DCA
DISTRIBUTION CONTRACTORS ASSOCIATION

January 3, 2023

The Honorable Sam Graves
Chair, Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

The Honorable Rick Larsen
Ranking Member, Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Graves and Ranking Member Larsen,

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 Transportation and Infrastructure (T&I) Committee begins its work in the 118th Congress, including reauthorization of the Pipeline and Hazardous Materials Safety (PHMSA) and the nation's overall pipeline safety program, DCA offers unique perspective on pipeline safety from the industry responsible for building and repairing the vast majority of distribution and transmission pipeline infrastructure across the country.

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 believes the following issues deserve consideration by the T&I Committee.

Criminal Penalties for Criminal Protesting

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 that 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.

Best Regards,

Rob Darden
Executive Vice President