



AMERICAN PUBLIC GAS ASSOCIATION

June 19th, 2019

Chairman Bobby Rush
2188 Rayburn House Office Building
Washington, DC 20515

Ranking Member Fred Upton
2183 Rayburn House Office Building
Washington, DC 20515

Re: Energy and Commerce Committee Subcommittee on Energy Hearing on “Legislative Solutions to Make Our Nation’s Pipelines Safer”

Dear Chairman Rush and Ranking Member Upton,

On behalf of the American Public Gas Association (APGA), we appreciate the opportunity to submit comments on this important hearing to examine the discussion draft entitled the “Safer Pipelines Act of 2019” and the “Leonel Rondon Pipeline Safety Act.” We appreciate the Subcommittee’s work towards developing pipeline safety legislation.

APGA is the national association for publicly-owned natural gas distribution systems. Our roughly 750 members are 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 own and operate natural gas distribution facilities in their communities. Public gas systems’ primary focus is on providing safe, reliable, and affordable natural gas service to their customers. APGA members serve their communities in many ways. They deliver gas to be used for cooking, cleaning, heating and cooling, as well as for various commercial and industrial applications.

APGA members tend to differ from investor-owned utilities (IOUs) in two key ways. The average IOU has over 100,000 customers and typically employs around 1,000 individuals. APGA members, however, range in size from 500,000 customers to less than 100 customers, and some employ 5 or fewer individuals. Additionally, APGA member utility rates are determined locally by city councils, utility boards, or other similar groups¹. Rates for IOUs are set at a state level and the cost of compliance is shared by rate payers and shareholders. This nuanced difference is important when considering how LDCs recover the cost of compliance. Despite these differences, both publicly-owned gas systems and IOUs are required to adhere to the federal pipeline safety rules promulgated by the Department of Transportation (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA). Thus, it is critically important that any mandates or proposed regulations stay scalable and flexible.

¹ In Indiana, Maryland, and Pennsylvania there are exceptions to this statement for large publicly owned gas systems.

APGA Supports Impactful Updates to Pipeline Safety Regulations

- **Pipeline Safety Management Systems (SMS) should not be regulated:** Pipeline safety is a “journey” – it is not simply a goal that is reached. The tragic accident in Massachusetts last year highlights the ongoing need to constantly monitor and improve pipeline safety practices and standards, whether required by law or not. To that end, APGA’s membership has formally approved [APGA’s Commitment to Pipeline Safety](https://higherlogicdownload.s3.amazonaws.com/APGA/1151c1f6-49e1-4598-badd-127e33da42cd/UploadedImages/APGA_Commitment_to_Pipeline_Safety_.pdf)². This policy resolution memorializes APGA membership’s dedication to pipeline safety through principles found in Pipeline Safety Management Systems (SMS). Congress should recognize the strides APGA members have made in the ongoing deployment of Pipeline SMS and should avoid mandating Pipeline SMS in reauthorization legislation. Companies need the opportunity to implement the principles of Pipeline SMS, educate their workforce on it, and ensure they are effectively executing. Mandating Pipeline SMS would impose unnecessary and burdensome regulatory requirements that could set back continual improvements in pipeline safety.
- **Any new regulations on overpressure protection and management of change (MOC) should be scalable and flexible:** APGA recognizes additional actions may be necessary for recent learnings regarding the industry’s use of overpressure protection and management of change (MOC), and supports addressing through the PHMSA rulemaking process. Any new Congressional mandate should be evaluated in concert with existing statutory requirements. While some new mandates may appear to be beneficial on their own, they may actually be redundant or unnecessary when considered with existing rules and regulations. As highlighted earlier in this testimony, the resources available to publicly-owned natural gas systems are different than those available IOUs, so these must be utilized effectively and efficiently. As an example, the MOC process for a publicly-owned natural gas distribution system, whose 5 employees report in and out of the same building each day, will be substantially different than one for a large interstate pipeline.
- **Congress should evaluate the efficacy of mandating data sharing for pipeline safety:** APGA members are willing to provide system data to emergency response organizations if it helps them execute their jobs effectively. APGA members have longstanding relationships with local emergency responders and authorities. In fact, most APGA members are a part of the same local government as the emergency responders, and in many cases, gas utility workers also serve as volunteer firefighters. APGA is concerned that requiring additional recordkeeping and data transfer provisions would be burdensome on the emergency responders having to manage this information, as well as on pipeline operators, with no anticipated benefit. If anything, additional and unsolicited recordkeeping and data submissions from APGA members might only serve to confuse first responders if the information is not discussed in the correct context.

APGA Supports a Rulemaking Process with a Cost-Benefit Analysis Provision and no Mandamus policy

Safety is paramount for APGA’s members. From maintaining a safe community around our pipelines, to ensuring employees and contractors return home safe each day, as well as operating and maintaining at the highest level of safety, APGA members are fully committed to safety. They understand their ability to provide natural gas to homes and businesses is directly linked to their ability to do it safely. Operating safely means complying with regulations that are promulgated through a collaborative rulemaking process with stakeholders. The existing PHMSA rulemaking process, which requires PHMSA to perform a cost-benefit analysis, results in effective, transparent, and comprehensive rulemakings.

² https://higherlogicdownload.s3.amazonaws.com/APGA/1151c1f6-49e1-4598-badd-127e33da42cd/UploadedImages/APGA_Commitment_to_Pipeline_Safety_.pdf

History shows that no PHMSA proposed regulation has been overturned because of the cost-benefit analysis. Additionally, the claim that recent rulemaking delays at PHMSA be attributed to the cost-benefit analysis provision is unfounded and lacks evidence. APGA requests Congress retain the cost-benefit analysis provisions in the United States Code.

Another proposed change to the existing rulemaking process is adding a mandamus provision. This would permit citizen suits against PHMSA to force action on regulations. While APGA does support timely completion of rulemakings, a mandamus clause is not the answer. Regulatory agencies, such as PHMSA, have the specific subject matter expertise, not the courts, to develop rulemakings and enforce them. Inserting a mandamus provision into pipeline safety statute would encourage litigious actors to involve themselves into pipeline safety discussions for reasons other than ensuring the continued safe operation of the nation's pipeline infrastructure. This would require additional time and resources from PHMSA, and could actually hamper the development of rules and regulations. Congress should not add a mandamus clause but focus on supporting PHMSA and encourage the timely completion of outstanding Congressional mandates.

APGA's Members are Critical to meet Americans' Energy Demands

Natural gas is critical to our economy, and millions of consumers depend on it every day to meet their energy 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. Safety has been, and will continue to be, their primary and constant focus. There is no higher priority for a natural gas system, no matter the size or structure. AGPA and its members understand and embrace PHMSA's role in the pipeline safety "journey."

APGA appreciates Congress' focus on this critical part of our nation's infrastructure. We remain committed to working in concert with Congress, regulators, and industry counterparts to continue to provide natural gas to millions of Americans in the safest manner possible.