

California State Senate Committee on Energy, Utilities and Communications March 5, 2019 - Informational Hearing

Additional implications for the 50 California counties listed in the bankruptcy filing by PG&E

Katharine L. Elliott, County Counsel, Mendocino County, speaking on behalf of California State Association of Counties (CSAC)

In October 2017, PG&E's North Bay Fires tore through the communities in at least seven different counties, including Mendocino, Sonoma, Napa, Lake, Yuba, Nevada, and Butte.

In the aftermath of the fire, and while our communities were trying to recover, PG&E filed claims *against* the public entities, filed costly Public Record Act requests, and sought to strip victims of their one real remedy, inverse condemnation, among other bailout options, here in Sacramento.

Prior to voluntarily filing for Chapter 11 bankruptcy, PG&E chose not to compensate victims and communities first. PG&E now enjoys the protection of Chapter 11, yet still has not paid for the damages from the devastating 2017 fires. To quote Senator Hueso regarding this bankruptcy filing: "It's disheartening that it has come to this."

The impact of PG&E's bankruptcy filing includes their litigation protection to the detriment of our communities and fire victims. To be clear, PG&E's decision to file for bankruptcy halted all state court litigation, including the discovery of facts and trial by jury, which often encourages resolution.

PG&E chose federal bankruptcy court as its legal forum—which leaves local communities asking: Why? And how long will this take?

What was PG&E's intention in doing so? Was it to prevent trial by jury? To avoid discovery of important facts and information? Or was it just to delay compensation to victims and communities?

My county chose to file a lawsuit against PG&E in part to show unity with the individual fire victims. In October 2019, families' insurance benefits will end. At the current pace, it seems unlikely that PG&E will be able to compensate our communities by the end of this year. Which means families' insurance benefits will cease, local governments will continue to delay certain public works and infrastructure projects, and PG&E will get through another year without paying the billions of dollars it owes fire victims.

Bankruptcy itself can be used positively as a tool to resolve these claims now, or it can be misused as a legal forum for delay and an abdication of responsibility. Therefore, it is crucial that we have the State's support to ensure that we protect the ratepayers and that wildfire victims are treated fairly and receive just compensation for their losses.

It is likely that PG&E has already approached members of this legislature for additional legislative, regulatory, or administrative bailout options, just like they did in 2001. However, in 2001 enormous costs were passed along to customers but there was no real increase in public safety. At that time, PG&E asked many counties to waive property tax penalties and interest in exchange for their approaching Bankruptcy Court with a motion to allow them to pay their taxes. For Counties that teeter taxes, this causes yet another burden on already stressed assets.

PG&E's Bankruptcy affects counties across the state in the following ways: property taxes, utility taxes, franchise fees, and unitary taxes. Many counties have an allocation of Rule 20A funds that can be used for undergrounding lines. Since this is a reimbursement program, the local agency pays the undergrounding cost and then must wait for payment from PG&E. Obviously, undergrounding of lines improves wildfire safety and should be supported. Yet all reimbursements have ceased.

Another loss to Counties is through PG&E's grant program. They provided over \$28 million last year. Yet in spite of the fact that their charitable program is not subject to review as part of the reorganization, they have opted to put it on hold.

There are also the many infrastructure projects such as the orphaned Potter Valley Project in Mendocino which PG&E abandoned to FERC just before the Indicative Proposals were due, after entities spent substantial time and money. The uncertainty and expense of the licensing process through FERC is overwhelming and the future of the water source for Mendocino, Sonoma and Marin Counties uncertain.

Due to PG&E's fires, costs have gone up, revenues have gone down, resources have been diverted, and productive assets have been lost. Roads, bridges, water, soil, parks, trees, buildings, facilities, taxes, fees, personnel, and first responders—these are just some of the public resources affected by PG&E's fires.

PG&E's choice to file for Bankruptcy leaves our already ravaged communities wondering - how will we ever recover? To paraphrase Senator McQuire: PG&E executives or stock speculators should not profit while ratepayers, taxpayers and everyday Californians are forever impacted.