



The Honorable Frank Pallone
Chairman
House Committee on Energy & Commerce
United States House of Representatives
Washington, DC 20515

The Honorable Cathy McMorris Rodgers
Ranking Member
House Committee on Energy & Commerce
United States House of Representatives
Washington, DC 20515

The Honorable Bobby Rush
Chairman
House Subcommittee on Energy
United States House of Representatives
Washington, DC 20515

The Honorable Fred Upton
Ranking Member
House Subcommittee on Energy
United States House of Representatives
Washington, DC 20515

Dear Chairman Pallone, Ranking Member Rodgers, Chairman Rush, and Ranking Member Upton:

The American Gas Association (AGA), founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 77 million residential, commercial, and industrial natural gas customers in the U.S., of which 96 percent — more than 73 million customers — receive their gas from AGA members. The American Public Gas Association (APGA) is the trade association for approximately 1,000 communities across the U.S. that own and operate their retail natural gas distribution entities. They include municipal gas distribution systems, public utility districts, county districts, and other public agencies, all locally accountable to the citizens they serve. Today, natural gas meets more than one-third of the United States' energy needs.

Natural gas is a necessary fuel for a clean and affordable energy future, providing benefits for the economy, our environment, and our energy security. Alongside the economic and environmental opportunity natural gas offers our country, there comes great responsibility to ensure pipeline system integrity and resilience. AGA and APGA support the Energy and Commerce Committee's commitment to the same mission and note that natural gas utilities have a proven record of delivering energy safely, securely, and reliably. As such, AGA and APGA write to share their perspective on H.R. 6084, the *Energy Product Reliability Act*. While drafted with the laudable goal of enhancing pipeline reliability, H.R. 6084 will instead complicate existing natural gas system governance at the state and federal level, which could impair system operation. Furthermore, as discussed below, certain federal agencies, the states, and local officials have existing authority



over gas system operations, security, services, and business practices, which all impact reliability, and should be exercised as needed. As such, AGA and APGA support enhancing existing federal agencies' regulatory and nonregulatory initiatives to promote pipeline reliability, while also respecting state and local jurisdiction.

AGA and APGA do not support the concept of an Energy Product Reliability Organization (EPRO), as proposed in H.R. 6084. This overly broad concept raises legal, regulatory, market, and jurisdictional concerns. Natural gas utilities, also known as local distribution companies, are currently subject to oversight by federal, state, and local entities with regulatory authority over pipeline safety, integrity, reliability, and security. At the federal level, these are the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) and the Department of Homeland Security, Transportation Security Administration (TSA).

PHMSA's pipeline safety regulations dictate design, material, engineering, construction, operation, maintenance, and emergency response. TSA has similar authorities and responsibilities over distribution pipeline system physical and cyber security. At the state level, Public Utility Commissions, State Pipeline Safety Offices and State Energy Offices also have jurisdiction over distribution pipeline safety and security. This overlapping state and federal authority, the practical fact that pipelines are primarily underground, and a decades-long stellar reliability record through numerous manmade and natural disasters proves that the distribution pipeline system is inherently reliable infrastructure. The Federal Energy Regulatory Commission (FERC) has jurisdiction over interstate pipeline facilities and related service, pursuant to the Natural Gas Act, while state or local regulators have authority over intrastate natural gas pipelines and distribution systems. Moreover, FERC already has broad authority over interstate pipeline terms of service and business practices. As such, H.R. 6084 appears to create duplicative or overlapping federal authority over the operation of the entire natural gas system, which infringes on the authority of existing regulators. Due to these jurisdictional and regulatory complications, the EPRO, as contemplated by H.R. 6084, might simply complicate pipeline governance, as compared to increasing reliability.

H.R. 6084 not only adds unnecessary additional federal oversight but places it under FERC. While FERC has expertise with regard to interstate transmission pipelines, it has no authority, pursuant to the Natural Gas Act, over state and locally regulated natural gas utilities or intrastate transmission pipelines. As drafted, H.R. 6084 would provide FERC with oversight over natural gas utilities, thereby creating grave potential for conflicting oversight in all 50 states. This is because state or local governments have jurisdiction over retail natural gas service, the facilities that provide such service, as well as intrastate pipelines. State and local jurisdiction over



distribution facilities, intrastate transmission pipelines, and related services cannot be overemphasized.

H.R. 6084 appears to provide FERC with overlapping authority, already within TSA's and PHMSA's purview, and provides FERC with authority over natural gas utilities, which are under state authority. Such a jurisdictional paradigm is redundant and will cause conflict among regulators and confusion among operators as to which regulator has authority and which regulations are applicable. If FERC is to be provided with additional authority over reliability, it should not conflict with the existing authority granted to other federal agencies, the states, and local officials.

H.R. 6084 focuses on pipeline reliability in the context of natural gas fueled electric generation and applies the current reliability organization construct used in the electric sector on to the gas system. However, it is important to point out that natural gas and electric systems operate very differently due to the nature of the commodity transported. Therefore, a policy that works in one industry, may not be applicable or appropriate for the other. For example, an outage in one area of the gas utility system will not have an immediate cascading effect in other areas, as it might with the electric system. On the contrary, an outage on a natural gas utility system would most likely be localized. Notably, unlike the electric grid, reliability and cybersecurity for natural gas utilities are not necessarily intertwined. Natural gas utilities can be operated manually. Moreover, unplanned retail natural gas outages are much rarer than electric outages. For example, in a 2018 study, unplanned outages affected about 1 in 800 natural gas customers per year, in comparison to electric distribution systems which had on average one outage per customer per year.¹

Additionally, the natural gas and electric systems and markets have different legal and regulatory constructs. Natural gas system contracting, nominations, and capacity allocation are very different than what exist in the electric system. Natural gas pipeline systems do not operate in an RTO or ISO market structure such as exists in the electric sector. Rather, pipeline services are governed by specific tariff and contract terms. Furthermore, electric generators are not the only shippers on interstate pipelines. Local distribution companies are customers of virtually every interstate pipeline and natural gas utilities rely on pipelines to satisfy their obligation to serve customers.

In short, natural gas utilities require reliable service from the pipelines. While AGA and APGA support the Energy and Commerce Committee's commitment to reliability and safety, a mission our industry shares, our concern is that H.R. 6084 may not actually increase reliability. AGA and

¹ Gas Technology Institute. [Assessment of Natural Gas and Electric Distribution Service Reliability](#), 2018.



APGA encourage Congress, FERC, TSA, PHMSA, the states, and local officials to work together, under the current regulatory construct, to strengthen the integrity, security, reliability, and resilience of the natural gas system. Working within the current structure would be more efficient than creating an entirely new entity to oversee reliability.

Respectfully,

A handwritten signature in black ink, appearing to read "Stuart Saulters".

Stuart Saulters
Vice President of Government Relations
American Public Gas Association

A handwritten signature in black ink, appearing to read "George H. Lowe".

George H. Lowe
Vice President,
Governmental Affairs & Public Policy
American Gas Association