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UTILITY DISTRICT

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

In re

PACIFIC GAS AND ELECTRIC  
COMPANY, a California corporation,

Debtor.

Federal I.D. No. 94-0742640

No. 01-30923

Chapter 11 Case

Date: December 19, 2001

Time: 9:30 a.m.

Place: 235 Pine St., Courtroom 22  
San Francisco, California

**OBJECTION OF SMUD TO DISCLOSURE STATEMENT**

Sacramento Municipal Utility District ("SMUD") objects as follows to the disclosure statement proposed by Pacific Gas and Electric Company, the debtor and debtor in possession in the above-captioned Chapter 11 case ("PG&E").

**I.**

**INTRODUCTION**

PG&E filed a skeletal plan and disclosure statement that together merely outline the general approach of PG&E to its proposed reorganization. PG&E leaves undisclosed many sorts of crucial information needed to understand the plan's impact on creditors.

For instance, PG&E fails to disclose which contracts it considers to be executory, which of those executory contracts it will assume or reject, and to which new entity PG&E intends to assign each assumed contract. PG&E also fails to disclose which claims it will object to, and what protections (if any) will be afforded to those claims pending resolution of any dispute. As a related matter, PG&E fails to disclose the impact on feasibility should its efforts to reduce claims by objection not prove successful. Finally, some of the most critical information about the impact of PG&E's plan will be contained in PG&E's proposed filings with the Federal Energy Regulatory Commission ("FERC"), yet as of the disclosure statement objection deadline, PG&E had neither made those filings nor supplied creditors with any information about the specific proposed content of the filings.

## II.

### TREATMENT OF EXECUTORY CONTRACTS

PG&E proposes to reveal the contracts it will assume and reject via a filing to be made only ten days before the scheduled confirmation hearing, sometime next year. (Proposed Plan Schedules 6.1(a)(i), (ii), and (iii), which are missing.) The proposed last-minute filing provides inadequate notice on this important issue. Although the Court has stated on the record that PG&E's proposal for a last-minute filing is unacceptable, PG&E has made no effort as yet to complete its disclosure statement by appending Schedule 6.1(a).

Moreover, even if creditors knew which contracts would be assumed, they are unable to determine with certainty which of the new entities to be created under the plan are the proposed assignees of each contract. Indeed, it would appear that PG&E might need to bifurcate certain contracts and assign part to one new entity and part to another, yet PG&E has provided no information about whether it will seek the consent of the contract counterparties for this unorthodox procedure. In addition, PG&E provides no

information about the adequate assurance of future performance that will be provided upon the assignment of assumed contracts to the newly created entities, or about how PG&E plans to address issues of non-assignability under certain special-services contracts such as transmission interconnection agreements. PG&E provides little or no information about the value of the assets of each of the new entities, presumably on the ground that unsecured creditors will be paid in full. This information is crucial, however, to contract counterparties in their attempt to understand the impact of assignment on their ongoing contractual relationships.

### **III.**

#### **TREATMENT OF DISPUTED CLAIMS**

PG&E provides no information about the proposed treatment of disputed claims, or even about which claims it intends to dispute, or when. Creditors should not be placed in the position of having to face a last-minute objection to claim as the deadline approaches for voting on the plan.

PG&E defines a "Disputed Claim" as one that is "disputed under the plan" (Plan section 8.12), yet the plan per se provides no information about claims to be disputed. The amount of a disputed claim includes the "amount estimated," yet no information is provided about any proposed estimation procedures. Although PG&E implies that it will succeed in reducing power generator claims by several hundred million dollars in the aggregate, it provides no information about the basis of its objection, its prospects for success, or the impact on feasibility of its plan if its objections are overruled.

Moreover, PG&E should disclose what protections, if any, it intends to afford to disputed claims once objections are filed. The current description of the plan makes it appear that PG&E has no intention of establishing a reserve fund for disputed claims, yet PG&E makes no effort to explain how it intends either to meet due process requirements

with respect to those disputed claims, or how it intends to address the need to pay those claims if PG&E's objection is overruled after the plan is consummated.

#### **IV.**

### **IMPACT OF FERC FILINGS**

PG&E clearly intends to put much of the "meat on the bones" of its sketchy plan in the context of its regulatory filings, particularly its filings with FERC. However, as of the deadline for objections to the sufficiency of the disclosure statement, PG&E had neither completed its FERC filings nor provided creditors with any information about the proposed content of the filings. Without this information, creditors are completely in the dark about the details of PG&E's complex proposed restructuring of itself into four new entities, three of which will be under FERC jurisdiction for the first time.

#### **V.**

### **JOINDER IN OTHER OBJECTIONS**

SMUD joins in the objections filed by the Official Creditors Committee in this case, by the Official Committee of Market Participants in the California Power Exchange chapter 11 case, and by Northern California Power Agency ("NCPA").

For all of the foregoing reasons, the Debtor respectfully requests that this Court make and enter its orders disapproving the sufficiency of PG&E's disclosure statement until the inadequacies listed above have been corrected.

DATED: November 26, 2001

Respectfully,

DIAMOND MCCARTHY TAYLOR &  
FINLEY

By: Wendy K. Laubach \* By Permission  
WENDY K. LAUBACH EDT

Attorneys for SACRAMENTO MUNICIPAL  
UTILITY DISTRICT

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Objection has been served by United States Mail, first class, postage prepaid to all parties on the Service List attached hereto on the 26<sup>th</sup> day of November, 2001.

Wendy K. Laubach \* By Permission  
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