

1 MARIE L. FIALA (No. 79676)
2 PETER J. BENVENUTTI (No. 60566)
3 ADAM M. COLE (No. 145344)
4 HELLER EHRMAN WHITE & McAULIFFE LLP
5 333 Bush Street
6 San Francisco, California 94104-2878
7 Telephone: (415) 772-6000
8 Facsimile: (415) 772-6268

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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
15 PACIFIC GAS AND ELECTRIC
16 COMPANY, a California corporation,
17 Debtor.
18 Federal I.D. No. 94-0742640

19 Case No.: 01-30923 DM
20 Chapter 11 Case
21 Judge: Hon. Dennis Montali
22 Date: July 2, 2002
23 Time: 1:30 p.m.

24 **HELLER EHRMAN WHITE & McAULIFFE LLP'S THIRD INTERIM FEE
25 APPLICATION FOR ALLOWANCE AND PAYMENT OF COMPENSATION
26 AND REIMBURSEMENT OF EXPENSES FOR THE PERIOD
27 DECEMBER 1, 2001, THROUGH MARCH 31, 2002**

28 Pursuant to the Order Establishing Interim Fee Application and Expense
Reimbursement Procedure, entered July 26, 2001, and amended November 8, 2001 ("Order
re Fee Applications"), Heller Ehrman White & McAuliffe LLP ("Heller Ehrman," or the
"Firm") files this Third Interim Fee Application (the "Application") for Allowance and
Payment of Compensation and Reimbursement of Expenses for the Period December 1,
2001, Through March 31, 2002 (the "Application Period").

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1 I. RETENTION

2 1. Heller Ehrman is Special Counsel to Pacific Gas and Electric Company,
3 debtor and debtor-in-possession in the above-referenced bankruptcy case ("PG&E" or the
4 "Debtor"). Heller Ehrman's retention as Special Counsel was authorized by this Court's
5 Order Authorizing Debtor in Possession to Employ Heller Ehrman White & McAuliffe LLP
6 as Special Counsel, entered June 4, 2001 (the "June 4, 2001, Order"), effective *nunc pro*
7 *tunc* to April 6, 2001.

8 II. SUMMARY OF FEES AND EXPENSES REQUESTED

9 2. The Firm billed a total of \$2,477,438.24 in fees and expenses during the
10 Application Period. The total fees represent 8,501.50 hours expended during the
11 Application Period. Those fees and expenses break down as follows:

12 Period	Fees	Expenses	Total
13 12/01/01 to 3/31/02	\$2,355,607.60	\$121,830.64	\$2,477,438.24

14
15 3. Pursuant to the Order re Fee Applications ¶ 6, Heller Ehrman seeks allowance
16 of interim compensation in the total amount of \$2,477,438.24.

17 4. To date, the Firm is not owed any amounts except those identified in
18 paragraphs 2 and 3 above.¹

19 III. PRIOR COMPENSATION

20 5. As of the date of filing this Application, Heller Ehrman has received
21 compensation for services rendered and reimbursement for expenses incurred since the date
22 of petition (April 6, 2001) as follows:

23
24
25
26 ¹ As indicated in paragraph 5 below, of the \$2,477,438.24 owed to Heller Ehrman for
27 fees and expenses incurred during the Application Period, PG&E already has paid Heller
28 Ehrman \$1,432,941.46 (85% of fees and 100% of expenses for December 2001, January
2002 and February 2002; no payment has yet been received for March 2002). The amount
still owing to Heller Ehrman is \$1,044,496.78.

Application Period	Amount Applied For	Description	Amount Paid
4/6/01 - 7/31/01 (first post-petition interim fee application period)	\$2,264,794.01	100% of fees and 100% of expenses	\$2,246,327.81 ²
8/1/01 - 11/30/01 (second post-petition interim fee application period)	\$2,251,673.88	100% of fees and 100% of expenses	\$2,231,752.48 ³
12/1/01 - 12/31/01 (Dec. CSA period)	\$ 385,123.93	85% of fees and 100% of expenses	\$ 385,123.93
01/01/02 - 01/31/02 (Jan. CSA period)	\$ 513,708.74	85% of fees and 100% of expenses	\$ 513,708.77
02/01/02 - 02/28/02 (Feb. CSA period)	\$ 534,108.73	85% of fees and 100% of expenses	\$ 534,108.76
3/1/02 - 3/31/02 (Mar. CSA period)	\$ 692,899.06 ⁴	85% of fees and 100% of expenses	\$0
Total	\$6,642,308.35		\$5,911,021.75

² The amount paid reflects a disallowance of \$18,466.20 in fees. See Order Approving Heller Ehrman White & McAuliffe LLP's First Interim Fee Application for Allowance and Payment of Compensation and Reimbursement of Expenses for the Period April 6, 2001, Through July 31, 2001 (Nov. 21, 2001); Memorandum Decision Regarding Applications for Interim Compensation of Professionals (Dec. 12, 2001).

³ The amount paid reflects a disallowance of \$19,921.40 in fees for certain paralegal charges. See Order Approving Heller Ehrman White & McAuliffe LLP's Second Interim Fee Application ¶ 1 (Feb. 27, 2002).

⁴ Based on adjustments to certain bills made after submission of the monthly Cover Sheet Applications, the sum of the amounts applied for in the December, January, February and March Cover Sheet Applications (85% of fees and 100% of expenses) is \$1,743.36 higher than 85% of the fees and 100% of the expenses reflected in the chart in paragraph 2 above. Heller Ehrman is seeking compensation in this Application for the lower amount reflected in paragraph 2 above.

1 6. On December 19, 2000, PG&E paid a retainer to Heller Ehrman in the amount
2 of \$350,000. Pursuant to written agreement between the parties dated December 19, 2000,
3 the retainer is not to apply to current billings in the ordinary course, but instead is to apply
4 to Heller Ehrman's unpaid fees and expenses in the event that PG&E fails to make payment
5 in the ordinary course. By written agreement dated April 5, 2001, the parties modified that
6 arrangement to authorize Heller Ehrman to apply the retainer to payment of unpaid pre-
7 petition fees and expenses on matters that are subject to an hourly billing arrangement. The
8 foregoing arrangement was approved by this Court in its June 4, 2001 Order (approving
9 Application of Debtor in Possession for Authority to Employ Heller Ehrman White &
10 McAuliffe LLP as Special Counsel (Apr. 17, 2001)); *see id.* ¶¶ 9-10; Declaration of Marie
11 L. Fiala ¶ 9 (Apr. 8, 2001). As of the date of submission of this Application, Heller Ehrman
12 has applied \$153,615.61 of the retainer to pay for a portion of its (i) pre-petition fees and
13 expenses on hourly rate engagements (\$136,622.37) and (ii) fees and costs incurred on the
14 petition date on hourly rate engagements (\$16,952.84). The current retainer balance is
15 \$196,384.39.

16 7. PG&E and Heller Ehrman are parties to a contingent fee agreement (entered
17 into on January 1, 1993) (the "Contingent Fee Agreement") pertaining to Heller Ehrman's
18 representation of PG&E in pursuing insurance recoveries from a number of insurance
19 companies for losses incurred by PG&E as a result of environmental liabilities. The terms
20 of the Contingent Fee Agreement are described in the Supplemental Application of Debtor
21 in Possession for Authority to Employ Heller Ehrman White & McAuliffe LLP as Special
22 Counsel (Insurance Coverage — Contingent Fee), filed May 18, 2001, and approved by this
23 Court in its June 4, 2001 Order. Heller Ehrman does not seek in this Application
24 compensation or expenses in connection with the contingent fee matter, but instead expects
25 to seek compensation and expenses with respect to that matter by a separate fee application
26 to be filed at an appropriate time.

1 IV. CASE STATUS

2 8. Heller Ehrman relies on the description of the status of the bankruptcy case
3 provided by PG&E's general bankruptcy counsel, Howard Rice Nemerovski Canady Falk &
4 Rabkin.

5 V. SUMMARY OF SERVICES PERFORMED

6 9. Heller Ehrman's services to PG&E during the Application Period are
7 described in detail⁵ in the billing statements attached to the accompanying Time Records
8 Exhibit of Special Counsel Heller Ehrman White & McAuliffe LLP for the Period
9 December 1, 2001, Through March 31, 2002 ("Time Records Exhibit").

10 10. During the Application Period, Heller Ehrman has provided legal services to
11 PG&E on a number of matters. The bulk of those services has continued to involve efforts
12 to obtain rate relief for PG&E from governmental agencies or the courts in the wake of the
13 California energy crisis that caused PG&E's financial condition to deteriorate and
14 precipitated this bankruptcy filing. Heller Ehrman's services have included advice,
15 counseling, and representation regarding regulatory, rate setting and rate refund matters, and
16 litigation related to those and related subject areas. Heller Ehrman has represented PG&E in
17 connection with proceedings before the Federal Energy Regulatory Commission ("FERC")
18 addressing the California energy market and directly affecting PG&E. Heller Ehrman has
19 provided counseling, representation and assistance to PG&E in connection with proceedings
20 at the California Public Utilities Commission ("CPUC") involving PG&E. Heller Ehrman
21 also has represented PG&E in connection with a lawsuit against the Commissioners of the

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23 ⁵ In accordance with Heller Ehrman's professional obligations to its client, Heller
24 Ehrman's time records have been edited to prevent disclosure of confidential information,
25 including information protected by the attorney-client privilege and the work product
26 doctrine. Such information includes, but is not limited to, the specific subject matter of
27 confidential attorney-client or attorney work product discussions; the identity and work
product of nontestifying expert consultants; and the exact nature of the issues and theories
that have been the subject of Heller Ehrman's legal research, analysis and advice to PG&E
in written or oral form. Heller Ehrman submits these time records pursuant to order of the
(Footnote continued)

1 CPUC, which seeks to require the CPUC to comply with federal law and allow PG&E to
2 recover in its retail rates the wholesale electricity costs it incurred in meeting its state-
3 imposed obligation to serve its customers. If PG&E succeeds on its claims as pleaded, that
4 lawsuit ultimately could bring billions of dollars into PG&E's bankruptcy estate through
5 increased retail rate revenues. Heller Ehrman also has provided bankruptcy-related advice
6 and services to PG&E as an adjunct to its other services.⁶

7 11. Consistent with the Court's Guidelines for Compensation of Professionals (the
8 "Fee Guidelines"), Heller Ehrman's services during the Application Period have been
9 recorded under 26 separate internal matter numbers. Billing statements for each of those
10 matters are attached to the accompanying Time Records Exhibit. For each matter, the
11 billing statements set forth, *inter alia*, the total number of hours recorded by each attorney
12 and paralegal, the timekeeper's hourly billing rate(s), and the fees requested. A narrative
13 description of each of those matters follows.

14 VI. NARRATIVE DESCRIPTION OF SERVICES

15 12. **Matter No. 21: City of Santa Cruz. Hours spent: 1.70; fees sought:**
16 **\$394.50; expenses sought: \$39.04.** This matter is used to record time billed in providing
17 legal advice to PG&E in connection with a lawsuit filed against PG&E by the City of Santa
18 Cruz, on its own behalf and on behalf of certain other municipalities, regarding PG&E's
19 alleged underpayments for "franchise" arrangements between PG&E and the municipalities.
20 As a result of the instant bankruptcy filing by PG&E, the City of Santa Cruz action has been
21 stayed, and plaintiff has not moved for relief from the stay.

22 13. The law firm of Hoge Fenton Jones & Appel, Inc. is principal outside counsel
23 for PG&E in this matter. PG&E has asked Heller Ehrman to provide occasional
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25 Bankruptcy Court and without any waiver of any privilege, confidentiality protection or
26 privacy right that might apply to the information contained therein.

27 ⁶ See June 4, 2001, Order at p. 2 (authorizing Heller Ehrman to provide "bankruptcy-
28 related legal services as an adjunct to the other legal services to be performed by Heller
Ehrman").

1 supplemental legal advice. During the Application Period, Heller Ehrman billed only a
2 small amount of time to this matter for such advice.

3 14. **Matter No. 45: Utility General Insurance Advice. Hours spent: 12.20;**
4 **fees sought: \$4,318.40; expenses sought: \$441.72.** This matter is used to record time
5 billed in connection with insurance advice and services provided by Heller Ehrman to
6 PG&E. This matter is separate from and independent of the *PG&E v. Lexington Insurance*
7 *Company et al.* insurance coverage action (Matter No. 11), which is subject to a separate
8 contingent fee agreement. *See supra* ¶ 4.

9 15. During the Review Period, Heller Ehrman provided advice concerning
10 PG&E's self-insured workers' compensation program; assisted PG&E in responding to a
11 demand by the California Department of Toxic Substances Control ("DTSC") to meet
12 certain insurance requirements for insolvent operators of hazardous waste facilities;
13 provided advice regarding third-party surety bond issues; and assisted PG&E in responding
14 to a claim against PG&E by an employee benefit program.

15 16. We anticipate providing additional services to PG&E in response to periodic
16 requests for insurance-related advice.

17 17. **Matter No. 54: Modesto Irrigation District v. Destec. Hours spent: 1.30;**
18 **fees sought: \$626.60; expenses sought: \$1.44.** This matter is used to record time billed
19 in providing legal advice to PG&E in connection with a lawsuit filed against PG&E by the
20 Modesto Irrigation District ("MID"), alleging that PG&E violated the antitrust laws by
21 refusing to accede to MID's request for interconnection service between PG&E's
22 transmission system and MID's facilities. The case was filed on August 3, 1998, and was
23 dismissed with prejudice on August 20, 1999. Plaintiff appealed the dismissal to the Ninth
24 Circuit Court of Appeals. Appellate briefing was concluded on March 31, 2000, and oral
25 argument was heard on the appeal on March 15, 2001. Thus, at the time that PG&E filed
26 the instant bankruptcy petition, the appeal had been fully briefed and argued and awaited
27 resolution by the Ninth Circuit. As a result of the bankruptcy filing by PG&E, the MID
28 action was initially stayed pursuant to the automatic stay provisions of Section 362(a) of the

1 Bankruptcy Code. The parties thereafter stipulated that plaintiff would seek relief from the
2 automatic stay for the limited purpose of resolving the appeal under submission in the Ninth
3 Circuit, including any rehearing requests or certiorari petitions. This Court granted
4 plaintiff's motion for relief from the stay on those terms and the Ninth Circuit ordered that
5 the case be resubmitted on August 3, 2001.

6 18. During the Application Period, PG&E asked Heller Ehrman to provide
7 occasional legal advice on issues pertaining to the legal proceedings and to PG&E's
8 business dealings in matters that relate to the legal proceedings. Heller Ehrman billed only a
9 small amount of time to this matter for such advice during the Application Period.

10 19. **Matter No. 63: California Market Failures — FERC Docket EL00-95**
11 **and Related Dockets/Matters. Hours spent: 3,511.70; fees sought: \$908,936.00;⁷**
12 **expenses sought: \$66,847.29.** This matter is used to record time billed in connection with
13 the principal FERC proceeding addressing failures in the California electric market. That
14 proceeding, FERC Docket EL00-95, was brought on August 2, 2000, by San Diego Gas and
15 Electric Company ("SDG&E") against all sellers in the California wholesale electric
16 markets, seeking FERC intervention in the markets. PG&E intervened in the proceeding,
17 seeking reform of those markets, and monetary relief and refunds based on overcharges by
18 sellers. Depending on the outcome of this litigation, it is expected that PG&E may receive
19 refunds of a billion dollars or more for overcharges in California electric markets.

20 20. Heller Ehrman has been retained since prior to the petition date to provide
21 extensive legal services to PG&E in connection with this proceeding. Heller Ehrman has
22 provided legal advice, research and strategy input; prepared and filed numerous briefs and
23 other papers; and appeared at hearings on behalf of PG&E. For example, Heller Ehrman
24 prepared extensive papers and advocated on PG&E's behalf concerning prospective price
25 mitigation relief affecting PG&E which has been the subject of FERC orders issued

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27 ⁷ The attached bill for March 2002 reflects a write-down of \$2,007.50 for a duplicate
28 entry for attendance by Heller Ehrman lawyer Stan Berman at a prehearing conference at
FERC on March 8, 2002.

1 November 1, 2000, December 15, 2000, April 26, 2001, June 19, 2001, and December 19,
2 2001, and a FERC technical conference in October 2001. Heller Ehrman has likewise
3 represented PG&E in seeking refunds for overcharges by sellers, submitting numerous
4 pleadings which led to refund orders issued by the FERC on July 25, 2001, and
5 December 19, 2001. Refund issues have been set for hearing at FERC, and Heller Ehrman
6 is trial counsel for PG&E. Heller Ehrman has managed extensive discovery on refund
7 issues, and represented PG&E at a FERC trial on refund issues in March 2002. Subsequent
8 to the trial, there was extensive briefing. There is another FERC trial on refund issues set
9 for August 2002, and Heller Ehrman is conducting discovery and preparing for that trial.

10 21. PG&E has been and will continue to be an active participant in numerous
11 other proceedings related to FERC Docket ER00-95, in which Heller Ehrman has been
12 retained to provide legal services. For example, Heller Ehrman has prepared and submitted
13 pleadings on PG&E's behalf responding to filings by the California Independent System
14 Operator Corporation ("ISO") (the entity responsible for overseeing the transmission grid in
15 California and procuring wholesale electricity in "real time" where necessary to meet
16 demand) affecting PG&E's interests. Heller Ehrman also has been retained to participate in
17 rate proceedings concerning sellers that serve the California markets to ensure that such
18 sellers are not permitted to charge unreasonable rates in the future.

19 22. We anticipate providing extensive continuing legal services to PG&E in this
20 matter.

21 23. **Matter No. 64: Federal Filed Rate Case. Hours spent: 1,816.60; fees**
22 **sought: \$499,666.00; expenses sought: \$15,837.94.** This matter is used to record time
23 billed in providing legal advice and representation to PG&E in a lawsuit filed by PG&E
24 against the Commissioners of the CPUC. The lawsuit seeks to require the CPUC to comply
25 with federal law and allow PG&E to recover in its retail rates the wholesale electricity costs
26 it incurred in meeting its state-imposed obligation to serve its customers. The lawsuit stems
27 from the electricity market crisis that started in the summer of 2000, when the wholesale
28 cost of the electricity that PG&E purchased for delivery to its retail customers experienced

1 unanticipated and massive increases. Although PG&E's wholesale costs rose dramatically,
2 PG&E's retail rate revenues were frozen pursuant to AB 1890, California's electricity
3 market restructuring statute. Between June 2000 and March 31, 2001, PG&E's wholesale
4 costs exceeded the amounts available in PG&E's frozen retail rates to pay for such costs by
5 approximately \$9.2 billion. As a result of the CPUC's refusal to allow PG&E to recover its
6 wholesale costs in retail rates, PG&E amassed crippling debt, ultimately leading PG&E to
7 file the instant bankruptcy petition on April 6, 2001.

8 24. PG&E retained Heller Ehrman in the summer of 2000 to analyze the legal
9 issues and prepare litigation to challenge the CPUC's actions denying recovery to PG&E of
10 its ever-mounting wholesale electricity costs. In November 2000, Heller Ehrman filed a
11 lawsuit on PG&E's behalf in the United States District Court for the Northern District of
12 California alleging that under well-established principles of federal preemption, including
13 the "filed rate doctrine,"⁸ and other legal theories PG&E is entitled to recover its wholesale
14 transmission and power purchase costs in its retail rate revenues. That case, *PG&E v. Lynch*
15 *et al.*, Civil Action No. C 00 4128 (SBA) (N.D. Cal.), subsequently was transferred to the
16 United States District Court for the Central District of California, where a virtually identical
17 lawsuit by Southern California Edison Company was pending. PG&E filed an amended
18 complaint in the United States District Court for the Central District of California on
19 February 15, 2001, entitled *PG&E v. Lynch et al.*, Civil Action No. CV 01-1083-RSWL
20 (SHx) (C.D. Cal.).

21 25. Heller Ehrman provided legal representation to PG&E in prosecuting that
22 lawsuit, including consultation and advice, preparing and filing pleadings and motion
23 papers, appearances at court hearings and preparing for potential discovery.

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25
26 ⁸ Under the "filed rate doctrine," a wholesale rate paid by a utility pursuant to a
27 federally-approved tariff is binding on a state utilities commission for retail rate-setting
28 purposes, and a state must allow a utility to recover in its retail rates the wholesale costs
paid by the utility pursuant to the federally-approved tariff.

1 26. On May 2, 2001, the court dismissed PG&E's lawsuit on ripeness grounds
2 without prejudice to refile. On August 6, 2001, Heller Ehrman refiled PG&E's lawsuit
3 against the CPUC Commissioners in the United States District Court for the Northern
4 District of California. That lawsuit, *PG&E v. Lynch, et al.*, Case No. C 01-03023 VRW
5 (N.D. Cal.) (the "Filed Rate Lawsuit"), currently is pending before the Hon. Vaughn R.
6 Walker.

7 27. During the Application Period, Heller Ehrman provided a wide range of legal
8 services to PG&E in its role as outside counsel representing PG&E in litigating its claims
9 against the CPUC Commissioners in the Filed Rate Lawsuit. Heller Ehrman participated in
10 joint case management conference activities, including preparation of written case
11 management conference materials, meet and confer activities, and participation at a Case
12 Management Conference; conducted extensive legal research and analysis regarding
13 PG&E's claims; engaged in discovery activities, including preparation of Initial Disclosures
14 and responses to discovery requests, review of documents for production, and preparation of
15 a protective order; prepared for and participated in a hearing on motions to dismiss;
16 prepared briefing and declarations in support of PG&E's motion for summary judgment,
17 and other matters; communicated extensively with PG&E regarding strategy issues; and
18 monitored developments in other cases and in the energy industry bearing on PG&E's
19 claims.

20 28. Heller Ehrman anticipates significant additional work on the Filed Rate
21 Lawsuit in the coming months, including preparing for and participating in a hearing on
22 cross motions for summary judgment; engaging in extensive discovery; conducting legal
23 research and analysis; and providing advice and counseling to PG&E with respect to the
24 litigation.

25 29. **Matter No. 66: Claims re Missing London Markets. Hours spent: 53.20;**
26 **fees sought: \$7,918.10; expenses sought: \$73.44.** This matter is an offshoot of the *PG&E*
27 *v. Lexington Insurance Company* insurance coverage case; Matter No. 11. Matter No. 11,
28 itself, is subject to a separate contingent fee agreement. *See supra* ¶ 7. Matter No. 66 is

1 used to record time billed in assisting PG&E in an ongoing effort to obtain recovery from its
2 London broker for certain missing London market insurance policies that PG&E was unable
3 to prove in the litigation. English law requires London market brokers to retain evidence of
4 the material terms of the policies they secure for a policyholder, including the original of a
5 document that is referred to as the "placing slip." In this instance, the broker failed to
6 provide this and other records with the result that PG&E was not able to collect from the
7 unknown providers of this missing coverage. Heller Ehrman coordinates with English
8 counsel retained by PG&E to pursue this claim.

9 30. **Matter No. 67: Creditworthiness Docket - FERC Docket ER01-889.**
10 **Hours spent: 113.80; fees sought: \$41,374.00; expenses sought: \$94.97.** This docket
11 addresses, among other things, the issue of whether PG&E may be held liable for electricity
12 procured for PG&E's customers after PG&E no longer had the financial resources to assure
13 that it could pay for such power. In January 2001, PG&E became uncreditworthy under
14 existing tariffs, necessitating that an alternative buyer be found to procure power for
15 PG&E's customers. At about the same time, the California Department of Water Resources
16 ("DWR") was empowered to purchase power on behalf of California's cash-deprived
17 utilities. This proceeding specifically involves a January 4, 2001, filing by the ISO to
18 amend its FERC tariff to relax the creditworthiness provisions so that certain entities,
19 including PG&E, could continue buying electric power from third parties despite the fact
20 that those entities do not meet the tariff's creditworthiness requirements. FERC refused to
21 amend the tariff, leaving in place a requirement that power purchases must be made by a
22 creditworthy entity. In a series of subsequent orders, culminating in an order on
23 November 7, 2001, FERC ordered that DWR, not PG&E, should be billed for any third-
24 party power transactions on or after January 17, 2001. The November 7, 2001 Order was
25 affirmed on rehearing on March 27, 2002.

26 31. Heller Ehrman has been retained since prior to the petition date to represent
27 PG&E in connection with the FERC creditworthiness proceedings. During the Application
28 Period, Heller Ehrman has provided legal advice and filed papers on PG&E's behalf in

1 those proceedings. Additionally, Heller Ehrman has assisted in negotiations with DWR
2 concerning these payment issues. Heller Ehrman's efforts are intended, *inter alia*, to
3 prevent PG&E from being forced to spend money that otherwise would accrue to the estate.

4 32. The California ISO has filed a petition in the United States Court of Appeals
5 for the D.C. Circuit for review of several FERC orders in this docket, and DWR has
6 challenged FERC's orders in requests for rehearing filed at FERC. Numerous other parties
7 also have challenged FERC's actions in this docket. Heller Ehrman is representing PG&E
8 at FERC and in the Court of Appeals in connection with these issues. We anticipate
9 performing additional work for PG&E as these matters proceed.

10 33. **Matter No. 68: Qualifying Facility ("QF") Proceedings/Issues. Hours**
11 **spent: 17.00; fees sought: \$5,358.40; expenses sought: \$187.68.** PG&E obtains a
12 certain amount of its wholesale electricity from so-called qualifying facilities ("QFs"),
13 companies with which PG&E has legally-mandated and regulated long-term power purchase
14 contracts. Since December 2000, FERC has issued a number of orders relating to QF
15 contracts in light of the California electricity crisis.

16 34. Heller Ehrman has been retained since prior to the petition date to provide
17 legal advice and representation to PG&E regarding QF matters pending at FERC, with the
18 aim of protecting PG&E's rights vis-à-vis QFs to ensure maximum availability of electricity
19 for delivery to retail customers.

20 35. Heller Ehrman has provided broad assistance to PG&E on QF matters. For
21 example, Heller Ehrman has represented PG&E in connection with a FERC order granting
22 waivers to QFs, potentially affecting the operation of QFs that had contracted to sell their
23 output to PG&E; filings by certain QFs for authorization to sell power to parties other than
24 PG&E in derogation of existing contracts; motions brought at FERC by QFs seeking relief
25 from California Public Utility Commission decisions concerning the rates to be paid to QFs
26 by utilities such as PG&E; a FERC Notice of Opportunity for Comment on Motions for
27 Emergency Relief and Institution of a Section 210(d) Proceeding; a FERC order granting in
28 part QFs' motions for emergency relief; and interconnection issues raised by FERC; and

1 research and advice regarding the impact of PG&E's bankruptcy case on certain of its QF
2 relationships and clients. Heller Ehrman also has been retained to represent PG&E in
3 litigation and negotiation with QFs in other fora, including the CPUC and this Court.

4 36. We anticipate providing further assistance to PG&E in the coming months in
5 connection with various proceedings involving QF issues.

6 37. **Matter No. 69: CPUC v. El Paso — FERC Docket RP00-241. Hours**
7 **spent: 688.50; fees sought: \$211,505.30; expenses sought: \$6,204.11.** This matter is
8 used to record time billed in representing PG&E in a complex FERC proceeding
9 commenced by the CPUC against El Paso Natural Gas Company and its affiliate, El Paso
10 Merchant Energy, alleging that their exercise of market power improperly increased natural
11 gas prices at the California border. Natural gas is used to power a significant amount of
12 electricity generation in California, and high natural gas prices were one cause of the
13 increase in wholesale electricity prices starting in the summer of 2000. As a purchaser of
14 wholesale electricity and as a direct purchaser of natural gas, PG&E has been affected by
15 high natural gas prices and therefore participates in this proceeding.

16 38. Heller Ehrman was retained before the petition date to provide a full range of
17 legal services to PG&E in this matter, including acting as trial counsel. During the
18 Application Period, Heller Ehrman represented PG&E as trial counsel in hearings at FERC,
19 and prepared initial briefs, reply briefs and, following issuance of an Initial Decision on
20 October 9, 2001, briefs on and opposing exceptions. Heller Ehrman also has provided legal
21 advice and prepared additional regulatory filings to protect PG&E's interests.

22 39. Pursuant to a December 27, 2001, order on remand issued by FERC,
23 additional hearings were conducted in this proceeding during March 2002. Preparation of
24 initial and reply briefs is underway. Heller Ehrman anticipates that work on this matter will
25 continue through 2002.

26 40. **Matter No. 70: El Paso Capacity-Related Complaints - FERC Dockets**
27 **RP01-484 & RP01-486. Hours spent: .90; fees sought: \$94.60; expenses sought: \$0.**
28 Heller Ehrman has been retained to provide representation to PG&E in connection with

1 complaints filed at FERC as an outgrowth of the CPUC v. El Paso proceeding (*see supra*,
2 Matter No. 69). Two such complaints have been filed alleging that El Paso Natural Gas
3 Company failed to maintain capacity on its system adequate to serve its contracted firm
4 load. The complaint in Docket No. RP01-484 was filed by a number of shippers to
5 California. PG&E is one of the complainants. The second complaint was filed by
6 customers that receive service from El Paso Gas Company in Texas, New Mexico and
7 Arizona. PG&E filed an intervention in the second complaint and urged consolidation of
8 the two proceedings.

9 41. During the Application Period, the subject proceedings (both of which
10 commenced after the petition date) have remained pending before FERC. Until FERC takes
11 action in the individual complaint dockets, there will be only limited work on this matter.
12 The complaint dockets have also been included in (but not consolidated with) proceedings
13 related to El Paso's Order No. 637 filing. Time spent on those proceedings has been
14 recorded under Matter No. 71 (described below).

15 42. **Matter No. 71: Order 637 Compliance Filing and Related Complaints —**
16 **FERC Dockets RP99-507, RP00-139, RP00-336. Hours spent: 2.30; fees sought:**
17 **\$798.30; expenses sought: \$8.40.** This matter reflects legal advice to and representation of
18 PG&E in connection with proceedings at FERC to address El Paso Natural Gas Company's
19 Order No. 637 compliance filing and related complaints. El Paso's compliance filing bears
20 on El Paso's deliveries of natural gas on its pipeline system and affects PG&E's interests.

21 43. During the Application Period, Heller Ehrman provided legal advice to
22 PG&E. Heller Ehrman was retained to represent PG&E in these proceedings prior to the
23 petition date, although our involvement became active only with the commencement of
24 technical conference proceedings in July 2001.

25 44. These proceedings remain active at FERC. We anticipate being called on to
26 continue our work for PG&E on these proceedings in the months to come, although the
27 scope and timing of any future work will depend in large part on FERC actions.

1 **45. Matter No. 72: Transwestern Pipeline Co. — FERC Docket RP97-288.**
2 **Hours spent: .30; fees sought: \$99.90; expenses sought: \$12.60.** On July 26, 2001,
3 FERC commenced a proceeding to determine whether rate filings by Transwestern Pipeline
4 Company violated FERC regulations and policy, contributing to high natural gas prices in
5 California. PG&E has retained Heller Ehrman to provide legal advice, submit briefing as
6 necessary, and appear at hearings in this proceeding, in which PG&E is interested as a
7 purchaser of wholesale electricity whose cost is affected by natural gas prices, and as a
8 direct purchaser of natural gas.

9 **46. PG&E has assumed an inactive, monitoring role in this proceeding.** During
10 the Application Period, Heller Ehrman monitored and kept PG&E apprised of
11 developments. This case is currently pending before FERC on exceptions. We anticipate
12 only limited additional work associated with final FERC action related to this matter.

13 **47. Matter No. 73: Other FERC Gas Dockets/Matters. Hours spent: 1.60;**
14 **fees sought: \$417.30; expenses sought: \$0.** This matter is used to record time billed in
15 providing advice and assistance on natural gas-related proceedings at FERC not accounted
16 for in other matters. Heller Ehrman has been retained since prior to the petition date to act
17 as regulatory counsel for PG&E on a range of issues relating to natural gas proceedings at
18 FERC. Under this matter, Heller Ehrman provides PG&E with general FERC-related
19 advice, including advice as to whether PG&E should intervene, comment on, or otherwise
20 participate in FERC proceedings affecting its interests.

21 **48. Matter No. 74: Seller/Generator Issues. Hours spent: 14.30; fees sought:**
22 **\$5,524.60; expenses sought: \$493.00.** This matter is used to record time billed in
23 providing advice to PG&E concerning the role of third parties in the California electricity
24 market crisis, including potential claims for recovery of money or other relief that might be
25 brought against such third parties. Heller Ehrman has been retained to provide such services
26 since prior to PG&E's bankruptcy filing. This engagement arises in part in connection with
27 the instant bankruptcy case and also includes issues that currently do not pertain to any
28 particular lawsuit or regulatory docket.

1 49. Heller Ehrman's work on such matters has ranged from participation in
2 meetings with consultants and other counsel, to providing ongoing legal advice and
3 counseling on various issues. For example, Heller Ehrman has engaged in extensive
4 discussions with PG&E attorneys and other counsel for PG&E regarding potential claims
5 that might be brought against third parties in connection with the California electric power
6 market crisis. Heller Ehrman also has analyzed and provided advice regarding the
7 relationship of such potential claims to PG&E's Filed Rate Lawsuit (*see* narrative
8 description of Matter No. 64, *supra*) and to PG&E's bankruptcy case. Heller Ehrman has
9 worked extensively with consultants retained by PG&E in connection with such potential
10 claims. Heller Ehrman also has assisted PG&E in its efforts to obtain discovery relating to
11 participation by generators and marketers in California's PX and ISO markets. Heller
12 Ehrman billed only a small amount of time to this matter for such advice during the
13 Application Period.

14 50. We anticipate that PG&E will continue to rely on Heller Ehrman for advice on
15 these matters, and, if appropriate, to represent it or consult with other counsel in connection
16 with lawsuits or other actions involving third parties.

17 51. **Matter No. 75: General Corporate Issues. Hours spent: 2.20; fees**
18 **sought: \$1,009.80; expenses sought: \$0.** This matter records time billed in providing
19 general corporate advice to PG&E. Heller Ehrman has been retained to provide such
20 services since prior to PG&E's bankruptcy filing. This matter does not correspond to any
21 particular lawsuit or regulatory docket. Rather, it encompasses legal advice and counseling
22 on a wide range of corporate issues, typically episodic and discrete.

23 52. Heller Ehrman's work on such matters both prior to and after the filing of
24 PG&E's bankruptcy petition has ranged from oral advice in response to specific questions
25 posed by PG&E, to providing revisions and comments on documents or preparing more
26 formal memoranda. For example, before and during the Application Period, Heller Ehrman
27 has been asked to review various public disclosure filings made with the Securities
28 Exchange Commission and to comment on portions of such filings that describe litigation or

1 regulatory matters in which Heller Ehrman provides legal representation to PG&E; to
2 review and revise PG&E's antitrust compliance policies; and to provide general legal
3 guidance in connection with various securities litigation filings naming PG&E as a
4 defendant, including coordinating with counsel for co-defendants and implementing the
5 bankruptcy stay with respect to such litigation. From time to time, Heller Ehrman also
6 assists PG&E in identifying other types of new litigation filings naming PG&E as a
7 defendant and implementing the bankruptcy stay in those lawsuits.

8 53. We anticipate that PG&E will continue to call on Heller Ehrman for such
9 episodic representation as general corporate issues arise, although it is impossible to predict
10 in advance the nature or extent of such future matters.

11 54. **Matter No. 76: CPUC Docket 01-03-082. Hours spent: 59.60; fees**
12 **sought: \$23,044.20; expenses sought: \$249.00.** This matter is used to record time billed
13 in analyzing, performing legal research, preparing memoranda, and providing advice to
14 PG&E regarding Decision 01-03-082 issued by the California Public Utilities Commission
15 on March 27, 2001. That decision adopted certain retroactive regulatory accounting
16 changes proposed by The Utility Reform Network ("TURN"), a consumer advocacy group.⁹
17 PG&E filed for bankruptcy protection shortly after the decision was issued.

18
19
20 ⁹ Specifically, the decision involves the interaction between the Transition Revenue
21 Account ("TRA"), which was used to account for PG&E's revenues from the provision of
22 retail electric service and associated costs, including wholesale power procurement costs as
23 well as transmission and distribution costs, and the Transition Cost Balancing Account
24 ("TCBA"), which was used to account for so-called "stranded costs" or "transition costs,"
which are PG&E's historic investments in generation facilities and other past generation-
related costs that might become unrecoverable as a result of the introduction of competition
into the California retail market.

25 Decision 01-03-082 required PG&E to restate its TRA and TCBA balances by
26 recording the net revenues from PG&E's wholesale sales of electricity generated by
27 PG&E's retained generation facilities in the TRA rather than in the TCBA, as had
28 previously been the case, and then transferring the net balance in PG&E's TRA to its TCBA
on a monthly basis. The accounting changes are retroactive to January 1, 1998. The CPUC
found that, based on these accounting changes, the conditions for meeting the end of the

(Footnote continued)

1 55. On April 19, 2001, PG&E (through counsel Howard Rice Nemerovski Canady
2 Falk & Rabkin) filed an application in this Court for a preliminary injunction to stay
3 enforcement of Decision 01-03-082.¹⁰ PG&E and the CPUC extensively briefed issues
4 relating to Decision 01-03-082 to the Court. On June 1, 2001, the Court denied PG&E's
5 preliminary injunction application, and PG&E appealed. The appeal currently is pending
6 before the Hon. Vaughn Walker of the United States District Court for the Northern District
7 of California.

8 56. CPUC Decision 01-03-082 implicates numerous technical issues involving the
9 interplay of regulatory accounts used to track PG&E's costs and revenues in buying
10 wholesale electricity for its customers, selling electricity, disposing of assets, and other
11 matters. During a prior Application Period, Heller Ehrman performed extensive legal
12 services in analyzing the implications of Decision 01-03-082. During the instant
13 Application Period, Heller Ehrman performed a relatively small amount of work on this
14 matter, principally advice and comment to PG&E regarding a petition for writ of review of
15 D.01-03-082 filed by PG&E in the California Court of Appeal. Depending on the outcome
16 of the writ proceeding in the California Court of Appeal, Heller Ehrman may be asked to
17 provide further services on this matter.

18 57. **Matter No. 77: CPUC OII Proceeding. Hours spent: 686.50; fees**
19 **sought: \$174,967.10; expenses sought: \$8,664.21.** This matter is used to record time
20 billed in providing legal representation and advice to PG&E relating to an investigation

21 _____
22 retail rate freeze had not been met, and refused to raise PG&E's retail rates sufficiently to
23 allow PG&E to recover its undercollected wholesale costs.

24 ¹⁰ PG&E alleged therein that the CPUC's Decision No. 01-03-082 was an attempt to
25 interfere with PG&E's preemption and other claims which are the subject of the Filed Rate
26 Lawsuit, and that the CPUC contended that Decision No. 01-03-082 would have the effect
27 of preventing PG&E from recovering billions of dollars in undercollected wholesale power
28 costs. PG&E further alleged that the CPUC's Decision No. 01-03-082 was automatically
stayed pursuant to 11 U.S.C. § 362(a)(1) and (a)(3), and that implementation of Decision
No. 01-03-082 threatened the assets of the bankruptcy estate and interfered with the
bankruptcy court's jurisdiction and therefore should be enjoined.

1 commenced by the CPUC regarding certain transactions between PG&E and its parent
2 company, PG&E Corporation. On April 3, 2001, the CPUC issued an "Order Instituting
3 Investigation" ("OII") directed to PG&E, PG&E Corporation, and other investor-owned
4 utilities and their holding companies, commencing an investigation to determine whether the
5 utilities and their respective holding companies "have complied with relevant statutes and
6 Commission decisions in the management and oversight of their companies." The OII
7 stems from the fact that the utilities, as part of the deregulation of the electric industry,
8 changed their corporate forms in the latter part of the 1990s to include a CPUC-regulated
9 utility company and an unregulated holding company.

10 58. The OII purports to investigate the payment of dividends by the regulated
11 utilities to their respective corporate parents, the alleged failure of the corporate parents to
12 extend additional capital funding to their regulated utility subsidiaries, the parent
13 corporations' funding of unregulated subsidiaries, and other corporate transactions. The OII
14 claims to be investigating whether these actions have violated CPUC orders and policies, to
15 determine whether additional rules, conditions, or changes are required in the applicable
16 provisions governing these matters.

17 59. During the Application Period, Heller Ehrman provided advice and
18 consultation to PG&E, performed legal research, and assisted in PG&E's response to
19 demands for production of documents and testimony. Significant specific projects have
20 included preparing an opposition to a motion to compel by the CPUC's Office of Ratepayer
21 Advocates ("ORA"); conducting an extensive document review project; assisting in
22 preparing objections to a proposed draft decision by an Administrative Law Judge; and
23 preparing a petition for rehearing of the interim decision issued by the CPUC. We
24 anticipate that the OII will include an evidentiary hearing before the CPUC sometime within
25 the next six to nine months, and that Heller Ehrman will assume a larger role as the hearing
26 nears.

27 60. **Matter No. 78: Other CPUC and California State Law Matters. Hours**
28 **spent: 138.90; fees sought: \$49,934.30; expenses sought: \$9,114.20.** This matter

1 records services in providing legal advice to PG&E in connection with CPUC regulatory
2 proceedings and orders other than those specified above, and California legislation affecting
3 PG&E's interests. Heller Ehrman has been retained to provide such services since prior to
4 PG&E's bankruptcy filing. This matter pertains to a number of specific CPUC dockets, and
5 also includes advice that does not correspond to any particular lawsuit or regulatory docket.

6 61. Heller Ehrman's work on such matters has encompassed legal advice and
7 counseling on a wide range of issues, most of which are ongoing; consulting on tactical and
8 strategic approaches in proceedings before the CPUC; and providing revisions and
9 comments on court and CPUC pleadings and other documents. For example, Heller Ehrman
10 was asked to prepare an extensive analysis of ABX-6, a California statute that affects the
11 regulatory and rate treatment of the electric generation assets owned by PG&E. Heller
12 Ehrman also was asked to review and comment on a number of draft regulatory and judicial
13 filings that in part address ABX-6 and its potential impact on PG&E. On other occasions,
14 Heller Ehrman has been asked to provide advice related to CPUC regulatory proceedings
15 involving the so-called California Procurement Adjustment ("CPA"). In general terms, the
16 CPA is a component of PG&E's rates added by the California Legislature in response to the
17 energy crisis to recover the costs of the State's purchases of power on behalf of PG&E's
18 customers. As with ABX-6, Heller Ehrman has been asked to review and comment on a
19 number of draft regulatory and judicial filings that in part address CPA. Heller Ehrman also
20 has been asked to provide advice and to review and comment on draft regulatory filings
21 regarding the CPUC's ratemaking for PG&E's Utility Retained Generation ("URG") assets.
22 From time to time, Heller Ehrman also has assisted PG&E with regard to other state
23 legislative and regulatory issues, including: Other potential state legislation affecting
24 PG&E's interests, CPUC proceedings pertaining to the planned construction of proposed
25 new transmission facilities by PG&E; DWR's procurement of electric power on behalf of
26 PG&E's retail customers; and CPUC proceedings pertaining to the mechanisms by which
27 DWR's costs are quantified and recovered through PG&E's billings to its retail customers.

1 62. We anticipate that PG&E will continue to call on Heller Ehrman for advice in
2 connection with the foregoing matters, as well as future regulatory or legislative actions,
3 although we cannot predict in advance the nature or extent of such future matters or
4 services.

5 63. **Matter No. 79: Other Advice, Consultation, Research re Energy Issues.**
6 **Hours spent: 218.70; fees sought: \$85,227.90; expenses sought: \$0.92.** This matter is
7 used to record time billed for advice, consultation and research on energy issues not covered
8 by other matters. Prior to the Application Period, for example, Heller Ehrman's work on
9 this matter included consulting with PG&E regarding preparation of responses to requests
10 for information from California legislators.

11 64. During the Application Period, a variety of projects arose relating to the
12 bankruptcy proceeding of the California Power Exchange ("PX") and related FERC
13 proceedings. Until January 2001, PG&E purchased the bulk of its electric power through
14 the PX. Currently, the PX is holding in trust hundreds of millions of dollars in collateral of
15 many power sellers, as well as over \$1 billion in funds that were paid by buyers of power
16 such as PG&E and that are awaiting potential distribution to sellers. The PX has filed
17 claims against PG&E for over \$2 billion in allegedly unpaid bills. Heller Ehrman has
18 represented PG&E in various FERC proceedings relating to the governance of the PX and
19 the disposition of funds and collateral held by the PX. Heller Ehrman has likewise
20 counseled PG&E on numerous energy-related questions concerning regulatory and other
21 issues relating to the PX bankruptcy proceeding. The goal of those efforts has been to
22 oppose unfounded claims against PG&E, and to protect PG&E's rights to funds to which it
23 is entitled.

24 65. We anticipate periodically being called upon to continue to provide advice and
25 consultation to PG&E on various energy-related issues such as these questions relating to
26 the PX.

27 66. **Matter No. 80: CPUC Prudence Review. Hours spent: 504.10; fees**
28 **sought: \$155,676.30; expenses sought: \$930.12.** This matter is used to record time billed

1 in providing legal services to PG&E in connection PG&E's 2001 Annual Transition Cost
2 Proceeding ("ATCP") currently ongoing before the CPUC, as well as other anticipated
3 future CPUC proceedings, which address the reasonableness of PG&E's generation and
4 procurement practices and PG&E's ability to recover billions of dollars in procurement and
5 generation-related costs.

6 67. During the Application Period, Heller Ehrman provided oral and written
7 advice to PG&E regarding the factual and legal issues that have arisen in the CPUC
8 proceedings described above; assisted with the preparation of various legal and procedural
9 motions; assisted with responses to data requests; assisted with development of evidence
10 relevant to such proceedings; and assisted with the preparation of written testimony,
11 motions and other pleadings filed with the CPUC in the ATCP proceeding.

12 68. The ATCP proceeding is scheduled for additional presentation of testimony,
13 hearing and briefing in 2002, and Heller Ehrman will continue to assist PG&E in those
14 activities. We thus anticipate providing extensive ongoing services to PG&E in connection
15 with the foregoing proceedings.

16 69. **Matter No. 81: Ancillary Bankruptcy Services Related to Other Matters,**
17 **and Administration. Hours spent: 114.50; fees sought: \$44,432.30; expenses sought:**
18 **\$441.14.** The fees reflected in this matter encompass services relating to PG&E's
19 Chapter 11 case, typically involving the interrelationship between the bankruptcy case or
20 bankruptcy law and Heller Ehrman's services or expertise in the primary areas for which it
21 was engaged as Special Counsel. More specifically, services recorded in this matter
22 include:

23 a. Advice and consultation to PG&E or its other counsel pursuant to
24 specific request by PG&E regarding pending or contemplated litigation in the Chapter 11
25 case, particularly litigation involving claims or subject matters related to the other matters
26 for which Heller Ehrman is or may be retained;

27 b. Advice and consultation to PG&E or its other counsel pursuant to
28 specific request by PG&E regarding litigation or bankruptcy strategy affecting other matters

1 for which Heller Ehrman is or may be retained, or as to which Heller Ehrman's litigation,
2 regulatory or transactional expertise enables it to provide added value to the exercise,
3 particularly including advice on such matters bearing on the formulation of PG&E's plan of
4 reorganization or the content of the disclosure statement;

5 c. Advice to PG&E or internally within Heller Ehrman regarding the
6 effect of the bankruptcy filing and bankruptcy law on pending or contemplated litigation,
7 transactions or relationships within the scope of Heller Ehrman's engagement as Special
8 Counsel;

9 d. Research, analysis and advice to PG&E regarding various bankruptcy
10 law issues or matters arising out of or related to litigation, regulatory or transactional
11 matters for which Heller Ehrman was retained as Special Counsel;

12 e. Monitoring developments in the Chapter 11 case and providing internal
13 communication and advice to Heller Ehrman's litigation, regulatory and transactional
14 lawyers regarding the bankruptcy case to facilitate the performance of their services as
15 Special Counsel in their non-bankruptcy areas of responsibility; and

16 f. Research, analysis and advice to PG&E on certain bankruptcy law
17 issues as a backup or second opinion to advice provided by PG&E's other counsel.

18 70. We anticipate being called upon to continue to provide ongoing advice and
19 consultation to PG&E on various matters, issues and questions in this area, but are unable to
20 predict the nature or scope of future services.

21 71. **Matter No. 82: Bankruptcy—Employment and Fee Applications. Hours**
22 **spent: 459.40; fees sought: \$113,350.80; expenses sought: \$11,884.87.** During the
23 Application Period, the services and fees in this matter related primarily to Heller Ehrman's
24 preparation of its Second Interim Fee Application and four monthly Cover Sheet
25 Applications. Extensive work was required in connection with the Second Interim Fee
26 Application, in which approximately \$2.2 million in fees and expenses were at issue. The
27 Application involved assembling and filing hundreds of pages of timesheets and other
28 exhibits, preparing detailed narrative descriptions of work performed, preparing for and

1 participating in the hearing, and responding to objections by the United States Trustee.
2 Preparation of Heller Ehrman's monthly Cover Sheet Applications also involved substantial
3 time and effort.

4 72. The majority of the fees recorded in Matter 82 during the Application period
5 were for services performed by Adam Cole and David Luster: Mr. Cole recorded 177.7
6 hours with a time value of \$59,781.60, and Mr. Luster recorded 117.3 hours with a time
7 value of \$18,319.20. Mr. Cole, a shareholder, was assigned responsibility for managing the
8 fee application process, in large part because he has the lowest billing rate of all Heller
9 Ehrman shareholders working on the engagement. Mr. Luster, a senior paralegal, was
10 assigned to this task based on his comprehensive overall knowledge of the PG&E Matters,
11 enabling him to provide the most efficient support and assistance.

12 73. **Matter No. 83: Wayne Roberts v. PG&E. Hours spent: 17.10; fees**
13 **sought: \$5,141.80; expenses sought: \$71.13.** This matter is used to record time billed in
14 representing PG&E with respect to a \$4 billion bankruptcy claim filed by Wayne Roberts on
15 behalf of himself and a purported class of electricity ratepayers. The Roberts claim, like
16 Richard D. Wilson v. Pacific Gas and Electric Company and PG&E Corporation (Matter
17 No. 65; no time billed during the Application Period), involves claims brought against
18 PG&E under California Business & Professions Code Sections 17200, *et seq.*, as a result of
19 certain inter-corporate actions, including dividend payments and an inter-company tax
20 agreement. Similar issues also are raised in the OII Matter (Matter No. 77), discussed
21 above.

22 74. During the Application Period, Heller Ehrman participated in a consulting role
23 with PG&E and bankruptcy counsel in reviewing pleadings and formulating strategy.

24 75. Heller Ehrman is coordinating with the Howard Rice firm, which also is
25 representing PG&E in this matter. We have been instructed to coordinate our respective
26 activities in order to provide PG&E with an effective joint representation with minimal
27 duplication of work. During the Application Period, Heller Ehrman conducted limited legal

1 research and analysis; commented and advised on drafts prepared by Howard Rice; and
2 assisting on strategy.

3 76. **Matter No. 84: People of the State of California v. PG&E Corp. Hours**
4 **spent: 9.80; fees sought: \$4,074.10; expenses sought: \$8.16.** This matter was brought
5 by the People of the State of California against PG&E Corporation and the individual
6 members of the Boards of Directors of both PG&E and PG&E Corporation. The underlying
7 allegations and legal theories are similar to those alleged in *Richard D. Wilson v. Pacific*
8 *Gas and Electric Company and PG&E Corporation* (Matter No. 65; no timed billed during
9 the Application Period), and relate to certain inter-corporate actions, including dividend
10 payments and an inter-company tax agreement. Similar issues are also raised in the OII
11 Matter (Matter No. 77), discussed above.

12 77. During the Application Period, Heller Ehrman provided consulting and advice
13 concerning PG&E's role and strategy regarding this matter.

14 78. **Matter No. 85: Appeals of FERC Orders—Dockets EL 00-95 et al.**
15 **Hours spent: 55.30; fees sought: \$9,717.00; expenses sought: \$225.25.** This matter
16 involves the appeals of FERC orders in Dockets EL00-95 and related dockets. On
17 December 19, 2001, FERC issued an appealable order resolving many of the outstanding
18 issues relating to refunds for overcharges in California power markets and prospective price
19 mitigation in California power markets. Over 50 parties, including PG&E, filed petitions
20 for review of the December 19, 2001, Order and its predecessor orders. Those petitions
21 were filed in both the D.C. Circuit and Ninth Circuit Courts of Appeals, although it appears
22 that they will all be consolidated in the Ninth Circuit.

23 79. Heller Ehrman has been retained to represent PG&E in these appeals. During
24 the Application Period, Heller Ehrman provided legal advice and filed papers on PG&E's
25 behalf. We anticipate performing significant additional work for PG&E as these appeals
26 proceed.

1 **VII. REQUIRED DISCLOSURES AND CERTIFICATION**

2 80. Heller Ehrman has not charged for expenses for: (a) office overhead; (b)
3 secretarial overtime; (c) charges for after-hours and weekend air conditioning and other
4 utilities; (d) cost of meals or transportation provided to attorneys and staff who work late;
5 (e) word processing and similar clerical functions; and (f) amenities such as newspapers,
6 shoe shines, dry cleaning, etc., and the cost of lunches while Heller Ehrman personnel are
7 away from the office.

8 81. By agreement with PG&E, Heller Ehrman's in-house photocopy charges
9 (regularly charged to other clients of the firm at 22¢ per page) have been reduced to 12¢ per
10 page, and facsimiles have been charged at 75¢ per page for outgoing transmissions
11 (regularly charged at \$1.50), with no charge for incoming transmissions.

12 82. Computerized legal research is billed at the standard Westlaw and LEXIS
13 rates without markup or discount. Heller Ehrman receives a volume discount from Westlaw
14 and LEXIS which is not allocable to any particular matter, and which Heller Ehrman does
15 not attribute to any particular client, including PG&E.

16 83. Heller Ehrman believes that the regular hourly rates of the attorneys and
17 paralegals employed by Heller Ehrman for similar services of lawyers and paralegals of
18 reasonably comparable skill and reputation are consistent with those prevailing in the
19 various legal communities in which Heller Ehrman's attorneys and paralegals practice.
20 Heller Ehrman's compensation and expense reimbursement requested in this Application
21 have been billed at rates, in accordance with practices, more favorable than those
22 customarily employed by Heller Ehrman and generally accepted by Heller Ehrman's clients.
23 Pursuant to a Master Fee Agreement with PG&E, Heller Ehrman has agreed to apply a 10%
24 discount from regular hourly rates to the fees of all timekeepers working on the matters for
25 which compensation is sought herein, and to provide a significant additional billing
26 accommodation as described in the following paragraph.

27 84. Specifically, pursuant to the Master Fee Agreement between PG&E and
28 Heller Ehrman, Heller Ehrman has agreed to freeze for the first two years in the lifetime of a

1 matter the billing rates of shareholders working on that matter at 90% of the shareholder's
2 rate in place when the matter commenced. The rates of associates and paralegals are not
3 frozen at any time, but are charged at 90% of the rate in place when the work is performed.

4 85. Heller Ehrman has neither received nor been promised any compensation from
5 any source in connection with this case or its services to be performed herein, except
6 compensation and reimbursement of expenses to be allowed by this Court and paid from the
7 estate, pursuant to the applicable provisions of the Bankruptcy Code and Rules. To date,
8 Heller Ehrman has received no payments from any source for its fees and expenses in this
9 case, other than (a) those described in paragraph 5 above (\$5,911,021.75); (b) those
10 described in paragraph 6 above (\$153,615.61, applied to retainer); and (c) a refund of
11 \$7,395.00 and cancellation of a \$9,825.26 charge in connection with its contingent fee
12 engagement relating to insurance coverage matters (which are not the subject of this
13 Application).

14 86. Heller Ehrman has no agreement or understanding for sharing any fees or
15 expenses which Heller Ehrman may receive in this case with any person other than members
16 and associates of Heller Ehrman.

17 **VIII. REQUEST FOR COMPENSATION**

18 87. Based on the foregoing, Heller Ehrman requests the Court to approve this
19 Application; to allow it fees and expenses on an interim basis in the respective amounts of
20 \$2,355,607.60 and \$121,830.64; and to authorize PG&E to pay the allowed amounts
21 forthwith.

22 88. Attached behind Tab 1 to the accompanying Time Records Exhibit and as
23 Exhibit A to the Certification of Adam M. Cole ("Cole Certification") is the name of each
24 professional who performed services in connection with the various matters described
25 herein during the period covered by this Application and the hourly rates for each such
26 professional on such matters; (b) attached behind Tab 2 to the Time Records Exhibit is a
27 summary of the fees and expenses, and additional information, for each matter; (c) attached
28 behind Tabs 3-27 to the Time Records Exhibit are the detailed time and expense statements

1 for the Application Period that comply with all Northern District of California Bankruptcy
2 Local Rules and Compensation Guidelines, the Guidelines of the Office of the United States
3 Trustee, and the Court's December 12, 2001, Memorandum Decision Regarding
4 Applications for Interim Compensation of Professionals; and (d) Exhibit B to the Cole
5 Certification sets forth the qualifications and experience of all timekeepers for whom
6 compensation is sought.

7 89. The Firm has served a copy of this Application (without Exhibits) on the
8 Special Notice List in this case.

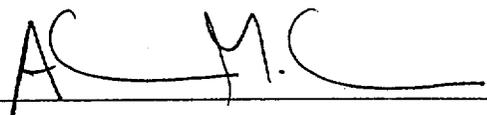
9 90. The interim compensation and reimbursement of expenses sought in this
10 Application is on account and is not final. Upon the conclusion of this case, the Firm will
11 seek fees and reimbursement of the expenses incurred for the totality of the services
12 rendered in the case. Any interim fees or reimbursement of expenses approved by this
13 Court and received by the Firm will be credited against such final fees and expenses as may
14 be allowed by this Court.

15 91. The Firm represents and warrants that its billing practices comply with all
16 Northern District of California Bankruptcy Local Rules and Compensation Guidelines and
17 the Guidelines of the Office of the United States Trustee, except as otherwise stated in the
18 Cole Certification.

19
20 Dated: May 15, 2002

Respectfully submitted,

HELLER EHRMAN WHITE & McAULIFFE LLP

21
22
23 By: 

24 ADAM M. COLE
25 Special Counsel for Debtor in Possession
26 PACIFIC GAS AND ELECTRIC COMPANY
27