

PUBLIC UTILITIES COMMISSION

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Sept. 15, 2011

Honorable Roger Dickinson, Chair
Assembly Committee on
Accountability and Administrative Review
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0139

Dear Assemblymember Dickinson:

Thank you for the opportunity to participate in the Assembly Committee on Accountability and Administrative Review hearing on August 17, 2011, regarding the California Public Utilities Commission's (CPUC) natural gas pipeline oversight. This letter serves to provide follow-up information I committed to send at the hearing.

Since the September 9, 2010 rupture of a Pacific Gas and Electric Company (PG&E) gas transmission pipeline in San Bruno, the CPUC has dramatically improved pipeline safety oversight. On August 30, 2011 the National Transportation Safety Board (NTSB) held its Board Meeting to consider findings, probable cause, and recommendations related to the explosion. We're thankful to the NTSB for their hard work on this case and we welcome their findings. We are taking a thorough look at the report and will incorporate the recommendations and lessons learned into our ongoing efforts to improve pipeline safety in California.

San Bruno was a game-changer for the CPUC's gas safety program from the moment of the explosion. We have been working to improve pipeline safety in California since that evening – we have not been waiting for the NTSB's report. We have:

- Ordered all pipelines that were not required to be pressure tested under federal rules (referred to as grandfathered pipes) to be pressure tested or replaced. All transmission pipes that haven't been tested before are being tested or replaced, and for all pipes that have been tested, we're re-verifying operating pressures based on complete, traceable, and verifiable records.
- Ordered immediate pressure reductions on specified PG&E lines, including lines with weld characteristics similar to the ruptured segment of Line 132. PG&E has reduced pressure on other pipelines for which it has incomplete pressure records or that were operating at an insufficient margin of safety based on changes in nearby population density.
- Begun evaluating utility implementation plans that include valve automation and retrofitting pipelines to accommodate inline inspection tools.

- Opened a penalty consideration proceeding against PG&E, alleging poor record-keeping.
- Prepared to set sweeping new requirements for automatic or remotely-operable valves, emergency response, and public information. Once these new rules are in place, they will be a model for the nation.
- Required PG&E to file safety project information twice a year so we and the public can be assured they've spent funds appropriately

We're also taking a hard look in the mirror. We've acknowledged our own shortcomings in oversight over the decades leading up to the Rancho Cordova and San Bruno disasters, and we're changing what we do and how we do it. Our goal is to establish a new model of natural gas pipeline safety regulation for all California pipelines and for the nation. So far we have:

- Appointed an Independent Review Panel to look at both PG&E and CPUC actions leading up to San Bruno. Their report was critical to both PG&E and the CPUC. A detailed description of how we are following up on the CPUC-specific recommendations is attached.
- Doubled the number of pipeline inspectors and created a new Risk Assessment Unit to help change our inspection culture from compliance box-checking to proactive risk assessment.
- Concluded our staff investigation into the 2008 PG&E natural gas explosion in Rancho Cordova. The staff's proposed resolution of the investigation includes a series of admissions by PG&E of violations of safety rules, and a fine of \$26 million.

In coming months we will:

- Propose for public comment a natural gas citation program that gives CPUC staff the ability to fine natural gas operators immediately if a violation is found, without waiting for a lengthy trial. This proposal will be before the CPUC for adoption before year's end.
- Establish a public, stakeholder process to improve the integration of safety into ratemaking, and consider a periodic safety certification of each utility independent of all other considerations.

But, there is still much to be done and some improvements can only occur with the help of the state legislature. The creation of new laws that increase our ability to assess fines for safety violations and provide first-responders with the classified information and training necessary to be better prepared for pipeline accidents will enable us to move forward with additional improved safety measures. While we have already doubled the number of pipeline inspectors, it is clear that the CPUC will need more staff to adequately oversee the 110,000 miles of natural gas pipeline in California. We will also need legislative assistance to increase our enforcement authority over pipeline owners and third parties that cause damage to natural gas pipelines. As

we continue with our rulemaking and risk assessment activities, I am sure there will be other areas we identify for specific legislative changes. We hope to work with you in the next few months to develop necessary legislation to make California's pipeline system a model for the nation.

One year after the San Bruno tragedy, we are safer than we were a year ago, and next year we will be safer still.

Sincerely

A handwritten signature in black ink that reads "Paul Clanon". The signature is written in a cursive style with a large initial "P" and a long horizontal stroke extending to the left.

Paul Clanon
Executive Director

Cc:

Hon. Alex Padilla, Chair, Senate Committee on Energy, Utilities and Communications
Hon. Steven Bradford, Chair, Assembly Committee on Utilities and Commerce
Hon. Jerry Hill, Chair, Assembly Democratic Caucus
Members, Senate Committee on Energy, Utilities and Communications
Members, Assembly Committee on Utilities and Commerce
Members, Assembly Committee on Accountability and Administrative Review
Nancy Chaires, Consultant, Assembly Committee on Accountability and Administrative Review
Jacqueline Kennedy, Principal Consultant, Senate Committee on Energy, Utilities and Communications
Sue Kateley, Principal Consultant, Assembly Committee on Utilities and Commerce

Attachments

Independent Review Panel Recommendations Specific to the CPUC

For convenience, we have listed the IRP recommendations by number and grouped similar or related recommendations together for one response. Each recommendation (or group of recommendations) is followed by a brief status report on our progress toward implementing the recommendation.

Abbreviations used in Recommendations and status:

- ALJ= Administrative Law Judge
- BCP= Budget Change Proposal
- CPSD= Consumer Protection and Safety Division
- CPUC= California Public Utilities Commission
- DGS= California Department of General Services
- DOT= Department of Transportation
- DRA= Division of Ratepayer Advocates
- FY= Fiscal Year
- GRC= General Rate Case
- IRP= Independent Review Panel
- MAOP= Maximum Allowable Operating Pressure
- OSFM= Office of State Fire Marshal
- PHMSA= Pipeline and Hazardous Materials Safety Administration
- PG&E= Pacific Gas and Electric Company
- RFO = Request for Offer
- USRB= Utility Safety and Reliability Branch

6.2.4.1	<i>Adopt as a formal goal, the commitment to move to more performance-based regulatory oversight of utility pipeline safety.</i>
6.5.3.1	<i>Adopt as a formal goal, the commitment to move to performance-based regulatory oversight of utility pipeline safety and elevate the importance of the USRB in the organization.</i>
status	At the October 20, 2011 Commission Meeting, the staff will present its gas safety workplan. The scope of this

	<p>commitment includes shifting from a substantially compliance-based system to a system that is based on risk assessment and effectively evaluates operator performance. The CPUC is reviewing all aspects of its pipeline safety program and has committed to seeking the necessary increases in resources, training and skills to achieve the goal of effective performance-based regulatory oversight of pipeline safety. And ask for Commission affirmation of this goal.</p>
6.2.4.2	<p><i>Greater involvement by staff in industry groups such as the Gas Piping Technical Committee (GPTC) will better enable the CPUC staff to keep abreast pipeline integrity management advancements from a technical, process, and regulatory perspective. In addition, the CPUC can, through such forums, gain insight for pipeline operators, utilities, service providers, and professional services firms, as well as other federal and state pipeline safety professionals.</i></p>
6.2.4.5	<p><i>Provide USRB staff with additional integrity management training.</i></p>
status	<p>A plan for augmenting safety related training and industry group participation will be implemented by October 1, 2011.</p>
6.2.4.3	<p><i>The CPUC should further divide gas auditing groups to create integrity management specialists.</i></p>
6.3.3.1	<p><i>The CPUC should develop a plan and scope for future annual California utility initiated independent integrity management program audits. The results of these audits should be used to provide a basis for future CPUC performance based audits on a three-year basis.</i></p>
6.5.3.2	<p><i>Develop a holistic approach to identifying pipeline segments for integrity management audits based on intrastate pipeline risk as opposed to simply auditing each operator's pipeline.</i></p>
status	<p>With the increase in staff and the increased level of training we will be able to officially designate Integrity Management Specialists. The CPUC will utilize its Senior Utilities Engineer Specialist position and some of the additional UE positions to develop experts in both Transmission Integrity Management and Distribution Integrity Management. We have already begun this effort, sending the majority of its gas safety staff to DOT-sponsored training in Distribution Integrity Management from August 23-24th, 2011. Once the newly hired engineers can perform inspections independently, we will utilize staff most skilled in Integrity Management, provide</p>

	<p>further specialized training, and dedicate this groups' time to understanding and evaluating the Integrity Management programs of jurisdictional operators. In addition to sending staff to DOT-sponsored training we are reaching out to other states through participation in the National Association of Pipeline Safety Representatives to assist in identifying relevant training and development opportunities.</p>
6.2.4.4	<p><i>Undertake an independent management audit of the USRB organization, including a staffing and skills assessment, to determine the future training requirements and technical qualifications to provide effective risk-based regulatory oversight of pipeline safety and integrity management, focused on outcomes rather than process.</i></p>
6.6.3.1	<p><i>The CPUC should significantly upgrade its expertise in the analytical skills necessary for state-of-the-art quality risk management work. The CPUC should have an organizational structure for individuals doing this work such that they have an equal stature and access to management of the CPUC as those who deal with rate issues or legal or political issues. Although the CPUC's role is to provide oversight of the operator's compliance with federal and state codes, its role should not be to provide management of risk direction to the utilities.</i></p>
status	<p>The CPUC will issue a Request for Offers to contract with an independent auditor to conduct this effort and will issue an RFO before December 1, 2011.</p>
6.2.4.6	<p><i>Retain independent industry experts in the near term to provide needed technical expertise as PG&E proceeds with its hydrostatic testing program, in order to provide a high level of technical oversight and to assure the opportunity for legacy piping characterization through sampling is not lost in the rush to execute the program.</i></p>
status	<p>Upon PG&E's announcement of its plan to hydrotest 152 miles of pipeline in 2011, CPUC staff immediately developed protocols surrounding sampling, storage, and testing of materials removed for hydrotesting. The staff consulted with the IRP's expert, Dr. Nickell, to incorporate his ideas into the protocols to ensure that opportunities for legacy piping characterization were not lost. The CPUC has also engaged Jacobs Consultancy, Inc., a large engineering consulting firm, to assist us in providing technical oversight, field verification, and documentation review of the hydrotesting activities of PG&E and other California utilities. The</p>

	engagement starts upon DGS approval, anticipated within two weeks.
6.3.3.3	<i>The CPUC should consider requiring the major regulated utilities operating in the State of California to submit the results of the independent integrity management audits as part of their respective rate case processes.</i>
6.8.3.1	<i>Consider a more proactive role for the safety staff in utility rate filings. Improve the interaction between the gas safety organization and the Division of Ratepayer Advocates of the CPUC so there is an enhanced understanding of the costs associated with pipeline safety.</i>
7.4.1	<i>Improve the interaction between the gas safety organization and the Division of Ratepayer Advocates of the CPUC so that there is an enhanced understanding of the costs associated with pipeline safety.</i>
status	Safety activities and funding cases have historically functioned separately and this must change going forward. We have initiated a stakeholder process to assist the CPUC in identifying the most effective means for integrating safety activities and audit results into funding decisions. This concept is early in its development, but it will incorporate something like the requirements under Sarbanes-Oxley referenced in 6.3.3.6(3) but applied to safety. The internal audit of USRB will provide important guidance in this effort as well. In the meantime, staff is meeting with the assigned ALJs for current GRCs to provide support as they evaluate safety activities currently being requested.
6.3.3.2	<i>Request the California General Assembly to enact legislation that would replace the mandatory minimum five-year audit requirements for mobile home parks and small propane systems with a risk-based regime that would provide the USRB with needed flexibility in how it allocates inspection resources.</i>
6.4.3.2	<i>Request the California legislature pass legislation that would replace the mandatory minimum five-year audit requirements with a risk-based regime that would provide the USRB with the needed flexibility in how it allocates inspection resources.</i>
status	Although these systems do affect a smaller number of customers at the distribution level than the potential impact of a transmission rupture, these small systems also have fewer resources and expertise to address gas safety, and thus present a different safety challenge than large operators. It is

	<p>clear that if this level of inspections is to be attained, we have insufficient resources to do these inspections and increase our integrity management and enforcement activities. Following the internal audit, if warranted, the CPUC will propose and promote additional flexibility in allocating resources to address the relative risk associated with large and small operators.</p>
6.3.3.4	<p><i>The USRB is currently understaffed and will be further understaffed as new programs such as Distribution Integrity Management are added. This understaffing problem must be relieved by a combination of an enhanced recruitment and training program to attract and retain qualified engineers plus a framework of supplemental support by outside consultants.</i></p>
6.4.3.1	<p><i>CPUC should consider seeking approval from the State Budget Director for an increase in gas utility user fees to implement performance-based regulatory oversight for all gas utilities.</i></p>
status	<p>In the last year we have doubled the number of staff assigned to gas safety activities. Should internal analysis suggest the need for more staff, the CPUC will seek additional staff and required funding through the state budget process. We have been recruiting actively and have begun an aggressive training program for new and existing safety staff. We have engaged outside consultants to augment our staff both on hydrotesting/MAOP validation activities and for our investigation of the San Bruno rupture.</p>
6.3.3.5	<p><i>USRB should augment its current use of vertical audits that focus on specific regulatory requirements such as leak records or emergency response plans with:</i></p> <p style="padding-left: 40px;"><i>Horizontal audits that assess a segment or work order of the operator's system through the entire life cycle of the current asset for regulatory compliance.</i></p> <p style="padding-left: 40px;"><i>Focus field audits based on an internally ranking of the most risk segments of the gas transmission system assets in the state, regardless of the operator.</i></p>
status	<p>The CPUC is reviewing the scope of its audits and with the additional engineers that are being hired will expand its current audits, which provide a spot check of the operator's compliance with various regulatory requirements, to include comprehensive audits of the operator's implementation of key program requirements, from the development of the</p>

	<p>compliance method to in-the-field operator performance. In addition, with additional staffing, we can conduct audits of the lifecycle of specific pipeline assets from planning and installation, to present-day operation, as well as conduct field audits of facilities with heightened risk profiles. As the risk assessment group identifies other risks, we will develop audit procedures to assess those risks.</p>
6.3.3.6	<p><i>To raise the profile of the audits among all the stakeholders, add the following requirements to the safety and pipeline integrity audits of the utilities that includes the following features: (1) posting of audit findings and company responses on the CPUC's website; (2) use of a "plain English" standard to be applied for both staff and operators in the development of their findings and responses, respectively; and (3) a certification by senior management of the operator that parallels that certifications now required of corporate financial statements pursuant to Sarbanes-Oxley.</i></p>
status	<p>The audit reports will be in plain English and will be posted at the following address: www.cpuc.ca.gov/PUC/events/sanbruno.htm. With respect to (3), please see response to 6.8.3.1.</p>
6.7.3.1	<p><i>The CPUC should seek to align its pipeline enforcement authority with that of the State Fire Marshal's by providing the CPSD staff with additional enforcement tools modeled on those of the OSFM and the best practices from other states.</i></p>
6.8.3.2	<p><i>Consider, as appropriate, transferring the USRB gas safety staff to the OSFM, and with them the responsibility for inspection of gas operator safety and integrity management programs as required by federal and state gas pipeline safety regulations.</i></p>
status	<p>No later than November 2011 we will propose for public comment a natural gas citation program that gives CPUC staff the ability to fine natural gas operators immediately if a violation is found, without waiting for a lengthy trial. This proposal will be before the CPUC for adoption before year's end. Following the IRP recommendations, the CPUC will explore the possibility that another state agency could perform these duties more effectively.</p>
7.4.2	<p><i>Upon thorough analysis of benchmark data, adopt performance standards for pipeline safety and reliability for PG&E, including the possibility of rate incentives and penalties based on achievement of specified levels of</i></p>

	<i>performance.</i>
status	The new risk assessment unit will provide the staffing and analytical capability to better identify, generate and analyze relevant safety and performance data at the operator level and statewide. This information will then be incorporated into the ratemaking processes to ensure that safety and performance is evaluated when considering an operator's funding request.