

TESTIMONY OF THE AMERICAN PUBLIC GAS ASSOCIATION
BEFORE THE HOUSE TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE
ON RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS
FEBRUARY 25, 2016

Mr. Chairman and Members of the Committee, the American Public Gas Association (APGA) appreciates this opportunity to submit testimony on behalf of public gas systems to the Committee for this important hearing on reauthorization of the Department of Transportation's Pipeline Safety Program.

APGA is the national association for publicly-owned natural gas distribution systems. There are currently approximately 1,000 public gas systems located in 37 states. Publicly-owned gas systems are not-for-profit, retail distribution entities owned by, and accountable to, the citizens they serve. They include municipal gas distribution systems, public utility districts, county districts, and other public agencies that have natural gas distribution facilities. Public gas systems range in size from the Philadelphia Gas Works which serves approximately 500,000 customers to the city of Freedom, Oklahoma which serves 12 customers.

Public gas systems are an important part of their community. Our members' employees live in the communities they serve and are accountable to local officials (and their friends and neighbors). Public gas systems are generally regulated by their consumer-owners through locally-elected governing boards or appointed officials. However, when it comes to pipeline

safety, nearly all of our members are regulated by their respective state's pipeline safety office. All of our members must comply in the same manner as investor- and privately-owned utilities with pipeline safety regulations issued by the Pipeline and Hazardous Materials Safety Administration (PHMSA).

While the manner of safety regulation may be the same, one major difference between the average investor-owned utility and the average public gas system is in the number of employees. Approximately half of the 1,000 public gas systems have 5 employees or less. Only a handful have in-house engineering staff. As a result, regulations that impose significant administrative burdens such as paperwork and technical analysis have a significantly greater impact upon a small public gas system than upon a larger system serving hundreds of thousands or millions of customers and utilizing an in-house engineering staff with several hundred or even thousands of employees.

Safety is the number one issue for public gas systems. No other issue rises to the level of safety for the local distribution company (LDC) providing natural gas service to its consumers. Gas utilities are the final step in moving natural gas from the production field to the end user, be it a homeowner or business. As such, our members' commitment to safety is second to none and they remain focused on providing safe and reliable service to their customers. A key part of safety is education and public awareness.

Education and Public Awareness

Even before there were federal pipeline safety regulations, public gas systems conducted public awareness programs. Utilities add odorant to the gas to give it its distinctive smell so that people can smell it at one fifth of its lowest flammable limit. Educating the public so that the public recognizes a gas odor and calls the utility if they smell gas is a critical component of each utility's safety program. Another critical component is educating the public about the existence of buried gas lines in the community and the importance of notifying the one-call center to have lines marked before digging.

A public gas utility's public awareness issues are different from those of interstate liquid or natural gas pipeline operators. Unlike some liquid pipelines, natural gas utilities transport just a single product, natural gas, so our messages about recognizing and reacting to a possible leak are straightforward. In addition, LDC lines bring natural gas directly into the homes and businesses in the communities we serve, so our product is something that many in the public encounter in their daily lives. People may not expect there to be oil pipelines or gas transmission pipelines in their neighborhood, but they do know that there are buried gas lines, especially if they have gas service in their home. In 2015, APGA polled nearly 600,000 randomly selected people in towns and cities served by public gas systems. Over 89 percent were aware they should call before digging. And nearly 96 percent believed that they have adequate information about natural gas safety such as how to recognize a leak and what they should do if they smell gas in the home.

Public gas systems had effective public awareness programs before new regulations were established, they have effective public awareness programs now and APGA believes the current programs are adequate to ensure public awareness of natural gas safety into the future.

Reauthorization

As the Committee considers legislation to reauthorize the Pipeline Safety Act, APGA wants to communicate its support for reasonable regulations to ensure that individuals who operate and maintain the nation's network of distribution pipelines are provided the training and tools necessary to safely operate those systems. In this regard, over the past several years, the industry has had numerous additional requirements placed on it, such as, for example, the Distribution Integrity Management Program (DIMP), excess flow valves (EFVs), control room management, operator qualification, public awareness and more. Many APGA members are in the process of working to comply with the administrative burdens of these additional regulations and it will take time for all of the impacts of these already existing regulations to be fully understood. Given that public gas systems are non-profit systems and in many cases have limited resources, these additional regulations, while important, do impose an additional operational burden upon them. APGA urges the Committee to seriously weigh the benefits versus the burdens of new regulations before imposing any additional regulatory burdens upon LDCs through this reauthorization effort.

Funding via User Fees

As originally established, user fees for funding PHMSA are to be collected by natural gas transmission operators from their downstream customers. This has been the approach used since the inception of PHMSA user fees, and it has worked well since it minimizes the points of contact between the government and those from which it is collecting the user fees. These user fees are treated by the Federal Energy Regulatory Commission as part of the transmission operators' legitimate cost of service and hence are includible in the transmission operators' rates. The thousands of customers of each transmission operator, including local distribution companies (LDCs), reimburse the transmission operators for these user fees through the rates they pay for the transmission service and in the case of LDCs, are passed through to their end-use consumers. This historical approach for assessing and collecting user fees is logical and straight-forward in that the money collected by the relative handful of transmission operators is passed on to PHMSA effectively and efficiently.

The logical question is why anyone would want to change the current streamlined approach to something obviously more complicated and less efficient from the Government's point of view and the customers'. The answer, very simply, is that many pipelines in this country are substantially over-recovering their costs of service, i.e., their rates are no longer just and reasonable.¹ According to a study by the Natural Gas Supply Association which analyzes Form 2 data submitted by pipelines, from 2010-2014 pipelines over-collected \$780 million/year or \$3.9 billion over five years. Thus, these pipelines do not want to file for pass-through of the PHMSA

¹ **NGSA 2010-2014 Pipeline Cost Recovery Report (issued February, 2016).**

costs because such a filing would reveal that these pipelines should reduce, not increase, their rates in order to conform with the Natural Gas Act's (NGA) 'just and reasonable' rate standard. Pipelines would prefer to either move the PHMSA user fee downstream or initiate a tracker mechanism whereby they are shielded from a rate review under the NGA just and reasonable standard.

APGA supports the current approach, which has worked well over the years and commends the Committee for not including within the legislation a change in the user-fee structure. APGA is strongly opposed to any changes in the current approach that would either shift the user fees collection point downstream to the LDCs and other pipeline customers or permit the pipelines to bypass the NGA just and reasonable standard through a tracker mechanism. The Federal Energy Regulatory Commission has never turned down a request to include pipeline safety user fees in transportation rates charged by interstate pipelines, so the *only* risk to the pipelines is that, despite being permitted to include the PHMSA user fees as a legitimate operation and maintenance cost, their rates would be reduced because they are otherwise over-recovering their overall just and reasonable cost of service. Such pipelines should not be permitted to "track" costs that simply ensure their continuing over-recovery.

In brief, Congress should not tamper with the existing collection mechanism by cobbling together statutory relief for a non-problem, which relief can only exacerbate pipeline over-recovery and harm consumers by inappropriately raising their rates. Times are tough enough for American consumers without imposing on them extra costs for which there is no rational basis.

Definition of “Transmission”

Section 6 of the SAFE PIPES Act as amended in the Senate would require the Comptroller General of the United States to submit a report to Congress on the effectiveness of the natural gas integrity management program including an analysis or recommendations regarding changes to the current definition of high consequence areas or expanding integrity management beyond high consequence areas. Since the concept of high consequence areas is unique to transmission integrity management programs, this provision is clearly intended to apply to PHMSA’s transmission integrity management program. APGA believes that is appropriate. We are concerned, however, that the Comptroller General’s report should take care to differentiate between the type of large diameter, high pressure pipelines one normally thinks of as transmission lines and the smaller, lower pressure pipelines operated by public gas utilities that PHMSA also classifies as “transmission.” According to PHMSA’s transmission annual report data, public gas systems operate just over 2,800 miles of pipeline classified as transmission. Nearly 2,300 miles of these “transmission lines” are 12 inches or less in diameter, and 800 miles are 6 inches or smaller. APGA encourages Congress to ask the comptroller General to include in the report an analysis of the appropriateness of PHMSA’s current definition of “transmission” which includes both a risk-based operating stress component and a functional component that results in some small diameter, low stress lines being classified as transmission despite the very low level of risk.

Conclusion

Natural gas is critical to our economy, and millions of consumers depend on natural gas every day to meet their daily needs. It is critical that they receive their natural gas through safe, affordable and reliable delivery by their LDC. Public gas systems are proud of their safety record, and safety has been, and will continue to be, their top priority. We look forward to working with the Committee towards reauthorization of the Pipeline Safety Act.