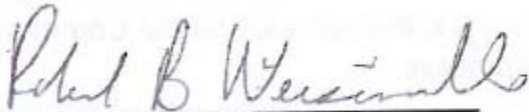
JAMES D. BOYD
Vice Chair



JEFFREY D. BYRON
Commissioner



ANTHONY EGGERT
Commissioner



ROBERT WEISENMILLER
Commissioner