

# PG&E's Bankruptcy – Why Governmental Agencies and Counterparties Need to Pay Attention

After a series of tragic events, regulatory and financial difficulties, PG&E announced, on January 14, 2019, that it intends to file a Chapter 11 bankruptcy proceeding in the Northern District of California by the end of January. PG&E has estimated potential wildfire liabilities exceeding US\$30 billion and reports that it has only US\$1.4 billion in wildfire insurance.

PG&E disclosed in an 8-K that it is engaged in discussions with potential lenders to provide debtor-in-possession (DIP) financing of approximately US\$5 billion. The proposed DIP financing is expected to provide PG&E with sufficient liquidity to fund its ongoing operations.

PG&E will continue to face serious regulatory challenges in bankruptcy. There are significant California Public Utility Commission (CPUC) imposed fines and federal felony convictions against PG&E. It will also continue to face massive potential liability arising out of the wildfires, linked to PG&E's facilities and infrastructure. As PG&E's regulator, CPUC is expected to continue its evaluation of PG&E's corporate governance, structure and operation. The CPUC has disclosed it is focused on PG&E's recurring safety problems and PG&E's ability to make the systemic changes necessary to provide for the safe delivery of natural gas and electric service to customers for the long term. There remains significant concern about the resolution of potential liabilities resulting from the 2017 and 2018 Northern California wildfires. The CPUC will be an active voice in the bankruptcy process focusing on ensuring adequate resources are committed to providing safe service to customers. CPUC's rate setting authority will also continue.

Counterparties to contracts with PG&E, both government and commercial, need to pay close attention to the bankruptcy proceeding as it unfolds. Many cities, counties, joint power authorities and special districts are likely to be impacted by the bankruptcy process. Private parties and governmental entities that have power purchase agreements with PG&E need to pay particularly close attention, as default or rejection of the power purchase agreements will interrupt the flow of funds necessary to pay obligations secured by the cash flow generated from the power purchase agreements. Bondholders, insurers and other creditors should pay attention to the effects of this potential disruption to cash flow.

Other California entities may be adversely impacted by PG&E's bankruptcy. Community choice aggregators, ratepayers and others are likely to see PG&E attempt to transfer wildfire liabilities to other third parties, including these entities. These entities will also be impacted by changes in rates approved by the CPUC.

In short, any governmental entity that has contracts with PG&E needs to start planning now for what appears to be a certain Chapter 11 file and to pay close attention to the bankruptcy process and the regulatory activities of the CPUC. In addition to the bankruptcy proceeding, PG&E is expected to make initial filings in the CPUC restructuring investigation by January 16. Opening comments from stakeholders are to be filed by January 30.

Private, regulated utility bankruptcies are complex and require private utility restructuring experience, as well as public utility commission, regulatory and municipal experience. Stakeholders and counterparties will find it beneficial to have access to experienced legal counsel early in the process, particularly counterparties to power purchase agreements. Our firm has such experience and a fully integrated team ready to assist. Please contact Karol Denniston if you have questions or if we can be of assistance.

## Contact

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