

50-275/323

1 LILLIAN STENFELDT, CSB No. 104929  
2 GRAY CARY WARE FREIDENRICH, LLP  
3 400 Hamilton Avenue  
4 Palo Alto, CA 94301  
5 Telephone: (650) 833-2171

6 WILLIAM J. FLYNN, CSB No. 095371  
7 NEYHART, ANDERSON, FREITAS, FLYNN & GROSBOLL  
8 600 Harrison Street, Suite 535  
9 San Francisco, CA 94107  
10 Telephone: (415) 495-4949

11 MARC D. JOSEPH, CSB No. 135595  
12 KATHERINE S. POOLE, CSB No. 195010  
13 ADAMS BROADWELL JOSEPH & CARDOZO  
14 A Professional Corporation  
15 651 Gateway Boulevard, Suite 900  
16 South San Francisco, CA 94080  
17 Telephone: (650) 589-1660

18 Attorneys for Debtor's Employees' Union INTERNATIONAL BROTHERHOOD OF  
19 ELECTRICAL WORKERS LOCAL 1245

20 UNITED STATES BANKRUPTCY COURT  
21 NORTHERN DISTRICT OF CALIFORNIA  
22 SAN FRANCISCO DIVISION

23 In re  
24 PACIFIC GAS AND ELECTRIC  
25 COMPANY, a California corporation,  
26 Debtor.  
27 Federal I.D. No. 94-0742640

28 Case No. 01-30923 DM  
Chapter 11 case  
Date: June 18, 2001  
Time: 10:00 a.m.  
Place: 235 Pine Street, 22nd Floor  
San Francisco, California

29 DECLARATION OF JACK MCNALLY IN SUPPORT OF IBEW LOCAL 1245'S  
30 RESPONSE IN SUPPORT OF PG&E'S MOTION FOR ORDER AUTHORIZING  
31 ASSUMPTION OF COLLECTIVE BARGAINING AGREEMENTS

ADD: ADD: Eids Dgc Mail Center

1 I, Jack McNally, declare as follows:

2 1. I am Business Manager/Financial Secretary of the International  
3 Brotherhood of Electrical Workers ("IBEW") Local 1245. I have held this  
4 position since 1980. I previously worked as a Journeyman Lineman and  
5 Electric Crew Foreman for PG&E. More recently, I served on the Board of  
6 Governors of the Independent System Operator for approximately 3  
7 years. I currently serve as Chairman of the IBEW International Union  
8 Executive Council (the union's national governing board) and as Vice  
9 President and Executive Council Member of the California Labor  
10 Federation, AFL-CIO. I also serve as a member of the Board of Directors  
11 of the Federal Reserve Bank of San Francisco. I make this Declaration in  
12 support of IBEW Local 1245's Response in Support of Debtor's Motion for  
13 Order Authorizing Assumption of Collective Bargaining Agreements. This  
14 Declaration is based on my personal knowledge. If called as a witness, I  
15 could and would competently testify to the facts stated herein.

16 2. IBEW Local 1245 represents approximately 18,000 employees  
17 at PG&E, the Sacramento Municipal Utility District and approximately  
18 60 other utilities and businesses in California. IBEW Local 1245  
19 represents approximately 12,000 employees under two separate  
20 collective bargaining agreements with PG&E. One applies to Operation,  
21 Maintenance and Construction Employees. The other applies to Office  
22 and Clerical Employees. Under both agreements, the parties have  
23 adopted letter agreements and letters of interpretation concerning  
24 various topics and both agreements refer to the obligations of the parties  
25 to negotiate about future letter agreements. (See Operation,  
26 Maintenance and Clerical Agreement, Section 400 and Office and Clerical  
27 Agreement, Section 22.) The letter agreements and letters of  
28 interpretation are a part of each collective bargaining agreement. PG&E's

1 Motion refers to one such letter agreement, concerning certain severance  
2 pay obligations, but all these letters are equally enforceable and binding  
3 as a part of the collective bargaining agreements.

4       3. The employees represented by IBEW Local 1245 perform the  
5 day-to-day activities that keep the utility functioning, providing safe and  
6 reliable electric and gas service to most of northern and central  
7 California. These functions include operating and maintaining PG&E's  
8 steam, nuclear and hydroelectric power plants; installing and  
9 maintaining PG&E's electric and gas transmission and distribution lines;  
10 constructing and operating electric substations and other capital  
11 projects; responding to electrical outages, both routine and after storms  
12 and earthquakes; installing, maintaining and reading meters; and  
13 responding to customers' telephone and in-person inquiries regarding  
14 safety, billing and other concerns.

15       4. Most of the employees represented by IBEW Local 1245 have  
16 undergone extensive training to learn their craft. For example,  
17 journeyman linemen perform all classes of overhead and underground  
18 transmission and distribution electric power line work. The background  
19 of apprenticeship and experience must be such as to qualify an employee  
20 to perform these duties with skill and efficiency. The lineman  
21 apprenticeship includes four years of academic and on-the-job training,  
22 with the first year strictly becoming familiar with power line work as a  
23 groundman. Over the next three years, comprehensive training takes  
24 place. This includes 560 hours of academic education, over 1,000 hours  
25 of high voltage live line rubber gloving and live line hot stick training. In  
26 addition, the apprentice receives over 1,600 hours of task-specific on the  
27 job training.

28

1           5. Similarly, a Gas Service Representative performs domestic and  
2 commercial service work such as gas and electric meter operations, gas  
3 regulator and monitor adjustments, appliance and control adjustments,  
4 diagnosing appliance problems and routine service to all types of gas  
5 burning equipment. The Gas Service Representative sets, installs and  
6 maintains domestic and commercial gas equipment. Gas Service  
7 Representatives are required to successfully complete four weeks of  
8 academic-type training and testing which provides the training on the  
9 many functions and gas safety procedures required of the job. In  
10 addition, over a 30-month period the Gas Service Representative is  
11 reviewed and tested to maintain his or her skills. Gas Service  
12 Representatives must also meet stringent United States Department of  
13 Transportation requirements.

14           6. Three factors make it is especially critical right now that PG&E  
15 be able to retain these trained, highly skilled employees. First, there is  
16 currently a nationwide shortage of journeyman linemen. This shortage  
17 extends to PG&E's service territory. In fact, PG&E has been attempting  
18 to hire journeyman linemen for at least the last two years, without much  
19 success. As a result, in 2000, PG&E filled approximately 70 apprentice  
20 linemen positions internally in hopes of training its own journeyman  
21 workforce. It will take 3 to 4 years for these apprentice linemen to reach  
22 journeyman status. PG&E is currently seeking to hire 40 apprentice  
23 linemen and 53 journeyman linemen.

24           7. The consequences of this shortage of qualified linemen is  
25 twofold. First, PG&E's current workforce of journeyman linemen can  
26 easily find lucrative positions elsewhere, including at other, more  
27 financially secure publicly owned utilities in northern California.  
28 Second, PG&E does not currently have a sufficient number of qualified

1 linemen on staff to fill its existing needs. Therefore, PG&E must  
2 actively seek to retain the qualified linemen that it does employ to meet  
3 its basic mandate of operating in a safe and reliable manner.

4 8. The second factor that makes it especially imperative right now  
5 that PG&E retain its qualified workforce is that seasoned, qualified  
6 employees are required to respond to California's current electricity  
7 crisis. One result of the electricity crisis is that electric consumers need  
8 more help than usual. They need help understanding the system of  
9 rolling blackouts. They need help identifying effective conservation  
10 measures for their homes and businesses. They need help responding to  
11 the one cent per kilowatt hour rate surcharge implemented in January,  
12 the three cent per kilowatt hour rate surcharge that will be implemented  
13 in June, and the Governor's 20/20 rebate program for the summer. The  
14 recently implemented three cent rate surcharge represents the largest  
15 electric rate increase in California history, and will require that many  
16 people adopt deferred payment plans. Moreover, customers will need  
17 help understanding that the rate increase does not apply to residential  
18 users who use less than 130% of their baseline amount. It is particularly  
19 important to help low-income customers understand the extent to which  
20 they are exempted from the rate increases, and how they can qualify for  
21 those exemptions.

22 9. The people who answer all of these questions are the customer  
23 service representatives that are covered by PG&E's collective bargaining  
24 agreements with IBEW Local 1245. Customer service representatives  
25 undergo a minimum of six weeks of training to familiarize themselves  
26 with PG&E's complex system of tariffs, billing and operations, and on  
27 average it takes two years of experience to become proficient as a  
28 customer service representative. In 2000, PG&E's customer service call

1 centers experienced an average of 40,000 calls per day. In January  
2 2001, when rolling blackouts first hit northern California and gas prices  
3 increased dramatically, PG&E's customer call centers received an  
4 average of 70,000 calls per day. Since that time, the call centers have  
5 continued to receive an unusually large volume of calls, averaging 64,000  
6 per day. It is likely that the volume of calls will increase even further  
7 when customer bills begin to reflect the most recent three cent per  
8 kilowatt hour electric rate increase in June, and if rolling blackouts  
9 become more frequent this summer.

10 10. In addition, the electricity crisis has caused California as a  
11 whole and northern California in particular to experience an  
12 unprecedented number of intentional, rolling blackouts during the last  
13 six months. The frequency and duration of intentional, rolling blackouts  
14 are predicted to increase this summer, and may continue well into next  
15 year. It takes approximately 200 employees to perform the rolling  
16 blackout operations, including the people who perform the physical  
17 switching operation opening and closing circuits, operators in control  
18 centers, and employees in emergency operations centers. This total does  
19 not include call center employees, where call volumes typically increase  
20 400-500% during rolling blackouts. The procedure to implement a  
21 rolling blackout requires knowledge and skill as to timing and accuracy.  
22 If not done properly, it could result in seriously overstressing circuits,  
23 increased outages, and generating plants tripping off the system.

24 11. The third factor making it especially critical that PG&E  
25 retain its qualified workforce right now is that the electricity crisis is  
26 increasing demands on PG&E's existing personnel. For example, the  
27 Governor recently signed legislation appropriating \$35 million to the  
28 California Energy Commission ("CEC") for the installation of real-time

1 meters for all utility customers with a peak electric demand of more than  
2 200 kilowatts of electricity. The CEC anticipates that approximately  
3 20,000 new meters will be installed under this program, and another  
4 5,000 meters upgraded statewide. Approximately 8,000 meters is the  
5 estimated share for PG&E. PG&E anticipates receiving 5,900 real-time  
6 meters to install in a four-month period beginning in late June under  
7 this program. PG&E employees will perform the installation and  
8 maintenance of these new meters for PG&E customers. The installation  
9 effort alone is expected to take approximately 12,000-15,000 employee  
10 hours from PG&E's metering workforce this summer, on top of their  
11 existing duties. It is also anticipated that this effort will require a  
12 significant increase in hours from PG&E's account representatives, who  
13 will need to educate the customers who receive the new meters about the  
14 rate tariffs available to them.<sup>1</sup>

15       12. All of these factors make it imperative that PG&E take the  
16 necessary steps to retain its workforce right now. The most critical step  
17 that PG&E can take in this effort is assuming the collective bargaining  
18 agreements with its employees' unions. Currently, PG&E's represented  
19 employees are working under a cloud of uncertainty regarding their  
20 employment status and employee rights. As an example, in 2000 PG&E  
21 lost an average of 14 customer service representatives a month, and this  
22 year the monthly average is 25, almost a 65% increase. PG&E has failed  
23 to honor certain obligations under the collective bargaining agreements,  
24 including making severance and displacement payments to qualified

25

26

27

28

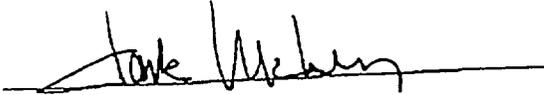
---

<sup>1</sup> The purpose of the real-time metering program is to enable as many large customers as possible to shift their electric demand from peak usage times to off-peak times and to voluntarily switch to real-time pricing options, and, thereby, receive an incentive to conserve during peak usage hours.

1 employees under a program that has already received approval for rate  
2 recovery from the California Public Utilities Commission. If this situation  
3 continues, there is a significant risk that many employees will consider  
4 other jobs. Currently, 1,340 employees represented by IBEW Local 1245  
5 are eligible for retirement. Six hundred of these have over 30 years of  
6 service and consequently would not be subject to early retirement  
7 penalties. Many of these employees may well retire earlier than they  
8 otherwise would have if PG&E does not assume the collective bargaining  
9 agreements. Similarly, there is a significant risk that many linemen and  
10 other safety-critical employees will seek employment elsewhere if PG&E  
11 fails to assume the collective bargaining agreement. As the  
12 representative of employees at several other electric service businesses in  
13 California, I am aware that many of these employers would be eager to  
14 hire PG&E-trained personnel.

15 13. Finally, PG&E's cost of labor is tiny portion of its overall  
16 debt burden. The monthly payroll cost of all represented employees is  
17 approximately \$54.2 million. While this is a large number in absolute  
18 terms, it is not large compared to PG&E's reported outstanding debt. In  
19 addition, PG&E refers to certain obligations arising from arbitrations that  
20 been concluded but not yet paid. There are other disputes that are  
21 currently in the grievance and arbitration procedure but are not yet final.  
22 Some of those disputes may involve payments owing from the period  
23 prior to the bankruptcy filing.

24 I declare under penalty of perjury under the laws of the United  
25 States of America and the State of California that the foregoing is true  
26 and correct. Executed this 4<sup>th</sup> day of June, 2001, at Walnut Creek,  
27 California.

1  
2  
3  
  
JACK MCNALLY

1 LILLIAN STENFELDT, CSB No. 104929  
2 GRAY CARY WARE FREIDENRICH, LLP  
3 400 Hamilton Avenue  
4 Palo Alto, CA 94301  
5 Telephone: (650) 833-2171

6 WILLIAM J. FLYNN, CSB No. 095371  
7 NEYHART, ANDERSON, FREITAS, FLYNN & GROSBOLL  
8 600 Harrison Street, Suite 535  
9 San Francisco, CA 94107  
10 Telephone: (415) 495-4949

11 MARC D. JOSEPH, CSB No. 135595  
12 KATHERINE S. POOLE, CSB No. 195010  
13 ADAMS BROADWELL JOSEPH & CARDOZO  
14 A Professional Corporation  
15 651 Gateway Boulevard, Suite 900  
16 South San Francisco, CA 94080  
17 Telephone: (650) 589-1660

18 Attorneys for Debtor's Employees' Union INTERNATIONAL BROTHERHOOD OF ELECTRICAL  
19 WORKERS LOCAL 1245

20 UNITED STATES BANKRUPTCY COURT  
21 NORTHERN DISTRICT OF CALIFORNIA  
22 SAN FRANCISCO DIVISION

23 In re  
24 PACIFIC GAS AND ELECTRIC COMPANY, a  
25 California corporation,  
26 Debtor.  
27  
28 Federal I.D. No. 94-0742640

Case No. 01-30923 DM  
Chapter 11 case  
Date: June 18, 2001  
Time: 10:00 a.m.  
Place: 235 Pine Street, 22<sup>nd</sup> Floor  
San Francisco, California

29 INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL 1245'S RESPONSE  
30 IN SUPPORT OF DEBTOR'S MOTION FOR ORDER AUTHORIZING ASSUMPTION OF  
31 COLLECTIVE BARGAINING AGREEMENTS  
32 [SUPPORTING DECLARATION OF JACK MCNALLY FILED SEPARATELY]

I.

INTRODUCTION

On May 18, 2001, Pacific Gas and Electric Company ("PG&E") filed a Motion for Order Authorizing Assumption of Collective Bargaining Agreements ("Motion") and supporting documents. The International Brotherhood of Electrical Workers ("IBEW") Local 1245 files this response in support of PG&E's Motion. IBEW Local 1245 is the signatory union to two of PG&E's four collective bargaining agreements, representing approximately 12,000 PG&E employees under those agreements. Declaration of Jack McNally, ¶ 2, filed herewith ("McNally Decl.")<sup>1</sup>; PG&E Memorandum of Points and Authorities, p. 1 (May 18, 2001) ("Mem. Points and Auth.").

It is critical that the Court issue an order authorizing PG&E to assume its collective bargaining agreements with IBEW Local 1245. The PG&E employees represented by Local 1245 perform the day-to-day activities that keep the utility functioning and keep gas and electric service flowing to most of northern and central California in a safe and reliable manner. McNally Decl., ¶ 3. They are the men and women who keep electric transmission lines operational and gas pipelines secure, who respond in the middle of the night when a storm knocks out electric service or an earthquake causes gas leaks, who maintain and operate PG&E's nuclear, hydroelectric and steam generating facilities, and who interact daily with customers, both on the phone and in the field. *Ibid.*

These employees currently face a great deal of job uncertainty due to PG&E's bankruptcy and the fact that PG&E's collective bargaining agreements have not yet been assumed. *Id.*, ¶ 12. There is a significant risk that many of them will seek employment elsewhere if PG&E does not assume the collective bargaining agreements. *Ibid.* Prior to the filing of PG&E's bankruptcy petition, the California Public Utilities Commission ("PUC") concluded that PG&E cannot afford to lose employees in many of the service areas staffed by Local 1245's members without violating the utility's statutory duty to provide adequate, efficient, just and reasonable service. PUC Decision No. 01-03-029, Conclusions of Law ¶¶ 6,7 ("D.01-03-029") (available at

---

<sup>1</sup> Jack McNally has been the Business Manager and Financial Secretary of IBEW Local 1245 since 1980. He has also served on the Board of Governors of the California Independent System Operator, as Chairman of the IBEW International Union Executive Council, as Vice President and Executive Council Member of the California Labor Federation AFL-CIO, and as a member of the Board of Directors of the

1 [http://www.cpuc.ca.gov/PUBLISHED/FINAL\\_DECISION/5817.htm](http://www.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/5817.htm) ). The Court should strongly  
2 consider the PUC's expertise in this instance in evaluating minimum standards of utility service and  
3 PG&E's sound business judgment in seeking to assume the collective bargaining agreements by  
4 granting PG&E's Motion.

5 II.

6 FACTUAL BACKGROUND

7 PG&E could not perform the utility's core business of providing gas and electric service without  
8 the employees represented by Local 1245. These employees operate, maintain and, in most instances,  
9 install the equipment that generates electricity, transmits and distributes electricity, and measures a  
10 customer's electrical and gas usage. They also operate, maintain and install the equipment that allows  
11 natural gas to be brought into the state, distributed to various allocation points, and delivered safely to  
12 the customer's burner tip. Local 1245's members are the first line responders when an emergency  
13 disrupts electrical power or gas service. In addition, Local 1245's members represent the "face of  
14 PG&E" for most customers, who may encounter field representatives when obtaining new service,  
15 contact customer service representatives when they have a billing question or safety concern, recognize  
16 meter readers traversing their neighborhoods, and invite service technicians into their homes to relight  
17 pilot lights or perform gas appliance safety checks.

18 Further, the employees represented by Local 1245 play a critical role in ensuring public safety.  
19 PG&E has a responsibility to ensure that when an electric line is down, it has qualified people available  
20 to correct the problem immediately. *See* California Public Utilities Code, § 451. PG&E simply will not  
21 have the ability to respond to such public safety emergencies in a timely manner if its workforce is  
22 drastically reduced and a storm hits. Employee reductions at a combined utility like PG&E also threaten  
23 the safety of the natural gas system. A safe and prompt response to the Loma Prieta earthquake would  
24 not have been possible without the round-the-clock efforts of nearly the entire workforce at PG&E, as  
25 well as employees from unaffected utilities who were brought in to help. A lack of adequate staffing  
26 would make such a response impossible.

27  
28  

---

Federal Reserve Bank of San Francisco.

IBEW LOCAL 1245'S RESP. IN SUPPORT OF PG&E'S MOTION TO ASSUME COLL. BARGAINING AGREEMENTS

1           The employees who perform these functions often undergo extensive training before qualifying  
2 for a position with PG&E. For example, a lineman undergoes four years of academic and on-the-job  
3 training before graduating from apprentice to journeyman status. McNally Decl., ¶ 4. Gas service  
4 representatives must successfully complete four weeks of academic training and testing to learn their  
5 skills, with periodic reviews and testing over the subsequent 30 months to maintain those skills. *Id.*, ¶ 5.  
6 Gas service representatives are also subject to pre-employment, post-accident and random drug and  
7 alcohol testing under the U.S. Department of Transportation's gas pipeline safety regulations. 49 C.F.R.  
8 § 199.11. Further, billing technicians and customer service representatives must have expertise in  
9 PG&E's unique customer information and billing systems that takes time and training to develop.  
10 McNally Decl., ¶ 9.

11           Because of the training and expertise necessary for many of these positions, as well as the sheer  
12 size of PG&E's unionized workforce, PG&E could not easily or quickly replace its investment in its  
13 represented employees. In fact, PG&E has been attempting to hire journeyman linemen for at least the  
14 last two years without success. McNally Decl., ¶ 6. PG&E is currently seeking to hire 40 apprentice  
15 linemen and 53 journeyman linemen. *Ibid.* A nationwide shortage of these skilled employees has  
16 currently left PG&E understaffed in this safety-critical position. Every effort must be made to assure  
17 that more qualified linemen are retained.

18           In addition, California's electricity crisis has made it more important than ever that PG&E retain  
19 its existing, highly-skilled workforce. The electricity crisis has substantially increased the demands on  
20 PG&E's employees. For example, calls to the customer call centers have increased from an average of  
21 40,000 calls per day in 2000 to an average of 64,000 calls per day since January of 2001. McNally  
22 Decl., ¶ 9. In January, 2001, when rolling blackouts first hit northern California and gas prices increased  
23 dramatically, PG&E's customer call centers received an average of 70,000 calls per day. *Ibid.* It is  
24 likely that calls to the call centers will increase even more in the near future as customers' bills begin to  
25 reflect recent electric rate increases and the frequency of rolling blackouts increase.

26           During this time of turmoil for California's electricity system, customers need and deserve  
27 competent and timely responses when they contact PG&E's customer call centers. Trained, experienced  
28 employees will provide competent, timely responses. Untrained, inexperienced employees will not.

1 Implementing rolling blackouts also requires the response of a knowledgeable, skilled team of  
2 employees. When California's Independent System Operator calls for a rolling blackout, it takes  
3 approximately 200 PG&E employees to perform the operation. McNally Decl., ¶ 10. If the procedure is  
4 not done properly, implementing blackouts could cause circuits to overstress, outages to increase, and  
5 knock additional generation off-line when the system needs it most. *Ibid.* The frequency of rolling  
6 blackouts is expected to increase this summer and may continue well into next year.

7 Further, Governor Gray Davis, the California Legislature and the PUC have recently  
8 implemented substantial changes for California's electric utilities that will have significant impacts on  
9 PG&E's operations, its employees and its customers. Earlier this year, under his emergency authority,  
10 the Governor issued Executive Order D-30-01, the "20/20 rebate program" that provides residential  
11 customers who are able to reduce their electrical consumption by 20% this summer with a 20% rebate  
12 on their electricity bill. The PUC has adopted two rate surcharges since the beginning of the year that  
13 represent the largest electric rate increase in California history. PUC Decision No. 01-01-018 (available  
14 at [http://www.cpuc.ca.gov/PUBLISHED/FINAL\\_DECISION/4328.htm](http://www.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/4328.htm)); PUC Decision No. 01-03-082  
15 (avail. at [http://www.cpuc.ca.gov/PUBLISHED/FINAL\\_DECISION/6067.htm](http://www.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/6067.htm)). It has also expanded  
16 the eligibility requirements for low-income customers to be exempt from these rate increases. PUC  
17 Decision No. 01-03-082. The Legislature has exempted residential customers who use less than 130%  
18 of their baseline electric usage from the most recent rate increase. Assembly Bill 1X-1. The Legislature  
19 has also directed the California Energy Commission to install approximately 20,000 real-time meters  
20 and upgrade another 5,000 real-time meters statewide as quickly as possible. Assembly Bill 1X-29.

21 Implementing these changes puts additional demands on PG&E's employees to, among other  
22 things, modify existing equipment, install new equipment, update billing systems, inform customers of  
23 ways to conserve, help customers select appropriate tariffs and design deferred payment plans to handle  
24 rate increases, and assist low-income customers in taking full advantage of low-income exemptions from  
25 rate increases. For example, PG&E will perform the California Energy Commission's meter installation  
26 and maintenance program in its service territory with employees represented by Local 1245. Many of  
27 these tasks are expected to increase in the near future, as PG&E begins installing real-time meters and  
28 customers' bills begin to reflect recent rate increases.



1 "the layoffs that PG&E ... [has] implemented, or [is] in the process of implementing, are rescinded to  
2 the extent that the positions that were terminated adversely affect the respective utility's ability to: full  
3 staff their customer call centers; read meters on a monthly basis for all customers; timely respond to  
4 service calls and outages; and to connect new customers." D.01-03-029, Conclusions of Law ¶ 6,  
5 Ordering Paragraph 1. The PUC prohibited PG&E from engaging in other layoffs that adversely affect  
6 these service areas and directed PG&E to "staff their customer call centers so that they can handle the  
7 volume of incoming calls, and to staff their [transmission and distribution] units so that field personnel  
8 can continue to connect new customers and respond to and remedy outages and other service-related  
9 problems in the same amount of time that existed prior to the utilities' financial problems." D.01-03-  
10 029, Ordering Paragraph 1.

11 In Decision 01-03-029, the PUC was assessing PG&E's release of approximately 505 employees  
12 and its plans to release another 675 employees if its cash flow situation did not improve. D.01-03-029,  
13 pp. 17-18. PG&E is likely to lose a much greater number of employees than the PUC considered in  
14 D.01-03-029 if it fails to assume its collective bargaining agreements. Currently, 1,340 employees  
15 represented by Local 1245 are eligible for retirement. McNally Decl., ¶ 12. Many of these employees  
16 may well retire earlier than they otherwise would have if PG&E does not assume the collective  
17 bargaining agreements. *Ibid.* Further, there is a significant risk that many linemen and other safety-  
18 critical employees will seek employment elsewhere if PG&E fails to assume the collective bargaining  
19 agreements. *Ibid.* Many employers in northern California and elsewhere would be eager to hire PG&E-  
20 trained personnel. *Ibid.*, and ¶ 7. Finally, attrition is already inordinately high at PG&E this year. For  
21 example, in 2000, PG&E lost an average of 14 customer service representatives a month. McNally  
22 Decl., ¶ 12. In 2001, PG&E is losing an average of 25 customer service representatives a month, almost  
23 a 65% increase. *Ibid.* Assuming the collective bargaining agreements is the most effective step that  
24 PG&E can take to stem this tide and retain its workforce. *Ibid.*

25 The expert agency in the State of California charged with overseeing utility service has  
26 determined that PG&E cannot satisfy its statutory obligations for safe and adequate service if its staffing  
27 in certain areas falls below the level that existed prior to its current financial crisis. Failure to assume  
28 the collective bargaining agreements will cause PG&E's staffing to decline further. The Court should

1 allow PG&E to assume the collective bargaining agreements to help ensure that it can continue to  
2 provide the level of service necessary for the health and safety of its customers.

3 B. The Cost Of Labor Is Minor and Will Not Diminish the Estate

4 The monthly payroll cost of all represented employees at PG&E is approximately \$54.2 million.  
5 McNally Decl., ¶ 13. While this is a large number in absolute terms, it is several orders of magnitude  
6 less than PG&E's unpaid obligations at issue in this proceeding. The costs of represented employees are  
7 entirely unrelated to the enormous fundamental problem – the cost of wholesale power. Perhaps most  
8 importantly, the ongoing costs for PG&E's represented employees are being fully paid for from the  
9 electric and gas rates paid by PG&E's customers. Continuing to pay these employees by assuming the  
10 collective bargaining agreements will not diminish the estate.

11 C. The PUC Has Determined That PG&E Can Recover Severance and Displacement  
12 Program Costs

13 If PG&E assumes the collective bargaining agreements, it will cure all outstanding arrearages  
14 under the agreements. Mem. Points and Auth., p. 4. The vast majority of these arrearages are severance  
15 and displacement payments owed to employees who lost their jobs with PG&E at divested power plants  
16 as a result of California's transition to a deregulated electric market. *Id.*, pp. 4-6. The PUC has *already*  
17 *approved* PG&E's recovery from ratepayers of severance and displacement program costs. PUC  
18 Decision No. 00-02-048 (avail. at [http://www.cpuc.ca.gov/published/final\\_decision/1766.htm](http://www.cpuc.ca.gov/published/final_decision/1766.htm)) ("D.00-  
19 02-048"). Therefore, paying these costs does not impose *any* additional burden on the estate.

20 PG&E and Local 1245 developed the severance and displacement program in response to  
21 California's restructuring of the electric market in Assembly Bill 1890 ("AB 1890"). The California  
22 Legislature recognized in AB 1890 that hardships to utility employees could arise from many different  
23 aspects of industry restructuring and the unique nature of utility employment. California Public Utilities  
24 Code, § 330(u).<sup>2</sup> The Legislature expressed its preference that if restructuring caused reductions in the  
25

---

26 <sup>2</sup> Section 330(u) states that:

27 The transition to expanded customer choice, competitive markets, and performance based  
28 ratemaking ... can produce hardships for employees who have dedicated their working lives to  
utility employment. It is preferable that any necessary reductions in the utility work force  
directly caused by electrical restructuring, be accomplished through offers of voluntary  
IBEW LOCAL 1245'S RESP. IN SUPPORT OF PG&E'S MOTION TO ASSUME COLL. BARGAINING AGREEMENTS

1 work force, they should be accomplished using voluntary incentives to employees rather than  
2 involuntary layoffs. *Ibid.* In addition, the Legislature declared that whether work force reductions were  
3 voluntary or involuntary, the reasonable costs of these programs would be recovered from ratepayers.

4 *Ibid.*

5 The Legislature executed its intent in section 375 of the Public Utilities Code, which states that  
6 the PUC "shall allow" recovery of "reasonable employee related transition costs" under programs that  
7 "mitigate potential negative impacts on utility personnel directly affected by electric industry  
8 restructuring." *Id.*, § 375(a). Such programs include severance, retraining, early retirement,  
9 outplacement and related benefits. *Ibid.* In addition, reasonable employee related transition costs  
10 includes costs for employees performing services in connection with section 363 of the Public Utilities  
11 Code. *Id.*, § 375(b). Section 363 requires utilities to operate and maintain divested power plants for at  
12 least two years following divestiture in order to ensure safe and reliable service during the transition  
13 period. *Id.*, § 363(a).

14 The PUC has reviewed whether PG&E's severance and displacement program costs qualify as  
15 "reasonable employee related transition costs" under section 375 of the Public Utilities Code and has  
16 concluded that they do. D.00-02-048. As a result, PG&E is entitled to recover the costs of severance  
17 and displacement program payments in rates. In addition, in contrast to many other transition costs  
18 under AB 1890, PG&E can incur and recover employee related transition costs *after* the statutory rate  
19 freeze ends, until December 31, 2006. *Id.*, p. 24; California Public Utilities Code, §§ 367(a)(1), 375(b).  
20 Therefore, PG&E will be entitled to recover severance and displacement payments made to qualified  
21 employees from ratepayers, even if PG&E recovers no other transition costs.

22 Of the \$20.9 million that PG&E is in arrears under the collective bargaining agreements, \$19.7  
23 million has been incurred under a program with costs recoverable from ratepayers. Accordingly,  
24 approval of PG&E's Motion will impose a minimal burden on the estate. It should be approved.

25  
26  
27  
28 severance, retraining, early retirement, outplacement, and related benefits. Whether work force  
reductions are voluntary or involuntary, reasonable costs associated with these sorts of benefits  
should be included in the competition transition charge.

IBEW LOCAL 1245'S RESP. IN SUPPORT OF PG&E'S MOTION TO ASSUME COLL. BARGAINING AGREEMENTS

1 D. Assumption Requires The Debtor To Make Good On All Obligations Under The  
2 Collective Bargaining Agreements

3 As PG&E recognizes in its Motion, the assumption requirement includes both an obligation  
4 that the Debtor "cure" all past contract breaches but also follow the agreement in the future. Wein Air  
5 Alaska v. Bachner (9<sup>th</sup> Cir. 1989) 865 F. 2d 1106, 1111. In this case, these obligations include some  
6 pending matters that are not yet final. McNally Decl., ¶ 13.

7 The collective bargaining agreements include a grievance and arbitration procedure. That  
8 procedure may take some time so that matters are now pending that arose pre-petition.<sup>3</sup> For example,  
9 there may be arbitration decisions that are not yet final or hearings not yet completed.

10 PG&E's filing does not mention these pending but not finalized obligations but they necessarily  
11 are either a part of the "cure" obligation or of the "adequate assurance of future performance."

12 Local 1245 suggests that the Order affirming the agreements make clear that the obligations of  
13 the Debtor going forward are the same as its obligations as if no bankruptcy had been filed, *i.e.*, it must  
14 comply with the applicable collective bargaining agreement and, if the parties dispute compliance, any  
15 dispute is resolved via the grievance procedure<sup>4</sup> which ultimately leads to a final and binding resolution  
16 of disputes.

17 IV.

18 CONCLUSION

19 Assuming the collective bargaining agreements will allow PG&E to retain qualified, skilled  
20 employees at a time when PG&E desperately needs a qualified, skilled workforce. It will also impose a  
21  
22  
23  
24

---

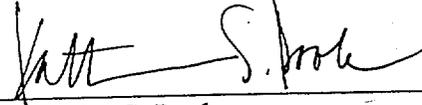
25 <sup>3</sup> The Debtor initially took the position that the bankruptcy barred it from participating in the grievance  
26 and arbitration process. It changed that position shortly after the bankruptcy filing. Any disputes  
27 concerning what are the Debtor's obligations under its collective bargaining agreements after filing but  
before assumption will now be moot if the collective bargaining agreements are assumed.

28 <sup>4</sup> As a result, Local 1245 also requests that the Order explicitly state that the automatic stay is waived  
insofar as there are disputes about obligations under the collective bargaining agreements. PG&E will  
be free, as always, to interpret the agreement but, as agreed, its interpretation can be questioned via the  
grievance and arbitration procedure.

1 minimal burden on the estate. The Court should grant PG&E's Motion to assume the collective  
2 bargaining agreements.

3  
4 DATED: June 4, 2001

Respectfully submitted,



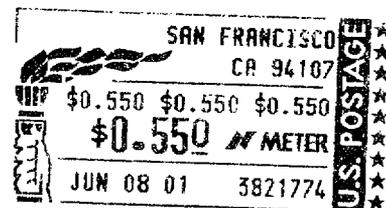
5  
6 Katherine S. Poole  
7 ADAMS BROADWELL JOSEPH & CARDOZO  
8 A Professional Corporation  
9 651 Gateway Boulevard, Suite 900  
10 South San Francisco, CA 94080  
11 Telephone: (650) 589-1660

12 Attorneys for Debtor's Employees' Union  
13 INTERNATIONAL BROTHERHOOD OF  
14 ELECTRICAL WORKERS LOCAL 1245

FROM...

NEYHART, ANDERSON, FREITAS, FLYNN & GROSBOLL  
600 HARRISON STREET, SUITE 535  
SAN FRANCISCO, CA 94107-1370 

TO...



U.S. Nuclear Regulatory Commission  
Attn: Document Control Desk  
Washington, D.C. 20555-0001