

1 JAMES L. LOPES (No. 63678)  
WILLIAM J. LAFFERTY (No. 120814)  
2 HOWARD, RICE, NEMEROVSKI, CANADY,  
FALK & RABKIN  
3 A Professional Corporation  
Three Embarcadero Center, 7th Floor  
4 San Francisco, California 94111-4065  
Telephone: 415/434-1600  
5 Facsimile: 415/217-5910

6 Attorneys for Debtor and Debtor in Possession  
PACIFIC GAS AND ELECTRIC COMPANY  
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8 UNITED STATES BANKRUPTCY COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION  
11

12  
13 In re  
14 PACIFIC GAS AND ELECTRIC  
COMPANY, a California corporation,  
15 Debtor.  
16 Federal I.D. No. 94-0742640  
17

Case No. 01 30923 DM

Chapter 11 Case

Date: February 6, 2003

Time: 1:30 p.m.

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

18  
19 DECLARATION OF LANETTE KOZLOWSKI IN SUPPORT OF MOTION OF  
20 PACIFIC GAS AND ELECTRIC COMPANY FOR ORDER AUTHORIZING  
DEBTOR TO PAY CERTAIN REFUND OBLIGATIONS  
21

22 I, Lanette Kozlowski, declare as follows:

23 1. I am a manager in the Electric Transmission Rates department of Pacific Gas and  
24 Electric Company ("PG&E"), a position I have held since October, 1998. I make this  
25 Declaration based upon my personal knowledge of PG&E's general operations and upon my  
26 review of PG&E's records concerning the matters stated herein. If called as a witness, I  
27 could and would testify competently to the facts stated herein.  
28

DECLARATION OF LANETTE KOZLOWSKI

*Acc  
add:  
Embarcadero Center*

HOWARD  
RICE  
NEMEROVSKI  
CANADY  
FALK  
& RABKIN  
A Professional Corporation

1           2.     PG&E is seeking an order authorizing PG&E to pay three categories of refund  
2 obligations ordered by the Federal Energy Regulatory Commission ("FERC").

3           3.     The California Independent System Operator Corporation ("CAL ISO") imposes  
4 certain charges on PG&E and other utilities operating in California. PG&E and the other  
5 utilities generally pass on these charges to their customers by adjusting rates. FERC  
6 imposes very strict guidelines as to how the utilities can pass on these costs and which of  
7 their customers must bear the resulting increased rates. FERC typically issues preliminary  
8 indications subject to later review and, where necessary, customer refunds. To settle  
9 disputes, FERC conducts extensive hearings and issues binding orders. Each of the refunds  
10 that PG&E now seeks authority to make results from a FERC order or a settlement  
11 agreement approved by FERC that modified a FERC preliminary indication<sup>1</sup>. Because such  
12 orders and agreements are retroactive, it is common for the utility to make adjustments and  
13 effect refunds for past charges after they have been litigated or settled at FERC.

14           4.     PG&E's customers are divided into two general categories: ETC Customers and  
15 TO Tariff Customers. The ETC Customers are those customers who entered into long-term  
16 transmission contracts with PG&E before the creation of the CAL ISO. These contracts  
17 make it necessary for PG&E to seek authority from FERC to pass on certain CAL ISO  
18 charges to the ETC Customers under Federal Power Act ("FPA") Section 205. The ETC  
19 Customers are primarily municipal utilities.

20           5.     TO Tariff Customers are subject to a current tariff that allows the pass-through of  
21 certain CAL ISO costs. As such, TO Tariff Customers are obligated to reimburse PG&E for  
22 applicable charges imposed under the CAL ISO Tariff and PG&E's TO Tariff. TO Tariff  
23 customers can be divided into two general groups: wholesale customers and retail customers.

24           6.     The refunds that PG&E is seeking authority to effect reflect charges imposed by  
25 the CAL ISO or changes to various rates or rate structures under PG&E's TO Tariff or  
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27           <sup>1</sup>These orders and settlement agreements are not attached as they are quite voluminous  
28 but will be made available to the Court and interested parties.

1 Reliability Services ("RS") Tariff. FERC has modified its preliminary indications and  
2 decided that PG&E must change the way it charged, or failed to charge, certain customers.  
3 FERC has ordered PG&E to effect the appropriate adjustments.

4 7. In connection with the state of California's electric industry restructuring, the  
5 CAL ISO was established to provide operational control over most of the state's electric  
6 transmission facilities and to provide comparable open access for electric transmission  
7 service. PG&E serves as the scheduling coordinator ("SC") to facilitate continuing service  
8 under certain of the ETC contracts. The CAL ISO then bills PG&E, as the SC, for providing  
9 certain services associated with these ETC contracts. These CAL ISO charges are referred  
10 to as the SC costs ("SC Costs").

11 8. Since April 1, 1998, PG&E has included the SC Costs in its calculation of rates  
12 for TO Tariff Customers via an accounting mechanism known as the Transmission Revenue  
13 Balancing Account Adjustment ("TRBAA"). In Opinion No. 458, issued on August 5,  
14 2002, FERC held that PG&E should not have used the TRBAA mechanism for all SC Costs  
15 because the effect of that approach was to charge TO Tariff Customers for all SC Costs.  
16 FERC concluded that, instead, PG&E should have sought recovery of some portion of these  
17 costs from its ETC Customers. Up until the date of FERC's ruling, PG&E's TO Tariff  
18 Customers had been paying all of the SC Costs. FERC ordered that PG&E refund its TO  
19 Tariff Customers \$110 million, of which approximately \$75 million reflects pre-petition  
20 payments. This refund will be accomplished through a reduction in transmission rates to TO  
21 Tariff Customers in 2003.

22 9. On November 12, 1999, PG&E filed a Scheduling Coordinator Services ("SCS")  
23 Tariff to collect SC Costs from the ETC Customers in the event that FERC denied the  
24 TRBAA cost recovery mechanism. Litigation of the SCS Tariff will begin shortly and  
25 PG&E believes it will be successful in recovering the dollars reflected in these refunds from  
26  
27  
28

1 its ETC Customers<sup>2</sup>.

2 10. The CAL ISO also imposes charges on PG&E and the other utilities for certain  
3 expenses that the CAL ISO incurs in connection with its efforts to ensure reliable electricity  
4 services. These charges are referred to as Reliability Service Charges ("RS Charges").  
5 There is not a dispute that PG&E may pass the RS Charges on to customers, but there have  
6 been disputes over which customers should bear which portion of the expenses.

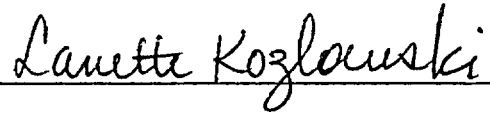
7 11. Since June 29, 2000, PG&E has allocated the RS Charges to all customers, ETC  
8 and TO Tariff. In its Opinion No. 459, issued on August 2, 2002, FERC held that PG&E did  
9 not have authority to collect the RS Charges from ETC Customers. PG&E seeks authority to  
10 refund to the ETC Customers approximately \$37 million, of which approximately \$11  
11 million reflects pre-petition payments. The refund cannot be effected through account  
12 adjustments or credits. Rather, this refund requires a cash payment by PG&E.

13 12. On June 26, 2001, FERC approved a settlement of PG&E's fifth Transmission  
14 Owner Tariff Rate Case ("TO5") that reduced PG&E's transmission rates. On February 27,  
15 2002, FERC approved a settlement (the "TAC Settlement") that had been entered into by  
16 PG&E and all parties to PG&E's Transmission Access Charge Implementation filing. That  
17 settlement made changes to PG&E's TO Tariff to implement a new rate methodology  
18 adopted by the CAL ISO. The TAC Settlement incorporates certain changes to the rate  
19 design itself, as opposed to PG&E's revenue requirement. Such alterations to the rate design  
20 have a direct impact on customer rates. Accordingly, pursuant to the TAC Settlement,  
21 PG&E is obligated to refund approximately \$10.5 million to its wholesale TO Tariff  
22 Customers as a result of these rate design changes and for the reductions in the transmission  
23 rates that stem from the TO5 settlement. This amount will be recovered through the

24  
25 <sup>2</sup>PG&E seeks recovery of all of the SC Costs from the ETC customers except for  
26 certain congestion charges that PG&E incurred, in the approximate amount of \$13.5 million.  
27 PG&E has held a total of \$63 million in reserves, to which the congestion costs and other  
28 unrecoverable refunds would be applied. PG&E does not expect the outcome of this  
proceeding to have a material adverse effect on its results of operations or financial  
condition.

1 TRBAA rate mechanism in 2003 rates. Approximately \$9 million of the \$10.5 million  
2 relates to pre-petition payments. The refund cannot be effected via account credits or  
3 adjustments but requires a cash payment by PG&E.  
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5 I declare under penalty of perjury under the laws of the United States of America that  
6 the foregoing is true and correct. Executed this 16th day of January, 2003 at San Francisco,  
7 California.  
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10 LANETTE KOZLOWSKI  
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14 HOWARD  
15 RICE  
16 NEMEROVSKI  
17 CANADY  
18 BALK  
19 & RAHIN  
20 A Professional Corporation

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