

50-275/323

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13 UNITED STATES BANKRUPTCY COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION

HOWARD
RICE
NEMEROVSKI
CANADY
FALK
& RABKIN
A Professional Corporation

17 In re
18 PACIFIC GAS AND ELECTRIC
19 COMPANY, a California corporation,
20 Debtor.
21 Federal I.D. No. 94-0742640

Case No. 01 30923 DM
Chapter 11 Case
Date: October 29, 2001
Time: 9:30 a.m.
Place: 235 Pine Street, 22nd Floor
San Francisco, California
Judge: Hon. Dennis Montali

23 DECLARATION OF ROY M. KUGA IN SUPPORT OF PACIFIC GAS AND
24 ELECTRIC COMPANY'S MOTION REGARDING REQUEST BY CALIFORNIA
25 DEPARTMENT OF WATER RESOURCES AND ORDER BY CALIFORNIA PUBLIC
26 UTILITIES COMMISSION THAT PACIFIC GAS AND ELECTRIC COMPANY
27 ENTER INTO SERVICING AGREEMENT WITH THE
28 CALIFORNIA DEPARTMENT OF WATER RESOURCES

Acc 1 Add: Kids Ogc Mail Center

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I, ROY M. KUGA, declare as follows:

1. I am a director of Gas and Electric Supply at Pacific Gas and Electric Company (PG&E), a position I have held for the last year. I have been with PG&E for 20 years. I make this declaration in support of PG&E's "Motion Regarding Request By California Department of Water Resources and Order By California Public Utilities Commission that Pacific Gas and Electric Company Enter Into Servicing Agreement With The California Department of Water Resources."

2. PG&E has been, and is currently, making payments to DWR consistent with California Public Utilities Commission ("CPUC") Decisions 01-03-081, 01-03-082, and 01-05-064. Since the issuance of these decisions, PG&E has been paying the California Department of Water Resources ("DWR") at the generation-related rate authorized by the CPUC, on a daily basis (and under a full reservation of rights), for power DWR purchased and provided to PG&E's customers. Depending on the period at issue, PG&E has paid DWR at the applicable generation-related rate, ranging from 5.471 cents/kWh to 9.987 cents/kWh. To date, PG&E has transferred to DWR over \$1 billion for power it purchased beginning in mid-January 2001.

3. On May 2, 2001, DWR submitted its proposed revenue requirement to the CPUC to recover its cost of procuring power for the customers of PG&E, Southern California Edison ("SCE") and San Diego Gas & Electric Company ("SDG&E"). On July 23, 2001, DWR filed a revised request with the CPUC, extending its revenue requirement through December 31, 2002, and seeking a total recovery of \$13.072 billion, of which DWR attributed \$5.197 billion to PG&E. After a number of parties, including PG&E, filed lengthy data requests with the CPUC questioning the accuracy and reasonableness of DWR's July 23, 2001 revenue requirement request, DWR filed a third revenue requirement request on August 7, 2001. In this request, DWR increased its estimate of power that it would purchase on PG&E's behalf, and the total revenue recovery sought from PG&E from \$5.197 billion to \$5.927 billion, over the relevant two-year period. Numerous parties, including PG&E,

1 continued to protest the DWR request as inaccurate, unreasonable and not sufficiently
2 documented.

3 4. On August 27, 2001, the CPUC held a press conference in Sacramento,
4 announcing that it would issue for comment a draft decision revising DWR's requested
5 revenue requirement to shift over \$600 million in DWR power costs from Southern
6 California customers of SCE and SDG&E to Northern and Central California customers of
7 PG&E. The CPUC proposed to require PG&E customers to pay rates for DWR power that
8 were 39% to 55% higher than rates paid by customers of SCE and SDG&E for such power,
9 and proposed that the costs shifted to PG&E's customers be recovered without any change in
10 PG&E's overall retail electric rates, thus further reducing the revenues available for recovery
11 of PG&E costs after remittances to DWR. Numerous parties, including PG&E and most
12 consumer groups, protested the CPUC cost-shifting proposal as lacking any record support.
13 Among other things, the draft decision would require PG&E to pay DWR an additional 40
14 cents per kWh on power that DWR provided to PG&E customers between June 1, 2001 and
15 September 15, 2001, for which PG&E has already remitted funds to DWR, for a total of
16 \$166 million in additional funds. Going forward, the net effect of the draft decision for the
17 period June 1, 2001 to December 31, 2002, would be to divert from PG&E to DWR over
18 \$1.5 billion in projected revenues for PG&E-supplied power to which PG&E would
19 otherwise be entitled under prior CPUC decisions, a burden that would fall directly on
20 PG&E's bankruptcy estate, its creditors and its shareholders. The CPUC initially proposed
21 to act on its cost-shifting proposal at its September 6, 2001 meeting, but did not issue the
22 draft decision until September 4, 2001. The CPUC originally calendared its hearing on the
23 draft decision for September 20, 1001. The CPUC recently postponed action on the draft
24 decision until no earlier than October 11, 2001.

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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 24th day of September 2001, at San Francisco, California.



ROY M. KUGA

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