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BEFORE THE

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking	)	
on the Commission's Own Motion	)	
to Adopt New Safety and Reliability Regulations	)	R. 11-02-019
for Natural Gas Transmission and Distribution Pipelines	)	(Filed 2/24/2011)
and Related Ratemaking Mechanisms.	)	

PRELIMINARY COMMENTS OF THE UWUA on the DRAFT GAS SAFETY PLAN Of the SOUTHERN CALIFORNIA GAS COMPANY, Filed pursuant to SENATE BILL 705

Carl Wood
Regulatory Affairs Director
Utility Workers Union of America
10103 Live Oak Ave.
Cherry Valley CA 92223
Phone: (951) 567-1199
E-mail: carl.wood@verizon.net

William Julian II
43556 Almond Lane
Davis CA 95618
Phone: (530) 219-7638
E-mail: billjulian@sbcglobal.net

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SENATE BILL 705

On June 29, 2012 Southern California Gas Company (SCG) filed its Natural Gas System Operator Safety Plan (hereafter Draft Safety Plan), in compliance with D,12-04-010. The Utility Workers Union of America (UWUA) are filing these PRELIMINARY COMMENTS to address process issues that can facilitate successful launch of the SB 705 Safety Plan for customers and workers in southern California. (SCG) can be assisted in avoiding potential pitfalls and misunderstandings that could undercut a successful launch. UWUA may hereafter move pursuant to Rule 11.1 for workshops on the issues raised here.

UWUA brings three issues to the Commission's attention in these Preliminary Comments:

(1) The inexplicable failure to consult with or collaborate with the UWUA, the certified bargaining representative of over 4000 employees at SCG, in the development of the Draft Plan.

(2) Potential ambiguities and/or mis-characterizations of Draft Safety Plan elements in the Draft Plan, which may affect the substantive direction and value of the Draft Plan, exacerbated by the failure to consult.

(3) A recommendation that the Commission quickly convene workshops involving employees and unions, managers and staff from the CPSD and the Risk Assessment Unit (RAU) to get the Plan process back on track.

These Preliminary Comments are not a comprehensive assessment of the Draft Safety Plan.

It is apparent that SCG takes the Safety Plan process very seriously. Its draft submission is personally signed by every senior officer of the Company, an

unprecedented circumstance that UWUA commends. This makes the flawed initial process even more difficult to comprehend. The State of California at every level – Legislature, Governor and Commission -- has made it quite clear that it intends to transform the culture in the gas industry by making it more focused on safety at every level of gas operations. Gas workers – in their interactions with the physical facilities and their interactions with gas customers – are the people who actually make this happen. Failing to work with the elected union representatives legally responsible for bargaining over terms and conditions of employment including safety is a form of avoidance behavior neither prudent nor wise. The Commission can and should correct this behavior.

1. Failure to Consult

The Draft Safety Plans filed by gas utilities in this proceeding are driven by the provisions of Public Utilities Code sections 961 and 963, added by Chapter 522, Stats. 2011 (SB 705, Leno.) D.12-04-010, page 1. UWUA was the sponsor of this legislation,[1] and has worked with SCG, both through the formal collective bargaining process and informally, to make safety the highest priority in the gas industry. Pub. Util. Code section 963(b)(3). SCG and UWUA have a long history of bargaining formally over safety issues and procedures, pursuant to both established contractual undertakings and mutual statutory obligations to meet and confer.

SB 705 builds on these long-standing relationships and practices in its requirement in Pub. Util. Code 961(e) that

> The commission and gas corporation shall provide opportunities for meaningful, substantial, and ongoing participation by the gas corporation workforce in the development and implementation of the plan, with the objective of developing an industrywide culture of safety that will minimize accidents, explosions, fires, and dangerous

[1] Senate Floor Analysis, September 1, 2011. file:///Users/bill/Desktop/SB%20705/SB%20705%20Senate%20Bill%20-%20SConcurBill%20Analysis.webarchive

> conditions for the protection of the public and the gas corporation workforce.

The use of the term "workforce," defined in section 961(a) to include both employees and contractors, negates any inference that the opportunity to participate in the plan is limited to union-represented employees. But exclusion from plan development of the employees' elected, certified bargaining representatives, who are knowledgeable, experienced and forceful advocates of the employee point of view and of the public's interest, is wholly inconsistent with the statute's directive to develop an industry-wide culture of safety.

SCG describes extensive examples of direct communication and direct interaction with employees, using a survey instrument, focus groups, inter-net facilitated interactions, and other communications tools. In view of these extensive activities its failure to interact with the Union in Plan development appears deliberate, and potentially provocative rather than collaborative.

Ultimately, the Commission must review the Plan and "accept, modify or reject" it. Pub. Util. Code, section 961(b)(2). UWUA does not advocate rejecting the Plan at this time for this egregious failure, although the weight accorded to the initial utility Draft might be lessened. But the process must be made much more transparent to the Commission, the public, and the organized workforce who will be the primary agent for carrying out the Plan.

The statute's directive to provide opportunities for meaningful, substantial and ongoing participation runs both to the utility and to the Commission. SCG's failure in this regard – to consult and cooperate with the employee's certified bargaining representative -- must be rectified through Commission actions pursuant to its own separate responsibility and power.

2. Potential Ambiguities and/or Mis-characterizations

The Commission's exercise of its responsibility to provide meaningful opportunities for participation that includes employee bargaining representatives has significant practical import. As a result of the failure to consult, SCG and its senior officers have made representations to the Commission in the Draft Safety Plan which are ambiguous and may be misleading, particularly in the Operations section of the Executive Summary (pages 9 through 12). They call out for consistent interpretation and understanding among employees, managers and commission staff that should come about through ongoing consultation and cooperation, but – given SCG's inexplicably obdurate refusal – must be facilitated by the Commission.

UWUA will focus on only one instance, an important one which stands for several others. The Draft Safety Plan Executive Summary contains several statements about employees' "ability to halt or stop work if they observe unsafe conditions."[2] This is a significant step forward in putting safety first, if it represents a genuine SCG policy shift and not a subtle attempt to create an impression of employee empowerment which does not in fact exist. The UWUA notes that this representation to the Commission does not reflect a uniform or widely publicized procedure at SCG heretofore; going forward it should and will be much more widely practiced since it is so significant.

However, it raises several practical issues for employees and managers. What are managers instructed about the employee's ability to stop the job? If an employee and manager disagree about whether a condition is unsafe, can the

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[2] Executive Summary, page 9: "Beginning on their first day of work, employees are taught that they have a responsibility to report unsafe conditions and have the ability to halt or stop work if they observe unsafe conditions."

Executive Summary, page 10: [During training] [o]ur employees' ability to stop work if they observe unsafe conditions, and their obligation to report such conditions to management, is reemphasized.

employee be disciplined for insubordination if he/she stops the job? Does the employee assume the risk of adverse action if he/she is judged by a manager to have been wrong about whether a condition is unsafe? (Does managers' incentive compensation value productivity (contribution to earnings) higher than safety?) If an employee is unable to complete a job on time without deviating from procedure or otherwise creating an unsafe condition, should the employee proceed? What about employees of third party contractors? (The "workforce" issue.) Do they have the same ability to "stop the job" as SCG employees apparently now have? What are the workforce size issues that such a policy engenders – interposing safety considerations against speed-up?

These issues are of the sort that unions as employee representatives work on with managers in good faith all the time. It is inexplicable that SCG would fail to consult with the UWUA in putting together a Draft Safety Plan that includes this significant cultural element.

This element – individual employees' power to stop the job – is especially important because SCG wants to contrast its approach to safety based on individual responsibility with the UWUA's advocacy of a systems approach to safety[3] in this proceeding[4] and in the General Rate Case Proceeding.[5] Without "stop the job" employees are powerless to implement safe procedures, or pursue full procedure compliance in the face of managers who may appear to want job completion and productivity over other considerations. UWUA and SCG disagree about the philosophy and approach to safety; while that issue is pending before the Commission, SCG may push its approach in its Draft Safety Plan. But its approach has significant operational and employment implications that should be addressed

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[3] UWUA advocates a prevention approach that focuses on mapping hazards and eliminating them by improving the systems that underlie the hazard. See the documents cited below.

[4] COMMENTS OF THE UTILITY WORKERS UNION OF AMERICA (UWUA), filed April 14, 2011, pages 5-12;

[5] A.10-12-005/006, Exhibit 582; Testimony of UWUA Witness John Devlin.

cooperatively with the UWUA. Shutting the UWUA out of the Plan development process runs the risk of Plan failure if widespread misunderstanding of the "stop the job" power occurs among employees and managers.

Descriptions of employee training, "coaching" of employees by fellow employees, safety interactions both formal and informal contained in the Executive Summary all appear intended to create an impression of a collegial atmosphere of empowered employees and solicitous managers. UWUA members do not recognize this atmosphere as widespread at SCG, although as an aspiration to be made real in the future such an atmosphere might be desirable.

3. Recommendation for Workshops

The failure to consult with the UWUA appears to have been matched by a failure to consult with the Commission's Risk Assessment Unit (RAU), which has developed a preliminary compilation and ranking of hazards, immediate and longer range, that should be systematically addressed. There is little evidence in the actual Draft Safety Plan of any effort by SCG to go beyond the status quo of existing TIMP, DIMP and Operation and Maintenance Plans, with their extended time horizons (review of many systems at five year intervals).

The primary stakeholders in the safety dynamic – managers, workers, commission staff and public interest representatives -- should be encouraged to get together to carry out the primary command of the plan portion of SB 705:

> 961.
> …
> (d) The plan developed, approved, and implemented pursuant to subdivision (b) shall set forth how the gas corporation will implement the policy established in paragraph (3) of subdivision (b) of Section 963 and achieve each of the following:
> (1) Identify and minimize hazards and systemic risks in order to minimize accidents, explosions, fires, and dangerous conditions, and protect the public and the gas corporation workforce

Workshops would be the most useful procedure for facilitating the identification of hazards, including hazards in the customer service area where the public interacts with the facilities. It also will jump start interactions that should have been occurring right along, and begin to draw SCG out of its isolation.

Respectfully submitted,

/s/

Carl Wood
Regulatory Affairs Director
Utility Workers Union of America
10103 Live Oak Ave.
Cherry Valley CA 92223
Phone: (951) 567-1199
E-mail: carl.wood@verizon.net

/s/

William Julian II
43556 Almond Lane
Davis CA 95618
Phone: (530) 219-7638
E-mail: billjulian@sbcglobal.net