

July 16, 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
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.¹

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.

¹ 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.

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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.

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