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Courtroom 22 Coverage of the PG&E Bankruptcy

Judge Conditionally Approves PG&E Executive Bonuses

While clearly perturbed that Pacific Gas & Electric failed to make a full and complete showing to support its motion for a $17.5 million executive retention plan, US bankruptcy judge Dennis Montali on June 18 gave tentative approval to the package of incentives. He told PG&E's attorneys they must supplement their motion with more information about the utility's 23 executives that will be getting bonuses and how much each will receive. He also pressed PG&E to document its stipulation that the money would come from existing shareholder funds, not through any increase in rates.

The June 18 hearing aired objections by the Office of the US Trustee and the city of San Francisco, which both argued against the executive plan. Montali, however, said he was not inclined to second-guess the plan because it had been approved by the board of PG&E Corporation prior to the bankruptcy filing date and carried a strong endorsement from the official creditors' committee.

Three other programs promising $8 million in severance pay for laid-off power operators and other managers, plus some other prepetition incentives, were approved as noncontroversial. In all, PG&E's request for incentives was $25.5 million.

Margaret McGee, the attorney for the US trustee, challenged the executive bonuses as unnecessary because the utility did not demonstrate that its top staff were in fact threatening to leave the company. She also claimed that the plan was being promoted and supported by the same people who will benefit the most from it.

The judge, however, did not buy the latter argument because the administrator of the plan will be PG&E Corp. chair and CEO Bob Glynn, Jr., who is not on the bonus list.

San Francisco's attorney Irving Sulmeyer told Montali, "It would be grossly inappropriate to accept this plan" because the bonuses are not tied to any real performance goals for the executives. He also appealed to the judge's sense of fairness for PG&E's customers. "At the same time they [PG&E] say they don't have money to pay for electricity, they are paying bonuses to their executives."

Although Montali termed the bonuses "a dramatic adjustment" for the top-tier employees, he did not find it unreasonable compared to other bankruptcy cases. "If there is a typical Chapter 11, this isn't it," he quipped.

PG&E attorney Jim Lopes defended the plan as necessary to keep the utility on a steady course. He said the bankruptcy was triggered "not by reason of poor management but by a dysfunctional market" and an adverse political climate.

The top 23 executives, including CEO Gordon Smith, may see their base salaries doubled under the plan, conditioned upon the filing and execution of a successful plan of reorganization. Lopes also said that because of the company's poor financial situation, the current incentive programs involving stock options were "under water." The top six executives had received just 36 percent of their expected compensation last year, he said, while the next tier of 17 senior managers saw only 46 percent of expected compensation.

"These are people with very transferable skills, but also they have a unique knowledge of the utility system," Lopes said. "If this court makes the wrong decision and we do lose seasoned people, the costs could be very high."

While Lopes claimed that some key employees had already left for companies such as Enron, Reliant and Calpine, the judge pressed for more details.

In his tentative order, Montali told PG&E to supply more information.

Although Montali will give the trustee and the city an opportunity to comment on the filing, he told them they face a significant hurdle to changing his mind.

"I cannot ignore the fact that the creditors endorsed this motion wholeheartedly," he held. "It's hard for me to imagine why I would not approve it."

Most of the rest of this week's calendar items were withdrawn or postponed **[Arthur O'Donnell].**

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