

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: May 23, 2011

To: The Commission
(Meeting of May 26, 2011)

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

Subject: **SB 705 (Leno) – Natural Gas: Service and Safety**
As amended: May 5, 2011

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: SUPPORT WITH AMENDMENTS

SUMMARY OF BILL:

This bill would require each gas corporation to develop and implement a service and safety plan (plan) for the safe and reliable operation of its gas plant. The plans must reflect and implement the policy of the state that the California Public Utilities Commission (CPUC) and each gas corporation are to place safety as the top priority. The bill would require the CPUC to approve the initial plans by December 31, 2012. Thereafter, gas utilities would be required to periodically review and update their plans, subject to CPUC approval.

SUMMARY OF SUGGESTED AMENDMENTS:

Legislative Digest – Distribution rates and safety policy

The Legislative Digest indicates that the cost of safety policy will be recovered exclusively through gas utility distribution rates. However, this would result in only those gas corporation customers who pay for distribution costs in their rates will pay for the safety policy and not all customers (e.g., transmission level customers).

Recommended revision to the Legislative Digest

Delete the term “distribution” from the following phrase: “... and require the commission to require that the distribution rate of a gas corporation include sufficient revenues and employee staffing to provide for prompt provision of service to the public consistent with this policy.”

Section 961 (c)(9) – Exceeding Minimum standards

The bill would require each gas corporation's service and safety plan to exceed the minimum standards for safe design, construction, installation, operation, and maintenance of gas transmission and distribution facilities prescribed by Title 49, Code of Federal Regulations (CFR) Part 192, but it is unclear if the bill anticipates the plans to exceed all of the minimum requirements, or just a subset of the standards. Without additional clarification, CPUC enforcement of the gas corporations' compliance with this subsection would be difficult.

Recommended revision:

Specify if it is the intent of the bill that the gas corporations exceed all of the minimum safety standards set forth in 49 CFR Part 192.

Section 961 (a)(2) – CPUC approval of plans

The bill would require the CPUC to review and accept, modify, or reject the initial plans by December 31, 2012. However, this deadline might not provide the CPUC with enough time to adequately review the plans of all the gas corporations under its jurisdiction. Under P.U. Code section 1701.5, the CPUC has 18 months to decide ratesetting proceedings.

Recommended amendment:

The CPUC is to approve the initial plans by June 30, 2013.

ANALYSIS (Energy and Consumer Protection and Safety Divisions):

The CPUC currently has jurisdiction, consistent with federal law, over gas utility safety and has adopted General Orders governing gas utility safety practices. Additionally, the CPUC recently opened Rulemaking (R.) 11-02-019 to consider the adoption of new safety regulations and safety related ratemaking policies.

The safety plans proposed by this SB 705 should promote safe gas utility operations. Requiring the CPUC to approve or revise the safety and service plans will provide enhance the level of oversight it needs to ensure that the gas corporations are operating and maintaining all of their gas facilities in a safe and reliable manner. Allowing gas utility employees to participate in the safety policy process will enhance its effectiveness and facilitate its integration into day-to-day operations and the safety culture of the gas corporations.

The bills provisions requiring gas corporations to spend all revenues authorized by the CPUC for service and safety in furtherance of the plans required under this bill are

consistent with CPUC action in PG&E's most gas transmission rate case and with proposal in the rulemaking the CPUC opened in February, 2011.

Requiring sufficient natural gas safety staffing levels at both the CPUC and the gas corporations, and requiring Commission to reflect its judgment of the level of sufficient staffing at the Commission will ensure that safety remains the highest priority of the gas corporations and the Commission.

LEGISLATIVE HISTORY:

None.

FISCAL IMPACT:

This bill would require the CPUC to hire four additional Utilities Engineers and one Administrative Law Judge II. The CPUC estimates that it will incur expenses of \$588,656 to pay for salaries and benefits of the engineers and the ALJ. An additional amount of approximately \$40,000 will also be needed annually to fund expenses for traveling and training.

STATUS:

SB 705 is awaiting consideration on the Senate Appropriations Committee suspense file.

SUPPORT/OPPOSITION:

Support: California Labor Federation
Coalition of California Utility Employees
International Brotherhood of Electrical Workers
San Diego Gas & Electric Company (if amended)
Sempra Energy (if amended)
Southern California Gas Company (if amended)
The Utility Reform Network (sponsor)
Utility Workers Union of America (sponsor)

Opposition: None on file.

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BILL LANGUAGE:

BILL NUMBER: SB 705 AMENDED
BILL TEXT

AMENDED IN SENATE MAY 5, 2011
AMENDED IN SENATE APRIL 13, 2011

INTRODUCED BY Senator Leno

FEBRUARY 18, 2011

~~An act to amend Sections 328 and 328.2 of, and to amend the heading of Chapter 2.2 (commencing with Section 328) of Part 1 of Division 1 of, and to add Sections 329 and 329.2 to, the Public Utilities Code, relating to natural gas. An act to add Chapter 4.5 (commencing with Section 950) to, and to repeal Chapter 2.2 (commencing with Section 328) of, Part 1 of Division 1 of the Public Utilities Code, relating to public utilities.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 705, as amended, Leno. Natural gas: service and safety.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including gas corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. 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.

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 law authorizes the United States Secretary of Transportation to prescribe or enforce safety standards and practices for an intrastate pipeline facility or intrastate pipeline transportation to the extent that the safety standards and practices are regulated by a state authority that annually submits to the secretary a certification for the facilities and transportation or, alternatively, authorizes the secretary to make an agreement with a state authority authorizing it to take necessary action to meet certain pipeline safety requirements. 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 designate the commission as the state authority

responsible for regulating and enforcing intrastate gas pipeline transportation and pipeline facilities pursuant to federal law, including the development, submission, and administration of a state pipeline safety program certification for natural gas pipelines. The bill would require each gas corporation to develop a service and safety plan, as specified, for the safe and reliable operation of its gas plants, as defined, and would require the commission to accept, modify, or reject the plan by December 31, 2012. The bill would require that the plan be periodically reviewed and updated.

—This

The bill would also reorganize and revise existing provisions relative to restructuring of the natural gas industry to declare that it is the policy of the state to place safety of the public and gas corporation employees as the top priority and require the commission to require that the distribution rate of a gas corporation include sufficient revenues and employee staffing to provide for prompt provision of service to the public consistent with this policy. ~~The bill would require each gas corporation to develop a service and safety plan, as specified, for the safe and reliable operation of its gas plant, as defined, and would require the commission to accept, modify, or reject the plan by December 31, 2012. The bill would require that the plan be periodically reviewed and updated. The bill would require that the commission ensure that each gas corporation have sufficient revenues to effectively implement the service and safety plan while preventing ratepayers from directly or indirectly subsidizing unreasonable or imprudent actions by gas corporations, as specified. The bill would require that all revenues received by a gas corporation that are authorized by the commission for implementation of the safety policy, or development and implementation of the service and safety plan, be expended only for the purposes authorized by the commission. The bill would require the commission to dedicate sufficient resources to effectively oversee the implementation of the service and safety plan approved by the commission.~~

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 would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill 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. Chapter 2.2 (commencing with Section 328) of Part 1 of Division 1 of the Public Utilities Code is repealed.

SEC. 2. Chapter 4.5 (commencing with Section 950) is added to Part 1 of Division 1 of the Public Utilities Code, to read:

CHAPTER 4.5. NATURAL GAS SERVICE AND SAFETY

Article 1. General

950. For purposes of this chapter, the following terms have the following meanings:

(a) "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 safety regulatory authority of the commission, including each of the following pipelines:

(1) An intrastate distribution line, which is 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.

(2) An intrastate transmission line, which is a transmission 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. For these purposes, a transmission pipeline means a pipeline other than a gathering line that: (A) transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not downstream from a distribution center, (B) operates at a hoop stress of 20 percent or more of specified maximum yield strength, or (C) transports gas within a storage field.

(3) An intrastate gathering line, which is a pipeline that transports gas from a current production facility to a transmission line or main.

(4) A mobilehome park master-metered natural gas distribution system that is subject to the commission's safety inspection and enforcement program pursuant to Chapter 4 (commencing with Section 4351) of Division 2.

(5) A propane distribution system that is subject to the commission's safety inspection and enforcement program pursuant to Chapter 4.1 (commencing with Section 4451) of Division 2.

Article 2. Natural Gas Pipeline Safety Act of 2011

955. (a) This article shall be known and may be cited as the Natural Gas Pipeline Safety Act of 2011.

(b) The commission is the state authority responsible for regulating and enforcing intrastate gas pipeline transportation and pipeline facilities pursuant to Chapter 601 (commencing with Section 60101) of Subtitle VIII of Title 49 of the United States Code, including the development, submission, and administration of a state pipeline safety program certification for natural gas pipelines pursuant to Section 60105 of that chapter.

(c) The State Fire Marshal shall exercise exclusive safety

regulatory and enforcement authority over intrastate hazardous liquid pipelines pursuant to the Elder California Pipeline Safety Act of 1981 (Chapter 5.5 (commencing with Section 51010) of Part 1 of Division 1 of Title 5 of the Government Code) and Section 13107.5 of the Health and Safety Code.

961. (a) (1) Each gas corporation shall develop a service and safety plan for the safe and reliable operation of its gas plants that implements the policy of subdivision (c) of Section 966.

(2) By December 31, 2012, the commission shall review and accept, modify, or reject the plan for each gas corporation as part of a proceeding that includes a hearing.

(3) Each gas corporation shall implement its approved plan.

(4) The commission shall require each gas corporation to periodically review and update the plan, and the commission shall review and accept, modify, or reject an updated plan at regular intervals thereafter. The commission shall, pursuant to Section 1701.1, determine whether a proceeding on a proposed update to a plan requires a hearing, consistent with subdivision (d).

(b) The service and safety plan developed and implemented pursuant to subdivision (a) shall be consistent with best practices in the gas industry and with federal pipeline safety statutes as set forth in Chapter 601 (commencing with Section 60101) of Subtitle VIII of Title 49 of the United States Code and the regulations adopted by the United States Department of Transportation pursuant to those statutes.

(c) The service and safety plan developed and implemented pursuant to subdivision (a) shall set forth how the gas corporation will implement the policy established in subdivision (c) of Section 966 and achieve each of the following:

(1) Identify and minimize hazards and systemic risks in order to prevent accidents, explosions, fires, and dangerous conditions, and protect the public and gas corporation employees.

(2) Identify the safety-related systems that will be deployed to eliminate or minimize hazards, including adequate documentation of gas plant history and capability.

(3) Provide adequate storage and transportation capacity to reliably and safely deliver gas to all customers consistent with rules authorized by the commission governing core and noncore reliability and curtailment, including provisions for expansion, replacement, preventive maintenance, and reactive maintenance and repair of gas plants.

(4) Provide for effective patrol and inspection of the gas plant to detect leaks and other compromised facility conditions and to effect timely repairs.

(5) Provide for appropriate and effective system controls, with respect to both equipment and personnel procedures, to limit the damage from accidents, explosions, fires, and dangerous conditions.

(6) Provide timely response to customer and employee reports of leaks and other hazardous conditions and emergency events, including disconnection, reconnection, and pilot-lighting procedures.

(7) Include appropriate protocols for determining maximum allowable operating pressures on relevant pipeline segments, including all necessary documentation affecting the calculation of maximum allowable operating pressures.

(8) Prepare for, prevent, or minimize damage from, and respond to, earthquakes and other major events.

(9) Exceed the minimum standards for safe design, construction,

installation, operation, and maintenance of gas transmission and distribution facilities prescribed by regulations issued by the United States Department of Transportation in Part 192 (commencing with Section 192.1) of Title 49 of the Code of Federal Regulations.

(10) Ensure an adequate number of properly trained gas corporation employees to carry out the plan.

(11) Any additional matter that the commission determines should be included in the plan.

(d) The commission and gas corporation shall provide opportunities for full and ongoing participation by gas corporation employees in the development and implementation of the service and safety plan, with the objective of developing an industry-wide culture of safety that will prevent accidents, explosions, fires, and dangerous conditions for the protection of the public and gas corporation employees.

Article 3. Natural Gas Service

965. For purposes of this article, the following terms have the following meanings:

(a) "After-meter services" includes, but is not limited to, leak investigation, inspecting customer piping and appliances, carbon monoxide investigation, pilot relighting, and high bill investigation.

(b) "Basic gas service" includes transmission, storage for reliability of service, and distribution of natural gas, purchasing natural gas on behalf of a customer, revenue cycle services, and after-meter services.

(c) "Metering services" includes, but is not limited to, gas meter installation, meter maintenance, meter testing, collecting and processing consumption data, and all related services associated with the meter.

(d) "Revenue cycle services" means metering services, billing the customer, collection, and related customer services.

966. The Legislature finds and declares all of the following:

(a) In order to ensure that all core customers of a gas corporation continue to receive safe basic gas service, each existing gas corporation shall continue to provide this essential service.

(b) A customer shall not be required to pay separate fees for utilizing services that protect public or customer safety.

(c) It is the policy of the state that the commission and each gas corporation place safety of the public and gas corporation employees as the top priority.

967. (a) The commission shall require each gas corporation to provide bundled basic gas service to all core customers in its service territory unless the customer chooses or contracts to have natural gas purchased and supplied by another entity.

(b) A public utility gas corporation shall continue to be the exclusive provider of revenue cycle services to all customers in its service territory, except that an entity purchasing and supplying natural gas under the commission's existing core aggregation program may perform billing and collection services for its customers under the same terms as currently authorized by the commission, and except that a supplier of natural gas to noncore customers may perform billing and collection for natural gas supply for its customers.

(c) The gas corporation shall continue to calculate its charges

for services provided by that corporation. If the commission establishes credits to be provided by the gas corporation to core aggregation or noncore customers who obtain billing or collection services from entities other than the gas corporation, the credit shall be equal to the billing and collection services costs actually avoided by the gas corporation.

(d) The commission shall require the distribution rate to continue to include after-meter services and shall authorize sufficient revenues and employee staffing to provide for prompt provision of these services to the public, consistent with the policy developed and implemented by the gas corporation and approved by the commission pursuant to Section 961.

~~SECTION 1.— The heading of Chapter 2.2 (commencing with Section 328) of Part 1 of Division 1 of the Public Utilities Code is amended to read:~~

~~CHAPTER 2.2. NATURAL GAS SAFETY AND SERVICE~~

~~SEC. 2.— Section 328 of the Public Utilities Code is amended to read:~~

~~328. The Legislature finds and declares all of the following:~~

~~(a) In order to ensure that all core customers of a gas corporation continue to receive safe basic gas service, each existing gas corporation shall continue to provide this essential service.~~

~~(b) A customer shall not be required to pay separate fees for utilizing services that protect public or customer safety.~~

~~(c) It is the policy of the state that the commission and each gas corporation place safety of the public and gas corporation employees as the top priority.~~

~~SEC. 3.— Section 328.2 of the Public Utilities Code is amended to read:~~

~~328.2. (a) The commission shall require each gas corporation to provide bundled basic gas service to all core customers in its service territory unless the customer chooses or contracts to have natural gas purchased and supplied by another entity.~~

~~(b) A public utility gas corporation shall continue to be the exclusive provider of revenue cycle services to all customers in its service territory, except that an entity purchasing and supplying natural gas under the commission's existing core aggregation program may perform billing and collection services for its customers under the same terms as currently authorized by the commission, and except that a supplier of natural gas to noncore customers may perform billing and collection for natural gas supply for its customers.~~

~~(c) The gas corporation shall continue to calculate its charges for services provided by that corporation. If the commission establishes credits to be provided by the gas corporation to core aggregation or noncore customers who obtain billing or collection services from entities other than the gas corporation, the credit shall be equal to the billing and collection services costs actually avoided by the gas corporation.~~

~~(d) The commission shall require the distribution rate to continue to include after meter services and shall authorize sufficient revenues and employee staffing to provide for prompt provision of these services to the public, consistent with the policy developed and implemented by the gas corporation and approved by the commission pursuant to subdivision (c) of Section 382.~~

~~SEC. 4.— Section 329 is added to the Public~~

~~Utilities Code, to read:~~

~~— 329. (a) (1) Each gas corporation shall develop a service and safety plan for the safe and reliable operation of its gas plant that implements the policy of paragraph (c) of Section 328.~~

~~— (2) By December 31, 2012, the commission shall review and accept, modify, or reject the plan for each gas corporation as part of a proceeding that includes a hearing.~~

~~— (3) Each gas corporation shall implement its approved plan.~~

~~— (4) The commission shall require each gas corporation to periodically review and update the plan, and the commission shall review and accept, modify, or reject an updated plan at regular intervals thereafter. The commission shall, pursuant to Section 1701.1, determine whether a proceeding on a proposed update to a plan requires a hearing, consistent with subdivision (d).~~

~~— (b) The service and safety plan developed and implemented pursuant to subdivision (a) shall be consistent with best practices in the gas industry and with federal pipeline safety statutes (Chapter 601 (commencing with Section 60101) of Subtitle VIII of Title 49 of the United States Code) and the regulations adopted by the United States Department of Transportation pursuant to those statutes.~~

~~— (c) The service and safety plan developed and implemented pursuant to subdivision (a) shall set forth how the gas corporation will implement the policy established in paragraph (c) of Section 328 and achieve each of the following:~~

~~— (1) Identify and minimize hazards and systemic risks in order to prevent accidents, explosions, fires, and dangerous conditions and protect the public and its employees.~~

~~— (2) Identify the safety related systems that will be deployed to eliminate or minimize hazards, including adequate documentation of gas plant history and capability.~~

~~— (3) Provide adequate storage and transportation capacity to reliably and safely deliver gas to all customers consistent with rules authorized by the commission governing core and noncore reliability and curtailment, including provisions for expansion, replacement, preventive maintenance, and reactive maintenance and repair of gas plant.~~

~~— (4) Provide for effective patrol and inspection of the gas plant to detect leaks and other compromised facility conditions and to effect timely repairs.~~

~~— (5) Provide for appropriate and effective system controls, with respect to both equipment and personnel procedures, to limit the damage from accidents, explosions, fires, and dangerous conditions.~~

~~— (6) Provide timely response to customer and employee reports of leaks and other hazardous conditions and emergency events, including disconnection, reconnection, and pilot lighting procedures.~~

~~— (7) Include appropriate protocols for determining maximum allowable operating pressures on relevant pipeline segments, including all necessary documentation affecting the calculation of maximum allowable operating pressures.~~

~~— (8) Prepare for, prevent, or minimize damage from, and respond to, earthquakes and other major events.~~

~~— (9) Exceed the minimum standards for safe design, construction, installation, operation, and maintenance of gas transmission and distribution facilities prescribed by regulations issued by the United States Department of Transportation in Part 192 of Title 49 of the Code of Federal Regulations.~~

~~— (10) Ensure an adequate number of properly trained gas corporation~~

~~employees to carry out the plan.~~

~~—(11) Any additional matter that the commission determines should be included in the plan.~~

~~—(d) The commission and gas corporation shall provide opportunities for full and ongoing participation by gas corporation employees in the development and implementation of the service and safety plan, with the objective of developing an industrywide culture of safety that will prevent accidents, explosions, fires, and dangerous conditions for the protection of the public and gas corporation employees.~~

~~—SEC. 5.— Section 329.2 is added to the Public Utilities Code, to read:~~

~~— 329.2. (a) The commission shall take all reasonable and appropriate actions necessary to carry out the policy of paragraph (c) of Section 328 consistent with the principle of just and reasonable cost based rates.~~

~~—(b) The commission shall ensure that each gas corporation has sufficient revenues to effectively implement the service and safety plan required by Section 329. In implementing this section, the commission shall prevent ratepayers from directly or indirectly subsidizing unreasonable or imprudent actions by gas corporations, including both of the following:~~

~~—(1) The commission shall not allow the recovery, directly or indirectly, of expenses from ratepayers that are incurred by the gas corporation for any of the following:~~

~~—(A) Data gathering or evaluation proximately caused by inadequate historical compliance with any applicable state or federal standards for recordkeeping or by the utility's failure to observe reasonable recordkeeping and data maintenance practices.~~

~~—(B) Inspection work, including retrofitting and smart pigging, proximately caused by unreasonable reliance on faulty records or inadequate data concerning pipeline characteristics.~~

~~—(C) Maintenance work proximately caused by deferred maintenance or other activities forecast and authorized in prior rate cases.~~

~~—(2) In any proceeding addressing the gas corporation's recovery of expenses or capital investments in pipeline reliability, including installation of new transmission pipeline valves or other pressure control systems and the replacement of transmission pipes, the commission shall ensure that:~~

~~—(A) The investment is supported by a cost versus benefit analysis that considers alternatives to promote safety of the pipeline system.~~

~~—(B) The adopted ratemaking fairly accounts for any prior failure by the gas corporation to carry out its obligation to safely construct, operate, and maintain its gas plant.~~

~~—(c) All revenues received by the gas corporation that are authorized by the commission for implementation of the safety policy, or for the development and implementation of the service and safety plan, shall be expended by the gas corporation only for the purposes authorized by the commission. The commission shall enact appropriate rules to ensure that moneys are appropriately spent on authorized activities or returned to ratepayers.~~

~~—(d) The commission shall dedicate sufficient resources to effectively oversee the implementation of the service and safety plan approved by the commission pursuant to Section 329, including reviewing documentation, and timely inspections, repairs, and responses to abate or address hazardous conditions. The commission's~~

~~budget shall reflect the commission's judgment about sufficient resources.~~

~~SEC. 6.~~ SEC. 3. 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.