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PG&E Judge Won't OK COVID-19 Letter Co. Atty Called 'Silly'

By **Hannah Albarazi**

Law360, San Francisco (April 7, 2020, 9:49 PM EDT) -- A California judge overseeing Pacific Gas and Electric Co.'s bankruptcy declined Tuesday to approve a letter informing Northern California wildfire survivors that COVID-19 has hammered PG&E shares and reduced a $13.5 billion victims settlement fund, after a PG&E attorney slammed opposing counsel's "silly letter" as an effort to kill the deal.

U.S. Bankruptcy Judge Dennis Montali wrote in his order that if the tort claimants committee, which represents wildfire victims' interests, chooses to proceed with sending out its letter — noting that the parties are now free to try to persuade voters — "it does so without this court's approval or disapproval."

During a telephonic hearing Tuesday, PG&E counsel Stephen Karotkin of Weil Gotshal & Manges LLP let the punches fly, calling counsel for the wildfire victims, Robert A. Julian of BakerHostetler, "a big boy" who doesn't need the court's approval to send a "silly letter" to the wildfire survivors.

PG&E said that the tort claimants committee sought court approval for the letter because they are "afraid of the consequences" of sending such a "misleading letter" to tens of thousands of wildfire victims.

"The problem is the letter is wrong, the letter is misleading," Karotkin told the judge. "It is clearly designed to hold up votes or get them to vote no."

But Julian said the TCC wanted to make sure that wildfire victims are aware of the issues that could impact the value of the stock and the eventual amount of money available to them.

"Our job is to find out the truth and tell the victims," Julian said.

In an order following the hearing, Judge Montali denied the TCC's motion, saying that "what the TCC seeks is not appropriate."

Judge Montali said the court has already approved the debtor's disclosure statement and that authorizing the letter now would cause confusion among voters.

"A massive undertaking for sending voluminous materials and soliciting votes on the plan is well-underway. Hundreds, if not thousands, of members of the class have already voted. The TCC apparently does not want to upset those votes, but it is beyond doubt that confusion will reign if the court permits the proposed letter to go out, leaving countless fire victims confused even more than they might be now," Judge Montali wrote in his order.

PG&E **filed for Chapter 11 protection in January 2019**, buckling under an estimated $30 billion in potential liabilities tied to its supposed role in causing wildfires that killed 130 people and destroyed billions of dollars in property in 2017 and 2018. In December 2019, it struck a $13.5 billion deal with the TCC.

But the falling price of PG&E's stock — which is part of the wildfire victims' settlement — has presented new challenges and uncertainties for the utility, which is seeking to exit bankruptcy by

June 30.

If PG&E's plan to exit bankruptcy is not confirmed by the June 30 deadline, the utility is unlikely **to qualify for a $21 billion state wildfire insurance plan** created by a California statute.

Wildfire survivors have until May 15 to vote on whether to confirm PG&E's reorganization plan and some wildfire survivors have already cast their votes.

The TCC **filed a draft letter to wildfire survivors on Monday**, but by Tuesday they had decided to water down the language, telling the judge that they no longer intended to tell the victims to hold off from voting.

The proposed letter, which outlines why the TCC doesn't support the reorganization plan and describes a potential devaluation of the deal, could convince wildfire victims to vote against PG&E's plan.

The draft letter states that the settlement agreement provided for $13.5 billion for wildfire victims, funded with $6.75 billion in cash and PG&E stock valued at $6.75 billion. But, it goes on to say that PG&E and the shareholder plan proponents have since amended "PG&E's entire debt and equity structure underlying the plan" without seeking consent.

"Furthermore, the coronavirus worldwide tragedy is devaluing the fire victim claimants' share of PG&E's equity at an amount lower than the $6.75 billion value," the TCC writes.

The TCC says PG&E has declined to guarantee that the stock issued to the fire victims' trust is funded with $6.75 billion in cash and PG&E stock valued at $6.75 billion.

But PG&E said in a statement this week that the settlement agreement "explicitly provides that cash and stock would be funded to a fire victim trust under PG&E's plan for reorganization, and the stock would be valued at an agreed-upon formula. That settlement agreement, including the formula, was approved by the bankruptcy court and was incorporated into PG&E's plan. That plan is now out for vote."

PG&E says "the risk of the stock price fluctuating was well understood by all parties and was clearly and overtly included in the TCC's own statements to the fire victims. The current share price — notwithstanding the market disruptions associated with COVID-19 — is higher today than the average share price for the two months preceding the TCC's agreement to the [restructuring support agreement]."

Karotkin said PG&E never guaranteed the stock price, called the proposed letter "inappropriate" and told the judge that the TCC is "trying to renegotiate a deal that was signed and approved by Your Honor."

Even some attorneys who represent wildfire victims support the deal and are actively advocating for approving PG&E's reorganization plan.

Gerald Singleton of the Singleton Law Firm, who represents thousands of wildfire survivors, told the court Tuesday that while the plan has risks, it's the best option available. He said he doesn't want his clients to receive a letter from the TCC with factual inaccuracies that is blessed by the bankruptcy court.

Judge Montali also approved a resolution contingency process plan filed by PG&E, in the event that the June 30 deadline isn't met, saying he hoped it would never see the light of day.

PG&E described that approval as a "key milestone" that keeps it on track to emerge from Chapter 11.

PG&E is represented by Stephen Karotkin, Ray C. Schrock, Jessica Liou and Matthew Goren of Weil Gotshal & Manges LLP, Tobias S. Keller and Jane Kim of Keller & Benvenutti LLP and Paul H. Zumbro and Kevin J. Orsini of Cravath Swaine & Moore LLP.

The bondholders are represented by Michael S. Stamer, Ira S. Dizengoff, David H. Botter, Abid

Qureshi and Ashley Vinson Crawford of Akin Gump Strauss Hauer & Feld LLP.

The tort claimants are represented by Robert A. Julian, Cecily A. Dumas, Eric E. Sagerman and Lauren T. Attard of BakerHostetler.

The case is In re: PG&E Corp., case number 3:19-bk-30088, in the U.S. Bankruptcy Court for the Northern District of California.

--Editing by Bruce Goldman.
