

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: March 5, 2012

To: The Commission
(Meeting of March 8, 2012)

From: Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 1650 (Portantino) – Public Utilities: Emergency and Disaster Preparedness**
As introduced: February 13, 2012

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: SUPPORT IF AMENDED

SUMMARY OF BILL:

AB 1650 would require electric and gas corporations to develop emergency and disaster response plans. The bill further directs the CPUC to develop standards for these plans, including the use of weather reports to reposition manpower during disasters, and methods for electric and gas corporations to improve communication with local governments and the public. The bill would require electric and gas corporations to evaluate the emergency practices and experiences of similar electric and gas corporations as they develop their plans. The bill would also require electric and gas corporations to hold regular (biannual) public meetings with the cities and counties they serve to seek input as they develop and update their emergency plans.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

AB 1650 should be supported if amended for the following reason:

(1) In order to appropriately plan for emergencies, electric and gas corporations must seek input and have up-to-date planning information from the cities and counties they serve. Local governmental representatives criticized the lack of pre-emergency coordination and planning during the November 2011 Southern California windstorm event. Required biannual meetings between utilities and governments should improve emergency planning, without being excessively onerous or expensive.

SUMMARY OF SUGGESTED AMENDMENTS:

AB 1650 should be amended to remove the requirements for gas corporations. As explained in this analysis, these requirements are redundant for gas corporations.

DIVISION ANALYSIS (Consumer Protection and Safety Division):

Primarily, AB 1650 would require each electric and gas corporation to meet with representatives of every city and county it serves on a biannual basis for the purpose of developing an effective emergency and disaster response plan. This effort would provide increased assurance that the electric and gas corporations' emergency and disaster response plans consider and incorporate the input of local governments.

CPUC General Order 166, titled *Standards for Operation, Reliability, and Safety During Emergencies and Disasters* requires electric corporations to develop emergency plans. General Order 166 contains general requirements that the electric corporation communicate with local governments, but does not require regular public meetings with local authorities. General Order 166 also includes general requirements that the electric corporation plan for Personnel Redeployment (Standard 9) but does not require the review of weather data mentioned in the proposed bill.

Although various state and federal laws pertain to emergency planning, there does not appear to be specific regulations directing electric corporations to regularly seek input from the cities and counties they serve as they develop emergency response plans. For example, a quick search reveals that neither US Code of Regulations Title 42, Chapter 116 *Emergency Planning and Public Right to Know*, nor California Code of Regulations Section 3220 *Emergency Action Plans*, specifically refer to electric corporations meeting with local government representatives to develop emergency plans.

CPUC General Order (GO) 112-E, which adopted Title 49, Code of Federal Regulation (CFR), Part 192, contains standards that require gas corporations to have disaster and emergency preparation plans. Specifically, Title 49 CFR, Section 192.615 requires gas corporations to establish procedures to minimize the hazard resulting from a gas pipeline emergency that contains provisions for addressing emergency situations such as natural disasters. The gas corporation emergency plans must also contain procedures for communications and establishing liaison with appropriate officials within their service territories.

SB 44, which was approved on October 7, 2011, also requires the CPUC to establish compatible emergency response standards for gas corporations. The emergency response standards shall contain additional or more stringent standards that are compatible with the minimum standards established by the Federal Government.

For electric corporations the problem addressed by the bill does exist. Following the November 2011 Southern California windstorms, numerous public officials, including first responders, recommended that electric corporations consult with city and county representatives in order to plan for future emergencies. This bill would provide an opportunity to resolve the problem of the lack of pre-disaster coordination.

For gas corporations, there are already in place existing rules and regulations that address this issue. Gas corporations must already have emergency preparation plans.

In addition, SB 44 requires the CPUC to establish additional or more stringent standards for dealing with emergency situations. In light of this fact, this bill would create redundant rules that are already served by existing regulations and legislation.

It is possible that the problem involving electric corporations could be resolved through regulatory proceedings, but these proceedings can be lengthy, costly, controversial, and less likely to resolve the problem than clear, enforceable legislation. This bill is not necessary to address emergency preparedness for gas corporations. There are already regulations in place that gas corporations must adhere to.

More effective emergency response plans would help the CPUC's objectives of maintaining the safe and reliable delivery of electricity. As participants in the process, local governments would be able to represent their constituents' interests. This bill would have little impact on how the CPUC regulates gas corporations.

PROGRAM BACKGROUND:

CPUC General Order 166, *Standards for Operation, Reliability, and Safety During Emergencies and Disasters*, currently requires the electric corporations to develop emergency plans and submit them to the Commission for review. The General Order requires the electric corporations to update these plans annually, and submit the updated plans to the Commission. CPUC staff review the submitted plans.

Currently, CPUC General Order 166 requires the corporations to coordinate with local governments (Standard 1 D), and requires the corporations to conduct annual exercises and invite government representatives from the county where the exercise is held to attend (Standard 3 D). However, General Order 166 does not require the electric corporation to consult the local governments in the development of its emergency plans, and does not require the corporation to meet formally with every city and county it serves on a regular basis.

AB 1650 should not change the annual update and submission requirement, but it would impose an additional requirement for electric corporations to hold biannual meetings to seek input from local governments.

The bill would require the CPUC to establish standards for disaster and emergency preparedness plans, including but not limited to, the use of weather reports to pre-position manpower and equipment before anticipated severe weather, methods of communicating between governmental agencies and the public, and methods of working to control and mitigate an emergency or disaster. Additional work for CPUC staff includes developing specific enhanced standards to address the bill initially and monitoring and enforcing the new standards on an ongoing basis.

It will be necessary to conduct a proceeding to revise General Order 166 to incorporate requirements from the new bill.

The CPUC is entrusted with safety jurisdiction for gas pipeline systems in the state by legislative mandate. 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 Commission 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 Commission 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:

Related legislation includes Chapter 520, Statutes of 2011 (SB 44 Corbett): Emergency Response Standards.

FISCAL IMPACT:

Implementation of AB 1650 would result in an increase in staff duties. This bill would require revisions to the language of General Order 166 through a rulemaking proceeding and development of standards matching the bill's contents.

The new General Order would require staff to review electric corporation emergency plans, and periodically update standards for these emergency plans. Staff would review utility compliance with the new regulations. Staff would also likely be required to meet with electric corporations and public officials, and attend the public meetings required by the bill. Staff would also be required to participate in any enforcement actions.

Utilities Engineers would draft new General Order 166 language, and work on the rulemaking proceedings necessary to implement the changes. These engineers would also review emergency plans, revise standards when necessary, and participate in any enforcement actions or proceedings. Some of these efforts would require staff reports or testimony.

Implementation of the new regulations, including initial revision of the General Order, development of standards, and participation in rulemaking proceedings would require a minimum of one Utility Engineer person-year, and review of the emergency plans, participation in public meetings, further revisions to standards, and possible enforcement action would require one Utility Engineer person-year every year

thereafter. A proceeding to implement the bill's provisions would require one Administrative Law Judge II for two years.

Total fiscal impact would amount to \$255,773 for two years and \$110,963 each year thereafter.

STATUS:

AB 1650 is pending hearing in the Assembly Utilities and Commerce Committee.

SUPPORT/OPPOSITION:

None on file.

STAFF CONTACTS:

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BILL LANGUAGE:

BILL NUMBER: AB 1650 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Portantino

FEBRUARY 13, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1650, as introduced, Portantino. Public utilities: emergency and disaster preparedness.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations.

Existing law, the California Emergency Services Act, permits local governments to create disaster councils by ordinance, and to develop plans for meeting any condition constituting a local emergency or state of emergency, as specified.

This bill would require the Public Utilities Commission to establish standards for disaster and emergency preparedness plans, as specified. The bill would require an electrical corporation, as defined, and a gas corporation, as defined, to develop, adopt, and update an emergency and disaster preparedness plan, as specified. The bill would require an electrical corporation or gas corporation, in developing, adopting, and updating its emergency and disaster preparedness plan, to meet with, and consult, cities and counties within that corporation's service area, as specified.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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) The Public Utilities Commission shall establish standards for disaster and emergency preparedness plans, including, but not limited to, use of weather reports to preposition manpower and equipment before anticipated severe weather, methods of improving communications between government agencies and the public, and

methods of working to control and mitigate an emergency or disaster and its aftereffects.

(b) An electrical corporation or a gas corporation providing service in California shall develop, adopt, and update an emergency and disaster preparedness plan in compliance with the standards established by the Public Utilities Commission in subdivision (a).

(1) In developing and adopting an emergency and disaster preparedness plan, an electrical corporation or a gas corporation providing service in California shall meet with, and consult, appropriate representatives of every county and city within that corporation's service area in California.

(2) For the purposes of best preparing an electrical or gas corporation for future emergencies or disasters, an emergency and disaster preparedness plan shall address recent emergencies and disasters associated with the electrical or gas corporation or similarly situated corporations, and shall address remedial actions for possible emergencies or disasters that may involve that corporation's provision of service.

(3) Every two years, in order to update and improve that corporation's emergency and disaster preparedness plan, an electrical corporation or a gas corporation providing service in California shall meet with, and consult, appropriate representatives of every county and city within that corporation's service area.

(4) For the purposes of best preparing an electrical or gas corporation for future emergencies or disasters, a corporation updating its emergency and disaster preparedness plan shall review the disasters and emergencies that have affected similarly situated electrical or gas corporations since the adoption of the plan, remedial actions taken during those emergencies or disasters, and proposed changes to the plan. The corporation shall adopt in its plan the changes that will best ensure the corporation is reasonably prepared to deal with a disaster or emergency.

(c) A meeting pursuant to subdivision (b) shall be noticed and shall be conducted in a public meeting that allows for the participation of appropriate representatives of counties and cities within the electrical or gas corporation's service area.

(1) A county participating in a meeting pursuant to subdivision (b) shall inform each city within the county of the time and place of the meeting.

(2) An electrical or gas corporation holding a meeting pursuant to subdivision (b) shall provide participating counties and cities with the opportunity to provide written and verbal input into the corporation's emergency and disaster preparedness plan.

(3) A gas corporation or electrical corporation shall notify the Public Utilities Commission of the date, time, and location of a meeting pursuant subdivision (b).

(d) A gas corporation or electrical corporation shall conduct a meeting pursuant to subdivision (b) within three months of the of this section, and every two years thereafter.

(e) A gas corporation or electrical corporation shall memorialize a meeting pursuant to subdivision (b), and shall submit its records of the meeting to the Public Utilities Commission.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.