SENATE COMMITTEE ON ENERGY, UTILITIES AND COMMUNICATIONS
Senator Ben Hueso, Chair
2019 - 2020 Regular

Bill No:	ACR 78	**Hearing Date:**	7/10/2019
Author:	Holden		
Version:	4/24/2019 As Introduced		
Urgency:		**Fiscal:**	Yes
Consultant:	Nidia Bautista		

SUBJECT: Public utilities: Pacific Gas and Electric Company: bankruptcy

DIGEST: This bill expresses the will of the Legislature that the California Public Utilities Commission (CPUC), in filings with the federal court overseeing the bankruptcy of Pacific, Gas & Electric Company and Corporation (PG&E), take specified actions and promote certain policies in filings made to the bankruptcy court.

ANALYSIS:

Existing law:

1) Establishes the CPUC has regulatory authority over public utilities, including electrical corporations and gas corporations. (California Constitution, Article XII)

2) Authorizes the CPUC to fix the rates and charges for every public utility and requires that those rates and charges be just and reasonable. (Public Utilities Code §451)

3) Authorizes, via the Public Utilities Act, the CPUC to supervise and regulate every public utility, including electrical corporations, and to do all things that are necessary and convenient in the exercise of such power and jurisdiction. (Public Utilities Code §701)

4) Prohibits a person or corporation from merging, acquiring, or controlling, either directly or indirectly, any public utility organized and doing business in this state without first securing authorization to do so from the CPUC. Requires that any merger, acquisition, or control without that prior authorization is void and of no effect. (Public Utilities Code §851)

5) Requires the CPUC to consider specified criteria and to find that the merger, acquisition, or control proposal meets certain requirements and is in the public interest, as specified, before authorizing the merger, acquisition, or control of any electrical, gas, or telephone corporation organized and doing business in

this state, where any of the entities that are parties to the proposed transaction has gross annual California revenues exceeding $500 million, existing law. (Public Utilities Code §854)

6) Requires that any governmental regulatory commission with jurisdiction, after confirmation of the reorganization plan of a debtor in bankruptcy protection, over the rates of the debtor has approved any rate change provided for in the plan, or such rate change is expressly conditioned on such approval. (U.S. Bankruptcy Code §1129)

This bill:

1) Makes specified findings relative to the history and size of, and services provided by, PG&E to electric ratepayers in California.

2) Recognizes the catastrophic loss of life and property as a result of wildfires in 2015, 2017, and 2018, which in some situations, were caused by failures in the electric grid.

3) Notes that the filing for bankruptcy under Chapter 11 by PG&E, in the United States Bankruptcy Court for the Northern District of California, could adversely impact the safety and reliability of the grid and achievement of climate change goals.

4) Resolves that resolution of the PG&E bankruptcy must protect the citizens of California from climate change and further catastrophic wildfires caused by electric utility infrastructure.

5) Resolves that it is the will of the Legislature that filings to, or communications with, the bankruptcy court by the CPUC or other state agencies:

   a) Must ensure that claims for wildfire damages for which PG&E is responsible should be resolved promptly and equitably;

   b) Support PG&E's rank and file employees;

   c) Communicate the bankruptcy's profound and direct impacts on the people of California and the need for stable electricity markets; and

   d) Ensure that the safety and reliability of the electrical and gas systems are paramount, the rates for electrical and gas service remain stable and reasonable, and the deployment and use of energy resources are consistent with the goal of achieving California's environmental mandates and goals.

6) Resolves that it is the will of the Legislature that PG&E:

   a) Be prohibited from recovering executive compensation from ratepayers according to the requirements of SB 901 (Dodd, Chapter 626, Statutes of 2018); and

   b) Reconstitute its board with a majority of Californians who have experience as regulators, safety experts, and clean energy leaders, and that any new board member should be resolved to change the culture of the company, understand the concerns of ratepayers, and demonstrate a commitment to the fair treatment of wildfire victims and employees.

Background

PG&E files for bankruptcy. On January 29, 2019, Pacific Gas & Electric Corporation (PG&E Corp.), the holding company of the state's largest utility, voluntarily filed for bankruptcy protection under Chapter 11 of the United States Bankruptcy Code. PG&E filed their case in the Northern California District Court San Francisco Division (Case No. 19-30088-DM). The case has been assigned to the same judge, Honorable Dennis Montali, who handled the utility's previous reorganization bankruptcy case in connection with the 2001 energy crisis. According to the company's first day filings, in a declaration filed by the company's Senior Vice President and Chief Financial Officer Jason Wells, PG&E's decision to seek relief under Chapter 11 "were necessitated by a confluence of factors resulting from the catastrophic and tragic wildfires that occurred in Northern California in 2017 and 2018, and PG&E's potential liabilities arising therefrom." The declaration specifically cites the company's potential liability related to the fires could exceed $30 billion. The company's decision to voluntarily file for bankruptcy protection has raised numerous questions about the process entailed under a Chapter 11 reorganization and the potential implications for the numerous stakeholders that could be affected, including wildfire victims, ratepayers, the utility workforce, energy and other suppliers, local governments, and many others.

About PG&E. PG&E Corporation is an energy-based holding company, headquartered in San Francisco. PG&E Corporation is the parent company of PG&E Company, an investor-owned public utility providing gas and electric service to about two-thirds of California, from Bakersfield to the Oregon border. The utility serves about 16 million customers across a 70,000 square-mile service area in Northern and Central California. PG&E has a workforce of about 24,000 regular employees, 20 of whom are employed by PG&E Corp., 15,000 are covered by collective bargaining agreements with local chapters of three labor unions: the International Brotherhood of Electrical Workers (IBEW), the Engineers and

Scientists of California, and the Service Employees International Union. According to the company's bankruptcy filing, as of September 30, 2018, the company had reported approximately $71.4 billion in assets and approximately $51.7 billion in liabilities, and $370 million of cash on hand for the PG&E Corporation and $240 million of cash on hand, net of $250 million of customer deposits, for PG&E Company (the utility). As noted above, this is the company's second Chapter 11 bankruptcy filing in less than twenty years. The previous bankruptcy was filed in 2001 as a reaction to the restructuring of the energy markets towards deregulated markets, authorized by the CPUC and the Legislature in 1996, which resulted in an energy crisis involving market manipulation of participants such as Enron.

In PG&E's first day bankruptcy filings, the declaration of the Senior Vice President and CFO Jason Wells cites four principal objectives of the Chapter 11 filings:

- Establish a process for PG&E to fully address and resolve its liabilities resulting from the 2017 and 2018 Northern California wildfires and to provide compensation to those entitled to compensation fairly and expeditiously – more quickly and more equitably than those liabilities could be addressed and resolved in the state court system.
- Restore PG&E's financial stability and assure that PG&E has access to the capital and resources necessary to sustain and support its ongoing operations and to enable PG&E to continue investing in its systems infrastructure and critical safety and wildfire prevention initiatives.
- Work with State regulators and policy makers to address safety and operational and structural reforms, determine the most effective way for PG&E to provide safe and reliable electric and natural gas service to its customers and communities for the long term; and address the significant increase in wildfire risk.
- Enable PG&E to continue its extensive restoration and rebuilding efforts to assist the communities affected by the 2017 and 2018 Northern California wildfires.

Prior/Related Legislation

SB 550 (Hill, 2019) requires specified safety-related actions before the CPUC authorizes a merger or sale of an investor-owned utility (IOU). The bill is pending consideration by the Assembly Committee Utilities and Energy.

SB 549 (Hill) requires the Legislature to approve a capital change structure or increase in rates for the energy utility, PG&E Company. The bill was held in the Senate Committee on Appropriations.

SB 52 (Rosenthal, Chapter 484, Statutes of 1989) established criteria that the CPUC must consider in reviewing a merger, acquisition, or change of control related to an IOU.

AB 1054 (Holden, Burke, Mayes, 2019) includes numerous provisions related to addressing wildfires caused by electric utility infrastructure, including: bolstering safety oversight and processes, recasting recovery of costs from damages to third-parties, including the authorization for an electrical corporation and ratepayer jointly funded Wildfire Fund to address future damages, and changes to provisions concerning the workforce of a change of ownership of a full or portion of an electrical or gas corporation. The bill also includes conditions that must be met by PG&E in order to access an wildfire fund, as established by the bill, including: settling wildfire victims claims in whole as approved by the court, ensuring the plan of reorganization is neutral on average to customers, and other conditions addressing corporate accountability tied to executive compensation. The bill is pending consideration in the Assembly.

SB 901 (Dodd, Chapter 626, Statutes of 2018) addressed numerous issues concerning wildfire prevention, response and recovery, including funding for mutual aid, fuel reduction and forestry policies, wildfire mitigation plans by electric utilities, and cost recovery by electric corporations of wildfire-related damages. The bill also included provisions related to limitations on executive compensation.

FISCAL EFFECT: Appropriation: Fiscal Com.: Yes Local:

SUPPORT:

None received

OPPOSITION:

None received

ARGUMENTS IN SUPPORT: The author states:

> We ended last session with the passage of the Wildfire Protection Act – SB 901. That measure set into motion a series of critical actions that the CPUC has been mandated to undertake. Tragically, after the passage of that

legislation a devastating and deadly fire consumed the town of Paradise and other nearby communities leaving a path of death and destruction.

On January 29, 2019, PG&E filed for Chapter 11 bankruptcy causing uncertainty around the future of the utility and the ability of wildfire survivors to recover their losses. The CPUC is currently working closely with other state entities representing the state's interest throughout the bankruptcy process. This measure helps to ensure that the CPUC promotes the priorities of the Legislature throughout the bankruptcy process. ACR 78 provides guidance to the commission to ensure that survivors are treated fairly, ratepayers are not overly burdened, and efforts to reduce future devastating wildfires are not deterred.

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