



JULIAN BRADLEY
WISCONSIN STATE SENATOR

Senate Bill 812
Senate Committee on Utilities, Technology and Telecommunications
Tuesday, December 19, 2023

Vice-Chairman Wanggaard and Committee members,

Chapter 196 of our state laws regulates our public utilities with the Public Service Commission (PSC) overseeing their operations.

One of the PSC's responsibilities is overseeing Wisconsin's pipeline safety program which regulates safety for gas production, transmission and distribution. This responsibility has been delegated from the federal government and the PSC's handling of this program is overseen and annually certified by the Pipeline and Hazardous Materials Safety Administration (PHMSA).

As part of their oversight, the PSC has the ability to fine companies when violations occur. The maximum fines for violations in Wisconsin have not been updated in over a decade and are now significantly lower than the federal standards.

This bill corrects this issue today and in the future by updating our laws to reference the amounts set in 49 CFR 190 at the federal level. This is the same approach that Minnesota and Iowa took previously.

I would be happy to answer any questions committee members may have.



ROB SUMMERFIELD

STATE REPRESENTATIVE • 67th ASSEMBLY DISTRICT
MAJORITY CAUCUS CHAIR

December 19, 2023

Senator Bradley, Chair
Members of the Senate Committee on Utilities and Technology

Testimony on 2023 Senate Bill 812

Relating to: increasing the penalties for gas pipeline safety violations and providing a penalty

Vice-Chairman Wanggaard and Committee Members:

Thank you for providing me with the opportunity to testify at today's public hearing on Senate Bill 812. I appreciate your time and consideration of this legislation.

This bill aligns Wisconsin's penalties for gas pipeline safety violations with the federal standards. By doing this, the Wisconsin Public Service Commission (PSC) will remain in charge of overseeing Wisconsin's pipeline safety program. This program regulates safety requirements for gas production, transmission, and distribution and is annually evaluated and certified by the Pipeline and Hazardous Materials Safety Administration (PHMSA).

As a part of this program, the PSC can fine companies when they violate the safety requirements. Wisconsin's maximum penalties for safety violations have been out of compliance with the federal standards for at least 10 years. Because of this, the Pipeline and Hazardous Materials Safety Administration (PHMSA) no longer views the penalties as "substantially the same" and PSC is in jeopardy of losing its ability to oversee Wisconsin's pipeline safety program.

Allowing the PSC to remain in charge of overseeing our pipeline safety program in our state rather than allowing the federal government takeover is beneficial because the *Wisconsin* PSC is much more familiar with *Wisconsin* facilities and utilities.

I ask that you join me in supporting this bill.



December 19, 2023

Senate Committee on Utilities and Technology
330 SW
Madison, WI 53703

RE: SB 812 relating to increasing the penalties for gas pipeline safety violations and providing a penalty.

Dear Chairman Bradley and Members of the Committee on Utilities and Technology,

The Wisconsin Biomass Energy Coalition (WBEC) works to address policy solutions for Wisconsin's renewable natural gas industry while driving national marketplace opportunities for our members.

After reviewing SB 812, WBEC would like the committee to reconsider provisions laid forth in this bill. SB 812 increases the maximum penalties for non-compliance with safety standards in gas facilities. The WBEC believes this could negatively impact biogas to renewable natural gas (RNG) production. Higher fines may impose financial burdens, lead to risk aversion, and hinder innovation in the biogas sector. The stricter regulations may result in project delays and increased compliance costs. This could disproportionately affect smaller operators, potentially slowing industry growth and investment.

WBEC emphasizes the importance of balancing between safety measures and creating a regulatory environment that supports the sustainable development of the biogas to RNG industry.

For further questions, please contact Bob Welch, bob@thewelchgroup.org.



Public Service Commission of Wisconsin

Rebecca Cameron Valcq, Chairperson
Tyler Huebner, Commissioner
Summer Strand, Commissioner

4822 Madison Yards Way
P.O. Box 7854
Madison, WI 53707-7854

Testimony on Senate Bill 812 before the Senate Committee on Utilities and Technology

December 19, 2023

Matt Sweeney

Public and External Affairs Director
Public Service Commission of Wisconsin

I am here to testify in support of SB812 on behalf of our chairperson, Becky Valcq. As you know, the PSC is Wisconsin's independent utility regulator. It is the PSC's mission to ensure the delivery of safe, reliable, affordable, and environmentally responsible utility services and equitable access to telecommunication and broadband services.

The Wisconsin Pipeline Safety Program ensures the safe construction, operation and maintenance of intrastate natural gas pipelines in Wisconsin and is responsible for protecting the public and the environment from the hazards associated with the transportation of natural gas. This is accomplished through activities that include operator and excavator education, natural gas infrastructure and operator inspections, statute development and enforcement, and the investigation of incidents and accidents in Wisconsin.

Wisconsin's state oversight of pipeline safety began in 1951 when it was authorized by the legislature. Our program predates the federal Natural Gas Pipeline Safety Act of 1968, in which regulatory authority of gas pipelines throughout the United States was placed under the oversight of the U.S. Department of Transportation (DOT). However, the law provided that any state with a law comparable to the Pipeline Safety Act in scope and intent could enter into an annual agreement with the department to provide enforcement. The District of Columbia, Puerto Rico, and all States except Alaska and Hawaii participate in the pipeline safety program. Wisconsin has participated in the federal pipeline safety program since its inception in 1968.

Today, the Gas Pipeline Safety Unit within the Division of Energy Regulation and Analysis at the Commission is responsible for inspecting and enforcing the pipeline safety regulations of Wisconsin's intrastate natural gas pipeline operators. There are currently 9 engineers who conduct inspections of 22 natural gas operators within the state that operate approximately 70,000 miles of gas pipelines. This pipeline network includes 5 liquefied natural gas facilities, approximately 1.7 million gas service laterals, 970 miles of transmission lines, and nearly 41,000 miles of distribution main. In 2022, Commission staff completed 678 inspection days and by the end of 2023 will have completed over 700 inspection days.

The federal agency within the Department of Transportation responsible for pipeline safety is the Pipeline and Hazardous Materials Safety Administration (PHMSA). Commission staff works closely with PHMSA staff to ensure the Commission is providing adequate safety oversight in accordance with its annual agreement with PHMSA, including participation in an annual field evaluation with

PHMSA staff. The Commission has scored 100 out of a possible 100 points on its last two PHMSA field evaluations.

As a part of our agreement with PHMSA, the Commission is required to certify that it meets the requirements in 49 U.S. Code § 60105. One of the requirements the Commission certifies is that it may enforce safety standards with maximum civil penalties substantially the same as PHMSA. PHMSA's maximum civil penalties are in 49 C.F.R. § 190.223 and are \$257,664 per violation up to a maximum of \$2,576,627 for a persisting violation. PHMSA's maximum penalty amounts are updated annually for inflation in accordance with federal law. Wisconsin's maximum civil penalties codified in state statute 196.745 are \$25,000 per violation up to a maximum of \$500,000 for a persisting violation. Wisconsin's maximum penalty amounts have not been revised since 1994.

PHMSA has indicated to the Commission that failure to adopt its maximum civil penalties will result in decertification of the Commission's pipeline safety program and the Commission's agreement will be converted to an agreement under which the Commission continues to conduct pipeline safety inspections, but non-compliances will be forwarded to PHMSA. The resulting enforcement (including civil penalties) would be entirely at PHMSA's discretion. So far, in 2023, PHMSA assessed over \$12 million in pipeline safety civil penalties to its operators.

The Commission has assessed pipeline safety civil penalties sparingly and have only used them in instances of repeated failure to resolve issues or when necessary to compel safety compliance. The Commission assessed civil penalties of \$52,395 in 2021, \$0 in 2022, \$25,550 in 2023, and currently has two pending investigations where penalties are likely to be assessed. The Commission has never assessed a maximum civil penalty for a pipeline safety violation.

Adopting PHMSA's maximum civil penalty would allow the enforcement of pipeline safety in Wisconsin to remain with the state, as it has since 1951, while continuing Wisconsin's history of safe transportation of natural gas by pipeline. The people of Wisconsin and its natural gas pipeline operators are safer and better served with the state operating this program.



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

December 18, 2023

Via Email

Members of the Senate Committee on Utilities and Technology
State Capitol
Madison, WI

Dear Committee Members:

I write in support of SB812 modifying Wisconsin's maximum civil penalty amounts to align with the Pipeline and Hazardous Materials Safety Administration (PHMSA) penalties for violations of pipeline safety regulations.

The Natural Gas Pipeline Safety Act allows for states to assume safety authority over intrastate pipelines through Certifications and Agreements with PHMSA for jurisdiction over intrastate gas pipelines. Based on available funding, PHMSA supports the Commission's participation by reimbursing up to 80 percent of the total cost of the personnel, equipment, and activities reasonably required for conducting its pipeline safety program. The Public Service Commission of Wisconsin (Commission) provides insight to Wisconsin's natural gas operators and a local presence for protecting the public from pipeline incidents.

My September 25, 2023, letter to Ms. Rebecca Valcq, Commission Chair, communicated the results of PHMSA's September 2023 evaluation of the pipeline safety program activities carried out by the Commission. Additionally, my letter alerted the Commission if corrective actions were not taken the current 60105 Certification would be converted to a 60106 Agreement. In the event of the Commission conversion to a 60106 Agreement, PHMSA would assume enforcement authority over intrastate pipelines in Wisconsin and operators would be subject to PHMSA's maximum civil penalties of at least the amounts listed in 49 C.F.R. § 190.223(a).

The Commission's maximum civil penalty levels of \$25,000 per each violation per day up to a maximum of \$500,000 for any related series of violations are among the lowest in the Nation and not substantially the same as PHMSA's maximum civil penalty levels of \$257,664 per violation to a maximum of \$2,576,627 listed in 49 C.F.R § 190.223(a). Section 60105(b)(7) of the Protecting our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2020 requires the Commission's maximum civil penalties to be substantially the same as PHMSA to maintain the 60105 Certification with PHMSA allowing the Commission to inspect and enforce the minimum pipeline safety regulations.

September 30th of each year the Commission certifies to PHMSA that it meets the requirements for a 60105 Certification including having maximum civil penalties substantially the same as PHMSA. Action to adopt maximum civil penalties substantially the same as 49 C.F.R. § 190.223 will be necessary to avoid the Commission being converted to a 60106 Agreement in September of 2024. A 60106 Agreement will allow the Commission to continue to conduct pipeline safety inspections but identified pipeline safety violations will be forwarded to PHMSA to take enforcement action. PHMSA will assign appropriate enforcement actions and follow our enforcement process as outlined at: <https://www.phmsa.dot.gov/pipeline/enforcement/enforcement-overview>

It is important to note that raising the Commission's maximum civil penalty levels to be commensurate with PHMSA would allow the Commission to continue to conduct enforcement as it always has in the past by providing the maximum civil penalty levels required to maintain its current Certification with PHMSA. Beyond meeting PHMSA's state program requirements, the legislation would also ensure the Commission can impose a civil penalty, when appropriate conditions warrant, more consistent with the magnitude and circumstances of the non-compliance event. Utilizing appropriate civil penalties, commensurate with identified non-compliances, supports public confidence in the Commission's pipeline safety program.

If there are any questions, please do not hesitate to contact me at 405/834-8344 or zach.barrett@dot.gov
I appreciate your support for pipeline safety.

Sincerely,

A handwritten signature in black ink, appearing to read "Zach Barrett", with a long, sweeping underline that extends to the right.

Zach Barrett
Director, State Programs



December 19, 2023

Senator Julian Bradley
Chairman, Committee on Utilities and Technology
State Capitol
Madison, WI 53708

SUBJECT: Support of Senate Bill 812 - Pipeline Safety Legislation

Good afternoon Chairman Bradley, Committee Members, and staff.

On behalf of Alliant Energy, we thank you for holding this important hearing today on SB 812 related to increasing the penalties for natural gas pipeline safety violations. Sen. Bradley, we also appreciate your leadership authoring this legislation because of the positive impact it will have keeping our customers and communities safe.

For those on the committee who aren't familiar with Alliant Energy, we are an investor-owned utility that provides electric and natural gas service. Our electric generation fleet includes coal, natural gas, wind, hydro, and solar.

Alliant Energy also owns and operates thousands of miles of natural gas lines. Lines that are keeping our 200,000 natural gas customers warm right now, powering local businesses and economies, and lines that are being expanded to help bring new companies to the state – ensuring Wisconsin will continue to grow in the future.

As noted by others today, increasing the penalties for gas pipeline violations on operators (i.e., utilities including Alliant Energy) is needed to retain the PSCW's jurisdiction over intrastate pipelines rather than ceding authority to the federal government. Here are a few reasons why this is important:

1. The professionals within the PSCW's Pipeline Safety Program know your communities better, know their histories, and know their daily work is critical in keeping their family, friends, and neighbors safe.
2. They collaboratively work with utilities to proactively address potential concerns – not avoid them.
3. They communicate with utilities and others about how best to implement best practices – we jointly search for ways to build, operate and maintain pipelines more safely.

In closing, the PSCW has demonstrated its expertise and commitment to overseeing a critical component of our state's energy infrastructure. The Wisconsin Legislature gave it this authority decades ago and this bill would wisely keep it that way.

Thank you, Chairman Bradley for holding this hearing today and to rest of Committee members for your attention on this important bill.