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12 PACIFIC GAS AND ELECTRIC COMPANY

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

16 In re

Case No. 01-30923 DM

17 PACIFIC GAS AND ELECTRIC
18 COMPANY, a California corporation,
19 Debtor.

Chapter 11

HEARING

20 Federal I.D. No. 94-0742640

Date: July 21, 2003

Time: 1:30 p.m.

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

21 DECLARATION OF KENT M. 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, TO ENABLE
26 AUGUST 2003 PRINCIPAL PAYMENT ON CERTAIN MORTGAGE
27 BONDS;
28 SUPPORTING MEMORANDUM OF POINTS AND AUTHORITIES

1 I, Kent M. Harvey, declare as follows:

2 1. I am the chief financial officer of Pacific Gas and Electric Company ("PG&E" or
3 the "Debtor"), the debtor and debtor-in-possession in this Chapter 11 Case. This Declaration
4 is based on my personal knowledge of PG&E's operations and financial position (except as
5 to any matters stated on information on belief, and as to such matters, I am informed and
6 believe they are true). If called as a witness, I could and would testify competently to the
7 facts stated herein.

8 2. I make this Declaration in support of the Debtor's Motion for Order Modifying
9 Stipulation: (I) Authorizing Use Of Cash Collateral Pursuant To 11 U.S.C. §363 And
10 Bankruptcy Rule 4001 And (II) Granting Adequate Protection Pursuant To 11 U.S.C. §§361
11 and 363, To Enable August 2003 Principal Payment On Certain Mortgage Bonds (the
12 "Motion"). The Motion seeks approval of a certain proposed modification to the
13 Stipulation: (I) Authorizing Use Of Cash Collateral Pursuant To 11 U.S.C. §363 And
14 Bankruptcy Rule 4001 And (II) Granting Adequate Protection Pursuant To 11 U.S.C. §§361
15 and 363, as modified to date, between PG&E and with BNY Western Trust Company, as
16 successor trustee (the "Indenture Trustee") pursuant to that certain indenture dated
17 December 1, 1920 with respect to mortgage bonds issued by PG&E, which indenture has
18 been supplemented by 14 supplemental indentures (collectively, the "Indenture"). In
19 particular, the proposed modification would provide for the timely payment by PG&E of the
20 principal amount of the 1993 Series C Bonds scheduled to mature on August 1, 2003 (the
21 "Bonds"), in the approximate amount of \$281 million.¹ Attached hereto as Exhibit 1 is a
22 true and correct blacklined copy of the revised Stipulation, reflecting the proposed revisions

23
24 ¹ The current principal amount outstanding of the 1993 Series C Bonds is
25 approximately \$290.5 million. However, approximately \$9.5 million of these Bonds are held
26 in treasury by PG&E. Rather than seeking authority to pay the approximately \$9.5 million
27 in principal amount of the Bonds held in treasury by PG&E (which would entail the prompt
28 "roundtripping" of such \$9.5 million by first paying it to the Trustee, who would then pay it
to PG&E in satisfaction of the Bonds held in treasury), the Debtor by the Motion proposes to
cancel such approximately \$9.5 million held in treasury on or before the August 1, 2003
maturity date. and therefore by this Motion seeks authority to pay on maturity the
approximately \$281 million principal amount of the 1993 Series C Bonds held by the public.

1 thereto (in paragraph 22).²

2 3. On or about May 9, 2001, this Court issued its Order on Debtor's Motion For
3 Order Approving Stipulation: (I) Authorizing and Restricting Use of Cash Collateral
4 Pursuant to 11 U.S.C. § 363 and Bankruptcy Rule 4001 and (II) Granting Adequate
5 Protection Pursuant to 11 U.S.C. §§ 361 and 363 (the "Original Stipulation"), approving
6 PG&E's entry into and performance under the Stipulation. The Original Stipulation
7 provides for PG&E's continued use of cash collateral in which the Indenture Trustee has an
8 interest (on behalf of the holders of the Bonds) pursuant to certain conditions and
9 restrictions. Among other things, the Original Stipulation provides for the timely payment
10 of interest and sinking fund payments as provided under the Indenture. The annual amount
11 of interest and sinking fund payments currently accruing on the Bonds is approximately
12 \$260 million.

13 4. On February 1, 2002, the Debtor filed a motion for an order modifying the
14 Original Stipulation to permit the Debtor's timely payment of \$333 million in principal
15 amount of mortgage bonds that matured on March 1, 2002 (the "Prior Motion"). On
16 February 26, 2002, the Court issued its order so modifying the Original Stipulation by
17 adding the following language to paragraph 21 of the Original Stipulation: "In addition the
18 principal amount of the Bonds scheduled to mature on March 1, 2002 in the approximate
19 amount of \$333 million shall be payable on the terms set forth in the Indenture." (The
20 Original Stipulation as so modified is referred to herein as the "Stipulation.")

21 5. To the best of my knowledge, PG&E and the Indenture Trustee have continued to
22 perform their respective obligations under the Stipulation.

23 6. I am informed and believe that PG&E's obligations under the Indenture are
24

25 ² 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"
27 link accessible through the Bankruptcy Court's website (www.canb.uscourts.gov), or by
28 written request by mail to Howard, Rice, Nemerovski, Canady, Falk & Rabkin, Attn:
Jerome Ferrer, Three Embarcadero Center, 7th Floor, San Francisco, California 94111-4065,
or by e-mail request to jferrer@hrice.com.

1 substantially oversecured. The total unpaid indebtedness under the Bonds is approximately
2 \$3.3 billion. Such indebtedness is secured by a first-priority lien on substantially all of
3 PG&E's assets. PG&E reported total assets of approximately \$26.6 billion as of April 30,
4 2003 on its most recently filed Operating Report.

5 7. The 1993 Series C Bonds, which are scheduled to mature on August 1, 2003,
6 accrue interest at 6 1/4 percent (6.25%) per annum. If PG&E is authorized to make the
7 August 2003 principal payment on the Bonds, it expects to do so using cash currently held
8 by the estate. As reported on PG&E's most recent Operating Report, PG&E had a cash
9 balance of approximately \$3.6 billion as of April 30, 2003. PG&E submits that such
10 payment will benefit the estate financially because the Bonds accrue interest at a rate
11 significantly in excess of the rates currently being earned by PG&E on its cash balances. By
12 contrast, if PG&E fails to timely make the August 2003 principal payment, it risks being in
13 default under the Indenture, and the negative consequences that may flow from such a
14 default (e.g., the potential acceleration of all series of the Bonds).

15 I declare under penalty of perjury under the laws of the United States of America and
16 the State of California that the foregoing is true and correct. Executed this 20th day of June,
17 2003 at San Francisco, California.

18
19 DATED: June 20, 2003

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21 
22 KENT M. HARVEY

23 WD 061903/1-1419911/gff/1084368/v1