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October 27, 2003

## **BY E-MAIL AND FEDERAL EXPRESS**

John F. Cordes, Jr.  
Solicitor  
U.S. Nuclear Regulatory Commission  
Mail Stop O-15D21  
11555 Rockville Pike  
Rockville, Maryland 20852-2738

Re: NCPA v. NRC, D.C. Circuit Case Nos. 03-1038 and 03-1184

Dear Mr. Cordes:

As you know, two cases pertaining to Pacific Gas and Electric Company's ("PG&E") license transfer application for Diablo Canyon Power Plant ("DCPP") are currently pending before the U.S. Court of Appeals for the District of Columbia Circuit. On July 1, 2003, and July 14, 2003, petitioner Northern California Power Agency ("NCPA") requested that further proceedings in both of those cases be held in abeyance in light of a proposed settlement agreement currently before the Bankruptcy Court in PG&E's ongoing Chapter 11 bankruptcy case that could eventually render the pending appeals moot. In a pair of Orders dated August 1, 2003, the Court granted NCPA's motions, and stayed these proceedings pending further order of the Court. The Court directed that respondent Nuclear Regulatory Commission ("NRC") file status reports at 90-day intervals. In view of those upcoming status reports, PG&E herein provides to the U.S. Nuclear Regulatory Commission ("NRC" or "Commission") an update as to the bankruptcy settlement.

### **Background**

The Petitions for Review in the captioned matters relate to an administrative order of the 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 DCPP. The license transfers would be required to implement a PG&E Plan of Reorganization that is pending before the Bankruptcy Court. Also before the Bankruptcy Court is an alternative plan proposed by the California Public Utilities Commission ("CPUC") and the Official Committee of Unsecured

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Creditors ("OCC"). The Bankruptcy Court previously initiated confirmation hearings on these two competing plans.

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"), which provides that PG&E will seek Bankruptcy Court approval of a plan of reorganization ("Settlement Plan") in place of the plans previously proposed by PG&E and the CPUC/OCC. Accordingly, confirmation hearings on the PG&E and CPUC/OCC plans have been stayed in the Bankruptcy Court.

Under the provisions of the proposed Settlement Agreement, it is expected that PG&E would emerge from Chapter 11 protection in early 2004 as a vertically integrated utility, subject to the traditional ratemaking jurisdiction of the CPUC. If consummated, the Settlement Agreement and Settlement Plan would eliminate the need for the NRC license transfer at issue in this matter.

The Settlement Agreement provides that the Agreement will become binding only upon its approval by the board of directors of PG&E and PG&E Corporation, its approval by the CPUC, and its execution by PG&E, PG&E Corporation, and the CPUC on or before December 31, 2003. The proposed settlement gives the parties the right to terminate the proposed settlement if the necessary approvals are not received by December 31, 2003.

#### *The Bankruptcy Proceeding*

Pursuant to the proposed settlement, on July 10, 2003, PG&E and the OCC jointly submitted the Settlement Plan for confirmation by the Bankruptcy Court. PG&E filed voting results with the Bankruptcy Court on October 14, 2003. Ninety-seven percent of PG&E's creditors and all of its creditor classes that voted, voted in support of the Settlement Plan. Going forward, the Confirmation Trial is scheduled to begin on November 10, 2003. PG&E anticipates that the trial should be completed, and a decision issued, before the end of the year. Assuming that the Settlement Plan is confirmed on this schedule, PG&E anticipates the Plan will be made effective during the first quarter of 2004.

#### *The CPUC Proceeding*

A CPUC proceeding is currently under way, in parallel with the Bankruptcy Court proceeding, related to approval of the Settlement Agreement. In this proceeding, a prehearing conference was held on September 9, 2003, setting a schedule for hearings. Hearings began on September 10, 2003, and concluded on September 26, 2003. Post-hearing briefs were filed in October. PG&E anticipates a proposed decision from the administrative law judge on or about November 18, 2003, with a final CPUC decision due on or about December 18, 2003.

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Please contact me if you have any further questions regarding the bankruptcy settlement process.

Sincerely,

A handwritten signature in black ink, reading "David A. Repka". The signature is written in a cursive style with a long horizontal line extending from the end of the name.

David A. Repka  
Counsel for Pacific Gas & Electric Company