

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 325 Session of
2011

INTRODUCED BY BAKER, ALLOWAY, ERICKSON, FERLO, FONTANA, KASUNIC,
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JANUARY 28, 2011

AS AMENDED ON THIRD CONSIDERATION, APRIL 5, 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:

6 CHAPTER 1

7 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 and other hazardous liquid as defined under
9 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 gas or hazardous liquids or in the treatment
26 of gas or hazardous liquids during the course of transportation.
27 The term does not include a pipeline facility subject to the
28 exclusive jurisdiction of the Federal Energy Regulatory
29 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." The term shall mean:

7 (1) A public utility as defined in 66 Pa.C.S. § 102
8 (relating to definitions).

9 (2) A city natural gas distribution operation as defined
10 in 66 Pa.C.S. § 102.

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

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

15 "UNCONVENTIONAL WELL." A BOREHOLE DRILLED OR BEING DRILLED
16 FOR THE PURPOSE OF OR TO BE USED FOR PRODUCING OIL OR GAS FROM A
17 GEOLOGICAL FORMATION EXISTING BELOW THE BASE OF THE ELK
18 SANDSTONE OR ITS GEOLOGIC EQUIVALENT STRATIGRAPHIC INTERVAL
19 WHERE OIL OR GAS GENERALLY CANNOT BE PRODUCED AT ECONOMIC FLOW
20 RATES OR IN ECONOMIC VOLUMES EXCEPT: BY WELLS STIMULATED BY
21 HYDRAULIC FRACTURE TREATMENTS, BY A HORIZONTAL WELL BORE OR BY
22 USING MULTILATERAL WELL BORES OR OTHER TECHNIQUES TO EXPOSE MORE
23 OF THE FORMATION OF THE WELL BORE.

24 Section 103. Applicability.

25 The provisions of this act shall apply only to pipelines,
26 pipeline operators or pipeline facilities regulated under
27 Federal pipeline safety laws.

28 CHAPTER 3

29 PIPELINE OPERATORS

30 Section 301. Registry of pipeline operators.

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

3 (b) Application.--The commission may develop an application
4 for registration under subsection (a) and may charge a
5 reasonable registration fee and annual renewal fee.

6 (c) Registration with commission.--

7 (1) A pipeline operator shall register with the
8 commission.

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

11 ~~(d) Exemptions. No application or registration fee shall be~~ ←

12 (3) THE OPERATOR OF A PIPELINE IN A CLASS 1 LOCATION ←
13 THAT COLLECTS OR TRANSPORTS GAS FROM AN UNCONVENTIONAL WELL
14 SHALL REPORT THE LOCATION OF THE PIPELINE BY CLASS LOCATION
15 AND APPROXIMATE AGGREGATE MILES FOR INCLUSION IN THE
16 COMMISSION'S REGISTRY.

17 (D) EXEMPTIONS.--

18 (1) NO APPLICATION OR REGISTRATION FEE SHALL BE required
19 of a petroleum gas distributor who is registered under the
20 act of June 19, 2002 (P.L.421, No.61), known as the Propane
21 and Liquefied Petroleum Gas Act, and provides proof of
22 registration to the commission. It shall be the ←

23 ~~responsibility of the commission to verify registrations of~~
24 ~~petroleum gas distributors with the Department of Labor and~~
25 ~~Industry before requiring a petroleum gas distributor to~~
26 ~~register under this section. This exemption shall not apply~~
27 ~~to assessments.~~

28 (2) THE COMMISSION SHALL VERIFY REGISTRATIONS OF ←
29 PETROLEUM GAS DISTRIBUTORS WITHIN THE DEPARTMENT OF LABOR AND
30 INDUSTRY BEFORE REQUIRING A PETROLEUM GAS DISTRIBUTOR TO

REGISTER UNDER THIS SECTION.

(3) NO REGISTRATION FEE OR ANNUAL RENEWAL REGISTRATION FEE SHALL BE REQUIRED OF A BOROUGH.

Section 302. Adoption of Federal pipeline safety laws.

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

(b) Amendments to Federal law.--

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

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

CHAPTER 5

COMMISSION AUTHORITY AND ENFORCEMENT

Section 501. General powers of commission.

(a) Commission authority.--The commission shall have general administrative authority to supervise and regulate pipeline operators within this Commonwealth consistent with Federal pipeline safety laws. The commission may adopt regulations, consistent with the Federal pipeline safety laws, as may be necessary or proper in the exercise of its powers and perform its duties under this act. The regulations shall not be inconsistent with or greater or more stringent than the minimum standards and regulations adopted under the Federal pipeline safety law. The commission shall have the following duties:

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

1 this act.

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

4 (3) To investigate the existence or report of a safety-
5 related condition that involves a pipeline transportation
6 facility.

7 (4) To enter into contracts or agreements with the
8 United States Department of Transportation to inspect
9 intrastate or interstate transmission facilities.

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

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

16 (7) To enforce the Federal pipeline safety laws and,
17 after notice and opportunity for a hearing, impose civil
18 penalties and fines and take other appropriate enforcement
19 action.

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

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

24 (ii) Not a public utility.

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

30 Section 502. Civil penalties.

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

5 (b) Disposition of fines and penalties.--Fines imposed and
6 civil penalties recovered under this act shall be paid to the
7 commission. The funds received by the commission under this
8 subsection shall be paid into the State Treasury, through the
9 Department of Revenue, to the credit of the General Fund.

10 Section 503. Assessments.

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

14 (b) Assessments.--

15 (1) The commission shall determine an appropriate annual
16 assessment based on intrastate regulated transmission,
17 regulated distribution and regulated onshore gathering
18 pipeline miles. The assessment shall be adjusted to collect
19 the commission's total costs of the pipeline operators'
20 portion, excluding the costs otherwise reimbursed by the
21 Federal Government, of:

22 (i) The gas pipeline safety program, plus a
23 reasonable allocation of indirect costs.

24 (ii) The hazardous liquids pipeline safety program.

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

27 (3) THE ASSESSMENT UNDER THIS SUBSECTION SHALL NOT APPLY
28 TO BOROUGHES. ←

29 (c) Time for payment.--The assessment shall be due and
30 payable within 30 days from the notice of amount due from the

1 commission. The amount of the assessment may be challenged by a
2 pipeline operator consistent with the provisions of 66 Pa.C.S. §
3 510(c), (d) and (e) (relating to assessment for regulatory
4 expenses upon public utilities).

5 (d) Reporting of miles.--~~Each~~ FOLLOWING THE SUBMISSION OF
6 THE ORIGINAL APPLICATION, EACH pipeline operator shall, on or
7 before March 31 of each calendar year, report to the commission
8 its total intrastate regulated transmission, regulated
9 distribution and regulated onshore gathering pipeline miles in
10 operation for the transportation of gas and hazardous liquids in
11 this Commonwealth during the prior calendar year.

12 (E) ~~MAINTENANCE INFORMATION. THE COMMISSION SHALL MAINTAIN~~
13 ~~ANY INFORMATION RECEIVED REGARDING A PIPELINE LOCATED IN CLASS 1~~
14 ~~UNDER 49 CFR 192.5(B)(1) (RELATING TO CLASS LOCATIONS) IN A~~
15 ~~SEPARATE REGISTRY.~~

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

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

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

