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September 15, 1999

**BY HAND**

F. Andrew Turley, Esq.  
Office of the General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

RE: MUR 4915

Dear Mr. Turley:

On August 6, 1999 the New Hampshire Republican State Committee ("NHRSC") filed a complaint against Albert Gore and Gore 2000 in connection with what it alleged to be a campaign trip to the Connecticut River that took place on July 22, 1999. The complaint does not accuse PG&E Corporation or its subsidiary PG&E Generating Company (hereinafter collectively referred to as "PG&E") of any wrongdoing. Nevertheless, in order to assure a complete airing of all of the facts surrounding this matter, PG&E submits the following response to the complaint.

**PG&E is not a respondent to the complaint.** The complaint filed by the NHRSC alleges possible violations of the Federal Election Campaign Act "by Albert Gore and Gore 2000 Inc., his principal campaign committee." See Complaint, p.1 (filed Aug. 6, 1999). The complaint makes only factual references to PG&E's involvement and never suggests at any time that the company's actions were violative of the Act. Nevertheless, the Federal Election Commission's Office of General Counsel ("OGC") has seen fit to characterize PG&E as a respondent in this Matter Under Review ("MUR"), and on that basis asked it to demonstrate in writing why no further action should be taken by the Commission in this matter.

In short, PG&E is not a respondent to the complaint and, at least with respect to it, no further Commission action is warranted. Commission procedures governing the

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process for private complaints limit OGC to reviewing complaints to determine whether they satisfy the established criteria for a proper complaint. These criteria are set forth at 11 C.F.R. § 111.4 and include "clearly identifying each person, committee or group that is alleged to have committed a violation of the Act." Once OGC determines a complaint satisfies the requirements of 11 C.F.R. § 111.4, it is directed to notify each respondent that the complaint has been filed, advise them of the Commission compliance procedures, and enclose a copy of the complaint. *Id.* § 111.5(a).

In this MUR, the only respondents identified by the complainant are Vice President Gore and his campaign committee. OGC apparently has elected to treat the complaint as if it were filed, naming PG&E as a respondent. But because PG&E has not been named, it is not a respondent.<sup>1</sup> Accordingly, OGC's characterization of PG&E as a respondent in this MUR is inappropriate and unauthorized, and any references to the company in regard to this MUR should not characterize it as respondent.

***To the best of PG&E's knowledge, the Vice President's July 22 participation in the Connecticut River ceremony was not a campaign event.*** The substance of the NHRSC's complaint is the assertion that Vice President Gore and his presidential campaign committee, Gore 2000, received an impermissible campaign contribution from PG&E because the company timed its daily release of water for generating hydropower to accommodate an event in which the Vice President was a participant. To the best of PG&E's knowledge, the event, including the canoe ride on the river by the Vice President, New Hampshire Gov. Jeanne Shaheen, the Regional Director of the U.S. Environmental Protection Agency and other public and private officials, was not a campaign event. The event and canoe ride were part of a ceremony hosted by the Connecticut River Joint Commissions ("CRJC") and the U.S. Environmental Protection Agency ("EPA") to demonstrate federal support for the designation of the Connecticut River as an American Heritage River and to announce some \$819,000 in federal grants for the river and its surrounding communities.

A few days prior to the ceremony, PG&E was contacted by the CRJC, which reported to it that, during an advance site visit by the U.S. Secret Service, the Service had noted to CRJC a relatively low water level and expressed to CRJC safety concerns for the canoe trip. CRJC then asked PG&E to adjust the timing of its daily water release on the day of the ceremony, apparently in order to ensure a safe water flow for the canoe ride. CRJC made this request in the same manner as it periodically requests PG&E to modify its generation schedule in order to accommodate recreational activities. No one from Gore 2000 or the Office of the Vice President contacted PG&E about the water release or any other aspect of the ceremony.

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<sup>1</sup> OGC may, of course, initiate enforcement proceedings against persons it has reason to believe may have violated the law, *see* 11 C.F.R. § 111.8, but such an action requires Commission approval. No such action has been taken here.

It is not unusual for PG&E to consider water management requests from the CRJC, and others, to accommodate recreational, environmental and public events or activities. Indeed, cooperation on such matters is consistent with PG&E's obligations as a hydropower licensee and owner and operator of hydropower facilities.

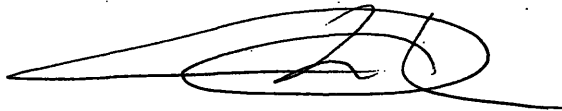
In response to the CRJC request, on the day of the ceremony, starting at 5:00 a.m., PG&E released water from its hydropower facilities upstream of where the events were to take place. The timing of the release was earlier than otherwise would have been the case. The total flow of water was well within the operating limits of the upstream hydropower facilities and actually below the total discharge capacity. All of the electricity generated by the release was sold to customers.

Consequently, PG&E's release of the water was not unusual in any respect, other than that it occurred earlier than otherwise would have been the case. Given the considerable media attention this matter has received, PG&E believes it is important for the public to understand that no water or hydropower was wasted by shifting the daily schedule of the water release to accommodate the CRJC ceremony. All of the power generated by the release was sold and no excessive water was released.

Moreover, nothing occurred that would have indicated or suggested to PG&E that the CRJC-EPA ceremony was a campaign event, and to date, the company is aware of no evidence indicating or suggesting otherwise. To the best of the company's knowledge, the Vice President was participating in an official public ceremony to celebrate the Connecticut River's designation as an American Heritage River and to announce \$819 million in new Federal grants. PG&E simply responded to a request made by the CRJC to shift the timing of its generating operations to ensure a safe water level in connection with the ceremonies.

Should you have any questions concerning this letter, please do not hesitate to contact us.

Sincerely,

A handwritten signature in dark ink, appearing to be "SR", with a long horizontal line extending to the left.

Steven R. Ross  
William J. Farah