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PG&E announces \$1B wildfire deal with municipalities

By Malcolm Maclachlan
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Pacific Gas & Electric Co. announced a \$1 billion settlement with local governments for wildfire damages Wednesday, confirming a deal it disclosed in bankruptcy court the previous day.

The deal has left attorneys representing victims of those fires cautiously optimistic their own clients will see more than “pennies on the dollar,” in the words of attorney Amanda L. Riddle. But they also warn it is just a step in a much larger process.

“It’s a line item in their reorganization plan,” said Riddle, a partner with Corey, Luzaich, de Ghetaldi & Riddle LLP in Millbrae who represents about 2,500 wildfire plaintiffs.

Mike Danko, a partner with Danko Meredith in Redwood Shores who also represents wildfire victims, said, “In normal situations a settlement means ‘Dispute resolved, money’s going to change hands, we’re done,’” Danko said. “In bankruptcy, issues are settled. ... It doesn’t mean that’s how much money you’re going to get.”

Even in a normal bankruptcy case, these local governments would be at least 18 to 24 months away from seeing any actual money, he added. But PG&E’s bankruptcy case is far from a standard proceeding.

The ongoing involvement

of the Legislature in working to create a settlement fund for victims that could be worth tens of billions of dollars is a “wild card,” Danko said, as is Gov. Gavin Newsom’s stated desire to move the process forward as quickly as possible.

There are so many attorneys involved in the case that the Northern District Bankruptcy Court in San Francisco has set up an overflow room so they can watch the proceedings. This means many parties could object to aspects of the final reorganization, Riddle noted.

But she said the fact the local entities stand to receive a significant portion of the approximately \$2.5 billion they sought — a number Riddle said she drew from an earlier Securities & Exchange Commission filing from PG&E — is a positive sign.

PG&E filed the settlement amounts in an SEC filing Tuesday, confirmed by a PG&E spokesperson Wednesday. The money would settle local government claims for fires caused by the company’s equipment in 2015, 2017 and 2018, with much of the money going to areas devastated by the massive 2018 Camp Fire. *In re: PG&E Corp.*, 19- 30088 (N.D. Cal., filed Jan. 31, 2019).

Butte County would receive \$252 million. The town of Paradise, which was largely destroyed by the Camp Fire and

has seen its population drop from more than 26,000 people to around 3,000, would get \$270 million. The town’s Parks and Recreation District would receive another \$47.5 million. A group of nine counties will split \$415 million.

The money was agreed to after a series of negotiations overseen by JAMS mediator Jay C. Gandhi. According to a Wednesday news release from Baron & Budd PC, shareholders Scott Summy and John P. Fiske served as lead counsel for 14 public entities.

Riddle noted the amounts add up to “exactly \$1 billion,” adding, “Presumably Baron & Budd went back to their clients and managed to split it up and broker the deal.”

“I would be surprised if anyone objected to the amount of this settlement,” Robert K. Rasmussen, a professor of bankruptcy law at the USC Gould School of Law, said in an email. “Given the devastation to the towns and cities caused by the various fires, this does not strike me as a crazy number. Of course, the number for the businesses and individuals will be substantially higher.”

Both local governments and private parties are considered unsecured creditors, he added, meaning they are in the same position in terms of having their claims actually paid. This means they could all be affected if the value of the

company falls below the sum of the claims. Whether that happens could be determined by factors like the regulatory environment and PG&E’s future wildfire liability.

“If PG&E can recover some of the costs of the wildfires through greater increases in rates, the company will be worth more,” Rasmussen said. “With California’s inverse condemnation law, PG&E will likely be on the hook for future fires. If it cannot raise rates when these occur, again, it will be worth less.”

In the meantime, the company appears to be using what steps it can to control future costs. On Wednesday it announced the results of “accelerated and enhanced safety inspections and repairs conducted in high-fire threat areas over the past six months.”

Besides inspecting thousands of miles of transmission lines and tens of thousands of pieces of equipment, it announced it has “permanently de-energized the Caribou-Palermo transmission line, which the state fire department identified as an ignition point of the Camp Fire.” In recent months the utility has also announced it would bury many lines underground in fire-prone areas and be more vigilant about temporarily shutting off power when fire conditions become acute.

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