

No. 2011-127

## AN ACT

HB 344

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

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

CHAPTER 1  
PRELIMINARY PROVISIONS

Section 101. Short title.

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

Section 102. Definitions.

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

"Commission." The Pennsylvania Public Utility Commission.

"Federal pipeline safety laws." The provisions of 49 U.S.C. Ch. 601 (relating to safety), the Hazardous Liquid Pipeline Safety Act of 1979 (Public Law 96-129, 93 Stat. 989), the Pipeline Safety Improvement Act of 2002 (Public Law 107-355, 116 Stat. 2985) and the regulations promulgated under the acts.

"Gas." Natural gas, liquefied natural gas, landfill gas, synthetic natural gas and other gas as defined under the Federal pipeline safety laws.

"Hazardous liquids." Petroleum, a petroleum product, anhydrous ammonia and other hazardous liquids as defined under the Federal pipeline safety laws.

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

"Pipeline." A 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. The term only includes pipeline regulated by Federal pipeline safety laws. The term does not include a pipeline subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission.

"Pipeline facility." A new or 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 or hazardous liquids during the course of transportation. The term does not include a pipeline facility subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission.

"Pipeline operator." A person that owns or operates equipment or facilities in this Commonwealth for the transportation of gas or hazardous liquids by pipeline or pipeline facility regulated under Federal pipeline safety laws. The term does not include a public utility or an ultimate consumer who owns a service line on his real property.

"Public utility." The term shall mean:

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

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

"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.

"Unconventional formation." A geological shale formation existing below the base of the Elk Sandstone or its geologic equivalent stratigraphic interval where natural gas generally cannot be produced at economic flow rates or in economic volumes except by vertical or horizontal well bores stimulated by hydraulic fracture treatments or by using multilateral well bores or other techniques to expose more of the formation of the well bore.

"Unconventional well." A borehole drilled or being drilled for the purpose of or to be used for the production of natural gas from an unconventional formation.

Section 103. Applicability.

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

### CHAPTER 3 PIPELINE OPERATORS

Section 301. Registry of pipeline operators.

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

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

(c) Registration with commission.—

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

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

(3) The operator of a pipeline in a Class 1 location that collects or transports gas from an unconventional well shall report the location of the pipeline by class location and approximate aggregate miles for inclusion in the commission's registry.

(d) Disclosure.—The commission shall require each pipeline operator, regardless of class location, to disclose in its initial registration and in each annual renewal the country of manufacture for all tubular steel products used in the exploration, gathering or transportation of natural gas or hazardous liquids. The commission may develop a disclosure form and require its use.

(e) Exemptions.—

(1) No application or registration fee shall be required of a petroleum gas distributor who is registered under the act of June 19, 2002 (P.L.421, No.61), known as the Propane and Liquefied Petroleum Gas Act, and provides proof of registration to the commission.

(2) The commission shall verify registrations of petroleum gas distributors within the Department of Labor and 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. I 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 this act.

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

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

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

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

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

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

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

(i) Subject to the Federal pipeline safety laws.

(ii) Not a public utility.

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

#### Section 502. Civil penalties.

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

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

#### Section 503. Assessments.

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

(b) Assessments.—

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

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

(ii) The hazardous liquids pipeline safety program.

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

(3) The assessment under this subsection shall not apply to boroughs.

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

(d) Reporting of miles.—Following the submission of the original application, each pipeline operator shall, on or before March 31 of each

calendar year, report to the commission its total intrastate regulated transmission, regulated distribution and regulated onshore gathering pipeline miles in operation for the transportation of gas and hazardous liquids in this Commonwealth during the prior calendar year.

(e) Estimated fees.—The estimated fees to be collected under this section for each fiscal year shall be subtracted from the final estimate of total expenditures used to calculate the total assessment on public utilities under 66 Pa.C.S. § 510.

Section 504. Jurisdiction and authority of commission.

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

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

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

## CHAPTER 7 RELATED ACTIVITIES

Section 701. Replacement and reconstruction.

(a) Surface area.—A lease entered into to permit the replacement or construction of a pipeline carrying natural gas may include provisions relating to the restoration of the surface area, including soil or vegetation. A lease with a public entity may provide for the planting of trees in other areas of a county or municipality if trees were removed to replace or construct the pipeline.

(b) Easements.—

(1) This subsection applies to the owner or holder of:

(i) an agricultural easement under the act of June 30, 1981 (P.L.128, No.43), known as the Agricultural Area Security Law; or

(ii) a conservation easement under the act of June 22, 2001 (P.L.390, No.29), known as the Conservation and Preservation Easements Act.

(2) If a person specified in paragraph (1) enters into a lease to permit the replacement or construction of a natural gas pipeline on property located within the agricultural or conservation easement, the person may request a statement from the pipeline operator describing the impact of the pipeline on the public use of the easement.

## CHAPTER 11 MISCELLANEOUS PROVISIONS

Section 1101. Effective date.

This act shall take effect in 60 days.

APPROVED—The 22nd day of December, A.D. 2011

TOM CORBETT