

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 for Natural Gas Transmission and Distribution Pipelines and Related Ratemaking Mechanisms.

Rulemaking 11-02-019
(Filed February 24, 2011)

COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON PROPOSED DECISION IN COMPLIANCE WITH PUBLIC UTILITIES CODE SECTIONS 961 AND 963, AND AMENDING GENERAL ORDER 112-E TO ADD WHISTLEBLOWER PROTECTIONS

I. INTRODUCTION

In accordance with Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), the Division of Ratepayer Advocates (DRA) hereby submits its comments on the Proposed Decision (PD) of Administrative Law Judge Bushey in compliance with Public Utilities Code sections 961 and 963, and amending General Order 112-E to add whistleblower protections, issued in the above-captioned proceeding on November 19, 2012.

DRA offers the following comments on the PD.

II. COMMENTS

The PD mentions the investor-owned utilities' comments "[i]n opposition to Commission whistleblower regulations...."¹ DRA notes that it and other parties filed

¹ Rulemaking (R.) 11-02-019, Proposed Decision in Compliance with Public Utilities Code Sections 961 and 963, and Amending General Order 112-E to Add Whistleblower Protections (PD), Nov. 19, 2012, p. 25.

comments in support of such regulations.² DRA reiterates its support for strengthening whistleblower protections as part of the Commission’s forward looking efforts in this rulemaking to “establish a new model of natural gas pipeline safety regulation.”³ DRA endorses the following point made in PD:

Notwithstanding CPSD’s thorough review, we emphasize that each operator is ultimately responsible for safe operations of a natural gas system. Maintaining public and workforce safety may require more or different actions than as described in section 961, Commission decisions or regulations, or CPSD review. Each operator is required to take such actions as may be necessary to maintain natural gas system safety at all times.⁴

Section 311 of the Public Utilities Code provides that Commission decisions must set forth “recommendations, findings, and conclusions.”⁵ Section 1705 requires that Commission decisions contain “separately stated, findings of fact and conclusions of law by the commission on all issues material to the order or decision.”⁶ The PD contains findings of fact and conclusions of law material to the decision that are stated in the body of the PD, but not “separately stated” in the PD’s Findings of Fact and Conclusions of Law.

The PD states:

As we observed in D.12-04-010, in a hierarchy of gas utility documents that communicate its safety program, the gas safety plan we ordered to be filed is at the top. This plan must convey the executive officer’s safety performance expectations, policy principles, and goals/objectives for the gas utility’s safety performance. The rationale for developing a gas safety plan is to motivate a gas utility to reflect upon existing methods and for it to change, optimize, or to enhance existing methods, using the elements

² See, e.g., R.11-02-019, Reply Comments of the Division of Ratepayer Advocates on Proposed Regulations on Whistleblower Protection, Aug. 24, 2012.

³ R.11-02-019, Ruling of the Assigned Commissioner Granting, on an Interim Basis, the Motion of the Utility Workers Union of America, and Adopting Procedures for a Proposed Regulation Regarding Whistleblower Protections, Mar. 14, 2012, p. 1.

⁴ PD, p. 23.

⁵ Cal. Pub. Util. Code § 311.

⁶ Cal. Pub. Util. Code § 1705.

promulgated by SB 705 and the lessons learned from the San Bruno incident, as appropriate, to ensure that the gas utility has a prudent plan in place to protect public safety and worker safety.⁷

The PD further states:

We direct the natural gas system operators to review, revise, update and otherwise improve their safety plans on a continual and going forward basis. We accept the current set of plans for filing but find that these plans must be dynamic; that is, subject to change as required by emerging issues, industry practices, and state and federal regulators.⁸

DRA recommends that these statements be more clearly incorporated in the final decision's Findings and Conclusions, as shown in Attachment A to these comments.

III. CONCLUSION

DRA appreciates the opportunity to comment on the PD and requests that the modifications to the PD proposed by DRA be adopted.

Respectfully submitted,

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⁷ PD, p. 19.

⁸ PD, p. 24.

ATTACHMENT A

Proposed additional Findings of Fact:

A gas safety plan must convey the executive officer's safety performance expectations, policy principles, and goals/objectives for the gas utility's safety performance.

A gas safety plan should motivate a gas utility to reflect upon existing methods and for it to change, optimize, or to enhance existing methods.

The utilities' safety plans are subject to change as required by emerging issues, industry practices, and state and federal regulators.

Proposed additional to Conclusions of Law:

A prudent gas safety plan should help protect public safety and worker safety.

Natural gas system operators should review, revise, update and otherwise improve their safety plans on a continual and going forward basis.