Pipeline Safety Update
April 20, 2011

DOT Holds Pipeline Safety Forum, Announces New Pipeline Safety Website. PHMSA Makes Grants to Improve State Damage Prevention. CPUC issues order setting revenue requirement and rates for PG&E’s gas transmission and storage facilities, requires safety expenditure reporting. CPUC pipeline reliability and safety rulemaking process and Rancho Cordova investigation move forward. PHMSA posts final orders and other enforcement documents issued in March, including the first reported settlement of a proposed safety order.

DOT Holds Pipeline Safety Forum, Launches New Pipeline Safety Website

DOT Secretary Ray LaHood hosted a Pipeline Safety Forum this week in Washington, DC. Pipeline industry officials, state and federal regulators, and the public participated in panel discussions on pipeline safety risks, challenges and opportunities for improvement. The goal of this unique event was to start a process for developing solutions to reduce pipeline risks and prevent accidents. Many participants noted that, aside from the broad risk of excavation damage, risk must be assessed on a pipeline-by-pipeline basis due to differences in commodity types, environmental factors, and many other considerations. There was general agreement that improving pipeline safety will take efforts in several areas, including:

- better state and federal damage prevention laws and enforcement,
- more research and development on pipeline assessment tools and pipeline failure causes,
- more reliable recovery mechanisms for safety costs,
- maintaining a risk-based, flexible approach to pipeline threats,
- a focus on bare steel and cast iron pipe, and
- improvements in public awareness programs.

You can watch a webcast of the Forum here. DOT also launched a new website on pipeline safety awareness, intended to provide information and updates on its pipeline safety Action Plan. The site includes information on specific pipeline incidents, links to pipeline maps, reports research and frequently asked questions about pipelines. DOT stated that it will post all materials from the Forum, and will eventually make its draft Pipeline Safety Report to the Nation available on the site for public comment.
Pipeline Safety Reauthorization and Congressional Activities

The Senate Commerce Committee markup of the Pipeline Transportation Safety Improvement Act of 2011 (S.275) originally set for April 12th has not yet been rescheduled.

Van Ness Feldman’s side-by-side chart comparing the three federal pipeline safety bills that have been introduced in the 112th Congress, as well as DOT’s 2010 reauthorization proposal, may be found here.3

PHMSA Activities

Enforcement Cases. PHMSA recently posted 14 final orders issued in March, assessing over $1.4 million in civil penalties. The March final orders, as well as new notices of probable violation, notices of amendment, warning letters, and the first-ever consent agreement settling a proposed safety order can be found here.4

Damage Prevention Grants. Last week, PHMSA made two grants to several states to support enhancements to damage prevention programs. The two grants totaled over $3 million and will go to enhance states’ One Call centers and underground pipeline damage prevention programs. Information about the grants, including a list of recipients, can be found here and here.5

Select Activities from the States

California. In its April 18 order establishing the revenue requirement and rates for PG&E’s gas transmission and storage facilities for 2011 through 2014, the CPUC required PG&E to file a semi-annual Gas Transmission and Storage Safety Report (Safety Report), with the first report due October 1, 2011. Among other things, the Safety Report provision requires that PG&E explain its approach to ranking its capital projects including any risk rankings. The order also mandates that, if PG&E does not spend the entire amount budgeted for gas storage capital projects, pipeline-related capital projects, or O&M activities related to pipeline safety, reliability, and integrity, PG&E must provide an explanation in its Safety Report. The order is here.6

Several entities filed comments in the CPUC’s rulemaking proceeding on pipeline safety, reliability and related ratemaking mechanisms. Commenters include the CPUC Division of Ratepayer Advocate, PG&E, Southern California Gas Company, San Diego Gas and Electric Company, and several non-profit groups. Comments covered the appropriate role of rate relief for pipeline safety costs, MAOP, reporting requirements, valve automation, and several other topics. The comments are here.7

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Upcoming PHMSA State Seminars

**May 2011**
9-13 Washington (liquids)
9-13 Connecticut (LPG)
23-27 California (liquids)

**June 2011**
13-17 Texas (gas)
27-7/1 Missouri (gas)

**July 2011**
13-17 Texas (liquids)
25-29 Louisiana (liquids)
25-29 Louisiana (gas)

PHMSA offers training on gas and hazardous liquid pipeline safety regulations. More information is available here.
The CPUC issued a scoping memo and ruling regarding the issues that will be addressed in the Commission’s investigation into PG&E related to a December 2008 gas incident in Rancho Cordova. Broadly, the CPUC will address whether PG&E violated applicable laws and regulations related to its gas service and facilities. The ruling also sets a procedural schedule, including hearings starting on July 18. The memo and ruling is here.8

As noted in previous Pipeline Safety Updates, several bills are circulating in the California legislature that would address pipeline safety issues. Here are the highlights:

- **AB-56 (Hill-D)** was passed out of the Committee on Utility and Commerce by a vote of 9-0 on March 21. AB-56 has since been re-referred to the Committee on Appropriations.

- **Both SB-216 (Yee-D) and SB-44 (Corbett-D)** were discussed at an April 5 hearing of the Senate Energy, Utilities and Communications Committee. SB-216 and SB-44 were both passed out of the Committee and re-referred to Committee on Appropriations on April 14.

- **SB-705 (Leno-D)** remains set for discussion at an April 28 hearing of the Senate Committee on Energy, Utilities and Communications.

**Pennsylvania.** On April 8, HB 344 (M. Baker-R) was referred to the Consumer Protection & Professional Licensure Committee. The bill would make explicit the pipeline safety role of the PA Public Utilities Commission and expand its jurisdiction to regulate gathering pipelines. On April 7, a similar Senate Bill, SB 325 (L. Baker-R) was referred to the Consumer Affairs Committee.

**Texas.** On April 14, SB 1293 (Hegar-R) moved out of Committee and was placed on the intent calendar for April 18. The bill would substantially increase penalty amounts for pipeline safety violations. Currently, civil penalties are limited to $10,000 per violation per day. The bill would increase civil penalty limits to $100,000 per violation per day up to $1 million for a related series of violations. The bill would also increase the maximum criminal penalty from $25,000 to $1 million.

### For Additional Information

Van Ness Feldman regularly counsels clients on issues related to pipeline construction, permitting, safety, and operation, and has in-depth experience on issues involving compliance with the Pipeline Safety Act. If you are interested in additional information regarding PHMSA’s regulatory program, or any other energy-related federal activity, please contact Susan Olenchuk at (202) 298-1896 or sam@vnf.com, Jim Curry at (202) 298-1831 or jbc@vnf.com, or any member of the firm’s Natural Gas or Oil and Products Pipelines practice groups.

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1 Webcast of April 18, 2011 DOT Pipeline Safety Forum
   http://mediasite.yorkcast.com/webcast/Viewer/?peid=fee8a2d0bfe0430c867872cf7e45166a1d

2 New DOT Pipeline Safety Websites

3 VNF Legislative Comparison Chart
   http://sitepilot03.firmseek.com/client/vanness/www/assets/attachments/Comparison%20Chart%20Pipeline%20
   Safety%20Legislation%202-23-11.pdf

4 PHMSA March Enforcement Documents

5 PHMSA Damage Prevention Grants
   http://www.phmsa.dot.gov/staticfiles/PHMSA/DownloadableFiles/phmsa0611.pdf and

6 CPUC Order establishing the revenue requirement and rates for PG&E’s gas transmission and storage facilities for
   2011 through 2014.
   http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/133715.pdf

7 Comments on CPUC Pipeline Reliability and Safety Rulemaking
   http://docs.cpuc.ca.gov/published/proceedings/l1011013.htm

8 CPUC Scoping Memo and Ruling on Rancho Cordova PG&E Investigation
   http://docs.cpuc.ca.gov/published/proceedings/l1011013.htm