

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 325 Session of 2011

INTRODUCED BY BAKER, ALLOWAY, ERICKSON, FERLO, FONTANA, KASUNIC, MENSCH, PIPPY, RAFFERTY, SCARNATI, SOLOBAY, TOMLINSON, M. WHITE, YUDICHAK, PILEGGI AND BOSCOLA, JANUARY 28, 2011

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, AS AMENDED, FEBRUARY 14, 2011

AN ACT

1 Providing for gas and hazardous liquids pipelines and for powers
2 and duties of the Pennsylvania Public Utility Commission; and
3 imposing civil penalties.

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

CHAPTER 1

PRELIMINARY PROVISIONS

8 Section 101. Short title.

9 This act shall be known and may be cited as the Gas and
10 Hazardous Liquids Pipelines Act.

11 Section 102. Definitions.

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

15 "Commission." The Pennsylvania Public Utility Commission.

16 "Federal pipeline safety laws." The provisions of 49 U.S.C.
17 Ch. 601 (relating to safety), the Hazardous Liquid Pipeline

1 Safety Act of 1979 (Public Law 96-129, 93 Stat. 989), the  
2 Pipeline Safety Improvement Act of 2002 (Public Law 107-355, 116  
3 Stat. 2985) and the regulations promulgated under the acts.

4 "Gas." Natural gas, liquefied natural gas, LANDFILL GAS, ←  
5 synthetic natural gas and other gas as defined under the Federal  
6 pipeline safety laws.

7 "Hazardous liquid." Petroleum, a petroleum product,  
8 anhydrous ammonia, ~~landfill gas~~ and other hazardous liquid as ←  
9 defined under the Federal pipeline safety laws.

10 "Person." An individual, firm, joint venture, partnership,  
11 corporation, association, municipality, cooperative association  
12 or joint stock association, including any trustee, receiver,  
13 assignee or personal representative thereof. The term does not  
14 include a public utility.

15 "Pipeline." A part of the physical facilities through which  
16 gas or hazardous liquids move in transportation, including a  
17 pipe valve and other appurtenance attached to the pipe,  
18 compressor unit, metering station, regulator station, delivery  
19 station, holder and fabricated assembly. The term only includes  
20 pipeline regulated by Federal pipeline safety laws. The term  
21 does not include a pipeline subject to the exclusive  
22 jurisdiction of the Federal Energy Regulatory Commission.

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

30 "Pipeline operator." A person that owns or operates

1 equipment or facilities in this Commonwealth for the  
2 transportation of gas or hazardous liquids by pipeline or  
3 pipeline facility regulated under Federal pipeline safety laws.  
4 The term does not include a public utility or an ultimate  
5 consumer who owns a service line on his real property.

6 "Public utility." ~~As defined in 66 Pa.C.S. § 102 (relating~~ ←  
7 ~~to definitions).~~ THE TERM SHALL MEAN: ←

8 (1) A PUBLIC UTILITY AS DEFINED IN 66 PA.C.S. § 102  
9 (RELATING TO DEFINITIONS).

10 (2) A CITY NATURAL GAS DISTRIBUTION OPERATION AS DEFINED  
11 IN 66 PA.C.S. § 102.

12 "Transportation of gas." The gathering, transmission or  
13 distribution of ~~natural~~ gas by pipeline or the storage of gas. ←

14 "Transportation of hazardous liquids." The gathering,  
15 transmission or distribution of hazardous liquids by pipeline.  
16 Section 103. Applicability.

17 The provisions of this act shall apply only to pipelines,  
18 pipeline operators or pipeline facilities regulated under  
19 Federal pipeline safety laws.

## 20 CHAPTER 3

### 21 PIPELINE OPERATORS

22 Section 301. Registry of pipeline operators.

23 (a) Registry.--The commission shall establish and maintain a  
24 registry of all pipeline operators.

25 (b) Application.--The commission may develop an application  
26 for registration under subsection (a) and may charge a  
27 reasonable registration fee and annual renewal fee.

28 (c) Registration with commission.--

29 (1) A pipeline operator shall register with the  
30 commission.

1 (2) Failure to register shall subject the pipeline  
2 operator to a civil penalty under section 502.

3 (d) Exemptions.--No application or registration fee shall be  
4 required of a petroleum gas distributor who is registered under  
5 the act of June 19, 2002 (P.L.421, No.61), known as the Propane  
6 and Liquefied Petroleum Gas Act, and provides proof of  
7 registration to the commission. It shall be the responsibility  
8 of the commission to verify registrations of petroleum gas  
9 distributors with the Department of Labor and Industry before  
10 requiring a petroleum gas distributor to register under this  
11 section. This exemption shall not apply to assessments.  
12 Section 302. Adoption of Federal pipeline safety laws.

13 (a) General rule.--The safety standards and regulations for  
14 pipeline operators shall be those issued under the Federal  
15 pipeline safety laws as implemented in 49 CFR Subtitle B Ch. 1  
16 Subch. D (relating to pipeline safety).

17 (b) Amendments to Federal law.--

18 (1) Amendments to Federal pipeline safety laws shall  
19 have the effect of amending or modifying the safety standards  
20 and regulations for the transportation of gas and hazardous  
21 liquids in this Commonwealth.

22 (2) An amendment or modification under paragraph (1)  
23 shall take effect 60 days after its effective date.

## 24 CHAPTER 5

### 25 COMMISSION AUTHORITY AND ENFORCEMENT

26 Section 501. General powers of commission.

27 (a) Commission authority.--The commission shall have general  
28 administrative authority to supervise and regulate pipeline  
29 operators within this Commonwealth consistent with Federal  
30 pipeline safety laws. The commission may adopt regulations,

1 consistent with the Federal pipeline safety laws, as may be  
2 necessary or proper in the exercise of its powers and perform  
3 its duties under this act. The regulations shall not be  
4 inconsistent with or greater or more stringent than the minimum  
5 standards and regulations adopted under the Federal pipeline  
6 safety law. The commission shall have the following duties:

7 (1) To investigate a service, act, practice, policy or  
8 omission by a pipeline operator to determine compliance with  
9 this act.

10 (2) To investigate a pipeline transportation facility to  
11 determine if it is hazardous to life or property.

12 (3) To investigate the existence or report of a safety-  
13 related condition that involves a pipeline transportation  
14 facility.

15 (4) To enter into contracts or agreements with the  
16 United States Department of Transportation to inspect  
17 intrastate or interstate transmission facilities.

18 (5) Accept grants-in-aid, cash and reimbursements made  
19 available to the Commonwealth by the Federal Government to  
20 implement Federal pipeline safety laws or other Federal law.

21 (6) To advise, consult and cooperate with the Federal  
22 Government, other states and other agencies as may be  
23 necessary to carry out the purposes of this act.

24 (7) To enforce the Federal pipeline safety laws and,  
25 after notice and opportunity for a hearing, impose civil  
26 penalties and fines and take other appropriate enforcement  
27 action.

28 (8) For purposes of petroleum gas, the commission's  
29 jurisdiction under this act shall be limited to those  
30 petroleum gas systems that are the following:

1 (i) Subject to the Federal pipeline safety laws.

2 (ii) Not a public utility.

3 (b) Compliance.--Each pipeline operator, its officers,  
4 agents and employees, and other persons subject to this act, or  
5 to an order of the commission, or a court under this act, shall  
6 observe, obey and comply with this act and the terms and  
7 conditions of the orders issued hereunder.

8 Section 502. Civil penalties.

9 (a) Violations.--Any pipeline operator who violates this act  
10 shall be subject to a penalty provided under the Federal  
11 pipeline safety laws or 66 Pa.C.S. § 3301(c) (relating to civil  
12 penalties for violations), whichever is greater.

13 (b) Disposition of fines and penalties.--Fines imposed and  
14 civil penalties recovered under this act shall be paid to the  
15 commission. The funds received by the commission under this  
16 subsection shall be paid into the State Treasury, through the  
17 Department of Revenue, to the credit of the General Fund.

18 Section 503. Assessments.

19 (a) Duty to determine.--The commission shall by regulation  
20 or order determine the assessments of pipeline operators in  
21 accordance with this section.

22 (b) Assessments.--

23 (1) The commission shall determine an appropriate annual  
24 assessment based on intrastate regulated transmission,  
25 regulated distribution and regulated onshore gathering  
26 pipeline miles. The assessment shall be adjusted to collect  
27 the commission's total costs of the pipeline operators'  
28 portion, excluding the costs otherwise reimbursed by the  
29 Federal Government, of:

30 (i) The ~~natural~~ gas pipeline safety program, plus a ←

1 reasonable allocation of indirect costs.

2 (ii) The hazardous liquids pipeline safety program.

3 (2) The assessment shall be paid by pipeline operators  
4 and shall not be applicable to natural gas public utilities.

5 (c) Time for payment.--The assessment shall be due and  
6 payable within 30 days from the notice of amount due from the  
7 commission. The amount of the assessment may be challenged by a  
8 pipeline operator consistent with the provisions of 66 Pa.C.S. §  
9 510(c), (d) and (e) (relating to assessment for regulatory  
10 expenses upon public utilities).

11 (d) Reporting of miles.--Each pipeline operator shall, on or  
12 before March 31 of each calendar year, report to the commission  
13 its total intrastate regulated transmission, regulated  
14 ~~transmission~~ DISTRIBUTION and regulated onshore gathering ←  
15 pipeline miles in operation for the transportation of gas and  
16 hazardous liquids in this Commonwealth during the prior calendar  
17 year.

18 (e) Estimated fees.--The estimated fees to be collected  
19 under this section for each fiscal year shall be subtracted from  
20 the final estimate of total expenditures used to calculate the  
21 total assessment on public utilities under 66 Pa.C.S. § 510.  
22 Section 504. Jurisdiction and authority of commission.

23 (a) Jurisdiction.--Nothing in this act shall give the  
24 commission jurisdiction over any pipeline operator for purposes  
25 of rates or ratemaking or any purpose other than those set forth  
26 in this act.

27 (b) Landfill gas distribution systems.--The jurisdiction of  
28 the commission over landfill gas distribution systems under this  
29 act shall be limited to systems subject to Federal pipeline  
30 safety laws. The commission shall not have jurisdiction over

1 operations and systems within the property boundary of the  
2 landfill.

3 (c) Authority.--Nothing in this act grants the commission  
4 additional authority to determine or regulate a pipeline  
5 operator as a public utility as defined in 66 Pa.C.S. § 102  
6 (relating to definitions) or as a natural gas supplier or  
7 natural gas supply services as defined in 66 Pa.C.S. § 2202  
8 (relating to definitions).

9 CHAPTER 11

10 MISCELLANEOUS PROVISIONS

11 Section 1101. Effective date.

12 This act shall take effect in 60 days.