

1 JAMES L. LOPES (No. 63678)
JEFFREY L. SCHAFER (No. 91404)
2 GARY M. KAPLAN (No. 155530)
HOWARD, RICE, NEMEROVSKI, CANADY,
3 FALK & RABKIN
A Professional Corporation
4 Three Embarcadero Center, 7th Floor
San Francisco, California 94111-4065
5 Telephone: 415/434-1600
Facsimile: 415/217-5910

6 Attorneys for Debtor and Debtor in Possession
7 PACIFIC GAS AND ELECTRIC COMPANY

8
9 UNITED STATES BANKRUPTCY COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION
12

13 In re

14 PACIFIC GAS AND ELECTRIC
COMPANY, a California corporation,

15 Debtor.
16

17 Federal I.D. No. 94-0742640
18

Case No. 01-30923 DM

Chapter 11 Case

Date: July 24, 2001
Time: 9:30 a.m.
Place: 235 Pine St., 22nd Floor
San Francisco, California
Judge: Hon. Dennis Montali

19
20 DEBTOR'S NOTICE OF MOTION AND MOTION FOR ORDER EXTENDING
EXCLUSIVITY PERIOD FOR FILING PLAN OF REORGANIZATION;
21 SUPPORTING MEMORANDUM OF POINTS AND AUTHORITIES

22 [SUPPORTING DECLARATION OF GORDON R. SMITH FILED SEPARATELY]
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S. Rep. No. 95-989 (1978), reprinted in 1978 U.S.C.C.A.N. 5787

HOWARD
RICE
NEMEROVSKI
CANADY
PAIK
& RAEBIN
A Professional Corporation

1 **NOTICE OF MOTION AND MOTION**

2 **PLEASE TAKE NOTICE** that on July 24, 2001, at 9:30 a.m., or as soon
3 thereafter as the matter may be heard, in the Courtroom of the Honorable Dennis Montali,
4 located at 235 Pine Street, 22nd Floor, San Francisco, California, Pacific Gas and Electric
5 Company, the debtor and debtor in possession in the above-captioned Chapter 11 case (the
6 "Debtor" or "PG&E"), will and hereby does move the Court for entry of an order pursuant to
7 Bankruptcy Code Section 1121(d): (1) extending for four months, until December 6, 2001
8 (or such later date as the Court may hereafter order based upon a subsequent motion filed on
9 or before December 6, 2001), the exclusive period under Bankruptcy Code Section 1121
10 during which only PG&E may file a plan of reorganization; and (2) in the event that PG&E
11 files a plan on or before December 6, 2001, extending for four months, until February 4,
12 2002 (or such later date as the Court hereafter may order based upon a subsequent motion
13 filed on or before February 4, 2002), the time during which PG&E maintains such "plan
14 exclusivity" pursuant to Bankruptcy Code Section 1121(c)(3) (the "Motion"). As set forth
15 below, PG&E submits that there is "cause" to grant the requested extensions pursuant to
16 Bankruptcy Code Section 1121(d).

17 This Motion is based on the facts and law set forth herein, the Declaration of
18 Gordon R. Smith ("Smith Decl.") in support of the Motion filed concurrently herewith, the
19 record of this case and any evidence presented at or prior to the hearing on this Motion.

20 **PLEASE TAKE FURTHER NOTICE** that pursuant to Rule 9014-1(c)(2) of the
21 Bankruptcy Local Rules of the United States District Court for the Northern District of
22 California, any opposition to the Motion and the relief requested herein must be filed with
23 the Bankruptcy Court and served upon appropriate parties (including counsel for PG&E) at
24 least five (5) days prior to the scheduled hearing date. If there is no timely objection to the
25 requested relief, the Court may enter an order granting such relief without further hearing.
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I.

3 INTRODUCTION.

4 PG&E is an investor-owned utility providing electric and gas services to millions
5 of California residents and businesses. Beginning approximately last summer, as a result of
6 the partial deregulation of the power industry, PG&E was forced to pay dramatically
7 increased wholesale prices for electricity. PG&E has, however, been prevented from
8 passing these costs on to retail customers, resulting in a staggering financial shortfall. In the
9 face of the deterioration in PG&E's financial condition, and with little progress having been
10 made toward a resolution of the crisis, PG&E by early April 2001 determined that a
11 Chapter 11 reorganization offered the best prospects for protecting the interests of its
12 creditors, customers, employees and shareholders alike. Accordingly, on April 6, 2001 (the
13 "Petition Date"), PG&E filed a voluntary petition under Chapter 11 of the Bankruptcy Code.
14 PG&E continues to manage and operate its business and property as a debtor in possession
15 pursuant Sections 1107 and 1108 of the Bankruptcy Code. No trustee has been appointed.

16 II.

17 FACTUAL BACKGROUND.

18 1. As set forth in previous papers filed with the Court, PG&E has reported assets in
19 excess of \$20 billion, has approximately 45,000 creditors and employs about 20,000 people.
20 In addition to the sheer size of this case, it is exceedingly complex, based on, inter alia,
21 PG&E's status as a utility company subject to a myriad of state and federal statutes, rules
22 and regulations. PG&E is also in the midst of grappling with an unprecedented energy
23 crisis, resulting in more pressing and immediate matters requiring much of PG&E's attention
24 in the first phase of this Chapter 11 case.

25 2. Since the Petition Date, PG&E has generally satisfied its post-petition obligations
26 as they come due, and intends to continue doing so. Smith Decl. ¶3.

27 3. Pursuant to Bankruptcy Code Section 1121(b) and (c), PG&E has the exclusive
28

1 right to file a plan for 120 days after the Petition Date (i.e., until August 6, 2001¹), and, if it
2 files a plan by such time, an additional sixty days during which it maintains "plan
3 exclusivity" (i.e., until October 3, 2001).

4 4. The Motion requests that the Court enter an order pursuant to Bankruptcy Code
5 Section 1121(d): (i) extending for four months, until December 6, 2001 (or such later date
6 as the Court hereafter may order based upon a subsequent motion filed on or before
7 December 6, 2001), the exclusive period under Bankruptcy Code Section 1121 during which
8 only the Debtor may file a plan of reorganization; and (ii) in the event that PG&E files a plan
9 on or before December 6, 2001, extending for four months, until February 4, 2002 (or such
10 later date as the Court hereafter may order based upon a subsequent motion filed on or
11 before February 4, 2002), the time during which PG&E maintains such "plan exclusivity"
12 pursuant to Bankruptcy Code Section 1121(c)(3).

13 5. PG&E's goal is to develop a plan of reorganization that has broad creditor
14 support.² In that connection, PG&E has been working with the Official Committee of
15 Unsecured Creditors (the "Committee") and other creditor constituencies. Smith Decl. ¶4.
16 PG&E maintains an open and close working relationship with the Committee. Id. PG&E
17 has held and intends to continue holding regularly scheduled meetings with the Committee,
18 and has supplied and intends to continue supplying the Committee with detailed financial
19 information regarding PG&E and its operations. Id. PG&E expects that it will require some
20 time to fully develop the terms of a plan of reorganization, prior to filing it with the Court.
21 Id.

22 6. In addition, PG&E is seeking to assess the implications of a number of regulatory
23 proceedings and investigations in developing its plan. These include the following:

24 (a) Settlement discussions convened on June 25, 2001 pursuant to order of the

25 ¹ The 120th day after the Petition Date is actually August 4, 2001. Since that date falls
26 on a Saturday, pursuant to Federal Rule of Bankruptcy Procedure 9006(a), the 120-day
period expires on Monday, August 6, 2001.

27 ² As previously disclosed to the Court and interested parties, PG&E Corporation,
28 PG&E's parent company, is expected to be a co-proponent of the plan.

1 Federal Energy Regulatory Commission ("FERC"), involving "all public utility sellers and
2 buyers in the ISO's markets," with respect to, inter alia:

3 "(1) the additional load that is to be moved from the spot market to longer-term
4 contracts, (2) refund (offset) issues related to past periods, and (3)
5 creditworthiness matters. . . . [A]ll issues that remain outstanding to resolve past
6 accounts and ensure California's energy future are on the table for the parties to
7 address" (San Diego Gas & Elec. Co. v. Sellers of Energy, Ancillary Services
Into Markets Operated by the California Independent Sys. Operator Corp., 95
8 Fed. Energy Reg. Comm'n Rep. (CCH) ¶61,418, 2001 FERC LEXIS 1440, at
9 *115-16 (June 19, 2001))

10 (b) Other provisions of FERC's June 19, 2001 order, including a mitigation plan with
11 respect to wholesale power costs.

12 (c) Order(s) expected to be issued in the near future by the California Public Utilities
13 Commission implementing the revenue requirements submitted on May 2, 2001 by the
14 Department of Water Resources ("DWR") pursuant to California AB1X with respect to
15 power purchased by the DWR for PG&E's customers. Smith Decl. ¶5

16 7. In formulating its reorganization plan, PG&E also seeks to broadly assess claims
17 against the estate, including its potential liabilities for wholesale power purchases in the
18 electricity markets maintained by the California Independent System Operator Corporation
19 (the "ISO") and the California Power Exchange Corporation (the "PX"), which amount to
20 billions of dollars, as well as potential counterclaims and affirmative claims with respect
21 thereto.³ Id. ¶6.

22 8. PG&E's intention and expectation to file a plan on a "fast track" is unprecedented
23 under the circumstances. In the absence of a pre-negotiated or prepackaged Chapter 11 plan,
24 it is commonplace for one or more years to elapse before a large corporate debtor files a

25 ³ Towards that end, PG&E has filed a Motion For Entry Of Order Requiring
26 Production Of Documents By The California Independent System Operator Corporation And
27 California Power Exchange Corporation Pursuant To Federal Bankruptcy Rule 2004. At a
28 hearing before this Court on June 28, 2001, the Court directed that the ISO and PX produce
responsive documents by July 20 and July 27, 2001, respectively, to (among others) PG&E's
and PG&E Corporation's outside professionals, subject to certain procedures designed to
ensure confidentiality. (The Court also established procedures for internal PG&E or PG&E
Corporation personnel to seek access to such documents.)

1 plan, while still maintaining exclusivity. This is one of the largest and perhaps most
2 complex Chapter 11 cases ever commenced, yet PG&E is, within the early months of the
3 case, already well into the process of plan formulation. PG&E has no intent to delay the
4 case, which costs the estate literally millions of dollars per week in fees, costs and interest
5 accruals with respect to creditor claims. Instead of asserting that the requested extension is
6 "routine" and a "pro-forma" event, PG&E is diligently working the plan process through a
7 fast track, and trying to accelerate the resolution of this case for creditors and other
8 interested parties as quickly as possible. The requested extension is intended to protect this
9 process while the plan efforts are concluded expeditiously. A failure to extend exclusivity
10 will create needless confusion and conflict that will presumably prejudice all parties.

11 9. The requested four-month extensions of the exclusivity periods should allow a
12 reasonable and adequate time for garnering the necessary information and filing a feasible
13 reorganization plan, rather than one based on inadequate or incomplete information, and will
14 avoid the attendant economic and resource inefficiencies for all parties that can result when a
15 plan is prematurely filed.

16 10. Based on the foregoing, PG&E submits that there is "cause" to grant the
17 requested extension pursuant to Bankruptcy Code Section 1121(d).

18 III.

19 CAUSE EXISTS UNDER BANKRUPTCY CODE
20 SECTION 1121(d) TO EXTEND THE EXCLUSIVE TIME
PERIODS FOR PG&E TO FILE A PLAN.

21 A. Section 1121(d) Permits A Court To Extend, For Cause, The Exclusivity Periods
22 For The Debtor's Filing Of A Reorganization Plan Beyond The Initial 120 Day
And 180 Day Periods Provided Therein.

23 The United States Supreme Court and Congress have both recognized that the
24 principal goal of Chapter 11 is the successful rehabilitation of the debtor's business. NLRB
25 v. Bildisco & Bildisco, 465 U.S. 513, 527 (1984); United States v. Whiting Pools, Inc., 462
26 U.S. 198, 203 (1983); see also H.R. Rep. No. 95-595, at 220 (1977), reprinted in 1978
27 U.S.C.C.A.N. 5963, 6179-80 (hereinafter "House Report"). Rehabilitation preserves and
28 generates going concern value and increases the pool of assets available for distribution to

creditors. Id.; see also In re Lange, 75 B.R. 154, 156 (Bankr. N.D. Ohio 1987) (“[t]he purpose of a Chapter 11 reorganization is to assist financially distressed business entities by providing them temporary relief from creditors while they attempt to successfully restructure themselves to a viable status”) (citing In re Winshall Settlor’s Trust, 758 F.2d 1136, 1137 (6th Cir. 1985)).

Pursuant to Bankruptcy Code Section 1121, Congress provided Chapter 11 debtors with time to attempt to reach agreement with its creditors, leaving to the Bankruptcy Court the discretion as to how much time should be allowed. Section 1121(b) establishes an initial period of 120 days after the order for relief during which only the debtor may file a plan.⁴ If the debtor files a plan within the 120-day period, Section 1121(c)(3) allows an additional 60 days during which only the debtor may obtain acceptances of the plan.⁵

Bankruptcy Code Section 1121(d) provides that the Court may extend both such exclusivity periods for “cause.”⁶ Although the Bankruptcy Code does not define “cause” for purposes of Section 1121(d) or establish formal criteria for an extension of the exclusivity periods, Congress recognized that the debtor should be given a meaningful opportunity to formulate and negotiate a plan. House Report, at 231-32, 1978 U.S.C.C.A.N. at 6191. At the same time, Congress recognized that an open-ended exclusivity period could encourage a debtor to stall in order to exact undue concessions from creditors and could unnecessarily delay creditors. S. Rep. No. 95-989, at 118 (1978), reprinted in 1978 U.S.C.C.A.N. 5787, 5904 (hereinafter, “Senate Report”). Thus, the courts must necessarily strike an appropriate

⁴ Section 1121(b) provides that “[e]xcept as otherwise provided in this section, only the debtor may file a plan until after 120 days after the date of the order for relief under this chapter.” 11 U.S.C. §1121(b). Pursuant to Bankruptcy Code Section 301, the order for relief was entered on the Petition Date.

⁵ Section 1121(c)(3), provides, in relevant part, that non-debtor parties in interest may file a plan “if and only if . . . the debtor has not filed a plan that has been accepted, before 180 days after the date of the order for relief under this chapter, by each class of claims or interests that is impaired under the plan.” 11 U.S.C. §1121(c)(3).

⁶ Section 1121(d) provides, in relevant part, that “[o]n request of a party in interest . . . the court may for cause reduce or increase the 120-day period or the 180-day period referred to in this section.” 11 U.S.C. §1121(d) (emphasis added).

1 balance.

2 To achieve this objective, the term cause "is to be viewed flexibly in order to
3 allow the debtor to reach an agreement." In re McLean Indus., Inc., 87 B.R. 830, 833
4 (Bankr. S.D.N.Y. 1987) (internal quotation marks omitted); Gaines v. Perkins (In re
5 Perkins), 71 B.R. 294, 297 (W.D. Tenn. 1987) ("[t]he hallmark of [Section 1121(d)] is
6 flexibility"). This standard allows the court "maximum flexibility to suit various types of
7 reorganization proceedings." In re Public Serv. Co., 88 B.R. 521, 534 (Bankr. D.N.H.
8 1988). Accord In re Gibson & Cushman Dredging Corp., 101 B.R. 405, 409 (E.D.N.Y.
9 1989).

10 B. Congress And Courts Have Recognized That The Size and Complexity Of A
11 Chapter 11 Case Provide Cause For Extending The Plan Exclusivity Periods.

12 Although the Code does not define the circumstances that constitute "cause" to
13 extend the exclusivity periods contained in Bankruptcy Code Section 1121, the legislative
14 history makes clear that the initial 120-day period established by Section 1121(b) merely
15 represents a baseline from which the Court is free to deviate, particularly in large and
16 complex cases such as PG&E's Chapter 11 case:

17 "In most cases, 120 days will give the debtor adequate time to negotiate a
18 settlement, without unduly delaying creditors. The court is given the power,
19 though, to increase or reduce the 120-day period depending on the circumstances
20 of the case. For example, if an unusually large company were to seek
reorganization under chapter 11, the court would probably need to extend the
time in order to allow the debtor to reach an agreement." (House Report, at 232,
20 1978 U.S.C.C.A.N. at 6191 (emphasis added) (footnote omitted))

21 Thus, bankruptcy courts frequently identify the size and complexity of a Chapter
22 11 case as "cause" to warrant extension of the exclusivity periods. See, e.g., In re Dow
23 Corning Corp., 208 B.R. 661, 665 (Bankr. E.D. Mich. 1997); In re Express One Int'l, Inc.,
24 194 B.R. 98, 100 (Bankr. E.D. Tex. 1996); In re Public Serv. Co., 88 B.R. at 534-35 ; In re
25 Texaco, Inc., 76 B.R. 322, 325-27 (Bankr. S.D.N.Y. 1987); In re Perkins, 71 B.R. at 297-
26 300; In re Pine Run Trust, Inc., 67 B.R. 432, 434-36 (Bankr. E.D. Pa. 1986); In re United
27 Press Int'l, Inc., 60 B.R. 265, 270 (Bankr. D.D.C. 1986).

28 In Perkins, 71 B.R. at 296-300, for example, the court held that a case involving

1 approximately \$13 million in assets and claims held by about 100 creditors was sufficiently
2 "large and complex" to justify an exclusivity period of over 800 days. See also In re Public
3 Serv. Co., 88 B.R. at 537 (granting a seven-month extension due to size and complexity of
4 case); In re United Press Int'l, Inc., 60 B.R. at 270 ("[i]n many much smaller cases,
5 involving far less complications, two or three years go by before the debtor is in a position to
6 file a plan"); In re Express One Int'l, Inc., 194 B.R. at 100-01 (allowing exclusivity period of
7 one year based on, inter alia, size and complexity of case).

8 The present case is of a much larger size and complexity than the foregoing
9 cases, involving more than \$20 billion of assets, and claims of more than 45,000 creditors.
10 In addition to the sheer size of this case, it is exceedingly complex, based on, inter alia,
11 PG&E's status as a utility company subject to a myriad of state and federal statutes, rules
12 and regulations, and the fact that PG&E is in the midst of grappling with an unprecedented
13 energy crisis. PG&E also requires sufficient time to broadly assess the billions of dollars of
14 claims against it, and the implications of a number of regulatory proceedings and
15 investigations in developing its plan.

16 On these facts, a four-month extension of the exclusivity periods is both
17 reasonable and appropriate.

18 C. Courts Have Found Cause To Extend Exclusivity In Circumstances Such As
19 These Where Further Negotiations With Creditors Are Required Which Could
20 Lead To A Successful Reorganization.

21 The legislative history and the case law interpreting Section 1121 have
22 established that exclusivity period extensions are appropriate where the debtor displays some
23 likelihood of a successful, consensual reorganization. Senate Report at 118, 1978
24 U.S.C.C.A.N. at 5904 ("the granted extension should be based on a showing of some
25 promise of probable success"). Thus, in evaluating whether there is cause for extending the
26 exclusivity periods under Section 1121, courts have examined whether the debtor has made
27 good-faith progress toward reorganization, including the status of negotiations between the
28 debtor and third parties, which, if successful, would enable the debtor to file a viable plan.
See, e.g., In re McLean Indus., 87 B.R. at 834; In re United Press Int'l, 60 B.R. at 269; In re

1 Nicolet, Inc., 80 B.R. 733, 741-42 (Bankr. E.D. Pa. 1987); In re Perkins, 71 B.R. at 298.

2 For example, in In re Pine Run Trust, 67 B.R. at 435, the court granted a 90-day
3 extension of both plan exclusivity periods where "substantial progress had been made in
4 negotiations [between the debtors and the creditors' committee] that, all concede, are critical
5 to a successful reorganization [and] there was no evidence presented that the debtors sought
6 this additional extension in order to pressure their creditors to accede to their reorganization
7 demands"). Similarly, the court in In re Swatara Coal Co., 49 B.R. 898, 899-900 (Bankr.
8 E.D. Pa. 1985), granted a five-month extension of each of the Section 1121 exclusivity
9 periods based on the debtor's ongoing negotiations with a potential joint venturer. See also
10 In re McLean Indus., 87 B.R. at 833-35 ("a finding that the debtor is not seeking to extend
11 exclusivity to pressure creditors to accede to [the debtor's] reorganization demands . . . and
12 the fact that the debtor is paying its [postpetition] bills as they come due" provided "cause"
13 to extend the exclusivity periods) (citations and internal quotation marks omitted); In re
14 Homestead Partners, Ltd., 197 B.R. 706, 720 (Bankr. N.D. Ga. 1996) (cause exists to extend
15 exclusivity where the debtor has made substantial progress toward gaining acceptance of a
16 plan, recalcitrance of certain creditors has posed a significant hurdle to timely plan
17 development and presence of complex legal issues has occupied much of debtor's plan-
18 making opportunity); In re Gibson & Cushman Dredging Corp., 101 B.R. at 409-10
19 (considering the debtor's "continued attempts to negotiate with the creditor's committee,"
20 "the Debtor's ability to carry on business during the bankruptcy proceeding," the fact "that
21 there was no danger of dissipation of assets to the creditor's detriment," and the fact that
22 "the debtor's assets were not only being preserved, but augmented" in extending
23 exclusivity); In re Trainer's Inc., 17 B.R. 246, 247 (Bankr. E.D. Pa. 1982) (cause to grant
24 extension existed where debtors had made "substantial efforts" towards reorganization
25 through sale of their primary asset and further negotiations were required; extension denied
26 on other grounds).

27 The likelihood of a successful reorganization in this case is demonstrated by,
28 inter alia, the Debtor's relatively healthy financial condition and its good faith progress in

1 working with its creditors regarding its reorganization plan.

2 As disclosed in its initial schedules filed with the Court, PG&E is solvent under
3 the "balance sheet test" with scheduled assets (of approximately \$24 billion) exceeding its
4 scheduled liabilities (of approximately \$18 billion) by more than \$5 billion.⁷ Smith Decl.
5 ¶7. PG&E has also continued to comply with its post-petition obligations as they fall due.
6 Smith Decl. ¶3.

7 In addition, as discussed above, PG&E's dealings with the Committee and other
8 creditor constituencies demonstrate progress toward a plan with broad creditor support.
9 PG&E has kept in close consultation with the Committee, including providing it with
10 detailed financial reports and meeting with it on a regular basis, and has commenced
11 discussions with the Committee and other creditor constituencies regarding the framework
12 for PG&E's anticipated reorganization plan. Smith Decl. ¶4.

13 Furthermore, there is nothing to suggest that PG&E seeks the requested
14 extensions in order to pressure its creditors to accede to its reorganization demands. Rather,
15 as discussed above, PG&E is diligently working the plan process through a fast track, and
16 trying to accelerate the resolution of this case for creditors and other interested parties as
17 quickly as possible. Indeed, in view of the size and complexity of this case, it is
18 unprecedented that PG&E is already well into the process of plan formulation within the
19 early months of this case. The requested extension will protect this process while the plan
20 efforts are concluded expeditiously.

21 IV.

22 CONCLUSION.

23 Wherefore, PG&E respectfully requests that this Court enter its Order:

- 24 1. Determining that notice of the Motion was appropriate under the
25 circumstances;

26
27 ⁷ PG&E has just recently filed amended schedules reflecting an even greater difference
28 between its scheduled assets and scheduled liabilities.

1 2. Granting the Motion;

2 3. Extending for four months, until December 6, 2001 (or such later date as the
3 Court hereafter may order based upon a subsequent motion filed on or before December 6,
4 2001) the exclusive period under Bankruptcy Code Section 1121 during which only the
5 Debtor may file a plan of reorganization;

6 4. In the event that PG&E files a plan on or before December 6, 2001,
7 extending for four months, until February 4, 2002 (or such later date as the Court hereafter
8 may order based upon a subsequent motion filed on or before February 4, 2002) the time
9 during which PG&E maintains such "plan exclusivity" pursuant to Bankruptcy Code Section
10 1121(c)(3); and

11 5. For such other relief as this Court determines to be equitable and just.

12
13 DATED: July 2, 2001.

Respectfully,

HOWARD, RICE, NEMEROVSKI, CANADY,
FALK & RABKIN
A Professional Corporation

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17 By: 
18 GARY M. KAPLAN

19 Attorneys for Debtor and Debtor in Possession
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A Professional Corporation
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San Francisco, California 94111-4065
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Facsimile: 415/217-5910

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Case No. 01-30923 DM

Chapter 11 Case

Date: July 24, 2001

Time: 9:30 a.m.

Place: 235 Pine St., 22nd Floor
San Francisco, California

Judge: Hon. Dennis Montali

18
19 DECLARATION OF GORDON R. SMITH IN SUPPORT OF
20 DEBTOR'S MOTION FOR ORDER EXTENDING EXCLUSIVITY PERIODS
21 FOR FILING PLAN OF REORGANIZATION
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I, Gordon R. Smith, declare as follows:

1. I am the president and chief executive officer of Pacific Gas and Electric Company, the debtor and debtor in possession in the above-captioned Chapter 11 case ("PG&E" or the "Debtor"). This Declaration is based on my personal knowledge of PG&E's financial position, general operations and practices and policies, and upon my review of PG&E's records concerning the matters stated herein. If called as a witness, I could and would testify competently to the facts stated herein.

2. I make this declaration in support of the Debtor's Motion For Order Extending Exclusivity Periods For Filing Plan Of Reorganization (the "Motion").

3. Since the filing of PG&E's Chapter 11 petition on April 6, 2001, I am informed and believe that PG&E has generally satisfied its post-petition obligations as they come due, and intends to continue doing so.

4. PG&E's aim is to develop a plan of reorganization that has broad creditor support.¹ In that connection, PG&E has been working with the Official Committee of Unsecured Creditors (the "Committee") and other creditor constituencies. PG&E maintains an open and close working relationship with the Committee. PG&E has held and intends to continue holding regularly scheduled meetings with the Committee, and has supplied and intends to continue supplying the Committee with detailed financial information regarding PG&E and its operations. PG&E expects that it will require some time to fully develop the terms of a plan of reorganization, prior to filing it with the Court.

5. In addition, PG&E is seeking to assess the implications of a number of regulatory proceedings and investigations in developing its plan, including the following:

(a) Settlement discussions convened on June 25, 2001 pursuant to order by the Federal Energy Regulatory Commission ("FERC"), involving "all public utility sellers and buyers in the ISO's markets."

¹ PG&E Corporation, PG&E's parent company, is expected to be a co-proponent of the plan.

1 (b) Other provisions of that FERC order, including a mitigation plan with respect to
2 wholesale power costs.

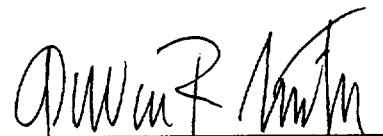
3 (c) Order(s) expected to be issued in the near future by the California Public Utilities
4 Commission implementing the revenue requirements submitted on May 2, 2001 by the
5 Department of Water Resources ("DWR") pursuant to California AB1X with respect to
6 power purchased by the DWR for PG&E's customers.

7 6. In formulating its reorganization plan, PG&E also seeks to broadly assess claims
8 against the estate, including its potential liabilities for wholesale power purchases in the
9 electricity markets maintained by the California Independent System Operator Corporation
10 (the "ISO") and the California Power Exchange Corporation (the "PX"), which amount to
11 billions of dollars, as well as potential counterclaims and affirmative claims with respect
12 thereto.² Id. ¶6.

13 7. PG&E's books and records reflect that it had scheduled assets of approximately
14 \$24 billion and scheduled liabilities of approximately \$18 billion as of the Petition Date.

15 I declare under penalty of perjury under the laws of the United States of America
16 and the State of California that the foregoing is true and correct. Executed this __ day of
17 July, 2001 at San Francisco, California.

18 WD 070201/1-1419915/927638/v2

19 
20 _____
21 GORDON R. SMITH
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25 ² Towards that end, I understand that at a hearing before this Court on June 28, 2000 on
26 PG&E's Motion For Entry Of Order Requiring Production Of Documents By The California
27 Independent System Operator Corporation And California Power Exchange Corporation
28 Pursuant To Federal Bankruptcy Rule 2004, the Court directed that the ISO and PX produce
responsive documents by July 20 and July 27, 2001, respectively, to (among others) PG&E's
and PG&E Corporation's outside professionals, subject to certain procedures designed to
ensure confidentiality.