



N A R U C
National Association of Regulatory Utility Commissioners

September 30, 2011

The Honorable Ray H. LaHood
Secretary
Department of Transportation
1200 New Jersey Ave, S.E.
Washington, DC, 20590

Secretary LaHood,

Thank you for the opportunity to offer comments on your Report to America. On behalf of the National Association of Regulatory Utility Commissioners, we commend you for your leadership, focus, and determination on this issue. Our partnership with the Department of Transportation and the Pipeline and Hazardous Materials Safety Administration remains paramount as we all work to assure the public that our nation's pipeline system is safe and reliable.

As you know, state pipeline inspectors are the boots on the ground. Our approximately 325 safety inspectors review records, conduct site visits, respond to emergencies, and work with the regulated utilities to resolve any problems that may occur. Direct state oversight provides the greatest level of public safety because we incorporate knowledge of local conditions and concerns, relationships with first responders, and the ability to provide immediate feedback to the public. Our pipeline inspectors are the "face" that most municipal officials, state agencies, legislators, media entities, and consumers identify with and depend upon for pipeline safety. Unfortunately, we too directly experience the consequences of any accidents occurring on our nation's pipeline system. Any incident reinforces the need for vigorous oversight to reduce non-compliant behavior.

Clearly, recent events demonstrate that we all have our work cut out for us. This report highlights a number of concerns and potential improvements, and we are committed to continuing our work with your department, PHMSA, and our industry partners in getting this right.

Call to Action

Our members and the state pipeline inspectors have been addressing pipeline safety for more than 100 years. Before the federal codes were adopted in the early 1970s, states created and enforced their own rules and regulations. This still occurs today, as even though our members must enforce the federal rules, nearly all go beyond what PHMSA and DOT require.

At the NARUC level, our Committee on Gas, established in 1963, has held numerous meetings and passed several resolutions dating back to the mid-1990s on pipeline safety. We also utilize our Staff Subcommittee on Pipeline Safety, created in 1982, to provide us with the expertise and first-hand experience that we can only get from the inspectors themselves.

After you sounded the Call to Action in February 2011, we responded with the creation of the Pipeline Safety Task Force to direct our interaction with DOT, PHMSA, and our own states on a going-forward basis. This group formalizes the decades of effort and advocacy NARUC and our state members have already undertaken. It also gives us an official channel to communicate with our federal and industry partners. We have held numerous meetings and panel discussions on this issue, building on our education and outreach efforts since our Gas Committee's inception.

Report Specifics

We would like to provide the following comments on the report. These comments underscore the importance of our federal-state pipeline-safety partnership. Our state inspectors are the eyes and ears of both the state and federal regulators. They know the geography, the landscape, and the specific details that only a local inspector could know. Our commissioners are responsible for setting rates and allowing utilities to recover prudent costs. We must balance the utilities needs with what the consumer wants. In the middle lies “the public interest.”

For our members, safety is Job No. 1. When the utilities that own and operate the pipes tell us when repairs are necessary and new investment is needed, they get what they need, provided the case is made. Because of the price tag associated with utility maintenance, our members employ a risk-based approach to cost-of-service regulation. Safety related expenditures are given top priority. This requires an upfront and cooperative relationship with the utilities we regulate because the burden is on them to prove what they need and why. If they make the case, and it is in the public interest, they will get what they need. By law, state commissions must weigh a host of considerations when approving rate-related requests. We encourage utilities to propose safety upgrades to the parts of the system that are in the most need of repair, while less-threatening problems can be resolved when appropriate. This system eases the burden on consumers, who ultimately pay for any safety or maintenance upgrades.

Funding

We also wish to address funding for our pipeline safety programs. Under current law, our state pipeline safety inspection programs can be reimbursed up to 80% by the federal government. Since our inspectors are implementing federal programs, this funding is essential to our work. Under your leadership, we have received the highest reimbursement totals since the law was first implemented, but even these recent amounts fall short of what is authorized. In fact, between 2006 and 2009, on average our states have received approximately 45% in federal reimbursements, despite a federal law that allows up to 80%.

However, because of your leadership, these numbers are going up. In 2010, the federal government reimbursed our states for nearly 68% of our expenditures. You also waived “maintenance of effort” requirements for those states who requested them. We appreciate your consideration of our economic situation, as it is no secret that state budgets are tight. We are seeing furloughs and other austerity measures across the board. As a result, the federal-state partnership is even more significant. Your leadership is essential. We ask that you urge Congress to fully fund these activities so our state inspectors can perform their work.

Mr. Secretary, thank you again for the opportunity to provide these comments. We are grateful for your leadership. Through a strong federal-state partnership, and the cooperation of the industry, we can restore the public’s confidence in their natural-gas delivery system.

Sincerely,



Tony Clark
President, NARUC
Chair, North Dakota Public Service Commission



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Chair, NARUC Pipeline Safety Task Force
Chair, Arkansas Public Service Commission