

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senator Dowd**

A BILL ACT 793 OF 1991
SENATE BILL 434

For An Act To Be Entitled

8 "AN ACT TO AMEND THE _ARKANSAS NATURAL GAS PIPELINE SAFETY
9 ACT OF 1971_, SPECIFICALLY ARKANSAS CODE ANNOTATED §§23-
10 15-202, 23-15-203, 23-15-205, 23-15-211 AND 23-15-214; TO
11 INCREASE THE CIVIL PENALTY FOR VIOLATIONS OF THAT ACT; TO
12 PROVIDE FOR ADDITIONAL ANNUAL FEES TO BE COLLECTED FROM
13 PERSONS SUBJECT TO THE PROVISIONS OF THAT ACT; AND FOR
14 OTHER PURPOSES."

15
16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

17
18 SECTION 1. Arkansas Code Annotated §23-15-202 is hereby amended to read
19 as follows:

20 "23-15-202. Title.

21 It is the purpose of this subchapter to empower the Arkansas Public
22 Service Commission to submit a satisfactory certification pursuant to Section
23 5 of the Natural Gas Pipeline Safety Act of 1968, Public Law 90-481 and to
24 otherwise protect the public peace, health and safety of the citizens of this
25 state."

26
27 SECTION 2. Arkansas Code Annotated §23-15-203 is hereby amended to read
28 as follows:

29 "23-15-203. Definitions.

30 As used in this subchapter, unless the context otherwise requires:

31 (1) Person means any individual, firm, joint venture, partnership,
32 corporation, association, state, municipality, cooperative association, or
33 joint-stock association and includes any trustee, receiver, assignee, or
34 personal representative thereof;

35 (2) Gas means natural gas, flammable gas, or gas which is toxic or
36 corrosive;

1 (3) Transportation of gas means the gathering, transmission, or
2 distribution of gas by pipeline or its storage in or through any pipeline
3 facilities other than interstate transmission facilities as defined in this
4 section. It shall not include the gathering of gas in those rural locations
5 which lie outside the limits of any incorporated or unincorporated city, town,
6 village, or any other designated residential or commercial area such as a
7 subdivision, a business or shopping center, a community development, or any
8 similar populated area which the Arkansas Public Service Commission may define
9 as a nonrural area, however, it shall specifically include the gathering,
10 transmission or distribution of natural gas containing 100 or more parts per
11 million of hydrogen sulfide from the wellhead through any pipeline, rural or
12 nonrural, to and through any pipeline facility that removes hydrogen sulfide;

13 (4) Pipeline facilities includes, without limitation, pipe, pipe
14 rights-of-way and any equipment facility or building used in the
15 transportation of gas or the treatment of gas during the course of
16 transportation, including any facility which removes hydrogen sulfide from
17 gas, but rights-of-way as used in this subchapter does not authorize the
18 commission to prescribe the location or routing of any pipeline facility other
19 than hydrogen sulfide facilities;

20 (5) Municipality means a city, county, or any other political
21 subdivision of a state;

22 (6) Interstate transmission facilities means pipeline facilities used
23 in the transportation of gas which are subject to the jurisdiction of the
24 Federal Energy Regulatory Commission under the Natural Gas Act; and

25 (7) Commission means the Arkansas Public Service Commission."
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27 SECTION 3. Arkansas Code Annotated of 1987 §23-15-205 is hereby amended
28 to read as follows:

29 "23-15-205. Safety standards.

30 (a) The Arkansas Public Service Commission may, by order pursuant to
31 the provisions of the Arkansas Administrative Procedure Act, 25-15-201 et
32 seq., for purposes of this subchapter only, promulgate, amend, enforce, waive,
33 and repeal minimum safety standards for the transportation of gas and pipeline
34 facilities.

35 (b)(1) These standards may apply to the design, installation,

1 inspection, testing, construction, extension, operation, replacement, and
2 maintenance of pipeline facilities.

3 (2) The state safety standards shall be practicable and designed
4 to meet the needs for pipeline safety.

5 (c) In prescribing the safety standards, the commission shall consider:

6 (1) Relevant available pipeline safety data;

7 (2) Whether such standards are appropriate for the particular
8 type of pipeline transportation;

9 (3) The reasonableness of any proposed standard; and

10 (4) The extent to which such standards will contribute to the
11 public safety.

12 (d) Safety regulations promulgated for gas pipeline facilities or the
13 transportation of gas shall be consistent with federal law and with rules and
14 regulations promulgated under authority of the Natural Gas Pipeline Safety Act
15 of 1968, Public Law 90-481, as amended.

16 (e) Except for pipeline facilities that gather, transport, distribute
17 or process natural gas containing one hundred (100) or more parts per million
18 of hydrogen sulfide, standards affecting the design, installation,
19 construction, initial inspection, and initial testing shall not be applicable
20 to pipeline facilities in existence on the date such standards are adopted.

21 (f) Whenever the commission finds a particular facility to be hazardous
22 to life or property, it shall be empowered to require the person operating the
23 facility to cease such operation or to take steps necessary to remove the
24 hazards."

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26 SECTION 4. Arkansas Code Annotated of 1987 §23-15-211 is hereby amended
27 to read as follows:

28 "23-15-211. Civil penalty - Compromise - Proceedings.

29 (a) Any person who violates any provision of 23-15-209, or any
30 regulation issued under this subchapter, shall be subject to a civil penalty
31 of not to exceed ten thousand dollars (\$10,000) for each violation for each
32 day that the violation persists, except that the maximum civil penalty shall
33 not exceed five hundred thousand dollars (\$500,000) for any related series of
34 violations.

35 (b) Any such civil penalty may be compromised by the Arkansas Public

1 Service Commission.

2 (c) In determining the amount of the penalty or the amount agreed upon
3 in compromise, the appropriateness of the penalty to the size of the business
4 of the person charged, the gravity of the violation, and the good faith of the
5 person charged in attempting to achieve compliance, after notification of a
6 violation, shall be considered.

7 (d) Proceedings under this section shall be subject to the Arkansas
8 Administrative Procedure Act, 25-15-201 et seq.

9 (e) Any penalty imposed under this section, if not promptly paid to the
10 commission, shall be recovered with interest thereon from the date of the
11 order in a civil action brought by the commission.

12 (f) Any civil penalty collected and imposed under this section shall be
13 paid to the secretary of the commission."

14

15 SECTION 5. Arkansas Code Annotated §23-15-214 is hereby amended to read
16 as follows:

17 "23-15-214. Fees.

18 (a)(1) An inspection fee shall be charged and collected annually by the
19 Arkansas Public Service Commission to recover the expenses for the operations
20 of the Utility Safety Section of the commission, against each person subject
21 to the provisions of this subchapter .

22 (2) For each person subject to the provisions of this subchapter
23 and subject to annual assessment by the commission pursuant to 23-3-110, the
24 inspection fee authorized herein together with the annual assessment fee
25 authorized by 23-3-110 shall not exceed in any year an amount in excess of
26 that authorized to be charged and collected pursuant to 23-3-110, as amended.

27 (3) All fees levied under this subchapter shall be in addition to
28 all property franchise license or other taxes, fees, or charges prescribed by
29 law.

30 (4) After June 1, 1991, such fee shall be determined by the
31 commission from time to time after reasonable notice and hearing.

32 (b)(1) An inspection fee is levied and charged against each pipeline
33 company operating interstate natural gas pipelines or facilities within the
34 State of Arkansas.

35 (2) The fees may be collected annually by the commission to

1 recover the expenses for funding a safety inspection and enforcement program
2 applicable to interstate natural gas pipelines and facilities.

3 (3) The amount of such fees shall be fixed by the commission and
4 levied by it upon each of such pipeline companies according to the number of
5 three-inch (3") equivalent pipeline miles of its pipeline facilities within
6 the State of Arkansas and shall be apportioned among the pipeline companies
7 upon the basis of the pipeline companies' reports submitted to the commission
8 in such form as the commission may prescribe. Mileage shall be based on
9 interstate transmission lines owned and operated as of December 31 of each
10 year.

11 (4) The additional assessment authorized in this subsection shall
12 not in any one (1) year exceed one dollar (\$1.00) per three-inch (3")
13 equivalent mile of pipeline.

14 (5) These fees shall be in addition to all property, franchise,
15 license, or other taxes, fees, or charges now or hereafter prescribed by law.

16 (6) However, if a particular person is liable for inspection fees
17 under both this subsection and subsection (a), then that person shall only be
18 liable for the fees under whichever subsection results in the greater fee, and
19 such person shall not be liable for an inspection fee under the other
20 subsection.

21 (c) All persons ceasing to engage in activities subject to the
22 provisions of this subchapter during any calendar year shall, within fifteen
23 (15) days of ceasing such activities, pay to the Treasurer of State all fees
24 then owing, measured by the previous year's gross earnings or total pipe
25 mileage, as well as all fees measured by the current year's gross earnings or
26 total pipe miles and shall at the same time file with the commission an
27 operating statement for the current year and for the previous year if it has
28 not theretofore been filed.

29 (d)(1) After determining the amount of the fee imposed by this section,
30 the commission, annually on or before June 1, shall prepare and transmit to
31 each person a statement of the fees due for the commission's cost of operating
32 the Utility Safety Section of the commission.

33 (2) Thereafter, on or before June 30, each person shall pay to
34 the secretary of the commission all fees due.

35 (3) In the event any person shall fail or refuse to pay the fees

1 provided for in this section on or before June 30, the commission shall add to
2 such fee a penalty of twenty-five percent (25%) thereof and certify the amount
3 of such delinquent tax and penalty to the Attorney General for collection."
4

5 SECTION 6. All provisions of this act of a general and permanent nature
6 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
7 Revision Commission shall incorporate the same in the Code.
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9 SECTION 7. If any provision of this act or the application thereof to
10 any person or circumstance is held invalid, such invalidity shall not affect
11 other provisions or applications of the act which can be given effect without
12 the invalid provision or application, and to this end the provisions of this
13 act are declared to be severable.
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15 SECTION 8. All laws and parts of laws in conflict with this act are
16 hereby repealed.
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18 APPROVED: 3/26/91
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