

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2693 Session of 2010

INTRODUCED BY BAKER, S. H. SMITH, STERN, MAJOR, BOBACK, BRIGGS, CALTAGIRONE, CARROLL, CLYMER, D. COSTA, CREIGHTON, DePASQUALE, FLECK, GINGRICH, GOODMAN, GROVE, HANNA, HARHART, HELM, HENNESSEY, HESS, KILLION, MANN, MILLER, MILNE, MUNDY, MURT, PASHINSKI, PHILLIPS, PICKETT, REESE, REICHLEY, SANTONI, SIPTROTH, K. SMITH, TALLMAN, TRUE, VULAKOVICH, WAGNER, WATSON, YOUNGBLOOD, YUDICHAK, McILVAINE SMITH, SWANGER, DENLINGER AND KNOWLES, SEPTEMBER 14, 2010

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, SEPTEMBER 14, 2010

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
2 Consolidated Statutes, in general provisions, further  
3 providing for definitions; and providing for regulation of  
4 certain operators of pipelines.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Paragraph (2) of the definition of "public  
8 utility" in section 102 of Title 66 of the Pennsylvania  
9 Consolidated Statutes is amended by adding a subparagraph and  
10 the section is amended by adding definitions to read:

11 § 102. Definitions.

12 Subject to additional definitions contained in subsequent  
13 provisions of this part which are applicable to specific  
14 provisions of this part, the following words and phrases when  
15 used in this part shall have, unless the context clearly  
16 indicates otherwise, the meanings given to them in this section:

\* \* \*

"Gas." Natural gas, flammable gas or toxic or corrosive gas.

"Hazardous liquid." Petroleum, a petroleum product or  
anhydrous ammonia.

\* \* \*

"Natural or artificial gas." Natural gas, liquified natural  
gas, synthetic natural gas and any natural gas substitute such  
as propane or landfill gas.

\* \* \*

"Public utility."

\* \* \*

(2) The term does not include:

\* \* \*

(vii) An operator, not otherwise a public utility,  
provided that the operator is subject to the jurisdiction  
of the commission as provided in Chapter 32 (relating to  
regulation of nonjurisdictional entities) and in  
regulations promulgated by the commission.

\* \* \*

Section 2. Title 66 is amended by adding a chapter to read:

#### CHAPTER 32

#### REGULATION OF NONJURISIDCTIONAL ENTITIES

Sec.

3201. Definitions.

3202. Adoption of Federal pipeline safety laws.

3203. Scope of commission regulation.

3204. Registry of pipeline operators.

3205. Assessments.

3206. Regulations.

§ 3201. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Federal pipeline safety laws." The provisions of 49 U.S.C. Subtitle VIII (relating to pipelines).

"Operator." A person, corporation or other entity, including a public utility, that owns or operates in this Commonwealth equipment or facilities for the transportation of gas or hazardous liquids by pipeline or pipeline facility. The term does not include an ultimate consumer who owns a service line on the real property of the ultimate consumer.

"Pipeline." Any part of the physical facilities through which gas or hazardous liquids move in transportation, including a pipe, valve and other appurtenance attached to the pipe, compressor unit, metering station, regulator station, delivery station, holder and fabricated assembly.

"Pipeline facility." A new and existing pipeline, right-of-way and any equipment, facility or building used in the transportation of gas or hazardous liquids or in the treatment of gas during the course of transportation. The term does not include a pipeline subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission.

"Transportation of gas." The gathering, transmission or distribution of gas by pipeline or the storage of gas.

"Transportation of hazardous liquids." The gathering, transmission or distribution of hazardous liquids by pipeline.

§ 3202. Adoption of Federal pipeline safety laws.

(a) General rule.--The minimum safety standards for the transportation of gas and hazardous liquids in this Commonwealth shall be those issued under the Federal pipeline safety laws and

1 as implemented in 49 CFR Subtitle B Ch. 1 Subch. D (relating to  
2 pipeline safety), including all subsequent amendments thereto.

3 (b) Amendments to Federal law.--

4 (1) Amendments to the Federal pipeline safety laws shall  
5 have the effect of amending or modifying the commission's  
6 regulations with regard to the minimum safety standards for  
7 the transportation of gas and hazardous liquids.

8 (2) The amendment or modification shall take effect 60  
9 days after the effective date of the Federal amendment or  
10 modification, unless the commission publishes a notice in the  
11 Pennsylvania Bulletin stating that the amendment or  
12 modification may not take effect.

13 § 3203. Scope of commission regulation.

14 For the purpose of protecting the public safety with respect  
15 to the transportation of gas and hazardous liquids by operators,  
16 the commission shall have the following powers and duties:

17 (1) To investigate any service, act, practice, policy or  
18 omission by an operator to determine compliance with this  
19 chapter.

20 (2) To investigate any pipeline transportation facility  
21 to determine if it is hazardous to life or property.

22 (3) To investigate the existence or report of any  
23 safety-related condition that involves a pipeline  
24 transportation facility.

25 (4) To enter into and perform contracts or agreements  
26 with the United States Department of Transportation to  
27 inspect interstate transmission facilities pursuant to the  
28 Federal pipeline safety laws.

29 (5) Accept grants-in-aid, cash and reimbursements  
30 provided for or made available to the Commonwealth by the

1 Federal Government to carry out the Federal pipeline safety  
2 laws or other Federal law.

3 (6) To adopt by reference the pipeline safety  
4 regulations promulgated at 49 CFR Parts 191 (relating to  
5 transportation of natural and other gas pipeline; annual  
6 reports, incident reports, and safety-related condition  
7 reports) through 199 (relating to drug and alcohol testing).  
8 The commission may not adopt a rule or regulation to  
9 implement this chapter that is inconsistent with or more  
10 stringent than the pipeline safety regulations promulgated by  
11 the Federal Government.

12 (7) To advise, consult and cooperate with the Federal  
13 Government, other State agencies and other states as may be  
14 necessary to administer its duties under this chapter.

15 (8) To issue adjudications, after notice and opportunity  
16 to be heard, and to impose civil fines and take enforcement  
17 action for violations of the applicable Federal regulations  
18 and any provision of this chapter.

19 § 3204. Registry of pipeline operators.

20 (a) Duty to establish and maintain registry.--The commission  
21 shall establish and maintain a registry of all gas and hazardous  
22 liquids operators.

23 (b) Applications.--The commission may develop an application  
24 for registration under subsection (a) and may charge a  
25 reasonable registration fee and annual renewal registration fee.

26 (c) Duty to register.--

27 (1) Unless certificated by the commission as a public  
28 utility as set forth in this part, an operator shall register  
29 with the commission.

30 (2) An operator that fails to register in accordance

1 with this chapter shall be subject to the civil penalty  
2 provided in section 3301(c) (relating to civil penalties for  
3 violations).

4 § 3205. Assessments.

5 (a) Duty to determine.--The commission shall by regulation  
6 or order determine the assessments of operators in accordance  
7 with this section.

8 (b) Fees.--

9 (1) The commission shall determine an appropriate fee,  
10 based on pipeline miles, which fee shall be designed to  
11 collect the commission's total costs, plus a reasonable  
12 allocation of indirect costs, of its natural gas pipeline  
13 safety program, excluding the costs otherwise reimbursed by  
14 the Federal Government.

15 (2) The fee shall be paid by all operators. The fee  
16 shall not be applicable to natural gas public utilities.

17 (c) Time for payment.--The fee shall be due and payable  
18 within 30 days of the notice of amount due from the commission.  
19 The amount of the fee may be challenged consistent with the  
20 provisions of section 510(c), (d) and (e) (relating to  
21 assessment for regulatory expenses upon public utilities).

22 (d) Reporting of miles.--Each operator shall, on or before  
23 March 31 of each calendar year, report to the commission its  
24 total transmission and gathering pipeline miles in operation  
25 during the prior calendar year.

26 (e) Estimated fees.--The estimated fees to be collected  
27 under this section for each fiscal year shall be subtracted from  
28 the final estimate of total expenditures used to calculate the  
29 total assessment on public utilities under section 510(a).

30 § 3206. Regulations.

1       The commission shall establish regulations to implement this  
2 chapter and may promulgate and enforce binding interim  
3 guidelines.

4       Section 3.   This act shall take effect in 60 days.