

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: February 15, 2012

To: The Commission
(Meeting of February 16, 2012)

From: Office of Governmental Affairs (OGA) – Sacramento

Subject: **Proposed Legislation on Expedited Permitting
Pending Introduction**

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: SUPPORT AS SPONSOR

SUMMARY OF BILL:

This proposed bill would provide the state's gas utilities with the right to expedited permitting by counties and municipalities for pipeline inspection, remediation and replacement work undertaken pursuant to pipeline integrity management.

The Commission was urged to pursue legislation to expedite permitting for pipeline integrity management work as one of three legislative recommendations made in the Independent Review Panel's report on the San Bruno explosion.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

There is currently no bill language available addressing how best to expedite permitting for pipeline integrity management work. Negotiations are ongoing with all relevant stakeholders and political leaders in both houses of the Legislature to determine how best to proceed on this important issue.

By endorsing this proposed legislation, the Commission would be voicing its support for continuing to explore options for ensuring that pipeline integrity management work is completed expeditiously while maintaining respect for both California's environmental protection laws and the legitimate concerns of local governments. Any substantive legislation eventually introduced addressing the issue of expedited permitting for pipeline integrity management work would be returned to the Commission for a subsequent vote.

SUMMARY OF SUGGESTED AMENDMENTS:

None.

DIVISION ANALYSIS (Legal Division):

There currently are a number of statutory and categorical exemptions from CEQA review for pipeline inspection, remediation and replacement work. These exemptions mean that the State has already determined that these types of projects do not have a significant effect on the environment:

Pipeline projects are statutorily exempt from CEQA if they are "...less than one mile in length within a public street or highway or any other public right-of-way for the installation of a new pipeline or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal, or demolition of an existing pipeline. For purposes of this section, "pipeline" includes subsurface facilities but does not include any surface facility related to the operation of the underground facility. (Public Resources Code Section 21080.21).

Pipeline projects are statutorily exempt from CEQA if:

They involve "...the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of [Existing facilities of both investor and publicly-owned utilities used to provide ... natural gas...], involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.... The key consideration is whether the project involves negligible or no expansion of an existing use." (CEQA Guidelines Section 15301(b)); or

"[C]onsist of replacement or reconstruction of existing [utility systems and/or facilities involving negligible or no expansion of capacity] where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced..."(CEQA Guidelines Section 15302(c)).

These exemptions, coupled with the fact that local agencies are preempted from establishing safety regulations for pipelines, furthers the argument that there is no need for local agencies to exercise discretion when reviewing these types of projects. Thus, a conditional use permit should not be required by a local agency. The only permits that the local agencies should be issuing are those addressing the time, place and manner that the pipelines are accessed. For instance, encroachment permits that deal with traffic management, public notice or noise control measures. Local agencies should be able to grant these expeditiously.

PROGRAM BACKGROUND:

The CPUC is the state agency with safety jurisdiction for intrastate gas pipeline systems. 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. In addition to enforcing various state regulations, the CPUC works as an agent of the federal government to enforce gas safety requirements in California.

On September 9, 2010, a 30-inch diameter natural gas transmission pipeline owned and operated by Pacific Gas and Electric Company ruptured and caught fire in the city of San Bruno, California, causing the death of eight persons, injury of many others, as well as massive property damage. The explosion left a crater 72 feet long by 26 feet wide and propelled a 28 feet long section of the pipeline about 100 feet away from crater.

The San Bruno tragedy was a game-changer for the CPUC's gas safety program. The Commission has been working to improve pipeline safety in California since the evening of the blast and has already taken significant steps towards that end. One of those steps has been to actively pursue all recommendations specifically related to legislative proposals issued to the Commission in either the Independent Review Panel's report or the National Transportation Safety Board's report on the San Bruno explosion. One of the recommendations to the CPUC in the Independent Review Panel's report reads as follows: "Request the California General Assembly enact legislation that would provide the state's gas utilities with the right to expedited permitting by counties and municipalities for pipeline inspection, remediation and replacement work undertaken pursuant to pipeline integrity management."

LEGISLATIVE HISTORY:

None.

FISCAL IMPACT:

None.

STATUS:

This legislation has yet to be introduced.

SUPPORT/OPPOSITION:

None on file.

STAFF CONTACTS:

Nick Zanjani, Legislative Liaison – OGA (916) 327-3277

nkz@cpuc.ca.gov

BILL LANGUAGE:

None.