

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)

**NON-PARTY COMMENTS OF SENATOR JERRY HILL ON THE SAFETY
AND ENFORCEMENT DIVISION'S PROPOSED CHANGES TO GENERAL
ORDER 112-E**

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I appreciate the Safety and Enforcement Division's (SED's) continuing efforts to improve its natural gas safety oversight. As the Senate Subcommittee on Gas and Electric Infrastructure Safety (under the Standing Committee of Energy, Utilities, and Communications), which I chair, will be examining how the CPUC can better integrate safety concerns throughout its organization and into its regulated industries, I would like to offer these comments for consideration by the SED and the parties of R.11-02-019.

These comments address how the proposed changes to General Order (GO) 112-E could be organized to make it more accessible to interested people outside of either SED or the compliance divisions of the regulated utilities. I submit them in addition to the comments I submitted on July 11th that request that the goal for each reporting requirement be clearly articulated in writing.

One consequence of having a well-developed and technically-articulated policy written out in regulation (or rules, in the case of the CPUC) is that, as we move from statements of lofty policy goals through legislation and into rules and their implementation, the method in which the state implements policy becomes less and less accessible to people who are not technical experts. This is especially true for safety, as safety does not have an industry association or any dedicated non-profit advocate that regularly practices in Sacramento or before the CPUC. As there is no experienced safety advocate to provide a bridge between the rulemaking process and the interested public, SED must be especially vigilant to ensure accessibility to the extent possible. Such a principle had been espoused by the Independent Review Panel in its Recommendation 6.3.3.6, which had proposed for audits that "a 'plain English' standard to be applied for both staff and operators in the development of their findings and responses, respectively."¹

¹ *Report of the Independent Review Panel into the San Bruno Explosion*, Revised Copy, June 24, 2011, p. 96.

SED's proposed additions appear designed to give SED staff information by which to better inform its regulatory practice. I support SED's continued attention to setting expectations for operators and ensuring utility information is presented to SED in a way that allows the division to most effectively use it, but the proposed additions to GO 112-E could be presented in a manner that is more accessible to non-technical staff. It is my belief that commissioners should be as deeply involved in safety as in other topics before the Commission, so I would like the gas safety GO to be as accessible to commissioners and their staffs as possible. With this thought in mind, I offer the following five suggestions:

1) Adopt changes to the Preamble and Purpose to reflect a focus on safety as an outcome. The current title, preamble, and purpose represent an older way of thinking; that it is sufficient to manage the operation of the pipeline system to ensure safety. As we now know, it is the operations of the entire gas corporation that determines the ultimate safety of the system. New statutory requirements such as the forthcoming emergency response standards (SB 44 of 2011) require more than just the minimum requirements for "the design, construction, quality of materials, locations, testing, operations and maintenance of facilities," and the GO's purpose should reflect that.

2) Reorganization of reporting requirements. SED is rightfully concerned about reporting requirements, but as proposed those requirements are all under sections titled "Gas Incident Reports" and "Annual Reports"—titles which are not descriptive of the elements contained within the sections. Instead, one could place leak data under a section that deals with leak management, excavation damage data under a section on damage prevention, and emergency response data under a section on emergency response. The data requirements of the disparate sections could then be referenced under the reporting sections.

3) **Enumeration of the 32 reporting requirements in ASME B31.8S.** As the handbook that contains these proposed reporting requirements is, at my last check, no less than \$155 to purchase (and not available through the California State Library), it is a high burden for a member of the public to even know what is required to be reported. If there are copyright issues, then SED should be satisfied leaving this information outside of GO 112-E and instead make an annual data request to the utilities for this information, as it is unclear that one can make a law that is not readily examinable by the public.

4) **Adding reserved sections and references to Public Utilities Code.** The CPUC is part-way into implementing the package of gas safety legislation that was enacted in the 2011-2012 legislative session, and the Commission might consider adding *reserved* sections into the GO as placeholders for the implementation of that legislation and of other changes to the GO that the CPUC has contemplated. The CPUC's Gas Safety Plan, as presented to the Budget Committees of both houses of the Legislature, identifies at least 19 changes to be implemented by R.11-02-019, and adding placeholders for those contemplated changes 1) could help the organization of the GO and 2) would act as a statement of commitment for what the PUC intends to do in gas safety as we continue through the proceeding.

Additionally, while state statute had been fairly silent on gas safety issues before the explosion in San Bruno, the Legislature has passed a number of new laws, and those statutes could be referenced in the GO sections that contain provisions that are authorized or required by those statutes.

5) **Inclusion of enforcement resolutions.** The CPUC has passed three resolutions with respect to the enforcement of gas safety: SU-24 (mobile home parks, 1993), USB-001 (propane systems, 2008), and ALJ-274 (gas corporations). While the implementation of ALJ-274 is evolving and the resolution may need revision, the enforcement programs in the other two resolutions may be stable, and if so, they should be included in the GO.

The mobile home park resolution is so old that it is not accessible on the CPUC's website. Other enforcement programs are included in GOs, including in GO 167 ("Enforcement of Maintenance and Operation Standards for Electric Generating Facilities"), and there is little reason not to include these resolutions in GO 112-E.

I have attached proposed revisions to GO 112-E that implement these suggestions as a guide. It is meant to be a guide only. For instance, it may not be appropriate to include all of the proposed reserved sections, as they include many items in the Gas Safety Plan that SED may have reconsidered since last April. With the exception of the ASME B31.8S reporting requirements, I have made no attempt to change the substance of the proposed reporting requirements, though the parties may wish to do so.

The modifications I propose do not change the substance of what SED hopes to achieve, but would make that substance more accessible to staff outside SED, to commissioners, and to the public.

Respectfully submitted,

/s/ JERRY HILL

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