

SUPPORTING PIPELINE SAFETY AND RELIABILITY THROUGH INFRASTRUCTURE COST RECOVERY MECHANISMS

The 2010 gas pipeline explosion in San Bruno, California was a tragic disaster – but it should lead to safer and more reliable pipeline operations. Last week, a family’s settlement with PG&E required the utility to calculate a minimum safe life span for pipes in populated areas, which will assist in identifying weakened lines so that they can be replaced before they become dangerous. *See* <http://tinyurl.com/a4cbnda>

These and other settlements followed the Department of Transportation’s announcement of a “Pipeline Safety Action Plan” calling for pipeline operators to accelerate efforts to enhance the integrity of network facilities. DOT Secretary Ray LaHood’s “Call to Action” brought stakeholders together to “discuss steps for improving the safety and efficiency of the nation’s pipeline infrastructure.” Additionally, the “Call to Action” *called on state officials to provide for timely recovery of pipeline replacement investments*, recognizing that reliance on traditional cost recovery approaches may impede efforts to accelerate improvements.

The support of State Attorney Generals for reasonable cost recovery provisions is essential to meeting Secretary LaHood’s goals. These provisions can confer substantial benefits, including:

- Achieving safety and reliability benefits more rapidly;
- Enhanced compliance with pipeline operators’ integrity management plans, which are risk-based assessments of infrastructure mandated under pipeline safety laws;
- Cost savings resulting from comprehensive planning, geographically-focused replacement efforts and efficient use of outside contractor services;
- Reducing disruption and improving coordination with affected municipalities; and
- Efficient distribution of capital by reducing emergency repairs.

Several jurisdictions have already adopted infrastructure cost recovery mechanisms to provide for more timely recovery of pipeline replacement and upgrade costs. The predominant mechanisms are “infrastructure cost trackers,” which typically allow utilities to recover actual costs from customers for specified functions on a periodical basis outside of a rate case. These mechanisms enhance pipeline safety and reliability – and deserve the study and support of responsible public officials.

For more information, see *Gas Distribution Infrastructure: Cost Recovery Issues and Approaches* (American Gas Foundation, July 2012) at <http://tinyurl.com/a7hslq6>

Richard O. Faulk
Chair, Litigation Department
Gardere Wynne Sewell LLP
Houston, Dallas, Austin, Mexico City
rfaulk@gardere.com