



Weekly Update December 17, 2009

House Passes OTC Reform Bill

On December 11, the House of Representatives passed H.R. 4173, The Wall Street Reform and Consumer Protection Act of 2009 by a vote of 223-202. The legislation is a major overhaul of financial regulations and, among other things, would make major changes to the manner in which the over-the-counter (OTC) market is regulated. APGA has testified numerous times before Congress most recently last month, to communicate long-standing support for increasing market transparency, limiting excessive speculation and providing the Commodity Futures Trading Commission (CFTC) with the resources it needs to protect consumers. APGA has also expressed strong concerns in regard to the impact mandatory clearing would have on public gas systems. Mandated clearing of all OTC transactions would require public gas systems to post margin and meet potential margin calls. In the case of a standard exchange (NYMEX) traded natural gas contract, the initial margin collateral posted at inception is approximately \$5,000 per contract (10,000 MMBtu). The bill passed by the House of Representatives does contain provisions that would require the clearing of OTC transactions but the bill does provide an exemption from the clearing requirements for end-users such as public gas systems. APGA has strongly pushed for this exemption.

During debate on the legislation numerous amendments were considered. APGA was strongly opposed to three amendments that would have reduced the exemption and/or potentially increased costs for public gas systems utilizing OTC transactions. APGA sent a letter to House leadership that identified specific concerns with each of those amendments in regard to the impact they would have on public gas systems and their customers. In addition, many APGA members also contacted their House members and urged them to oppose those amendments. All three of the amendments were defeated.

The Senate is also debating financial reform legislation and regulation of the OTC markets will be a key part of that legislation. The Senate Banking Committee has released draft legislation that would require the clearing of all OTC transactions without an exemption for end-users. It is anticipated that the Senate Agriculture Committee will also release draft legislation. The Senate will likely take up this issue early in 2010. Copies of APGA's testimony before the House and Senate are available on the APGA website at www.apga.org. If you have any questions on this article, please contact Dave Schryver of APGA's staff by phone at 202-464-2742 or by email at dschryver@apga.org.

APGA Files Motion to Intervene in Section 5 Proceedings

On December 10, APGA filed Motions to Intervene in Natural Gas Act Section 5 proceedings that the Federal Energy Regulatory Commission (FERC) initiated against three pipelines, Northern Natural Gas Company, Natural Gas Pipeline Company of America and Great Lakes Transmission Company. At the November 19 FERC Open Meeting, the Commission unanimously approved initiating Section 5 proceedings against the three pipelines to determine if those pipelines are charging unjust and unreasonable rates. Based on the Form 2 data the pipelines are required to submit to FERC, the

Commission had determined that those pipelines may be substantially over-recovering beyond a just and reasonable rate as mandated under the Natural Gas Act.

In its filings, APGA states that “it has a direct and substantial interest in this proceeding that cannot be represented by any other party and that its intervention is warranted in the public interest.” APGA has been a strong supporter of the Commission initiating Section 5 proceedings in cases where pipelines are charging excessive rates. APGA has also maintained that the current regulatory process to ensure just and reasonable rates under the Natural Gas Act is broken. It favors regulated pipeline monopolies over consumers by allowing them to keep overcharges collected after a Section 5 proceeding is initiated (whether by complaint or by Commission action) rather than giving consumers their money back if the rates are shown to be excessive.

Copies of APGA’s Motions to Intervene are available on the APGA website at www.apga.org. If you have any questions on this article, please contact Dave Schryver of APGA’s staff by phone at 202-464-2742 or by email at dschryver@apga.org.

APGA Discusses Integrity Management at Alabama Pipeline Safety Seminar

On December 9, APGA Vice President, Operations John Erickson discussed the new Distribution Integrity Management Programs (DIMP) rule and the Simple, Handy, Risk-based Integrity Management Plan (SHRIMP) being developed by the APGA Security and Integrity Foundation (SIF) to help operators write DIMP Plans. The annual seminar, sponsored by the Alabama Public Service Commission and the Alabama Natural Gas Association, attracted almost 300 to Montgomery, AL.

John briefly described the seven elements of the DIMP rule, and then showed how SHRIMP would use a question and answer process to gather the information necessary to assess threats to distribution system integrity and recommend additional actions to address those threats. The end result of the process would be a written DIMP plan meeting all the requirements of the regulation. He walked through the process for a hypothetical distribution system, showing how simply and quickly SHRIMP can create a DIMP plan for a utility.

SHRIMP has been under development for several years, funded by a cooperative agreement between the SIF and the Pipeline and Hazardous Materials Safety Administration (PHMSA). Guiding the project is an advisory group of industry and government experts. The program is expected to be available by February 2, the effective date of the regulation. Operators have until August 2, 2011 to create their DIMP Plans. For more information on SHRIMP go to www.apgasif.org. For further information please contact John Erickson, APGA Vice President, Operations 202-464-2742, ext 1002 or jerickson@apga.org.

APGA Suggests Criteria for Federal Excavation Damage Enforcement

On December 14, APGA filed comments with the Pipeline and Hazardous Materials Safety Administration (PHMSA) suggesting possible criteria PHMSA should consider when making a determination that a state’s excavation damage enforcement is inadequate. Under the PIPES Act of 2006, Congress gave PHMSA authority to take enforcement action against violators of damage prevention laws if the state is not adequately enforcing the laws. PHMSA asked for input on how it

should determine if a state's enforcement is inadequate and how it should proceed to enforce after such a determination has been made.

APGA agreed with PHMSA that the program should encourage states to step up enforcement where enforcement has been lax. Damage prevention is typically regulated at the state level. We encouraged PHMSA to make the process as simple as possible and to use data that PHMSA already has. In that regard we pointed out that under the new Distribution Integrity Management Programs (DIMP) rule operators will submit data on the number of excavation damages and the number of locate tickets. An increase over time of the ratio of damages to locate tickets could indicate that a state's damage prevention program is not effective. If PHMSA does initiate enforcement action in any state we urged them to follow the state's damage prevention laws regarding advance notice, tolerance zones and marking requirements.

A copy of APGA's comments can be found at www.apga.org. For further information please contact John Erickson, APGA Vice President, Operations 202-464-2742, ext 1002 or jerickson@apga.org.

Federal Advisory Committee Supports APGA on Incident Definition

At its December 9-10 meeting in Alexandria, VA, the Technical Pipeline Safety Standards Committee (TPSSC) agreed with APGA that the Pipeline and Hazardous Materials Safety Administration (PHMSA) should not revise the definition of "reportable incident" to include any event where gas ignites. In comments filed with PHMSA, APGA pointed out that prior to 1984 such fire-only events were reportable and resulted, in PHMSA's words, in "unproductive paperwork burden." TPSSC is a Congressionally-mandated committee composed of government, industry and public pipeline safety experts that advises PHMSA whether proposed rules are reasonable, practicable and technically-feasible. Mike Comstock of Mesa, AZ represents APGA on TPSSC.

The committee discussed some of the ramifications of the proposed change. Some examples of events that would become reportable by the utility would include house fires where the fire eventually involves the gas meter or minor ignitions during the course of inspection and maintenance. The change would have resulted in a huge increase in the number of reportable incidents which would give the appearance that distribution pipeline safety has deteriorated. The committee urged PHMSA to reconsider its proposed change.

The TPSSC also discussed proposed changes to a variety of technical standards that are incorporated by reference into federal pipeline safety regulations. It also received updates from PHMSA about ongoing efforts related to compression coupling failures and excess flow valves for large volume applications. No regulatory changes have been proposed or are currently contemplated on either of these issues.

For further information please contact John Erickson, APGA Vice President, Operations 202-464-2742, ext 1002 or jerickson@apga.org.

APGA Files Comments on Energy Star for Homes Proposed Guidelines

On December 16, Bob Beauregard on behalf of APGA filed comments to the proposed EPA Energy Star for Homes Guidelines. The comments were three-pronged addressing inconsistent efficiency/emissions policies, unsupported banning of non-vented appliances and non-compliance with the Administrative Procedures Act. You may see these comments by clicking [here](#).

For more detail on the history of these proposed Guidelines see http://www.energystar.gov/index.cfm?c=bldrs_lenders_raters.nh_2011_comments

Sam Rashkin, R.A., National Director of ENERGY STAR for Homes, is hosting a 1-hour webinar on these Guidelines on January 20, 2010 from 2:00 pm – 3:00 pm ET. You may [Register](#) to participate in the webinar.

For more information, please contact Bob Beauregard at 202-464-2742 or bbeauregard@apga.org

Weekly Storage Report

Here is the weekly EIA Summary Report issued on Thursday, December 17, 2009, that reports last week's storage report highlights for Friday, December 11, 2009. A 207 Bcf **decline** has been reported.

Summary

Working gas in storage was 3,566 Bcf as of Friday, December 11, 2009, according to EIA estimates. This represents a net decline of 207 Bcf from the previous week. Stocks were 381 Bcf higher than last year at this time and 433 Bcf above the 5-year average of 3,133 Bcf. In the East Region, stocks were 179 Bcf above the 5-year average following net withdrawals of 93 Bcf. Stocks in the Producing Region were 197 Bcf above the 5-year average of 923 Bcf after a net withdrawal of 75 Bcf. Stocks in the West Region were 57 Bcf above the 5-year average after a net drawdown of 39 Bcf. At 3,566 Bcf, total working gas is above the 5-year historical range.