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PACIFIC GAS AND ELECTRIC COMPANY

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UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

In re PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, Debtor. Federal I.D. No. 94-0742640	No. 01-30923 DM Chapter 11 Case Date: May 25, 2001 Time: 1:30 p.m. Place: 235 Pine St., 22nd Floor San Francisco, California

DECLARATION OF RANDAL S. LIVINGSTON IN SUPPORT OF MOTION FOR ORDER AUTHORIZING ASSUMPTION OF EXECUTORY HYDROELECTRIC POWER PURCHASE CONTRACTS

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I, Randal S. Livingston, declare as follows:

1. I am the Lead Director of Power Generation of Pacific Gas and Electric Company ("PG&E"), a position I have held since January 1, 2001. I have been an employee of PG&E since July 28, 1980 and have held the positions of Director of Hydro Generation, Director of Asset Management, and Director of Steam Generation. I make this Declaration in support of PG&E's Motion For Order Authorizing Assumption Of Executory Hydroelectric Power Purchase Contracts. This Declaration is based on my personal knowledge of PG&E's operations and financial position. If called as a witness, I could and would testify competently to the facts stated herein.

<u>The Hydroelectric Power Purchase ("HPP") Contracts</u>.

2. Beginning in 1952, PG&E entered into HPP Contracts with various California Irrigation Districts and Water Agencies. The HPP Contracts came about because the agencies were interested in developing hydroelectric projects for purposes of water supply and were not engaged in the electricity business. The agencies owned the water rights for the potential projects but lacked the financial means by which to construct the projects that would allow them to perfect these rights. PG&E agreed to purchase the electrical output derived from the hydroelectric projects on a long-term basis at a price sufficient for the agencies to pay the construction, financing, and operating costs of the facilities.

3. The HPP Contracts included in this Motion include six major long-term agreements: (1) Tri-Dam Project executed with the Oakdale and South San Joaquin Irrigation Districts in 1952; (2) South Fork Project executed with the Oroville-Wyandotte Irrigation District in 1960; (3) Yuba-Bear Project executed with the Nevada Irrigation District in 1963; (4) Middle Fork Project executed with the Placer County Water Agency in 1963; (5) Merced River Development Project executed with the Merced Irrigation District in 1964; and (6) Yuba River Development Project executed with the Yuba County Water Agency in 1966. True and correct copies of these HPP Contracts are filed herewith as Exhibits 1-6.*

*Due to the voluminous nature of the Exhibits, and pursuant to the Case Management Order issued on April 20, 2001 in this case, PG&E has not served the Exhibits on interested parties. Interested parties may obtain a hard copy of the HPP Contracts by e-mailing a request to utility@hrice.com or faxing a request to Jerome Ferrer at 415/217-5910. In either event, a hard

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4. PG&E more recently entered into two smaller-scale HPP Contracts, both of which involved adding new facilities onto existing projects: (1) Rollins Powerhouse Project executed with the Nevada Irrigation District in 1978; and (2) Sly Creek Powerhouse Project executed with the Oroville-Wyandotte Irrigation District in 1981. True and correct copies of these HPP Contracts are attached hereto as Exhibits 7-8.*

5. The parties to the HPP Contracts have over the years executed a large number of ancillary agreements and amendments thereto. These agreements and amendments do not materially alter PG&E's obligations with respect to the underlying contracts.

Characteristics Of The HPP Contracts.

6. Each of the six major HPP agreements specifies a contract term of 50 years. The smaller-scale HPP Contracts expire coterminously with the major HPP projects to which they were added (*i.e.*, the Rollins Contract expires with the Yuba-Bear Contract and the Sly Creek Contract expires with the South Fork Contract). At the time the parties executed the HPP Contracts, each of the projects was considered to be of marginal economic value and could only have been built using tax exempt financing by governmental agencies which would not have to pay property taxes. The lengthy terms of the contracts were needed to generate the maximum amount of bond proceeds for project construction purposes, and 50 years was the maximum term for which revenue bonds could be issued. There are material unperformed obligations under each HPP Contract on the part of both PG&E and the Irrigation Districts and Water Agencies.

7. Under the six major HPP Contracts, PG&E makes two types of payments for the project electricity: (1) semiannual payments ("construction payments") to provide the agencies with a revenue stream for paying off bonds issued to finance project construction costs; and (2) monthly operating and maintenance payments ("O&M payments") to pay for the day-to-day operating costs of the projects and for repairs and betterments. The only significant difference among these agreements is that the Tri-Dam Project Contract calls for PG&E to make O&M payments on a lump sum, semi-annual basis indexed to PG&E's labor costs whereas the other HPP Contracts call for dollar-for-dollar monthly reimbursement of actual O&M costs.

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copy of the Exhibits will be mailed to the address specified.

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8. PG&E's construction and O&M payments under the HPP Contracts represent the sole source of funds with which the project owners pay their bond amortization and operating costs. Certain of the project owners have investigated the possibility of unilateral, early termination of the HPP Contracts if PG&E defaults on its payments.

9. The parties to the HPP Contracts developed the financing and payment schedule based on the relatively low electric power values prevailing in the late 1950s and 1960s — 0.5 or 0.6 cents/kWh. The current average cost of energy under the HPP Contracts is approximately 1.15 cents/kWh based on average annual energy production. Specifically, the average cost of energy from the HPP Contracts ranges from a low of 0.89 cents/kWh to a high of 6 cents/kWh: (1) Yuba River Development Project — 0.89 cents/kWh; (2) Middle Fork Project – 1.01 cents/kWh; (3) Yuba-Bear Project — 1.09 cents/kWh; (4) Tri-Dam Project — 1.33 cents/kWh; (5) South Fork Project — 1.42 cents/kWh; (6) Merced River Development Project — 1.52 cents/kWh; (7) Rollins Powerhouse Project — 2.26 cents/kWh; and (8) Sly Creek Powerhouse Project — 6 cents/kWh.

10. In addition to the construction and O&M payments, PG&E makes per kilowatt-hour ("kWh") energy payments to the agencies under the terms of the two smaller-scale HPP Contracts. These payments — 0.4 cents/kWh for the Rollins Powerhouse Project and 0.7 cents/kWh for the Sly Creek Powerhouse Project — are included in the average cost of energy delineated in the preceding paragraph. These prices escalate based on changes in PG&E's short-run-avoided cost prices paid to qualifying facilities.

11. The current market quotes for on-peak power in the third quarter of 2001 is 38 cents/kWh. This market price reflects the cost estimated for power delivered during the 16 peak hours of weekdays and Saturdays.

12. The HPP projects provide significant ancillary services under the terms of the HPP Contracts for which PG&E does not make further payments. PG&E may use these services to meet the needs of its retail load or, if the services exceed the need, sell them on the market to the ISO and credit back the revenue to retail customers. These services, known as "regulation," "spinning reserve," "non-spinning reserve," and "blackstart," are systems by which to expeditiously regulate power supplies to match instantaneous fluctuations in demand for electricity.

13. The majority of the HPP projects, including the Tri-Dam Project, the Yuba-Bear Project, the Merced River Development Project, the Yuba River Development Project,

and the Rollins Powerhouse Project, are hydraulically interconnected with PG&E-owned projects. Under the HPP Contracts, PG&E dispatches both types of projects and the operations are highly coordinated to maximize the use of water resources for generating power.

14. The combined generating capacity of the HPP projects is 1048 megawatts — approximately half of the capacity produced by PG&E's Diablo Canyon Nuclear Power Plant.

Arrearages and Payments Due.

15. Prior to filing the Chapter 11 petition, PG&E was timely in making its semiannual construction payments and monthly O&M payments according to the terms of each HPP Contract.

16. As a consequence of filing the Chapter 11 petition, PG&E was unable to issue the first monthly O&M payments which fell due after the petition date. These payments represent an aggregate amount of $1,616,004.67 in arrearages: (1) Rollins Powerhouse Project — $6,147.43; (2) Sly Creek Powerhouse Project — $29,525.98; (3) Yuba-Bear Project — $168,135.17; (4) Yuba River Development Project — $229,709.24; (5) South Fork Project — $281,433.76; (6) Merced River Development Project — $431,530.36; and (7) Middle Fork Project — $469,522.73. PG&E makes O&M payments to the Oakdale and South San Joaquin Irrigation Districts for the Tri-Dam Project on a semi-annual — not monthly — basis.

17. The combined average construction payments due under the HPP Contracts from April 20, 2001 until 2004 will be $27,447,614 per annum: (1) $26,035,391 in 2001; (2) $27,914,972 in 2002; (3) $27,918,941 in 2003; and (4) $27,921,153 in 2004.

18. The estimated combined average O&M payments due under the HPP Contracts from April 20, 2001 until 2004 will be $27,888,830: (1) $21,235,753 for the remainder of 2001; (2) $32,951,669 in 2002; (3) $29,587,879 in 2003; and (4) $27,780,018 in 2004.

19. PG&E's revenue, based on its rate setting and collection structure, has averaged approximately $22.2 billion per annum from 1998 to 2000: (1) approximately $19,577,000,000 in 1998; (2) approximately $20,820,000,000 in 1999; and (3) approximately $26,232,000,000 in 2000.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct. Executed this 20th day of April 2001, at San Francisco, California.

RANDAL S. LIVINGSTON

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