

50-295/323

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Resources Control Board, Lahontan Regional Water Quality
Control Board, Central Valley Regional Water Quality Control
Board, San Francisco Bay Regional Water Quality Control
Board, North Coast Regional Water Quality Control Board,
California Department of Fish and Game, California Department
of Forestry and Fire Protection, and California Department of
Water Resources

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

Case No. 01-30923 DM

Chapter 11 Case

**DECLARATION OF MARGRET J. KIM IN
SUPPORT OF JOINDER OF THE PEOPLE
OF THE STATE OF CALIFORNIA EX. REL.
DTSC, ET. AL. TO CPUC OBJECTION TO
DEBTOR'S SECOND MOTION FOR ORDER
FURTHER EXTENDING EXCLUSIVITY
PERIOD TO PERMIT FILING OF
ALTERNATIVE PLAN**

Date: January 16, 2002
Time: 9:30 a.m.
Place: 235 Pine St., 22nd Floor
San Francisco, California

A001 Add: Kids Oge Mail Center

I, Margret J. Kim, declare as follows:

1. I am employed by the State of California in the position of General Counsel of the Resources Agency, a cabinet-level state agency directed by the Secretary of the Resources, who adopts the state's regulations to implement the provisions of the California Environmental Quality Act ("CEQA") (Public Resources Code section 21000 et. seq.), pursuant to the provisions of Public Resources Code section 21084. The Resources Agency is also responsible for the conservation, enhancement, and management of California's natural and cultural resources, including land, water, wildlife, energy, parks, minerals, and historic sites. The Resources Agency has the power of general supervision over, and is directly responsible for, the operations of several departments, boards, conservancies, commissions, and programs including the Coastal Commission, Department of Boating and Waterways, Department of Conservation, Department of Fish and Game, Department of Forestry and Fire Protection, Department of Parks and Recreation, Department of Water Resources, Energy Commission, Native American Heritage Commission, and Wildlife Conservation Board (collectively, the "Resources Agency").

2. I have personal knowledge of the facts stated herein except as to matters stated upon information and belief, and as to those matters, I believe them to be true. If called upon to testify in this matter, I could and would testify competently to the facts set forth herein.

3. I submit this declaration on behalf of the Resources Agency in support of the joinder by the various state agencies listed on the caption of this pleading in the California Public Utilities Commission's Objection to Pacific Gas & Electric's Second Motion for Order Further Extending Exclusivity Period for Filing Plan of Reorganization to Permit the California Public Utilities Commission to File an Alternative Plan of Reorganization.

4. The Resources Agency has had a major role with respect to the environmental issues in the proceedings before the California Public Utilities Commission (the "Commission") in which PG&E has sought approval to auction its hydroelectric generation assets, application no. 99-09-053, and other related proceedings. The Resources Agency convened and coordinated the work of 15 state and federal agencies with environmental and energy interests in these proceedings over the last two years to ensure that CEQA is fully applied to the Commission's

1 discretionary decisions. The Resources Agency also has a supervisory role with respect to many
2 of the agencies which would have to grant approvals in connection with the transfers of
3 ownership of natural gas pipelines and electric transmission lines proposed as part of PG&E's
4 Plan of Reorganization. As I understand it, PG&E seeks approval from this Court to transfer
5 those assets in connection with its Plan of Reorganization relying on preemption by the
6 Bankruptcy Code to claim that state agency review and approval under California law, such as
7 CEQA is not required.

8 5. PG&E has never attempted to negotiate the terms of either its original or
9 amended Plan of Reorganization with me, or, to the best of my knowledge, and upon information
10 and belief, representatives of the Resources Agency or any components thereof. Since this case
11 began, PG&E has not contacted me, or, to the best of my knowledge, and upon information and
12 belief, any other representatives of the Resources Agency or any components thereof, regarding
13 the terms of PG&E's Plan or alternative means of reorganizing PG&E's bankruptcy estate and
14 paying its creditors. Additionally, I was not nor, to the best of my knowledge, and upon
15 information and belief, was any representative of the Resources Agency or any components
16 thereof, given any meaningful notice of PG&E's Plan prior to it being publicly announced and
17 then filed with the Court.

18 I declare under penalty of perjury under the laws of the United States and the State of
19 California that the foregoing is true and correct. Executed this ^{9th} day of January, 2002, in
20 Sacramento, California.

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22 Margret J. Kim
23 General Counsel, Resources Agency
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Basin Regional Water Quality Control Board, State Water
13 Resources Control Board, Lahontan Regional Water Quality
Control Board, Central Valley Regional Water Quality Control
14 Board, San Francisco Bay Regional Water Quality Control
Board, North Coast Regional Water Quality Control Board,
15 California Department of Fish and Game, California Department
of Forestry and Fire Protection, and California Department of
16 Water Resources

17 UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION

19 In re:
20 PACIFIC GAS AND ELECTRIC
COMPANY, a California corporation,

21 Debtor.

22 Federal I.D. No. 94-0742640
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Case No. 01-30923 DM

Chapter 11 Case

**JOINDER OF THE PEOPLE OF THE STATE
OF CALIFORNIA EX. REL. DTSC, ET. AL.
TO CALIFORNIA PUBLIC UTILITIES
COMMISSION OBJECTION TO DEBTOR'S
SECOND MOTION FOR ORDER FURTHER
EXTENDING EXCLUSIVITY PERIOD TO
PERMIT FILING OF ALTERNATIVE PLAN**

Date: January 16, 2002
Time: 9:30 a.m.
Place: 235 Pine St., 22nd Floor
San Francisco, California

1 The People of the State of California, ex. rel. California Department of Toxic Substances
2 Control, Central Coast Regional Water Quality Control Board, Colorado River Basin Regional
3 Water Quality Control Board, State Water Resources Control Board, Lahontan Regional Water
4 Quality Control Board, Central Valley Regional Water Quality Control Board, San Francisco Bay
5 Regional Water Quality Control Board, North Coast Regional Water Quality Control Board,
6 California Department of Fish and Game, California Department of Forestry and Fire Protection,
7 and California Department of Water Resources (collectively, the "State"), hereby file this joinder
8 to the California Public Utilities Commission's (the "Commission") objection to Pacific Gas &
9 Electric Company's second motion for order further extending exclusivity period for filing plan
10 of reorganization ("PG&E Motion") to permit the Commission to file an alternative plan of
11 reorganization ("Commission Objection") as follows.¹

12 The State hereby joins in the Commission's objection to PG&E's Motion. For the reasons
13 set forth in the Commission Objection, the State contends that PG&E has not established cause as
14 is required under section 1121(d) of the Bankruptcy Code for a further extension of the
15 exclusivity period. As is the case with the Commission, PG&E has not even attempted to
16 negotiate with the Resources Agency regarding its plan of reorganization during the nine months
17 it has enjoyed exclusivity. See, Declaration of Margret Kim, General Counsel of the Resources
18 Agency, in support of this joinder. Because they have filed claims and have regulatory authority
19 over PG&E and its property, permits and licenses, inter alia, the various state agencies listed
20 above are important parties in interest in this case. See, Request for Judicial Notice filed in
21 support of Objection of the People of the State of California, ex. rel., DTSC, et al., to Approval of
22 Disclosure Statement Because Plan of Reorganization is Facially Invalid Based on Sovereign
23 Immunity and Impermissible Preemption, Exhibits 4-58. Instead of negotiating, PG&E has
24 decided to pursue a course for reorganization that requires extraordinary relief from this Court
25 with the goal of escaping state regulation. PG&E's proposed plan is not confirmable as a matter
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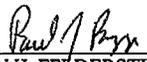
27 ¹ By filing this joinder, the State is making a special and limited appearance. The State does not waive its
28 immunity under the Eleventh Amendment and expressly reserves all rights to assert its sovereign
immunity in defense to all relief sought in this and any other proceeding.

1 of law for the reasons set forth in the Objection of the People of the State of California ex.rel.,
2 DTSC, et. al. to Approval of Disclosure Statement Because Plan of Reorganization is Facially
3 Invalid Based on Sovereign Immunity and Impermissible Preemption filed January 8, 2002.

4 For the reasons set forth in the Commission's Objection, PG&E should not be allowed to
5 use exclusivity as a tactical device to prevent the creditors and parties in interest from knowing
6 that there are alternatives that would pay them in full without the risks associated with PG&E's
7 proposed plan. PG&E's motion should be denied to the extent necessary to permit the
8 Commission to file an alternative plan and solicit acceptances thereto. The State agencies listed
9 above welcome the opportunity to evaluate an alternative plan.

10 Dated: January 9, 2002

Respectfully submitted,
BILL LOCKYER
Attorney General of the State of California
MORRIS BEATUS
Senior Assistant Attorney General
MARGARITA PADILLA
Deputy Attorney General

15 By: 
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22 Colorado River Basin Regional Water Quality Control
23 Board, State Water Resources Control Board, Lahontan
24 Regional Water Quality Control Board, Central Valley
25 Regional Water Quality Control Board, San Francisco Bay
26 Regional Water Quality Control Board, North Coast
27 Regional Water Quality Control Board, California
28 Department of Fish and Game, California Department of
Forestry and Fire Protection, and California Department of
Water Resources