

1 JAMES L. LOPES (No. 63678)  
2 GARY M. KAPLAN (No. 155530)  
3 HOWARD, RICE, NEMEROVSKI, CANADY,  
4 FALK & RABKIN  
5 A Professional Corporation  
6 Three Embarcadero Center, 7th Floor  
7 San Francisco, California 94111-4024  
8 Telephone: 415/434-1600  
9 Facsimile: 415/217-5910

10 Attorneys for Debtor and Debtor in Possession  
11 PACIFIC GAS AND ELECTRIC COMPANY

12 UNITED STATES BANKRUPTCY COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN FRANCISCO DIVISION

15 In re  
16 PACIFIC GAS AND ELECTRIC  
17 COMPANY, a California corporation,

18 Debtor.

19 Federal I.D. No. 94-0742640

20 Case No. 01-30923 DM

21 Chapter 11 Case

22 Date: February 9, 2004

23 Time: 1:30 p.m.

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

26 Judge: Hon. Dennis Montali

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HOWARD  
RICE  
NEMEROVSKI  
CANADY  
FALK  
& RABKIN  
A Professional Corporation

1 I, Fong Wan, declare as follows:

2 1. I am the Vice President of Risk Initiative at PG&E Corporation, the parent  
3 company of Pacific Gas and Electric Company, the debtor and debtor in possession in the  
4 above-captioned Chapter 11 case ("PG&E" or the "Debtor"). This Declaration is based on  
5 my personal knowledge of PG&E's and PG&E Corporation's general operations and  
6 practices and policies, and upon my review of their respective records concerning the  
7 matters stated herein. If called as a witness, I could and would testify competently to the  
8 facts stated herein.

9 2. I make this Declaration in support of the Debtor's motion (the "Motion")  
10 for entry of an order approving a certain Settlement Agreement And Limited Mutual Release  
11 (the "Settlement Agreement") by and among PG&E on the one hand, and Enron Canada  
12 Corp. ("ECC"), Enron Energy Marketing Corp. ("EEM"), Enron Energy Services, Inc.  
13 ("EES"), Enron North America Corp. ("ENA") and Enron Power Marketing, Inc. ("EPMI")  
14 (collectively, the "Enron Parties"), on the other hand.<sup>1</sup>

15 3. As discussed in greater detail in the Motion, the Settlement Agreement (a  
16 true and correct copy of which is attached hereto as Exhibit A<sup>2</sup>) resolves numerous claims  
17 and related disputes between PG&E and the Enron Parties, including claims filed by the  
18 Enron Parties in PG&E's bankruptcy case aggregating approximately \$1.035 billion.<sup>3</sup>

19 \_\_\_\_\_  
20 <sup>1</sup>Capitalized terms not defined herein have the meaning ascribed to them in the  
21 Motion or (if not defined therein in) the Settlement Agreement.

22 <sup>2</sup>PG&E is not attaching copies of the Settlement Agreement to the service copies of  
23 this Declaration because it is too voluminous. However, PG&E will make copies of such  
24 document available to anyone being served with the Motion and this Declaration. Any  
25 person served with this Motion and this Declaration may obtain a copy of the Settlement  
26 Agreement by written request by mail to Howard, Rice, Nemerovski, Canady, Falk &  
27 Rabkin, Attn: Nathaniel H. Hunt, Three Embarcadero Center, 7th Floor, San Francisco,  
28 California 94111-4024, or by e-mail request to nhunt@howardrice.com. Additionally,  
copies of the Settlement Agreement will be available at the hearing on the Motion if any  
other person wishes to review it.

<sup>3</sup>This Declaration contain a general discussion of the terms and conditions of the  
Settlement Agreement intended to assist the Court and parties in interest in understanding  
the Settlement Agreement, but is qualified in its entirety by the actual language of the  
Settlement Agreement itself. In the event of any actual or perceived inconsistency between  
any provisions of the Settlement Agreement and the discussion provided herein, the  
provisions of the Settlement Agreement shall be controlling.

1           4. In broad terms, the Settlement Agreement, among other things, provides for,  
2 claims of the Enron Parties aggregating approximately \$1.035 billion<sup>4</sup> to be allowed in a  
3 maximum aggregate amount of \$345 million, which amount can decrease to approximately  
4 \$284 million (or even less) based on certain adjustments, while providing for the release of  
5 PG&E claims currently aggregating approximately \$73 million on their face, plus additional  
6 unliquidated amounts. The Settlement Agreement also contains broad mutual releases by  
7 the parties, while expressly preserving certain matters. Among other things, PG&E is  
8 preserving all claims against the Enron Parties (except EES and EEM) and their affiliates  
9 relating to issues raised in Federal Energy Regulatory Commission ("FERC") proceedings  
10 regarding alleged violations of the Federal Power Act or Natural Gas Act, dysfunctions or  
11 potential manipulation of the Western gas or electric markets by Enron, its affiliates and  
12 others, and all claims of PG&E arising from transactions in the markets operated or  
13 administered by the PX and/or the CAISO.

14           5. The Settlement Agreement is the culmination of more than two years of  
15 negotiations between PG&E and the Enron Parties. The Settlement Agreement is extremely  
16 broad in scope and resolves numerous complex issues between PG&E and the Enron Parties.  
17 If the Settlement Agreement is not approved, PG&E intends to continue litigating many of  
18 the issues that are resolved by the Settlement Agreement, presumably at substantial expense  
19 and inconvenience to both the parties and the Court. As discussed in the Motion, PG&E  
20 anticipates that such litigation would raise many complex and challenging issues, including  
21 regarding the validity and appropriate amount of various claims asserted by the Enron  
22 Parties in this case, as well as various claims asserted by PG&E in the Enron Bankruptcy  
23 Cases. These complex issues would presumably require extensive analysis and testimony  
24 and result in protracted and costly litigation. The Settlement Agreement eliminates such  
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26           <sup>4</sup>As discussed in the Motion, the Settlement Agreement does not resolve a claim by  
27 one of the Enron Parties asserted in an unliquidated amount estimated at approximately \$30  
28 million based on the purchase of electricity or ancillary services by PG&E in markets  
operated by the California Power Exchange Corporation (the "PX") or the California  
Independent System Operator Corporation (the "CAISO").

1 unnecessary expense, inconvenience and delay.

2 6. As discussed in detail in the Motion, the Settlement Agreement: (i) provides  
3 for claims of the Enron Parties aggregating approximately \$1.035 billion to be allowed in a  
4 maximum aggregate amount of \$345 million (i.e., a reduction of at least \$690 million),  
5 which amount can decrease to approximately \$284 million (or even less), by fully resolving  
6 approximately \$524 million of claims filed by the Enron Parties in a maximum allowed  
7 amount of \$315 million, and limiting recovery on another approximately \$511 million of  
8 claims filed by the Enron Parties to a maximum of \$30 million, and (b) fully resolves most  
9 of the claims filed by PG&E in the Enron Bankruptcy Cases, which currently aggregate  
10 approximately \$73 million on their face, without the expense, risk and delay inherent in  
11 continued litigation. In my opinion, such avoidance of unnecessary litigation will benefit  
12 PG&E and its creditors by minimizing costs and delay and allowing PG&E's personnel to  
13 focus on more critical functions. The Settlement Agreement also avoids the risk that the  
14 claims of the Enron Parties will be allowed against PG&E's estate in amounts greater than  
15 the settlement amounts, as well as the risk of a lower net recovery for the estate with respect  
16 to the PG&E claims against the Enron Parties resolved by the Settlement Agreement.

17 7. Based on the foregoing, I believe that the Settlement Agreement is in the  
18 best interests of PG&E and its bankruptcy estate.

19 I declare under penalty of perjury under the laws of the United States of America  
20 and the State of California that the foregoing is true and correct. Executed this 15<sup>th</sup> day of  
21 January, 2004 at San Francisco, California.

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24 \_\_\_\_\_  
FONG WAN

25 WD 011304/1-1419954/1124310/v2