TESTIMONY OF THE AMERICAN PUBLIC GAS ASSOCIATION

BEFORE THE HOUSE ENERGY AND COMMERCE SUBCOMMITTEE ON ENERGY AND POWER HEARING ON PIPELINE SAFETY AND OVERSIGHT

JUNE 16, 2011

Mr. Chairman and members of the Committee, the American Pubic Gas Association (APGA) appreciates this opportunity to submit testimony on behalf of public gas systems to the Committee for this important hearing on pipeline safety.

APGA is the national association for publicly-owned natural gas distribution systems. There are currently approximately 1,000 public gas systems located in 36 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 community 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 an individual 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 size: in the number of both customers served and employees. Approximately half of the 1,000 public gas systems have five 5 employees or less. As a result, regulations and rules do have a significantly different impact upon a small public gas system than they do upon a larger system serving hundreds of thousands or millions of customers with several hundred or even thousands of employees and an in-house engineering staff.

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) that provides natural gas service to its consumers. Gas utilities are the final step in taking natural gas from the production field to the homeowner or business. As such, our members' commitment to safety is second to none and they keep focused on providing safe and reliable service to their customers. A key part of safety is education and public awareness.

Public Awareness

In the Pipeline Safety Improvement Act of 2002, Congress encouraged DOT to issue standards prescribing the elements of an effective public education program. APGA participated in and supported the development of American Petroleum Institute Recommended Practice 1162 which

specifies requirements for an effective pipeline public awareness program. In 2006, APGA supported the adoption of RP 1162 by PHMSA as mandatory public awareness regulations and has developed programs to assist member utilities to comply with the rule and gauge the effectiveness of gas safety educational efforts. APGA continues to participate in the revision of RP 1162, which is nearing completion.

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 lower flammable limit. Educating the public so that the public recognizes a gas odor and to call 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 our community and the importance of calling the one-call center to have lines marked before digging.

A public gas utility's public awareness issues are different than 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 more straightforward. In addition, our pipelines 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 2007 APGA polled nearly 200 thousand randomly selected people in towns and cities served by public gas systems. Over 85 percent were aware

that buried gas lines ran through their community and that they should call before digging. And nearly 97 percent believed that they have adequate information about natural gas safety like how to recognize a leak and what they should do if they smell gas in the home. This is even more impressive because nearly half of the people polled were not even gas customers. Even before the new regulations took effect, these results show that public gas utilities were doing a good job getting the gas safety message out.

APGA also assisted its members to comply with the new requirements. In 2006, APGA developed a model public awareness plan that it made available free to members. The APGA website contains samples of public awareness materials that members can download and modify for their own use. APGA also conducts public awareness surveys for participating members. It is called the APGA Gas Overall Awareness Level (GOAL) program and it calls a random sample of customers and non-customers in the service territory of participating utilities. We are conducting our 4th year of surveys, even though the regulations did not require surveys to be completed until this year. The statistics that I cited earlier come from the first year of APGA GOAL surveys. 158 utilities currently use GOAL to measure the effectiveness of their public awareness programs. These utilities are able to compare their numbers with national averages and identify areas for improvement.

Public gas systems had effective public awareness programs before these new rules took effect, 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, I want to communicate our support for reasonable regulations to ensure that individuals who control 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, e.g. DIMP, excess flow valves, 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. 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. For this reason, APGA strongly supports a clean reauthorization of the Act.

Should the Committee consider revisions to the Act, there are a number of issues APGA would ask the Committee to consider. We urge the Committee to give great consideration before imposing any additional regulatory burdens upon LDC's through this reauthorization effort. In terms of reauthorization, APGA is specifically concerned about an expansion in the requirements for excess flow valves and potential changes in the funding mechanism for PHMSA.

Excess Flow Valves (EFV's)

The PIPES Act included a provision requiring operators to install excess flow valves on new and replaced single residential service that operate year around at or above 10 pound-force per square inch gauge. Exceptions are provided if EFVs are not available, if it is known there are

contaminants in the system that would cause the EFV to fail or if it is known there are liquids in the system. Prior to this installation requirement, there was a customer notification rule in place that required gas systems to make their customers aware of the availability of EFVs and install an EFV if the customer was willing to pay installation costs. It was limited to new and renewed services because EFVs are installed underground where the "service line" to a residence connects to the gas main. If a hole is already open and a new connection to the main is being installed, adding an EFV at that time costs just a fraction of what it would cost to install or replace an EFV when no other work is planned at the main-service connection.

Each EFV has a preset closure flow rate. Once installed on a service line it will prevent gas from flowing at any flow rate higher than its preset closure flow rate. There is no way short of replacing the EFV to change its closure flow rate. This is typically not an issue with EFVs on residential service lines since the gas demand to a residence does not typically change drastically. A residence will have a relatively constant and predictable gas demand over its lifetime so the EFV can be sized accordingly.

However, APGA is greatly concerned about an expansion of the EFV requirements to commercial and industrial businesses and multifamily residences. A commercial building, unlike a residential unit, may see huge changes in gas demand as tenants in the space move in and out. For example, a space in a strip mall that today is occupied by a shoe store could be converted to a restaurant or bakery tomorrow. The gas demand could double or triple. That could require replacing the meter, regulator and EFV. Since the first two items are above ground, replacement is relatively inexpensive. However, the EFV is buried and replacing it

would be very costly, often hundreds of times the initial cost of the EFV. To address this problem, an operator could install a grossly oversized EFV with closure flow at or near the free flow limits of the service line. However, a valve so oversized would probably not close even if the line were ruptured, defeating the purpose of having an EFV on the line in the first place.

The same and additional issues apply to installing EFVs on service lines to industrial customers. The flow rates and operating pressures to many industrial customers exceed the capacity of commercially available EFVs.

The potential costs of a false closure of the EFV can be significantly greater for a commercial or industrial customer than a residence. Both would suffer business losses in addition to the inconvenience of no heat or hot water. An evening's loss of business to a restaurant could run into the thousands of dollars, however some industries such as microprocessor chip manufacturers could see millions of dollars of product ruined by the loss of temperature control required by their processes.

The industry has experience with EFVs designed for typical flow rates to single-family residences, but has little or no experience with EFVs designed for the higher flow rates that would exist at multi-family residences. The time and resources to restore service after a false closure of an EFV to a multi-family residence would be many times more than if the same problem occurred at a single residence.

PHMSA has established a working group of government, industry and public experts to study the issues related to installing large volume EFVs on other than single residential services. We encourage Congress to allow this stakeholder working group to proceed towards making specific recommendations on this issue.

Funding of 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 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 pass those costs 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; this historical approach should not be revised to move the collection point downstream from a relatively fewer number of entities to thousands of entities as that only promotes confusion and delay, without any offsetting benefits.

The logical question is why would anyone 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] Thus, these pipelines do not want to file for pass-through of the PHMSA 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 just and reasonable standard. The answer for these pipelines is either to move the PHMSA user fee downstream or to 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. 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 will 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. Pipelines should continue to have the

[1] **NGSA 2005-2009 Pipeline Cost Recovery Report (issued February, 2010)**. The Commission in 2009 and 2010 initiated five Section 5 complaint proceedings against pipelines which, on the basis of the information filed by them each year in FERC Form 2 reports, were substantially over-recovering their costs of service. *See Northern Natural Gas Co.*, 129 FERC ¶ 61,159 at PP 5-6 (2009); *Natural Gas Pipeline Co. of America,* 129 FERC ¶61,158 at PP 5-7 (2009); *Great Lakes Gas Transmission Co.*, 129 FERC ¶61,160 at PP 5-6 (2009); *Kinder Morgan Interstate Gas Transmission,* 133 FERC ¶ 61,157 at PP 6-8 (2010); *Ozark Gas Transmission,* 133 FERC ¶ 61,158 at PP 6-8 (2010).

same choice they have today: either file to pass through the PHMSA user fee (for which there is guaranteed pass-through) or stay at home in recognition that they are already collecting the user fee many times over in rates that are excessive under the NGA just and reasonable standard.

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.

Integrity Management of Low Stress Transmission Lines

Currently, low stress transmission lines (a line operating below 30 % of the specified minimum yield stress) operated by distribution systems are regulated under the Transmission Integrity Management Program (TIMP). It is APGA's position that those pipelines should be regulated under the Distribution Integrity Management Program (DIMP). The benefit of handling this under DIMP is that TIMP focuses on finding mainly corrosion and mechanical damage problems. The DIMP rule addresses these threats but also requires distribution operators to consider other threats to integrity including excavation, natural forces, incorrect operations and more. When a high stress line corrodes it can suddenly rupture, whereas a low stress line would just start leaking, and the leak would get progressively worse over time. The utility has time to find it through ongoing leak surveys and patrols and fix it before it threatens public safety. Since

the big issue with distribution is 3rd party damage, all the inspections for corrosion are of questionable benefit.

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.