DISTRIBUTION CONTRACTORS ASSOCIATION

January 3, 2023

The Honorable Cathy McMorris Rodgers
Chair, Committee on Energy and Commerce
U.S. House of Representatives
United States House of Representatives
Washington, DC 20515

The Honorable Frank Pallone
Ranking Member, Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Rodgers and Ranking Member Pallone,

The Distribution Contractors Association (DCA) represents contractors, suppliers and manufacturers who provide distribution construction services including installation, replacement and rehabilitation of natural gas distribution systems as well as gas transmission pipelines in communities across the country. As the Energy and Commerce Committee is expected to attempt to attain American "energy independence" and lower energy prices in the 118th Congress, DCA offers the following perspective on federal energy policy from the industry responsible for building and repairing the vast majority of distribution and transmission pipeline infrastructure across the country.

Natural Gas, the Move Toward Renewables and the Importance of Pipeline Infrastructure
It is clear to most in the energy industry that the America cannot achieve its clean energy ambitions without natural gas production, gas-fired electric generation and a large expansion of the natural gas pipeline network. DCA members work to build and rebuild gas distribution systems across the country, and we believe that the increasing hostility regarding the important role that natural gas plays in providing a sustainable source of American energy is largely misplaced.

The need for a robust network of safe and reliable pipeline infrastructure is also needed if America is serious about moving toward alternatives to conventional fossil fuels for power generation. For example, hydrogen is now considered a promising fuel source, but delivering hydrogen to a variety of facilities such as power plants, industrial sites, and fuel distribution hubs will require an extensive hydrogen pipeline system.

At the end of 2020, there were some 1,600 miles of hydrogen pipeline operating in this country, mainly along the Gulf Coast. In addition to transporting hydrogen via pipeline, pipeline operators are also moving hydrogen by blending it with methane in natural gas pipelines. Industry analysts generally agree that 20% hydrogen concentrations by volume is currently the maximum blend before considerable upgrades to the pipeline are required. Converting existing pipelines to transport pure hydrogen may be possible in the future, but the need for a safe and reliable pipeline system will remain.

Carbon capture, use and storage (CCUS) efforts are also considered critical to America's energy future, but expanded infrastructure must be built to transport captured carbon dioxide (CO_2), and pipeline transportation continues to be the safest method of transportation. Pipelines are currently the dominant mode of CO_2 transportation, but there are only 5,000 miles of existing CO_2 pipelines in only a few regions that were constructed over the past 50 years.

Because not all areas of the country are appropriate for CO_2 storage, it must be moved to regions that do, and will require the necessary pipeline infrastructure in a wider range of locations. In addition, larger

infrastructure with the capacity to handle greater CO_2 volume from multiple sources will provide for more carbon capture, and pipelines will be needed to deliver it to certain locations for industrial use.

Creating a CCUS market will decrease the demand or supply risk, reduce the total cost, and drive technological innovation. However, like hydrogen, capturing CO_2 and transporting it to areas for industrial uses will be possible only by expanding the pipeline infrastructure needed to move it.

Recognizing that close to $20 billion for CCUS and hydrogen energy projects was provided in the Infrastructure Investment and Jobs Act of 2021, and tax incentives for CCUS and hydrogen efforts were included in the Inflation Reduction Act last year, DCA believes that demonstration projects and other efforts to promote and advance the role of pipeline transportation of hydrogen and CO_2 should be a priority as implementation of these laws continues.

Because of the importance of natural gas and the financial burden that restricting access to it would place on low-income and working families, natural gas in various forms has a critical part to play in America's energy future.

Permitting Challenges

The permitting process to approve pipeline projects remains the biggest hurdle to delivering valuable energy to communities that need it. Although the Federal Energy Regulatory Commission (FERC) had traditionally been the lead organization in overseeing the permitting process for transmission pipelines, many of the seemingly countless federal and state agencies with a role in the permitting process sometimes delay consideration of permit applications for illicit reasons.

Section 401 of the Clean Water Act (CWA 401) remains especially problematic. CWA 401 provides states the authority to determine whether any discharges from infrastructure projects are in compliance with water quality standards in that state. While the intent is to ensure that states can more effectively regulate local land and infrastructure, in several states this has become a method to delay or create cost-prohibitive roadblocks to the development of interstate natural gas and oil pipelines.

Reforming the outdated and permitting process for infrastructure projects remains a top priority of DCA and has become a bipartisan issue on Capitol Hill. Although project permit reform legislation failed to pass before the end of 2022, the committee will have the opportunity to advance project permit reform legislation early in the 118th Congress, and we encourage you to do so.

Renewable Natural Gas

Renewable natural gas (RNG), or biogas, is collected from waste from sources such as agricultural facilities, food waste, and wastewater treatment plants that emit surface-level methane as it decomposes. There are processes and technologies that are capable of capturing methane from waste streams and prevent that methane from entering the atmosphere, and federal energy policy should increase opportunities for these processes and technologies to be implemented and advanced.

RNG is crucial to maintain a diverse portfolio of solutions that work together to combat climate change. RNG is a complement to other renewable energy sources because it is storable, dispatchable and can be combined with other fuel, heat, and power generation resources providing reliable energy.

Through the process of capturing, transporting and utilizing emissions from waste as an energy source, those emissions are turned into renewable energy rather than releasing them into the atmosphere. RNG enables us to capture harmful greenhouse gas emissions from waste products and convert them to clean energy that efficiently supplies energy to homes, businesses and vehicles while delivering benefits

to the environment at the same time. In short, RNG has the potential to drastically reduce greenhouse gas emissions while leveraging the nation's resilient, efficient natural gas distribution network.

According to a study conducted by the American Gas Association, RNG has the potential to reduce emissions from natural gas by a remarkable 95% in the residential sector. At a time when mandated electrification initiatives are raising concerns about consumer choice and environmental impacts surrounding electrification are generating concerns of their own, replacing a measurable amount of the country's traditional gas supply with RNG will allow us to achieve emission reductions equal to reductions that would result from policy proposals mandating electrification.

Pipeline Safety

This year's energy debate will include reauthorization of the Pipeline and Hazardous Materials Safety Administration (PHMSA) and the nation's overall pipeline safety program. The last reauthorization bill focused on gas distribution systems, and DCA suggested several policy proposals for consideration by this and other committees with jurisdiction over pipeline safety matters. As the Protecting our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2023 is developed, DCA offers perspective on the following issues under consideration.

Criminal Penalties for Critical Energy Infrastructure

DCA supports the right for peaceful activism, including peaceful protests to existing and pending pipeline construction projects, we strongly support legislative language that would hold those who engage in criminal activities during protests more accountable.

Past proposals on this issue would have revised existing criminal penalties for damaging or destroying a pipeline facility by specifying that vandalism, tampering or disrupting the operation of a pipeline facility would be punishable by criminal fines and imprisonment. Importantly, leading proposals included pipeline facilities under construction within their scope. While interfering or tampering with the operation of a pipeline would clearly compromise pipeline safety, vandalism and destruction of nearby equipment used to build a pipeline can be just as dangerous.

For example, setting construction equipment on fire near a natural gas pipeline can be as dangerous as turning a valve. Several states have enacted laws intended to deter pipeline vandalism. Tampering with or vandalizing critical infrastructure or nearby equipment used to build it can create serious safety risks to the public, pipeline employees and even the perpetrators. Additionally, acts of vandalism could result in devastating environmental impacts. Therefore, we encourage the committee to adopt language that would enact criminal penalties for criminal protesting activities, and these penalties would be subject to vandalism and destruction of equipment and materials needed for construction of pipeline infrastructure.

Pipeline Safety Management Systems

As the pipeline industry continues to instill a "culture of safety" through implementation of pipeline safety management systems (SMS), DCA and the most in the pipeline construction business have embraced voluntary SMS approaches in the pipeline industry but believe mandating the use of SMS would be shortsighted policy. SMS is a top-to-bottom, cyclical approach to safety that requires buy-in from senior management and a commitment to pursuing continuous improvement, along with several other elements. While there is strong support of the SMS approach by PHMSA and within the industry, mandated SMS should not be included in the pipeline safety regulations.

The PIPES Act of 2020 required PHMSA to provide a report to Congress on the effectiveness of pipeline SMS that have been implemented. In 2021, DCA released a template for pipeline contractors to refer to

when developing SMS programs or improving existing SMS approaches in their construction operations. In addition, DCA was invited to participate on the Pipeline SMS Industry Team, led by the American Petroleum Institute and consisting of representatives from several associations representing pipeline operators, contractors and other service providers, with input from PHMSA and state government entities. Last fall, the SMS Industry Team released its SMS contractor guidance, which DCA reviewed and worked to refine as part of the Industry Team. The guidance, as well as a wide range of tools and resources, is available at www.pipelinesms.org.

Ensuring a safety culture in a pipeline company must be the responsibility of the operator, just as contractors must be responsible for implementing and maintaining SMS in construction operations. Therefore, while we fully embrace the goals and concepts of SMS, DCA continues to oppose language that would *mandate* SMS in the pipeline safety regulations, which we believe would prove to be unenforceable and counterproductive to achieving the very goals SMS strives to achieve.

Cost-Benefit Analysis
Cost-benefit analyses used by regulatory agencies to identify the costs and benefits resulting from a given regulation, and are an important part of the regulatory process. These analyses offer an agnostic and evidence-based evaluation of regulatory options, which help agencies become more data-driven and approached to regulation more logical. Therefore, DCA encourages the committee to reject proposed language that would remove cost-benefit requirements from pipeline safety regulations.

Damage Prevention and GIS Mapping
Ensuring for a safe worksite is fundamental to pipeline contractors, and damage prevention to underground facilities is front and center in achieving that goal. Safe excavation during construction projects is critical, and DCA supports to bolster several fundamental pillars of underground facility damage prevention to underground facilities during excavation. These pillars include mandatory participation in the one-call process (both one-call notification *and membership*); accurate and timely locating of underground facilities prior to excavation; and "potholing" by excavators so that underground facilities are exposed in order to determine their exact location.

DCA was pleased to see the PIPES Act of 2020 included language that would require operators of gas distribution pipelines to identify and manage traceable, reliable, and complete records, *including* maps and other drawings. Accurate mapping of underground facilities essential to accurate and timely locating, and use of geographic information systems (GIS) is the most effective way to identify and document a wide range of data about the underground infrastructure in a given area.

GIS can create, manage, visualize, analyze, and map different layers of data by creating maps and scenes related to underground facilities. GIS connects data to a map, integrating location data with a range of limiting information regarding the subsurface facilities in that area, and it allows for layering of data tied to geographic points. Rather than restricting the user to limited features on a static map, GIS mapping allows for viewing customizable combinations of data layers in a single dynamic tool.

DCA believes ensuring the use of readily available GIS mapping technologies would be the most efficient way to identify and document the exact location of underground pipelines (as well as other subsurface infrastructure). This precise mapping system is an increasingly utilized to ensure for the accurate locating and marking of underground facilities.

DCA appreciates your consideration of these issues as the 118th Congress begins its work in earnest, and we stand ready to provide information on these matters and work with the committee to provide sound energy policy at this critically important time.