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July 11, 2003

BY HAND

Mark J. Langer, Clerk
United States Court of Appeals
for the District of Columbia Circuit
E. Barrett Prettyman U.S. Courthouse, Room 5423
333 Constitution Avenue, N.W.
Washington, DC 20001-2866

Re: **Response of Intervenor Pacific Gas and Electric Company to Motion of Petitioner Northern California Power Agency, Case No. 03-1038**

Dear Mr. Langer:

Pursuant to Rule 27(a)(3) of the Federal Rules of Appellate Procedure, and Circuit Rule 27 of the United States Court of Appeals for the District of Columbia Circuit, attached are an original and four (4) copies of the "Response of Pacific Gas and Electric Company to Motion of Northern California Power Agency to Suspend Briefing Schedule and Hold Proceeding in Abeyance" in Case No. 03-1038, styled *Northern California Power Agency v. U.S. Nuclear Regulatory Commission, et al.*

Please find enclosed an additional copy of the Response, to be date-stamped and returned by courier at the time of delivery. Thank you for your attention to these matters.

Sincerely,


David A. Repka

Counsel for
Pacific Gas and Electric Company

Attachment

July 11, 2003

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Northern California Power Agency,
Petitioner,

v.

U.S. Nuclear Regulatory Commission and
United States of America,
Respondents,

and

Pacific Gas and Electric Company,
Intervenor,

City of Santa Clara, California,
Intervenor.

Case No. 03-1038

**RESPONSE OF PACIFIC GAS AND ELECTRIC COMPANY TO MOTION OF
NORTHERN CALIFORNIA POWER AGENCY TO SUSPEND BRIEFING SCHEDULE
AND HOLD PROCEEDING IN ABEYANCE**

Pursuant to Rule 27(a)(3) of the Federal Rules of Appellate Procedure, and Circuit Rule 27 of the United States Court of Appeals for the District of Columbia Circuit, Intervenor Pacific Gas and Electric Company ("PG&E") herein responds to the Motion of the Northern California Power Agency ("NCPA") to suspend the briefing schedule established by Order of this Court dated June 26, 2003, and to hold this proceeding in abeyance pending the resolution of the proposed settlement in PG&E's Chapter 11 bankruptcy case.¹ PG&E concurs with NCPA's request.

¹ See "Motion of the Northern California Power Agency to Suspend Briefing Schedule and Hold Proceeding in Abeyance," dated July 1, 2003 ("NCPA Motion").

The Petition for Review in this docket relates to an Order of the Nuclear Regulatory Commission ("NRC") issued in connection with a license transfer approval sought by PG&E. That NRC approval relates only to a Plan of Reorganization proposed by PG&E in the PG&E Chapter 11 case. As stated in the NCPA Motion, PG&E, PG&E's parent company (PG&E Corporation), and the staff of the California Public Utilities Commission have announced a proposed settlement of the PG&E bankruptcy case (the "Settlement Agreement"). The Settlement Agreement provides that PG&E will seek Bankruptcy Court approval of a plan of reorganization ("Settlement Plan") in place of the proposed plans currently before the Bankruptcy Court, including the prior PG&E plan. While PG&E does not necessarily agree with NCPA that the NRC's Order would be "nullified," confirmation of the Settlement Plan would eliminate the need for NRC approval of the license transfer that is the subject of the NRC's Order, and therefore would moot the NCPA Petition for Review in this docket. Accordingly, a suspension of the briefing schedule and this matter are appropriate.²

The Settlement Agreement provides that it will become binding, *inter alia*, only upon its approval by the board of directors of PG&E, PG&E's parent, and the California Public Utilities Commission ("CPUC"), and upon its execution by PG&E, PG&E's parent, and the CPUC on or before December 31, 2003, and upon approval of the bankruptcy court. Accordingly, the briefing schedule in this case should be suspended until the settlement is approved and executed (in which case the Petition for Review would be moot), or at least until December 31, 2003. If the Settlement Agreement is not approved and executed by December 31,

² As noted in the motion filed with the NRC on June 24, 2003, PG&E has requested that any remaining active aspects of the NRC administrative proceeding be held in abeyance pending completion of the necessary regulatory and judicial review procedures and the satisfaction of other conditions precedent for the approval of the Settlement Agreement and Settlement Plan. A stay of the proceeding before this Court is equally appropriate.

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Northern California Power Agency,
Petitioner,

v.

U.S. Nuclear Regulatory Commission and
United States of America,
Respondents,

and

Pacific Gas and Electric Company,
Intervenor,

City of Santa Clara, California,
Intervenor.

Case No. 03-1038


CERTIFICATE OF SERVICE

I hereby certify that copies of the "RESPONSE OF PACIFIC GAS AND ELECTRIC COMPANY TO MOTION OF NORTHERN CALIFORNIA POWER AGENCY TO SUSPEND BRIEFING SCHEDULE AND HOLD PROCEEDING IN ABEYANCE" in the captioned proceeding have been served as shown below by deposit in the United States mail, first class, this 11th day of July, 2003.

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