

1 MARIE L. FIALA (No. 79676)  
2 PETER J. BENVENUTTI (No. 60566)  
3 ADAM M. COLE (No. 145344)  
4 HELLER EHRMAN WHITE & McAULIFFE LLP  
5 333 Bush Street  
6 San Francisco, California 94104-2878  
7 Telephone: (415) 772-6000  
8 Facsimile: (415) 772-6268

50-7957523

6 Special Counsel for Debtor in Possession  
7 PACIFIC GAS AND ELECTRIC COMPANY

8 UNITED STATES BANKRUPTCY COURT  
9  
10 NORTHERN DISTRICT OF CALIFORNIA  
11  
12 SAN FRANCISCO DIVISION

12 In re

Case No.: 01-30923 DM

13  
14 PACIFIC GAS AND ELECTRIC  
15 COMPANY, a California corporation,

Chapter 11 Case

16 Debtor.

Judge: Hon. Dennis Montali

Date: February 26, 2002

Time: 9:30 a.m.

17 Federal I.D. No. 94-0742640

18 **DECLARATION OF DAVID R. LUSTER IN SUPPORT OF HELLER EHRMAN**  
19 **WHITE & McAULIFFE LLP'S SECOND INTERIM FEE APPLICATION**  
20 **FOR ALLOWANCE AND PAYMENT OF COMPENSATION AND**  
21 **REIMBURSEMENT OF EXPENSES FOR THE PERIOD**  
22 **AUGUST 1, 2001, THROUGH NOVEMBER 30, 2001**

22 I, David R. Luster, declare:

23 1. I am a Senior Litigation Paralegal at Heller Ehrman White & McAuliffe LLP  
24 ("Heller Ehrman") in San Francisco, California. I submit this declaration in support of  
25 Heller Ehrman's Second Interim Fee Application for Allowance and Payment of  
26 Compensation and Reimbursement of Expenses for the Period August 1, 2001, Through  
27 November 30, 2001 (the "Application Period"). Unless otherwise indicated, I have personal  
28 knowledge of the matters set forth herein and could and would testify to the truth of said

Heller  
Ehrman  
White &  
McAuliffe LLP

DECLARATION OF DAVID R. LUSTER IN SUPPORT OF  
HELLER EHRMAN'S SECOND INTERIM FEE APPLICATION  
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1 matters if called upon to do so.

2 **Background and Experience**

3 2. I have a B.A. from the University of Missouri, which I obtained in 1982.  
4 I have a certificate in paralegal studies from the University of San Diego, which I obtained  
5 in 1984.

6 3. I have been employed by Heller Ehrman as a paralegal since 1984. I have  
7 been a Senior Litigation Paralegal since 1998. At Heller Ehrman, I have been lead paralegal  
8 on numerous large litigation matters.

9 4. As lead paralegal, I have managed all phases of litigation support from  
10 commencement of the action through trial. I have supported Heller Ehrman lawyers in  
11 motion practice, discovery, trial and post-trial matters. I have had extensive involvement in  
12 file management and support. Among other things, I have had responsibility for locating  
13 and assembling client documents (in some cases involving hundreds of thousands of pages);  
14 reviewing and preparing documents for productions; coding documents and implementing  
15 databases for use in document productions and internal analysis; developing filing systems  
16 for searching and retrieval of documents by subject matter or for specific purposes (e.g.,  
17 depositions or trial); and summarization or distillation of documents for specific purposes  
18 (e.g., developing chronologies).

19 5. In addition, I have had significant responsibility supervising other paralegals  
20 and support staff in complex cases. In some cases, I have supervised as many as 15  
21 paralegals and support staff.

22 6. I have acted as lead paralegal in Heller Ehrman's San Francisco office in  
23 numerous PG&E matters, both before and after PG&E filed its bankruptcy petition on  
24 April 6, 2001. Prior to PG&E's bankruptcy filing, I was lead paralegal on several litigations  
25 in which Heller Ehrman represented PG&E: *County of Stanislaus, et al. v. PG&E* (work  
26 commenced in 1993); *PG&E v. CPUC, et al.* (work commenced in 1994); *City of Santa*  
27 *Cruz, et al. v. PG&E* (work commenced in 1994); *County of Alameda, et al. v. PG&E* (work  
28 commenced in 1994); *PG&E v. Destec Power Services, Inc.* (work commenced in 1996);

1 *Modesto Irrigation District v. PG&E, et al.* (work commenced in 1998); *Laguna Irrigation*  
2 *District v. PG&E, et al.* (work commenced in 2000). Since PG&E filed for bankruptcy, I  
3 have been lead paralegal on *PG&E v. Lynch et al.* (Matter No. 64) (originally filed in  
4 November 2000) (the "Federal Filed Rate Case"). I have also provided paralegal services in  
5 on Matter No. 65 (*Wilson v. PG&E*), Matter No. 76 (CPUC Docket 01-03-082), Matter  
6 No. 77 (CPUC OII Proceeding), Matter No. 80 (CPUC Prudence Review), and Matter  
7 No. 82 (Bankruptcy — Employment and Fee Applications).

#### 8 File Management

9 7. As a result of my 17 years of experience as a paralegal at Heller Ehrman, I am  
10 familiar with how file management in large, complex cases customarily is handled at Heller  
11 Ehrman, and also am able to compare the demands of this case with other cases at Heller  
12 Ehrman.

13 8. The demands of the PG&E matters are extremely complex and substantial,  
14 above and beyond those of a typical case, and require centralized file management that  
15 paralegals (rather than secretaries or other support staff) are best suited to perform. The  
16 PG&E cases currently comprise 22 separate matters being handled by approximately 38  
17 lawyers in five Heller Ehrman offices (San Francisco, Washington, D.C., Seattle, Portland,  
18 and Los Angeles). I am informed that the PG&E engagement is one of the largest matters  
19 being handled by the Firm. Lawyers from all offices need ready access to materials in the  
20 files.

21 9. The quantity of material in the files is large and varied. Heller Ehrman  
22 receives numerous documents from different sources, including PG&E, other law firms,  
23 federal and state regulatory agencies and the courts, on a daily basis in both print and  
24 electronic form. The PG&E files comprise a great array of materials, some very technical:  
25 Pleadings, correspondence, various types of work files, regulatory decisions, legal research  
26 memoranda, pleadings in related cases, and bankruptcy court materials.

27 10. In Heller Ehrman's San Francisco office alone, an entire workroom is devoted  
28 solely to PG&E files: The workroom contains approximately 20 shelves of pleadings,

1 motion papers, legal research memoranda, correspondence, and other materials just for  
2 Matter No. 64, the Federal Filed Rate Case. The workroom also contains extensive files  
3 relating to the present bankruptcy case, the parallel federal filed rate action brought by  
4 Southern California Edison Company, and other recent lawsuits bearing on PG&E's Federal  
5 Filed Rate Case, including *Hendricks v. Dynegy Power Marketing, Inc., et al.*; *Bustamonte,*  
6 *et al. v. Dynegy Power Marketing, Inc., et al.*; *California Independent System Operator v.*  
7 *Reliant Energy Services, Inc., et al.*; and *Duke Energy Trading & Marketing L.L.C. v. Davis,*  
8 *et al.*

9 11. Similarly, I am informed that in the Washington D.C. office, Heller Ehrman  
10 has an entire workroom devoted to PG&E matters which contains 20-25 shelves of materials  
11 (separate and apart from the materials each lawyer keeps in his or her office). The materials  
12 relate to multiple, highly technical FERC proceedings being handled by Heller Ehrman for  
13 PG&E. Every day, numerous decisions are issued by FERC and numerous documents are  
14 filed at FERC bearing on PG&E matters. As part of an email service, Heller Ehrman's  
15 Washington, D.C. office receives approximately 30-50 FERC documents a day, which need  
16 to be reviewed and, if relevant to PG&E matters, circulated, organized and filed.

17 12. The volume of PG&E-related material generated each day requires that  
18 significant time be devoted to file management and document organization. Managing the  
19 PG&E files is challenging, calls for the exercise of discretion, informed by a substantive  
20 overall knowledge of the PG&E matters and, therefore, practicably can be handled only by a  
21 paralegal dedicated to PG&E matters who is acquainted with the relevant substantive issues  
22 and has received training in file management.

23 13. Unlike most cases, the PG&E matters require a high degree of familiarity with  
24 substantive issues in order to manage the files properly. Many of the 22 matters that Heller  
25 Ehrman currently is handling for PG&E involve interrelated issues. Determining how to  
26 classify a document for file management purposes often is difficult. For example, in the  
27 PG&E cases, a technical report by the Federal Energy Regulatory Commission ("FERC")  
28 may pertain to several energy regulatory matters and need to be filed in more than one set of

1 files. For some types of documents — *e.g.*, reports, pleadings in court proceedings, articles,  
2 or decisions of the FERC or California Public Utility Commission (“CPUC”) — it is also  
3 necessary to understand why the document was collected and how it may be used in the  
4 future to determine where it should be filed so that it can be retrieved quickly and efficiently  
5 when needed. On occasion, a paralegal will need to confer with an attorney to decide on the  
6 correct categorization of a document. File management in the PG&E matters also involves  
7 regular updating and reorganizing of files to meet the changing needs of the cases.

8 14. File management in the PG&E cases practicably can only be performed by  
9 paralegals, not secretaries or other support staff. In the San Francisco office, paralegals  
10 receive specific in-house training by lawyers, experienced paralegals, and professional  
11 training personnel on the litigation process, organization of litigation matters, and file  
12 management, including the use of computer software (*e.g.*, “LegalKey,” described below)  
13 and databases to control documents in complex cases. It is my understanding that  
14 secretaries and other support staff do not ordinarily receive that training.

15 15. There are additional logistical reasons why secretaries could not practicably  
16 perform file management in the PG&E cases. Heller Ehrman’s practice is to assign three  
17 attorneys to each secretary. A secretary therefore could be expected to devote only a  
18 fraction of his time to PG&E matters. In addition, the PG&E file workrooms are in a  
19 different location from individual secretarial stations, which would make it very difficult for  
20 secretaries to perform tasks in the workroom. Furthermore, as explained above, those  
21 managing the PG&E files need an understanding of the underlying substantive issues to  
22 organize the files. Dedicated paralegals can develop that knowledge, but it is difficult for  
23 secretaries to do so. In my experience, in general, secretaries at Heller Ehrman do not have  
24 primary responsibility for managing files and organizing documents in large litigation  
25 matters staffed by multiple lawyers.

26 16. To illustrate the types of tasks I regularly perform and why it would be  
27 infeasible for a secretary to handle file management of the PG&E cases: During the  
28 Application Period, I received large numbers of requests from lawyers working on PG&E

1 matters, both in Heller Ehrman's San Francisco office and other offices, for documents and  
2 other materials. For example, in the Federal Filed Rate Case, lawyers frequently ask for  
3 copies of pleadings, motion papers, correspondence and legal research memoranda. I, and  
4 other paralegals under my supervision, often must respond to those requests on short order.  
5 I am also often asked to provide copies of court cases, decisions of agencies (such as FERC  
6 and the CPUC, some of which need to be obtained from Westlaw or LEXIS), reports of  
7 governmental bodies, articles, sections of treatises, or materials relating to a particular  
8 subject. Performing these tasks in timely fashion would be extremely difficult for a  
9 secretary with responsibilities to other lawyers on other matters. In addition, all files are  
10 coded, indexed, and tracked at a file level using "LegalKey," a computer program that  
11 enables paralegals firmwide to search via database for documents in the files. Use of  
12 "LegalKey" requires specialized training, which is provided to paralegals, but generally not  
13 to other staff.

14 17. To the degree a filing assignment is straightforward, as it is when pleadings  
15 must be logged, it is given to nonbillable floor support personnel and not billed to PG&E.  
16 However, the bulk of the file management in the PG&E cases cannot feasibly be handled by  
17 nonbillable floor support personnel or secretaries.

#### 18 Reviewing and Routing Articles Related to PG&E

19 18. Every day, newspapers and other publications carry articles about PG&E, the  
20 California energy crisis, and other issues that affect Heller Ehrman's representation of  
21 PG&E. Heller Ehrman's lawyers rely on these articles to keep current on daily  
22 developments in the energy industry that directly affect PG&E.

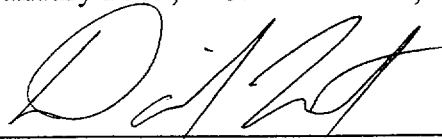
23 19. To support Heller Ehrman's lawyers, articles must be located, collected and  
24 routed on a daily basis. This is done primarily by reviewing articles collected by an  
25 electronic news gathering service (the Daily Bankruptcy News) and by executing Internet  
26 searches of major online publications that regularly report on PG&E and California energy  
27 market issues (e.g., The San Francisco Chronicle, The New York Times, The Los Angeles  
28 Times, and The Daily Recorder legal periodical). An essential part of that task is

1 determining which articles from a large number of articles appearing daily are relevant to  
2 the PG&E cases handled by Heller Ehrman. That task requires familiarity with the  
3 substance of the PG&E cases and the exercise of discretion. Sometimes, it is important to  
4 circulate several similar (and, on first impression, duplicative) articles which present slightly  
5 different angles on issues of importance in the PG&E cases. Knowledge of the issues in the  
6 PG&E matters is necessary to perform that task. Having paralegals perform that task  
7 relieves attorneys of the need either to review all press reports that are potentially relevant to  
8 the matters on which Heller Ehrman is working or risk overlooking a relevant and  
9 potentially important article.

10 20. The only alternatives to having these tasks performed by paralegals would be  
11 to have them performed either by librarians or by attorneys. Librarians and other  
12 nonparalegal staff at Heller Ehrman are not equipped to review and select articles for  
13 circulation to Heller Ehrman's lawyers. The library staff in the Firm's offices is limited in  
14 number. Heller Ehrman librarians must serve approximately 180 lawyers in the San  
15 Francisco office alone, and generally do not develop expertise in a particular case. As a  
16 practical matter, Heller Ehrman's librarians cannot be expected to develop the case-specific  
17 expertise necessary to perform the article review and selection process that a dedicated  
18 paralegal can.

19 21. Further, I am further informed that it is Heller Ehrman's practice to bill for  
20 Heller Ehrman's librarians' time and that Heller Ehrman's librarians bill at rates higher than  
21 most paralegals. Thus, there would be no savings in having librarians, rather than  
22 paralegals, perform this task; more likely than not, using librarians would be more  
23 expensive. It would be even more uneconomical and inefficient to have each of Heller  
24 Ehrman's lawyers search for articles on a daily basis.

1 I declare under penalty of perjury that the foregoing is true and correct, and that this  
2 declaration was executed this 14th day of January 2002, at San Francisco, California.

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5 David R. Luster  
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