

STATEMENT OF

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**REPRESENTING THE
INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA**

**BEFORE THE
COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION
UNITED STATES SENATE**

**REGARDING THE
REAUTHORIZATION OF THE FEDERAL PIPELINE
SAFETY PROGRAM**

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INTRODUCTION

Mr. Chairman and Members of the Committee, I am William J. Haener, President and CEO of CMS Gas Transmission and Storage, a division of CMS Energy Corp., headquartered in Dearborn, Michigan. Today I am speaking on behalf of both the Interstate Natural Gas Association of America (INGAA) and CMS Energy.

INGAA is the trade association that represents virtually all of the interstate natural gas transmission pipeline companies operating in the U.S., as well as comparable companies in Canada and Mexico. INGAA's membership accounts for approximately 180,000 miles of the 280,000 miles of natural gas transmission pipeline in this country. Our members transport over 90 percent of the natural gas consumed in America.

CMS Energy Corporation has annual sales of more than \$6 billion and assets of about \$15 billion throughout the U.S. and around the world with businesses in electric and natural gas utility operations; independent power production; natural gas pipelines, gathering, processing and storage; oil and gas exploration and production; and energy marketing, services and trading.

CMS Gas Transmission and Storage is the pipeline and field services division of CMS Energy. CMS Panhandle Pipe Line Companies, a unit of CMS Gas Transmission and Storage, operates over 10,800 miles of mainline natural gas pipeline extending from the Gulf of Mexico to the Midwest and Canada. These pipelines access the major natural gas supply regions of the Louisiana and Texas Gulf Coasts as well as the Mid-continent and Rocky Mountains. The pipelines have a combined peak day delivery capacity of 5.4 billion cubic feet per day and 85 billion cubic feet of underground storage facilities. In addition, Consumers Energy, an affiliate of CMS Gas Transmission and Storage, owns and operates an interstate pipeline and storage company located in Michigan.

Before moving on to the rest of my testimony, I first want to say how much we appreciate the Committee's interest in pipeline safety. We share your concern. Clearly, the importance of pipeline safety has been highlighted by the recent tragic petroleum pipeline accident in Bellingham, Washington that killed three young people. It has unquestionably been a tragic and painful experience for three sets of parents -- and for a local community -- that probably had previously given little thought to the pipeline before the accident. Others will testify on behalf of the petroleum pipeline industry. On behalf of INGAA, I can assure you that the natural gas pipeline industry **is** committed to safety. As you have pointed out yourself, Mr. Chairman, the safety record for natural gas pipelines is quite good, and we will continue to improve safety with new procedures and technologies. My testimony will discuss the industry's historical emphasis on, and continued commitment to, ensuring that the nation's interstate pipeline system operates in a safe and reliable manner. INGAA is committed to working with this Committee to continue to build on our safety record.

NATURAL GAS PIPELINE INTEGRITY

Millions of Americans rely on clean, efficient natural gas to fuel homes and workplaces, with little thought about the vast network of pipelines that criss-cross the country transporting this abundant source of clean energy from the wellhead to the burner tip. The companies that build and operate interstate natural gas pipelines have created the safest mode of transportation today -- safer than highway, rail, aviation and marine transport. And the interstate natural gas pipeline industry is spending millions of dollars each year on research and new technologies to make their systems increasingly safer.

Safety is the number one priority for interstate natural gas pipelines. As the integrity, or soundness, of our systems is key, operators of these pipelines take numerous steps to ensure the safety of their systems and use a number of different tools and diagnostic procedures to do so. No single tool or procedure will assure safety. In a recent survey, interstate natural gas pipelines spent \$560 million dollars per year on safety for approximately 160,000 miles of pipeline. That translates into approximately \$3,500 per mile of pipe.

For years, these interstate pipelines also have pursued new technologies to continue to improve the safety of their systems. Through the Gas Research Institute (GRI) and the PRCI (formerly known as the Pipeline Research Committee), interstate natural gas pipelines have been pursuing technologies to examine the limits of internal inspection devices such as “smart pigs” and to improve sensors used in smart pigs. They also are seeking advanced technologies to detect dents and metal loss caused by mechanical damage, and are developing technologies to provide reliable operations.

Natural gas pipelines monitor and control safety in many ways. Pipelines implement and comply with minimum safety standards imposed by the U.S. Department of Transportation's Office of Pipeline Safety (OPS) under the Pipeline Safety Act. Moreover, many companies have internal procedures that exceed these minimum requirements. These safety measures include, but are not limited to: ground and aerial surveys to observe third party activity or discoloration of plants and grasses; the use of cathodic protection (a small electric charge) to prevent corrosion of below-ground pipeline; the use of high quality pipeline materials and corrosion coatings; hydrostatic pressure testing of new and replaced facilities; and the use of “smart pigs” to detect metal loss.

Specific measures are incorporated in OPS regulations to raise the level of safety for natural gas pipelines as the population density around a pipeline increases. These categories of population density, known as class locations, range from rural (Class 1) to heavy urban (Class 4). More stringent design, construction, inspection and maintenance practices are stipulated in higher population density areas. Pipeline operators are required to constantly monitor the area around the pipeline for changes in population density. When these changes occur, the pipeline operator is required to insure that the installed pipeline is commensurate with the new class location requirements for pipe design. If it does not meet these requirements, the pipe is upgraded to increase the margin of safety. The new class location also requires increased frequency of inspections.

THE IMPORTANCE OF NATIONAL STANDARDS

In the wake of the Bellingham accident, some have called for changes to the federal Pipeline Safety Act which would allow each state to enact its own safety regulations for interstate pipelines. INGAA strongly believes that removal of federal preemption would be a mistake. Almost invariably, interstate pipelines operate in more than one state. Some systems traverse more than 10 states and hundreds of

localities as they ship natural gas from the wellhead to the consumer. While a large pipeline may pass through many state and local jurisdictions, it still must operate and be maintained as a single system. This is why one set of standards and one national regulatory authority is so important to the consistent, efficient and safe operation of the interstate pipeline network.

The Pipeline Safety Act gives states the authority to adopt additional or more stringent safety standards for *intrastate* pipelines if such standards are consistent with federal minimum standards. However, states cannot adopt safety standards for interstate facilities. That authority is vested exclusively in the Congress and the U.S. Department of Transportation.

The reason for federal preemption is simple. Allowing individual states to create their own safety standards would be confusing and problematic for pipelines that operate in multiple states. The actions of one state might negatively affect gas service and deliverability to consumers in all other states in which the pipeline operates. For example, one state might require a lower gas pressure on pipelines within its jurisdiction, and thus decrease the amount of natural gas available to "downstream" consumers.

As Chairman McCain has stated, a "mishmash" of state regulations would almost certainly hamper interstate commerce without improving safety. The states do have an appropriate and important role; that is, regulating intrastate pipelines, which account for over 70 percent of all pipeline mileage, and creating state one-call damage prevention programs.

DAMAGE PREVENTION

The importance of these public awareness programs is most critical in that the leading cause of natural gas pipeline accidents is unintentional third party damage. For natural gas transmission lines, third party damage represents about 40 percent of all accidents, *and about 70 percent of all fatalities associated with pipeline accidents*. For natural gas local distribution companies, third party damage is an even greater problem, causing almost two-thirds of all accidents.

One of the most effective ways to combat third party damage to pipelines is the use of one-call (or "call-before-you dig") centers, which provide excavators with information about underground utilities prior to beginning their work. By using the local one-call center, a homeowner, business owner or construction company can learn the location of underground facilities ahead of time, and avoid serious accidents. One-call centers are governed by state law, but are private not-for-profit entities funded by local pipelines and utilities.

Congress passed comprehensive one-call legislation as part of the Transportation Equity Act for the 21st Century (TEA21) in 1998. The law established a federal grant program for those states that work to improve the coverage and participation level of their one-call programs. The legislation also required the U.S. Department of Transportation to assemble a list of one-call center "best practices." This

study, along with the framework for a new national effort to focus on public awareness and damage prevention (entitled *Common Ground*), was released by the Department in 1999. States should use this report to continue to improve their one-call center practices, thus making them eligible for the grants in TEA21.

PUBLIC INFORMATION DISCLOSURE

Another area where there has been renewed interest is in improving public information and disclosure about pipelines and pipeline safety efforts. INGAA wholeheartedly agrees that public education is a key aspect in ensuring safety. In fact, natural gas pipeline companies already provide a wealth of information about their systems to local communities through voluntary efforts and regulatory requirements. Public education has three goals: avoid accidents by educating the public about the potential danger of damaging pipelines; educate those living or working near pipelines about how to recognize potential problems and what to do in an emergency; and train local emergency response personnel in how to handle pipeline accidents.

Current Federal law requires natural gas pipelines to have public education programs. The Pipeline Safety Act calls for public education programs to include information about the use of local one-call (or "call-before-you-dig") systems, the possible hazards associated with leaks and the importance of reporting suspected leaks to the proper authorities. Federal law also requires natural gas pipelines to participate in local one-call centers, so that their facilities can be marked prior to the start of excavation work. Pipelines help to pay the costs associated with the operation of local one-call centers and their associated advertising and public outreach programs.

Current Federal regulations also call for pipelines to provide information to local communities and emergency response personnel along rights-of-way. For example, natural gas pipelines must provide local communities with detailed maps of their systems to aid emergency response planning and coordination. Pipeline operators also must engage in a "continuing educational program" for local governmental agencies, including police and fire departments. This is accomplished through annual briefings and training exercises for emergency response personnel hosted by the pipeline operator. Unfortunately, many pipeline operators report difficulty in getting local emergency response agencies to participate in these free events due to a lack of interest or resources.

Since a pipeline can pass by thousands of homes and businesses, pipeline operators also make information available to residents and business owners along the right-of way. To get the attention of these individuals, pipeline companies often give out such items as calendars, flyers, thermometers, and other items, all with information about the pipeline, whom to call and what to do in an emergency. Landowners are encouraged to look for signs of trouble, including unauthorized excavation activity and indications of natural gas leaks.

The OPS has an extensive amount of information about pipeline accidents, specific regulatory orders and corrective actions. Its web site includes general statistics about pipeline safety, but also includes

detailed information about OPS investigations, compliance orders, findings of violation, warning letters and more. In light of the extensive public communications activities already performed by the interstate natural gas pipeline industry, INGAA submits that there is no need for additional requirements in this area.

OPERATOR QUALIFICATION

Although the interstate natural gas pipeline industry is already operating pipelines with qualified personnel, as is evidenced by the low rate for incidents attributable to operator error, INGAA supports the final rule on qualification of pipeline personnel issued by the OPS and placed in the Federal Register on August 27, 1999 (Docket No. RSPA-98-3783; Amendment 192-86; 195-67). This rule is the result of a negotiated rulemaking that included representatives of natural gas transmission and distribution pipelines, liquid lines, state pipeline safety representatives, emergency response agencies, labor unions, corrosion experts, federal safety agencies and others. The Federal Mediation and Conciliation Service convened and facilitated this rulemaking.

This rule requires operators of all pipelines covered by 49 CFR Parts 192 and 195 to have a written qualification program to evaluate the ability of employees and contractor personnel to perform tasks that are required under the pipeline safety regulations (called “covered tasks”) and also to recognize and react to abnormal operating conditions that may occur while performing covered tasks. Operator training is recognized as an important element in achieving and maintaining qualification status. The new rule also sets record keeping requirements that operators must follow to successfully demonstrate compliance. This information must be maintained on each individual who has been evaluated and deemed qualified to work on a pipeline facility. OPS inspectors then audit this information to determine if the company is in compliance with the regulations.

This rulemaking recognizes the difficulty of devising a system appropriate for the wide variations in the operations and maintenance procedures and facilities of individual operations by providing a non-prescriptive, performance based regulation that requires each operator to develop, or have developed, a written program for the qualification of each individual. For example, some operators do not have transmission lines in their systems, others do not have compressors, pump stations, or storage facilities. Some operators perform a large number of “covered” tasks while other, smaller operators may have only a limited number of “covered” tasks. Therefore, each program can be tailored to the unique operations and practices of each operator.

However, this also permits the OPS to audit each company’s program to determine what tasks are covered, what qualifications are necessary to perform that task, and if the individual employees have demonstrated those qualifications. OPS can examine the records of the qualification of the employees maintained by each company and compare these to similarly situated employees in other companies. This “benchmarking” will enable OPS to ensure the adequacy of these qualification programs.

Pipeline operators are now in the process of preparing these written qualification programs (to the extent they have not already done so), adapting (to the extent necessary) existing training and development programs, and developing an auditable record keeping system to ensure compliance with the rulemaking.

SAFETY RESEARCH

Pipeline safety research is another area where there has been a heightened sense of interest. Since the earliest days of the industry, the natural gas pipeline industry has historically collaborated on and funded safety research. Two organizations currently provide collaborative research and development activities for the natural gas pipeline industry. The industry formed the Pipeline Research Committee, now known as the Pipeline Research Committee International (PRCI), in 1952 to address industry-wide pipeline problems that needed R&D solutions. In the late 1970s, the natural gas industry formed the Gas Research Institute (GRI), which was supported by FERC-authorized funding.

PRCI was founded by 15 natural gas transmission companies to research problems with industry-wide implications through a cooperative R&D program. The committee became PRCI in 1995 to reflect the growing number of international members, which now represent almost half of the total 24-company membership. PRCI's funding comes from dues and co-funding dollars received from GRI and others, with dues providing about \$3.5 million annually.

The PRCI Board of Directors, made up of key engineering and technical officers from member companies, provides oversight of research activities. Six committees of member company technical and engineering representatives manage PRCI's research programs and specific projects. The committees are line pipe, welding, non-destructive testing, compressor efficiency and environmental performance, offshore and onshore design, and corrosion. Most PRCI programs focus on improving industry safety, processes for joining materials, corrosion control, pipeline design, operations, maintenance and construction, station efficiency, reliability, the performance of line pipe and system integrity.

GRI is the more visible of the two gas industry research organizations, as it performs research on all sectors of the gas industry—production, transportation/transmission, delivery and consumer and end-uses. As with PRCI, GRI uses industry input and direction to identify, plan and manage research using outside research companies. But they differ in that GRI's staff members, not technical committees, manage all research programs. The Pipeline Program Executive Committee (PIPEC) and the Technical Advisory Groups (TAGs), made up of representatives of pipeline member companies, provide guidance. There are five such groups in the Transmission Unit of GRI: measurement, non-destructive evaluation, storage, integrity management and systems optimization and compression.

INGAA COMMENTS ON PROPOSED LEGISLATION

At this point I want to direct my comments to a few provisions of S. 2438, the “King and Tsiorvas Pipeline Safety Improvement Act of 2000,” as well as S. 2409, the Administration bill. I would first like permission to submit further comments on these bills and S. 2004, introduced by Senator Murray, for the record.

Mr. Chairman, it is worth noting that natural gas pipelines already face a strict regimen of regulations. Natural gas, crude oil and petroleum liquids all have different properties. For example, natural gas pipelines compress their product while liquid pipelines pump their products. Additionally, natural gas is lighter than air, and therefore moves into the atmosphere in the event of a leak. The probabilities and consequences of an accident are, accordingly, different for natural gas pipelines and for liquid pipelines. INGAA urges the Committee to continue to recognize these important differences in any pipeline safety legislation it approves.

First, we are concerned about the language in both bills which would give states the ability to

“supplement the Secretary’s program and address issues of local concern” with respect to interstate pipelines. This language appears to give states additional authority to go beyond those that exist under federal guidelines. INGAA believes that interstate pipelines should be subject to one set of regulations. Giving states the ability to “address issues of local concern” seems to imply that a state authority can go beyond federal minimum standards for these interstate facilities. As I noted earlier, this additional layer of regulatory authority would almost certainly hinder interstate commerce without improving safety. If the intent of this provision is to expand state *oversight* authority to jointly inspect interstate pipelines with the OPS, INGAA would like a better understanding as to what activities such oversight authority would entail, as well as language to clarify this intention.

The Pipeline Integrity Plan in S. 2409, the Administration's bill, calls for “best achievable technology.” This appears to be similar to EPA requirements for “best available control technology.” INGAA is concerned that compliance with such an open-ended standard could be disruptive to our operations, as well as costly to the industry. For example, one could read this language to potentially require us to continuously change the technology we use to construct pipelines. Taken to an extreme, the test could apply even to the pipe we already have in the ground. A "best achievable technology" mandate could also lead to a dangerous focus on only one or two technologies, rather than the mix currently employed by industry. Finally, it also assumes that pipeline safety is only derived from new technologies when, in fact, improved safety is often achieved through such "low-tech" methods as walking and flying the pipeline right-of-way and visually inspecting it and its surroundings.

The Administration also calls for EPA to consult with OPS when developing an integrity rule for natural gas pipelines. As previously mentioned, natural gas is lighter than air and is insoluble in water. The environmental impacts of a natural gas leak are therefore minimal. For that reason, INGAA fails to see why EPA should have more involvement in the development of this natural gas pipeline rulemaking than other federal agencies.

The Administration bill requires an integrity rule to be completed for large hazardous liquid pipelines by the end of 2000, and for natural gas pipelines within two years of enactment. However, if the OPS were unable to complete an integrity rule for natural gas pipelines within the specified period, then the existing hazardous liquid rule would automatically apply to gas pipelines. While we anticipate that the OPS will have this rulemaking out before the two-year period in the legislation is reached, and we would work with OPS towards this end, it is unfair to require us to fall under the liquid pipeline integrity rule. Natural gas and hazardous liquid pipelines are different, and the regulations governing their safe operation need to reflect those differences.

While your bill, Mr. Chairman, provides more flexibility for the Secretary of Transportation to differentiate between natural gas and liquid pipelines, it also calls on the Secretary to implement the recommendations of the Inspector General. One of these recommendations calls for DOT to complete action on various congressional mandates. We want to make sure that Section 2 of S. 2438 would not require the Secretary to perform an additional rulemaking beyond that required in Section 5 of the bill requiring a pipeline integrity program. We also have some recommended language to Section 5 to clarify that requirements regarding

unusually sensitive areas do not apply to natural gas pipelines, as reflected in current law, since natural gas pipeline accidents have only a minimal impact on the environment.

INGAA also objects to the provision (Section 2(g)) in the Administration bill that would alter the existing "grandfathered" status for some pipelines. Some pipelines were grandfathered from design, construction, and installation regulations because they were designed, constructed and/or installed prior to the existence of the new regulations. However, this grandfathered pipe was constructed according to the existing industry and federal standards of the time, and other safety regulations currently apply to these facilities. For example, grandfathered pipelines are included in all inspection proceedings and are inspected in the same manner as any other pipeline on the system. Moreover, the proposed integrity rule will apply to these facilities in the same manner as it applies to newer pipeline facilities. The Secretary of Transportation already has the authority to shut down pipeline facilities that he or she finds pose a hazard. Yet, the provision in the Administration's bill could be read to require replacement of entire pipeline systems. Such a requirement would be extremely costly, could cause significant gas service disruptions and is unnecessary in light of the fact that these facilities must comply with current pipeline safety requirements. Therefore, INGAA respectfully submits that there is no need to repeal this provision of the law.

S. 2438 also establishes a new operator training requirement in Section 4. We believe that the intent behind this provision is important. However, we note that the new OPS operator qualification rule (Docket No. RSPA-98-3783; Amendment 192-86; 195-67) already includes training as a function of the employee qualification requirement.

Finally, I leave this Committee with some comments on the authorization level.

First, I want to remind the Committee that part of the Administration's budget request for FY 2001 has already been authorized in TEA21. I am referring to the \$5 million in one-time grants to states which improve their one-call systems. In this authorization, Congress recognized that gas and liquid pipelines generate only about one-fifth of the calls made by one-call centers to mark underground facilities. This law states, in Section 6107, "(a)ny sums appropriated under this section shall be derived from general revenues and may not be derived from the amounts collected under section 60301 (user fee section) of this title."

Neither bill breaks out what amounts should come from user fees, what amounts should come from the Oil Spill Liability Fund and what amounts should come from the Pipeline Safety Reserve. We would like to work with the Committee on this issue.

Mr. Chairman, I would like to thank you once again for giving us the opportunity to provide our testimony. Over the last fifty years, the natural gas pipeline industry has worked hard to improve our already strong safety record. We appreciate your efforts to pass a balanced, constructive Pipeline Safety Act reauthorization. INGAA wants to work with you and the Committee in making this legislation a reality.

APPENDIX