

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: May 22, 2011

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

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

Subject: **SB 879 (Padilla) Natural gas pipelines: accounts.
As introduced: May 11, 2011**

**LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: SUPPORT WITH
AMENDMENTS**

SUMMARY OF BILL:

SB 879 directs the California Public Utilities Commission (CPUC), in any ratemaking proceeding in which the CPUC authorizes a gas corporation to recover expenses for the inspection, maintenance, or repair of natural gas transmission pipelines, to establish and maintain a “one-way balancing account” for the recovery of those expenses.

SUMMARY OF SUGGESTED AMENDMENTS:

1. Clarify what is intended by the term “one-way balancing account” and clarify what “expenses” the author intends to be tracked in the account. Does the bill intend to cover (1) capital expenditures, (2) operation and maintenance expenses, or (3) administrative and general expenses associated with inspection, maintenance, and repair of transmission pipelines?
2. If the intent of the proposed one-way balancing account is to: 1) require utility shareholders to pay for any operation and maintenance (O&M) expenses for pipeline inspection, maintenance, or repair that exceed the amounts authorized by the CPUC, and 2) for utilities to credit back to ratepayers any under-spending of such expenses, relative to CPUC-authorized amounts, the CPUC believes the bill should:
 - a) State this intent,
 - b) State that the one-way balancing account should compare actual O&M expenses in the above areas to CPUC-authorized expenses,

- c) State that the balance of the one-way balancing account should be amortized on an annual basis. If the author intends to also include capital costs associated with pipeline inspection, repair and maintenance, the Energy Division would recommend amortization of the balance every three years rather than every year.

ANALYSIS (Energy Division):

1. According to the author of SB 879, the intent of the bill is to ensure that gas corporations spend all of their revenue requirement designated for natural gas pipeline operation and maintenance and pipeline integrity management activities for those activities or the funds should be returned to ratepayers. This is consistent with the mechanism and intent of a “one-way balancing account” that was required in the most recent PG&E Gas Accord (D.11-04-031).
2. Utility balancing accounts are typically used to track some type of costs, expenses or revenues on a monthly basis that allows the utility to recover from ratepayers added expenses in the balancing account or refund to ratepayers unanticipated revenues. For example, gas utilities track the actual cost of procuring natural gas each month and compare that against the revenues they receive from customers for natural gas sales. The balance is tracked every month and is then recovered from or credited back to ratepayers in subsequent months. In the case of the one-way account anticipated by the author, any over collection would be refunded back to ratepayers, while any short fall would become a shareholder expense.
3. The term “one-way balancing account” does not have a singular definition at the CPUC or among the regulated gas corporations in California. Without a clear definition of what the author intends by a “one-way balancing account,” this bill could be hard to implement and could become the subject of legal battles as stakeholders try to apply their own definitions of a one-way balancing account. Since the CPUC has already implemented a cost tracking mechanism in the PG&E Gas Accord that is similar to goals of this bill, the CPUC should work with the author to amend the bill to incorporate a clear definition of one way balancing account consistent with the Gas Accord.

PROGRAM BACKGROUND:

None.

LEGISLATIVE HISTORY:

None.

STATUS:

SB 879 is currently pending on the Senate Floor.

SUPPORT/OPPOSITION:

None on file.

STAFF CONTACTS:

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BILL LANGUAGE:

BILL NUMBER: SB 879 AMENDED
BILL TEXT

AMENDED IN SENATE MAY 11, 2011

INTRODUCED BY Senator Padilla

FEBRUARY 18, 2011

~~An act to add Section 795.5 to the Public Utilities Code, relating to natural gas.— An act to add Chapter 4.5 (commencing with Section 950) to Part 1 of Division 1 of the Public Utilities Code, relating to public utilities.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 879, as amended, Padilla. Natural gas pipelines:
~~accounts.— safety.~~

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including gas corporations, as defined. The Public Utilities Act authorizes the commission to establish a system of accounts to be kept by public utilities and to prescribe the manner in which accounts are kept, the records and memorandum to be kept, as well as the receipts and expenditures of moneys, and any other forms, records, and memoranda that in the judgment of the commission may be necessary to carry out any of the provisions of the act. The act requires the commission to require a public utility to establish and maintain a reserve account reflecting any positive or negative balance whenever the commission authorizes any change in rates reflecting and passing specific changes in costs through to customers, and requires the commission to take any positive or negative balance remaining into account by appropriate adjustment or other action at the time of any subsequent rate adjustment.

This bill would require that in any ratemaking proceeding in which the commission authorizes a gas corporation to recover expenses for the inspection, maintenance, or repair of transmission pipelines, that the commission require the gas corporation to establish and maintain a one-way balancing account for the recovery of those expenses.

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.

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. 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. GAS PIPELINE 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.

962. In any ratemaking proceeding in which the commission authorizes a gas corporation to recover expenses for the inspection, maintenance, or repair of transmission pipelines, the commission shall require the gas corporation to establish and maintain a one-way balancing account for the recovery of those expenses.

~~SECTION 1. Section 795.5 is added to the Public Utilities Code, to read:~~

~~795.5. In any ratemaking proceeding in which the commission authorizes a gas corporation to recover expenses for the inspection, maintenance, or repair of transmission pipelines, the commission shall require the gas corporation to establish and maintain a one-way balancing account for the recovery of those expenses.~~

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.