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9 Special Counsel for Debtor in Possession
10 PACIFIC GAS AND ELECTRIC COMPANY

11 UNITED STATES BANKRUPTCY COURT

12 NORTHERN DISTRICT OF CALIFORNIA

13 SAN FRANCISCO DIVISION

14 In re

Case No.: 01-30923 DM

15 PACIFIC GAS AND ELECTRIC
16 COMPANY, a California corporation,

Chapter 11 Case

Debtor.

Judge: Hon. Dennis Montali

Date: July 2, 2002

Time: 1:30 p.m.

Federal I.D. No. 94-0742640

17
18 **CERTIFICATION OF ADAM M. COLE IN SUPPORT OF HELLER EHRMAN**
19 **WHITE & McAULIFFE LLP'S THIRD INTERIM FEE APPLICATION FOR**
20 **ALLOWANCE AND PAYMENT OF COMPENSATION AND REIMBURSEMENT**
21 **OF EXPENSES FOR THE PERIOD**
22 **DECEMBER 1, 2001, THROUGH MARCH 31, 2002**

23 I, ADAM M. COLE, certify as follows:

24 1. I am a shareholder of the law firm of Heller Ehrman White & McAuliffe LLP
25 ("Heller Ehrman"), Special Counsel to Pacific Gas and Electric Company ("PG&E"), debtor
26 and debtor-in-possession in the above referenced bankruptcy case. I am a member in good
27 standing of the State Bar of California and am admitted to practice before this Court. I have
28 personal knowledge of the following matters unless stated to be on information and belief,
and as to those matters I believe them to be true. I submit this Certification in support of

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1 Heller Ehrman's Third Interim Fee Application (the "Application") for Allowance and
2 Payment of Compensation and Reimbursement of Expenses for the Period December 1,
3 2001, Through March 31, 2002 (the "Application Period").

4 2. Attached as Exhibit A is a chart identifying, and providing applicable hourly
5 billing rates for, all Heller Ehrman attorneys, paralegals and other nonlawyer professionals
6 who performed services on PG&E matters during the Application Period, and whose time is
7 reflected on the timesheets attached to the accompanying Time Records Exhibit. Attached
8 as Exhibit B are biographies of all timekeepers who recorded time during the Application
9 Period.

10 3. (a) I have read the Application. (b) To the best of my knowledge,
11 information, and belief, formed after reasonable inquiry, the compensation and expense
12 reimbursement sought in the Application are in conformity with the Bankruptcy Court's
13 Guidelines for Compensation and Expense Reimbursement of Professionals, except as
14 otherwise set forth in paragraphs 4-14 below. Paragraphs 4-14 below also address a number
15 of specific issues raised in the Court's Memorandum Decision Regarding Applications for
16 Interim Compensation of Professionals (Dec. 12, 2001) ("December 12, 2001 Order").
17 (c) The compensation and expense reimbursement requested are billed at rates and in
18 accordance with practices no less favorable than those customarily employed by Heller
19 Ehrman and generally accepted by Heller Ehrman's clients. Indeed, Heller Ehrman's rates
20 to PG&E both for lawyer and paralegal time reflect a discount from Heller Ehrman's normal
21 rates. I am informed and believe that the non-discounted hourly rates of the attorneys and
22 paralegals practicing at Heller Ehrman are consistent with those prevailing in the San
23 Francisco Bay Area community for similar services of lawyers and paralegals of reasonably
24 comparable skill and reputation.

25 4. There are certain respects in which Heller Ehrman's practices regarding
26 timekeeping, billing and expense reimbursement as reflected in the Application are not, or
27 may not be, in accordance with the Guidelines. These are described in the following
28 paragraphs. In each instance, the practice reflected in the Application is in accordance with

1 the practice followed in the course of Heller Ehrman's long representation of PG&E prior to
2 its bankruptcy filing and is no less favorable to PG&E — and in many instances is more
3 favorable — than the general practice applicable to Heller Ehrman's clients.

4 **5. File Management.** Heller Ehrman paralegals perform a significant amount of
5 file management services, which are necessary to Heller Ehrman's effective representation
6 of PG&E in the multiple matters on which Heller Ehrman has been engaged. A brief
7 description of the magnitude and complexity of the PG&E cases is necessary to understand
8 the importance of having trained paralegals manage the files in these cases. Heller Ehrman
9 currently is handling 25 separate matters for PG&E. Those matters are being handled by 36
10 lawyers in five Heller Ehrman offices (San Francisco, Washington D.C., Seattle, Portland,
11 and Los Angeles). The PG&E matters currently are one of the largest engagements at
12 Heller Ehrman (based on time-value of services performed).

13 **6.** Representing PG&E effectively in the PG&E matters requires a high degree of
14 organization, coordination and centralization. Large quantities of filings, decisions,
15 correspondence and other documents, both in hard copy and electronic form, are generated
16 on a daily basis. Numerous lawyers in multiple offices rely on centralized files to run these
17 cases. If each lawyer and his or her secretary were left to maintain their own files,
18 organizational chaos would result. Lawyers constantly would be looking for documents,
19 duplicating others' efforts, and wasting time.

20 **7.** It is the established and customary practice of this firm to have paralegals
21 handle file management tasks in very large and complex cases such as the PG&E matters.
22 Unlike clerical staff such as secretaries, paralegals are assigned to a specific matter or set of
23 matters, and develop familiarity with the substantive issues in those matters. Paralegals
24 therefore are equipped to make the often difficult judgment calls about how to manage files
25 in a complex case. For example, in the PG&E cases, a technical report by the Federal
26 Energy Regulatory Commission ("FERC") may pertain to several energy regulatory matters
27 and need to be filed in more than one set of files. Only a professional or paraprofessional
28 with knowledge about the substance of the cases could make a determination as to which

1 files are involved. In addition, file management in large cases such as the PG&E matters
2 requires specialized training in indexing and organizational systems.

3 8. Where possible, Heller Ehrman assigns routine clerical tasks to secretaries and
4 other personnel who do not bill their time to the client. Secretaries also manage individual
5 lawyers' files. However, as explained above, the demands of very large and complex cases
6 such as the PG&E matters requires centralized filing handled by paralegals. Heller Ehrman
7 customarily bills its nonbankruptcy clients for the services of paralegals to provide file
8 management services of the type performed here, and our nonbankruptcy clients customarily
9 pay for those services. These are precisely the types of services for which Heller Ehrman
10 billed PG&E, and PG&E paid, for many years before the Chapter 11 case.

11 9. It is not feasible for secretaries to perform the type of file management tasks
12 called for by the PG&E matters. The demands of the shared secretarial position in a large
13 law firm precludes secretaries from devoting the time to be trained in and perform the tasks
14 required to accurately manage the files of a large case.

15 10. Heller Ehrman's general policy (which I understand is consistent with the
16 norm in large San Francisco Bay area law firms) is, wherever possible, to assign three
17 lawyers to each secretary. Thus, a secretary assigned to a lawyer on a PG&E matter will be
18 responsible for many matters wholly unrelated to PG&E. Each addition of a lawyer to a
19 secretary's work load requires that the secretary devote less time to PG&E matters. In
20 addition, because of the time constraints created by assisting multiple lawyers, secretaries
21 are unable to develop specialized knowledge of the substance of the cases, which is crucial
22 for effective file management. Furthermore, Heller Ehrman secretaries generally are not
23 trained in the use of indexing systems, such as "LegalKey" software, and complex case file
24 management techniques.

25 11. As a further logistical impediment to secretaries handling file management,
26 the volume of documents in the PG&E matters requires that files be kept in separate
27 workrooms. The workrooms are located away from the secretarial work stations. Those
28 responsible for file maintenance must respond to numerous requests from many lawyers to

1 obtain and file materials in the workrooms. It would be prohibitively disruptive to have
2 secretaries repeatedly leaving their work stations to go to the workrooms.

3 12. **Intra-Office Conferences.** Heller Ehrman strives to staff matters as
4 efficiently as possible. Heller Ehrman must, however, balance that objective against its
5 overriding objective of providing effective legal representation to PG&E. Heller Ehrman's
6 judgment regarding how it staffs matters seeks to accommodate these potentially competing
7 objectives.

8 13. In representing PG&E, Heller Ehrman's attorneys participate in a significant
9 number of intra-office conferences. In most instances, those conferences involve a small
10 number (two to four) of attorneys and/or paralegals, but on some occasions more attorneys
11 and/or paralegals are involved. On some occasions, one or more representatives of PG&E
12 also are involved. Heller Ehrman tries to minimize the number of intra-office conferences
13 and client conferences at which more than one timekeeper is involved. However, the
14 matters for which Heller Ehrman has been engaged are extraordinarily complex, both
15 legally and factually. In order to represent PG&E effectively, Heller Ehrman's lawyers
16 must coordinate and share expertise. Indeed, one of the reasons Heller Ehrman can provide
17 effective services to PG&E is because it has multiple lawyers with specific areas of
18 expertise. Approximately 36 attorneys and 35 paralegals performed services for PG&E
19 during the Application Period. Intra-office conferences enabled those lawyers and
20 paralegals to avoid duplicating efforts. Intra-office conferences also enable senior attorneys
21 to supervise and direct the efforts of more junior attorneys and paralegals, assist in analysis
22 and formulate strategy, and synthesize their expertise in the many diverse areas of practice
23 implicated in this engagement. Heller Ehrman believes that the intra-office conferences
24 reflected in the Application have been essential to enable Heller Ehrman to perform
25 effective legal services for PG&E, and that full compensation should be allowed for all
26 timekeepers attending those conferences.

27 14. **Attendance of More Than One Heller Ehrman Professional at Hearings.**
28 In the December 12, 2001, Order, the Court stated that it will "require justification for the

1 appearance of more than one professional at any court hearing. In other words, an applicant
 2 must identify each hearing involving multiple professionals and justify specifically the use
 3 of professionals at each such hearing.” Order at p. 7, lines 21-25. The following chart
 4 identifies all hearings during the Application Period attended by more than one Heller
 5 Ehrman professional and provides the justification for the attendance of multiple
 6 professionals at those hearings:

HEARING	PROFESSIONALS ATTENDING	JUSTIFICATION FOR ATTENDANCE OF MORE THAN ONE PROFESSIONAL
February 7, 2002, hearing on motion to dismiss (Matter No. 64)	M. Popofsky (attorney) M. Fiala (attorney) A.M. Cole (attorney) R. Sheen (attorney) H. Ware (attorney) D. Luster (paralegal) M. Stone (paralegal)	The defendants in PG&E’s Filed Rate Case (the Commissioners of the California Public Utilities Commission (“CPUC”)), as well as an applicant for intervention, The Utility Reform Network (“TURN”), filed extensive papers in support of motions to dismiss PG&E’s Filed Rate Case. A number of lawyers at Heller Ehrman worked on the briefing and analysis in response to those motions, which involved a large number of complex issues. PG&E’s lead trial counsel, Ms. Fiala, argued for PG&E at the hearing. Several (but not all) of the attorneys on the Heller Ehrman team (two shareholders and two associates) joined Ms. Fiala at the hearing. The attendance at the hearing of those Heller Ehrman lawyers who had extensive responsibility for the motion to dismiss briefing was necessary to provide support on particular factual or legal issues that might have arisen during the hearing. Two paralegals also attended the hearing to transport a large number of documents for potential use at the hearing as well as to transport and arrange the logistics of demonstrative aids for use at the hearing.
March 7, 2002, Case Management Conference (Matter No. 64)	M.L. Fiala (attorney) A.M. Cole (attorney)	This conference was specially set by the United States District Court to address an array of discovery and scheduling issues (in both PG&E’s Filed Rate Case (Matter No. 64) and the appeal of this Court’s ruling on PG&E’s motion to stay enforcement of CPUC Decision 01-03-082). Ms. Fiala is lead trial counsel in Matter No. 64 and Mr. Cole is another shareholder working on the case with extensive familiarity with discovery issues. Because discovery was a primary issue at the

HEARING	PROFESSIONALS ATTENDING	JUSTIFICATION FOR ATTENDANCE OF MORE THAN ONE PROFESSIONAL
		conference, it was important for both PG&E's lead trial counsel and the lawyer most familiar with discovery issues to be present.
February 21, 2002, prehearing conference at FERC (Matter No. 63)	S. Berman (attorney) H. Kim (attorney)	This conference was an oral argument concerning a motion to preserve approximately \$150 million in refunds owed to PG&E, which had erroneously been excluded from calculations by the California Power Exchange ("PX") in the FERC refund proceeding. Mr. Berman, the lead trial lawyer for PG&E in the FERC proceeding, argued the motion. Because the judge had ordered the opposing parties to present their argument orally, rather than in written rebuttal, Ms. Kim attended the hearing to be able to provide prompt research responses to legal and factual arguments advanced by opposing parties for the first time at the hearing.
March 4-6, 2002, stipulation conference at FERC (Matter No. 63)	S. Berman (attorney) J. Fagan (attorney)	These conferences addressed trial stipulations and scheduling issues concerning dozens of disputed issues and dozens of parties that were preparing for trial in the following week. Numerous concurrent discussions were held. In order to cover concurrent discussions, it was necessary that the conference be attended by both PG&E's lead trial attorney (Mr. Berman) and another attorney (Mr. Fagan).
March 7-8, 2002, prehearing conference at FERC (Matter No. 63)	S. Berman (attorney) J. Fagan (attorney)	The oral arguments held on these days defined the issues and evidence for the refund hearing held the following week. While arguments were ongoing, with Mr. Berman representing PG&E, concurrent breakout discussions were held with other attorneys for the parties to resolve and address the rulings that were continually being made by the judge. Mr. Fagan represented PG&E in those concurrent discussions.
March 11-15 and 19, 2002, hearing at FERC (Matter No. 63)	S. Berman (attorney) J. Fagan (attorney) J. Morgan (paralegal) (March 15 only)	This was a trial concerning the price cap levels to be applied in establishing refunds for PG&E for overcharges in California electric markets. PG&E's potential refunds resulting from the trial are over \$800 million. In order to coordinate the representation of PG&E during the trial, including numerous exhibits, frequent arguments concerning legal matters, and other trial issues, PG&E's lead trial lawyer (Mr. Berman) was assisted by another

HEARING	PROFESSIONALS ATTENDING	JUSTIFICATION FOR ATTENDANCE OF MORE THAN ONE PROFESSIONAL
		attorney (Mr. Fagan) and at times by a paralegal (Mr. Morgan).
March 22, 2002, prehearing conference at FERC (Matter No. 63)	S. Berman (attorney) J. Fagan (attorney)	In an effort to save money for PG&E, PG&E's lead trial attorney on FERC refund matters, Mr. Berman, represented PG&E at this conference telephonically. In order for Heller Ehrman to participate in breakout sessions in hearing rooms adjacent to the main hearing room to discuss scheduling issues, hearing tactics, and other matters with parties aligned with PG&E, Mr. Fagan (who works in Heller Ehrman's D.C. office) attended in person. Mr. Fagan also attended to assist at the main hearing in the event that the telephonic connection failed.

15. **Issues Relating to Expenses**

a. Although Heller Ehrman customarily charges clients for meals and transportation for attorneys, paralegals and support staff required to work late on the client's matters — and, indeed, we have consistently charged PG&E for, and PG&E has paid, those expenses — we have eliminated such charges from the Application.

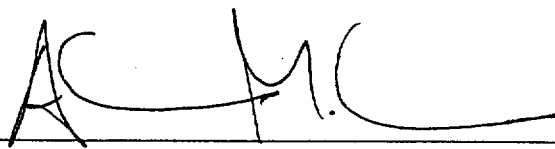
b. As stated in the Application, computerized legal research is billed at the standard rates charged by Westlaw and LEXIS, without markup or discount. Heller Ehrman receives certain volume discounts from Westlaw and LEXIS which are not allocable to any particular matter or client, and which Heller Ehrman does not attribute to any particular client, including PG&E.

c. Pursuant to our longstanding practice and Master Fee Agreement with PG&E, outgoing faxes have been charged at 75¢ per page.

d. On May 15, 2002, a copy of the Application was sent to PG&E's Deputy General Counsel, Robert L. Bordon, who is Heller Ehrman's primary client contact at PG&E, with the cover letter specified by Section I, ¶ 7 of the Guidelines.

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I declare under penalty of perjury that the foregoing is true and correct, and that this Certification was executed on May 15, 2002, at San Francisco, California.


ADAM M. COLE