

50-275/323

1 McCUTCHEN, DOYLE, BROWN & ENERSEN, LLP  
TERRY J. HOULIHAN (SBN 42877)  
2 WILLIAM BATES III (SBN 63317)  
RANDY MICHELSON (SBN 114095)  
3 GEOFFREY T. HOLTZ (SBN 191370)  
Three Embarcadero Center  
4 San Francisco, California 94111-4067  
Telephone: (415) 393-2000  
5 Facsimile: (415) 393-2286

6 Attorneys for Creditor  
Reliant Energy Services, Inc.  
7

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

12 In re  
13 PACIFIC GAS AND ELECTRIC COMPANY, a  
California corporation,  
14 Debtor.  
15 Tax Identification No. 94-742640  
16  
17  
18  
19  
20

Case No. 01-30923 DM  
Chapter 11  
BRIEF OF CREDITOR RELIANT  
ENERGY SERVICES, INC. RE  
DEBTOR'S MOTION FOR ORDER  
ESTABLISHING PROCEDURES AND  
DEADLINES FOR FILING CERTAIN  
ADMINISTRATIVE CLAIMS  
Date: August 7, 2001  
Time: 9:30 a.m.  
Place: Courtroom 22  
Judge: Hon. Dennis Montali

21  
22 Creditor Reliant Energy Services, Inc. ("Reliant") submits this Brief re Debtor's  
23 Motion for Order Establishing Procedures and Deadlines for Filing Certain Administrative  
24 Claims.

25 The debtor's proposal for a rolling administrative claims bar date for only a  
26 limited number of creditors is a unique proposition. However, despite the novelty of the

A001 Add: RudsOgc Mail Center

1 proposed administrative claims mechanism, Reliant does not object to the Motion on the  
2 condition that the proposed order be amended to state expressly that the creditors to whom it  
3 applies are not precluded from filing administrative claims in amounts that are uncertain or that  
4 are subject to revision or amendment.

5           As the Motion indicates, there is a dispute pending over whether the debtor is  
6 liable for power supplied by third parties through the ISO. Motion at 3:16-4:4. Reliant has  
7 intervened in the adversary proceeding, PG&E v. California Independent System Operator, Adv.  
8 Proc. No. 01-3086, in which this matter is at issue. This issue also is being litigated before the  
9 Federal Energy Regulatory Commission (“FERC”), docket No. ER01-889. Reliant is one of the  
10 third parties who has supplied, and continues to supply, power through the ISO for delivery to  
11 PG&E’s customers. Reliant supports PG&E’s position that since PG&E failed to be  
12 “creditworthy,” the DWR and/or the ISO, and not PG&E, are the parties who are financially  
13 liable for sales of power to meet PG&E’s “net short” position (the power needed to meet demand  
14 in PG&E’s service area that is not supplied by PG&E’s own generation and third-party contracts  
15 with PG&E). However, this issue has not been definitively resolved by this Court or by the  
16 FERC. Unless and until this issue is determined otherwise, Reliant will have to assert claims  
17 against the debtor for payment for the power that it has supplied. Such claims necessarily will be  
18 contingent on the outcome of those proceedings to determine who is liable for payment.

19           In addition, the extent of the initial claim and each month’s administrative claim  
20 under the proposed order will necessarily be uncertain. The ISO regularly issues invoices and  
21 statements for power supplied through the ISO. Hamilton Decl. at ¶2. However, of critical  
22 importance is that these invoices and statements do not include information about the buyers of  
23 the power delivered by each supplier, or to which utility’s delivery area the power was supplied.  
24 *Id.* Therefore, Reliant cannot determine from the ISO statements to what extent PG&E is liable  
25 for payment, or Southern California Edison, or someone else. *Id.* Furthermore, the ISO adjusts  
26 metering information and statements or invoices for six months or more after power is delivered.

1 *Id.* at ¶3. Thus, within the three-month period under the proposed order, Reliant could not know  
2 with certainty the extent of its claim for power delivered in the applicable month. *Id.* Any order  
3 implementing the proposed claims mechanism would have to permit such claims to be revised  
4 and amended as more complete metering data and statements or invoices are provided.

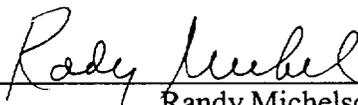
5 In sum, neither Reliant nor any other supplier of power through the ISO can be  
6 certain whether the debtor or DWR and/or ISO ultimately will be determined to be financially  
7 liable for power sales to meet PG&E's net short position until pending proceedings before this  
8 Court and the FERC are resolved. Any administrative claim for such power sales would  
9 necessarily be subject to later revision or amendment. In addition, because of incomplete  
10 statements from the ISO, and the fact that delays in receiving metering and settlement  
11 information typically extend far beyond the three-month period in the proposed order, any such  
12 claim would be unavoidably uncertain.

13 Because Reliant understands the debtor's need to determine the scope of the  
14 administrative claims it faces, it does not oppose the Motion. However, because any such claims  
15 under the proposed mechanism would necessarily be uncertain, Reliant conditions its non-  
16 opposition on the order expressly stating that Reliant and other sellers of power will be permitted  
17 to file administrative claims in amounts that are uncertain or that are subject to revision or  
18 amendment.

19  
20 DATED: August 2, 2001

McCUTCHEEN, DOYLE, BROWN & ENERSEN, LLP

21  
22  
23  
24  
25  
26

By:   
Randy Michelson  
Attorneys for Creditor  
Reliant Energy Services, Inc.