

Date of Issuance
December 19, 2016

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Legal Division

San Francisco, California
Date: December 15, 2016
Resolution No. L-515

RESOLUTION

**RESOLUTION L-515, AUTHORIZING A MEMORANDUM OF
UNDERSTANDING WITH THE CALIFORNIA DEPARTMENT OF
CONSERVATION, DIVISION OF OIL, GAS, AND GEOTHERMAL
RESOURCES**

BACKGROUND

The purpose of this Resolution is to update an agreement with the California Department of Conservation, Division of Oil, Gas and Geothermal Resources (“Division”) to coordinate jurisdictional responsibilities over natural gas storage facilities located in California. The attached Memorandum of Understanding incorporates lessons learned from our agencies’ response to the natural gas leak at the Aliso Canyon natural gas storage facility. Because the existing agreement with the Division was approved by Commission Resolution SU-49 (Dec. 3, 1998), Commission approval is required to update the agreement.

The attached Memorandum of Understanding (“MOU”) supplants in its entirety the December 3, 1998 Memorandum of Agreement entered into by the Commission and the Division. The MOU requires the agencies to actively coordinate across all jurisdictional areas to ensure the safe operation of underground natural gas storage facilities. The MOU provides a framework for both agencies to better coordinate our efforts, and will aid the Commission in carrying out the following responsibilities:

- Public Utilities (P.U.) Code Sections 315, 451, 701, 702, 761, 768, 1001, 1002, and 1002.5, which, in part, grant the Commission authority to establish and enforce standards of construction, maintenance, and operation of utility lines, plant or systems;
- General Order No. 112-F, Rules 101 and 102, by which the CPUC adopts, by reference, Title 49 of the Code of Federal Regulations (49 CFR), Parts 190, 191, 192, 193, and 199, which, in large part, govern the design, construction, testing, operation, and maintenance of gas gathering, transmission, and distribution piping systems in California. These rules implement CPUC safety jurisdiction over public utility pipelines as defined in Public Utilities Code Section 227; and

- 49 U.S.C. Sections 60105, under which the United States Department of Transportation has certificated the CPUC to enforce the federal intrastate natural gas safety requirements and provided grant funding to carry out the federal mandates.

DISCUSSION

Each agency has jurisdiction defined by law over components of underground gas storage facilities located in California. The purpose of this MOU is to allow the Commission and the Division to coordinate activities at natural gas storage fields in an efficient and effective manner. The Commission should enter into the attached MOU with the Division, which, while not altering the statutory authority of either agency, provides a framework for each agency to inform the work of the other.

The Commission regularly enters into agreements with other state agencies to establish roles and expectations for exercising shared responsibilities. Usually, these cross-jurisdictional coordination efforts are effectuated at the staff level. In order to provide staff with the necessary flexibility that may be needed to accomplish the goals of the MOU as future circumstances change, the Commission should provide the Executive Director with authority to modify the MOU.

COMMENTS

On December 2, 2016, the Division submitted comments supportive of this resolution and included an executed copy of the MOU. The executed copy of the MOU is now included as Attachment A, replacing the unsigned version of the MOU that was previously attached.

THEREFORE, IT IS ORDERED THAT:

1. The Commission's Executive Director is authorized to sign, on behalf of the Commission, the Memorandum of Understanding included with this resolution as Attachment A.
2. If future amendments or revisions to the Memorandum of Understanding are required, the Executive Director is authorized to make changes to the MOU on behalf of the Commission.
3. This Resolution is effective today.

I certify that this Resolution was adopted by the California Public Utilities Commission at its regular meeting on December 15, 2016, and that the following Commissioners approved it:



FOR TIMOTHY
SULLIVAN

TIMOTHY SULLIVAN
Executive Director

MICHAEL PICKER
President
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
CARLA J. PETERMAN
LIANE M. RANDOLPH
Commissioners

ATTACHMENT A

Memorandum of Understanding between the California Public Utilities Commission and the California Department of Conservation Division of Oil, Gas, and Geothermal Resources

I. Purpose

This Memorandum of Understanding is entered into by the California Department of Conservation, Division of Oil, Gas, and Geothermal Resources (“Division”) and the California Public Utilities Commission (“CPUC”), (collectively, “Agencies”) by and through the signatories listed herein. This Memorandum of Understanding (“MOU”) supplants in its entirety the December 3, 1998 Memorandum of Agreement entered into by the CPUC and the Division.

The purpose of the MOU is to:

1. Describe generally the regulatory responsibilities under which each Agency oversees the safe operations of natural gas storage fields, including surface facilities, wells, and reservoirs that fall under the jurisdiction of both Agencies;
2. Describe intended leading and supporting roles for each Agency, where one Agency’s regulatory efforts and expertise will guide and inform the regulatory efforts and expertise of the other; and
3. Coordinate the Agencies’ interactions with federal agencies that have safety jurisdiction over natural gas storage facilities.

II. Roles and Responsibilities

1. Each Agency has jurisdiction defined by law over components of underground gas storage facilities located in California. This MOU provides a framework for the Agencies to coordinate activities at natural gas storage fields in an efficient and effective manner. Traditionally, the Agencies agreed that their responsibilities would be split at the wellhead, relying on DOGGR's expertise over wells and subsurface issues and the CPUC's general regulatory jurisdiction over utilities and its status as a U.S. Department of Transportation certified pipeline safety inspector. This MOU requires the Agencies to actively coordinate across all jurisdictional areas to ensure the safe operation of underground natural gas storage facilities. Such coordination will continue to require input from uniquely qualified personnel at each Agency to fully inform the work of both Agencies.
 - a. The Division has and retains all aspects of its existing authority and jurisdiction to regulate underground gas storage facilities, including but not limited to permitting and enforcement responsibilities over:

- i. Surface facilities serving underground gas storage facilities as described under Public Resources Code sections 3010, 3106, and 3270;
 - ii. Wells serving underground gas storage facilities under Public Resources Code sections 3106, 3220, and 3403.5; and
 - iii. Gas storage reservoirs, especially their isolation and safety, under Public Resource Code sections 3106, 3220, 3403.5.
- b. The CPUC has and retains all aspects of its existing authority and jurisdiction to ensure the safety of the underground gas storage facilities it regulates, including but not limited to permitting and enforcement responsibilities pursuant to:
 - i. Public Utilities (P.U.) Code Sections 315, 451, 701, 702, 761, 768, 1001, 1002, and 1002.5, which, in part, grant the Commission authority to establish and enforce standards of construction, maintenance, and operation of utility lines, plant or systems;
 - ii. General Order No. 112-F, Rules 101 and 102, by which the CPUC adopts, by reference, Title 49 of the Code of Federal Regulations (49 CFR), Parts 190, 191, 192, 193, and 199, which, in large part, govern the design, construction, testing, operation, and maintenance of gas gathering, transmission, and distribution piping systems in California. These rules implement CPUC safety jurisdiction over public utility pipelines as defined in Public Utilities Code Section 227; and
 - iii. 49 U.S.C. Sections 60105, under which the United States Department of Transportation has certificated the CPUC to enforce the federal intrastate natural gas safety requirements and provides grant funding to carry out the federal mandates.
2. The Division will identify and share information for gas storage facilities with the CPUC, which may include the following:
 - a. Information supplied by or on behalf of underground gas storage facility operators supporting applications for permits to construct, rework, and plug and abandon wells serving underground gas storage facilities;
 - b. Information supplied by or on behalf of underground gas storage facility operators supporting applications for approval of injection projects serving existing or new underground gas storage facilities;

- c. Underground gas storage facility operator reports of the locations of environmentally sensitive gas pipelines pursuant to AB 1420 (2015); and
 - d. Data and other information submitted by underground gas storage facility operators that is required by current and future Division regulations including, but not limited to, well testing data, risk management plans, and compliance plans.
- 3. The CPUC will identify testimony and working papers in formal pleadings before the CPUC that implicate gas storage and related infrastructure. The CPUC will provide the relevant documents to the Division for review and feedback. The formal pleadings may include:
 - a. The General Rate Cases of jurisdictional utilities that own and operate gas storage fields, particularly any filings or analyses related to operations at storage facilities;
 - b. Any proceeding implicating safety spending and infrastructure improvements at gas storage facilities, such as Southern California Gas Company's application to establish a Storage Integrity Management Program and the proceeding required by Public Utilities Code Section 714(a) to determine the feasibility of minimizing or eliminating use of the Aliso Canyon natural gas storage facility; and
 - c. Applications for or amendments to Certificates of Public Convenience and Necessity to construct, expand, or repair underground gas storage facilities.
- 4. After the Division and CPUC provide the above information described in paragraphs 2 and 3 of this section, the recipient Agency will respond in a timely manner, within 10 business days, to better inform the proceedings listed above.
- 5. The CPUC and the Division will coordinate when performing safety inspections at gas storage facilities and share the results of the inspections with each other on a regular basis.
- 6. In an event that the CPUC or the Division identify an immediate safety threat, the Agencies will notify each other as soon as practical, but no later than within one business day of the discovery of the safety threat.
- 7. The CPUC and the Division will coordinate on incident response, including providing technical support to each other as needed.
- 8. The CPUC and the Division may need to share confidential and privileged information in furtherance of this MOU; all privileged and confidential information may be shared as described in this MOU and as allowed by law, without waiver of any privilege.

9. For purposes of documents marked confidential or privileged and provided to the other Agency, those documents shall be maintained as confidential and shall not be released without an agreement in writing of the other Agency, unless a court of competent jurisdiction orders the release of those documents.
10. The Division and the CPUC will make all reasonable efforts to ensure that no disclosure of confidential or privileged information occurs. In the event an inadvertent disclosure of confidential or privileged information occurs, the party making such inadvertent disclosure will notify the other party to this MOU in writing and will make every reasonable effort to correct promptly the inadvertent disclosure.
11. If the CPUC or the Division receives a request to release, disclose or have access to any of the aforementioned privileged and/or confidential information (for example, by way of subpoena, discovery request, Freedom of Information Act or California Public Records Act request), the Agency receiving the request shall promptly transmit a copy of it to the Agency who originally generated the privileged and/or confidential document(s) or communications(s).

III. Coordinated Actions with Federal Agencies

1. On June 22, 2016, President Obama signed the Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016. The CPUC and the Division will work together to ensure their oversight of natural gas storage facilities is exercised in a manner consistent with the Act's mandates.
2. In the event that the Division pursues U.S. Department of Transportation certification of or agreement with the Division's program for oversight of wells, reservoirs and other components of underground gas storage facilities as provided in 49 U.S.C. Sections 60141(c), the CPUC will support and cooperate with the Division in the Division's pursuit of such certification to the extent the CPUC is allowed to do so by law.

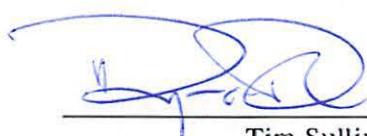
IV. Execution, Term, Modification, and Construction

1. This MOU may be executed in counterparts. Each executed counterpart shall have the same force and effect as an original instrument. Taken together, the executed counterparts shall constitute one and the same agreement.
2. This MOU shall become effective upon the date of final signature of the Agencies.
3. This MOU shall continue in full force and effect unless modified, replaced, or terminated by operation of law or upon mutual agreement of the Agencies.
4. Any determination that a provision in this MOU is invalid does not invalidate any other provision of this MOU or the MOU in its entirety.

V. Signed and Dated

Each Agency represents and warrants that it has the right, power, and authority to execute this MOU. Each Agency represents and warrants that it has given any and all notices, and obtained any and all consents, powers, and authorities necessary to permit that Agency, and the persons executing this MOU for the Agency, to enter into this MOU.

Dated: 12.19.16


FOR TIMOTHY SULLIVAN
Tim Sullivan
Executive Director
CALIFORNIA PUBLIC UTILITIES COMMISSION

Dated: 12/2/2016


Kenneth A. Harris Jr.
State Oil and Gas Supervisor
CALIFORNIA DEPARTMENT OF CONSERVATION
DIVISION OF OIL, GAS, AND GEOTHERMAL
RESOURCES