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COMMENTS ON THE PROPOSED TITLE V PERMIT FOR THE GATEWAY
GENERATING STATION

Dear Mr. Lusher,

Thank you for the opportunity to comment on the proposed Title V permit for the Gateway Generating Station Facility ID. B 8143. We find that the facility fails to meet all applicable requirements for issuance of the Title V permit. We detail these deficiencies below.

The Title V Permit does not address GHG “Applicable Requirement’s”.

USEPA states that after January 2, 2010, a source will need to supplement its Title V permit application to include (1) citation and description of any “applicable requirements” (as defined 40 CFR 70.2) for GHG; (2) any information pertaining to monitoring or compliance activities resulting from “applicable requirements” for GHGs; and (3) any other information **“considered necessary to determine the applicability of, and impose, any applicable requirements of GHG.”** BACT guidance, p. 54.¹ The proposed Title V permit does not address the GHG applicable requirements. The Title V permit merely mentions reporting to CARB annual GHG emissions. No BACT requirements are addressed and no GHG limits are proposed. As the EPA requires “if the draft Title V permit has not been issued as of January 2, 2011, then the source must revise its application to address GHGs under the common doctrine of “Where additional applicable requirements become applicable to a source after it submits its permit application, but prior to release of

¹ Tailoring Rule, p. 54; BACT guidance

a draft permit, the source is obligated to supplement its application." (Tailoring Rule, page 73) The permit must be modified to address Title V GHG requirements.

Gateway Generating Station does not have a valid PSD Permit.

The Gateway Generating Station does not possess a valid PSD permit.² Therefore it does not meet all applicable requirements for obtaining a Title V permit. The Gateway Generating Station received a BAAQMD Permit to Operate for all equipment at the facility on September 13, 2011 but has been operated since November of 2008. The district allowed the facility to operate for almost three years without a permit to operate, a valid PSD permit, a valid FDOC, a valid ATC or a Title V permit. Any permit conditions that cite PSD as their legal basis are not valid since the Gateway Project never obtained a valid PSD permit.

Gateway Generating Station did not receive a valid ATC or FDOC.

The California Energy Commission who is the lead agency for permitting the Gateway project has determined through a 6 month detailed investigation that, "Gateway did not obtain a valid Final Determination of Compliance ("FDOC") or an Authority to Construct ("ATC") before construction."³ District regulation 2-1-304 prohibits the district from issuing a permit to any facility that is in violation of any state, district, or federal air quality regulatory requirement. The Title V permit may not be issued without a valid FDOC and ATC.

Gateway Generating Station does not meet BACT Requirements

According to the Statement of Basis the district renewed the Authority to Construct in 2003, 2005, and 2007. Renewal of the Authority to Construct is subject to District Regulation 2-1-407.1, which provides that "an Authority to Construct may be renewed for an additional two years upon a showing that the project will meet current Best Available Control Technology (BACT) and offset requirements as defined in District Regulations 2-2-301, 302, and 303." The district failed to require the project to meet current BACT requirements when it renewed the authority to construct three times. BACT requirements for NOx for combined cycle projects in the BAAQMD has been 2ppmv averaged over 1 hour

² EPA informed the district that it did not consider the extensions of the ATC by the district were effective in extending the projects 2001 PSD Permit.

³ http://www.energy.ca.gov/sitingcases/gateway/compliance/2010-01-26_Decision_of_Siting_Committee.pdf
Page 4 Committee Determination on Gateway Compliance complaint.

since July 18, 2003.^{4 5} BACT requirements for startup and shutdown,⁶ CO,⁷ and POC⁸ emissions were not updated since the issuance of the original ATC in 2001. For example BACT for CO has been 4ppm⁹ for many years including the three renewal periods but the district failed to update the BACT requirements when renewing the ATC.¹⁰ The proposed permit does not meet Federal and District BACT requirements and the Title V permit may not be issued until these requirements are met.

The permit contains insufficient monitoring for Particulate Matter Emissions

The Statement of Basis states that, "The annual source test results will be used to develop emission factors on a lb PM per MMBtu basis. The particulate emission factors and the fuel usage data allow the facility to calculate particulate emissions on an hourly, daily, monthly, and annual basis." The frequency of source testing is inadequate to ensure compliance with particulate matter limits. Source tests should be conducted more frequently to ensure that the facility is meeting its particulate matter emission limits. The BAAQMD has been classified as non-attainment for PM 2.5. The non-attainment status of the district requires more frequent source tests for particulate matter emissions. The Permit fails to provide adequate rationale as to why BAAQMD thinks that the chosen method is sufficient to assure compliance. The only

⁴http://www.baaqmd.gov/~media/Files/Engineering/Public%20Notices/Pre%202009%20Selected%20High%20Interest%20Permits/B3289/8859%20Final%20Determination%20of%20Compliance%20Phase%20II_06-28-05.ashx?la=en Page 17

⁵ BAAQMD BACT workbook indicates 2 PPMV NOx emission limit has been technologically feasible since 2000
<http://hank.baaqmd.gov/pmt/bactworkbook/default.htm>

d. EPA LAER Determination letter dated 3/24/2000.

e. CARB "Guidance for Power Plant Siting and Best Available Control Technology", Stationary Source Division, June 1999

f. Application #8658, Crockett Cogeneration

g. Sacramento Power Authority (Campbell Soup) in Sacramento County, California. The unit is a 103 MW nominal output Siemens V84 combustion turbine with DLN combustion, SCR, and oxidation catalyst.

i. Application #2488 & 2695 Valero Cogeneration Project (**Achieved in practice for LM6000 2.0 ppm NOx, 4.0 ppm CO, 2.0 ppm POC**)

⁶ BAAQMD Condition 18138 Part 21 Start Up and Shutdown emissions were not adjusted for current BACT requirements upon renewal of ATC in 2003, 2005, and 2007 per BAAQMD Regulation 2-1-407.1. Facility fails to meet BACT requirements. PSD cannot be listed as an authority for this condition as the applicant had no valid PSD permit and the consent decree did not address Start Up and Shutdown BACT.

⁷ BAAQMD Condition 18138 part 20d CO concentrations were not adjusted for current BACT requirements upon renewal of the ATC in 2003, 2005, 2007 per BAAQMD regulation 2-1-407.1. Permit fails to meet BACT requirements. PSD cannot be listed as an authority for this condition as the applicant had no valid PSD permit and the consent decree did not address Start Up and Shutdown BACT.

⁸ BAAQMD Condition 18138 part 20f POC concentrations were not adjusted for current BACT requirements upon renewal of the ATC in 2003, 2005, 2007 per BAAQMD regulation 2-1-407.1. Permit fails to meet BACT requirements. PSD cannot be listed as an authority for this condition as the applicant had no valid PSD permit and the consent decree did not address POC BACT.

⁹ <http://hank.baaqmd.gov/pmt/bactworkbook/default.htm>

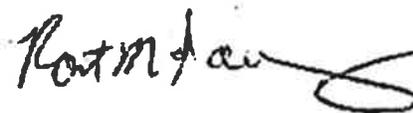
¹⁰ PG&E's in its 2007 Application to the BAAQMD for Modifications to its authority to construct proposed as current BACT for CO was 4 ppmv averaged over 3 hours and BACT for NOx as 2 ppmv averaged over 1 hour.

explanation for the infrequent monitoring cited in the statement of basis is that, “there is no EPA approved continuous emission monitor for particulate matter and compliance with the particulate matter pound per hour limit must be demonstrated using a labor intensive manual source test method.” The stringent PM limits contained in the permit of 7.5 pounds per hour are considered voluntary by the district. The districts monitoring proposal for particulate matter does not ensure compliance with these stringent limits agreed to by the applicant and the EPA. The frequency of emissions monitoring must reflect the averaging time used to determine compliance. A yearly monitoring requirement would not adequately address an hourly or daily maximum emission limit.

Gateway Compliance Status

The Gateway Generating Station is a current Significant High Priority Violator as of 5/23/13 according to the USEPA Compliance and Enforcement Website.¹¹ The project has been out of compliance for 12 quarters in a row. The Title V permit needs to contain a schedule of compliance for ATC, BACT, and PSD applicable requirements. The Title V permit should discuss compliance issues the project has had with the California Energy Commission. The applicant was fined \$10,000 for failure to abide by its conditions of certification.¹²

Respectfully Submitted,



Robert Sarvey

¹¹ <http://www.epa-echo.gov/cgi-bin/get1cReport.cgi?tool=echo&IDNumber=06013A0018>

¹² [http://www.energy.ca.gov/sitingcases/gateway/compliance/2010-02-17 Adoption Order.pdf](http://www.energy.ca.gov/sitingcases/gateway/compliance/2010-02-17%20Adoption%20Order.pdf)