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JENNIFER A. BECKER State Bar #121319
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Attorneys for Movants
CITY OF OAKLAND and PORT OF OAKLAND

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re
PACIFIC GAS AND ELECTRIC
COMPANY, a California Corporation,

Debtor.

CASE No. 01-30923 DM

Judge: Hon. Dennis Montali

**DECLARATION OF JENNIFER A.
BECKER IN SUPPORT OF CITY OF
OAKLAND AND PORT OF OAKLAND'S
MOTION FOR RELIEF FROM
AUTOMATIC STAY**

Date: November 26, 2003
Time: 1:30 p.m.
Dept: 22

I, Jennifer A. Becker, do hereby declare:

1. I am an attorney duly admitted and licensed to practice law in the State of California and the United States Northern District of California, and am a member of the firm Long & Levit LLP, attorneys for defendants City of Oakland and Port of Oakland (collectively "Oakland") in Alameda County Superior Court Case No. 2001-023981.

2. The Plaintiff in the state court action is the Brotherhood of Teamsters And Auto Truck Drivers Local No. 70 (the "Teamsters"). The Teamsters allege to have sustained property damage and business interruption from March through June 21, 2000, stemming from the 98th Avenue improvement and widening project commenced by Oakland.

BKRP01

3. Attached as Exhibit A is a true and correct copy of the complaint in the Brotherhood of Teamsters v. City of Oakland et al. matter. The Teamsters allege inverse condemnation, negligence and nuisance for alleged damaged caused to their property during the 98th Avenue project.

4. Attached as Exhibit B are true and correct copies of the Proof of Service of the Teamster's complaint upon Oakland on September 19, 2001.

5. Attached hereto as Exhibit C is a true and correct copy of the cross-complaint for indemnity Oakland filed against PG&E on October 9, 2003.

6. Attached hereto as Exhibit D is a true and correct copy of the Proof of Service of Oakland's cross-complaint upon PG&E on October 10, 2003.

7. Attached hereto as Exhibit E is a true and correct copy of the Notice of Filing Voluntary Petition And Imposition of Automatic Stay filed by PG&E in the state court action on October 16, 2003.

8. Attached hereto as Exhibit F is a true and correct copy of a Declaration of Iathan T. Annand in Support of Debtor's Motion for Authorization to Settle Post-Petition Third Party Claims in the Ordinary Course of Business.

9. Attached hereto as Exhibit G is a true and correct copy of this Court's Order Re Motion For Authorization to Settle Post-Petition Third Party Claims in the Ordinary Course of Business.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct, and that this declaration was executed this __ day of October, 2003, at San Francisco, California.

Dated: October 23, 2003


JENNIFER A. BECKER

DOCS\S7268-011\467861.V1



FILED
ALAMEDA COUNTY

SEP 17 2001

CLERK OF THE SUPERIOR COURT
By Car. R. [Signature] Deputy

1 STEWART WEINBERG, Bar No. 031493
BARRY E. HINKLE, Bar No. 071223
2 JAMES J. WESSER, Bar No. 142416
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A Professional Corporation
4 180 Grand Avenue, Suite 1400
Oakland, California 94612
5 Telephone (510) 839-6600

6 Attorneys for Plaintiffs

SUMMONS ISSUED

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

11 BROTHERHOOD OF TEAMSTERS AND
12 AUTO TRUCK DRIVERS LOCAL NO. 70,

13 Plaintiffs,

14 vs.

15 CITY OF OAKLAND, A Municipal
Corporation; PORT OF OAKLAND, A
16 Municipal Corporation; GALLAGHER &
BURK - BROSAMER, A Joint Venture of
17 GALLAGHER & BURK, INC., A California
Corporation, and R&L BROSAMER, INC., A
18 California Corporation; GALLAGHER &
BURK, INC., A California Corporation; R&L
19 BROSAMER, INC., A California Corporation
and DOES 1-20, inclusive

20 Defendants.

Case No. **2001-023981**

COMPLAINT IN INVERSE
CONDEMNATION, NEGLIGENCE
AND NUISANCE

21 Plaintiff complains of Defendants, and each of them and for cause of action alleges:

22
23 1. Plaintiff Brotherhood of Teamsters and Auto Truck Drivers Local No. 70
24 (hereinafter "Local 70") is, and at all times mentioned in this Complaint was an unincorporated
25 association residing in Alameda County, State of California, with its principal place of business in
26 Alameda County, California.

1 2. Plaintiff is, and at all relevant times mentioned in this complaint was, the owner in
2 fee of real property and improvements located at 70 Hegenberger Road, Oakland, California, and
3 more specifically described as Alameda County Assessor's Parcel Number 044-5020-005-49.
4 Local 70's property interest is referred to in this complaint as the "Subject Property".

5 3. At all relevant times, defendant City of Oakland ("City") is and has been a
6 municipal corporation and subdivision of the State of California organized and existing under the
7 laws of the State of California.

8 4. Plaintiff is informed and believes, and on that basis alleges that at all relevant times,
9 defendant Port of Oakland ("Port") is and has been a municipal corporation doing business as a
10 public entity in Alameda County, State of California.

11 5. Plaintiff is informed and believes, and on that basis alleges that defendant Gallagher
12 & Burk - Brosamer, a Joint Venture (hereinafter "Gallagher/Brosamer"), is a joint venture of
13 Gallagher & Burk, Inc. and R&L Brosamer, Inc., doing business in Alameda County as a
14 contractor duly licensed under the laws of the State of California.

15 6. Plaintiff is informed and believes, and on that basis alleges that defendant Gallagher
16 & Burk, Inc., a California Corporation (hereinafter referred to as "Gallagher"), was a contractor
17 duly licensed under the laws of the State of California and doing business in Alameda County.

18 7. Plaintiff is informed and believes and on that basis alleges that defendant R&L
19 Brosamer, Inc., a California Corporation (hereinafter referred to as "Brosamer"), was a contractor
20 duly licensed under the laws of the State of California and doing business in Alameda County.

21 8. Plaintiff is informed and believes and on that basis alleges that all defendants were,
22 at all times mentioned in this complaint, the agents, servants, and employees of their codefendants
23 and were acting within their authority as such with the consent and permission of their
24 codefendants.

25 9. The true names and capacities, whether individual, corporate, associate or
26 otherwise, of defendants named herein as DOES 1 through 20, inclusive, are unknown to plaintiff

1 at this time, who therefore sues said defendants by such fictitious names. Plaintiff is informed and
2 believes and therefore alleges that each of the defendants designated herein by fictitious name is in
3 some manner responsible for the events and happenings herein referred to, and caused damages
4 proximately and foreseeably thereby to plaintiff as hereinafter alleged. Plaintiff is also informed
5 and believes, and alleges on that information and belief, that these fictitiously named defendants
6 were, at all times mentioned in this complaint, the agents, servants, and employees of their
7 codefendants and were acting within their authority as such with the consent and permission of
8 their codefendants. Plaintiff will amend this complaint when the true names and capacities have
9 been ascertained.

10 10. On December 20, 2000, and in compliance with Government Code §910 and all
11 other applicable requirements, Local 70 submitted a written claim to the City. The claim
12 encompassed all of the causes of action stated in this complaint.

13 11. The City, has given Notice of Action Upon Claim dated March 23, 2001, stating
14 that it is has denied plaintiffs' claim.

15 12. Not more than six (6) months have elapsed since the City's Notice of Action Upon
16 Claim was served upon plaintiff.

17 13. On December 20, 2000, and in compliance with Government Code §910 and all
18 other applicable requirements, Local 70 submitted a written claim to the Port. The claim
19 encompassed all of the causes of action stated in this complaint.

20 14. The Port has given Notice of Action Upon Claim dated March 16, 2001, stating that
21 it has denied plaintiffs' claim.

22 15. Not more than six (6) months have elapsed since the Port's Notice of Action Upon
23 Claim was served upon plaintiff.

24 **FIRST CAUSE OF ACTION**
25 **(Inverse Condemnation)**

26 16. Plaintiff incorporates and realleges by reference all the allegations in paragraphs 1

1 though 15.

2 17. The defendants have at all relevant times, and continue to be, engaged in a
3 construction project known as the "98th Avenue Widening Project" (hereinafter "the Project")
4 which is adjacent to the Subject Property owned by Local 70.

5 18. As a proximate result of the defendants' design, construction, operation, and
6 maintenance of the Project, plaintiff has suffered property damage and interference with business
7 operations which stem from repeated utility, power and water service interruptions and
8 breakdowns. Repeated utility, power and water service interruptions and breakdowns commenced
9 as a result of the aforesaid construction project as early as March 6, 2000, causing said property
10 damage and interference with Local 70's business operations. Said utility interruptions continued
11 on March 7, 8, 9, 18, 19, 20, 22-24, April 11 and April 26, 2000. Said service interruptions caused
12 damage including, but not limited to, the prevention of the operation of sewers and drains on the
13 Subject Property, and interference with electrical equipment on those dates, including the loss of all
14 electrical power to the Subject Property.

15 19. Additional damage to the Subject Property and business interference occurred on
16 May 31, June 14-15, and June 20, 2000.

17 20. As a proximate result of the defendants' design, construction, operation, and
18 maintenance of the Project, the Subject Property was damaged on or about June 21, 2000, by waste
19 emanating from the sewer systems. Said waste was a result of a sewer backup caused by
20 construction at the Project and resulted in raw sewage spilling into the Subject Property. Said
21 substances contaminated the building and rendered several areas of the building including, but not
22 limited to, the kitchen, bathrooms and floors unusable for any use, including its highest and best
23 use, until repairs can be completed.

24 21. As a proximate result of the damage to and taking of the Subject Property alleged in
25 this complaint, plaintiff has been damaged in an amount not presently ascertainable. Plaintiff will
26 seek permission to amend this complaint when the true amount of damages becomes known to

1 plaintiff.

2 22. Plaintiff has not received any compensation on account of the above described
3 damage to the Subject Property as alleged in this complaint.

4 23. Plaintiff has incurred and will continue to incur, plumbing, engineering, appraisal,
5 attorney and other fees, cost disbursements, and expenses not yet known or ascertained, in an
6 amount that cannot be presently calculated and that are recoverable under Code of Civil Procedure
7 section 1036.

8 **SECOND CAUSE OF ACTION**
9 **(Negligence)**

10 24. Plaintiff incorporates and realleges by reference all the allegations in paragraphs 1
11 though 23.

12 25. Plaintiff is informed and believes, and based on that information and belief alleges,
13 that defendants, and each of them, developed, engineered, planned, investigated, constructed,
14 installed, replaced utility and sewer lines in the area of the Project and widened and re-paved the
15 streets for use by the public. Plaintiff is informed and believes, and based on that information and
16 belief alleges, that defendants, and each of them, breached their duty of care to plaintiffs and failed
17 to exercise reasonable care in that they failed to properly supervise, inspect, investigate, prepare
18 and construct the replacement utility and sewer lines and street widening and repaving at the
19 Subject Property in that there is damage to areas such floors, walls, walkways, driveways and
20 parking areas due to defendants' failure to insure that the work was properly performed.

21 26. As a proximate and legal result of the negligence of the defendants, and each of
22 them, the Subject Property is defective and has been, and continues to be, damaged in an amount
23 that exceeds the jurisdictional amount of this Court. The precise amount of Local 70's damages
24 will be proven at trial.

25 27. As a further proximate and legal result of the negligence of defendants, and each of
26 them, plaintiff will incur and/or has incurred repair costs, relocation expenses, loss of use and loss

1 of market value in an amount to be proven at trial.

2 28. As a further proximate and legal result of the negligence of defendants, and each of
3 them, plaintiff has been required to expend sums to investigate and make temporary repairs to the
4 property in an amount to be proven at trial.

5
6 **THIRD CAUSE OF ACTION**
(Nuisance – CC § 3479)

7 29. Plaintiff incorporates by reference the allegations of Paragraphs 1 through 28 of this
8 complaint.

9 30. Plaintiff is informed and believes, and based on that information and belief alleges,
10 that defendants, and each of them, by their conduct created, maintained and concealed a public and
11 private nuisance, and have not taken any reasonable steps to permanently abate the nuisance or to
12 mitigate the damage caused to plaintiff by the nuisance.

13 31. Plaintiff is informed and believes, and based on that information and belief alleges,
14 that the damage hereinabove alleged caused by defendants' wrongful conduct affecting the
15 Property constitute a nuisance within the meaning of Civil Code §3479, in that the condition is
16 injurious to the health and welfare of the Subject Property and its owner and guests, and causes an
17 obstruction to use of the Subject Property and to the owner's peaceful and quiet enjoyment of the
18 premises.

19 32. Plaintiff is informed and believes, and based on that information and belief alleges,
20 that this nuisance has caused, and continues to cause, damage to the Subject Property in that walls,
21 floors, doors, walkways, driveways, and parking areas have been damaged by defendants' wrongful
22 conduct.

23 33. As a proximate and legal result of these acts or failures to act, the plaintiff has been
24 and continues to be deprived of the peaceful and quiet enjoyment of the premises and of the
25 Subject Property, and have been and will continue to suffer loss of use of the Subject Property.

26 WHEREFORE, Plaintiff prays for judgment as follows:

1 **FOR THE FIRST CAUSE OF ACTION FOR INVERSE CONDEMNATION:**

- 2 1. For damages in an amount to be proven at trial, and loss of use;
3 2. For costs of suit;
4 3. For prejudgment interest;
5 4. For recoverable engineering, appraisal, attorney, and other fees according to proof;

6 and

- 7 5. For any other and further relief the Court considers just and proper.

8 **FOR THE SECOND CAUSE OF ACTION FOR NEGLIGENCE:**

- 9 1. For damages in an amount to be proven at trial, with interest on that amount at the
10 legal rate from the date of inception of the damages as ascertained by the Court;
11 2. For recoverable engineering, appraisal, attorney, and other fees according to proof;
12 3. For costs of suit incurred in this action; and
13 4. For such other and further relief as the Court deems fit and proper.

14 **FOR THE THIRD CAUSE OF ACTION FOR NUISANCE:**

- 15 1. For damages in an amount to be proven at trial for loss of use and interference with
16 the quiet enjoyment of plaintiff's property, including but not limited to investigative costs,
17 relocation costs, cost of repair, loss of market value, and loss of use;
18 2. For costs of suit;
19 3. For prejudgment interest;
20 4. Reasonable attorneys' fees expended by plaintiff in bringing this lawsuit; and
21 5. For any other and further relief as the Court considers just and proper.

22 Dated: September 12, 2001

VAN BOURG, WEINBERG, ROGER & ROSENFELD
A Professional Corporation

23
24 By:


JAMES WESSER

Attorneys for Plaintiffs, Brotherhood of Teamsters
and Auto Truck Drivers Local No. 70

25
26 3012/226847



1 STEWART WEINBERG, Bar No. 031493
BARRY E. HINKLE, Bar No. 071223
2 JAMES J. WESSER, Bar No. 142416
EZEKIEL D. CARDER, Bar No. 206537
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5 Telephone (510) 839-6600

6 Attorneys for Plaintiffs

FILED
ALAMEDA COUNTY

OCT 03 2001

CLERK OF THE SUPERIOR COURT
By *Carolee S. Smith* Deputy

7
8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF ALAMEDA
10

11 BROTHERHOOD OF TEAMSTERS AND
12 AUTO TRUCK DRIVERS LOCAL NO. 70,

13 Plaintiffs,

14 vs.

15 CITY OF OAKLAND, A Municipal
Corporation; PORT OF OAKLAND, A
Municipal Corporation; GALLAGHER &
16 BURK - BROSAMER, A Joint Venture of
GALLAGHER & BURK, INC., A California
17 Corporation, and R&L BROSAMER, INC., A
California Corporation; GALLAGHER &
18 BURK, INC., A California Corporation; R&L
BROSAMER, INC., A California Corporation
19 and DOES 1-20, inclusive

20 Defendants.
21
22
23
24
25
26

Case No. 2001-023981

PROOF OF SERVICE

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS) VAN BOURG, WEINBERG, ROGER & ROSENFELD 180 GRAND AVE. 14TH FLOOR OAKLAND, CA 94612		TELEPHONE NO. (510) 839-6600	FOR COURT USE ONLY	
ATTORNEY FOR (NAME)		Ref. No. or File No. 00024666-02		
Insert name of court, judicial district or branch court, if any, and post office and street address: ALAMEDA SUPERIOR COURT,				
SHORT TITLE OF CASE BROTHERHOOD OF TEAMSTERS vs. CITY OF OAKLAND				
PROOF OF SERVICE (Summons)	DATE:	TIME:	DEPT/DIV:	CASE NUMBER: 2001-023981

1. At the time of service I was at least 18 years of age and not a party to this action, and I served copies of the (specify documents):
Summons and Complaint; ALTERNATIVE DISPUTE RESOLUTION INFORMATION PACKAGE, ALAMEDA COUNTY SUPERIOR COURT ADR PROGRAM, BLANK STIPULATION FOR ALTERNATIVE DISPUTE RESOLUTION (ADR) AND ORDER.
2. a. Party Served: (specify name of party as shown on the documents served):
CITY OF OAKLAND
- b. Person Served: TAMORA CORBIN, AUTHORIZED TO ACCEPT SERVICE
- c. Address: 1 FRANK OGAWA PLAZA
OAKLAND, CA (Business)
3. I served the party named in item 2
 - a. By personally delivering the copies. (1) on (date): September 19, 2001 (2) at: (time): 02:57 pm
4. The "Notice to the Person Served" (on the summons) was completed as follows:
 - c. on behalf of:
CITY OF OAKLAND
under:
[XX] other: CCP 416.50 (public entity)

5. Person serving (name, address, and telephone No.): a. Fee for service: \$ 45.00 [CCP 1033.5(a)(4)(B)]

RICHARD SNELL
RAPID SERVE
210 Fell Street, # 19
San Francisco, CA 94102
Phone: (415) 882-2266 Fax: (415) 882-2277

- (1) Employee or Independent contractor.
- (2) Registration No.: 438
- (3) County: SAN FRANCISCO

6. ☐ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: September 26, 2001

Form Adopted by Rule 982
Judicial Council of California
982(a)(23)(New July 1, 1997)

PROOF OF SERVICE
(Summons)

Code Civ. Proc., § 417.10(c)

317/00024666-02

1535617

CLERK OF THE SUPERIOR COURT
By Barbara A. Smith Deputy

PROOF OF SERVICE

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS) VAN BOURG, WEINBERG, ROGER & ROSENFELD 180 GRAND AVE. 14TH FLOOR OAKLAND, CA 94612		TELEPHONE NO. (510) 839-6600	FOR COURT USE ONLY	
ATTORNEY FOR (NAME)		Ref. No. or File No. 00024666-01		
Insert name of court, judicial district or branch court, if any, and post office and street address ALAMEDA SUPERIOR COURT,				
SHORT TITLE OF CASE BROTHERHOOD OF TEAMSTERS vs. CITY OF OAKLAND				
PROOF OF SERVICE (Summons)	DATE:	TIME:	DEPT./DIV:	CASE NUMBER: 2001-023981

1. At the time of service I was at least 18 years of age and not a party to this action, and I served copies of the (specify documents):
Summons and Complaint; ALTERNATIVE DISPUTE RESOLUTION INFORMATION
PACKAGE, ALAMEDA COUNTY SUPERIOR COURT ADR PROGRAM, BLANK STIPULATION
FOR ALTERNATIVE DISPUTE RESOLUTION AND ORDER.
2. a. Party Served: (specify name of party as shown on the documents served):
PORT OF OAKLAND
- b. Person Served: CHRISTOPHER MARSHALL, AUTHORIZED TO ACCEPT SERVICE
- c. Address: 530 WATER ST.
OAKLAND, CA (Business)
3. I served the party named in item 2
 - a. By personally delivering the copies. (1) on (date): September 19, 2001 (2) at: (time): 02:40 pm
4. The "Notice to the Person Served" (on the summons) was completed as follows:
 - c. on behalf of:
PORT OF OAKLAND
under:
[XX] other: CCP 416.50 (public entity)

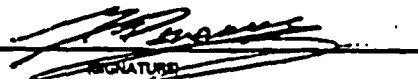
5. Person serving (name, address, and telephone No.): a. Fee for service: \$ 45.00 [CCP 1033.5(a)(4)(B)]

RICHARD SNELL
RAPID SERVE
210 Fell Street, # 19
San Francisco, CA 94102
Phone: (415) 882-2266 Fax: (415) 882-2277

- (1) Employee or Independent contractor.
- (2) Registration No.: 438
- (3) County: SAN FRANCISCO

6. ☐ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: September 26, 2001


SIGNATURE

Form Adopted by Rule 982
Judicial Council of California
982(a)(23)(New July 1, 1987)

PROOF OF SERVICE
(Summons)

Code Civ. Proc., § 417.10(f)



FILED
ALAMEDA COUNTY

OCT 09 2003

CLERK OF THE SUPERIOR COURT
By Cheryl Wackin Deputy

SUMMONS ISSUED

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Attorneys for Defendant
CITY OF OAKLAND and
PORT OF OAKLAND

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

BROTHERHOOD OF TEAMSTERS
AND AUTO TRUCK DRIVERS LOCAL
NO. 70,

Plaintiffs,

vs.

CITY OF OAKLAND, a Municipal
Corporation; PORT OF OAKLAND, A
Municipal Corporation; GALLAGHER &
BURK - BROSAMER, A Joint Venture
of GALLAGHER & BURK INC., A
California Corporation, and R & L
BROSAMER, INC., A California
Corporation; GALLAGHER & BURK,
INC., A California Corporation; R & L
BROSAMER, INC., A California
Corporation and DOES 1-20, inclusive,

Defendants.

CASE No. 2001-023981

**CROSS-COMPLAINT BY CITY OF
OAKLAND AND PORT OF OAKLAND**

Action Filed: September 7, 2001
Trial Date: October 31, 2003

LONG & LEVIT LLP
601 MONTGOMERY STREET
SUITE 900
SAN FRANCISCO
CALIFORNIA 94111
(415) 397-2222

CROSS-COMPLAINT BY CITY OF OAKLAND AND PORT OF OAKLAND

EXHIBIT C

1 CITY OF OAKLAND, a Municipal
2 Corporation; PORT OF OAKLAND, a
3 Municipal Corporation

4 Cross-Complainants

5 vs.
6

7 PACIFIC GAS & ELECTRIC
8 COMPANY, a California Corporation;
9 PACIFIC BELL TELEPHONE
10 COMPANY, A California Corporation;
11 and Does 1-50, inclusive

12 Cross-Defendants

13 AND RELATED CROSS-ACTIONS
14

15 Defendants and cross-complainants City of Oakland and Port of Oakland,
16 (hereinafter "Oakland") allege:

17 **GENERAL ALLEGATIONS**

18 1. The City of Oakland and Port of Oakland at all times relevant hereto were
19 public entities in the State of California, County of Alameda.

20 2. Oakland is informed and believes, and thereon alleges that cross-
21 defendants Pacific Gas & Electric Company and Pacific Bell Telephone Company and Does 1
22 through 50 were and at all relevant times mentioned herein were a corporation or other business
23 entity licensed to conduct business and doing business in California.

24 3. Oakland does not know the true names and capacities, whether individual,
25 corporate or otherwise, of the cross-defendants named herein as Does 1 through 50 inclusive.
26 Oakland therefore sues these cross-defendants by fictitious names. Oakland will amend this
27 cross-complaint to reflect the Doe cross-defendants' true names and capacities when they have
28 been ascertained. Oakland is informed and believes and thereon alleges that each of Does

1 1 through Does 50 is at fault in some manner for the acts and omissions alleged below against
2 Oakland and Does 1 through 50, and caused and/or is otherwise legally responsible for. Plaintiff's
3 alleged injury and damage incurred as a result of the actions or inactions by Oakland and Does 1
4 through 50.

5 4. Cross-defendants Does 1 through 50, inclusive, are the fictitious names of
6 those cross-defendants whose true names are unknown to Oakland and whose true capacities,
7 whether as individuals, corporations, partnerships, joint ventures, and/or associations are also
8 unknown to Oakland and when such true names are ascertained, Oakland will amend this
9 cross-complaint by inserting said true names in place of said fictitious names in accordance Code
10 of Civil Procedure section 474. Oakland is informed and believes, and thereon alleges that Does
11 1 through 50 are also responsible in some manner for the events and happenings alleged herein,
12 and it shall be deemed that said Doe cross-defendants, and each of them, are likewise the subject
13 of said charging allegations herein by Oakland.

14 5. Oakland is informed and believes and thereon alleges that at all times
15 herein mentioned, cross-defendants Pacific Gas & Electric and/or Pacific Bell and Does 1 through
16 50 were the agents, servants and employees of their co-defendants and in doing the things herein
17 mentioned were acting in the scope of authority as such agents, servants and employees with
18 permission and consent from their co-cross-defendants.

19 6. Oakland is informed and believes and thereon alleges that at all relevant
20 times herein, each cross-defendant was the principal, agent, joint venturer, partner, parent,
21 subsidiary, employee or director of each other cross-defendant, and acted within the course and
22 scope of that relationship.

23 7. Plaintiff's complaint is incorporated herein by reference, as if set forth in
24 full for the purpose of illustrating the allegations contained therein; not for the truth of said
25 allegations. Oakland has filed an answer to plaintiffs' complaint that denies the material
26 allegations thereof, and further denies that Oakland is in any way responsible or liable in any
27 manner whatsoever for any damages alleged in the complaint to have been suffered by plaintiff.
28 Oakland further contends that the alleged damages to plaintiff, if any, were caused either by

1 plaintiff's own negligence or caused solely by the failure of the cross-defendants named herein to
2 exercise due care in connection with the performance of their various duties at the subject
3 property, or to otherwise adequately discharge their contractual obligations to Oakland.

4 **FIRST CAUSE OF ACTION**

5 (Total And/Or Partial Equitable Indemnity)

6 8. Oakland realleges and incorporates herein by reference paragraphs 1
7 through 7 inclusive of the general allegations as though set forth in full in this second cause of
8 action.

9 9. Oakland contends that if it is found to be liable to plaintiff, or if it is
10 determined that plaintiff or others are entitled to recover against Oakland directly or indirectly, in
11 any amount whatsoever, then such liability will be the direct and proximate result of the wrongful
12 conduct and negligence of cross-defendant Pacific Gas & Electric and/or Pacific Bell, and Does 1
13 through 50.

14 10. By reason thereof, Oakland contends that if it is held liable to plaintiff
15 upon his complaint, then Oakland is entitled to be indemnified by Pacific Gas & Electric and/or
16 Pacific Bell and Does 1 through 50, and each of them, in whatever amounts may be adjudged, and
17 for its costs and expenses incurred in the defense of this action, including reasonable attorneys'
18 fees. The total amount of Oakland's costs and attorneys' fees is not yet known and Oakland will
19 ask leave of this court to insert such amounts at the time of trial.

20 WHEREFORE, Oakland prays for judgment as set forth below.

21 **SECOND CAUSE OF ACTION**

22 (Comparative Equitable Indemnity And Declaration Of Rights And Liabilities)

23 11. Oakland realleges and incorporates herein by reference paragraphs
24 1 through 10 inclusive of the general allegations as though set forth in full in this third cause of
25 action.

26 12. As previously alleged herein, plaintiff has alleged negligence and the true
27 extent of which is unknown, and which allegedly has resulted in plaintiff's injuries.

28 13. If Oakland is held liable for plaintiff's damages of any kind it would be as

1 a result of and caused by Pacific Gas & Electric and/or Pacific Bell and Does 1 through 50, and
2 each of their sole, active and affirmative negligence in exercising their various duties in
3 connection with improvement, repairs, or maintenance on or around Plaintiff's property.

4 14. Oakland is without active fault, culpability or negligence in the
5 above-referenced claim for damages, but is being required to defend itself in an action solely as a
6 result of Pacific Gas & Electric and/or Pacific Bell's and Does 1 through 50's tortious conduct.
7 Pacific Gas & Electric and/or Pacific Bell and Does 1 through 50, and each of them therefore
8 have an equitable obligation to indemnify and hold Oakland harmless from and against any and
9 all claims, losses, damages, attorneys' fees, costs, judgment and settlement expenses incurred in
10 litigation and defense against any action or claim asserted against Oakland.

11 15. Oakland contends that pursuant to the California Supreme Court's decision
12 in *American Motorcycle v. Superior Court* (1978) 20 Cal.3d 578, Oakland is entitled to proceed
13 against cross-defendants, and each of them, for a determination of the extent to which Pacific Gas
14 & Electric and/or Pacific Bell and Does 1 through 50 should indemnify Oakland for any judgment
15 made or entered against Oakland arising from any assertions of design defects, construction
16 defects and/or damages in this action.

17 16. Oakland further contends that if it is found liable to plaintiffs or others,
18 Oakland should be indemnified by Pacific Gas & Electric and/or Pacific Bell, and Does 1 through
19 50, and each of them, on the basis of a comparison of Oakland's comparative fault (if any) with
20 that of Pacific Gas & Electric and/or Pacific Bell and Does 1 through 50, and each of them, under
21 the principles of partial and comparative indemnity set forth in *American Motorcycle*.

22 17. An actual controversy exists between Oakland and Pacific Gas & Electric
23 and/or Pacific Bell and Does 1 through 50, and each of them, as stated above, and unless the joint
24 and several obligations, rights and duties arising out of the instant action are determined in one
25 proceeding, there will be a multiplicity of lawsuits required in order to ultimately determine the
26 rights, duties and obligations of the parties hereto, all of which can be determined in this one
27 action.

1 WHEREFORE, Oakland prays for judgment as set forth below.

2 **THIRD CAUSE OF ACTION**

3 (Declaratory Relief)

4 18. Oakland realleges and incorporates herein by reference paragraphs 1
5 through 17, inclusive, as though set forth in full in this fourth cause of action.

6 19. An actual controversy has arisen and now exists among Oakland and
7 Pacific Gas & Electric and/or Pacific Bell and Does 1 through 50, and each of them, in that
8 Oakland contents that:

9 (1) as between Oakland and Pacific Gas & Electric and/or Pacific Bell
10 and Does 1 through 50, liability and responsibility, if any, for damages claimed in connection
11 with the complaint by plaintiffs herein, rests entirely or partially with Pacific Gas & Electric
12 and/or Pacific Bell and Does 1 through 50, and each of them, and

13 (2) as a result, Pacific Gas & Electric and/or Pacific Bell and Does 1
14 through 50, and each of them, are obligated to indemnify Oakland for the sums Oakland may be
15 compelled to pay as a result of damages, judgment or other award recovered by the plaintiffs, or
16 any of them, against Oakland; and

17 (3) as a further result, Oakland is entitled to be indemnified and held
18 harmless by Pacific Gas & Electric and/or Pacific Bell and Does 1 through 50 and be reimbursed
19 for its attorneys' fees and costs.

20 20. Oakland is informed and believes and therein alleges that Pacific Gas &
21 Electric and/or Pacific Bell and Does 1 through 50, and each of them deny such liability,
22 responsibility, obligations and duties.

23 21. Oakland desires a judicial determination of the respective rights and duties
24 Oakland and Pacific Gas & Electric and/or Pacific Bell and Does 1 through 50, and each of them,
25 with respect to damages claimed in the complaint filed by plaintiffs herein. In particular Oakland
26 desires a declaration of the respective liabilities of Oakland, Pacific Gas & Electric and/or Pacific
27 Bell and Does 1 through 50 for such damages which Oakland may be compelled to pay, whether
28 by settlement entered into by Oakland or by judgment which may be rendered against Oakland,

1 Oakland further desires a judicial determination that it is entitled to reimbursement for all
2 expenses incurred and to be incurred by it in repairing the subject property, and that Oakland is
3 entitled to reimburse for all costs and expenses incurred and to be incurred by it in defending
4 against plaintiffs' complaint and in prosecuting this cross-complaint, including the reasonable
5 attorneys' fees.

6 22. If it is determined herein that Oakland is liable in any way by reason of any
7 facts alleged in plaintiffs' complaint, or otherwise, Oakland is entitled to be indemnified in an
8 amount proportionate to the extent Pacific Gas & Electric and/or Pacific Bell and Does 1 through
9 50, and each of them, caused and contributed to the damages recovered by plaintiffs, if any, in the
10 within action.

11 23. The judicial determination of the rights of Oakland to indemnify from
12 Pacific Gas & Electric and/or Pacific Bell and Does 1 through 50, and each of them, is necessary
13 and appropriate at this time in order that Oakland ascertains its rights with respect to the claims of
14 plaintiffs herein for damages, and in order that Oakland may avoid the multiplicity of actions
15 which will otherwise result if it is required to defend against the claim of plaintiffs in the
16 complaint and then to bring a separate cause of action against Pacific Gas & Electric and/or
17 Pacific Bell and Does 1 through 50 for indemnification.

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1 WHEREFORE, Oakland prays for judgment as set forth below.

2 **PRAYER**

3 Oakland prays for a judgment against Pacific Gas & Electric and/or Pacific Bell
4 and Does 1 through 50 and each of them, as follows:

5 1. For a judicial determination, adjudicating the obligations of Pacific Gas &
6 Electric and/or Pacific Bell and Does 1 through 50, and each of them, to defend herein to hold
7 Oakland harmless from any judgment or settlement herein, and to reimburse Oakland for all
8 monies heretofore or hereafter expended for all indemnity, costs, expenses, attorneys' fees and all
9 other damages incurred in defending plaintiffs' action and prosecuting this cross-complaint.

10 2. For an order of the court declaring the rights of Oakland to indemnity from
11 Pacific Gas & Electric and/or Pacific Bell and Does 1 through 50, and each of them, in regard to
12 all matters alleged in the pleadings in this action.

13 3. For costs of suit herein incurred, including reasonable attorneys' fees, and

14 4. For such other and further relief as the court may deem just and proper.

15 Dated: October 9, 2003

LONG & LEVIT LLP

16
17 By 

JENNIFER A. BECKER
Attorneys for Defendant
OAKLAND BUILDERS, INC.

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19 DOCS\S7268-011\466352.V1

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LONG & LEVIT LLP
411 MONTGOMERY STREET
SUITE 900
SAN FRANCISCO
CALIFORNIA 94111
(415) 397-3222

8
CROSS-COMPLAINT BY CITY OF OAKLAND AND PORT OF OAKLAND

JENNIFER A. BECKER (SBN 121319)
LONG & LEVIT LLP
601 Montgomery Street #900
San Francisco, CA 94111
Telephone: (415) 397-2222
Attorney for: Defendant

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

Plaintiff : BROTHERHOOD OF TEAMSTERS, et al.

Defendant : CITY OF OAKLAND, a Municipal Corporation, et al.

Ref#: 132076 * PROOF OF SERVICE * Case No.: 2001-023981

1. At the time of service I was at least eighteen years of age and not a party to this action and I served copies of the:

SUMMONS ON CROSS-COMPLAINT; CROSS-COMPLAINT BY CITY OF OAKLAND AND PORT OF OAKLAND

2. a. Party served : PACIFIC GAS AND ELECTRIC COMPANY, a California Corporation

b. Person served : Candi Griffin, Authorized Agent

c. Address : (Business)
1 Market Tower, Suite 2400
San Francisco, CA 94105

3. I served the party named in item 2
a. by personally delivering the copies
(1) on: October 10, 2003
(2) at: 10:21 AM

4. The "Notice to the Person Served" (on the summons) was completed as follows:
c. on behalf of: PACIFIC GAS AND ELECTRIC COMPANY, a California Corporation
under: CCP 416.10 (corporation)

5. Person serving:
CHRISTIAN MARTINEZ a. Fee for service: \$35.00
SPECIALIZED LEGAL SERVICES, INC. b. Registered California process server.
1112 Bryant Street, Suite 200 (1) Employee or Independent Contractor
San Francisco, CA 94103 (2) Registration no.: 828
Telephone: (415) 357-0500 (3) County: San Francisco

6. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: October 15, 2003
Jud. Coun. form, rule 982(a) (23)

Signature

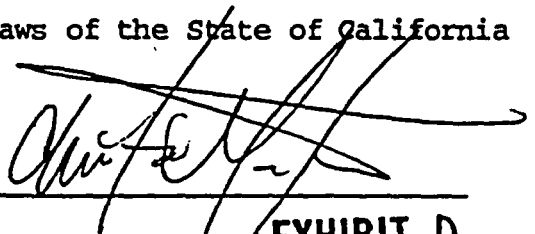


EXHIBIT D



1 STEPHEN L. SCHIRLE, #96085
2 LORETTA W. MCDONNELL, #146264
3 77 Beale Street, B30A
4 San Francisco, CA 94105

4 Direct correspondence to:
5 LORETTA W. MCDONNELL
6 P.O. Box 7442
7 San Francisco, CA 94120
8 Telephone: (415) 973-6689

7 Attorneys for Cross-Defendant
8 PACIFIC GAS AND ELECTRIC COMPANY

FILED
ALAMEDA COUNTY

OCT 16 2003

CLERK OF THE SUPERIOR COURT
By *Schirle* Deputy

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF ALAMEDA

13 CITY OF OAKLAND, a Municipal Corporation;
14 PORT OF OAKLAND, a Municipal Corporation

15 Cross-Complainants,

16 v.

17 PACIFIC BELL TELEPHONE COMPANY, a
18 California Corporation; PACIFIC GAS AND
19 ELECTRIC COMPANY, a California
20 Corporation, and DOES 1-50, inclusive

21 Cross-Defendants.

22 BROTHERHOOD OF TEAMSTERS AND
23 AUTO TRUCK DRIVERS LOCAL NO. 70

24 Plaintiffs,

25 v.

26 CITY OF OAKLAND; PORT OF OAKLAND,
27 GALLAGHER & BURK, et al.

28 Defendants.

No. 2001-023981

NOTICE OF FILING VOLUNTARY PETITION
AND IMPOSITION OF AUTOMATIC STAY
(11 U.S.C. section 362(a))

To the Honorable Court, and all parties to the above-captioned action (the "Action"):

1 Please take notice that on April 6, 2001, Pacific Gas and Electric Company ("PG&E"), a
2 defendant in the Action herein filed a voluntary petition under Chapter 11 of Title 11 of the United
3 States Codes, in the United States Bankruptcy Court for the Northern District of California, San
4 Francisco division, commencing that certain bankruptcy case In re Pacific Gas and Electric Company,
5 Bankr. Case No. 01-30923 (the "Bankruptcy Case"). A true and correct copy of the first page of the
6 Voluntary Petition commencing the Bankruptcy Case is attached hereto as Exhibit "A."

7 Please take further notice that pursuant to section 362(a) of the Bankruptcy Code, the
8 commencement of the Bankruptcy Case results in the imposition of an "automatic stay," which
9 prohibits a number of actions against a bankruptcy debtor after the commencement of the case.
10 Prohibited actions include, but are not limited to: (a) actions to commence or continue an action
11 which was or could have been commenced against the debtor prior to the commencement of the
12 bankruptcy case, (b) actions to collect debts owed by the debtor, (c) actions to obtain the debtor's
13 property or property of the bankruptcy estate, and (d) actions to create or perfect a lien against the
14 debtor's property or property of the estate. Willful violation of the automatic stay may result in the
15 imposition of damages against the offending party.

16 As a result of the commencement of the Bankruptcy Case and the imposition of the automatic
17 stay, the above-referenced action is stayed against the debtor, pending an order from the Bankruptcy
18 Court.

19
20 Dated: October 15, 2003

STEPHEN L. SCHIRLE
LORETTA W. MCDONNELL

21
22
23 By: Loretta W. McDonnell
LORETTA W. MCDONNELL

24 Attorneys for Cross-Defendant
25 PACIFIC GAS AND ELECTRIC COMPANY
26
27
28

United States Bankruptcy Court Northern District of California		Voluntary Petition
Name of Debtor (If individual, enter Last, First, Middle): Pacific Gas and Electric Company		Name of Joint Debtor (Spouse) (Last, First, Middle):
All Other Names used by the Debtor in the last 6 years (include married, maiden, and trade names):		All Other Names used by the Joint Debtor in the last 6 years (include married, maiden, and trade names):
Soc. Sec./Tax I.D. No. (If more than one, state all): 94-0742640		Soc. Sec./Tax I.D. No. (If more than one, state all):
Street Address of Debtor (No. & Street, City, State & Zip Code): 77 Beale Street San Francisco, CA 94120		Street Address of Joint Debtor (No. & Street, City, State & Zip Code):
County of Residence or of the Principal Place of Business: San Francisco		County of Residence or of the Principal Place of Business:
Mailing Address of Debtor (If different from street address): P.O. Box 7442 San Francisco, CA 94128		Mailing Address of Joint Debtor (If different from street address):
Location of Principal Assets of Business Debtor (If different from street address above):		
Information Regarding the Debtor (Check the Applicable Boxes)		
Yes or No (Check any applicable box)		
<input checked="" type="checkbox"/> Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.		
<input type="checkbox"/> There is a bankruptcy case concerning debtor's estate, general partner, or partnership pending in this District.		
Type of Debtor (Check all boxes that apply)		Chapter or Section of Bankruptcy Code Under Which the Petition is Filed (Check one box)
<input type="checkbox"/> Individual(s) <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other _____		<input type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 9 <input type="checkbox"/> Sec. 304 - Case ancillary to foreign proceeding
<input type="checkbox"/> Railroad <input type="checkbox"/> Stockbroker <input type="checkbox"/> Commodity Broker		<input checked="" type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Chapter 13
Nature of Debts (Check one box)		Filing Fee (Check one box)
<input type="checkbox"/> Consumer/Non-Business <input checked="" type="checkbox"/> Business		<input checked="" type="checkbox"/> Full Filing Fee Attached <input type="checkbox"/> Filing Fee to be paid in installments (Applicable to individuals only) Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form No. 3.
Chapter 11 Small Business (Check all boxes that apply)		
<input type="checkbox"/> Debtor is a small business as defined in 11 U.S.C. § 101 <input type="checkbox"/> Debtor is and elects to be considered a small business under 11 U.S.C. § 1123(a) (Optional)		
Statistical/Administrative Information (Estimates only)		THIS SPACE IS FOR COURT USE ONLY
<input checked="" type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors. <input type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.		
Estimated Number of Creditors		
1-15 16-25 26-50 51-100 101-250 251-500 501-over		
<input type="checkbox"/>		
Estimated Assets		
\$0 to \$50,000 \$50,001 to \$100,000 \$100,001 to \$500,000 \$500,001 to \$1 million		
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		
Estimated Debts		
\$0 to \$50,000 \$50,001 to \$100,000 \$100,001 to \$500,000 \$500,001 to \$1 million		
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		
UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF CALIFORNIA		
Case # 01-30923 SFB/11 Chapter 11 Filed: 09:04 AM, 04/05/01 San Francisco		First Meeting of Creditors Date: May 08, 2001 Time: 10:00 AM
Judge: Dennis Montali Trustee:		Meeting Location: San Francisco US District Office 250 Montgomery Street Suite 1010 San Francisco, CA 94104-3410
Debtor(s): Pacific Gas and Electric Co.		

EXHIBIT A

CERTIFICATE OF SERVICE BY MAIL

City of Oakland, Port of Oakland v. Pacific Bell Telephone Company, PG&E, et al.
Alameda County Superior Court Case No. 2001-023981

I, the undersigned, state that I am a resident of the United States and am employed in the City and County of San Francisco; I am over the age of eighteen (18) years and not a party to the within cause; my business address P.O. Box 7442, San Francisco, CA 94120; I am familiar with the practice of Pacific Gas and Electric Company ("PG&E") for the collection and processing of items for mailing; in the ordinary course of business such items would be deposited with the United States Postal Service that same day; and on the date set out below true copies of the following:

NOTICE OF FILING VOLUNTARY PETITION AND IMPOSITION OF AUTOMATIC STAY (11 U.S.C. section 362(a))

was sealed in envelopes, addressed as follows, and placed for collection and mailing on that date following PG&E's ordinary business practices:

Jennifer A. Becker, Esq.
Long & Levit LLP
601 Montgomery Street, Ste., 900
San Francisco, CA 94111

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 15th day of October, 2003, in San Francisco, California.


JANICE R. CHAPPELL

1 JAMES L. LOPES (No. 63678)
 2 JEFFREY L. SCHAFER (No. 91404)
 3 JANET A. NEXON (No. 104747)
 4 HOWARD, RICE, NEMEROVSKI, CANADY,
 5 FALK & RASKIN
 6 A Professional Corporation
 7 Three Embarcadero Center, 7th Floor
 8 San Francisco, California 94111-4065
 9 Telephone: 415/434-1600
 10 Facsimile: 415/217-5910

11 Attorneys for Debtor and Debtor in Possession
 12 PACIFIC GAS AND ELECTRIC COMPANY

13 UNITED STATES BANKRUPTCY COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 SAN FRANCISCO DIVISION

16 In re

17 PACIFIC GAS AND ELECTRIC
 18 COMPANY, a California corporation,

19 Debtor.

20 Federal ID. No. 94-0742640

No. 01 30923 DM

Chapter 11 Case

Date: June 26, 2001
 Time: 9:30 a.m.
 Place: 235 Pine St., 22nd Floor
 San Francisco, California

HOWARD
RICE
NEMEROVSKI
CANADY
FALK
& RASKIN

21 DECLARATION OF IATHAN T. ANNAND IN SUPPORT OF DEBTOR'S
 22 MOTION FOR AUTHORIZATION TO SETTLE POST-PETITION THIRD
 23 PARTY CLAIMS IN THE ORDINARY COURSE OF BUSINESS

24 DECL. OF IATHAN T. ANNAND ISO DEBTOR'S MOTION

No. 01 30923 DM

EXHIBIT F

1 I, Iathan T. Annand, declare as follows:

2 1. I am an attorney licensed to practice law in the State of California and
3 admitted to practice in the United States District Court for the Northern District of
4 California. I am the Chief Counsel of Litigation for Pacific Gas and Electric Company
5 ("PG&E"), a position I have held since 1997. I make this Declaration based upon my
6 personal knowledge of PG&E's claims resolution process and upon my review of PG&E's
7 records concerning the matters stated herein. If called as a witness, I could and would testify
8 competently to the facts stated herein.

9 2. Claims generally are resolved by the Law Department and the Safety,
10 Health and Claims Department of PG&E. Both departments report to PG&E's General
11 Counsel. During the five year period from 1996 through 2000, PG&E resolved an average
12 of 15,250 claims a year involving tort, employment and commercial matters. The majority
13 of these claims were settled for less than \$5,000 each. For most claims, PG&E is self-
14 insured for up to \$10 million per claim.

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15 3. During the five year period from 1996 through 2000, the average total
16 payout for third party claims settlements was \$31 million a year, exclusive of individual
17 payments greater than \$5 million, environmental remediation claims and unusual events,
18 such as the December 8, 1998 outage. That outage suddenly and unexpectedly blacked-out
19 most of San Francisco and parts of the Peninsula for many consecutive hours, resulting in
20 almost 19,000 claims.

21 4. In the ordinary course of business, the Law Department and the Safety,
22 Health and Claims Department receive thousands of claims and undertake to investigate,
23 evaluate and resolve them. These claims include, *inter alia*, motor vehicle accidents, minor
24 property damage caused by PG&E personnel or equipment, slip and falls, electrical personal
25 injuries, gas or electric fires, damage to appliances caused by power surges and contract
26 disputes. Due to the sheer number of claims received each year, it is imperative that these
27 matters be resolved as expeditiously as possible. Additionally, once a

28

1 claim has been properly evaluated by the Law and/or Safety, Health and Claims
2 Departments, it is generally in the best interest of all interested parties, including PG&E's
3 customers and the general public, to resolve the dispute as promptly as possible.

4
5 5. The proposed mechanism for claims resolution post-petition as set
6 forth in the Motion would authorize PG&E to expend up to \$21 million for post-petition
7 claims generated for calendar year 2001 and \$31 million annually thereafter (subject, in each
8 case, to an exception for any particular settlement over \$5 million). The \$21 million figure is
9 premised on the fact that post-petition claims for calendar year 2001 will only cover the
10 period from April 6, 2001, the date PG&E filed its Chapter 11 petition, through
11 December 31, 2001. It is also anticipated that there will be a lag in payments because it will
12 take some time for claims arising post-petition to work their way through the claims
13 resolution process. The \$31 million figure, as mentioned above, is derived by averaging the
14 total payout for claims during the preceding five year period, excluding any single settlement
15 in excess of \$5 million, environmental remediation claims and unusual events such as the
16 December 8, 1998 outage.

17 6. Allowing PG&E to resolve claims in the manner set forth in the
18 Motion will facilitate the continuation of routine, daily operations, reduce transactional costs,
19 provide flexibility to expeditiously resolve disputes, and enable the Law Department and the
20 Safety, Health and Claims Department to remain responsive to PG&E customers and the
21 general public in resolving claims.

22 I declare under penalty of perjury under the laws of the United States of America
23 that the foregoing is true and correct. Executed this 5th day of June, 2001, at San
24 Francisco, California.

25
26 
LATHAN T. ANNAND

WD 820321/1-1419903/120919323/2

1 JAMES L. LOPES (No. 63678)
JEFFREY L. SCHAFER (No. 91404)
2 JANET A. NEXON (No. 104747)
HOWARD, RICE, NEMEROVSKI, CANADY,
3 FALK & RAEKIN
A Professional Corporation
4 Three Embarcadero Center, 7th Floor
San Francisco, California 94111-4065
5 Telephone: 415/434-1600
Facsimile: 415/217-5910

6 Attorneys for Debtor and Debtor in Possession
7 PACIFIC GAS AND ELECTRIC COMPANY

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

11 In re
12 PACIFIC GAS AND ELECTRIC
13 COMPANY, a California corporation,
14 Debtor.

15 Federal I.D. No. 94-0742640

Case No. 01-30923 DM

Chapter 11 Case

Date: June 26, 2001

Time: 9:30 a.m.

Place: 235 Pine Street, San Francisco, CA

Judge: Hon. Dennis Montali

16 ORDER RE MOTION FOR AUTHORIZATION TO SETTLE
17 POST PETITION THIRD PARTY CLAIMS
18 IN THE ORDINARY COURSE OF BUSINESS

19 The Court, having considered the Motion for Authorization to Settle Post-Petition
20 Third Party Claims in the Ordinary Course of Business (the "Motion") filed herein by Pacific
21 Gas and Electric Company, debtor and debtor in possession herein ("PG&E"); the
22 Declaration of Iathan T. Annand in support thereof; the Official Committee of Unsecured
23 Creditors (the "Committee") Response in support of the Motion; and the Opposition of IBEW
24 Local #1245 ("IBEW") to Portions of Motion Seeking Authority to Settle Certain Post-
25 Petition Third Party Claims; the record in this case, and any admissible evidence presented to
26 the Court at or prior to the hearing on the Motion, hereby finds as follows:

27 A. Notice of the Motion was adequate and appropriate under the circumstances of
28 this Chapter 11 case.

ORDER RE MOT. FOR AUTHOR. TO SETTLE POST-PET. THIRD PTY. CLAIMS IN ORD. COURSE OF BUS.
WD 062601/1-1419903/120/927233/v3

1292

EXHIBIT G

1 B. Good cause exists for approving the Motion and authorizing PG&E to enter
2 into post-petition settlements on the terms and conditions described therein, as supplemented
3 by the additional procedures set forth below.

4 Based on the foregoing, IT IS HEREBY ORDERED that:

5 1. The Motion is granted.

6 2. PG&E is authorized to settle and pay post-petition tort, employment and
7 commercial claims, as described in the Motion, within the limits set forth in the Motion. In
8 addition to such authorization, PG&E is authorized to enter into and pay settlements under
9 the collective bargaining agreements to which PG&E is a party with the International
10 Brotherhood of Electrical Workers, Local 1245, AFL-CIO, the Engineers and Scientists of
11 California, IFPTE Local 20, AFL-CIO and CLC, and the International Union of Security
12 Officers (collectively, the "Collective Bargaining Agreements"), in an aggregate amount of
13 up to \$2 million per calendar year; provided that if any proposed settlement of a single
14 grievance is in excess of \$500,000, PG&E shall give the Committee five (5) business days'
15 notice of and opportunity to object to such proposed settlement.

16 3. PG&E shall report to IBEW, by letter to its counsel, if settlements under the
17 Collective Bargaining Agreement reach \$1.5 million in the aggregate in any given year, in
18 which event PG&E will, upon the written request of IBEW, bring a motion before this Court
19 on notice to PG&E and the Creditors' Committee, seeking expanded authority for such
20 settlements.

21 Dated: June 29, 2001.

22 DENNIS MONTALI

23 HONORABLE DENNIS MONTALI
24 UNITED STATES BANKRUPTCY JUDGE
25
26
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NEWARK
JULY
14
2001
STATION

APPROVED AS TO FORM:

Dated: June __, 2001

MILBANK, TWEED, HADLEY & McCLOY

By:

Attorneys for Official Committee of Unsecured Creditors

Dated: June 20, 2001

NEYHART, ANDERSON, FREITAS,
FLYNN & GROSBOLL

By:

Attorneys for IBEW Local #1245

SHOWED
THE
NEVER-ENDING
CHAINS
OF
SUFFERING

ORDER RE NOT. FOR AUTHOR TO SETTLE POST-PET. THIRD PTY CLAIMS IN ORD. COURSE OF BUS.
WD 003021/1-3470001/13000721347

1 APPROVED AS TO FORM:

2 Dated: June 26, 2001

MILBANK, TWEED, HADLEY & McCLOY

3
4 By: 

5 Attorneys for Official Committee of
6 Unsecured Creditors

7
8 Dated: June __, 2001

NEYHART, ANDERSON, FREITAS,
9 FLYNN & GROSBOLL

10
11 By: _____

12 Attorneys for IBEW Local #1245

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NOTED
FILED
CLERK
U.S. COURT
DISTRICT OF
SOUTHERN DISTRICT
OF NEW YORK