BEFORE THE BUSINESS AND TRANSPORTATION COMMITTEE

Senate Bill 286

Testimony of Lori Koho

Oregon Public Utility Commission February 25, 2015

SB 286 modifies ORS 757.991 to increase maximum civil penalties for non-compliance with gas regulations. On November 7, 2013, Commission Staff sent letters to each of the 18 regulated natural gas operators, notifying them of our intent to bring this proposed change to the legislature in 2015. In that letter, we encouraged the operators to contact us with any objections or concerns. To date, the Commission has not received any feedback.

While the Federal government is primarily responsible for developing, issuing, and enforcing pipeline safety regulations, the pipeline safety statutes provide for State assumption of the intrastate regulatory, inspection, and enforcement responsibilities under an annual certification. To qualify for certification, a state must adopt the minimum Federal regulations and may adopt additional or more stringent regulations. A State must also provide for enforcement sanctions substantially the same as those authorized by the pipeline safety statutes. Oregon has been certified by the Federal government to enforce intrastate natural gas pipeline safety regulations.

The maximum civil penalties allowed by Oregon statute do not align with Title 49 CFR part 190.223 “Maximum Penalties.” The US Department of Transportation’s (USDOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) has informed the PUC that we are expected to adopt all Federal Regulations, including maximum civil penalties as a condition of our grant funding. Currently, Oregon Statutes allow $10,000 per event per day with a maximum of $500,000 for a related series of violations. The maximum penalties in Title 49 CFR part 190.223 are $200,000 and $2,000,000 respectively. This bill only changes the maximum allowable penalties. It does not include any requirement that we issue penalties.

If the state does not adopt the Federal penalty levels, the most likely fiscal impact would be in the range of $6,000 – 15,000/year depending on PHMSA's budget. The worst case scenario would be for USDOT to revoke the state certification.

The more serious implication is the possible perception that the state doesn't take pipeline safety seriously. Between the pipeline explosion in San Bruno (2010), hazardous liquid pipeline leaks, and proposed large natural gas transmission pipelines, Federal and State pipeline safety programs are being criticized and scrutinized. In various forums, our Commissioners and Safety Staff have been questioned about the rigor of our pipeline safety program because issuing fines is not our first course of action. Others believe fines are the only way to achieve compliance. We prefer to work with natural gas operators to correct violations rather than issue penalties. Safety Staff have fined only one operator over the last five years. The fine was part of a stipulated agreement that included conditions to remediate the probable violations. That fine was $40,000. Fines go directly to the PUC Funds, which is an Other Fund Account in the General Fund.

The state's penalty levels aligned with the Federal standards until 2005. In 2005, USDOT increased the penalties to $100,000 per event per day with a maximum of $1,000,000 for a related series of violations. The penalty levels requested in this bill will bring the state in alignment with the USDOT's latest increase that went into effect in 2013.

Total annual Pipeline Safety Program costs have run an average of $600,000 over the last five years. USDOT grants have reimbursed approximately 50 percent of those costs.