

AMENDED IN SENATE MAY 5, 2011
AMENDED IN SENATE APRIL 13, 2011

SENATE BILL

No. 705

Introduced by Senator Leno

February 18, 2011

~~An act to amend Sections 328 and 328.2 of, and to amend the heading of Chapter 2.2 (commencing with Section 328) of Part 1 of Division 1 of, and to add Sections 329 and 329.2 to, the Public Utilities Code, relating to natural gas. An act to add Chapter 4.5 (commencing with Section 950) to, and to repeal Chapter 2.2 (commencing with Section 328) of, Part 1 of Division 1 of the Public Utilities Code, relating to public utilities.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 705, as amended, Leno. Natural gas: service and safety.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including gas corporations, as defined. 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. The Public Utilities Act authorizes the commission to ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements, or services to be furnished, imposed, observed, and followed by specified public utilities, including gas corporations.

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 an intrastate gas pipeline facility, as defined. Existing law

authorizes the United States 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 annually submits to the secretary 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 federal law prohibits a state authority from adopting or continuing in force safety standards for interstate pipeline facilities or interstate pipeline transportation, but permits a state authority that has submitted a specified 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 regulating and enforcing intrastate gas pipeline transportation and pipeline facilities pursuant to federal law, including the development, submission, and administration of a state pipeline safety program certification for natural gas pipelines. The bill would require each gas corporation to develop a service and safety plan, as specified, for the safe and reliable operation of its gas plants, as defined, and would require the commission to accept, modify, or reject the plan by December 31, 2012. The bill would require that the plan be periodically reviewed and updated.

This

The bill would also reorganize and revise existing provisions relative to restructuring of the natural gas industry to declare that it is the policy of the state to place safety of the public and gas corporation employees as the top priority and require the commission to require that the distribution rate of a gas corporation include sufficient revenues and employee staffing to provide for prompt provision of service to the public consistent with this policy. ~~The bill would require each gas corporation to develop a service and safety plan, as specified, for the safe and reliable operation of its gas plant, as defined, and would require the commission to accept, modify, or reject the plan by December 31, 2012. The bill would require that the plan be periodically reviewed and updated. The bill would require that the commission ensure that each gas corporation have sufficient revenues to effectively implement the service and safety plan while preventing ratepayers from directly or~~

~~indirectly subsidizing unreasonable or imprudent actions by gas corporations, as specified. The bill would require that all revenues received by a gas corporation that are authorized by the commission for implementation of the safety policy, or development and implementation of the service and safety plan, be expended only for the purposes authorized by the commission. The bill would require the commission to dedicate sufficient resources to effectively oversee the implementation of the service and safety plan approved by the commission.~~

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.

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. Chapter 2.2 (commencing with Section 328) of
2 Part 1 of Division 1 of the Public Utilities Code is repealed.

3 SEC. 2. Chapter 4.5 (commencing with Section 950) is added
4 to Part 1 of Division 1 of the Public Utilities Code, to read:

5
6 CHAPTER 4.5. NATURAL GAS SERVICE AND SAFETY

7
8 Article 1. General

9
10 950. For purposes of this chapter, the following terms have
11 the following meanings:

12 (a) "Commission-regulated gas pipeline facility" means an
13 intrastate gas pipeline facility as defined in Section 60101 of Title
14 49 of the United States Code, that is subject to the safety regulatory

1 authority of the commission, including each of the following
2 pipelines:

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

8 (2) An intrastate transmission line, which is a transmission
9 pipeline that the commission, pursuant to Section 717(c) of Title
10 15 of the United States Code, has certified to the Federal Energy
11 Regulatory Commission as being subject to the regulatory
12 jurisdiction of the commission over rates and service. For these
13 purposes, a transmission pipeline means a pipeline other than a
14 gathering line that: (A) transports gas from a gathering line or
15 storage facility to a distribution center, storage facility, or large
16 volume customer that is not downstream from a distribution center;
17 (B) operates at a hoop stress of 20 percent or more of specified
18 maximum yield strength, or (C) transports gas within a storage
19 field.

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

23 (4) A mobilehome park master-metered natural gas distribution
24 system that is subject to the commission's safety inspection and
25 enforcement program pursuant to Chapter 4 (commencing with
26 Section 4351) of Division 2.

27 (5) A propane distribution system that is subject to the
28 commission's safety inspection and enforcement program pursuant
29 to Chapter 4.1 (commencing with Section 4451) of Division 2.

30

31 Article 2. Natural Gas Pipeline Safety Act of 2011

32

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

35 (b) The commission is the state authority responsible for
36 regulating and enforcing intrastate gas pipeline transportation
37 and pipeline facilities pursuant to Chapter 601 (commencing with
38 Section 60101) of Subtitle VIII of Title 49 of the United States
39 Code, including the development, submission, and administration

1 of a state pipeline safety program certification for natural gas
2 pipelines pursuant to Section 60105 of that chapter.

3 (c) The State Fire Marshal shall exercise exclusive safety
4 regulatory and enforcement authority over intrastate hazardous
5 liquid pipelines pursuant to the Elder California Pipeline Safety
6 Act of 1981 (Chapter 5.5 (commencing with Section 51010) of
7 Part 1 of Division 1 of Title 5 of the Government Code) and Section
8 13107.5 of the Health and Safety Code.

9 961. (a) (1) Each gas corporation shall develop a service and
10 safety plan for the safe and reliable operation of its gas plants that
11 implements the policy of subdivision (c) of Section 966.

12 (2) By December 31, 2012, the commission shall review and
13 accept, modify, or reject the plan for each gas corporation as part
14 of a proceeding that includes a hearing.

15 (3) Each gas corporation shall implement its approved plan.

16 (4) The commission shall require each gas corporation to
17 periodically review and update the plan, and the commission shall
18 review and accept, modify, or reject an updated plan at regular
19 intervals thereafter. The commission shall, pursuant to Section
20 1701.1, determine whether a proceeding on a proposed update to
21 a plan requires a hearing, consistent with subdivision (d).

22 (b) The service and safety plan developed and implemented
23 pursuant to subdivision (a) shall be consistent with best practices
24 in the gas industry and with federal pipeline safety statutes as set
25 forth in Chapter 601 (commencing with Section 60101) of Subtitle
26 VIII of Title 49 of the United States Code and the regulations
27 adopted by the United States Department of Transportation
28 pursuant to those statutes.

29 (c) The service and safety plan developed and implemented
30 pursuant to subdivision (a) shall set forth how the gas corporation
31 will implement the policy established in subdivision (c) of Section
32 966 and achieve each of the following:

33 (1) Identify and minimize hazards and systemic risks in order
34 to prevent accidents, explosions, fires, and dangerous conditions,
35 and protect the public and gas corporation employees.

36 (2) Identify the safety-related systems that will be deployed to
37 eliminate or minimize hazards, including adequate documentation
38 of gas plant history and capability.

39 (3) Provide adequate storage and transportation capacity to
40 reliably and safely deliver gas to all customers consistent with

1 rules authorized by the commission governing core and noncore
2 reliability and curtailment, including provisions for expansion,
3 replacement, preventive maintenance, and reactive maintenance
4 and repair of gas plants.

5 (4) Provide for effective patrol and inspection of the gas plant
6 to detect leaks and other compromised facility conditions and to
7 effect timely repairs.

8 (5) Provide for appropriate and effective system controls, with
9 respect to both equipment and personnel procedures, to limit the
10 damage from accidents, explosions, fires, and dangerous
11 conditions.

12 (6) Provide timely response to customer and employee reports
13 of leaks and other hazardous conditions and emergency events,
14 including disconnection, reconnection, and pilot-lighting
15 procedures.

16 (7) Include appropriate protocols for determining maximum
17 allowable operating pressures on relevant pipeline segments,
18 including all necessary documentation affecting the calculation
19 of maximum allowable operating pressures.

20 (8) Prepare for, prevent, or minimize damage from, and respond
21 to, earthquakes and other major events.

22 (9) Exceed the minimum standards for safe design, construction,
23 installation, operation, and maintenance of gas transmission and
24 distribution facilities prescribed by regulations issued by the United
25 States Department of Transportation in Part 192 (commencing
26 with Section 192.1) of Title 49 of the Code of Federal Regulations.

27 (10) Ensure an adequate number of properly trained gas
28 corporation employees to carry out the plan.

29 (11) Any additional matter that the commission determines
30 should be included in the plan.

31 (d) The commission and gas corporation shall provide
32 opportunities for full and ongoing participation by gas corporation
33 employees in the development and implementation of the service
34 and safety plan, with the objective of developing an industry-wide
35 culture of safety that will prevent accidents, explosions, fires, and
36 dangerous conditions for the protection of the public and gas
37 corporation employees.

1 *Article 3. Natural Gas Service*

2
3 965. *For purposes of this article, the following terms have the*
4 *following meanings:*

5 (a) *“After-meter services” includes, but is not limited to, leak*
6 *investigation, inspecting customer piping and appliances, carbon*
7 *monoxide investigation, pilot relighting, and high bill investigation.*

8 (b) *“Basic gas service” includes transmission, storage for*
9 *reliability of service, and distribution of natural gas, purchasing*
10 *natural gas on behalf of a customer, revenue cycle services, and*
11 *after-meter services.*

12 (c) *“Metering services” includes, but is not limited to, gas meter*
13 *installation, meter maintenance, meter testing, collecting and*
14 *processing consumption data, and all related services associated*
15 *with the meter.*

16 (d) *“Revenue cycle services” means metering services, billing*
17 *the customer, collection, and related customer services.*

18 966. *The Legislature finds and declares all of the following:*

19 (a) *In order to ensure that all core customers of a gas*
20 *corporation continue to receive safe basic gas service, each*
21 *existing gas corporation shall continue to provide this essential*
22 *service.*

23 (b) *A customer shall not be required to pay separate fees for*
24 *utilizing services that protect public or customer safety.*

25 (c) *It is the policy of the state that the commission and each gas*
26 *corporation place safety of the public and gas corporation*
27 *employees as the top priority.*

28 967. (a) *The commission shall require each gas corporation*
29 *to provide bundled basic gas service to all core customers in its*
30 *service territory unless the customer chooses or contracts to have*
31 *natural gas purchased and supplied by another entity.*

32 (b) *A public utility gas corporation shall continue to be the*
33 *exclusive provider of revenue cycle services to all customers in its*
34 *service territory, except that an entity purchasing and supplying*
35 *natural gas under the commission’s existing core aggregation*
36 *program may perform billing and collection services for its*
37 *customers under the same terms as currently authorized by the*
38 *commission, and except that a supplier of natural gas to noncore*
39 *customers may perform billing and collection for natural gas*
40 *supply for its customers.*

1 (c) *The gas corporation shall continue to calculate its charges*
 2 *for services provided by that corporation. If the commission*
 3 *establishes credits to be provided by the gas corporation to core*
 4 *aggregation or noncore customers who obtain billing or collection*
 5 *services from entities other than the gas corporation, the credit*
 6 *shall be equal to the billing and collection services costs actually*
 7 *avoided by the gas corporation.*

8 (d) *The commission shall require the distribution rate to*
 9 *continue to include after-meter services and shall authorize*
 10 *sufficient revenues and employee staffing to provide for prompt*
 11 *provision of these services to the public, consistent with the policy*
 12 *developed and implemented by the gas corporation and approved*
 13 *by the commission pursuant to Section 961.*

14 SECTION 1. ~~The heading of Chapter 2.2 (commencing with~~
 15 ~~Section 328) of Part 1 of Division 1 of the Public Utilities Code~~
 16 ~~is amended to read:~~

17
 18 CHAPTER 2.2. ~~NATURAL GAS SAFETY AND SERVICE~~

19
 20 SEC. 2. ~~Section 328 of the Public Utilities Code is amended~~
 21 ~~to read:~~

22 328. ~~The Legislature finds and declares all of the following:~~

23 (a) ~~In order to ensure that all core customers of a gas corporation~~
 24 ~~continue to receive safe basic gas service, each existing gas~~
 25 ~~corporation shall continue to provide this essential service.~~

26 (b) ~~A customer shall not be required to pay separate fees for~~
 27 ~~utilizing services that protect public or customer safety.~~

28 (c) ~~It is the policy of the state that the commission and each gas~~
 29 ~~corporation place safety of the public and gas corporation~~
 30 ~~employees as the top priority.~~

31 SEC. 3. ~~Section 328.2 of the Public Utilities Code is amended~~
 32 ~~to read:~~

33 328.2. (a) ~~The commission shall require each gas corporation~~
 34 ~~to provide bundled basic gas service to all core customers in its~~
 35 ~~service territory unless the customer chooses or contracts to have~~
 36 ~~natural gas purchased and supplied by another entity.~~

37 (b) ~~A public utility gas corporation shall continue to be the~~
 38 ~~exclusive provider of revenue cycle services to all customers in~~
 39 ~~its service territory, except that an entity purchasing and supplying~~
 40 ~~natural gas under the commission's existing core aggregation~~

1 ~~program may perform billing and collection services for its~~
2 ~~customers under the same terms as currently authorized by the~~
3 ~~commission, and except that a supplier of natural gas to noncore~~
4 ~~customers may perform billing and collection for natural gas supply~~
5 ~~for its customers.~~

6 ~~(e) The gas corporation shall continue to calculate its charges~~
7 ~~for services provided by that corporation. If the commission~~
8 ~~establishes credits to be provided by the gas corporation to core~~
9 ~~aggregation or noncore customers who obtain billing or collection~~
10 ~~services from entities other than the gas corporation, the credit~~
11 ~~shall be equal to the billing and collection services costs actually~~
12 ~~avoided by the gas corporation.~~

13 ~~(d) The commission shall require the distribution rate to continue~~
14 ~~to include after-meter services and shall authorize sufficient~~
15 ~~revenues and employee staffing to provide for prompt provision~~
16 ~~of these services to the public, consistent with the policy developed~~
17 ~~and implemented by the gas corporation and approved by the~~
18 ~~commission pursuant to subdivision (e) of Section 382.~~

19 ~~SEC. 4. Section 329 is added to the Public Utilities Code, to~~
20 ~~read:~~

21 ~~329. (a) (1) Each gas corporation shall develop a service and~~
22 ~~safety plan for the safe and reliable operation of its gas plant that~~
23 ~~implements the policy of paragraph (c) of Section 328.~~

24 ~~(2) By December 31, 2012, the commission shall review and~~
25 ~~accept, modify, or reject the plan for each gas corporation as part~~
26 ~~of a proceeding that includes a hearing.~~

27 ~~(3) Each gas corporation shall implement its approved plan.~~

28 ~~(4) The commission shall require each gas corporation to~~
29 ~~periodically review and update the plan, and the commission shall~~
30 ~~review and accept, modify, or reject an updated plan at regular~~
31 ~~intervals thereafter. The commission shall, pursuant to Section~~
32 ~~1701.1, determine whether a proceeding on a proposed update to~~
33 ~~a plan requires a hearing, consistent with subdivision (d).~~

34 ~~(b) The service and safety plan developed and implemented~~
35 ~~pursuant to subdivision (a) shall be consistent with best practices~~
36 ~~in the gas industry and with federal pipeline safety statutes (Chapter~~
37 ~~601 (commencing with Section 60101) of Subtitle VIII of Title 49~~
38 ~~of the United States Code) and the regulations adopted by the~~
39 ~~United States Department of Transportation pursuant to those~~
40 ~~statutes.~~

- 1 ~~(e) The service and safety plan developed and implemented~~
2 ~~pursuant to subdivision (a) shall set forth how the gas corporation~~
3 ~~will implement the policy established in paragraph (e) of Section~~
4 ~~328 and achieve each of the following:~~
- 5 ~~(1) Identify and minimize hazards and systemic risks in order~~
6 ~~to prevent accidents, explosions, fires, and dangerous conditions~~
7 ~~and protect the public and its employees.~~
- 8 ~~(2) Identify the safety-related systems that will be deployed to~~
9 ~~eliminate or minimize hazards, including adequate documentation~~
10 ~~of gas plant history and capability.~~
- 11 ~~(3) Provide adequate storage and transportation capacity to~~
12 ~~reliably and safely deliver gas to all customers consistent with~~
13 ~~rules authorized by the commission governing core and noncore~~
14 ~~reliability and curtailment, including provisions for expansion,~~
15 ~~replacement, preventive maintenance, and reactive maintenance~~
16 ~~and repair of gas plant.~~
- 17 ~~(4) Provide for effective patrol and inspection of the gas plant~~
18 ~~to detect leaks and other compromised facility conditions and to~~
19 ~~effect timely repairs.~~
- 20 ~~(5) Provide for appropriate and effective system controls, with~~
21 ~~respect to both equipment and personnel procedures, to limit the~~
22 ~~damage from accidents, explosions, fires, and dangerous~~
23 ~~conditions.~~
- 24 ~~(6) Provide timely response to customer and employee reports~~
25 ~~of leaks and other hazardous conditions and emergency events,~~
26 ~~including disconnection, reconnection, and pilot-lighting~~
27 ~~procedures.~~
- 28 ~~(7) Include appropriate protocols for determining maximum~~
29 ~~allowable operating pressures on relevant pipeline segments,~~
30 ~~including all necessary documentation affecting the calculation of~~
31 ~~maximum allowable operating pressures.~~
- 32 ~~(8) Prepare for, prevent, or minimize damage from, and respond~~
33 ~~to, earthquakes and other major events.~~
- 34 ~~(9) Exceed the minimum standards for safe design, construction,~~
35 ~~installation, operation, and maintenance of gas transmission and~~
36 ~~distribution facilities prescribed by regulations issued by the United~~
37 ~~States Department of Transportation in Part 192 of Title 49 of the~~
38 ~~Code of Federal Regulations.~~
- 39 ~~(10) Ensure an adequate number of properly trained gas~~
40 ~~corporation employees to carry out the plan.~~

1 ~~(11) Any additional matter that the commission determines~~
2 ~~should be included in the plan.~~

3 ~~(d) The commission and gas corporation shall provide~~
4 ~~opportunities for full and ongoing participation by gas corporation~~
5 ~~employees in the development and implementation of the service~~
6 ~~and safety plan, with the objective of developing an industrywide~~
7 ~~culture of safety that will prevent accidents, explosions, fires, and~~
8 ~~dangerous conditions for the protection of the public and gas~~
9 ~~corporation employees.~~

10 ~~SEC. 5. Section 329.2 is added to the Public Utilities Code, to~~
11 ~~read:~~

12 ~~329.2. (a) The commission shall take all reasonable and~~
13 ~~appropriate actions necessary to carry out the policy of paragraph~~
14 ~~(e) of Section 328 consistent with the principle of just and~~
15 ~~reasonable cost-based rates.~~

16 ~~(b) The commission shall ensure that each gas corporation has~~
17 ~~sufficient revenues to effectively implement the service and safety~~
18 ~~plan required by Section 329. In implementing this section, the~~
19 ~~commission shall prevent ratepayers from directly or indirectly~~
20 ~~subsidizing unreasonable or imprudent actions by gas corporations,~~
21 ~~including both of the following:~~

22 ~~(1) The commission shall not allow the recovery, directly or~~
23 ~~indirectly, of expenses from ratepayers that are incurred by the~~
24 ~~gas corporation for any of the following:~~

25 ~~(A) Data gathering or evaluation proximately caused by~~
26 ~~inadequate historical compliance with any applicable state or~~
27 ~~federal standards for recordkeeping or by the utility's failure to~~
28 ~~observe reasonable recordkeeping and data maintenance practices.~~

29 ~~(B) Inspection work, including retrofitting and smart pigging,~~
30 ~~proximately caused by unreasonable reliance on faulty records or~~
31 ~~inadequate data concerning pipeline characteristics.~~

32 ~~(C) Maintenance work proximately caused by deferred~~
33 ~~maintenance or other activities forecast and authorized in prior~~
34 ~~rate cases.~~

35 ~~(2) In any proceeding addressing the gas corporation's recovery~~
36 ~~of expenses or capital investments in pipeline reliability, including~~
37 ~~installation of new transmission pipeline valves or other pressure~~
38 ~~control systems and the replacement of transmission pipes, the~~
39 ~~commission shall ensure that:~~

1 (A) The investment is supported by a cost versus benefit analysis
2 that considers alternatives to promote safety of the pipeline system.

3 (B) The adopted ratemaking fairly accounts for any prior failure
4 by the gas corporation to carry out its obligation to safely construct,
5 operate, and maintain its gas plant.

6 ~~(c) All revenues received by the gas corporation that are~~
7 ~~authorized by the commission for implementation of the safety~~
8 ~~policy, or for the development and implementation of the service~~
9 ~~and safety plan, shall be expended by the gas corporation only for~~
10 ~~the purposes authorized by the commission. The commission shall~~
11 ~~enact appropriate rules to ensure that moneys are appropriately~~
12 ~~spent on authorized activities or returned to ratepayers.~~

13 ~~(d) The commission shall dedicate sufficient resources to~~
14 ~~effectively oversee the implementation of the service and safety~~
15 ~~plan approved by the commission pursuant to Section 329,~~
16 ~~including reviewing documentation, and timely inspections, repairs,~~
17 ~~and responses to abate or address hazardous conditions. The~~
18 ~~commission's budget shall reflect the commission's judgment~~
19 ~~about sufficient resources.~~

20 ~~SEC. 6.~~

21 *SEC. 3.* No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.