



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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Order Instituting Rulemaking to
Develop Safety Culture Assessments
for Electric and Natural Gas Utilities.

Rulemaking 21-10-001
(Filed October 17, 2022)

**SMALL BUSINESS UTILITY ADVOCATES' OPENING COMMENTS ON
ADMINISTRATIVE LAW JUDGE'S RULING SETTING SCHEDULE FOR
WORKSHOP COMMENTS AND PARTY PROPOSALS**

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December 22, 2025

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Pursuant to the November 24, 2025, *Administrative Law Judge's Ruling Setting Schedule for Workshop Comments and Party Proposals* (Ruling), Small Business Utility Advocates (SBUA) respectfully submits these opening comments. SBUA participated actively in Phase 1 of this proceeding and attended the November 18, 2025, workshop. SBUA's comments will focus on Small and Multi-Jurisdictional Utilities (SMJUs), rather than Gas Storage Operators, on account of SBUA's greater familiarity with SMJUs. SBUA questions the propriety of treating Gas Storage and SMJUs alike in this proceeding but SBUA looks forward to seeing the comments of both types of entities to better understand similarities and differences.

I. COMMENTS ON QUESTIONS

A. Value of Safety Culture Development and Assessment

SBUA believes that it is imperative that SMJUs engage in a process of continual safety culture development and improvement. Despite serving fewer customers each, SMJUs face virtually identical risks as large investor-owned utilities because they provide the same exact services using the same equipment and also operate in wildfire prone areas. As Dr. Ian Fleming stated in response to an SBUA question at the workshop, small companies rely on regulations more than large companies because they often lack the same level of expertise establish

appropriate safety culture rules and culture. SMJUs may also experience more fluctuations in management quality or culture because it may be dependent on a small number of leaders. SMJUs may face greater financial pressures that could exacerbate risk management problems, making safety culture development even more important. At the same time, SBUA concurs with Liberty's comment at the workshop that SMJUs have an important strength of greater cohesiveness and flatter management structure within the organization and closer relationships with customers that allow for improved communication and more rapid institutional change. Smaller organizations may also have increased person responsibility, reduced moral hazard and greater appreciation of their lower financial risk tolerance such that their entire business may be threatened by certain types of safety catastrophes. At the same time, closer personal relationship can pose management or compliance problems that would not as frequently occur in larger, more formalized companies. Overall, SBUA believes it is clear that a formal safety culture assessment and development process is valuable and necessary for SMJUs.

B. Unique Obstacles

The most important obstacles that SBUA recognized in the workshop are (a) lower level of funding and institutional support available to SMJUs to undertake safety culture development and assessment, (b) difficulty implementing assessments or formalized cultural development in very small employee groups and (c) challenges implementing safety culture improvement in entities that rely heavily on contract labor.

Several companies reported that they had only a handful of employees, which presents problems both for the ability to find time to carry out robust safety culture reporting but also creating intuitional protocols. It is not clear to SBUA the extent to which SMJUs necessarily would be disproportionately burdened by assessment and reporting processes or costs as they

may be able to do this more efficiently given their smaller size and flatter organizational structure. But SBUA recognizes that this is a relevant consideration.

C. Mitigation of Obstacles

SBUA recommends that the entities covered by Phase 2 answer a questionnaire regarding their existing internal safety culture evaluation and development activities, number of employees involved, risk and near-miss reporting practices and means of internal safety reporting so that the Commission may gain a more formal understanding of existing norms and dynamics.

SBUA recommends that cost and reporting burdens be reduced by engaging a single outside facilitator for all of the smallest Phase 2 entities—this perhaps may not be necessary for the larger SMJUs or entities above a certain employee size. This aggregate and outsourced approach may enable economies of scale, improved learning by increasing the amount of data available to all entities and perhaps added levels of anonymity.

SBUA particularly appreciates that the Phase 1 Decision specifically confirmed the necessity of identifying communication, engagement and collaboration with contractors in the safety culture principles and the inclusion of contractors in the safety culture definition.¹ SBUA believes that this is essential in this phase as well. Given the potential for even greater reliance or influence of contract labor for SMJUs, SBUA recommends that further investigation is necessary to understand the exact roles and significance of contractors in the operations of the SMJUs. SBUA anticipates that greater emphasis on integrating contractors into the safety culture will be necessary and looks forward to seeing the comments of the SMJUs on this topic.

¹ D.25-01-031 at 14, 19.

D. SBUA Proposal

SBUA does not present a unified proposal at this time. SBUA believes that the goals and guiding principles adopted in Phase 1² are equally applicable to the entities covered by Phase 2 and the need for a formal process for developing and evaluating safety culture maturity. As discussed above, SBUA recommends:

- 1) The Commission engage in formal surveying to understand the specific safety culture structures and assessment processes now occurring and consider ways of formalizing these processes in manageable and incremental ways.
- 2) The Commission explore engaging a single outside facilitator to develop the safety culture of the smallest entities.
- 3) The Commission investigate the degree of contractor reliance and request specific feedback from the SMJUs regarding manageable means of extending safety culture to and including the contractors in its development. The Phase I decision included contractors in the definition and principles over the objections of utilities and SBUA strongly recommends that contractors be included in the processes of SMJUs as well.
- 4) The Commission should establish formal reporting processes, which will be discussed in greater detail below.

As with the large investor-owned utilities covered by Phase 1, SBUA particularly emphasizes the centrality of transparency and clear communication of risks and problems, regardless of source or fault, by field staff to management and between the regulated entities and the Commission. Such engagement with the Commission may be even more important in

² See Id. at 11-14.

smaller intuitions were HR and other protections may be weaker. To this end, to foster communication between the utilities and the Commission, SBUA reiterates its recommendation to establish a specific voluntary reporting protocol modeled on existing federal programs.

The Federal Aviation Administration has a Voluntary Disclosure Reporting Program (VDRP),³ which was mentioned by experts in the Phase 1 workshops. Additionally, SBUA called the commission's attention to the U.S. Department of Labor's Voluntary Fiduciary Correction (VFC) Program. The VFC Program allows employers who previously violated the Employee Retirement Income Security Act of 1974 (ERISA), most commonly by failing to timely make required payments into employee retirement plans, "to correct a variety of ERISA fiduciary breaches and prohibited transactions and receive Departmental recognition of the correction."⁴ If an employer who is not already under investigation and does not have a history of criminal violations reports the violation and correctly deposits the employee funds within 180 days of the violation, the employer obtains a "no action" letter from the Department of Labor.

The reporting must include, among other details:

A list of all people materially involved in the breach and its correction; . . . An explanation of the breach; An explanation of how the breach was corrected, by whom and when; Calculations demonstrating how the principal amount and lost earnings or restoration of profits were computed; and An explanation of why payment of lost earnings or restoration of profits was chosen to correct the breach.⁵

The Safety Policy Division should identify relatively common violations which, in-of-themselves, present low levels of safety risk but can contribute to safety culture impairment or

³ <https://vdrp.faa.gov/>.

⁴ 87 Fed. Reg. 71164, 71171 (Nov. 21, 2022).

⁵ Employee Benefits Security Admin., U.S. Dept. of Labor, *Enforcement Manual, Voluntary Fiduciary Correction Program*, <https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/enforcement/oe-manual/voluntary-fiduciary-correction-program>.

future risks. Transparent tracking and remediation of these risks, in the context of potential communication with the Commission Staff, would be the best approach to enhancing safety. The Safety Policy Division should propose a program similar to the VDRP and VFC along with a list of violations that would be eligible for reporting within this framework.

II. CONCLUSION

SBUA appreciates the opportunity to provide these comments and looks forward to providing additional comments in response to SMJUs and Gas Storage Operators proposals.

Respectfully submitted, December 22, 2025,



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