

AMENDED IN ASSEMBLY MAY 18, 2011
AMENDED IN ASSEMBLY MARCH 16, 2011
AMENDED IN ASSEMBLY FEBRUARY 23, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 56

Introduced by Assembly Member Hill

December 6, 2010

An act to add Sections ~~746 and 770.5~~, 770.5, and 770.6 to the Public Utilities Code, relating to ~~public utilities~~ *gas corporations*.

LEGISLATIVE COUNSEL'S DIGEST

AB 56, as amended, Hill. ~~Public utilities: Gas corporations:~~ rate recovery and expenditure: intrastate pipeline safety.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable.

This bill would prohibit a ~~public utility~~ *gas corporation* from recovering any fine or penalty in any rate approved by the commission. The bill would require a ~~public utility~~ *gas corporation* to file ~~quarterly~~ *semiannual* reports with the commission and the Division of Ratepayer Advocates describing how the ~~public utility~~ is spending ~~ratepayer funds approved for expenditure by the commission~~ *moneys that the commission has authorized to be collected from ratepayers to reimburse the utility for public safety activities*. The bill would require the commission, *in consultation with the commission's Division of Ratepayer Advocates*, to work to align ratemaking policies, practices, and incentives to better reflect safety concerns and ensure ongoing

commitments to public safety. *If the commission authorizes a gas corporation to recover expenses incurred for public safety, the bill would require the commission to require the gas corporation to establish and maintain a balancing account to record the difference between the approved revenue requirements for public safety and the actual expenditures made by the utility.* The bill would require ~~a public utility to return ratepayer funds~~ a gas corporation to return moneys approved for expenditure for public safety by the commission to ~~ratepayers~~ the balancing account, if those funds are not expended within a reasonable period of time after the commission grants approval of the public safety expenditure, as determined by the commission. The bill would require the commission to consider the safety record of ~~the public utility~~ a gas corporation in determining what constitutes a reasonable rate of return for the ~~public~~ utility.

(2) The Public Utilities Act authorizes the commission to ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements, or service to be furnished, imposed, observed, and followed by specified public utilities, including gas corporations, as defined.

Existing federal law requires the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) to adopt minimum safety standards for pipeline transportation and for pipeline facilities, including an interstate gas pipeline facility and intrastate gas pipeline facility, as defined. Existing law authorizes the Secretary of Transportation to prescribe or enforce safety standards and practices for an intrastate pipeline facility or intrastate pipeline transportation to the extent that the safety standards and practices are regulated by a state authority that submits to the secretary annually a certification for the facilities and transportation or alternatively authorizes the secretary to make an agreement with a state authority authorizing it to take necessary action to meet certain pipeline safety requirements. Existing law prohibits a state authority from adopting or continuing in force safety standards for interstate pipeline facilities or interstate pipeline transportation. Existing law authorizes a state authority that has submitted a current certification to adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with the minimum standards prescribed by PHMSA.

This bill would designate the commission as the state authority responsible for development, submission, and administration of a state

pipeline safety program certification for natural gas pipelines. The bill would require the commission to adopt and enforce compatible safety standards, as defined, for commission-regulated gas pipeline facilities, as defined, to accomplish specified results. The bill would require the commission to track proposed ~~repairs~~ *safety, reliability, and facility integrity-related projects and activities* for which a gas corporation requested compensation in any rate request that was granted by the commission in order to determine if the ~~repairs are made~~ *project or activity was undertaken and completed* and to require any gas corporation that fails to ~~make repairs~~ *undertake or complete safety, reliability, and facility integrity-related projects and activities* for which the commission granted recovery in rates to promptly make a public filing as to the justification for failing to ~~make the approved repairs~~ *undertake or complete the proposed project or activity*. The bill would prohibit a gas corporation from recovering in rates any uninsured expense resulting from a fire, explosion, or other catastrophic event involving a commission-regulated gas pipeline facility ~~that resulted from negligence by the utility~~ *when that event results from acts or omissions engaged in or directed by any officer or employee of the gas corporation with either the intent to cause harm, or with knowledge that harm was substantially certain to result*.

The bill would require the commission, by July 1, 2012, to open an appropriate proceeding or expand the scope of an existing proceeding to establish compatible emergency response standards, as defined, that owners or operators of certain commission-regulated gas pipeline facilities, as defined, would be required to follow. The standards would require owners or operators of intrastate transmission and distribution lines to implement emergency response plans, with specified requirements, that are compatible with PHMSA's regulations concerning emergency plans. The bill would require the owners of intrastate transmission lines to provide the State Fire Marshal and the chief fire official of the applicable local government with instructions on how to access and utilize the National Pipeline Mapping System developed by PHMSA to improve local response capabilities for pipeline emergencies. The bill would require the commission to report to the Legislature on the status of establishing the compatible emergency response standards on or before January 1, 2013.

(3) Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 746 is added to the Public Utilities Code,
2 to read:

3 746. (a) A ~~public utility~~ *gas corporation* shall not recover any
4 fine or penalty in any rate approved by the commission.

5 (b) A ~~public utility shall file quarterly~~ *gas corporation shall file*
6 *semiannual* reports with the commission and the Division of
7 Ratepayer Advocates describing how the ~~public utility is spending~~
8 ~~ratepayer funds approved for expenditure by the commission.~~
9 *utility is spending moneys that the commission has authorized to*
10 *be collected from ratepayers to reimburse the utility for public*
11 *safety activities.*

12 (c) The commission ~~shall work in conjunction,~~ *in consultation*
13 *with the Division of Ratepayer Advocates, shall work* to align
14 ratemaking policies, practices, and incentives to better reflect safety
15 concerns and ensure ongoing commitments to public safety.

16 (d) A ~~public utility shall return ratepayer funds~~ *If the commission*
17 *authorizes a gas corporation to recover expenses incurred for*
18 *public safety, the commission shall require the gas corporation to*
19 *establish and maintain a balancing account to record the difference*
20 *between the approved revenue requirements for public safety and*
21 *the actual expenditures made by the utility. A gas corporation shall*
22 *return moneys approved for expenditure for public safety by the*
23 *commission, to ratepayers the balancing account, if those funds*
24 *are not expended within a reasonable period of time after the*
25 *commission grants approval of the public safety expenditure, as*
26 *determined by the commission.*

1 (e) In determining what constitutes a reasonable rate of return,
2 the commission shall consider the safety record of the ~~public utility~~
3 *gas corporation*.

4 SEC. 2. Section 770.5 is added to the Public Utilities Code, to
5 read:

6 770.5. (a) For purposes of this section the following terms
7 have the following meanings:

8 (1) “*Class 1 location*,” “*class 2 location*,” “*class 3 location*,”
9 and “*class 4 location*” have those meanings as defined in the
10 regulations adopted by the United States Department of
11 Transportation pursuant to Chapter 601 (commencing with Section
12 60101) of Subtitle VIII of Title 49 of the United States Code (49
13 C.F.R. 192.5, as adopted January 1, 2011, or a successor
14 regulation).

15 (1)

16 (2) “Commission-regulated gas pipeline facility” means an
17 intrastate gas pipeline facility, as defined in Section 60101 of Title
18 49 of the United States Code and in the regulations adopted by
19 the Department of Transportation (49 C.F.R. 192.3, as adopted
20 October 1, 2010, or a successor regulation), that transports natural
21 gas and is subject to the regulatory authority of the commission,
22 including a pipeline that the commission, pursuant to subsection
23 (c) of Section 717 of Title 15 of the United States Code, has
24 certified to the Federal Energy Regulatory Commission as being
25 subject to the regulatory jurisdiction of the commission over rates
26 and service. “Commission-regulated gas pipeline facility” does
27 not include those pipelines that are excluded from regulation by
28 the Federal Energy Regulatory Commission pursuant to subsection
29 (b) of Section 717 of Title 15 of the United States Code because
30 they are facilities used for the distribution of natural gas.

31 (2)

32 (3) “Compatible safety standards” means additional or more
33 stringent safety standards for commission-regulated gas pipeline
34 facilities that are compatible with the minimum safety standards
35 adopted by the Department of Transportation pursuant to Chapter
36 601 (commencing with Section 60101) of Subtitle VIII of Title 49
37 of the United States Code and which the commission is authorized
38 to adopt pursuant to subsection (c) of Section 60104 of that chapter.

39 (4) “*High consequence area*” has the same meaning as defined
40 in the regulations adopted by the United States Department of

1 *Transportation pursuant to Chapter 601 (commencing with Section*
2 *60101) of Subtitle VIII of Title 49 of the United States Code (49*
3 *C.F.R. 192.903, as adopted January 1, 2011, or a successor*
4 *regulation).*

5 (b) The commission shall be the state authority responsible for
6 the development, submission, and administration of a state pipeline
7 safety program certification for natural gas pipelines pursuant to
8 Chapter 601 (commencing with Section 60101) of Subtitle VIII
9 of Title 49 of the United States Code.

10 (c) The commission shall adopt and enforce compatible safety
11 standards for commission-regulated gas pipeline facilities to
12 accomplish all of the following:

13 (1) Require the owner or operator to make an annual
14 performance measure report to the commission concerning ~~all the~~ *the*
15 *condition of* commission-regulated gas pipeline facilities. The
16 performance measure report shall include the total number of
17 anomalies identified as a result of safety assessments, the total
18 number of conditions repaired, and the actual anomalies needing
19 repair that are identified by the pipeline owner or operator during
20 ~~the inspections and~~ *inspections*, the conditions requiring repair,
21 *and any other information the commission determines is necessary*
22 *to evaluate the safety and performance of the pipeline facilities.*
23 The annual performance measure reports shall be made publicly
24 available *on the Internet* to the extent that doing so does not create
25 a public safety risk. The commission shall consult with the federal
26 Department of Homeland Security in determining what information
27 may be made available without creating a public safety risk.

28 (2) Require the owner or operator to evaluate the integrity of
29 all commission-regulated gas pipeline facilities outside high
30 consequence areas and to include this evaluation as part of their
31 safety assessment reports.

32 ~~(3) Require the owner or operator of commission-regulated gas~~
33 ~~pipeline facilities to develop and to implement, by January 1, 2012,~~
34 ~~a continuing public education program pursuant to Section 60116~~
35 ~~of Title 49 of the United States Code. The owner or operator, to~~
36 ~~the extent that doing so does not create a public safety risk, shall~~
37 ~~provide detailed, customized information on pipeline locations~~
38 ~~and emergency response plans, as well as enhanced annual~~
39 ~~emergency response training.~~

1 ~~(4) Require the owner or operator of commission-regulated gas~~
2 ~~pipeline facilities to provide information regarding the pipeline~~
3 ~~system to state and local emergency responders, including the~~
4 ~~business name, address, and emergency contact information of~~
5 ~~whom to contact if an event occurs, accurate maps of facility~~
6 ~~locations, the owner or operator's emergency response plan, and~~
7 ~~any other information the commission determines should be~~
8 ~~supplied to state and local emergency responders.~~

9 ~~(5)~~

10 (3) Require the owner or operator of commission-regulated gas
11 pipeline facilities to conduct outreach and public education relative
12 to excavation dangers and the availability of the one-call
13 notification program in order to reduce dangerous incidences
14 caused by third-party excavations.

15 ~~(6)~~

16 (4) Require the owner or operator of commission-regulated gas
17 pipeline facilities to prioritize those facilities that, because of their
18 ~~proximity to seismic active areas, should be subject to the highest~~
19 ~~level of safety oversight. The commission shall develop protocol~~
20 ~~to ensure that pipelines that are located in seismic active areas and~~
21 ~~in populated areas, including those pipelines located within a Class~~
22 ~~3 or Class 4 high consequence area, receive the highest priority~~
23 ~~and are designed with the highest level of safety. In adopting and~~
24 ~~enforcing compatible safety standards pursuant to this paragraph,~~
25 ~~the commission shall consult with seismic experts and shall publish~~
26 ~~maps of known and active seismic faults on which owners and~~
27 ~~operators will rely to address risks.~~

28 (7) Require the owner or operator of commission-regulated gas
29 pipeline facilities to comply with minimum standards established
30 by the commission, in consultation with the independent review
31 panel investigating the San Bruno natural gas pipeline explosion
32 of 2010, to install automatic or remote shutoff valves, unless
33 technically unfeasible, according to the following timelines:

34 (A) On all new commission-regulated gas pipeline facilities or
35 any facility being replaced beginning January 1, 2012.

36 (B) On all facilities within 10 miles of a high-risk seismic fault
37 by January 1, 2014.

38 (C) On all facilities within 10 miles of a Class 3 or Class 4 high
39 consequence area by January 1, 2017.

1 ~~(8) Require the owner or operator of commission-regulated gas~~
2 ~~pipeline facilities to maintain a record of tests on all pipelines to~~
3 ~~substantiate their current maximum allowable operating pressure.~~
4 ~~If complete records are not available, the owner or operator shall~~
5 ~~reduce the maximum operating pressure and report the condition~~
6 ~~to the commission. Before restoring the pipeline pressure to its~~
7 ~~maximum operating pressure the facility shall be inspected using~~
8 ~~the most effective and appropriate inspection technology. *proximity*~~
9 ~~*to an earthquake fault zone delineated by the State Geologist*~~
10 ~~*pursuant to the Alquist-Priolo Earthquake Fault Zoning Act*~~
11 ~~*(Chapter 7.5 (commencing with Section 2621) of Division 2 of the*~~
12 ~~*Public Resources Code), should be subject to heightened safety*~~
13 ~~*oversight. The commission shall develop protocol to ensure the*~~
14 ~~*safety of those pipelines that are located in an earthquake fault*~~
15 ~~*zone and in a high consequence area.*~~

16 (5) *The commission, in consultation with the independent review*
17 *panel appointed to investigate the San Bruno natural gas pipeline*
18 *explosion of 2010, shall develop minimum criteria and standards*
19 *for the installation of sectionalized block valves and automated*
20 *and remote shutoff valves, taking into consideration*
21 *weather-related and outside faces, operating pressure, the rate of*
22 *potential release of natural gas, the potential for ignition of the*
23 *gas, and accessibility. The commission shall establish a timeline*
24 *by which the owner or operator of a commission-regulated gas*
25 *pipeline facility shall meet the minimum criteria and standards*
26 *established by the commission, unless technically unfeasible, for*
27 *each of the following:*

28 (A) *Each commission-regulated gas pipeline facility that is first*
29 *placed in service or replaced.*

30 (B) *Each commission-regulated gas pipeline facility that*
31 *traverses an earthquake fault zone designated by the State*
32 *Geologist pursuant to the Alquist-Priolo Earthquake Fault Zoning*
33 *Act (Chapter 7.5 (commencing with Section 2621) of Division 2*
34 *of the Public Resources Code).*

35 (C) *Each commission-regulated gas pipeline facility that is in*
36 *a class 3 location, class 4 location, or high consequence area.*

37 (6) *Require the owner or operator of all commission-regulated*
38 *gas pipeline facilities that are in a class 3 location, class 4 location,*
39 *or high consequence area to establish a maximum allowable*
40 *operating pressure for the facility. The maximum allowable*

1 *operating pressure shall be established by conducting a hydrostatic*
2 *pressure test, unless the commission determines that the owner or*
3 *operator has adequately established a maximum allowable*
4 *operating pressure using either of the following:*

5 (A) *Prior hydrostatic testing.*

6 (B) *Thorough documentation, including as-built drawings,*
7 *alignment sheets and specifications, design, construction, testing,*
8 *and maintenance records, demonstrating that the maximum*
9 *allowable operating pressure has been accurately established*
10 *based on the weakest pipeline section or facility component.*

11 ~~(9)~~

12 (7) *Require owners and operators of commission-regulated gas*
13 *pipeline facilities to complete, by January 1, 2022, a modernization*
14 *program to upgrade key facilities located in heavily populated and*
15 *other critical high consequence areas. The commission shall consult*
16 *with owners and operators and interested stakeholders in*
17 *developing the program requirements and schedule. The program*
18 *shall contain criteria for prioritizing critical gas pipeline facilities*
19 *and ensure that all upgraded facilities can accommodate*
20 *state-of-the-art inspections, including internal corrosion inspection*
21 *methods. It is the intent of the Legislature that state agencies*
22 *expedite any necessary permit work or approval that is necessary*
23 *for any demolition, construction, repair, replacement, inspection,*
24 *or testing activity that may be required pursuant to this paragraph.*

25 (d) *The commission shall adopt and enforce a one-call*
26 *notification program for the state consistent with the requirements*
27 *adopted by the Department of Transportation pursuant to Chapter*
28 *601 (commencing with Section 60101) of Subtitle VIII of Title 49*
29 *of the United States Code.*

30 (e) *The commission shall track proposed—repairs safety,*
31 *reliability, and facility integrity-related projects and activities for*
32 *which a gas corporation requested compensation in any rate request*
33 *that was granted by the commission in order to determine if the*
34 *repairs are made project or activity was undertaken and completed.*

35 *The commission shall require any gas corporation that fails to*
36 *make repairs undertake or complete safety, reliability, and facility*
37 *integrity-related projects and activities for which the commission*
38 *granted recovery in rates to promptly make a public filing as to*
39 *the justification for failing to make the approved repairs undertake*
40 *or complete the proposed project or activity.*

1 (f) In its general rate case, a gas corporation shall demonstrate,
 2 to the satisfaction of the commission, each of the following:

3 (1) That its proposed rates will be sufficient to enable the gas
 4 corporation to fund those projects and activities necessary to
 5 maintain safe and reliable service and to meet federal and state
 6 safety requirements in a cost-effective manner.

7 (2) If rate recovery was previously approved by the commission
 8 for safety-related projects or activities, and the gas corporation
 9 seeks to reprioritize use of the moneys for other safety-related
 10 projects or activities, that the reprioritization is based on sound
 11 risk management principles.

12 (3) If rate recovery is sought for safety-related projects or
 13 activities, that an adequate safety assessment has been undertaken
 14 on the gas pipeline facilities on which the projects or activities
 15 are to be undertaken so that the projects and activities can be
 16 undertaken in a thorough, yet cost-effective, manner without
 17 incurring cost overruns.

18 (4) That any settlement agreement filed in the case that
 19 encompasses safety-related projects or activities identifies those
 20 projects and activities with specificity and allocates funding for
 21 those projects and activities on a project-by-project, or
 22 activity-by-activity basis.

23 ~~(f)~~
 24 (g) A gas corporation shall not recover in rates any uninsured
 25 expense resulting from a fire, explosion, or other catastrophic event
 26 involving a commission-regulated gas pipeline facility ~~that resulted~~
 27 ~~from negligence by the utility~~ when that event results from acts
 28 or omissions engaged in or directed by any officer or employee of
 29 the gas corporation with either the intent to cause harm, or with
 30 knowledge that harm was substantially certain to result.

31 SEC. 3. Section 770.6 is added to the Public Utilities Code, to
 32 read:

33 770.6. (a) For purposes of this section, the following terms
 34 have the following meanings:

35 (1) “Commission-regulated gas pipeline facility” has the same
 36 meaning as defined in Section 770.5.

37 (2) “Compatible emergency response standards” means
 38 emergency response standards that are applicable to intrastate
 39 transmission and distribution lines that are in addition to, or more
 40 stringent than, the minimum safety standards adopted by the United

1 *States Department of Transportation pursuant to Chapter 601*
2 *(commencing with Section 60101) of Subtitle VIII of Title 49 of*
3 *the United States Code and that the commission is authorized to*
4 *adopt pursuant to Section 60104(c) of that chapter.*

5 *(b) On or before July 1, 2012, the commission shall open an*
6 *appropriate proceeding or expand the scope of an existing*
7 *proceeding to establish compatible emergency response standards*
8 *that owners or operators of commission-regulated gas pipeline*
9 *facilities shall be required to follow for intrastate transmission*
10 *and distribution lines. The commission shall establish the standards*
11 *to ensure that intrastate transmission and distribution lines have*
12 *emergency response plans that adequately prepare them for a*
13 *natural disaster or malfunction that could cause injury to human*
14 *life or property, with the purpose of minimizing the occurrence of*
15 *both.*

16 *(c) The commission shall establish the compatible emergency*
17 *response standards in consultation with the California Emergency*
18 *Management Agency and members of California's first responder*
19 *community, including, but not limited to, members of the California*
20 *Fire Chiefs Association.*

21 *(d) The compatible emergency response standards shall require*
22 *owners or operators of intrastate transmission and distribution*
23 *lines to implement emergency response plans that are compatible*
24 *with the United States Department of Transportation Pipeline and*
25 *Hazardous Materials Safety Administration's regulations*
26 *concerning emergency plans contained in Section 192.615 of Title*
27 *49 of the Code of Federal Regulations, and those plans shall*
28 *include, but not be limited to, all of the following requirements:*

29 *(1) Emergency shutdown and pressure reduction shall be utilized*
30 *whenever deemed necessary and appropriate by the owners or*
31 *operators to minimize hazards to life or property. An owner or*
32 *operator shall notify appropriate first responders of emergency*
33 *shutdown and pressure reduction.*

34 *(2) During an emergency response effort, the incident*
35 *commander may direct coordination between first responders and*
36 *owners or operators to ensure timely and ongoing communication*
37 *on decisions for emergency shutdown and pressure reduction.*

38 *(3) Owners or operators of intrastate transmission and*
39 *distribution lines shall establish and maintain liaison with*

1 appropriate fire, police, and other public officials to do all of the
2 following:

3 (A) Learn the responsibility and resources of each government
4 organization that may respond to a gas pipeline emergency,
5 including, but not limited to, the role of the incident commander
6 in an emergency.

7 (B) Acquaint the officials with the owner's or operator's ability
8 in responding to a gas pipeline emergency.

9 (C) Identify the types of gas pipeline emergencies of which the
10 owner or operator notifies the officials.

11 (D) Plan how the owner or operator and officials can engage
12 in mutual assistance to minimize hazards to life or property, or
13 both.

14 (E) Identify and update information on individual personnel
15 responsible for the liaison with the appropriate first responder
16 organizations.

17 (4) Owners and operators of intrastate transmission lines shall
18 provide the State Fire Marshal and the chief fire official of the
19 applicable city, county, city and county, or fire protection district
20 with instructions on how to access and utilize the National Pipeline
21 Mapping System developed by the United States Department of
22 Transportation, Pipeline and Hazardous Materials Safety
23 Administration, utilizing data submitted pursuant to Section 60132
24 of Title 49 of the United States Code, to improve local response
25 capabilities for pipeline emergencies.

26 (e) (1) The commission shall report to the Legislature on the
27 status of establishing the compatible emergency response standards
28 on or before January 1, 2013.

29 (2) A report to be submitted pursuant to paragraph (1) shall be
30 submitted in compliance with Section 9795 of the Government
31 Code.

32 ~~SEC. 3.~~

33 ~~SEC. 4.~~ No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section 17556 of
39 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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