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7

8 **UNITED STATES BANKRUPTCY COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**  
10

11 In re	)	No.	01-30923 DM
12 PACIFIC GAS AND ELECTRIC	)	Chapter	11
13 COMPANY,	)	Date:	November 13, 2003
14 Debtor.	)	Time:	1:30 p.m.
15	)	Ctrm:	235 Pine Street, 22 <sup>nd</sup> Floor
16	)		San Francisco, California

17 **DECLARATION OF PATRICIA MARTIN RE UNITED STATES TRUSTEE'S**  
18 **REPORT ON PROFESSIONAL FEES FOR CURRENT PERIOD (4/01/03 - 7/31/03) AND**  
19 **CUMULATIVE CASE TO DATE (4/06/01 - 7/31/03)**

20 I Patricia Martin declare:

21 1. I am a Bankruptcy Analyst employed by the United States Department of Justice,  
22 Office of the United States Trustee for the Northern District of California. I am the U.S.  
23 Trustee analyst who has been assigned to review and monitor the professional fees in the  
24 Chapter 11 Pacific Gas and Electric Company case.

25 2. Pursuant to the Court's Order Establishing Interim Fee Application and Expense  
26 Reimbursement Procedure, entered July 26, 2001, the Office of the U.S. Trustee has  
27 received electronic transmission of various professionals' monthly invoices and formal fee  
28 applications. These electronic transmissions have been uploaded into a database, data

1 from which can then be downloaded into an Excel spreadsheet which allows an in-depth  
2 analysis of each fee application using a variety of methods.

3 3. Using the method described above, I have reviewed the professionals' fee  
4 applications which are the subject of this hearing. I prepared the Report of Professional  
5 Fees and Expenses for Current Period (4/01/03 - 7/31/03) and Cumulative Case to Date  
6 (4/06/01 - 7/31/03) which is attached hereto as Exhibit 1. It is the intent of the report to give  
7 the court, the debtor, the creditors' committee, and interested parties (a) a broad overview of  
8 the cost of the bankruptcy case; (b) an approximation of the cost of specific matters so the  
9 court and knowledgeable parties can assess the reasonableness of fees; and (c) sufficient  
10 detail with respect to attorneys, accountants, billing rates, billing trends to isolate areas in  
11 which better billing discretion might be utilized.

12 I declare, under penalty of perjury, to the best of my knowledge, the foregoing  
13 statements are true and correct and, if called upon to testify thereon as a witness, I would  
14 be competent to so testify. Executed this 24<sup>th</sup> day of October, 2003, in San Francisco,  
15 California.

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18 Patricia Martin  
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1 **PROOF OF SERVICE**

2  
3 I, the undersigned, state that I am employed in the City and County of San Francisco, State  
4 of California, in the office of the United States Trustee, at whose direction the service was made; that  
5 I am over the age of eighteen years and not a party to the within action; that my business address is  
6 250 Montgomery Street, Suite 1000, San Francisco, California 94104, that on the date set Out below,  
7 I served a copy of the attached:

8 **DECLARATION OF PATRICIA A. MARTIN RE UNITED STATE TRUSTEE'S REPORT  
9 ON PROFESSIONAL FEES FOR CURRENT PERIOD (4/01/03 - 7/31/03) AND  
10 CUMULATIVE CASE TO DATE (4/06/01 - 7/31/03)**

11 by placing such a copy, enclosed in a sealed envelope, with prepaid postage thereon, in the United  
12 States mail at San Francisco, California, addressed to each party listed below.

13 James L. Lopes  
14 William J. Lafferty  
15 Howard Rice Nemerovsky et al.  
16 Three Embarcadero Center, 7th Floor  
17 San Francisco, CA 94111-4065

18 Robert Jay Moore, Esq.  
19 Milbank Tweed Hadley et al  
20 601 S Figueroa Street, 30th Floor  
21 Los Angeles, CA 90017

22 Alan W. Kornberg, Esq.  
23 Brian S. Hermann, Esq.  
24 Marc F. Skapof, Esq.  
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26 1285 Ave of the Americas  
27 New York, NY 10019

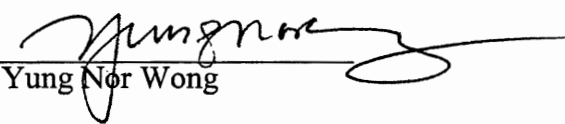
28 Mark A. Edmunds  
Deloitte & Touche LLP  
50 Fremont Street  
San Francisco, CA 94121

29 Peter Benvenuti  
30 Marie L. Fiala, Esq.  
31 Heller Ehrman White &  
32 Mcauliffe LLP  
33 333 Bush Street  
34 San Francisco, CA 94104

35 Gregg S. Kleiner, Esq.  
36 Cooley Godward LLP  
37 One Maritime Plaza, 20th Floor  
38 San Francisco, CA 94111

39 Thomas E. Lumsden  
40 FTI Consulting Inc.  
41 333 Sacramento Street, 18<sup>th</sup> Floor  
42 San Francisco, CA 94111

43 I declare under penalty of perjury that the foregoing is true and correct. Executed at San  
44 Francisco, California on October 24, 2003.

45 By   
46 Yung Nor Wong  
47  
48



Pacific Gas and Electric Company  
Case No. 01-30923 DM  
Chapter 11 Petition filed 4/6/01

**Report of Professional Fees and Expenses for Current Period (4/01/03 - 7/31/03) and  
Cumulative Case to Date (4/06/01 - 7/31/03)**

Prepared by  
Office of the United States Trustee  
San Francisco, California  
October 24, 2003

**EXHIBIT 1**

Pacific Gas and Electric Company  
Case No. 01-30923 DM  
Report of Professional Fees and Expenses for Current Period (4/01/03 - 7/31/03) and  
Cumulative Case to Date (4/06/01 - 7/31/03)

SUMMARY

● Current & Cumulative Fees and Expenses

Pacific Gas and Electric Company ("PG&E") filed Chapter 11 on April 6, 2001. This is the seventh hearing in which professionals employed in the bankruptcy case are seeking interim approval of their fees and expenses. This fee hearing generally covers the period from April through July, 2003. The fees and expenses which are being sought for the current period and which have been incurred in the case since its inception are:

Fee Application and Period Covered		Hours	Fees	Expenses	Total	% of Total
1st	April - July, 2001	37,802.8	\$12,915,384	\$720,048	\$13,635,432	11.51%
2nd	August - November, 2001	40,235.1	14,523,083	947,596	15,470,679	13.06%
3rd	December, 01 - March, 02	53,463.0	16,967,095	975,666	17,942,761	15.15%
4th	April - July, 2002	52,621.4	16,571,127	739,226	17,310,353	14.62%
5th	August - November, 2002	73,859.4	22,593,873	1,349,316	23,943,189	20.22%
6th	December, 02 - March, 03	59,491.5	18,311,253	1,496,514	19,807,767	16.72%
7th	Current Period April - July, 2003	28,481.8	9,906,543	422,057	10,328,600	8.72%
Total through July, 2003		345,955.0	\$111,788,358	\$6,650,423	<b>\$118,438,781</b>	100.00%

● Rough Estimate of Current Cost of PG&E's Chapter 11 Bankruptcy

The **\$118.4 million** set forth above does not reflect all the professional fees and expenses incurred in PG&E's Chapter 11 bankruptcy and which ultimately may be charged to the Utility. Based upon a settlement agreement which was announced on June 19, 2003 which was formalized into a settlement plan dated July 31, 2003, the Utility, its parent and the CPUC have proposed that the Utility will reimburse its parent - PG&E Corp. - and the CPUC for professional fees and expenses incurred by both. In addition, the figure above does not include certain operational expenses which the Utility incurred as it moved towards implementation of its original plan to disaggregate its operations into new entities. Finally, there are other professionals who were employed in the bankruptcy case who have not filed formal fee applications and, for that reason, their fees are not included in the figures above.

The Office of the U.S. Trustee offers the following rough estimate of the current cost of PG&E's Chapter 11 bankruptcy:

<b>ROUGH ESTIMATE OF CURRENT COST OF PG&amp;E'S CHAPTER 11 BANKRUPTCY</b>	
Professional fees and expenses, 4/01 - 7/03, as shown above	\$118,438,781
Professionals' cover sheet applications for 8/03	1,874,000
Parent PG&E Corp's estimated fees/expenses (7/31/03 disclosure statement) which are comprised of: Estimated legal fees           \$96 million Estimated financing fees       20 million Estimated accounting fees      9 million	125,000,000
CPUC's estimated fees/expenses (7/31/03 disclosure statement) which are comprised of: Estimated legal fees           \$26 million Estimated financing costs      20 million	46,000,000
Plan implementation expenses (reported in PG&E Corp's SEC filings)	58,000,000
Celerity Consulting (through 3/03)	16,447,000
Berger & Associates (through 12/02)	1,760,000
<b>Rough Estimate of Current Cost of Chapter 11 Bankruptcy</b>	<b>\$367,519,781</b>

Alternatively, a rough estimate can be reached by using the total reorganization expenses reported by PG&E Corp in its consolidated financials statements filed with the SEC. PG&E Corp.'s consolidated financial statements, as filed with the SEC, reported that approximately \$352 million in reorganization expenses attributable to the Utility's Chapter 11 bankruptcy were incurred from April, 2001 to June 30, 2003: \$97 million in 2001, \$155 million in 2002, and \$100 million as of June 30<sup>th</sup> of this year. If you add the \$46 million in reimbursement sought by the CPUC to the \$352 million reported by PG&E Corp, an estimate of total current costs is \$398 million.

- **Electronic Transmission of Detailed Time and Expense Entries**

With a few exceptions, the firms employed in the PG&E case are submitting their detailed time and expense entries to the Office of the U.S. Trustee in electronic form. The electronic transmission of fees has expedited the review process, afforded the opportunity for in-depth analysis, and resulted in the ability to provide the court and interested parties with a comprehensive overview of the fees incurred in the case.

- **Key Events and Substantive Issues (April, 2003 - July, 2003)**

The firms' fee narratives provide synopses of key matters which each firm addressed between April and July, 2003. The key events and substantive issues were:

**Judicial Settlement Conference & Staying of the Confirmation Trial.**

At a status conference on February 27, 2003, the creditors' committee and other parties requested the court to order PG&E, the CPUC, and other objecting parties to a judicially supervised settlement conference. On March 4, 2003, the court issued an order requiring the parties to participate in a judicial settlement conference overseen by the Honorable Randall Newsome and stayed all proceedings in the confirmation trial, including discovery. As a result of the stay, the Utility and its professionals gradually moved from a litigation position to a negotiating mode resulting in a significant decrease in professionals fees and expenses from the prior period (\$19.8 million) to the current period (\$10.3 million).

**Announcement of a Settlement & the Settlement Plan.**

On June 19, 2003, it was announced that the Utility, its parent, and the staff of the CPUC had reached a tentative settlement. The Utility will remain intact and its historic businesses will not be dis-aggregated as was proposed in its original plan. The Utility will remain under the jurisdiction of the CPUC. For its part, the CPUC will respond promptly to the Utility's rate-making applications and adhere to the rate provisions of the agreement. The agreement provides for a new regulatory asset of \$3.7 billion (pre-tax) which will be part of the Utility's rate base and which will be amortized over nine years beginning January 1, 2004. With the exception of certain pollution control bonds and preferred stock which will be reinstated, the settlement will allow payment of allowed claims in cash from funds on hand and from the issuance of \$8.7 billion in debt instruments. PG&E Corporation and Utility shareholders will forego dividend payments until July 1, 2004. It is contemplated that retail rates will be decreased by approximately ½ cent (from the current rate of 13.87 cents/kwh) on January 1, 2004 and will continue to be decreased to approximately 12.8 cents by 2008. The Utility will dedicate 140,000 acres of watershed and other land for public purposes and will create two new nonprofit corporations to oversee the dedicated lands and to support research and investment in clean energy technology. The Utility will dismiss its filed rate case with prejudice. The proposed settlement agreement is subject to the approval of the CPUC and must be executed by all parties by December 31, 2003. In July, the Utility, the staff of the CPUC and the Official Unsecured Creditors Committee filed testimony with the CPUC in support of the proposed settlement agreement. The CPUC will vote on the settlement agreement on December 18, 2003.

In July, 2003, a settlement plan and settlement disclosure statement were filed in the Bankruptcy Court essentially withdrawing the competing plans of the Utility and the CPUC. The Official Unsecured Creditors Committee supported the settlement plan. On July 31, 2003, the Bankruptcy Court approved the disclosure statement. (On August 1, 2003, the Court approved the vote solicitation procedures. The solicitation period commenced on August 15<sup>th</sup> and ended on September 29, 2003. The plan was approved by 97% of the voting creditors and was approved by all classes of voters.) The confirmation trial is scheduled to commence on November 10, 2003.

● Key Events and Substantive Issues, continued

**Filed Rate Case Appeal.**

On March 10, 2003, the Ninth Circuit heard oral argument in the filed rate case appeal. As mentioned above, the proposed settlement agreement will include the dismissal of the Utility's filed rate case. On July 11, 2003, the Ninth Circuit requested that the parties to the appeal file a Joint Status Report to ascertain whether the submission of the case for decision should be vacated because of the proposed settlement. On August 11, 2003, the Ninth Circuit issued an order which stayed further proceedings and vacated submission of the filed rate case for decision. [Background: Prior to filing Chapter 11, PG&E sued the CPUC to allow the utility to recover its escalating wholesale costs under the federal filed rate doctrine. On July 25, 2002, a United States District Court judge denied various motions for summary judgment and motions to dismiss PG&E's filed rate case and set the case for trial. On August 23, 2002, the CPUC, et al. appealed the 7/25/02 District Court order to the Ninth Circuit based on the Eleventh Amendment and the Johnson Act, 28 U.S.C. §1342. On September 4, 2002 the defendants filed a motion in District Court to stay proceedings pending their appeal. PG&E filed a motion arguing against the stay which was granted. Thereafter, on October 23, 2002, the CPUC, et al. filed a motion in the Ninth Circuit to stay proceedings in the District Court pending their appeal. On 11/21/02, the Ninth Circuit granted the CPUC's motion staying the trial in the District Court.]

**Preemption Appeal.**

The Ninth Circuit Court of Appeals heard oral argument on May 14, 2003 on the preemption appeal. On July 8, 2003, the Utility and PG&E Corp. requested that the Ninth Circuit stay the preemption appeal in light of the settlement which had been reached. Appellants opposed the request for stay. [Background: On August 30, 2002, the U.S. District Court ruled in favor of PG&E in its appeal of the bankruptcy court's March 18, 2002 order disapproving PG&E's disclosure statement based upon the Hon. Dennis Montali's February 7, 2002 "express preemption" decision. The bankruptcy court had found that bankruptcy law did not expressly preempt but could impliedly preempt non-bankruptcy laws under certain circumstances. The District Court ruled that the bankruptcy code expressly preempts "non-bankruptcy laws that would otherwise apply to bar, among other things, transactions necessary to implement the reorganization plan". On September 19<sup>th</sup>, the U.S. District Court's order was entered and the CPUC, the California Attorney General, the City & County of San Francisco and several other parties filed a notice of appeal to the Ninth Circuit. The appellees also filed a motion requesting that the U.S. District Court stay the effect of its August 30<sup>th</sup> decision pending their appeal. The U.S. District court denied the stay motion. The appellees, excluding the CPUC, then filed a motion in the Ninth Circuit to stay proceedings in the District Court; it was also denied.]



**FERC Refund Proceedings - Amount of Refunds Due Still Being Contested.**

Pursuant to the settlement agreement, PG&E, the CPUC and the State of California will continue to work together to seek refunds from power generators and brokers stemming back to the California electricity crisis. To the extent refunds or offsets to creditors claims are realized, the amount will be applied towards and reduce the newly created regulatory asset provided the Utility in the settlement agreement.

[Background: The FERC refund proceedings are the result of actions taken by the state of California and its utilities seeking (a) market relief and reform and (b) refunds for alleged overcharging during California's electricity crisis. The state of California asserts approximately \$9 billion in refunds are due the state, the utilities, and their customers. During the summer of 2001, a FERC judge presided over settlement negotiations between power sellers, the state and the utilities - to no avail. A "refund trial" proceeded in two phases - the first in 3/02 and the second in 8 & 9/02. In 8/02, the U.S. Court of Appeals for the Ninth Circuit issued an order remanding issues related to the refund trial to the FERC. Specifically, the FERC would need to allow additional evidence related to potential market manipulation by sellers. On 11/20/02, the FERC initiated a 100 day period of discovery regarding market manipulation. In 12/02, the FERC trial judge preliminarily found that refunds of only \$1.8 billion were due based on a certain methodology which is currently being contested. The 100-day discovery period concluded on 2/28/03. On March 26, 2003, the initial refund decision was affirmed by the FERC. In March, various parties, including Heller Ehrman for PG&E, filed the results of their discovery and, as a result of their findings, are seeking a multi-billion increase in the refund amount.]

● “Focus Areas”

The Office of the U.S. Trustee has defined certain focus areas which generally correspond to the substantive billing matters and key issues set forth above. Using the professionals’ billing categories when available and extracting information by sorting techniques when not readily available, the Office of the U.S. Trustee has combined the firms’ fees associated with each focus area to approximate the overall cost of each matter. Based on the method employed by the Office of the U.S. Trustee, the fees incurred for the subject billing period and case to date in various key matters in the case are as follows:

FOCUS AREA (As defined by U.S. Trustee)	Cumulative to Date (4/6/01 - 7/31/03)		Current Period (4/03 - 7/03)	
	Hours	Fees	Hours	Fees
Original Impasse - PG&E, CPUC, et al	54,070.9	\$16,740,022	3,102.2	\$1,055,472
<i>Above includes Federal Filed Rate Case</i>	20,701.8	\$5,715,790	1,146.5	340,055
<b>The Earlier Competing Plans</b>				
PG&E’s Plan	97,503.4	37,378,637	5,490.7	1,734,491
<i>Above includes Preemption Appeal(s)</i>	5,894.7	1,765,194	239.0	85,520
Confirmation Related Discovery	27,738.1	7,390,777	1,248.6	313,956
CPUC’s Plan (through 7/02)	2,375.4	1,010,195	0	0
Joint CPUC/OCC Plan (8/02 & forward)	8,204.6	5,085,840	134.2	466,432
<b>Total, for Earlier Competing Plans</b>	<b>135,821.5</b>	<b>50,865,449</b>	<b>6,873.5</b>	<b>2,514,879</b>
<b>Settlement Negotiations , the Settlement Agreement, Disclosure Stmt. &amp; Plan</b>	<b>3,546.8</b>	<b>1,992,540</b>	<b>3,078.9</b>	<b>1,745,192</b>
Qualifying Facilities/Producers	10,987.6	3,188,866	275.7	84,634
Other Regulatory Matters	58,419.7	16,167,436	7,614.7	2,318,000
<i>Above includes FERC Refund Proceeding</i>	30,993.1	8,211,006	4,396.1	1,315,501
Claims Analysis, Review & Resolution	26,269.4	6,365,702	1,959.2	560,403
General Bankruptcy Matters	34,517.6	7,835,842	3,113.1	678,258
Creditor Committee Alternatives	422.9	210,572	0	0
Creditor Committee Matters	4,260.1	2,064,185	191.9	102,070
Other Matters (including General Operations)	17,054.1	5,771,676	2,272.6	847,545
Innisfree - Voting Agent	584.5	586,076	0	0
<b>TOTAL</b>	<b>345,955.1</b>	<b>\$111,788,366</b>	<b>28,481.8</b>	<b>\$9,906,453</b>

● **Attached Exhibits**

- A Summary of Fees - All Firms
- B Percentage Changes in Fees from Current Billing Period vs. Previous Billing Period s (Primary Professionals)
- C Most Active Attorneys/Accountants: April - July, 2003
- D Summary of Fees - by Focus Areas
- Supportive Schedules to Exhibit D
- D-1 Focus - Impasse between the Utility & the State
- D-2 Focus - Competing Plans, Discovery & Trials
- D-3 Focus - PG&E's Plan
- D-4 Focus - Qualifying Facilities, Producers, Suppliers
- D-5 Focus - Other Areas Including Claims, General Bankruptcy Matters, Other Regulatory
- E Howard, Rice, Nemerovski, Canady, Falk & Rabkin
- E-1 Howard Rice by Focus Area
- E-2 Howard Rice Top Billing Categories
- E-3 Howard Rice by Attorney
- F Heller Ehrman White & McAuliffe LLP
- F-1 Heller by Focus Area
- F-2 Heller by Attorney
- G Cooley Godward LLP
- G-1 Cooley by Focus Area
- G-2 Cooley by Attorney
- H Milbank, Tweed, Hadley & McCloy LLP
- H-1 Milbank by Focus Area
- H-2 Milbank by Attorney
- H-3 Milbank Most Active Attorneys
- I FTI Consulting, Inc. (formerly Pricewaterhouse)
- I-1 FTI by Focus Area
- I-2 FTI by Accountant
- I-3 FTI - Summary of Services Performed by Accountant