

November 4, 2013

Commissioner Michel Peter Florio
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

RE: Request for Status of Gas Safety Rulemaking (R.11-02-019)

Commissioner Florio,

We the undersigned write to you requesting an update on the status of the Gas Safety rulemaking. The Commission's Order Instituting Rulemaking (OIR) was ambitious and wide-ranging, and we appreciate the work that you and Commission staff have performed so far in carrying out that work and in implementing much of the Natural Gas Safety Act of 2011 (Public Utilities Code §§950-970) and supporting legislation.

Following the explosion in San Bruno, many of us in the Legislature worked hard to develop public policy that would safeguard against another natural gas disaster. We worked closely with your Office of Governmental Affairs to make sure that our efforts didn't work at cross-purposes with the Commission's own efforts in the rulemaking. You will notice very few deadlines written into the Act, as we understood the Commission's need for flexibility in this undertaking.

Additional work appears slated for the rulemaking, as your executive director presented a Gas Safety Action Plan to Budget subcommittees in both houses this spring that had outlined a large number of initiatives that would take place in the rulemaking, all of which were (ambitiously) scheduled to be complete by 2016.

We appreciate that the Commission, in its rulemaking, has in large part implemented the following pieces of legislation:

AB 56 (Hill, PU Code §956.5, §957, §958, §958.5, §959) required the Commission to end for all intrastate natural gas pipelines the “grandfather clause” established in federal regulation, which had allowed pipe installed before 1970 to persist without having undergone a hydrostatic pressure test. The National Transportation Safety Board (NTSB) had made this an urgent recommendation for PG&E pipe in high-consequence areas whose records could not be verified, and AB 56 expanded it to all grandfathered pipe of all gas corporations. We appreciate that this element of the legislation was implemented for PG&E in December of 2012 (though the requirement for Southern California Gas and San Diego Gas and Electric was moved to another proceeding).

SB 879 (Padilla, PU Code §969, §2107) required the Commission, in approving any pipeline integrity management expenses, to use balancing accounts to make sure that money isn’t diverted from safety to other areas. SB 879 also increased penalties for violations from a \$20,000 maximum to a \$50,000 maximum. These are continuing requirements and the Commission has been in compliance.

We appreciate the efforts of the Commission and its staff in implementing the above legislation. It appears that the Commission has yet to fully dispense with the following:

SB 705 (Leno, PU Code §961, §963) provided that safety is the top priority in the industry and required the Commission to adopt and implement gas safety plans that describe how the gas utilities will achieve specified objectives, including key matters such as leak response, hazard identification, and workforce adequacy for timely safety-related order completions. The CPUC-approved SB 705 compliance documents appear to provide reporting and unilateral utility affirmations rather than plans to ensure that safety is the industry’s top priority. The CPUC has not outlined in what manner—such as through audits or third-party verification—it intends to validate that the utilities are indeed placing safety as their top priority.

SB 44 (Corbett, PU Code §950, §950.5, §955, §956) requires gas operators to conduct liaison activities with first responders and requires the Commission to develop emergency response standards. The Commission convened a couple workshops in autumn of 2011 and continues to be involved in emergency response issues, but the standards required by the bill have not yet been implemented. The statutorily mandated status update, completed in May 6, 2013, describe some steps taken towards meeting the ultimate goal of SB 44, but did not give the Legislature any sense of what steps will be taken and how long they will take to establish the required emergency response standards.

SB 216 (Yee, PU Code §957) requires the Commission to approve location plans for automatic shut-off and remote controlled valves, as PG&E had taken more than an hour and a half to shut down the flow of gas in San Bruno. The Commission required utilities to roll much of this requirement into the plans that were submitted to comply with AB 56. The CPUC's Gas Safety Plan, however, states that rule development on shutoff valves will not be completed until next year, and that workshops are to be held at the end of this year.

AB 1456 (Hill, PU Code §970) requires the Commission to perform an analysis of benchmark data and adopt safety performance metrics for pipeline safety. This bill codified Independent Review Panel recommendation 7.4.2. NTSB had posed some suggestions of performance measures, such as 1) the number of incidents per pipeline mile (or per 1000 customers), 2) number of missing, incomplete, or erroneous records in an operator's database, and 3) number of public responses received per thousands of surveys mailed. This bill has yet to be mentioned in the rulemaking.

In addition to the legislation that has yet to be completed, a number of elements of the OIR have not yet been undertaken.

1. *Consider ways that this Commission can undertake a comprehensive risk assessment for all natural gas pipelines regulated by this Commission, and possibly for other industries that the Commission regulates.*

The Legislature granted the Commission five positions for a risk assessment group to perform just such a task. If the Commission is not planning to address this element of the OIR in the rulemaking, you might wish to explain exactly how it will be addressed.

2. *Consider available options for the Commission to better align ratemaking policies, practices, and incentives to elevate safety considerations, and maintain utility management focus on the "nuts and bolts" details of prudent utility operations.*

This element has not yet been addressed in the rulemaking. The Commission held a workshop on "safety in ratemaking" in January of 2012, but no other public discussion of this issue has been made. Looking at incentives would help the Commission comply with AB 861 (Hill, PU Code 746), which requires the Commission to determine the appropriate ratemaking treatment for earnings- and stock-based incentive plans, as such plans had contributed to PG&E management's efforts to cut safety-related costs.

The Commission's Gas Safety Action Plan, presented to the Legislature last spring, identifies additional actions that will occur in the gas safety rulemaking, some of which are:

1. Revise drug and alcohol testing procedures (2016)
2. Require system automation software (SCADA) upgrades (2016)
3. Require in-line inspection retrofits (ongoing)
4. Require operators to notify 911 in emergencies (2016)
5. Require hydrostatic testing for manufacturing and construction defects (2016)
6. Require operators to submit safety certifications in rate cases (ongoing)

Can you please provide us with a status report and plan for the completion of the remaining elements of the OIR which have yet to be completed, implementation of Senate bills 44, 216, 705, and 1456, as well as an update on actions specified in the Commission's gas Safety Plan?

Thank you for your cooperation.

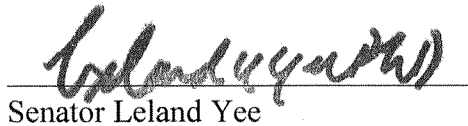
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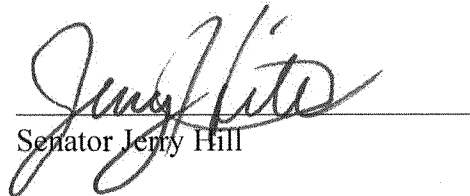
Senator Ellen M. Corbett



Senator Mark Leno



Senator Leland Yee



Senator Jenny Hill

cc: Michael R. Peevey, President, California Public Utilities Commission
Catherine J.K. Sandoval, Commissioner, California Public Utilities Commission
Mark J. Ferron, Commissioner, California Public Utilities Commission
Carla J. Peterman, Commissioner, California Public Utilities Commission
Service List to R.11-02-019