

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: April 10, 2013

To: The Commission
(Meeting of April 18, 2013)

From: Lynn Sadler, Director
Office of Governmental Affairs (OGA) – Sacramento

Subject: **AB 869 (Medina) – Utilities: Emergency Response.**
As introduced: February 22, 2013

RECOMMENDED POSITION: SUPPORT IF AMENDED

SUMMARY OF BILL

Assembly Bill (AB) 869 would specifically:

- Amend the California Emergency Services Act Section 8610, titled Article 10 – Local Disaster Councils.
- Propose to add section 8610.7 related to Gas Emergency Response Plans and section 8610.9 related to Electric Corporations Emergency Response Plans.
- Require the California Public Utilities Commission (CPUC), along with gas and electric corporations that provide gas or electric service to more than 5,000 customers, to develop and publish plans—as an element of individual safety plans pursuant to Section 961 of the California Public Utilities (PU) Code—to respond to emergencies, including natural disasters, that have the potential to disrupt natural gas or electric service and cause damage, as provided in the bill.

CURRENT LAW

- Code of Federal Regulations (CFR), title 49, section 192.615 titled Emergency Plans, requires that each operator shall establish written procedures (Emergency Plans) to minimize the hazard resulting from a gas pipeline emergency. Title 49, CFR, section 192.615 also addresses procedures for safely restoring any service out-age; requires operators to write a procedure that describes the availability of personnel, equipment, tools, and materials, as needed at the scene of an emergency; requires an operator to train the appropriate operating personnel to assure that they are knowledgeable of the emergency procedures, verify that the training is effective, and review employee activities to determine whether the

procedures were effectively followed in each emergency; requires that the emergency plan must include a plan describing how the operator and officials can engage in mutual assistance to minimize hazards to life or property; requires pipeline operators to notify appropriate fire, police and other public officials of gas pipeline emergencies and coordinating with them on both planned responses and actual responses during an emergency.

- Title 49, CFR, Part 192, Subpart N, “Qualification of Pipeline Personnel” requires operators to have a rigorous written and documented operator qualification program for individuals performing covered tasks on a pipeline facility. This program includes requirements for assessing qualifications to allow individuals that are not qualified pursuant to this subpart to perform a covered task if directed and observed by an individual that is qualified.
- California Code of Regulations, title 19, section 2401. “Standardized Emergency Management System (SEMS)” requires that State Agencies must use SEMS. It further states that Local Government must use SEMS by 12/1/96 in order to be eligible for state funding of response-related personnel costs pursuant to activities identified in the California Code of Regulations, title 19, sections 2920, 2925, and 2930.
- Per the State of California Emergency Plan dated July 2009, interaction with the CPUC in an emergency is the responsibility of the Liaison Officer in the State Emergency Command Center (EOC), as well as specific operational notifications made by the Operations Section. The CPUC’s responsibilities are specifically listed in section 14.21 of the plan. Section 13.3 of the plan describes the Emergency Management Functions during EOC activation required of the CPUC. The CPUC is a source for discipline-specific and subject matter expertise that can be utilized during an emergency response at any level of SEMS.
- PU Code section 956, article 2, “Natural Gas Pipeline Safety Act of 2011”, requires the CPUC to establish compatible emergency response standards that owners or operators of CPUC regulated gas pipeline facilities must follow in consultation with the California Emergency Management Agency, the State Fire Marshal, and members of California’s first responder community including, but not limited to, members of the California Fire Chiefs Association.

AUTHOR’S PURPOSE

The Author’s purpose is to specifically include existing Emergency Response Plans as an element of the safety plan pursuant to PUC section 961 for gas and electric system operators. This will increase transparency of the CPUC by improving public access to documents and ensure that emergency response is part of the overall approach to safety.

In addition, PU section 961 does not specifically state that the Emergency Plans shall be consistent with plans developed by the Office of Emergency Services and with plans developed by local disaster councils. This bill will result in additional coordination with Office of Emergency Services and local disaster councils, and will ensure more consistency in the emergency planning process.

DIVISION ANALYSIS (Safety & Enforcement Division)

The bill would require amending the scope of Rulemaking 11-02-019 Section 3.1, which deals with safety plans filed by utilities. The additional requirements of this bill would likely result in utilities re-filing their safety plans, which can be accomplished as part of the annual filing process.

In addition, CPUC staff does not currently work directly with established local disaster councils. Plans developed by the local disaster councils will also include mutual aid agreements. Staff will have to review and coordinate with these councils to ensure that the Emergency Response Plans developed by gas operators are consistent with the plans and agreements developed by each local disaster council.

There are 58 Counties and 478 incorporated Cities and Towns in California. All of these entities could establish local disaster council accreditation with the California Emergency Management Agency.

Once staff has reviewed all the local disaster council plans and the California Emergency Management Agency's plans, staff will have to develop jurisdiction-specific local criteria for each gas operators' Emergency Response Plan. Development of specific criteria will require coordination with gas operators and owners to ensure that published Emergency Plans do not include sensitive homeland security critical infrastructure data.

Existing PU Code sections 961 and 956 could be amended as a result of this legislation. This amendment would be an improvement over existing activities by clarifying that Emergency Response Plans need to be consistent not only with the Office of Emergency Services, but also with local disaster councils.

SAFETY IMPACT

The bill would enhance the safety of California citizens by ensuring coordination between state, local, and private entities (gas operators) through development of consistent Emergency Response Plans.

RELIABILITY IMPACT

The bill would enhance reliability of emergency response during a man-made or natural disaster by ensuring that state, local, and gas operators develop the same emergency

response program used by first responders as defined by the state-mandated SEMS program that is state mandated.

RATEPAYER IMPACT

Unknown at this time due to the fact that criteria needs to be developed for each plan to determine how much of a change this would require to existing Emergency Plans that have been developed per title 49 CFR sec. 192.615.

FISCAL IMPACT

To adequately develop Emergency Response Plan specific criteria and to review plans once they are completed to ensure they meet the intent of this bill the CPUC will require a Public Utilities Regulatory Analyst (PURA) I and limited-term effort from a Utilities Engineer.

There will also be some travel associated with this work, although the exact amount is unknown at this time and is dependent on the level of coordination with local disaster councils that would be required.

ECONOMIC IMPACT

This bill would have a positive economic effect on businesses and the regulated community, including local government by ensuring consistent emergency response during a man-made or natural disaster. The result of this coordination and consistency with first responders will reduce the amount of time to restore service after an emergency. Thus, local business can re-open sooner and the general public can return to work sooner. In addition, insurance claims may be reduced if damage from the disaster is minimized due to prompt and coordinated emergency response.

LEGAL IMPACT

Not applicable.

LEGISLATIVE HISTORY

Senate Bill (SB) 705 requires natural gas operators to file operator safety plans per CPUC's Rulemaking 11-02-019, which directed natural gas operators to file safety plans that address each element of PU Code sections 961 and 963. This legislation is relevant considering this bill states that the Emergency Response Plans shall be an element of these safety plans.

SB 44 amended the PU Code with section 950 that addresses emergency shut-down and pressure reduction procedures, emergency response communications procedures, and requires the CPUC to establish emergency response standards compatible with

first responders. This legislation is relevant to this bill because it ensures that Emergency Response Plans will be compatible with first responder emergency plans.

AB 56 amends the PU Code with sections 956.5, 957, 958, 958.5, 959, and 969. Relative sections of this bill include the following: 1) Owners and operators must meet once a calendar year with local fire departments that have fire suppression responsibilities where gas lines are located; 2) Require gas corporations to file twice a year a gas transmission and storage safety report. This legislation is relevant because it specifically describes the frequency of coordination with local first responders. It also requires another specific gas transmission and storage safety report to be submitted twice a year that may need to include elements from the Emergency Response Plans.

PROGRAM BACKGROUND

The CPUC is entrusted with safety jurisdiction for gas pipeline and electric systems within California. It is responsible for enforcing safety regulations, auditing the pipeline and electric system operators, inspecting all work affected by the statutes and making necessary additions and changes to regulations for promoting the safety of the general public and the utility employees. The CPUC works as an agent of the Federal Government to enforce gas safety in California.

In 1995, the CPUC adopted the sections of Title 49, CFR, pertinent to gas safety in CPUC General Order (GO) 112-E. Subsequent changes to the Federal Pipeline Safety Code, Title 49 CFR Parts 190, 191, 192, 193, and 199 are automatically updated in GO 112-E with the effective date being the date of the final order as published in the Federal Register.

The bill is consist with Title 49 CFR sec. 192.615, which requires that pipeline operators shall establish written procedures to minimize the hazards resulting from a gas pipeline emergency and that operators shall develop Emergency Plans.

OTHER STATES' INFORMATION

The U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) require all gas operators throughout the Nation to develop Emergency Plans that are reviewed and implemented by qualified State Regulatory Programs.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION

This bill should be supported for the following reason(s):

- (1) Increases transparency of the CPUC by improving public access to documents. CPUC Resolution L-436 adopts new regulations regarding public access to records of the CPUC and requests for confidential treatment of records.

- (2) Enhances PU section 961 to ensure gas corporations plans are consistent with Emergency Response Plans developed by the Office of Emergency Services and with plans developed by local disaster councils.
- (3) Ensure that the gas corporations will be required to use the SEMS program.

All three arguments supporting this bill impact the CPUC's mission by ensuring staff is serving the public interest by protecting consumers and ensuring the provision of safe, reliable utility service and infrastructure at reasonable rates as we regulate gas corporations.

SUMMARY OF SUGGESTED AMENDMENTS

This bill should be amended in the following way(s):

- (1) The Office of Emergency Services name has been changed to the California Emergency Management Agency. The bill should be corrected to reflect this change.
- (2) The provisions of this bill are more appropriately added to the California PU Code Section 961, Article 2. Natural Gas Pipeline Safety Act of 2011. The California Emergency Services Act section 8610, article 10 – Local Disaster Councils, is a section specifically describing the ability of Counties and Cities to create disaster councils by ordinance. Section 8610 is not intended to describe the regulatory enforcement capacity of the CPUC.
- (3) If the intent of this bill is to “publish” the entire plan to the public, language should be added to allow for certain sensitive information to be excluded or redacted.

STATUS

Scheduled to be heard before the Assembly Utilities & Commerce Committee on April 29, 2013.

SUPPORT/OPPOSITION

Support

California Labor Federation
California Professional Firefighters
Utility Workers Union America (UWUA) including its local unions 132, 483 and 522 representing employees at Southern California Gas

VOTES

None.

STAFF CONTACTS

Lynn Sadler, Director
Nick Zanjani, Legislative Liaison
Michael Minkus, Legislative Liaison

ls1@cpuc.ca.gov
nkz@cpuc.ca.gov
min@cpuc.ca.gov

developed by a local disaster council.

(2) The plan shall describe the capability of the gas corporation to utilize its own employees for emergency response and any procedures for utilizing personnel from other sources, including assessing qualifications to assure that only qualified personnel are utilized in emergency response.

SEC. 2. Section 8610.9 is added to the Government Code, to read:

8610.9. (a) The Public Utilities Commission and electric corporations providing electric service to more than 5,000 customers shall develop and publish plans to respond to emergencies, including natural disasters, including, but not limited to, earthquakes, fires, and floods, that have the potential to disrupt natural electric service and cause damage. The plan shall reflect the ongoing participation of electric corporation employees in plan development and implementation.

(b) The plan shall specifically address service restoration procedures as well as procedures to prevent or minimize damage from service disruption, leaks, fires, and explosions associated with the natural disaster.

(c) (1) The plan shall be consistent with emergency response plans developed by the Office of Emergency Services and with any plan developed by a local disaster council.

(2) The plan shall describe the capability of the electric corporation to utilize its own employees for emergency response and any procedures for utilizing personnel from other sources, including assessing qualifications to assure that only qualified personnel are utilized in emergency response.