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On Behalf of the American Gas Association
and
The American Public Gas Association

Before the U.S. Senate Commerce, Science
and Transportation Committee

Hearing on S. 3961
Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006

November 16, 2006

Good morning, I am pleased to appear before you today and would like to thank the Committee for convening this hearing on the important topic of pipeline safety. My name is Frank Bender, I am Vice President of Gas Distribution and New Business Division of Baltimore Gas and Electric Company, a subsidiary of Constellation Energy. BG&E delivers natural gas to 634,000 customers in Maryland.

I am testifying today on behalf of the American Gas Association (AGA) and the American Public Gas Association (APGA). Together AGA and APGA represent more than more than 850 local natural gas utilities serving more than 56 million customers nationwide.

I would like to begin my testimony by first commending the committee, particularly Chairman Stevens and Ranking Member Inouye and their staffs, as well as Senators Lott and Lautenberg, for putting together what we believe is a good legislative proposal. We hope that the committee will act quickly to get a bill passed this year.

In our opinion the Pipeline Safety Act of 2002 has been working well and only minor adjustments should be considered at this point with one exception. Our companies have identified one major area we believe requires considerable improvement: excavation damage prevention. Congressional attention to more effective state excavation damage programs can and will, result in real, measurable decreases in the number of incidents occurring on natural gas distribution pipelines each year. Excavation damage is the single largest cause of natural gas distribution pipeline incidents – and we are very pleased that S. 3961 addresses this very important issue.

There are two kinds of incidents involving natural gas distribution systems: Those caused by factors the pipeline operator can to some extent control (such as improper welds, material defects, incorrect operation, corrosion or excavation damage by a utility's contractor) and those caused by external forces, which are due to factors the pipeline has little or limited ability to control, such as excavation damage by a third party, earth movement, floods, vandalism, lightning and structure fires).

The term "excavation" as I use it here and as defined by the Department of Transportation in its regulations includes demolition, excavation, tunneling or construction activities. Excavation is wide spread – from directional boring for new cable lines to installation of fences.

I am pleased to report here today that natural gas utilities do a good job in minimizing incidents that they can control.

The record shows that between 2002 and 2005, 82 percent of all reported incidents were the result of excavation damage by a third party or other factors the utility company had little or no control over. In many cases, the typical "little or no control" incident involves a party that is outside the jurisdiction of authorities overseeing pipeline safety.

However-- and most unfortunately-- during the same four-year period, incidents due to 3rd party excavation more than doubled. Excavation damage thus represents the single greatest threat to distribution system safety, reliability and integrity.

The Common Ground Alliance (CGA) is a member-driven organization dedicated to ensuring public safety by reducing damage to underground

facilities. Along with pipeline operators, the CGA membership includes excavators, locators, road builders, electric utilities, telecommunications, regulators and other stakeholders. Efforts by the Common Ground Alliance damage prevention organization, such as the nationwide education program to educate the citizenry about the three-digit One Call “811” number to prevent excavation damage, are steps in the right direction. But clearly more is needed.

AGA and APGA are pleased that the provisions of S. 3961 outlines nine elements of an effective state damage prevention program in the legislation and provide for additional funding for state implementation of the program.

Other issues of importance that I would like to highlight briefly for the committee are:

Gas Transmission Integrity Management

The Department of Transportation and pipeline operators have put forth a tremendous amount of effort to implement the gas transmission pipeline integrity management requirements of the Pipeline Safety Act of 2002. The Government Accountability Office (GAO) recently issued a report on the subject of transmission integrity management reassessment intervals. The report states that the gas integrity management program appears to be working.

The GAO also suggested allowing operators to reassess their systems at intervals based on technical data, risk factors and engineering analyses. AGA and APGA agree with using technically based assessment intervals.

Safety Orders

AGA and APGA believe that the language in S. 3961 that allows a safety order to be issued for “any condition that poses a risk to public safety, property, or the environment” is overly broad. DOT already is using its authority to issue corrective action orders to enforce safety rules on facilities that are determined to present a hazard to life, property and the environment.

Human Risk Factors Risk Management

AGA and APGA support the proposed directive that DOT prescribe standards to reduce risks associated with fatigue, but we are concerned about the possible development of complex regulations on “mandatory” working hours.

DOT recently held a public meeting on the topic, and the excellent information exchanged served to reinforce our belief that controller functions in the natural gas transmission, hazardous liquid, and distribution industries are too diverse to be addressed by a ‘one size fits all’ regulation.

Funding for One Call Grants and the Common Ground Alliance

AGA and APGA urge Congress to provide continued funding authority over the upcoming reauthorization period for grants to states to support One Call programs and to the Common Ground Alliance.

Enforcement Transparency

We support the idea of enhancing enforcement transparency, so long as due process is preserved and confidentiality during the administrative process of individual cases is protected. The Department of Transportation has a system where notices of probable violations are issued and operators are given an opportunity to promptly respond. If transparency during enforcement activities improves public confidence, we support enhancements with administrative due process.

Summary

AGA and APGA believe that Congressional passage of pipeline safety reauthorization this year will result in timely and significant distribution system safety improvements. We commend the committee for putting together a solid bill, and commit to working with you to secure passage of a final bill this year.

Thank you for the opportunity to appear here today.