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December 23, 2003

BY FEDERAL EXPRESS

Cathy A. Catterson, Clerk
United States Court of Appeals for the Ninth Circuit
95 Seventh Street
San Francisco, CA 94103-1526

Re: *California Public Utilities Commission v. U.S. Nuclear Regulatory
Commission et al., Case No. 02-72735*

Dear Ms. Catterson:

Please find enclosed for filing an original and four (4) copies of "Intervenor Pacific Gas and Electric Company's Status Report Related to Stay of Proceeding" in Case No. 02-72735.

You will also find enclosed a duplicate copy of Pacific Gas and Electric Company's filing. Please date-stamp this copy and return it in the enclosed self-addressed, stamped envelope. Thank you for your assistance in this matter.

Sincerely,



David A. Repka

Counsel for
Pacific Gas and Electric Company

Enclosures

December 23, 2003

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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.

No. 02-72735

INTERVENOR PACIFIC GAS AND ELECTRIC COMPANY'S
SECOND STATUS REPORT RELATED TO STAY OF PROCEEDING

On September 24, 2003, Intervenor Pacific Gas and Electric Company ("PG&E") filed a status report pursuant to the Court's Order of July 28, 2003, requesting that this proceeding continue to be stayed pending resolution of the settlement of PG&E's bankruptcy case. On October 1, 2003, the Court granted PG&E's request, and stayed the case until December 26, 2003, directing that PG&E file a status report on or before that date. PG&E herein files its second

status report. As discussed below, PG&E respectfully requests that this proceeding continue to be stayed.

I. BACKGROUND

The Petition for Review in the captioned matter relates to an administrative order of the U.S. Nuclear Regulatory Commission (“NRC” or “Commission”). 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 would be required to implement a PG&E Plan of Reorganization that was submitted to the Bankruptcy Court in 2001. The California Public Utilities Commission (“CPUC”) opposed that plan and submitted a competing, alternative plan.

Pursuant to settlement procedures implemented by the Bankruptcy Court, PG&E, PG&E Corporation and the CPUC staff announced, on June 20, 2003, a proposed settlement of the PG&E bankruptcy case (the “Settlement Agreement”), involving a plan of reorganization (“Settlement Plan”) in place of the plans previously advocated by PG&E and the CPUC. Under the provisions of the Settlement Plan, PG&E would emerge from Chapter 11 protection as a vertically integrated utility, subject to the traditional ratemaking jurisdiction of the CPUC. Implementation of the Settlement Plan would eliminate the need for the NRC license transfers at issue in this matter.

II. DISCUSSION

Pursuant to the Settlement Agreement, in July 2003, PG&E and the Official Committee of Unsecured Creditors ("OCC") jointly filed the Settlement Plan for confirmation by the Bankruptcy Court. The Bankruptcy Court conducted trial on confirmation of the Plan in November 2003. Thereafter, on December 12, 2003, Judge Montali issued a Memorandum Decision approving the Settlement Agreement.¹ In this decision, Judge Montali stated that the court would enter a separate Confirmation Order confirming the Settlement Plan, provided the CPUC subsequently approved the Settlement Agreement.

The CPUC considered the Settlement Agreement in parallel with the Bankruptcy Court proceeding. On December 18, 2003, the CPUC approved the proposed Settlement Agreement with certain minor modifications and clarifications ("Modified Settlement Agreement").² PG&E, PG&E Corporation, and the CPUC thereafter signed the Modified Settlement Agreement on December 19, 2003. The Modified Settlement Agreement preserves the fundamental

¹ *In re Pacific Gas & Elec. Co.*, No. 01-30923DM (N.D. Cal. Dec. 12, 2003) (Memorandum Decision Approving Settlement Agreement and Overruling Objections to Confirmation of Reorganization Plan).

² *In re Pacific Gas & Elec. Co.*, No. 02-04-026, Decision 03-12-035 (Cal. Pub. Util. Comm'n Dec. 18, 2003) (Opinion Modifying the Proposed Settlement Agreement of Pacific Gas & Electric Company, PG&E Corporation, and the Commission Staff, and Approving the Modified Settlement Agreement).

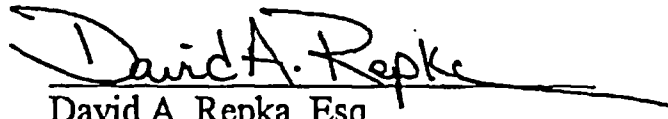
elements of the Settlement Agreement. Under the Modified Settlement Agreement, PG&E will remain a vertically integrated utility subject to the plenary regulatory jurisdiction of the CPUC – obviating the NRC license transfer order that is the subject of the present Petition for Review.

Thereafter, Judge Montali held a status conference on December 22, 2003. At that time, he signed an order confirming the Settlement Plan, as modified in accordance with the Modified Settlement Agreement. The Bankruptcy Court order remains subject to appeal. In addition, prior to implementation of the Settlement Plan, certain conditions must be satisfied by PG&E, including completion of financing and achievement of investment grade bond ratings. PG&E, however, expects to implement the Settlement Plan and emerge from bankruptcy by the end of the first quarter of 2004. At that time, PG&E would notify the NRC that the license transfers are no longer necessary.

III. CONCLUSION

In light of the approval of the Settlement Plan, as modified, by both the Bankruptcy Court and the CPUC, PG&E respectfully requests that this proceeding continue to be held in abeyance.

Respectfully submitted,



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PACIFIC GAS & ELECTRIC COMPANY

Dated at Washington, DC
this 23rd day of December 2003

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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.

No. 02-72735

CERTIFICATE OF SERVICE

I hereby certify that copies of "INTERVENOR PACIFIC GAS AND ELECTRIC COMPANY'S SECOND STATUS REPORT RELATED TO STAY OF PROCEEDING" in the captioned proceeding have been served as shown below by United States mail, first class, this 23rd day of December 2003.

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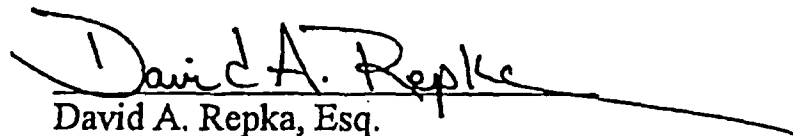
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