

1 JAMES L. LOPES (No. 63678)  
2 JEFFREY L. SCHAFER (No. 91404)  
3 GARY M. KAPLAN (No. 155530)  
4 HOWARD, RICE, NEMEROVSKI, CANADY,  
5 FALK & RABKIN  
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 I.D. No. 94-0742640

Case No. 01-30923 DM

Chapter 11

HEARING

Date: February 26, 2002

Time: 9:30 a.m.

Place: 235 Pine Street, 22nd Floor  
San Francisco, California

21 DECLARATION OF KENT HARVEY IN SUPPORT OF DEBTOR'S  
22 MOTION FOR ORDER MODIFYING STIPULATION: (I) AUTHORIZING  
23 USE OF CASH COLLATERAL PURSUANT TO 11 U.S.C. § 363 AND  
24 BANKRUPTCY RULE 4001 AND (II) GRANTING ADEQUATE  
25 PROTECTION PURSUANT TO 11 U.S.C. §§ 361 AND 363

26 I, Kent Harvey, declare as follows:

27 1. I am the chief financial officer of Pacific Gas and Electric Company, the debtor  
28 and debtor in possession in the above-captioned Chapter 11 case (the "Debtor" or "PG&E").  
This Declaration is based on my personal knowledge of the Debtor's operations and  
financial position. If called as a witness, I could and would testify competently to the facts

HARVEY DECL. ISO MOTION TO MODIFY STIP. RE USE OF MTG. BONDHOLDERS' CASH COLLATERAL

A001 Add: Rds Dgc Mail Center

50-295/323

HOWARD  
RICE  
NEMEROVSKI  
CANADY  
FALK  
& RABKIN  
A Professional Corporation

1 stated herein.

2 2. I make this declaration in support of the Debtor's Motion for Order Modifying  
3 Stipulation: (I) Authorizing Use of Cash Collateral Pursuant to 11 U.S.C. § 363 and  
4 Bankruptcy Rule 4001 and (II) Granting Adequate Protection Pursuant to 11 U.S.C. §§ 361  
5 and 363 (the "Motion"). The Motion seeks approval of a certain proposed modification to  
6 the Stipulation: (I) Authorizing and Restricting Use of Cash Collateral Pursuant to 11 U.S.C.  
7 § 363 and Bankruptcy Rule 4001 and (II) Granting Adequate Protection Pursuant to 11  
8 U.S.C. §§ 361 and 363 (the "Stipulation") between PG&E and BNY Western Trust  
9 Company, as successor trustee (the "Indenture Trustee") pursuant to that certain indenture  
10 dated December 1, 1920 with respect to certain mortgage bonds issued by the Debtor (the  
11 "Bonds"), which has been supplemented by fourteen supplemental indentures (collectively,  
12 the "Indenture"). In particular, the proposed modification would provide for the timely  
13 payment by PG&E of the principal amount of the Bonds (1992 Series A) scheduled to  
14 mature on March 1, 2002, in the approximate amount of \$333 million.<sup>1</sup> Attached hereto as  
15 Exhibit 1 is a true and correct "blacklined" copy of the revised Stipulation, reflecting the  
16 proposed revisions thereto (in paragraph 21).<sup>2</sup>

17 3. On or about May 9, 2001, this Court issued its order approving PG&E's entry  
18 into and performance under the Stipulation (the "Order Approving Stipulation"). The  
19 Stipulation provides for PG&E's continued use of cash collateral in which the Indenture  
20 Trustee has an interest (on behalf of the holders of the Bonds) pursuant to certain conditions  
21 and restrictions. Among other things, the Stipulation provides for the timely payment of  
22 interest and sinking fund payments as provided under the Indenture. The annual amount of

23 <sup>1</sup> The current amount outstanding of the 1992 Series A Bonds is approximately \$340  
24 million. Approximately \$7 million of these Bonds that are held in treasury by PG&E will be  
satisfied by a sinking fund payment scheduled to be made on February 1, 2002.

25 <sup>2</sup> Exhibit 1 is not attached to the service copies of this Declaration. You may obtain  
26 copies of such documents through the "Pacific Gas & Electric Company Chapter 11 Case"  
link accessible through the Bankruptcy Court's website ([www.canb.uscourts.gov](http://www.canb.uscourts.gov)), or by  
27 written request by mail to Howard, Rice, Nemerovski, Canady, Falk & Rabkin, Attn:  
Jerome Ferrer, Three Embarcadero Center, 7th Floor, San Francisco, California 94111-4065,  
28 or by e-mail request to [jferrer@hrice.com](mailto:jferrer@hrice.com).

1 interest and sinking fund payments currently accruing on the Bonds is approximately \$300  
2 million.

3 4. To the best of my knowledge, PG&E and the Indenture Trustee have continued to  
4 perform their respective obligations under the Stipulation since the entry of the Order  
5 Approving Stipulation.

6 5. I am informed and believe that PG&E's obligations under the Indenture are  
7 substantially oversecured. The total unpaid indebtedness under the Bonds is approximately  
8 \$3.7 billion. Such indebtedness is secured by a first-priority lien on substantially all of  
9 PG&E's assets. PG&E reported total assets of approximately \$25 billion as of November 30  
10 2001 on its most recently filed Operating Report.

11 6. The 1992 Series A Bonds, which are scheduled to mature on March 1, 2002,  
12 accrue interest at 7.875% per annum. If PG&E is authorized to make the March 2002  
13 principal payment on the Bonds, it expects to do so using cash currently held by the estate.  
14 As reported on PG&E's most recent Operating Report, PG&E had a cash balance of  
15 approximately \$4.9 billion as of November 30, 2001. In my opinion, such payment will  
16 benefit the estate financially because the Bonds accrue interest at a rate significantly in  
17 excess of the rates currently being earned by PG&E on its cash balances. By contrast, if  
18 PG&E fails to timely make the March 2002 principal payment, it risks being in default under  
19 the Indenture, and the negative consequences that may flow from such a default (e.g., the  
20 potential acceleration of all series of the Bonds).

21 I declare under penalty of perjury under the laws of the United States of America and  
22 the State of California that the foregoing is true and correct. Executed this \_\_\_ day of  
23 February, 2002 at San Francisco, California.

24  
25   
26 KENT HARVEY

27 WD 013002/1-1419910/972517/v2