

July 16, 2003

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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California Public Utilities Commission and  
County of San Luis Obispo,  
Petitioners,

v.

U.S. Nuclear Regulatory Commission,  
Respondent,

and

Pacific Gas and Electric Company, et al.,  
Intervenors.

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No. 02-72735

INTERVENOR PACIFIC GAS AND ELECTRIC COMPANY'S  
NOTICE OF SETTLEMENT AND RELATED MOTION TO  
STAY APPELLATE PROCEEDINGS

Intervenor Pacific Gas and Electric Company ("PG&E") wishes to advise the Court that, after approximately three months of judicially-supervised mediation, PG&E together with its parent, PG&E Corporation, have reached a settlement with the staff of the California Public Utilities Commission ("CPUC") in PG&E's ongoing Chapter 11 bankruptcy case that could eventually render this pending appeal moot. In light of this development, PG&E respectfully requests

that further proceedings in this matter be held in abeyance pending further developments with respect to the settlement agreement and in the Bankruptcy Court.

The Petition for Review in the captioned matter relates to an administrative order of the U.S. Nuclear Regulatory Commission ("NRC"). The NRC Order, in turn, relates to PG&E's November 30, 2001 application to the NRC for approval of a transfer of its licenses to own and operate the Diablo Canyon Power Plant ("DCPP"). The license transfers are necessitated by a PG&E Plan of Reorganization that is pending before the Bankruptcy Court along with an alternative plan proposed by the CPUC and the Official Committee of Unsecured Creditors. The Bankruptcy Court previously initiated confirmation hearings on these two competing plans.

On March 4, 2003, the Bankruptcy Court ordered PG&E, PG&E's parent (PG&E Corporation), the CPUC, and several other parties to participate in a judicially supervised settlement conference. Thereafter, on March 10, 2003, the Bankruptcy Court stayed the confirmation proceedings in the Bankruptcy Court, in part "to maximize the possibility of a successful settlement conference." The Bankruptcy Court later extended the stay two more times, on April 23, and again on June 5, 2003. On June 20, 2003, PG&E and the staff of the CPUC announced their settlement proposal.

Pursuant to the settlement, confirmation proceedings on PG&E's proposed Plan of Reorganization will remain stayed, and the settling parties will jointly support (on specified terms and conditions) a new plan of reorganization (the "Settlement Plan") for confirmation by the Bankruptcy Court. If the Settlement Plan is confirmed, PG&E and PG&E Corporation will withdraw their proposed Plan of Reorganization. The Settlement Plan does not involve a transfer of the NRC operating licenses. Accordingly, there will be no further need for the NRC license transfer approval that is the subject of the NRC Order at issue in the Petition for Review before this Court in this matter.

The settlement is conditioned upon the approval of the boards of directors of PG&E and PG&E Corporation and the approval of the CPUC (after noticed public proceedings before the CPUC), and gives the parties the right to terminate the settlement if approvals are not received by December 31, 2003. In addition, the Settlement Plan will not be implemented until various conditions are met, including CPUC approval of all rates, tariffs and agreements necessary to implement the Settlement Plan.

The conditions on execution of the settlement and implementation of the Settlement Plan will remain outstanding for some time. However, PG&E is mindful of the demands on this Court's docket. In light of the settlement, PG&E requests that further proceedings in this appeal be stayed pending further

developments with respect to the settlement and in the confirmation proceeding before the Bankruptcy Court. Given that the present appeal may become moot in a relatively short period of time, it would be potentially wasteful of the parties' resources and judicial resources to move forward with oral argument and a Court decision in the interim. In accordance with the settlement, PG&E has already 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.<sup>1</sup>

In sum, PG&E respectfully requests that this Court stay this proceeding pending confirmation of the Settlement Plan by the Bankruptcy Court, or until any party to the settlement notifies this Court that the settlement has been terminated.

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<sup>1</sup> PG&E and PG&E Corporation also have requested a stay of all proceedings before the Federal Energy Regulatory Commission, the Securities and Exchange Commission, and other regulatory agencies relating to approvals sought to implement the PG&E Plan of Reorganization.

Counsel for the CPUC, San Luis Obispo County, and the NRC have indicated that they support PG&E's motion to hold this proceeding in abeyance.

Respectfully submitted,

A handwritten signature in black ink, reading "David A. Repka", with a long horizontal line extending to the right.

David A. Repka, Esq.  
WINSTON & STRAWN  
1400 L Street, N.W.  
Washington, DC 20005-3502  
(202) 371-5700

William V. Manheim, Esq.  
Richard F. Locke, Esq.  
PACIFIC GAS & ELECTRIC COMPANY  
77 Beale Street, B30A  
San Francisco, CA 94105

ATTORNEYS FOR INTERVENOR  
PACIFIC GAS & ELECTRIC COMPANY

Dated at Washington, DC  
this 16th day of July 2003

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CERTIFICATE OF SERVICE

I hereby certify that copies of "INTERVENOR PACIFIC GAS AND ELECTRIC COMPANY'S NOTICE OF SETTLEMENT AND RELATED MOTION TO STAY APPELLATE PROCEEDINGS" in the captioned proceeding have been served as shown below by United States mail, first class, this 16th day of July 2003.

Robert K. Temple, Esq.  
Sheldon L. Trubatch, Esq.  
Office of Robert K. Temple, Esq.  
2524 N. Maplewood Avenue  
Chicago, Illinois 60647

Gary M. Cohen, Esq.  
Arocles Aguilar, Esq.  
Laurence G. Chaset, Esq.  
Public Utilities Commission of  
the State of California  
505 Van Ness Avenue, Room 5131  
San Francisco, CA 94102


James B. Lindholm, Jr. Esq.  
Timothy McNulty, Esq.  
Office of the County Counsel for the  
County of San Luis Obispo  
County Government Center  
1050 Monterey Ave., Room 386  
San Luis Obispo, CA 93408

Robert C. McDiarmid, Esq.  
Daniel I. Davidson, Esq.  
Ben Finkelstein, Esq.  
Lisa G. Dowden, Esq.  
'Spiegel & McDiarmid  
1333 New Hampshire Ave., N.W.  
Washington, DC 20036

John F. Cordes Jr., Esq., Solicitor  
E. Leo Slaggie, Esq., Deputy Solicitor  
Jared K. Heck, Esq.  
Mail Stop O-15D21  
United States Nuclear Regulatory  
Commission  
Washington, DC 20555-0001

Thomas L. Samsonetti, Esq.  
Ronald Spritzer, Esq.  
Appellate Section  
Environmental & Natural Resources  
Division  
U.S. Department of Justice  
P.O. Box 23795  
Washington, DC 20026-3795

Respectfully submitted,

  
David A. Repka, Esq.  
WINSTON & STRAWN  
1400 L Street, N.W.  
Washington, DC 20005-3502  
(202) 371-5700

ATTORNEY FOR INTERVENOR  
PACIFIC GAS & ELECTRIC COMPANY