

**Exhibit IV-1. Sample Confirmation Trial Scheduling Order**

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re )  
 ) Bankruptcy Case  
 ) No. 01 -30923 SFM  
PACIFIC GAS AND ELECTRIC )  
COMPANY, a California Corporation, ) Chapter 11  
 )  
Debtor. )  
\_\_\_\_\_ )

**CONFIRMATION TRIAL SCHEDULING ORDER**

This order governs the trials on confirmation of two separate plans of reorganization filed in the bankruptcy case of Pacific Gas & Electric Company (“PG&E”). The court shall first conduct trial on the plan of reorganization (the “CPUC Plan”) filed by the California Public Utilities Commission (“CPUC”). The Official Committee of Unsecured Creditors (the “Committee”) has joined as a proponent of the CPUC Plan. The CPUC and Committee are collectively referred to as the “CPUC Plan Proponents.” The court will thereafter proceed to trial on the confirmation of the plan of reorganization (“PG&E Plan”), filed by PG&E and its coproponent, PG&E Corporation (collectively with PG&E, the “PG&E Plan Proponents”). The PG&E Plan Proponents and the CPUC Plan proponents are collectively referred to as “Proponents.” Certain persons or entities—other than the Proponents—timely filed and served objections to the PG&E Plan or the CPUC Plan or both (the “Objectors”). The Proponents, the Objectors and the United States Trustees are collectively referred to herein as the “Parties,” or a “Party.” It is ORDERED:

**I. DATES AND TIMES OF TRIALS**

1. Trial on confirmation of the CPUC Plan (“CPUC Trial”) shall commence on November 18, 2002, at 9:30 a.m., at the United States Bankruptcy Court, 235 Pine Street, Twenty-Second Floor, San Francisco, CA 94104. The trial on confirmation of the PG&E Plan (“PG&E Trial”) shall follow the CPUC Trial (although some objections common to both plans may be tried during the PG&E Trial).<sup>1</sup> The CPUC Trial and the PG&E Trial shall collectively be referred to as the “Trial.”

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1. With respect to such common objections, the Objectors shall follow the rules applicable to the PG&E Plan as if the CPUC Plan were being tried concurrently with the PG&E Plan instead of before the PG&E Plan, and the common objections, evidence, filings, and positions of the Objectors with respect to the PG&E Plan shall automatically apply equally to the CPUC Plan. Objectors with such common objections and the Proponents shall meet and confer in order to make arrangements necessary to avoid duplication of trial on common issues. This court will separately resolve any disagreements between such Objectors and the Proponents, if necessary, on application by any of them after such meet and confer extorts.

Tentatively the CPUC Trial shall be completed by December 5, and the PG&E Trial shall start on December 16. The four trial days of December 9–12 shall be held available in case the court permits the CPUC Trial to run longer, or directs the PG&E Trial to start earlier.

2. Unless otherwise ordered, the court will conduct the Trial from 9:30 a.m. through 12:30 p.m. and 1:30 p.m. through 4:30 p.m. (with fifteen-minute breaks in the morning and afternoon). If necessary, the times may be adjusted to facilitate completion of testimony of witnesses. The court will conduct trial on the following dates in 2002:<sup>2</sup>

- Monday, November 18 through Friday, November 22
- Monday, November 25 and Tuesday, November 26
- Monday, December 2 through Thursday, December 5
- Monday, December 9 through Thursday, December 12
- Monday, December 16 through Friday, December 20 (excluding the afternoon of Thursday, December 19)

## II. PROPOSED FINDINGS OF FACT

3. All proposed findings and counter-findings shall be simple, declarative, non-argumentative, and consecutively numbered; supported by citations to or identification of the witnesses, declarations, documents or other evidence which shall support that finding; categorized by issue or elements of proof (i.e., facts supporting conclusion that a particular plan is feasible, that a particular plan has been filed in good faith, etc.); captioned to identify the party submitting them, the appropriate plan, and the date of the submission (e.g., “Proposed Counter-Findings of Fact (PG&E Plan-CCSF-12-9-02)”); served on all Proponents and Objectors; filed in a hard copy form; and e-mailed (preferably, but optionally, in WordPerfect format) with the title “Proposed Findings” to [judge’s law clerk, email address].

### The CPUC Trial

4. On or before November 1, 2002, the CPUC Plan Proponents shall file and serve proposed findings of fact in support of their case in chief. The CPUC Plan Proponents shall, based on their good-faith belief, identify each proposed finding as disputed or undisputed.

5. On or before November 8, 2002, the PG&E Plan Proponents shall file and serve counter-findings. Unless the PG&E Plan Proponents specifically dispute a finding labeled as “undisputed” by the CPUC Plan Proponents, that finding will be deemed undisputed. The PG&E Plan Proponents should propose any findings that may be contrary to or in addition to those proposed by the CPUC Plan Proponents.

6. On or before November 15, 2002, the Objectors shall file and serve counter-findings. An Objector should not propose counter-findings if the PG&E Plan Propo-

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2. The court will add dates for 2003 by subsequent order after conferring with counsel during the Trial.

nents have already disputed a CPUC finding and proposed a counter-finding supported by evidence acceptable to the Objector. Unless the objectors specifically dispute a finding that is (1) labeled as “undisputed” by the CPUC Plan Proponents and (2) not opposed by the PG&E Plan Proponents, that finding will be deemed uncontested.

#### The PG&E Trial

7. On or before November 20, 2002, the PG&E Plan Proponents shall file and serve proposed findings of fact in support of their case-in-chief. Other than the deadline described therein, the PG&E Plan Proponents should comply with paragraph 4 above.

8. On or before December 4, 2002, the CPUC Plan Proponents shall file and serve counter-findings. Other than the deadline described therein, the CPUC Plan Proponents should comply with paragraph 5 above.

9. On or before December 11, 2002, the objectors shall file and serve counter-findings. Other than the deadline described therein, objectors should comply with paragraph 6.

### III. TRIAL BRIEFS

10. Proponents’ trial briefs in support of their own plans shall not exceed 45 pages; their responsive briefs shall not exceed 25 pages; Objectors’ trial briefs shall not exceed 15 pages and shall not repeat legal arguments made by the Proponents in their briefs. Objectors may incorporate and join Proponents’ arguments in a footnote. The page limitation may be adjusted for any Party only upon the receipt of prior permission from this court.

11. With respect to the CPUC Trial, the CPUC Plan Proponents shall file and serve their trial brief in support of their case-in-chief on or before November 1, 2002; the PG&E Plan Proponents shall file and serve any responsive trial brief on or before November 8, 2002; and the objectors shall file and serve their respective trial briefs on or before November 15, 2002.

12. With respect to the PG&E Trial, the PG&E Plan Proponents shall file and serve their trial brief in support of their case-in-chief on or before November 20, 2002; the CPUC Plan Proponents shall file and serve any responsive trial brief on or before December 4, 2002; and the Objectors shall file and serve their respective trial briefs on or before December 11, 2002.

### IV. SUPPLEMENTAL OBJECTIONS

13. Within two weeks of the date of this order, objectors and the Proponents may file and serve supplemental bullet-point objections to the PG&E Plan, the CPUC Plan or both. These supplemental objections should succinctly identify grounds for denying confirmation that were not available prior to the previous deadline for filing objections.

## V. EXPERT DECLARATIONS

14. Direct expert testimony shall be presented by declarations. To cross-examine any of the expert declarants, a Party shall notify the Party who has filed the expert declaration, in which case the declarant will be required to attend the Trial. Any Party who requests the right to cross-examine and then does not do so will be expected to reimburse the opposing Party no less than the expenses incurred in producing the declarant at the Trial, unless another Party has cross-examined the witness as well. If no cross-examination is requested, the declaration and testimony will be deemed submitted and the declarant will not be required to appear at trial. If cross-examination is requested, live testimony shall begin with a cross-examination by the opposing Party or Parties, followed by re-direct examination by the Party offering the witness.<sup>3</sup>

15. With respect to the CPUC Trial, the CPUC Proponents, the PG&E Proponents and the Objectors shall file and serve experts' declarations no later than November 1, 2002. Any Party wishing to cross-examine a declarant must notify the Party offering the declarant no later than November 8, 2002.

16. With respect to the PG&E Trial, the PG&E Proponents, the CPUC Proponents and the objectors shall file and serve experts' declarations no later than November 13, 2002. Any Party wishing to cross-examine a declarant must notify the Party offering the declarant no later than November 20, 2002.

## VI. EXCHANGE OF WITNESS LISTS

17. By the deadlines set forth in paragraph 18, all Parties shall serve and file their list of trial witnesses, excluding those to be called purely for rebuttal or impeachment. The presence of a witness' name on the witness list is to alert the court and the other side that the witness may be called. It does not mean that a particular person will be called. Accordingly, each Party is responsible for ensuring the attendance of every witness the Party intends to call, whether or not named by the other side. Except in exceptional circumstances, and absent consent by the other side, a Party will not be allowed to call a witness not named on that Party's witness list. Counsel will be expected to advise the court during the Trial about those witnesses they expect to call in the following days.

18. With respect to the CPUC Trial, all Parties shall serve their list of trial witnesses no later than November 1, 2002. With respect to the PG&E Trial, all Parties shall serve their list of witnesses no later than November 27, 2002.

## VII. EXCHANGE OF EXHIBITS AND EXHIBIT LISTS

19. Exhibit Lists: With respect to the CPUC Trial, all parties shall file and serve by November 1, 2002, their lists identifying exhibits they intend to introduce or use

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3. A Party may also submit written declarations of its fact witnesses in lieu of live direct testimony, as long as the Party complies with the procedures and deadlines set forth in paragraphs 14–16; provided, however, declarations of fact witnesses for the CPUC Trial must be filed and served no later than October 21, 2002.

at trial, excluding exhibits to be presented for impeachment or rebuttal purposes. With respect to the PG&E Trial, all parties shall file and serve by November 27, 2002, their lists identifying exhibits they intend to introduce or use at trial, excluding exhibits to be presented for impeachment or rebuttal purposes.

20. Exhibits: By the deadlines set forth in paragraphs 23 and 24, all Parties shall make available their exhibits to Proponents, the Committee, and any Objector who requests in writing copies of the trial exhibits. The exhibits shall be exchanged in the form and format in which they will be used at trial, unless the Parties agree otherwise. All Parties shall provide to the court—but not file—two hard-copy sets of binders, tabbed and with numbered pages, containing the documentary exhibits to be introduced.<sup>4</sup> All exhibits shall be numbered, preceded by an easily identifiable abbreviation for each Party. For example, the PG&E Proponents should identify their exhibits as “PG&E #.” Any paper(s) in the court’s file of which a Party intends the court to take judicial notice must be copied and included as an exhibit(s). All declarations and supporting reports shall be pre-marked as exhibits.

21. In the event a Party objects to another Party’s exhibit, the Parties must meet and confer before Trial to attempt to reach agreement regarding admissibility. The court expects the Parties to make good faith efforts to resolve all evidentiary issues. By the deadlines set forth in paragraphs 23 and 24 below, the Parties should file and serve any objections they may have with respect to admission of another Party’s evidence or with respect to another Party’s witness. Objections to evidence not raised in this form, other than objections under Fed. R. Evid. 402 and 403, shall be waived.

22. At the commencement of Trial, the Parties shall be prepared to stipulate into evidence all exhibits that are admissible for at least one purpose. Bona-fide objections may be reserved, with the issue of admissibility deferred until the exhibit is offered into evidence.

23. CPUC Trial: With respect to the CPUC Trial, the Parties shall exchange their exhibits no later than November 1, 2002. No later than November 15, all Parties should provide the court with the binders described in paragraph 20. Any Party objecting to any exhibits should file and serve such objections by November 8, 2002 (in accordance with the procedures described in paragraph 21) and the Party offering the exhibit should file a response by November 15, 2002.

24. PG&E Trial: With respect to the PG&E Trial, the Parties shall exchange their exhibits no later than November 27, 2002. No later than December 6, 2002, all Parties should provide the court with the binders described in paragraph 20. Any Party objecting to any exhibits should file and serve such objections by December 4, 2002 (in accordance with the procedures described in paragraph 21) and the Party offering the exhibit should file a response by December 11, 2002.

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4. Parties who intend to present exhibits electronically or digitally at trial are encouraged, but not required, to provide the court with three sets of compact discs with electronic versions of the documents. Parties are encouraged to consult with counsel for the PG&E Proponents to coordinate formats (e.g., TIFF or PDF) and to facilitate compatibility and use of courtroom technology.

VIII. CROSS-EXAMINATION BY OBJECTORS

25. The court expects counsel for Objectors to confer and coordinate their cross-examination to minimize duplication and maximize efficiency.

IX. TRIAL OBJECTIONS

26. Any objections during trial as to the admissibility of exhibits or regarding the questioning of a witness will be deemed joined by all other opposing Parties, unless an opposing Party specifically opts out of that objection.

X. COURT SECURITY

27. All persons (counsel, witnesses and others) who intend to appear at court must show some type of governmental identification with picture to the marshals before going through security. Any person without such identification will not be allowed to go to the courtroom.

XI. PARTICIPATION BY TELEPHONE

28. Parties may monitor the Trial by telephone in the same manner as they have throughout this case, but they will not be permitted to examine witnesses by telephone.

Dated: \_\_\_\_\_, 2002

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UNITED STATES BANKRUPTCY JUDGE