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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 56

Introduced by Assembly Member Hill

December 6, 2010

An act to ~~add Section 770.6 to, and to add Chapter 4.5 (commencing with Section 950) to Part 1 of Division 1 of;~~ the Public Utilities Code, relating to gas corporations.

LEGISLATIVE COUNSEL'S DIGEST

AB 56, as amended, Hill. 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 gas corporation from recovering any fine or penalty in any rate approved by the commission. The bill would require a gas corporation to file semiannual gas transmission and storage safety reports with the commission's consumer protection safety division that include certain matter and require that if the division determines

that there is a deficiency in a gas corporation's prioritization or administration of the storage or pipeline capital projects or operation and maintenance activities, to bring the deficiency to the commission's immediate attention. 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 gas corporation to return moneys approved for expenditure for public safety by the commission to 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 a gas corporation in determining what constitutes a reasonable rate of return for the utility.~~ *The bill would require the commission, in any ratemaking proceeding in which the commission authorizes a gas corporation to recover expenses for a federal transmission pipeline integrity management program, or for capital expenditures for the maintenance and repair of transmission pipelines, to require the gas corporation to establish and maintain a one-way balancing account for the recovery of those expenses.*

(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, in consultation with a specified independent review panel, to develop minimum criteria and standards for the installation of sectionalized block valves and automated and remote shutoff valves and to establish a timeline by which the owner or operator of a commission-regulated gas pipeline facility, as defined, is required to meet the minimum criteria and standards.~~ *The bill would require owners and operators of intrastate transmission and distribution lines, at least once each calendar year, to meet with each local fire department having fire suppression responsibilities in the area served by the owner or operator's transmission and distribution pipelines to discuss and review contingency plans for emergencies involving the intrastate transmission and distribution lines within the jurisdiction of the local fire department. The bill would require the commission, unless it determines that doing so is preempted under federal law, to require the installation of automatic shutoff or remote controlled sectionalized block valves on certain intrastate transmission lines, as defined.* The bill would require each gas corporation to prepare and submit to the commission a proposed comprehensive pressure testing implementation plan that includes specified elements and require that, at the conclusion of an implementation period, all intrastate transmission line segments meet specified requirements.

~~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 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 770.6 is added to the Public Utilities
2 Code, to read:
3 770.6.—(a) For purposes of this section, the following terms
4 have the following meanings:
5 (1) “Commission-regulated gas pipeline facility” has the same
6 meaning as defined in Section 950.
7 (2) “Compatible emergency response standards” means
8 emergency response standards that are applicable to intrastate
9 transmission and distribution lines that are in addition to, or more
10 stringent than, the minimum safety standards adopted by the United
11 States Department of Transportation pursuant to Chapter 601
12 (commencing with Section 60101) of Subtitle VIII of Title 49 of
13 the United States Code and that the commission is authorized to
14 adopt pursuant to Section 60104(c) of that chapter.
15 (b) On or before July 1, 2012, the commission shall open an
16 appropriate proceeding or expand the scope of an existing
17 proceeding to establish compatible emergency response standards

1 that owners or operators of commission-regulated gas pipeline
2 facilities shall be required to follow for intrastate transmission and
3 distribution lines. The commission shall establish the standards to
4 ensure that intrastate transmission and distribution lines have
5 emergency response plans that adequately prepare them for a
6 natural disaster or malfunction that could cause injury to human
7 life or property, with the purpose of minimizing the occurrence of
8 both.

9 (e) The commission shall establish the compatible emergency
10 response standards in consultation with the California Emergency
11 Management Agency and members of California's first responder
12 community, including, but not limited to, members of the California
13 Fire Chiefs Association.

14 (d) The compatible emergency response standards shall require
15 owners or operators of intrastate transmission and distribution lines
16 to implement emergency response plans that are compatible with
17 the United States Department of Transportation Pipeline and
18 Hazardous Materials Safety Administration's regulations
19 concerning emergency plans contained in Section 192.615 of Title
20 49 of the Code of Federal Regulations, and those plans shall
21 include, but not be limited to, all of the following requirements:

22 (1) Emergency shutdown and pressure reduction shall be utilized
23 whenever deemed necessary and appropriate by the owners or
24 operators to minimize hazards to life or property. An owner or
25 operator shall notify appropriate first responders of emergency
26 shutdown and pressure reduction.

27 (2) During an emergency response effort, the incident
28 commander may direct coordination between first responders and
29 owners or operators to ensure timely and ongoing communication
30 on decisions for emergency shutdown and pressure reduction.

31 (3) Owners or operators of intrastate transmission and
32 distribution lines shall establish and maintain liaison with
33 appropriate fire, police, and other public officials to do all of the
34 following:

35 (A) Learn the responsibility and resources of each government
36 organization that may respond to a gas pipeline emergency,
37 including, but not limited to, the role of the incident commander
38 in an emergency.

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

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

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

5 (E) Identify and update information on individual personnel
6 responsible for the liaison with the appropriate first responder
7 organizations.

8 (4) Owners and operators of intrastate transmission lines shall
9 provide the State Fire Marshal and the chief fire official of the
10 applicable city, county, city and county, or fire protection district
11 with instructions on how to access and utilize the National Pipeline
12 Mapping System developed by the United States Department of
13 Transportation, Pipeline and Hazardous Materials Safety
14 Administration, utilizing data submitted pursuant to Section 60132
15 of Title 49 of the United States Code, to improve local response
16 capabilities for pipeline emergencies.

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

20 (2) A report to be submitted pursuant to paragraph (1) shall be
21 submitted in compliance with Section 9795 of the Government
22 Code.

23 ~~SEC. 2.~~

24 SECTION 1. Chapter 4.5 (commencing with Section 950) is
25 added to Part 1 of Division 1 of the Public Utilities Code, to read:

26

27 CHAPTER 4.5. GAS PIPELINE SAFETY

28

29 Article 1. General

30

31 950. For purposes of this chapter, the following terms have the
32 following meanings:

33 (a) "Class 1 location," "class 2 location," "class 3 location,"
34 and "class 4 location" have the same meanings as defined in the
35 regulations adopted by the United States Department of
36 Transportation pursuant to Chapter 601 (commencing with Section
37 60101) of Subtitle VIII of Title 49 of the United States Code (49
38 C.F.R. 192.5, as adopted January 1, 2011, or a successor
39 regulation).

1 (b) “Commission-regulated gas pipeline facility” means an
2 intrastate gas pipeline facility as defined in Section 60101 of Title
3 49 of the United States Code, that is subject to the safety regulatory
4 authority of the commission to the extent authorized between the
5 commission and the United States Secretary of Transportation,
6 including each of the following pipelines:

7 (1) An intrastate distribution line, which is a pipeline that is not
8 subject to the jurisdiction of the Federal Energy Regulatory
9 Commission pursuant to Section 717(b) of Title 15 of the United
10 States Code because it is used for the local distribution of natural
11 gas.

12 (2) An intrastate transmission line, which is a transmission
13 pipeline that the commission, pursuant to Section 717(c) of Title
14 15 of the United States Code, has certified to the Federal Energy
15 Regulatory Commission as being subject to the regulatory
16 jurisdiction of the commission over rates and service. For these
17 purposes, a transmission pipeline means a pipeline other than a
18 gathering line that: (A) transports gas from a gathering line or
19 storage facility to a distribution center, storage facility, or large
20 volume customer that is not downstream from a distribution center,
21 (B) operates at a hoop stress of 20 percent or more of specified
22 maximum yield strength, or (C) transports gas within a storage
23 field.

24 (3) An intrastate gathering line, which is a pipeline that
25 transports gas from a current production facility to a transmission
26 line or main.

27 (4) A mobilehome park master-metered natural gas distribution
28 system that is subject to the commission’s safety inspection and
29 enforcement program pursuant to Chapter 4 (commencing with
30 Section 4351) of Division 2.

31 (5) A propane distribution system that is subject to the
32 commission’s safety inspection and enforcement program pursuant
33 to Chapter 4.1 (commencing with Section 4451) of Division 2.

34 (c) “High consequence area” has the same meaning as defined
35 in the regulations adopted by the United States Department of
36 Transportation pursuant to Chapter 601 (commencing with Section
37 60101) of Subtitle VIII of Title 49 of the United States Code (49
38 C.F.R. 192.903, as adopted January 1, 2011, or a successor
39 regulation).

1 Article 2. Natural Gas Pipeline Safety Act of 2011

2
3 955. (a) This article shall be known and may be cited as the
4 Natural Gas Pipeline Safety Act of 2011.

5 (b) The commission is the state authority responsible for
6 regulating and enforcing intrastate gas pipeline transportation and
7 pipeline facilities pursuant to Chapter 601 (commencing with
8 Section 60101) of Subtitle VIII of Title 49 of the United States
9 Code, including the development, submission, and administration
10 of a state pipeline safety program certification for natural gas
11 pipelines pursuant to Section 60105 of that chapter.

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

24 ~~(a) Each commission-regulated gas pipeline facility that is first
25 placed in service or replaced.~~

26 ~~(b) Each commission-regulated gas pipeline facility that
27 traverses an earthquake fault zone designated by the State Geologist
28 pursuant to the Alquist-Priolo Earthquake Fault Zoning Act
29 (Chapter 7.5 (commencing with Section 2621) of Division 2 of
30 the Public Resources Code).~~

31 ~~(c) Each commission-regulated gas pipeline facility that is in a
32 class 3 location, class 4 location, or high consequence area.~~

33 956. *Owners and operators of intrastate transmission and
34 distribution lines, at least once each calendar year, shall meet
35 with each local fire department having fire suppression
36 responsibilities in the area served by the owner or operator's
37 transmission and distribution pipelines to discuss and review
38 contingency plans for emergencies involving the intrastate
39 transmission and distribution lines within the jurisdiction of the
40 local fire department.*

1 957. (a) (1) *Unless the commission determines that it is*
2 *prohibited from doing so by subdivision (c) of Section 60104 of*
3 *Title 49 of the United States Code, the commission shall require*
4 *the installation of automatic shutoff or remote controlled*
5 *sectionalized block valves on both of the following facilities, if it*
6 *determines those valves are necessary for the protection of the*
7 *public:*

8 (A) *Intrastate transmission lines that are located in a high*
9 *consequence area.*

10 (B) *Intrastate transmission lines that traverse an active seismic*
11 *earthquake fault.*

12 (2) *Each owner or operator of a commission-regulated gas*
13 *pipeline facility that is an intrastate transmission line shall provide*
14 *the commission with a valve location plan, along with any*
15 *recommendations for valve locations. The commission may make*
16 *modifications to the valve location plan or provide for variations*
17 *from any location requirements adopted by the commission*
18 *pursuant to this section that it deems necessary or appropriate*
19 *and consistent with protection of the public.*

20 (3) *The commission shall additionally establish action timelines,*
21 *adopt standards for how to prioritize installation of automatic*
22 *shutoff or remote controlled sectionalized block valves pursuant*
23 *to paragraph (1), ensure that remote and automatic shutoff valves*
24 *are installed as quickly as is reasonably possible, and establish*
25 *ongoing procedures for monitoring progress in achieving the*
26 *requirements of this section.*

27 (b) *The commission shall authorize recovery in rates for all*
28 *reasonably incurred costs incurred for implementation of the*
29 *requirements of this section.*

30 (c) *The commission, in consultation with the Pipeline and*
31 *Hazardous Materials Safety Administration of the United States*
32 *Department of Transportation, shall adopt and enforce compatible*
33 *safety standards for commission-regulated gas pipeline facilities*
34 *that the commission determines should be adopted to implement*
35 *the requirements of this section.*

36 958. (a) *Each gas corporation shall prepare and submit to the*
37 *commission a proposed comprehensive pressure testing*
38 *implementation plan for all intrastate transmission lines to either*
39 *pressure test those lines or to replace all segments of intrastate*
40 *transmission lines that were not pressure tested or that lack*

1 sufficient details related to performance of pressure testing. The
2 comprehensive pressure testing implementation plan shall provide
3 for testing or replacing all intrastate transmission lines as soon as
4 practicable. The comprehensive pressure testing implementation
5 plan shall set forth criteria on which pipeline segments were
6 identified for replacement instead of pressure testing.

7 (b) The comprehensive pressure testing implementation plan
8 shall include a timeline for completion that is as soon as
9 practicable, and includes interim safety enhancement measures,
10 including increased patrols and leak surveys, pressure reductions,
11 prioritization of pressure testing for critical pipelines that must run
12 at or near maximum allowable operating pressure values that result
13 in hoop stress levels at or above 30 percent of specified minimum
14 yield stress, and any other measure that the commission determines
15 will enhance public safety during the implementation period.
16 Engineering-based assumptions may be used to determine
17 maximum allowable operating pressure in the absence of complete
18 records, but only as an interim measure until such time as all the
19 lines have been tested or replaced, in order to allow the gas system
20 to continue to operate.

21 (c) At the completion of the implementation period, all
22 California natural gas intrastate transmission line segments shall
23 meet all of the following:

24 (1) Have been pressure tested.

25 (2) Have traceable, verifiable, and complete records readily
26 available.

27 (3) Where warranted, be capable of accommodating in-line
28 inspection devices.

29 959. (a) Each gas corporation shall, twice a year, file with the
30 commission's consumer protection safety division a gas
31 transmission and storage safety report. The consumer protection
32 safety division shall review the reports to monitor each gas
33 corporation's storage and pipeline-related activities to assess
34 whether the projects that have been identified as high risk are being
35 carried out, and to track whether the gas corporation is spending
36 its allocated funds on these storage and pipeline-related safety,
37 reliability, and integrity activities for which they have received
38 approval from the commission.

39 (b) The gas transmission and storage safety report shall include
40 a thorough description and explanation of the strategic planning

1 and decisionmaking approach used to determine and rank the gas
2 storage projects, intrastate transmission line safety, integrity, and
3 reliability, operation and maintenance activities, and inspections
4 of its intrastate transmission lines. If there has been no change in
5 the gas corporation's approach for determining and ranking which
6 projects and activities are prioritized since the previous gas
7 transmission and storage safety report, the subsequent report may
8 reference the immediately preceding report.

9 (c) If the commission's consumer protection safety division
10 determines that there is a deficiency in a gas corporation's
11 prioritization or administration of the storage or pipeline capital
12 projects or operation and maintenance activities, the division shall
13 bring the problems to the commission's immediate attention.

14 968. (a) A gas corporation shall not recover any fine or penalty
15 in any rate approved by the commission.

16 (b) Each gas corporation shall demonstrate to the satisfaction
17 of the commission, in its general rate case, that its proposed rates
18 will be sufficient to enable the gas corporation to fund those
19 projects and activities necessary to maintain safe and reliable
20 service and to meet federal and state safety requirements applicable
21 to its gas plant, in a cost-effective manner.

22 ~~(e) In determining what constitutes a reasonable rate of return,~~
23 ~~the commission shall consider the safety record of the gas~~
24 ~~corporation.~~

25 ~~(d)~~

26 (c) If the commission authorizes a gas corporation to recover
27 expenses incurred for public safety, the commission shall require
28 the gas corporation to establish and maintain a balancing account
29 to record the difference between the approved revenue requirements
30 for public safety and the actual expenditures made by the utility.
31 A gas corporation shall return moneys approved for expenditure
32 for public safety by the commission, to the balancing account, if
33 those funds are not expended within a reasonable period of time
34 after the commission grants approval of the public safety
35 expenditure, as determined by the commission.

36 969. *In any ratemaking proceeding in which the commission*
37 *authorizes a gas corporation to recover expenses for the gas*
38 *corporation's transmission pipeline integrity management program*
39 *established pursuant to Subpart O (commencing with Section*
40 *192.901) of Part 192 of Title 49 of the United States Code, or for*

1 *capital expenditures for the maintenance and repair of transmission*
 2 *pipelines, the commission shall require the gas corporation to*
 3 *establish and maintain a one-way balancing account for the*
 4 *recovery of those expenses. Any unspent funds in the form of*
 5 *accumulated account balance at the end of each rate-case cycle,*
 6 *plus interest, shall be returned to customers through a true-up*
 7 *filing.*

8 ~~SEC. 3.~~

9 *SEC. 2.* No reimbursement is required by this act pursuant to
 10 Section 6 of Article XIII B of the California Constitution because
 11 the only costs that may be incurred by a local agency or school
 12 district will be incurred because this act creates a new crime or
 13 infraction, eliminates a crime or infraction, or changes the penalty
 14 for a crime or infraction, within the meaning of Section 17556 of
 15 the Government Code, or changes the definition of a crime within
 16 the meaning of Section 6 of Article XIII B of the California
 17 Constitution.