

50-275/323

1 JAMES L. LOPES (No. 63678)
WILLIAM J. LAFFERTY (No. 120814)
2 HOWARD, RICE, NEMEROVSKI, CANADY,
FALK & RABKIN
3 A Professional Corporation
Three Embarcadero Center, 7th Floor
4 San Francisco, California 94111-4065
Telephone: 415/434-1600
5 Facsimile: 415/217-5910

6 ROGER J. PETERS (No. 77743)
CHRISTOPHER J. WARNER (No. 140915)
7 STEVEN W. FRANK (No. 159334)
PACIFIC GAS AND ELECTRIC COMPANY
8 P.O. Box 7442
San Francisco, California 94120
9 Telephone: 415/973-7000
Facsimile: 415/973-5520

10 Attorneys for Debtor and Debtor-In-Possession
11 PACIFIC GAS AND ELECTRIC COMPANY

HOWARD
RICE
NEMEROVSKI
CANADY
FALK
& RABKIN
A Professional Corporation

12
13 UNITED STATES BANKRUPTCY COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION

16
17 In re
18 PACIFIC GAS AND ELECTRIC
COMPANY, a California corporation,
19 Debtor.
20 Federal I.D. No. 94-0742640
21

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

22
23 **DECLARATION OF STEVEN W. FRANK 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 RESOURCESS**

Foot Add: Kids Only Mail Center

HOWARD
RICE
NEMENOVSKI
CANADY
BALK
& RABEN
A Professional Corporation

1 I, STEVEN W. FRANK, declare as follows:

2 1. I am an attorney in the Law Department of Pacific Gas and Electric Company
3 (PG&E), a position I have held since 1998. I was personally involved in the discussions
4 with the California Department of Water Resources (DWR) concerning a servicing
5 agreement for billing, collection and related services. I make this declaration in support of
6 PG&E's "Motion Regarding Request By California Department of Water Resources and
7 Order By California Public Utilities Commission that Pacific Gas and Electric Company
8 Enter Into Servicing Agreement With The California Department of Water Resources."

9 2. Beginning in February 2001, and extending over a period of several months,
10 PG&E and DWR engaged in lengthy discussions as to how best to facilitate the goals of
11 Assembly Bill 1 ("AB 1X-1"), the emergency legislation the California Legislature adopted
12 on February 1, 2001. While reserving the issue as to whether an obligation to transmit and
13 deliver power and bill and collect charges and revenues for DWR could lawfully be imposed
14 upon PG&E by AB 1X-1, PG&E and DWR diligently negotiated in good faith the terms and
15 conditions under which the parties would implement AB 1X-1 in a manner that would
16 provide for recovery of DWR's legitimate power purchase costs while at the same time
17 protecting PG&E's legitimate property interests in its assets. These discussions took place
18 jointly with Southern California Edison Company and San Diego Gas & Electric Company,
19 with the common intent of developing a servicing agreement consistent among the three
20 utilities. Separate discussions also took place between DWR and each utility to address cost
21 recovery, operational and servicing issues unique to each utility, as reflected in differing
22 attachments to each utility's servicing agreement.

23 3. Beginning in May 2001, PG&E became increasingly concerned that PG&E's
24 servicing agreement would require PG&E to provide transmission, distribution, billing and
25 collection services in a manner obliging PG&E to divert its existing generation related rates
26 to DWR's use. More recently, PG&E also became concerned that DWR would use the
27 servicing agreement to require that PG&E deliver DWR power on a priority basis, even if
28 utility retained generation could be provided more cheaply and efficiently and even if such

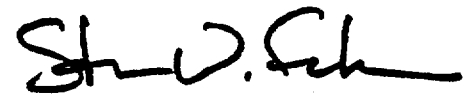
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

prioritization results in loss on PG&E generation assets. This was due to the fact that, to the extent that PG&E is forced to curtail output at plants, revenues could drop materially and the process of shutting down and restarting such facilities can be extremely expensive, thereby exposing PG&E to the risk of further actual out-of-pocket losses.

4. In late June of 2001, DWR sent to PG&E, for execution by PG&E, a draft servicing agreement that did not address PG&E's concerns. PG&E declined to execute this draft. On June 27, 2001, DWR filed a contested draft servicing agreement with the California Public Utilities Commission (CPUC) and asked the CPUC to order PG&E to implement the agreement.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed on September 24, 2001 at Bryan, Texas.

HOWARD
RICE
NEMEROVSKI
CANNY
BIK
#BAKGN
A Professional Corporation



Steven W. Frank

WD 092401/1-1419907/ccd946277/v1