STATE OF CALIFORNIA   Public Utilities Commission
Fresno

M e m o r a n d u m

Date: May 8, 2012

To: The Commission
(Meeting of May 10, 2012)

From: Lynn Sadler, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 1456 (Hill) – Gas corporations: rate of return: safety performance standards.**
As amended: April 17, 2012

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: OPPOSE

SUMMARY OF BILL

AB 1456 would require the California Public Utilities Commission (CPUC) to develop safety performance standards for natural gas pipeline safety and reliability based on an analysis of benchmark data. The bill would have the CPUC evaluate gas utilities' safety performance based on those safety performance standards, and consider whether to implement a rate incentive program, which may contain penalties.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION

AB 1456 is unnecessary because the CPUC currently has sufficient power to perform benchmarking analyses, develop safety performance standards and compare the utilities' performance to any identified standards absent any legislative changes. Further, the Commission Staff does not support the concept of linking safety performance to rate incentives. The CPUC and its staff argue that safety is not optional, or discretionary. Safety performance is a basic obligation of service for a utility. One of the fundamental Public Utilities Code Section obligations gas corporations face is their obligation under Section 451 of the Code which provides that "every public utility shall furnish and maintain such adequate, efficient, just and reasonable service,… to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

Further support for the CPUC's existing authority to take the actions contemplated by the proposed legislation is found in Public Utilities Code Section 761 which provides that "if, after a hearing, the Commission finds that service is unsafe or unreasonable, that the Commission shall determine and fix the rules."

While benchmarking can be useful in comparing different aspects of pipeline operations over time among companies to identify potential areas for improvement, each operator is differently situated (with varying miles of urban and rural pipe, different geologic conditions, etc.) and faces different operating conditions. The pipeline infrastructure and the threats to which it is subjected vary significantly from operator to operator and from state to state. The variability includes operator size, competence, pipeline age, operating conditions, pipeline material, and environmental conditions. As such, benchmarking efforts are more effective as a tool for the identification of risks based on historical performance and for identifying opportunities for improvement, than they are for an evaluation of operator performance. The CPUC intends to conduct benchmarking analyses in this context.

The CPUC will make performance comparisons of past versus current performance and comparisons among the operators using its collective subjective judgment and system knowledge, rather than on simply quantitative measures, such as the number of leaks found in a given year or the number of miles of pipeline replaced.

Furthermore, the CPUC's experience has shown that the utilities have historically committed operations and maintenance resources toward maintaining a minimum level of compliance with regulations, while achieving all possible rate or revenue opportunities, rather than focusing on strengthening their safety programs. Where rate incentives have been instituted, the utilities have in several situations manipulated or withheld safety or performance data in order to avoid any potential negative revenue impacts.

SUMMARY OF SUGGESTED AMENDMENTS

None.

DIVISION ANALYSIS (Consumer Protection and Safety Division)

This bill would first require the CPUC to perform an analysis of benchmark data and identify areas for potential performance standard development. In order to adopt performance standards, the CPUC would need to open a Rulemaking to revise the energy utility Rate Case Plan. The rulemaking would need to revise the rate case plan to allow for an evaluation of key questions to define the expectations of safety performance, compare benchmarking and performance standard proposals, define performance metrics and the setting of performance standards and the process that the Commission would use to monitor, oversee and assess the safety performance.

PROGRAM BACKGROUND

None.

LEGISLATIVE HISTORY

The Legislature considered a similar provision in AB 56 which was introduced in the 2011-12 regular session. The provision was deleted from the bill that was signed into law.

FISCAL IMPACT

AB 1456 would require ongoing costs for 1 PURA IV and 1 Utilities Engineer, with one-time costs for .5 ALJ II, for a total cost of approximately $418,008 for one year and a cost of $266,727 each year after that.

STATUS:

AB 1456 is pending consideration in the Assembly Appropriations Committee.

SUPPORT/OPPOSITION

Support

None on file.

Opposition

Pacific Gas and Electric Company
San Diego Gas and Electric Company
Sempra Energy Utilities
Southern California Gas Company

STAFF CONTACTS

Lynn Sadler, Director-OGA	(916) 327-3277	ls1@cpuc.ca.gov
Nick Zanjani, Legislative Liaison-OGA	(916) 327-3277	nkz@cpuc.ca.gov

BILL LANGUAGE

BILL NUMBER: AB 1456 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY APRIL 17, 2012

INTRODUCED BY Assembly Member Hill

JANUARY 9, 2012

An act to add Section 960 to the Public Utilities Code, relating to gas corporations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1456, as amended, Hill. Gas corporations: rate of return: ~~safety.~~ *safety performance standards.*

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. Existing law, the Natural Gas Pipeline Safety Act of 2011, among other things, prohibits a gas corporation from recovering any fine or penalty in any rate approved by the commission.

This bill would require the commission ~~to consider the safety performance of a gas corporation in determining what constitutes a just and reasonable rate of return~~ *, to perform an analysis of benchmark data and adopt safety performance standards for pipeline safety and reliability and to evaluate a gas corporation's safety performance based on those standards. The bill would authorize the commission to implement a rate incentive program, as specified* .

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

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

SECTION 1. The Legislature finds and declares as follows:

(a) On September 9, 2010, a 30-inch natural gas transmission pipeline ruptured in San Bruno, California, killing eight people, hospitalizing more than 50 people, and destroying 38 homes.

(b) On September 23, 2010, the Public Utilities Commission created an independent review panel of experts to investigate both the practices of the pipeline operator and of the commission to ensure that such an accident would not be repeated elsewhere in the state.

(c) On June 9, 2011, the panel presented its findings and found that the financial focus of the pipeline operator's management had been detrimental to system safety.

(d) The panel suggested that *, upon thorough analysis of benchmark data,* rate incentives and penalties be applied to gas corporations based on the achievement of specified levels of performance.

SEC. 2. Section 960 is added to the Public Utilities Code, to read:

~~960. The commission shall consider the safety performance of a gas corporation in determining what constitutes a just and reasonable rate of return.~~

960. (a) The commission shall perform an analysis of benchmark data and adopt safety performance standards for pipeline safety and reliability.

(b) The commission shall evaluate a gas corporation's safety performance based on the safety performance standards adopted pursuant to subdivision (a) and may implement a rate incentive program. The rate incentive program may contain penalties based on its performance.