

**TESTIMONY OF  
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**ON BEHALF OF THE  
INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA**

**BEFORE THE  
SUBCOMMITTEE ON ENERGY AND AIR QUALITY  
COMMITTEE ON ENERGY AND COMMERCE  
U.S. HOUSE OF REPRESENTATIVES**

**REGARDING  
LEGISLATION TO REAUTHORIZE THE PIPELINE SAFETY ACT**

**JULY 27<sup>TH</sup>, 2006**

Mr. Chairman and Members of the Subcommittee:

Good morning. My name is Jeryl Mohn, and I am Senior Vice President of Operations and Engineering for Panhandle Energy. I am testifying today on behalf of the Interstate Natural Gas Association of America (INGAA). INGAA represents the interstate and interprovincial natural gas pipeline industry in North America. INGAA's members transport over 90 percent of the natural gas consumed in the United States through a network of approximately 200,000 miles of transmission pipeline. These transmission pipelines are analogous to the interstate highway system – in other words, large capacity systems spanning multiple states or regions.

Panhandle Energy, headquartered in Houston, Texas, is a subsidiary of the Southern Union Company and owns or holds a major ownership interest in five interstate pipelines and a liquefied natural gas import terminal. Our pipelines serve a significant share of markets in the Midwest, the Southwest including California, and Florida. In addition, our Trunkline LNG terminal in Lake Charles, Louisiana is one of the nation's largest LNG import facilities.

Mr. Chairman, I submitted extensive testimony in April on the reauthorization of the Pipeline Safety Act, including information on the natural gas transmission Integrity Management Program (IMP) and the safety of gas pipelines. My comments today will focus on several specific legislative proposals, but I would refer the Committee back to my earlier testimony for more general background on this topic.

## **REASSESSMENT INTERVALS**

As you know, the Pipeline Safety Improvements Act of 2002 mandated a natural gas transmission integrity management program pursuant to which the industry would undertake a 10-year baseline inspection program to ensure the safety of all gas transmission pipeline segments located in populated areas. Three years into this program, the inspections are progressing well, and the industry is generally on track for meeting the 10-year baseline requirement.

The 2002 Act also included the requirement that these pipeline segments be reassessed every seven years thereafter. It is fair to say that the seven-year number was not based on any engineering analysis; instead, it represented a political compromise between the Senate position favoring five-year re-assessment interval and the House position favoring a 10 -year interval. Sixty years of operational experience in pipeline industry strongly suggested that, for most pipelines, anything shorter than ten years was both unnecessary and a waste of resources. Nonetheless, Congress settled on the seven-year interval as a compromise between the two positions. In recognition of this, however, the 2002 Act also required the Government Accountability Office to analyze the re-assessment question and to report to the Congress in time for the next reauthorization debate.

Mr. Chairman, that debate is today. The GAO has been working on a report for almost a year now, and we understand that it will be completed soon – probably by the middle of September. The Administration’s bill (HR 5678) already includes a provision addressing the issue by retaining the seven-year requirement unless and until the Department of Transportation promulgates an alternative requirement based on engineering and risk analysis. INGAA strongly supports this provision.

Why not just stick with the current requirement for another reauthorization period? There are several reasons for a change now. First, the DOT has interpreted the seven-year reassessment requirement to begin after each individual segment is first inspected, rather than once the 10 -year baseline period is complete. This means that segments first inspected in years 2003, 2004 and 2005 must be reassessed in years 2010 through 2012, while the first battery of baseline inspections is still ongoing. This overlap of baseline inspections and re-inspections could create pipeline capacity constraints that would have the potential to result in higher natural gas prices for American consumers than would otherwise be the case. Inspection and maintenance work reduces pipeline operational capacity, and some inspections even require complete system shutdowns for weeks at a time. Getting these requirements right, so that inspection work is rational and justified, is critical to minimizing the likelihood of gas supply problems attributable to integrity management work.

Next, the internal pipeline inspections covered in the IMP program primarily addresses one type of pipeline integrity threat – corrosion. Corrosion causes about 25 percent of all gas transmission lines accidents. While this is the largest single cause of accidents on gas transmission pipelines, it is not the only cause. For example, excavation damage is the leading cause of accidents associated with fatalities and injuries. Focusing scarce resources on a single cause of accidents, without looking at other areas where other safety improvements can be made, will not provide the best level of overall safety.

Finally, there is the one-size-fits-all nature of the current seven-year requirement. The best method for improving safety, however, is to weigh risks and prioritize work based on those potential risks. Some pipeline segments may, in fact, need to be inspected more often than every seven years due to their inherent risk, while others do not need to be re-inspected for 10 to 15 years (once the baseline is complete) due to their low risk. We will end up with an even safer pipeline system if the focus is on reducing risks to the public, rather than just compliance with a mandated set of requirements that may bear little relation to actual risk.

The Committee’s Discussion Draft includes a “placeholder” provision on this issue, wherein the Secretary of Transportation would be required to report back to Congress with any legislative recommendations once the GAO report is complete. We would simply note that the Secretary has already provided a legislative recommendation on this matter, which is included in HR 5678. The placeholder provision in the discussion draft would not allow the Secretary to initiate any change in the seven-year requirement without further action by Congress – action that would be unlikely to occur again for the next four years. INGAA therefore urges the Committee to adopt the provision from HR

5678, which allows the Secretary to initiate a rulemaking on this matter and make a change based upon “technical data, risk factors, and engineering analyses.”

## **DIRECT SALES LATERALS**

As part of its earlier testimony, INGAA provided the Committee with a history on the safety regulation of direct sales laterals. Suffice it to say here that continued state regulation of sales laterals owned by interstate pipelines is anachronistic and unnecessary. It also diverts resources away from what should be the states’ primary focus on intrastate pipeline facilities, including distribution lines.

The Discussion Draft includes a provision to move the safety regulation of direct sales lateral pipelines owned by interstate pipelines from states to the Pipeline and Hazardous Materials Safety Administration within DOT. This would be consistent with the existing economic regulation of these pipelines at the federal level. The Federal Energy Regulatory Commission regulates a direct sales lateral owned by an interstate pipeline as a part of the interstate pipeline, a result that is backed by judicial precedent. There is no legitimate reason why safety regulation should be treated any differently. States that are “interstate agents” on behalf of DOT would be able to oversee and audit the regulation of direct sales laterals owned by an interstate pipeline as part of the interstate agent function.

The language in the Discussion Draft does not affect direct sales laterals owned either by a customer (such as a power plant or factory) or by an intrastate pipeline. These direct sales laterals still would be regulated by the states.

INGAA strongly supports the provisions in the discussion draft and in the Administration bill on this matter.

## **OTHER ISSUES IN HR 5782 AND THE DISCUSSION DRAFT**

### **One-Call Civil Enforcement**

One-call damage prevention systems are created, and managed, at the state level. INGAA believes that enforcement of these state programs, including civil penalty enforcement, should also be at the state level. Consequently, INGAA has some concern about the federal Department of Transportation enforcing state one-call laws. Damage prevention requires cooperation between both underground utility owners and excavators. Enforcement is best handled by the regulator that has responsibility for administering the one-call programs, i.e., the state regulators, so that enforcement strategy can be coordinated achieving the private sector participation and cooperation that is essential for success.

If Congress feels strongly about civil penalties for one-call enforcement, then we urge you to review the approach taken by the Transportation and Infrastructure Committee,

whereby federal enforcement would only be permitted in those states that have not adopted civil penalty authority on their own. We believe the end-goal should be effective state enforcement of one-call laws, not the preemption of state one-call law enforcement by the federal government.

### **State Damage Prevention Programs**

The goals behind this program – the further improvement in state damage prevention laws – have been an INGAA priority for many years. From the standpoint of reducing pipeline accidents, this is the single most important issue in the 2006 reauthorization bill. INGAA strongly supports this provision.

### **Grants to States and State Pipeline Safety Grants**

These two provisions provide additional federal grant funds to the states, for both improving state one-call programs and assisting in the regulation and enforcement of safety standards for intrastate pipelines and natural gas distribution lines.

Natural gas and hazardous liquid transmission lines are under federal safety jurisdiction while natural gas distribution lines (LDCs) and intrastate pipelines are under state jurisdiction. Transmission line operators – and only transmission line operators – pay the annual user fees to PHMSA that fund the federal pipeline safety program and all of the associated grants to the states.

HR 5782 and the Discussion Draft both anticipate significant increases in grants to the states. Still, based on the current regime for collecting user fees, federally-regulated pipelines would fund an increasing share of the cost of regulating of intrastate pipelines at the state level. This would include the costs of developing and implementing the Distribution Integrity Management Program, which is focused on reducing accidents involving state-regulated gas distribution lines.

INGAA accepts the premise that transmission line operators should contribute to the cost of programs that directly benefit transmission lines, such as the damage prevention program. INGAA also believes that distribution line operators should contribute a fair share of the cost of this program as well, because a national damage prevention initiative would be a central part of the distribution integrity management program. If Congress increases the matching funds for state pipeline safety grants as well, from “up to 50 percent” to “up to 80 percent,” distribution operators regulated by the states should also help to offset the additional cost of these grants. There is no justifiable reason why interstate transmission pipeline operators – regulated at the federal level – should continue to subsidize state-regulated entities. DOT should consider a new user fee formula that includes gas distribution lines in federal user fee collections, and if necessary, Congress should authorize user fees to be collected from distribution operators.

## **Safety Orders**

Both the Discussion Draft and the Administration Bill propose modifying the existing statute with respect to the issuance of safety orders. The first change to existing law would be a requirement that any safety orders be issued only after notice and opportunity for a hearing. This is an excellent change that INGAA supports. The provision, however, also would expand the conditions for which a safety order could be issued from the current “potential safety-related condition” to “any condition that could affect public safety, property, or the environment.” This would be an overly-broad expansion of authority. The considerations in (2) are also vague and overly-broad, except for (2)(A), which is specific and understandable. A standard that could lead to shutting down a pipeline delivering energy on a real-time basis to millions of consumers must be specific in order to avoid unnecessary (and to consumers, costly) disruptions.

## **Technical Assistance Grants**

This provision in the Discussion Draft extends the authorization of the “technical assistance grant to communities” that was part of the 2002 Act. INGAA supports this provision, with a request that pipeline operators also be eligible for grants to fund activities that an operator might undertake to educate local communities about pipelines or improve safety communications targeted at communities located near pipelines. Such education and/or communication efforts would be consistent with the spirit of what was authorized in 2002.

## **Enforcement Transparency**

INGAA generally supports increased enforcement transparency, and therefore supports this provision, with the following suggestions. First, we believe that companies involved in enforcement proceedings should be allowed to provide information “telling their side of the story” to DOT for inclusion in any electronic posting. This would be optional, but it would possibly provide a more balanced view of a pending action. In addition, we urge the Committee to include language protecting due process and the confidentiality of parties engaged in settlement proceedings.

## **INCIDENT REPORTING**

INGAA would like to highlight one final issue that is not part of either bill, but that was raised in its earlier testimony. This is the manner in which accident data is collected for natural gas transmission lines. The current criteria result in an inaccurate measure of accidents on natural gas transmission pipelines and thereby provide the Congress and the public with a misleading impression about accident trends.

The tally of natural gas transmission accidents reported by DOT annually is based on the number of “reportable incidents.” “Reportable incidents” are defined as those which: 1) cause a fatality, 2) cause an injury, or 3) result in property damage of \$50,000 or more. These criteria create a misleading impression, because the **value of property damage includes the dollar value of the natural gas lost as a result of the accident.**

During the last six years, natural gas commodity prices have increased more than 300 percent. Prices that were approximately \$2 per mcf in 2000 now fluctuate between \$5.50 and \$10 per mcf. These higher natural gas commodity prices, which are a function of market forces, have greatly increased the number of “reportable incidents” for gas transmission lines, since the \$50,000 threshold has remained constant. This is skewing accident data and giving the impression that accidents are increasing, when in fact they are not. Accident criteria and subsequent data analyses and conclusions should not be based on the market price of natural gas, which in recent years has been extremely volatile. Instead, such data should be based on a constant measurement, such as the volume of gas lost, etc. We ask that the Committee consider a requirement that DOT initiate a rulemaking to change the criteria for property damage.

## **CONCLUSION**

Mr. Chairman, I again want to thank you for the opportunity to testify today. INGAA hopes the Committee marks up this legislation soon, so that a final bill can be enacted before the adjournment of the 109<sup>th</sup> Congress. We stand ready to work with you on completion of a bill in 2006.

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Summary of Testimony

INGAA appreciates the opportunity to testify on reauthorization of the Pipeline Safety Act. We support the timely reauthorization of the Act, and want to provide some specific comments on the key bills that have been introduced. Our recommendations for legislation to reauthorize the Act in 2006 include:

- Re-examination of the seven-year reassessment interval that was part of the gas integrity management requirement in the 2002 legislation. We recommend a reassessment interval based on scientific and/or engineering criteria. The provision contained in the Administration bill (HR 5678) accomplishes this objective and has INGAA's support.
- Incentives to further improve state damage prevention programs nationwide.
- Amend the definition of "direct sales lateral" pipelines in the Pipeline Safety Act to make those owned by interstate pipelines jurisdictional to federal, rather than state, oversight.
- Amend natural gas transmission accident reporting criteria to remove the linkage to the cost of natural gas lost, since this value fluctuates significantly over time and therefore provides misleading data.