

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: March 21, 2011

To: The Commission
(Meeting of March 24, 2011)

From: Edward Randolph, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **SB 44 (Corbett) Public utilities: gas pipeline emergency response standards.**
As introduced: December 8, 2010

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: SUPPORT WITH TECHNICAL AMENDMENTS

SUMMARY OF BILL:

This bill would require the California Public Utilities Commission (CPUC) to begin a process to establish emergency response standards applicable to owners or operators of commission-regulated gas pipelines. The emergency response standards must contain additional or more stringent standards that are compatible with the minimum standards established by the Federal Government. Specifically, pipeline operators must establish plans that include, but are not limited to, the procedures that are addressed in existing Title 49, Code of Federal Regulations (CFR), Part 192.615. This bill requires the CPUC to begin a process to establish the emergency response standards on or before July 1, 2012, and report on the status of the process by January 1, 2013. The bill also requires that pipeline operators provide accurate pipeline maps to the State Fire Marshal and local fire officials. The bill requires the CPUC to submit a report to the Legislature of the status of establishing the compatible emergency response standards on or before January 1, 2013.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

The CPUC supports the requirement to establish emergency response standards applicable to pipeline operators that contain additional or more stringent standards than the requirements currently in Title 49 CFR, Part 192. Developing additional standards will allow the CPUC to conduct a review of the pipeline operators' existing emergency plans along with the California Office of Emergency Services (OES) and members of California's first responder community. This process will allow all relevant parties to

identify and delineate any necessary additional requirements or standards that may not be present in the existing federal minimum safety standards.

The requirement that pipeline operators provide pipeline mapping information to the State Fire Marshall and local fire officials is also reasonable as long as the bill is amended to either: (a) more clearly define both the level of detail that must be included on the maps and the intended use of the maps, or (b) provide the CPUC with the discretion to work with the pipeline operators and first responders to determine the level of detail that must be included on the maps and the intended use of the mapping information by fire officials.

SUMMARY OF SUGGESTED AMENDMENTS:

- 1) The bill requires that the CPUC begin a process to establish compatible emergency response standards for owners and operators of “CPUC-regulated gas pipeline facilities” including local transmission, distribution, master-metered mobile home park and propane operators. The CPUC oversees the safety of gas transmission, distribution and gathering pipeline systems. It also oversees pipeline distribution systems owned and operated by master-metered mobile home park and propane operators. In California, there is approximately 10,000 miles of transmission pipeline, 100,000 miles of distribution pipeline, four gas storage facilities, and 3200 master-metered mobile home park and propane operators. To accomplish this, the CPUC would need to conduct specific audits to evaluate the emergency response plans of all the pipeline operators it regulates, including each of the master-metered mobile home park systems. If the CPUC is to establish standards for all pipeline operators, the process to evaluate the emergency response plans and to report to the Legislature by January 1, 2013, would not be practicable.

Because transmission pipelines operate at higher pressures, they pose a greater threat to life and property. In addition, over 2,300 miles of the transmission pipeline in California is located in high consequence areas (HCA) - areas adjacent to significant population or are frequently used by the public. Approximately 1,400 miles (60%) of the HCA pipeline was installed prior to 1970 before the Federal Gas Safety Code was established.

To enable the CPUC to prioritize the work required by this bill, the CPUC recommends that the bill be amended to require the CPUC to establish compatible emergency response standards applicable to owners or operators of CPUC-regulated gas transmission pipelines safety by January 1, 2013, and then conduct a review of the need for more stringent standards for distribution systems and smaller operators at a later date.

Specifically, the CPUC recommends that the author change Section 769 (2)(e)(1) to state: “*The CPUC shall report to the Legislature on the status of establishing the compatible emergency response standards for CPUC-regulated transmission pipeline systems on or before January 1, 2013*”.

- 2) Section 769(d)(1) of the bill would require that emergency shutdown and pressure reduction be utilized whenever deemed necessary by first responders or owners or operators to minimize hazards to life and property. Currently, under Title 49 CFR Part 192.615(a)(7) pipeline operators are required to establish procedures that provide for the “emergency shutdown and pressure reduction in any section of the operator’s pipeline system necessary to minimize hazards to life or property.” Similarly, under Title 49 CFR Part 192.615 (a)(8), pipeline operators are responsible for “notifying appropriate fire, police, and other public officials of gas pipeline emergencies and coordinating with them both planned responses and actual responses during an emergency.”

The CPUC is concerned that the bill language in SB 44 could be interpreted to allow first responders to order a shutdown or reduced pressure on a gas pipeline system without regard to the impacts on the entire natural gas pipeline system or the other safety issues elsewhere on the pipeline. Gas pipeline systems transport gas by intricate means through a series of pipeline networks that provide gas to the end user. When the gas flow in a pipeline is interrupted or pressure is reduced, it will affect the flow of gas downstream. In some circumstances this will result in outages to thousands of customers and major public safety issues that will arise from these outages. Service interruptions that are not carefully controlled can result in ignition hazards. Because first responders are not familiar with the intricacies of the pipeline systems, pipeline operators must participate in any decision to interrupt the flow of gas.

The CPUC recommends that either Section 769(d)(1) be removed, or revised to state: *“emergency shutdown and pressure reduction shall be utilized whenever deemed necessary by pipeline operators individually or in response to requests from first responders to minimize hazards to life or property.”*

- 3) Section 769(d)(3) of the bill requires pipeline operators to provide accurate maps to the State Fire Marshall and local fire officials. The bill does not define the type of facilities on the maps and their intended use by fire officials. As noted above, gas pipeline systems contain a complicated series of pipeline networks. Maps of these pipeline systems cannot be readily deciphered by individuals who are not trained and knowledgeable in the intricacies of gas transmission and distribution. In addition, the bill does not define the intended use of the maps by fire officials. Federal and State rules governing pipeline safety require that only qualified and trained individuals shall operate and maintain pipeline facilities. The CPUC is concerned that these maps could be improperly used, which could result in serious detriment to the security of critical pipeline systems.

Amend Section 769 (d) to: (a) more clearly define both the level of detail that must be included on the maps and their intended use, or (b) provide the CPUC with the discretion work with the operators and first responders to determine the level of

detail that must be included on the maps and the intended use of the mapping information by fire officials.

- 4) As stated above, the CPUC oversees the safety of approximately 100,000 miles of gas distribution pipeline in California and regulates approximately 3,200 smaller natural gas and propane systems located in master-metered mobile home parks and other properties throughout the state. Most of the small gas and propane systems provide service to less than 100 customers. In order for the CPUC to develop compatible standards for all of these systems, it would need to meet with the first responders in the local communities where all of these smaller systems are located. This would require a lot of time and effort and resources that the CPUC does not have readily available.

The operators of the smaller gas systems must also comply with the gas safety standards addressed in Title 49, CFR, Parts 192 and 192, including Part 192.615, which requires each operator to establish written procedures to minimize hazards from a gas pipeline emergency. Specifically, these operators must notify local officials of gas pipeline emergencies and coordinate with these officials planned responses and actual responses during an emergency. Because there are already required procedures in place for emergency response that these operators must comply with, the CPUC does not believe it is necessary at this time to develop more stringent standard for these operators. In addition, most of these systems operate at very low pressures which do not pose the same kind of threat that transmission pipeline systems do.

The CPUC recommends that Section 769 (b) of the bill be revised to allow the CPUC some discretion as to which pipeline operators are required to follow the compatible emergency response standards established by the CPUC.

DIVISION ANALYSIS (Consumer Protection and Safety Division (CSPD)):

Title 49, Code of Federal Regulations (CFR), Sections 192.605 and 192.615 address the operation, maintenance and emergency procedures that CPUC-regulated pipeline operators are required to follow. Section 192.605 requires operators to prepare and follow a manual for operations, maintenance, and emergency response. Section 192.615 identifies requirements for emergency response plans. The CPUC regulated operators are required to have in effect programs and procedures to address these emergency response requirements.

This bill would require the CPUC to establish compatible emergency response standards in consultation with the California Office of Emergency Services (OES) and members of California's first responder community including, but not limited to, members of the California Fire Chiefs Association. To develop these standards, the CPUC would first need to conduct specific audits to evaluate the existing emergency response plans of all the pipeline operators in the state. The CPUC would then use the

results of its audits as the groundwork in consultations with OES and California's first responders to establish compatible emergency response standards.

This bill requires the CPUC to report to the Legislature on the status of establishing the compatible emergency response standards on or before January 1, 2013. If the bill is amended to provide the CPUC with the discretion to prioritize the development of the emergency response standards, we estimate that for transmission pipeline systems, it will need two additional Utilities Engineers to conduct the audits, consult with OES and emergency responders, and prepare and issue a report by January 1, 2013.

If the bill continues to require that emergency response plans be developed for all CPUC-regulated pipelines by January 1, 2013, up to eight additional Utilities Engineers will be necessary to develop plausible and compatible emergency response standards for all of the pipeline systems it regulates.

Reporting Requirement: The bill requires the CPUC to submit a report to the Legislature of the status of establishing the compatible emergency response standards on or before January 1, 2013.

PROGRAM BACKGROUND:

The CPUC the state agency with safety jurisdiction for gas pipeline systems in the state. It is responsible for enforcing safety regulations, auditing the pipeline 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 that work on the gas pipeline systems. 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 consistent with Title 49, CFR, Part 192.615, which requires that pipeline operators establish written procedures to minimize the hazards resulting from a gas pipeline emergency.

LEGISLATIVE HISTORY:

None.

FISCAL IMPACT:

We estimate that the CPUC would require two additional utilities engineers at a cost of \$216,711 annually and \$20,000 annually in travel and training costs.

STATUS:

SB 44 is scheduled to be heard in the Senate Energy, Utilities and Communications Committee on April 5, 2011.

SUPPORT/OPPOSITION:

Support: California Fire Chiefs Association (sponsor)
California Professional Firefighters
The Utility Reform Network

Opposition: None on file.

STAFF CONTACTS:

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BILL LANGUAGE:

BILL NUMBER: SB 44 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Corbett

DECEMBER 8, 2010

An act to add Section 769 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 44, as introduced, Corbett. Public utilities: gas pipeline emergency response standards.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities. The Public Utilities Act authorizes the commission to ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements, or services to be furnished, imposed, observed, and followed by specified public utilities, including gas corporations, as defined.

Existing federal law requires the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) to adopt minimum safety standards for pipeline transportation and for pipeline facilities, including an interstate gas pipeline facility and an intrastate gas pipeline facility, as defined. Existing federal law prohibits a state authority from adopting or continuing in force safety standards for interstate pipeline facilities or interstate pipeline transportation, but permits a state authority that has submitted a specified certification to adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with the minimum standards prescribed by PHMSA.

This bill would require the commission, by July 1, 2012, to commence a process to establish compatible emergency response standards, as defined, that owners or operators of commission-regulated gas pipeline facilities, as defined, would be required to follow. The standards would require owners or operators of commission-regulated gas pipeline facilities to implement emergency response plans, with specified requirements, that are compatible with PHMSA's regulations concerning emergency plans. The bill would require the commission to report to the Legislature on the status of establishing the compatible emergency response standards on or before January 1, 2013.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill are within the act and require action by the commission to implement its requirements, a violation of these provisions would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 769 is added to the Public Utilities Code, to read:

769. (a) For purposes of this section, the following terms have the following meanings:

(1) "Commission-regulated gas pipeline facility" means an intrastate gas pipeline facility as defined in Section 60101 of Title 49 of the United States Code, that is subject to the regulatory authority of the commission, including both of the following pipelines:

(A) A pipeline that is not subject to the jurisdiction of the Federal Energy Regulatory Commission pursuant to Section 717(b) of Title 15 of the United States Code because it is used for the local distribution of natural gas.

(B) A pipeline that the commission, pursuant to Section 717(c) of Title 15 of the United States Code, has certified to the Federal Energy Regulatory Commission as being subject to the regulatory jurisdiction of the commission over rates and service.

(2) "Compatible emergency response standards" means additional or more stringent safety standards concerning emergency response for commission-regulated gas pipeline facilities that are compatible with the minimum safety standards adopted by the United States Department of Transportation pursuant to Chapter 601 (commencing with Section 60101) of Subtitle VIII of Title 49 of the United States Code and that the commission is authorized to adopt pursuant to Section 60104 (c) of that chapter.

(b) On or before July 1, 2012, the commission shall commence a process to establish compatible emergency response standards that owners or operators of commission-regulated gas pipeline facilities shall be required to follow. The commission shall establish the standards to ensure that commission-regulated gas pipeline facilities have emergency response plans that adequately prepare them for any disaster or malfunction that could cause injury to human life or property, with the purpose of minimizing the occurrence of both.

(c) The commission shall establish the compatible emergency response standards in consultation with the Office of Emergency Services and members of California's first responder community including, but not limited to, members of the California Fire Chiefs Association.

(d) The compatible emergency response standards shall require owners or operators of commission-regulated gas pipeline facilities to implement emergency response plans that are compatible with the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration's regulations concerning emergency plans contained in Title 49 of Section 192.615 of the Code of Federal Regulations, and those plans shall include, but not be limited to,

all of the following requirements:

(1) Emergency shutdown and pressure reduction shall be utilized whenever deemed necessary by first responders or owners or operators to minimize hazards to life or property.

(2) Owners or operators of commission-regulated gas pipeline facilities shall establish and maintain liaison with appropriate fire, police, and other public officials to do all of the following:

(A) Learn the responsibility and resources of each government organization that may respond to a gas pipeline emergency.

(B) Acquaint the officials with the owner's or operator's ability in responding to a gas pipeline emergency.

(C) Identify the types of gas pipeline emergencies of which the owner or operator notifies the officials.

(D) Plan how the owner or operator and officials can engage in mutual assistance to minimize hazards to life or property.

(3) Owners and operators of commission-regulated gas pipeline facilities shall provide the State Fire Marshal and the chief fire official of the applicable city, county, or fire protection district with geographic information system maps of the pipeline system within the owner's or operator's control and shall ensure that those system maps are updated on a regular basis.

(e) (1) The commission shall report to the Legislature on the status of establishing the compatible emergency response standards on or before January 1, 2013.

(2) A report to be submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.