

CALIFORNIA PUBLIC UTILITIES COMMISSION

Office of the Safety Advocate

Annual Report for 2016 Activities

(as required by Public Utilities Code Section 309.8(c))

Submitted January 10, 2017

On September 29, 2016, Governor Brown signed and the Secretary of State chaptered Senate Bill 62 (Chapter 806, Stats. 2016). These actions added Section 309.8 to the Public Utilities Code which establishes the Office of the Safety Advocate (OSA) within the Commission “to advocate for the continuous, cost-effective improvement of the safety management and safety performance of public utilities.”

Section 309.8.c requires OSA to report to the Legislature annually no later than January 10 on: 1) actions taken by the office to recommend improvements to the Commission’s safety management policy and procedures and its safety culture related to oversight of utilities; 2) actions taken to recommend improvements to public utility safety management policy and procedures and safety culture; and 3) proceedings in which the office participated and a brief description of the testimony it filed. In September 2016, CPUC Executive Director Tim Sullivan announced the formation of the OSA and named an interim director, Assistant Chief Administrative Law Judge Dorothy Duda. Ms. Duda assumed the duties of OSA interim director in mid-September (in anticipation of gubernatorial signing) and immediately began the task of shaping the mission and vision for OSA, based on the guidance in SB 62.

In the brief three months that have passed since the signing of SB 62, the Commission has focused on the administrative and managerial steps required to ensure the effectiveness and efficiency of this new office. OSA provides the following report in fulfillment of the reporting requirements of the newly enacted Section 309.8.c. and to enumerate the steps taken so far and the steps that will immediately follow in establishing OSA.

I. Actions to Recommend Improvements to CPUC Safety Management Policy and Procedures and Safety Culture

Within the first month on the job in September 2016, OSA’s interim director met with the Executive Director and all five Commissioners, as well as other relevant senior CPUC managers, to hear their thoughts and views on the role of the new

OSA and how it should proceed with its mission. The interim director prepared a draft mission and vision statement for the office to guide these discussion and receive feedback.

Draft Vision Statement: *Promotion of public safety through advocacy to achieve the highest possible safety performance of public utilities regulated by the Commission.*

Draft Mission Statement: *The Office of the Safety Advocate will: a) provide independent fact finding, analysis, and record development in Commission proceedings regarding the safe operation of public utilities and b) collaborate with all CPUC Divisions to recommend improvements to the agency's safety management policies and procedures thereby creating a safety culture and a safety management system.*

The interim Director also met with key staff in the Commission's Office of Ratepayer Advocates (ORA) and Safety and Enforcement Division (SED) (including Risk Assessment and Safety Advisory Unit, Gas Safety and Reliability Branch, Electric Safety and Reliability Branch) to discuss OSA's mission, future OSA collaboration with these existing CPUC divisions, and steps to avoid any duplication of effort. Specifically, SED inspectors and their investigatory work will play a critical role in providing safety compliance and enforcement data useful to OSA as it formulates recommendations to improve CPUC safety management policy and procedures. Open communication between the two divisions will be key to OSA success as SED staff will be able to feed critical safety concerns to OSA to pursue as advocates in multiple forums. Likewise, ORA has advocacy staff focusing on safety of utility operations. Collaborating and coordinating with their work can ensure that OSA provides added value to the CPUC on consideration of safety concerns.

Also in September 2016, the interim director co-facilitated a workshop along with the CPUC Public Advisor to address two topics: 1) establishing the Office of the Safety Advocate and 2) increasing participation in CPUC proceedings by intervenors concerned with public utility safety topics. The workshop was well attended by representatives of utilities, consumer advocates, utility employees,

CPUC staff, and the general public. At the event, a brainstorming session on the potential role of OSA in proceedings was led by panel members including Tony Marino, aide to Senator Jerry Hill (co- author of Senate Bill 62), and Tom Long, representing The Utility Reform Network (TURN). Participants discussed the role of a safety advocate in utility risk assessment and building a strong safety culture at the utilities and the CPUC. Evelyn Kahl of Indicated Producers, and Marc Joseph of California Coalition of Utility Employees led the second panel regarding ideas to overcome barriers to participation by safety intervenors. Participants discussed ideas to make safety a paramount topic in CPUC proceedings, collaborative approaches to safety, learning from each incident, and methods to increase the transparency of safety information.

Other key actions taken by the interim Director during the first three months of OSA's existence include the following:

- **Temporary Staffing:** Two retired annuitants with extensive experience in safety and gas utility regulation are now on board. Retired annuitants Ken Koss and Richard Myers came on board in October and December, respectively, to help OSA monitor and lay an advocacy foundation in the Safety Model Assessment Proceeding (SMAP), Southern California Edison (SCE) general rate case, and the Risk Assessment Mitigation Phase (RAMP) of Commission Investigation (I.) 16-10-015 and I. 16-10-016 pertaining to operations of San Diego Gas and Electric Company and Southern California Gas Company. Both retired annuitants are working part time.
- **Permanent Staffing:** The interim Director worked to bring permanent staff on board by drafting critical documents for the human resources hiring process (e.g. (duty statements, job opportunity bulletins, hiring plans). Four positions were posted in November 2016 (2 Senior Utility Engineers and 2 Public Utility Regulatory Analyst V positions). Numerous applications were received and evaluation of candidates' statements of qualification is underway. Interviews will be scheduled for January 2017. The interim Director is also working with the Executive Director to speed the process of hiring a permanent Director for OSA, as she has accepted another permanent position in the agency effective as of early 2017.

- **Safety Management System:** The interim Director met with Professors Paul Schulman and Karlene Roberts from the Center for Catastrophic Risk Management at University of California, Berkeley to discuss their report to the CPUC in February 2016 on Safety Management System Implementation at the CPUC and to understand various concepts suggested in that report. Based on that conversation, follow up research, and suggestions from Senator Hill and his staff in discussions and correspondence, the concept of a “safety case” has arisen. A safety case can be described as proceeding wherein a regulated entity makes a report to the regulator demonstrating that all measures necessary for the prevention and mitigation of major accidents have been taken. The report would also contain information for the regulator to review and analyze, including a policy on preventing and mitigating major accidents. Further work on safety management system implementation and the “safety case” idea will be undertaken in 2017.
- **Strategic Planning:** The interim Director drafted Action Items to fulfill CPUC Strategic Directive #2 on Safety, which is part of the Commission’s strategic planning process under the direction of the Commissioners. In addition, she assisted with drafting of 2017 Safety Action Plan update.
- **Safety Council:** OSA is coordinating with the Deputy Executive Director overseeing safety to reformulate the mission and activities of the CPUC Executive Safety Council, which was initiated in 2012. OSA maintains that the Executive Safety Council and senior management involvement with the council plays a critical role in ensuring a healthy safety culture at the CPUC and that safety considerations related to the CPUC’s regulatory oversight are given adequate management attention and priority.
- **Training:** The interim Director met with CPUC Human Resources managers to discuss new employee onboarding and to recommend that safety training/orientation is made part of staff onboarding process. OSA intends to provide management assistance to ensure safety training for new employees is a priority. The CPUC faces a large number of vacancies due to both new positions and employee turnover. OSA considers it critical to the success of a strong CPUC safety culture to ensure that newly hired staff

receives early training about safety aspects of their job as a regulator, and safety concerns in the workplace. In that capacity, OSA continues to work with the Deputy Executive Director and the ombudsperson for safety, who is responsible for ensuring matters brought by employees receive appropriate attention, on elevating the importance of workplace safety.

- **Dialogue and Learning:** The interim Director participated in the CPUC's October 2016 *Safety En Banc* on Interconnected Infrastructures. The CPUC invited participants from utilities, staff, and consumer advocates, to join experts in safety from academia and state and local emergency management professionals in a day-long group discussion of critical infrastructure in California and preparedness to avoid infrastructure disruptions that can have cascading adverse effects. Three morning sessions involved small group discussions on: 1) information and communication, 2) managing risk during technological change, and 3) the regulatory role when interconnected infrastructure is both regulated and unregulated. The goal of each group was to focus on solutions to overcoming the interconnected risk of failure through collaboration and emergency preparedness. In the afternoon, group leaders reported back on the ideas that emanated from the morning dialogue. Key concepts included best practices for information sharing and communication between companies, regulators, and other agencies, human factors in preparedness and continuous safety improvement. OSA intends to continue the critical emergency preparedness conversations held at the Safety En Banc through continued dialogue with utility, state and local emergency management professionals who attended the event.

II. Actions to Recommend Improvements to Public Utility Safety Management Policy and Procedures and Safety Culture

In the September through December 2016 time period, OSA has begun the following activities related to improvement of public utility safety management:

- **Utility Outreach:** Initiated conversations with staff from the four large energy investor-owned utilities in California (i.e. SCE, PG&E, SDG&E and

SoCalGas) to hear from key utility managers about their safety managements systems and objectives for the coming year and to establish communications for future ongoing dialogues between these managers and OSA.

- **Safety Reporting System/Close Call Reporting:** Researching idea of Close Call/Safety Reporting System. Met with Linda Connell, Director of Safety Reporting Systems at NASA Ames Research Center in November 2016 to hear details of the FAA’s Safety Reporting System, and safety reporting systems in other industries such as firefighting, rail, and offshore oil. Considering options for further development of this idea with regard to utility electric and gas regulation.
- **Coordinating with SED Risk Assessment Unit:** Continuing dialogue with SED staff to understand and clarify roles of OSA and SED Risk Assessment team, particularly on SMAP, RAMP and general rate case proceedings. For example, the Risk Assessment team is active in the SMAP case as advisory staff, assisting technical working groups on the “test drive” of risk assessment methodologies and development of performance metrics for evaluation of utility safety performance, as required by D.16-08-018. OSA is particularly interested that any test drives of risk assessment methodologies include human risk factors such as training and process safety measures, so that attention is paid to safety mitigations that include safety process improvements. In addition, OSA will be involved with development of safety performance metrics, which will be central to the accountability reports that utilities will file in the general rate case process to inform the Commission and parties where dollars were allocated to safety projects and what results were achieved. OSA will be active in an advocacy role in the SMAP case both on the test drive to understand the risk assessment methodologies and their strengths/weaknesses and in development of metrics and accountability reports.

OSA has undertaken the initiatives described above with only one full time staff person, the interim director, and 2 part time staff who are retired annuitants. As OSA hires permanent staff and actively participates in the proceedings listed

below, it will endeavor to recommend substantive improvements to public utilities' safety management policies and procedures.

III. Description of Proceedings and Testimony

In the brief three months that the OSA has existed, it has become a party (or intends to become a party, pending acceptance of motions by the presiding officer) to the following cases:

- **Southern California Edison Company (SCE) General Rate Case Test Year 2018 (A.15-09-001):** OSA responded to the application and noted its intent to participate in the case regarding safety management issues. OSA representatives attended workshops held by SCE in October and the prehearing conference to discuss scope and schedule in November. The scoping memo has set an intervenor testimony due date of May 2, 2017. If OSA is able to hire permanent staff in early 2017 who are able to pursue discovery on safety issues raised by SCE's application, OSA will strive to file testimony in May 2017.
- **Safety Model Assessment Proceeding (SMAP) (A.15-05-002 and consolidated cases):** OSA moved to intervene in Phase 2 of this proceeding regarding a "test drive" of a risk assessment methodology adopted on an interim basis in Decision 16-08-018 (i.e., the "Multi-Attribute Approach"). OSA was granted party status, and representatives attended the prehearing conference on November 16, 2016. OSA intends to be active in the "test drive" of the Multi-Attribute Approach and any other utility methodologies which may also be tested during Phase 2. Workshops are planned for the first and second quarter of 2017. No hearings dates (and hence no testimony) are scheduled at this time.
- **San Diego Gas and Electric Company and Southern California Gas Company (SDG&E/SoCalGas) Risk Assessment Mitigation Phase (RAMP) (Order Instituting Investigation (OII) 16-10-015 and I. 16-10-016):** OSA attended the prehearing conference on December 15, 2016 and requested to become an active party to the case. Workshops and comments are

planned for spring 2017 based on the preliminary schedule in the OII. No hearings or testimony dates are scheduled at this time.

- **Rulemaking (R.) 16-12-001 To Consider Amendments to Rule 18 of General Order 95:** In response to a petition (P. 16-05-004) in May 2016 by the CPUC Safety and Enforcement Division, the Commission has opened a rulemaking to consider amendments to Rule 18 of General Order 95 pertaining to utilities' authority under the rule to defer or forego remediation of overhead utility facilities that pose a risk to safety and/or reliability. Suggested revisions to Rule 18 were attached to the Order Instituting Rulemaking. OSA plans to intervene in this proceeding by filing comments on the proposed revisions by the due date in January 2017.

In addition, OSA has identified several important proceedings at the Commission with safety implications, and is actively monitoring the status of these cases. As OSA staff come on board, they will be assigned to take a more active role in these cases, as resources permit.

- Investigation of PG&E Safety Culture (I.15-08-019)
- Petitions on GO 95 and utility pole regulations (P.16-08-016, P. 16-07-009)
- Risk Safety Framework rulemaking (R.13-11-006)
- Fire Threat Maps and Safety Regulations OIR (R.15-05-006)
- SDG&E Pipeline Safety and Reliability (A.15-09-013)