

1 KEKER & VAN NEST, L.L.P.  
2 ROBERT A. VAN NEST (SBN 84065)  
3 JAMES M. EMERY (SBN 153630)  
4 STEVEN A. HIRSCH (SBN 171825)  
5 G. WHITNEY LEIGH (SBN 153457)  
6 ROY L. AUSTIN (SBN 211491)  
7 CLEMENT S. ROBERTS (SBN 209203)  
8 710 Sansome Street  
9 San Francisco, CA 94111-1704  
10 Telephone: (415) 391-5400  
11 Facsimile: (415) 397-7188

50-275/323

12 Special Counsel to Debtor in Possession  
13 PACIFIC GAS AND ELECTRIC COMPANY

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

17 In re

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

20 Debtor.

21 Federal I.D. No. 94-0742640

Case No. 01 30923 DM

Chapter 11 Case

KEKER & VAN NEST, L.L.P.'S FOURTH  
INTERIM FEE APPLICATION FOR  
ALLOWANCE AND PAYMENT OF  
INTERIM COMPENSATION AND  
REIMBURSEMENT OF EXPENSES FOR  
THE PERIOD APRIL 1, 2002 TO JULY  
31, 2002

Date: October 29, 2002  
Time: 1:30 p.m.  
Place: 235 Pine Street  
San Francisco, CA

Judge: HON. DENNIS MONTALI

22  
23  
24  
25  
26  
27 A001 Add: Kids Ogce Mail Center  
28

Keker & Van Nest, L.L.P. ("KVN") submits this application under 11 U.S.C. § 330 and Fed. R. Bankr. P. 2016 for compensation for the services that it performed as special counsel to Pacific Gas and Electric Company, debtor and debtor in possession in this case ("PG&E" or the "Debtor"), from April 1, 2002 through July 31, 2002 (the "Application Period"), and for reimbursement of its charges and disbursements during that period. KVN submits this Application for (a) allowance of reasonable compensation for professional services rendered by KVN and (b) reimbursement of actual and necessary charges and disbursements incurred by KVN in rendering professional services on behalf of Debtor.

**SUMMARY SHEET FOR KEKER & VAN NEST, L.L.P.'S  
FOURTH INTERIM FEE APPLICATION FOR ALLOWANCE  
AND PAYMENT OF INTERIM COMPENSATION AND  
REIMBURSEMENT OF EXPENSES FOR THE PERIOD  
APRIL 1, 2001 THROUGH JULY 31, 2002**

Name of Applicant	Keker & Van Nest, L.L.P.
Authorized to Provides Professional Services to:	Pacific Gas and Electric Company, debtor and debtor in possession
Date of Retention Order:	June 11, 2001
Period for Which Compensation and Reimbursement is Sought:	April 1, 2002 through July 31, 2002
Amount of Compensation Sought as Actual, Reasonable and Necessary:	\$339,264.26
Amount of Expense Reimbursement Sought as Actual, Reasonable and Necessary:	\$ 42,760.78
This is an: <u>  X  </u> Interim <u>          </u> Final application	
Prior Application: Third Interim Application for the period December 1, 2001 through March 31, 2002 filed May 15, 2002.	

**POWER GENERATOR MATTER**

<u>Name<sup>1</sup></u>	<u>Year of Admission</u>	<u>Rate</u>	<u>Hours</u>	<u>Amount</u>
<b><u>Partners:</u></b>				
Robert A. Van Nest	1978	\$550.00	7.625	\$4,193.75
Steven A. Hirsch	1994	\$300.00	9.875	\$2,962.50
<b>Total Partners</b>			<b>17.500</b>	<b>\$ 7,156.25</b>
<b><u>Associates:</u></b>				
G. Whitney Leigh	1991	\$280.00	87.600	\$24,528.00
Clement S. Roberts	2000	\$215.00	11.875	\$ 2,553.13
<b>Total Associates</b>			<b>99.475</b>	<b>\$27,081.13</b>
<b><u>Paraprofessionals:</u></b>				
Brian D. Loper	N/A	\$125.00	19.625	\$2,453.13
Case Assistants	N/A	\$ 60.00	23.500	\$1,410.00
<b>Total Paraprofessionals</b>			<b>43.125</b>	<b>\$ 3,863.13</b>
<b><u>GRAND TOTAL</u></b>			<b>183.600</b>	<b>\$38,100.51</b>

<sup>1</sup> The resume for each attorney is attached as Exhibit 1 to this Application. (This exhibit is not attached to the service copies of this document. Copies of this exhibit may be obtained through the Keker & Van Nest website at [www.kvn.com](http://www.kvn.com).)

**SIERRA PACIFIC INDUSTRIES. v. PG&E ("SPI Matter")**

<u>Name<sup>2</sup></u>	<u>Year of Admission</u>	<u>Rate</u>	<u>Hours</u>	<u>Amount</u>
<b><u>Partners:</u></b>				
Robert A. Van Nest	1978	\$600.00	67.500	\$ 40,500.00
Jon B. Streeter	1981	\$500.00	332.500	\$166,250.00
Steven A. Hirsch	1994	\$350.00	1.125	\$ 393.75
<i>Less Reduction Per Jon Streeter</i>				825.00
<b>Total Partners</b>			<b>401.125</b>	<b>\$206,318.75</b>
<b><u>Associates:</u></b>				
Daniel E. Purcell		\$270.00	199.375	\$ 53,831.25
Robert A. Bonta		\$250.00	105.025	\$ 26,312.50
<b>Total Associates</b>			<b>304.625</b>	<b>\$ 80,143.75</b>
<b><u>Paraprofessionals:</u></b>				
Brian D. Loper	N/A	\$140.00	68.000	\$ 9,520.00
Josh D. Maremont	N/A	\$160.00	14.500	\$ 2,320.00
Jesahel X. Alacorn	N/A	\$ 90.00	4.000	\$ 360.00
Aaron L. Madfes	N/A	\$ 90.00	7.750	\$ 697.50
Paula F. Lichtenberg	N/A	\$ 90.00	0.125	\$ 11.25
Case Assistants	N/A	\$ 60.00	29.875	\$ 1,792.50
<b>Total Paraprofessionals</b>			<b>114.250</b>	<b>\$ 14,701.25</b>
<b><u>GRAND TOTAL</u></b>				<b>\$301,163.75</b>

<sup>2</sup> The resume for each attorney is attached as Exhibit 1 to this Application. (This exhibit is not attached to the service copies of this document. Copies of this exhibit may be obtained through the Keker & Van Nest website at [www.kvn.com](http://www.kvn.com).

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DISBURSEMENTS**

**POWER GENERATOR MATTER**

Computer Legal Reasearch	\$1.89
Copying Charges	\$1,168.19
Courier/Express/Postage	\$1,041.67
Books and Publications	
Business Travel, Lodging, Meals, Parking	\$64.75
Professional Fees (Infotreive, Inc., Boalt Express, Integral Solutions, video conferencing)	
Conference calls	\$142.76
Pclerks	
<b>CLIENT TOTAL</b>	<b>\$2,419.26</b>

**SPI MATTER**

Computer Legal Reasearch	\$ 9,114.37
Copying Charges	\$ 4,596.90
Courier/Express/Postage	\$ 2,049.74
Books and Publications	
Business Travel, Lodging, Meals, Parking	\$ 4,654.03
Professional Fees (Infotreive, Inc., Boalt Express, Integral Solutions, video conferencing)	\$17,717.44
Conference calls/phone	\$ 3,126.84
Pclerks	
	<b>\$41,259.32</b>
<i>Less Credit for May 2002 photocopies</i>	<b>917.80</b>
<b>CLIENT TOTAL</b>	<b>\$40,341.52</b>

## INTRODUCTION

PG&E is a utility providing gas and electric services to more than 4.5 million customers in Central and Northern California, serving a population of approximately 13 million. The Debtor employs over 19,000 people and has in excess of 30,000 trade creditors. On April 6, 2001 (the "Petition Date"), PG&E filed its Chapter 11 petition. PG&E continues to operate its business in the ordinary course of a debtor in possession under Sections 1107(a) and 1008 of the Bankruptcy Code.

### **A. Retention of KVN in the Power Generator Matter**

PG&E applied to retain KVN to act as its special counsel in this Chapter 11 case, in accordance with section 327(e) of the Bankruptcy Code (the "Retention Application") to represent the Debtor with respect to a task on which KVN had been retained by the Debtor prior to commencement of this case. That task ("the Power Generator Matter") requires KVN to consider and analyze potential litigation between PG&E and other parties concerning excessive charges for electric power in the California electric-power market. On June 11, 2001, the Court entered its Order approving PG&E's retention of KVN in the Power Generator Matter. Since that time, KVN's representation in the Power Generator Matter has come to include assisting PG&E in responding to subpoenas and inquiries from government officials and entities that are investigating excessive charges for electric power in the California market.

Because no action has been filed and all communications regarding the Power Generator Matter are privileged, PG&E and KVN cannot publicly disclose any additional information about the Power Generator Matter. If the Court believes that it needs additional information, KVN can submit that information to the Court, under seal, pursuant to Federal Rule of Bankruptcy Procedure 9018.

### **B. Retention of KVN in the SPI Matter**

KVN represented PG&E in a breach-of-contract, antitrust, and business-tort suit brought by Sierra Pacific Industries ("SPI") against PG&E and the California Independent System Operator Corporation ("ISO"). SPI's suit arose out of PG&E's inability to pay fully for power delivered by SPI during the energy crisis of early 2001. SPI alleged that PG&E had breached its

1 power-purchasing agreements with SPI by failing to make payments, and further alleged that  
2 PG&E and the ISO had conspired to exclude SPI from the California energy market. SPI sought  
3 over \$1 billion in compensatory and punitive damages. On May 31, 2002, the Court entered its  
4 Order approving PG&E's retention of KVN as special counsel in the SPI Matter, *nunc pro tunc*  
5 to March 28, 2002. Beginning in April 2002, KVN assumed the role of lead counsel in the case,  
6 eventually participating in a June 3, 2002 mediation that resulted in the provisional settlement of  
7 the case. On July 22, 2002, the parties finalized and executed the formal settlement agreement  
8 and, on August 6, 2002, PG&E submitted that agreement for approval to this Court and to the  
9 California Public Utilities Commission. PG&E's applications for approval are currently pending.

10 **C. Compliance With Guidelines**

11 **The Firm represents and warrants that its billing practices comply with all**  
12 **Northern District of California Bankruptcy Local Rules and Compensation Guidelines and**  
13 **the Guidelines of the Office of the United States Trustee, with the following exception:**  
14 KVN's computer system is not set up to bill in tenths of an hour. Instead, the KVN is required to  
15 bill in eighths of an hour. This does not result in the rounding up of total time billed to the  
16 Debtor.

17 KVN's billing practices and hourly rates are identical for bankruptcy and non-bankruptcy  
18 clients (of which PG&E is the only one). The costs charged to PG&E are either identical to or  
19 less than the costs charged to non-bankruptcy clients.

20 **D. 2016 Compensation Statement**

21 **Neither the Firm nor any member of the Firm has any agreement or understanding**  
22 **of any kind or nature to divide, pay over, or share any portion of the fees or expenses to be**  
23 **awarded to the Firm with any other person or attorney except as among the members and**  
24 **associates of the Firm.**

25 **E. Summary of Services**

26 **1. Power Generator Matter**

27 The events encompassing the Debtor's bankruptcy case are set out in the application of  
28 the Debtor's general bankruptcy counsel, Howard, Rice, Nemerovski, Canady, Falk & Rabkin

1 ("Howard Rice"). During the Application Period, KVN has considered and analyzed potential  
2 litigation between PG&E and other parties concerning excessive charges for electric power in the  
3 California electric-power market. As part of that task, KVN has worked with experts and with  
4 other counsel to PG&E who are pursuing other remedies for the excessive charges. KVN also  
5 has assisted PG&E in responding to subpoenas and inquiries from government officials and  
6 entities that are investigating excessive charges for electric power in the California electric  
7 power market.

## 8           2.     SPI Matter

9           KVN represented PG&E in a breach-of-contract, antitrust, and business-tort suit brought  
10 by SPI against PG&E and the California Independent System Operator Corporation ("ISO").  
11 SPI's suit arose out of PG&E's inability to pay fully for power delivered by SPI during the energy  
12 crisis of early 2001. SPI alleged that PG&E had breached its power-purchasing agreements with  
13 SPI by failing to make payments, and further alleged that PG&E and the ISO had conspired to  
14 exclude SPI from the California energy market. SPI sought over \$1 billion in compensatory and  
15 punitive damages. Beginning in April 2002, KVN assumed the role of lead counsel in the case,  
16 eventually participating in a June 3, 2002 mediation that resulted in the provisional settlement of  
17 the case. On July 22, 2002, the parties finalized and executed the formal settlement agreement  
18 and, on August 6, 2002, PG&E submitted that agreement for approval to this Court and the  
19 California Public Utilities Commission. PG&E's applications for approval are currently pending.

## 20   F.     Compensation Requested

21           KVN's fees for its services rendered during the Application Period with regard to the  
22 Power Generator Matter are \$38,100.51. In addition, KVN seeks reimbursement of \$2,419.26 in  
23 charges and disbursements actually incurred during the Application Period, for a total of  
24 \$40,519.77. The firm does not hold a prepetition retainer.

25           KVN's fees for its services rendered during the Application Period with regard to the SPI  
26 Matter are \$301,163.75. In addition, KVN seeks reimbursement of \$40,341.52 in charges and  
27 disbursements actually incurred during the Application Period, for a total of \$341,505.27. The  
28 firm does not hold a prepetition retainer.



1 KVN requests that the Court (i) approve this Application in full and (ii) authorize and  
2 direct the Debtor to pay KVN all amounts requested in this Application.

3 **I.**

4 **INFORMATION REQUIRED BY BANKRUPTCY**  
5 **RULES AND GUIDELINES**

6 **A. Brief History of Present Posture of the Case and Significant Events During**  
7 **Application Period**

8 On April 6, 2001, PG&E filed its Chapter 11 petition. The significant events occurring  
9 during the Application Period are set out in Howard Rice's fee application.

10 KVN has worked with PG&E in connection with considering and analyzing potential  
11 litigation between PG&E and other parties concerning excessive charges for electric power in the  
12 California electric-power market. As part of that task, KVN also has worked with experts and  
13 with other counsel to PG&E who are pursuing other remedies for the excessive charges. KVN  
14 also has assisted PG&E in responding to subpoenas and inquiries from government officials and  
15 entities that are investigating excessive charges for electric power in the California electric  
16 power market. KVN expects that it will continue to assist the Debtor in connection with the  
17 Power Generator Matter.

18 KVN also represented PG&E in a breach-of-contract, antitrust, and business-tort suit  
19 brought by SPI against PG&E and the ISO. SPI's suit arose out of PG&E's inability to pay fully  
20 for power delivered by SPI during the energy crisis of early 2001. SPI alleged that PG&E had  
21 breached its power-purchasing agreements with SPI by failing to make payments, and further  
22 alleged that PG&E and the ISO had conspired to exclude SPI from the California energy market.  
23 SPI sought over \$1 billion in compensatory and punitive damages. Beginning in April 2002,  
24 KVN assumed the role of lead counsel in the case, eventually participating in a June 3, 2002  
25 mediation that resulted in the provisional settlement of the case. On July 22, 2002, the parties  
26 finalized and executed the formal settlement agreement and, on August 6, 2002, PG&E  
27 submitted that agreement for approval to this Court and the California Public Utilities  
28 Commission. PG&E's applications for approval are currently pending.

**B. Listing of Amount of Fees and Expenses Previously Requested, Approved, and Received**

**1. The Court's Order Approving KVN's Retention**

This Court granted PG&E's application for authorization to retain KVN as its special counsel in the Power Generator Matter on June 11, 2001. The firm's services began on August 30, 2000.

This Court granted PG&E's application for authorization to retain KVN as its special counsel in the SPI Matter on May 31, 2002. The Court's order appointed KVN effective *nunc pro tunc* to March 28, 2002, when KVN began performing services in the SPI Matter.

**2. Court's Approval of Compensation for First Interim Period**

On November 6, 2001, this Court approved Keker & Van Nest's entire request for compensation for the First Interim Period (April 6, 2001 through July 31, 2001). The Court approved \$218,413.46 in fees and \$11,844.84 in costs.

**3. Court's Approval of Compensation for Second Interim Period**

On February 26, 2002, this Court approved Keker & Van Nest's entire request, less a small amount reflecting travel time, for compensation for the Second Interim Period (August 1, 2001 through November 30, 2001). The Court approved \$95,531.05 in fees and \$10,294.50 in costs.

**4. Court's Approval of Compensation for Third Interim Period**

On July 15, 2002, this Court approved Keker & Van Nest's entire request for compensation for the Amended Third Interim Period (December 1, 2001 through March 31, 2002). The Court approved \$30,958.56 in fees and \$857.87 in costs.

**5. The Request for Compensation for the Fourth Interim Period**

By this Application, KVN seeks approval of compensation and reimbursement of expenses in the total amount of \$308,326.28 for the period April 1, 2002 through July 31, 2002, which consists of \$38,100.51 in fees and \$2,419.26 in costs and disbursements, with regard to the Power General Matter, and \$301,563.75 in fees and \$40,341.52 in costs and disbursements, with regard to the SPI Matter.

1 **C. Major Activity Codes Used**

2 KVN has billed time to the Power Generator Matter ("Power") and to the SPI Matter  
3 ("SPT"). These were the only activity codes that KVN need or employed.

4 **D. Time Records**

5 KVN has filed separately the detailed time records in support of this Application. KVN's  
6 time records consist of chronological time records showing individual professional's services on  
7 a particular date, the time devoted to those services, and month summaries.

8 **E. Client Review of Billing Statements**

9 KVN delivered the text of this Application to PG&E's management before the filing.  
10 PG&E has previously received and reviewed monthly invoices for the period covered by this  
11 Application and did not object to the amounts set forth in those invoices. Attached to the Court's  
12 copy as Exhibit 2 is a photocopy of the transmittal letter required by Guideline 7 of the Court's  
13 *Guidelines for Compensation and Expense Reimbursement of Professionals and Trustees.*

14 **II.**

15 **NARRATIVE STATEMENT OF SERVICES RENDERED**  
16 **AND TIME EXPENDED FOR EACH CATEGORY**

17 During the Application Period, in the Power Generator Matter, KVN considered and  
18 analyzed potential litigation between PG&E and other parties concerning excessive charges for  
19 electric power in the California electric-power market. As part of that task, KVN worked with  
20 experts and with other counsel to PG&E who are pursuing other remedies for the excessive  
21 charges. KVN also has assisted PG&E in responding to subpoenas and inquiries from  
22 government officials and entities that are investigating excessive charges for electric power in  
23 the California electric power market.

24 KVN is assisting the Debtor in dealing with ongoing, highly sensitive and confidential  
25 matters. As a consequence, Applicant is unable to specify in great detail the services it is  
26 providing to the Debtor, as doing so could seriously compromise Debtor's future business and  
27 legal strategy. Applicant would be pleased to provide the Court with additional details of the  
28 services its is providing to the Debtor *in camera* or by some other mechanism that will ensure the

1 maintenance of Debtor's confidential information.

2 KVN represented PG&E in a breach-of-contract, antitrust, and business-tort suit brought  
3 by SPI against PG&E and the ISO. SPI's suit arose out of PG&E's inability to pay fully for  
4 power delivered by SPI during the energy crisis of early 2001. SPI alleged that PG&E had  
5 breached its power-purchasing agreements with SPI by failing to make payments, and further  
6 alleged that PG&E and the ISO had conspired to exclude SPI from the California energy market.  
7 SPI sought over \$1 billion in compensatory and punitive damages. Beginning in April 2002,  
8 KVN assumed the role of lead counsel in the case, eventually participating in a June 3, 2002  
9 mediation that resulted in the provisional settlement of the case. On July 22, 2002, the parties  
10 finalized and executed the formal settlement agreement and, on August 6, 2002, PG&E  
11 submitted that agreement for approval to this Court and the California Public Utilities  
12 Commission. PG&E's applications for approval are currently pending.

13 **III.**

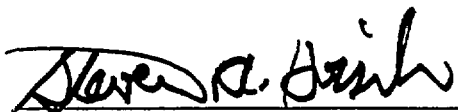
14 **EXPENSES**

15 KVN charges clients \$0.10 per page for copying and no charge for incoming facsimiles.  
16 For outgoing facsimiles, KVN charges its actual telephone charges, as reflected in its phone bill.  
17 KVN bills each client's telephone and postage charges at cost. For computer-assisted research,  
18 the firm takes the total flat rate that it pays every month, discounts that amount to reflect *pro*  
19 *bono* and other nonbillable usage, and then allocates the remainder to each client based on its  
20 percentage of the remaining usage for that month.

21 Dated: September 13, 2002

KEKER & VAN NEST, L.L.P.

22  
23 By:



STEVEN A. HIRSCH  
Special Counsel to Debtor in Possession  
PACIFIC GAS AND ELECTRIC  
COMPANY

24  
25  
26  
27 **[ATTORNEY CERTIFICATION ATTACHED]**

28 **CERTIFICATION**

1 I, Steven A. Hirsch, declare:

2 (a) That I am a member of Keker & Van Nest LLP ("KVN") and of the bar of the  
3 States of California, New York, and Connecticut, and of the bar of the District of Columbia.

4 (b) That I am familiar with and have read the above Fourth Interim Fee Application  
5 and that the facts therein are true to my knowledge and belief. The copies of the billing  
6 statements submitted herewith are true and correct copies of the billing statements of Pacific Gas  
7 and Electric Company ("the Debtor") for the matters in which KVN is currently retained by the  
8 Debtor ("the Matters").


9 (c) That KVN has not been paid or promised any compensation from any other  
10 source for services rendered in connection with the Matters.

11 (d) That KVN has not entered into any agreement or understanding with any other  
12 entity for the sharing of compensation received or to be received for services rendered and/or to  
13 be rendered in connection with the Matters.

14 (e) That to the best of my knowledge, information, and belief, the compensation and  
15 expense reimbursement sought herein is in conformity with the *Guidelines for Compensation*  
16 *and Expense Reimbursement of Professionals and Trustees* for the United States Bankruptcy  
17 Court for the Northern District of California, except for the following: KVN's computer system  
18 is not set up to bill in tenths of an hour. Instead, KVN is required to bill in eighths of an hour.  
19 This does not result in the rounding up of total time billed to the Debtor.

20 (f) That the compensation and expenses sought herein were billed at rates no less  
21 favorable than those customarily billed by KVN and generally accepted by the KVN's clients.

22 I declare under penalty of perjury that the foregoing is true and correct and that this  
23 certification was executed this 13th day of September, 2002 at San Francisco, California.

24 KEKER & VAN NEST, L.L.P.  
25 By:   
26 STEVEN A. HIRSCH  
27 Special Counsel to Debtor in Possession  
28 PACIFIC GAS AND ELECTRIC  
COMPANY