

1 JAMES L. LOPES (No. 63678)  
JANET A. NEXON (No. 104747)  
2 GARY M. KAPLAN (No. 155530)  
CEIDE ZAPPARONI (No. 200708)  
3 HOWARD, RICE, NEMEROVSKI, CANADY,  
FALK & RABKIN  
4 A Professional Corporation  
Three Embarcadero Center, 7th Floor  
5 San Francisco, California 94111-4065  
Telephone: 415/434-1600  
6 Facsimile: 415/217-5910

50-275/323

7 Attorneys for Debtor and Debtor in Possession  
PACIFIC GAS AND ELECTRIC COMPANY  
8

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

13  
14 HOWARD  
RICE  
NEMEROVSKI  
CANADY  
FALK  
& RABKIN  
A Professional Corporation

14 In re  
15 PACIFIC GAS AND ELECTRIC  
COMPANY, a California corporation,

16 Debtor.

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

Case No. 01 30923 DM

Chapter 11 Case

Date: December 27, 2001

Time: 1:30 p.m.

Place: 235 Pine Street, 22nd Floor  
San Francisco, California

19 DEBTOR'S NOTICE OF MOTION AND MOTION FOR ORDER  
20 (1) AUTHORIZING DEBTOR TO FILE CERTAIN PRELIMINARY  
OMNIBUS OBJECTIONS TO CLAIMS WITHOUT PREJUDICE TO RIGHT  
21 TO FILE SUBSEQUENT OBJECTIONS THERETO AND (2) WAIVING  
COMPLIANCE WITH FEDERAL RULES OF CIVIL PROCEDURE 26(a)  
22 AND (f) IN CERTAIN CLAIMS OBJECTION PROCEEDINGS;  
SUPPORTING MEMORANDUM OF POINTS AND AUTHORITIES

23 [SUPPORTING REQUEST FOR JUDICIAL NOTICE AND DECLARATION OF  
24 KEVIN J. DOWD FILED SEPARATELY]  
25

26 *Appl*  
27 *Add: Rids Pgc Mail Center*  
28

MOTION FOR AUTHORIZATION TO FILE CERTAIN OMNIBUS OBJECTIONS TO CLAIMS

TABLE OF CONTENTS

	Page
NOTICE OF MOTION AND MOTION	1
MEMORANDUM OF POINTS AND AUTHORITIES	2
I.    INTRODUCTION AND GENERAL BACKGROUND.	2
II.   DISCUSSION.	5
A.   The Court Has The Power To Determine Bifurcated Claim Objections, And Doing So Would Facilitate The Efficient Administration Of The Estate And Promote Judicial Economy.	5
1.   The Court May Order Adjudication Of Preliminary Objections To Claims Under Section 105(a) Of The Bankruptcy Code.	5
2.   The Court Has Inherent Power To Manage Its Own Procedures.	6
3.   The Court May Bifurcate Hearings On Claims Objections Under Bankruptcy Rule 7042(b).	7
B.   Compliance With Federal Rule Of Civil Procedure 26(a) And (f) Should Be Waived As Compliance Would Be Impractical And Time-Consuming In View Of The Large Numbers Of Claims And The Nature Of Claim Objections Proceedings.	9
CONCLUSION	10

TABLE OF AUTHORITIES

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

Page

Cases

Caldwell v. Unified Capital Corp. (In re Rainbow Magazine, Inc.), 77 F.3d 278 (9th Cir. 1996)	7
Chambers v. NASCO, Inc., 501 U.S. 32 (1991)	6, 7
Falbaum v. Leslie Fay Cos. (In re Leslie Fay Cos.), 222 B.R. 718 (S.D.N.Y. 1998)	9
In re Koger, 261 B.R. 528 (Bankr. M.D. Fla. 2001)	8, 9
Johnson v. McDow (In re Johnson), 236 B.R. 510 (D.D.C. 1999)	7
Levander v. Prober (In re Levander), 180 F.3d 1114 (9th Cir. 1999)	7
Norwest Bank Worthington v. Ahlers, 485 U.S. 197 (1988)	5
Yadkin Valley Bank & Trust Co. v. McGee (In re Hutchinson), 5 F.3d 750 (4th Cir. 1993)	8

Statutes and Rules

11 U.S.C. §105(a) §502	5, 6, 7 5
Fed. R. Civ. P. 26(a) 26(a)(1) 26(f) 42(b)	2, 5, 9, 10 10 2, 5, 9, 10 7, 8
Fed. R. Bankr. P. 7026 7042(b) 9014	9 7 7, 9

HOWARD  
RICE  
NEMEROVSKI  
CANADY  
FALK  
& RABKIN  
A Professional Corporation

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

**NOTICE OF MOTION AND MOTION**

PLEASE TAKE NOTICE that on December 27, 2001, at 1:30 p.m., or as soon thereafter as the matter may be heard, in the Courtroom of the Honorable Dennis Montali, located at 235 Pine Street, 22nd Floor, San Francisco, California, Pacific Gas and Electric Company, the debtor and debtor in possession in the above-captioned Chapter 11 case ("PG&E" or the "Debtor"), will and hereby does move the Court for entry of an Order (1) Authorizing PG&E to File Certain Preliminary Omnibus Objections to Claims Without Prejudice to PG&E's Right to File Subsequent Objections Thereto and (2) Waiving Compliance with Rule 26(a) and (f) of the Federal Rules of Civil Procedure (made applicable to this matter by Rules 7026 and 9014 of the Federal Rules of Bankruptcy Procedure) in Certain Claims Objection Proceedings in this case (the "Motion").

This Motion is based on the facts and law set forth herein (including the accompanying Memorandum of Points and Authorities beginning on the next page), the Request for Judicial Notice and Declaration of Kevin J. Dowd filed concurrently herewith, the record of this case and any evidence presented at or prior to the hearing on this Motion.

PLEASE TAKE FURTHER NOTICE that pursuant to Rule 9014-1(c)(2) of the Bankruptcy Local Rules for the Northern District of California, any written opposition to the Motion and the relief requested therein must be filed with the Bankruptcy Court and served upon appropriate parties (including counsel for PG&E, the Office of the United States Trustee and the Official Committee of Unsecured Creditors) at least five (5) days prior to the scheduled hearing date. If there is no timely objection to the requested relief, the Court may enter an order granting such relief without further hearing.

HOWARD  
RICE  
NEMEROVSKI  
CANADY  
FALK  
& RABKIN  
A Professional Corporation

1   **MEMORANDUM OF POINTS AND AUTHORITIES**

2   **I.**

3   **INTRODUCTION AND GENERAL BACKGROUND:**

4                    Pacific Gas and Electric Company, the debtor and debtor in possession in the  
5 above-captioned Chapter 11 case ("PG&E" or the "Debtor"), submits this Memorandum of  
6 Points and Authorities In Support Of Debtor's Motion For (1) Authorization to File Certain  
7 Preliminary Omnibus Objections to Claims Without Prejudice to Debtor's Right to File  
8 Subsequent Objections Thereto and (2) an Order Waiving Compliance with Rule 26(a) and  
9 (f) of the Federal Rules of Civil Procedure in Certain Claims Objection Proceedings in this  
10 case (the "Motion").

11                    It is axiomatic that the best interests of the Debtor, creditors and the public are  
12 served by bringing PG&E's bankruptcy case to as swift a resolution as possible. This Court  
13 must determine the true value of the large number of disputed claims against PG&E's estate  
14 for allowance and other purposes. In view of the number and magnitude of the claims, the  
15 claims resolution process has the potential to consume enormous amounts of court time and  
16 party resources (at a time when substantial PG&E resources will need to be devoted to the  
17 reorganization process) and greatly delay the resolution of PG&E's case. By this Motion,  
18 PG&E seeks the Court's approval to bifurcate the claims objection process. PG&E seeks to  
19 file and seek adjudication of certain preliminary "omnibus" or grouped objections to claims  
20 on preliminary but potentially dispositive grounds that can be addressed with a minimum  
21 expenditure of judicial time and estate resources, without waiving the right to assert  
22 subsequent substantive objections to the same claim if necessary. For example, PG&E  
23 anticipates asserting preliminary objections on the grounds, inter alia, that (1) certain claims  
24 are duplicative; (2) certain claims have been satisfied or otherwise resolved; and (3) certain  
25 claims are time-barred.

26                    Such a procedure is essential in the context of this very large and complex case.

HOWARD  
RICE  
NEMEROVSKI  
CANADY  
BALK  
& RABKIN  
A Professional Corporation

1 Over 12,800 proofs of claim have been filed totaling many billions of dollars.<sup>1</sup> Many of  
2 these claims are duplicative, exaggerated and unsubstantiated and will, PG&E believes, be  
3 disallowed by the Court. PG&E's current analysis, while no means complete, demonstrates  
4 that billions of dollars of the claims filed against PG&E's estate are duplicative and  
5 unsubstantiated<sup>2</sup>:

- 6 • Identical duplicates. Over \$1 billion worth of claims are exact duplicates of  
7 other filed claims—identical in amount, claimant and supporting papers—yet  
8 appear twice on the claims register. All such claims are redundant.
- 9 • Amended or superseded claims. Certain claims are amendments to previously  
10 filed claims, but the original and amended claim both appear on the claims  
11 register. The redundancy is over \$1 billion.
- 12 • Bondholders' claims. Indenture trustees under various indentures for holders  
13 of pollution control bonds, mortgage bonds, and medium term notes, among  
14 others, have filed billions of dollars in claims on behalf of the holders under  
15 such indentures. However, the individual bondholders and mortgage holders  
16 have, in many cases, also filed claims based on the same financial  
17 instruments. The redundancy is over \$3 billion.
- 18 • Multiple Claimants Asserting Duplicative Identical Claims in Separate Proofs  
19 of Claim. Multiple proofs of claim have been filed by multiple claimants in  
20 respect of the same claim. For example, 33 claimants with an underlying  
21 claim of \$1 million per claimant individually filed claims each seeking \$33  
22 million: the entire amount of the claim for all claimants. Thirty-three claims  
23 for \$33 million each were filed and have been acknowledged to be

24  
25 <sup>1</sup>The evidentiary basis and support for the facts set forth in this Motion are contained in  
26 the Declaration of Kevin J. Dowd, and PG&E's Request for Judicial Notice filed  
concurrently herewith.

27 <sup>2</sup>All calculations referred to in this Motion are approximate; they represent PG&E's  
28 current knowledge and, PG&E expects, will be subsequently refined as PG&E's analysis of  
the very large number of claims filed against its estate continues.

1 duplicative. In fact, counsel for these claimants has recently agreed to  
2 stipulate to the withdrawal of 32 of the 33 claims, thereby reducing the total  
3 claim amount by over \$1 billion.

- 4 • Electric Generation Claims. The Independent System Operator (“ISO”), the  
5 California Power Exchange (“PX”), and many generators participating in  
6 those markets have filed billions of dollars in claims for electricity allegedly  
7 provided to PG&E pre- and post-petition. However, many of these claims are  
8 duplications—both multiple claims by the same entity and claims by the PX  
9 on behalf of generators, which also filed individual claims. The duplication is  
10 at least \$4 billion.

11 Furthermore, and while this process is in its initial stages, PG&E has filed  
12 objections to various large categories of claims that include significant duplication. For  
13 example, PG&E has filed objections to approximately 1,250 claims totaling over \$500  
14 million for personal injury allegedly arising out of exposure to Chromium (VI). The  
15 objections are based, *inter alia*, on the duplicative and unsubstantiated nature of the claims.  
16 Approximately 200 of the claims are exact duplicates (i.e., one claim signed by the claimant  
17 and an identical claim signed by the claimant’s attorney). Most are unsubstantiated,  
18 including no description of the nature of the claims, the alleged route of exposure or any  
19 description of the alleged illness resulting therefrom. PG&E has also objected to the  
20 completely unsubstantiated one-page handwritten claim of Baldwin Associates Inc., which  
21 claims \$5 billion on the stated grounds of “taxes” and “economic and personal injury.” The  
22 claim contains no further explanation or description or supporting documentation.

23 PG&E’s analysis is in its preliminary stages. However, the examples above  
24 demonstrate that, at the very least, significant duplication exists in many categories of the  
25 claims filed with this Court. The proposed claims objection procedure would allow the  
26 efficient and rapid determination of certain preliminary objections, such as objections based  
27 on duplication. Such objections can be quickly adjudicated and will be dispositive in many  
28 cases. PG&E submits that the procedures proposed in this Motion would facilitate the

1 efficient resolution of claims aggregating many billions of dollars without a lengthy hearing  
2 on the merits.

3 In addition, PG&E seeks an order waiving compliance with Federal Rule of Civil  
4 Procedure Rule 26(a) and (f). In a case with over 12,800 separate claims, strict compliance  
5 with these discovery rules is burdensome, unnecessary and impractical in the context of the  
6 vast majority of claims objection proceedings. This Court has the power to waive  
7 compliance and should do so, on the basis that the relief sought by PG&E will substantially  
8 assist in the efficient administration of this exceptionally large and complex case, and  
9 conserve judicial, estate, and party resources.<sup>3</sup>

## 10 II.

### 11 DISCUSSION.

#### 12 A. The Court Has The Power To Determine Bifurcated Claim Objections, And 13 Doing So Would Facilitate The Efficient Administration Of The Estate And Promote Judicial Economy.

##### 14 1. The Court May Order Adjudication Of Preliminary Objections To 15 Claims Under Section 105(a) Of The Bankruptcy Code.

16 Section 105(a) of the Bankruptcy Code vests this Court with authority to “issue  
17 any order . . . that is necessary or appropriate to carry out the provisions of this title.”<sup>4</sup>

18 It is well established that the equitable powers of the Court pursuant to  
19 Section 105 must be exercised consistent with and within the confines of the Code. See  
20 Norwest Bank Worthington v. Ahlers, 485 U.S. 197, 206 (1988). Here, the Court’s exercise  
21 of its power under Section 105(a) to make appropriate orders would be consistent with and  
22 appropriate to the exercise of its powers under Section 502 to allow claims and determine

23 <sup>3</sup>The Debtor reserves its right to seek a further Order from this Court (if appropriate)  
24 imposing the disclosure, conference, and other requirements of Rule 26(a) and (f) with  
25 respect to objection proceedings for particular claims. For example, such procedures may be  
26 appropriate in connection with the determination of objections to certain particularly large  
and/or complex claims. However, such compliance is not generally appropriate for the  
potentially thousands of other claims objections that must be adjudicated.

27 <sup>4</sup>Section 105(a) states in pertinent part: “The court may issue any order, process, or  
28 judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C.  
§105(a).



1 objections. This Motion seeks a more efficient procedure for the hearing and determination  
2 of objections to the multitude of claims filed in this case.

3 Furthermore, filing "full-blown" objections to potentially thousands of claims  
4 would require an enormous effort on the part of the Debtor's business and legal teams.  
5 Without the approval sought herein, the Debtor would be burdened with having to prepare,  
6 Claimants would be forced to respond to, and the Court would be saddled with adjudicating  
7 all grounds for objection with respect to each of thousands of claims. Such a procedure  
8 would be unnecessarily wasteful and inefficient, as the Debtor submits that claims worth  
9 billions of dollars could be summarily resolved on certain preliminary grounds, such as  
10 claims that are clearly duplicative, are time-barred, or have already been satisfied or  
11 resolved. However, to the extent that a claim which PG&E asserts is duplicative is found to  
12 be a separate, non-duplicative claim, without clear authority from this Court, it may be  
13 claimed that PG&E arguably risks waiving other substantive objections to such a claim.  
14 Accordingly, authorizing the suggested approach to claims objections makes eminent sense  
15 from a legal, economic and practical perspective and is well within the power of this Court  
16 under Section 105(a).

17  
18 **2. The Court Has Inherent Power To Manage Its Own Procedures.**

19 In addition to its broad statutory powers under Section 105(a), this Court has the  
20 inherent power to utilize procedures such as those requested by this Motion to ensure  
21 judicial efficiency and do justice. See Chambers v. NASCO, Inc., 501 U.S. 32, 43 (1991)  
22 (discussing courts' inherent authority to sanction). The Supreme Court in Chambers  
23 described the nature of the inherent power as follows:

24 It has long been understood that "[c]ertain implied powers must  
25 necessarily result to our Courts of justice from the nature of their  
26 institution," powers "which cannot be dispensed with in a Court,  
27 because they are necessary to the exercise of all others." These  
28 powers are "governed not by rule or statute but by the control  
necessarily vested in courts to manage their own affairs so as to  
achieve the orderly and expeditious disposition of cases." (Chambers,  
501 U.S. at 43 (citations omitted))

HOWARD  
RICE  
NEMEROVSKI  
CANADY  
BALK  
& RABKIN  
A Professional Corporation

1 Bankruptcy courts likewise have inherent power to manage their own proceedings. See  
2 Caldwell v. Unified Capital Corp. (In re Rainbow Magazine, Inc.), 77 F.3d 278, 284 (9th  
3 Cir. 1996) (holding that the bankruptcy court had inherent power to impose sanctions against  
4 debtor's principal for orchestrating a bad faith filing: Section 105 is "intended to imbue the  
5 bankruptcy courts with the inherent powers recognized by the Supreme Court in Chambers")  
6 (citation omitted); Levander v. Prober (In re Levander), 180 F.3d 1114, 1118 (9th Cir. 1999)  
7 (holding bankruptcy court had inherent power to amend judgment when obtained through  
8 fraud on the court: "The inherent power[] of federal courts . . . (which is based on  
9 equity) . . . springs forth from courts' traditional power 'to manage their own affairs so as to  
10 achieve the orderly and expeditious disposition of cases'" (citations and some internal  
11 punctuation omitted); Johnson v. McDow (In re Johnson), 236 B.R. 510, 521 (D.D.C. 1999)  
12 (bankruptcy court has inherent power to strike debtor's irrelevant vituperative allegations  
13 against the United States Trustee contained in debtor's opposition). As the Johnson court  
14 explained:

15 Section 105 specifically codifies what are traditionally called  
16 "inherent powers" to give the Bankruptcy Courts the necessary ability  
17 to manage the cases on their docket. It is imperative that courts have  
18 the necessary authority to manage the arguments and conduct of  
19 parties to ensure judicial efficiency and to do justice . . . . Inherent  
20 powers take into account the fact that legislatures cannot foresee the  
21 infinite circumstances of life and all the necessary orders that courts  
22 may have to issue to do justice. (Id. (citation omitted))

23 Granting PG&E's request for streamlined objection procedures is an archetypal  
24 exercise of this Court's inherent power to manage its own docket.

25 **3. The Court May Bifurcate Hearings On Claims Objections Under  
26 Bankruptcy Rule 7042(b).**

27 In addition to the powers it possesses under Bankruptcy Code Section 105(a), the  
28 Court is authorized to bifurcate claim objection hearings under Federal Rule of Civil  
Procedure 42(b) (incorporated in contested matters, such as claim objection proceedings,  
pursuant to Federal Rules of Bankruptcy Procedure 9014 and 7042), which provides that

1 “[t]he court, in furtherance of convenience or to avoid prejudice, or when separate trials will  
2 be conducive to expedition and economy, may order a separate trial of any claim . . . .”<sup>5</sup>

3 Rule 42(b) permits a bankruptcy court to bifurcate a trial and/or discovery where,  
4 inter alia, “a particular issue is so complex that it would best serve judicial economy to risk  
5 holding two separate trials in the hopes of avoiding that issue entirely.” In re Koger, 261  
6 B.R. 528, 532 (Bankr. M.D. Fla. 2001).

7 Relevant factors to be considered in deciding whether bifurcation is appropriate  
8 are “(1) [s]eparability of issues; (2) [s]implification of discovery and the conservation of  
9 resources; (3) [p]rejudice to parties; and (4) [s]uitability of bifurcating trial but not  
10 discovery.” In re Koger, 261 B.R. at 532. “The separability inquiry involves measurement  
11 of the degree of evidentiary entanglement among the issues to be bifurcated.” Id.

12 “Generally, if an ‘evidentiary overlap’ exists, then any overlapping issues should not be  
13 bifurcated.” Id. (citation omitted). Accordingly, in Koger, the court refused to allow the  
14 debtor to bifurcate the hearing of its objections against a tax claim made against the estate by  
15 the Internal Revenue Service by first determining the debtor’s statute of limitations defense  
16 as a preliminary matter, on the basis that there was “evidentiary overlap” between the statute  
17 of limitations issue and other issues relating to the validity of the debtor’s objections to the  
18 IRS’s claim. The simplification of discovery and conservation of resources factor requires  
19 “[a] measurement of a case’s supposedly unique and compelling complexity.” Id.; see also  
20 Yadkin Valley Bank & Trust Co. v. McGee (In re Hutchinson), 5 F.3d 750, 758 (4th Cir.  
21 1993) (bifurcation decision reviewed on abuse of discretion standard; bankruptcy court did  
22 not abuse its discretion in bifurcating stay violation issue from breach of trustee duty claim).

23 <sup>5</sup>Federal Rule of Civil Procedure 42(b) states in full:

24 (b) Separate Trials. The court, in furtherance of convenience or to avoid  
25 prejudice, or when separate trials will be conducive to expedition and economy,  
26 may order a separate trial of any claim, cross-claim, counterclaim, or third-party  
27 claim, or of any separate issue or of any number of claims, cross-claims,  
28 counterclaims, third-party claims, or issues, always preserving inviolate the right  
of trial by jury as declared by the Seventh Amendment to the Constitution or as  
given by a statute of the United States. (Fed. R. Civ. P. 42(b) (emphasis  
omitted))

1 The bifurcation provisions of Rule 42(b) apply to the resolution of preliminary  
2 objections to claims. See Falbaum v. Leslie Fay Cos. (In re Leslie Fay Cos.), 222 B.R. 718,  
3 720 (S.D.N.Y. 1998) (district court upheld bankruptcy judge's decision to, *inter alia*,  
4 bifurcate hearing of Chapter 11 debtors' objections to proofs of claim filed by employee-  
5 creditors, so that issue of whether debtors' former employees' claims were barred by  
6 releases could be determined on a preliminary basis: "such bifurcation, which rested within  
7 the sound discretion of the Bankruptcy Court, appropriately narrowed the issues and  
8 promoted judicial economy, and thus was altogether proper").

9 The Koger factors are clearly applicable here. The preliminary objections that  
10 PG&E seeks to bring—such as whether claims are duplicative, are time-barred, or have been  
11 satisfied—are severable from the individual and potentially complex issues implicated by  
12 the merits of such claims. Logically, there will be little if any evidentiary overlap between  
13 such straightforward preliminary issues and more complex merits-based inquiries.

14 Efficiency and the conservation of resources will be strongly promoted if such potentially  
15 dispositive issues are adjudicated as a preliminary matter. Furthermore, claimants will not  
16 be prejudiced as a result of this proposed procedure.

17 In this particularly large and complex case, bifurcating objections to claims as  
18 requested by this Motion will facilitate the efficient administration of this estate by  
19 streamlining the claims objection process, and will avoid unnecessary consumption of  
20 judicial, estate, and creditor resources.

21  
22 **B. Compliance With Federal Rule Of Civil Procedure 26(a) And (f) Should Be**  
23 **Waived As Compliance Would Be Impractical And Time-Consuming In**  
24 **View Of The Large Numbers Of Claims And The Nature Of Claim**  
**Objections Proceedings.**

25 Federal Rule of Civil Procedure 26(a) and (f) prescribes detailed disclosure and  
26 conference requirements in connection with the discovery process. Although Bankruptcy  
27 Rules 9014 and 7026 make Rule 26(a) and (f) applicable to contested matters, such as claim  
28 objection proceedings, PG&E submits that compliance under the circumstances of this case

1 should be waived, except to the extent the Court may otherwise order with respect to certain  
2 complex claims. In light of the multiplicity of claims involved and relatively small amounts  
3 at issue as to the vast majority of claims, the Debtor submits that formal compliance with  
4 Rule 26(a) and (f) would be impractical, unnecessarily time-consuming and wasteful of the  
5 estate's resources. Moreover, the joint meeting of all parties or separate meetings by PG&E  
6 with each claimant as prescribed by Rule 26(f) would be extremely impractical in light of  
7 the large number of claims involved. For these reasons, PG&E respectfully requests the  
8 Court to exercise the discretion granted it by Rule 26(a) and (f) and excuse PG&E (and the  
9 respective claimants) from formal compliance with those provisions, unless otherwise  
10 ordered in connection with particular claim objections.<sup>6</sup>

12 **CONCLUSION**

13 For all of the foregoing reasons, PG&E respectfully requests that this Court grant  
14 the Motion, and enter an Order: (1) authorizing PG&E to make preliminary omnibus  
15 objections to claims and have such objections determined by the Court without prejudice to  
16 PG&E's right subsequently to assert other objections to such claims without further Order of  
17 this Court; (2) relieving PG&E and claimants from any requirement to comply with Federal  
18 Civil Procedure Rule 26(a) and (f) in claims objection proceedings, unless otherwise ordered

26  
27 <sup>6</sup>Federal Rule of Civil Procedure 26(a)(1) provides that the disclosures specified  
28 therein must be made except as "otherwise stipulated or directed by order." Likewise, Rule  
26(f) provides for parties to confer as specified therein except "when otherwise ordered."

1 by this Court; and (3) for such other and further relief as the Court deems just and  
2 appropriate.

3 DATED: December 7, 2001.

4 Respectfully,  
5 HOWARD, RICE, NEMEROVSKI, CANADY,  
6 FALK & RABKIN  
7 A Professional Corporation

8 By: Janet A. Nexon  
9 JANET A. NEXON

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

12  
13 HOWARD  
14 RICE  
15 NEMEROVSKI  
16 CANADY  
17 FALK  
18 & RABKIN  
19 A Professional Corporation