

Jun. 27, 2019

# Bondholder plan to reorganize and rename PG&E will depend on judge

**U.S. Bankruptcy Judge Dennis Montali's handling of the Pacific Gas and Electric Co.'s 2001 bankruptcy may shed light on how seriously he will consider a \$30 billion reorganization plan by a committee of the utility's bondholders.**

SAN FRANCISCO -- U.S. Bankruptcy Judge [Dennis Montali's](#) handling of the Pacific Gas and Electric Co.'s 2001 bankruptcy might shed light on how seriously he will consider a \$30 billion reorganization plan by a committee of the utility's bondholders.

In that case, the judge terminated PG&E's window to propose a plan to emerge from bankruptcy after the California Public Utilities Commission filed one of its own.

Montali, who is again overseeing PG&E's bankruptcy, noted that the state regulatory body "has a low burden to demonstrate a not legally impermissible plan, and it has done so" at the time of the ruling.

USC Gould School of Law bankruptcy professor Robert K. Rasmussen said it would similarly be a "judgment call" for Montali to determine if it is appropriate to terminate PG&E's deadline to submit a plan so he can further consider and possibly approve the bondholders' blueprint for reorganization.

"Judges really have a lot of discretion here," Rasmussen said. "This is one where it'd be reasonable to go either way."

PG&E creditors laid out a plan Tuesday to inject \$30 billion into the utility to get it out of bankruptcy by the end of this year or shortly after without raising rates.

A trust of \$16 billion would be established to pay wildfire claims. Roughly \$6 billion would be for individual victims, while \$7.8 billion would be for insurers.

The bondholders also recommended PG&E change its name to "Golden State Power Light & Gas Co."

"It's a pretty aggressive move," Rasmussen said. "Clearly, the creditors want to take control of the proceeding away."

PG&E has until Nov. 29 to file its own plan and until Jan. 28, 2020 to get it approved. Montali granted an extension in May. *In re: PG&E Corp.*, 19-30088 (N.D. Cal., filed Jan. 31, 2019).

PG&E spokesman James Noonan said the utility has made "substantial progress" in its reorganization plan.

"Safety must remain our most important responsibility and a careful balancing of stakeholder interests is essential to ensuring the financial viability of a safe, reliable and sustainable business upon emergence," Noonan said in a statement.

The company that files for bankruptcy protection typically has 120 days to propose a reorganization plan and then another 60 days to get it approved, but judges have the discretionary authority to reduce the given period.

The bankruptcy code "does not define what constitutes cause for purposes of reducing or increasing exclusivity periods," wrote Ashley V. Crawford of Akin Gump Strauss Hauer & Feld LLP in court filings. She added that courts prioritize "maximum flexibility" in these discretionary decisions.

Crawford argued that the bondholders' plan is "both credible and confirmable." It would establish a trust to pay off wildfire claims, leave ratepayers unaffected and fund infrastructural improvements, she said.

The plan emphasized it would restore the utility's financial health so it can access the money necessary to resolve past and future wildfire liability and fund additional safety efforts.

Rasmussen said Montali could terminate PG&E's exclusive right to propose a plan and put the bondholders plan on the table for consideration. But it is unlikely the judge will completely deprive the utility of the opportunity to outline its own reorganization, he added.

Citing the looming wildfire season, the bondholders said PG&E wasted time by "needlessly overhauling its board of directors to protect and entrench the parochial interests of an aggressive new subset of equity holders."

"Progress towards a viable, confirmable plan is long overdue," Crawford wrote.

The creditors also warned that their proposal requires state lawmakers to pass Gov. Gavin Newsom's multi-billion dollar insurance fund to help shield the state's major utilities from massive liability stemming from future wildfires.

#353208

---

## Winston Cho

Daily Journal Staff Writer  
winston\_cho@dailyjournal.com