

**Testimony of Commissioner Timothy Alan Simon
California Public Utilities Commission**

U.S. House of Representatives Committee on Transportation and Infrastructure
Subcommittee on Economic Development, Public Buildings and Emergency Management
California's Sacramento-San Joaquin Delta: Planning and Preparing for Hazards and Disasters
August 16, 2012, Stockton, California

Good morning Chairman Denham and distinguished Members of the Subcommittee. Welcome to California and the great city of Stockton, one of our jewels in the crown of the Delta. Thank you for your work to protect the California Delta, a unique ecological treasure and precious agricultural asset. The California Public Utilities Commission, or CPUC, is responsible for the safety and security of critical utility infrastructure—for water, natural gas, electricity, communications, rail, and other common carriers—within the Delta and throughout the state.

The CPUC regulates more than 400 investor-owned water utilities and has worked closely with the California Foundation on the Environment and the Economy and the Delta Vision Foundation on Delta water policy, because of the Delta's impact on water supply.¹ To the extent that Governor Brown's revisions to the Bay Delta Conservation Plan² affect water utilities, this Commission is involved.

Critical Utility Infrastructure in the Delta

Pipeline Safety. The CPUC's authority over investor-owned utility infrastructure in the Delta includes the pipelines carrying natural gas. Gas pipelines serve both core needs, for residential and small commercial customers, and electricity generation needs. It should be noted that, as Chair of the Committee on Gas for the National Association of Regulatory Utility Commissioners and a member of the Pipeline Safety Task Force for the U. S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration, I have a particular concern for pipeline safety.

The Delta levees protect natural gas production and pipeline facilities throughout the Delta. Many gas and oil production wells are located here, and the electric utility, Pacific Gas and Electric, or PG&E, has transmission pipelines running throughout the Delta to transport gas from northern California and from out-of-state gas producers. PG&E also has pipelines that interconnect its own system, diverting gas to and from the underground storage facilities located on islands in the Delta.

Although some facilities are designed to withstand various levels of irrigation and flooding for local agricultural needs, the gas production and transportation infrastructure could be damaged if it is not designed for floodwater levels from levee breaks. Generally, a high pressure pipeline is not affected by the presence of some water near the line, but unanticipated flooding that would otherwise be averted by the levees could cause soil erosion under the pipelines. Excess water around the pipeline could also increase the buoyancy of some pipelines. These conditions, along with significant increases in water levels above the pipeline, could create stresses on the pipelines which may not have been factored into original designs.

¹ The CPUC sets forth its policy objectives for the regulation of investor-owned water utilities in the *California Public Utilities Commission 2010 Water Action Plan*.

² California Natural Resources Agency News Release, July 25, 2012.

The Delta levees also provide the roads for gas and oil producers and PG&E to access facilities, including PG&E's McDonald Island gas storage field, and to transport materials for normal operations. They could perform these functions in other ways after unanticipated flooding, but that would be more complicated and more costly.

In response to the horrific pipeline rupture and explosion in San Bruno, California, in Fall 2010, the CPUC opened a proceeding to establish a new model of natural gas pipeline safety regulation,³ including, among other things, requirements for construction, especially shut-off valves, maintenance, inspections, operation, record retention, ratemaking, and penalties, and to expand our emergency and disaster planning coordination with local officials. The CPUC also increased the scope of PG&E's gas transmission and storage rate case to include a safety phase focusing on PG&E's disaster and emergency plans, shut-off valve testing and monitoring, changes to capital project priorities, safety related protocols or procedures, and relationships with first responders.

Joint Pole Safety. The CPUC has moved to insure proper maintenance of electric and telephone utility poles, so that they are strong enough to withstand high winds, flooding, and other disasters. In the CPUC's Joint Pole Safety rulemaking,⁴ for which I am the Assigned Commissioner, this Commission adopted pole loading rules and will address pole structural strength in the next phase of the rulemaking.

Last November, powerful winds swept through the San Gabriel Valley in southern California, knocking down utility facilities, uprooting trees, and causing prolonged power outages. Approximately 200 wood poles were downed. Earlier this year, the CPUC issued an Order Instituting Investigation to determine, among other things, whether the jointly-owned electric and telephone utility poles were overloaded and what additional safety measures are needed. Hurricane Katrina in 2005 caused unprecedented damage to electric utility distribution and transmission systems. While pole safety efforts have thus far focused on wind and fire, clearly the strength of poles in the event of flooding is also relevant.

Smart Grid. The large, investor-owned electric and gas utilities have submitted smart grid deployment plans to the CPUC in the ongoing Smart Grid proceeding.⁵ Smarting the electric and gas systems, as well as water systems, will not only alert the utilities to service interruptions, but also allow them to dispatch or curtail resources in emergencies.

Backup Power for Communications Infrastructure. The southern California wildfires of 2003 and 2007 demonstrated how the communications infrastructure we all rely on plays a vital role in public safety. The primary wireline provider, AT&T, reported after the 2007 fires that 1.5 million feet of copper wire and 500,000 feet of fiber optic cable were destroyed, and 2000 utility

³ California Public Utilities Commission, *Order Instituting Rulemaking on the Commission's Own Motion to Adopt New Safety and Reliability Regulations for Natural Gas Transmission and Distribution Pipelines and Related Ratemaking Mechanisms*, filed February 24, 2011, Rulemaking 11-02-019.

⁴ California Public Utilities Commission, *Order Instituting Rulemaking to Revise and Clarify Commission Regulations Relating to the Safety of Electric and Communications Infrastructure Provider Facilities*, Rulemaking 08-11-005, filed November 6, 2008.

⁵ California Public Utilities Commission, *Order Instituting Rulemaking to Consider Smart Grid Technologies Pursuant to Federal Legislation and on the Commission's own Motion to Actively Guide Policy in California's Development of a Smart Grid System*, Rulemaking 08-12-009, filed December 18, 2008.

poles were downed. Even underground phone cable systems were affected, with telephone wire cabinets destroyed or phone wires fused into a mass of copper and plastic. The operations of more than 50 cell sites were impacted.

In 2006, the California Legislature adopted AB 2393,⁶ and Congress passed the Warning, Alert and Response Network (WARN) Act,⁷ addressing backup power needs in catastrophes. These measures were inspired in large part by Hurricane Katrina, which devastated New Orleans when water broke through two levees and virtually submerged the city, washing out bridges, converting highways into canals, and rendering power and communications lines inoperable. This exacerbated the disaster when many of those infrastructure arteries were strained, and in some cases inoperative, resulting not only in communications failures but also in the failure of water pumping and firefighting equipment.

AB 2393 directed the CPUC to investigate how to insure the reliability of backup power for telephone service, both in the network and in the home, in the event of such disasters. Unlike copper telephone wires, fiber optic cable, coaxial cable, and other facilities do not provide power to the customer's telephone. In the Backup Power proceeding,⁸ for which I was the Assigned Commissioner, the CPUC adopted customer education guidelines on the backup power needs and limitations of facilities-based residential telephone services, as well as service provider responsibilities in power outages.

When we here in California are experiencing extended fire seasons and the ever-looming threat of earthquakes, protecting the infrastructure so vital to human health and safety--including but not limited to the communications infrastructure--continues to be the CPUC's highest priority. In my professional opinion, customer education is a critical component of public safety.

Public Safety Communications in the Delta

In addition to the CPUC's responsibility for the safety and security of critical utility infrastructure, this Commission has an essential role in emergency preparedness and response. The Commission regulates telephone service and, along with its sister federal agencies, public safety communications. Although primary responsibility for responding to emergencies rests with the California Emergency Management Agency and local first responders, the CPUC has an important role in ensuring that the communications infrastructure performs in emergencies. The CPUC is uniquely positioned to insure, through our review of utility operations and investment decisions, the availability of communications systems in ways that promote public safety. The Gas Storage proceeding,⁹ for which I was the Assigned Commissioner, was the first to establish protocols for coordinating with first responders during emergencies involving gas storage and transmission facilities.

⁶ California Assembly Bill 2393 (Levine); Ch. 776, Stats 2006.

⁷ P.L. 109-347, Title VI.

⁸ California Public Utilities Commission, *Rulemaking on the Commission's Own Motion into Reliability Standards for Telecommunications Emergency Backup Power Systems and Emergency Notification Systems Pursuant to Assembly Bill 2393*, Rulemaking 07-04-015, filed April 12, 2007.

⁹ California Public Utilities Commission, *Application of Pacific Gas and Electric Company Proposing Cost of Service and Rates for Gas Transmission and Storage Services for the Period 2011-2014*, Application 09-09-013, filed September 18, 2009.

Lifeline Program. To insure that our citizens have access to effective public safety communications, the CPUC is first and foremost pushing forward to get more people connected to advanced communications services. This Commission brings broadband infrastructure to remote areas through the California High Cost Fund and the California Advanced Services Fund. The CPUC has opened the Lifeline telephone discount program to wireless, in order to bring mobile communications to more low-income citizens, who rely more heavily on wireless technology. Communications programs should be technology-neutral and, in particular, clearly include the mobile technologies so necessary for communicating with emergency personnel and families in the chaos and confusion of natural disasters.

211 Service. Last September the CPUC extended the 211 emergency information program to the 28 counties who did not have their own 211 call centers, including San Joaquin and Yolo counties.¹⁰ Residents may now receive assistance from the nearest 211 call center in a neighboring county. Residents of these previously unserved counties, who may be cut off from their own phones and computers after a major levee break, will now have access to up-to-the-minute information very specific to their situation by talking with a live person—information on shelters, food distribution, road closures, utilities outages, contacting family members, medical assistance, and so on. By providing this important information via 211, calls that might otherwise go to 911 will instead go to 211, leaving 911 call centers available to provide access to police, medical, and fire service to those in life-and-death situations.

Multi-Line Telephone System (MLTS) Rules. The CPUC's Multi-Line Telephone System 911 rulemaking,¹¹ for which I am the Assigned Commissioner, revealed a serious public safety gap in California's emergency communications system that occurs when caller location information from a multi-line system is displayed incorrectly to public safety answering point (PSAP) operators. The lack of accurate location information results in limited public safety resources being directed to the wrong location, and can be life-threatening if the caller cannot supply the correct location. PSAP's presented examples of problems with emergency calls originating from PBXs at large hospitals, public schools, large businesses, local government installations, and assisted living facilities, in all regions of California, where they could not locate the 911 caller within those campuses. The proceeding addresses customer education and the responsibilities of telephone companies in this area.

CPUC Jurisdiction over Communications Infrastructure for Public Safety Purposes

Internet protocol-, or IP-, enabled communications allow citizens to send text, graphics, photos, or video to public safety answering points (although many public safety agencies are not yet equipped to receive them). They also allow the authorities to notify the public through phone calls, text messages, or emails to mobile devices. We can use mobile technology to target those heading toward a disaster and direct them out of danger. At a campus, workplace, or event, we can direct them to a safe setting.

¹⁰ California Public Utilities Commission, *Order Instituting Rulemaking Regarding Whether to Allow Access to 211 Services in Counties and Localities Without 211 Centers*, Rulemaking 10-06-002, filed June 3, 2010.

¹¹ California Public Utilities Commission, *Order Instituting Rulemaking to Improve Public Safety by Determining Methods for Implementing Enhanced 911 Services for Business Customers and for Multi-line Telephone System Users*, Rulemaking 10-04-011, filed April 8, 2010.

California lives with mythical-scale floods, fires, windstorms, and earthquakes. The CPUC needs the ability to protect and insure the functioning of our communications infrastructure in those disasters. One of the pillars of the CPUC's fundamental regulatory responsibility is to enforce core safety guidelines. This role is clearly within the authority of this Commission and rooted in the historic police powers of the state.

Some may believe that the move to all-IP communications systems may jeopardize the authority of state utility commissions in this area, and I urge the Congress to take a close look at this issue. States retain jurisdiction over the health, safety, and welfare of their citizenry, and it is the position of my office that the CPUC has now and will continue to have jurisdiction over communications infrastructure for public safety purposes.

Thank you for inviting me to speak to you today.