

AN ACT concerning utilities.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Gas Pipeline Safety Act is amended by adding Sections 2.08, 2.09, 2.10, 2.11, and 7.5 and by changing Section 7 as follows:

(220 ILCS 20/2.08 new)

Sec. 2.08. Notice of probable violation. "Notice of probable violation" or "NOPV" means a written notice, satisfying the criteria set forth in Section 7.5 of this Act, given by the pipeline safety manager to a person who engages in the transportation of gas or who owns or operates pipeline facilities that identifies a failure of such person to comply with the provisions of this Act, the federal Natural Gas Pipeline Safety Act of 1968, or any Commission order or rule issued under this Act and may recommend a penalty in connection therewith, subject to the terms of this Act.

(220 ILCS 20/2.09 new)

Sec. 2.09. Pipeline safety manager. "Pipeline safety manager" means the manager of the Commission's Pipeline Safety Program or other staff of the Commission assigned to gas pipeline safety issues.

(220 ILCS 20/7) (from Ch. 111 2/3, par. 557)

Sec. 7. Penalties; action for penalties; Commission approval of penalties.

(a) Any person violating paragraph (a) of Section 6 of this Act or any rule or order issued under this Act is subject to a civil penalty not to exceed the maximum penalties established by Section 60122(a)(1) of Title 49 of the United States Code for each day the violation persists. Such civil penalties do not apply to a violation with respect to a pipeline facility in existence on the effective date of this Act unless such violation persists one year from the effective date.

(b) Any civil penalty may be compromised by the Commission or, subject to this Act, by the pipeline safety manager. In determining the amount of the penalty, or the amount agreed upon in compromise, the Commission or, subject to this Act, the pipeline safety manager, as the case may be, shall consider the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation. The amount of the penalty when finally determined, or the amount agreed upon in compromise, shall be paid or ~~may be~~ deducted from any sums owing by the State of Illinois to the person charged pursuant to the terms and conditions of the NOPV or the agreed compromise or Commission order, as the case may be, or may be

recovered in a civil action in accordance with paragraph (c) of this Section 7. Unless specifically stated otherwise in the terms and conditions of any compromise agreement, any compromise of a penalty recommended in an NOPV by the person charged shall not be deemed to be an admission of liability.

(c) Actions to recover penalties under this Act shall be brought in the name of the People of the State of Illinois in the circuit court in and for the county in which the cause or some part thereof, arose or in which the corporation complained of, if any, has its principal place of business or in which the person, if any, complained of, resides. All penalties recovered by the State in any action shall be paid into the general fund of the State Treasury. The action shall be commenced and prosecuted to final judgment by the Attorney General on behalf of the Commission. In all such actions, the procedure and rules of evidence shall conform with the Civil Practice Law and other rules of court governing civil trials.

(d) In addition the Commission may proceed under Section 4-202 of the Public Utilities Act, either by mandamus or injunction, to secure compliance with its rules, regulations and orders issued under this Act.

(e) Any person penalized under this Section is not subject, for the same cause, to any other penalty provided in the Public Utilities Act.

(f) In the event any penalty recommended by the pipeline safety manager is paid by the person charged in the applicable

NOPV in accordance with subsection (b) of this Section or in accordance with the terms and conditions of a compromise, agreed upon by such person and the pipeline safety manager, then the pipeline safety manager shall report, and request approval of, each such payment of a recommended penalty or agreed compromise, as the case may be, to the Commission at a public meeting of the Commission and shall also post such report on the Commission's website as a public document subject to the requirements of Section 4-404 of the Public Utilities Act. Whenever such report and request for approval shall be made to the Commission, the Commission shall have the power, and it is hereby given authority, either upon complaint or upon its own motion, upon reasonable notice given within 45 days after such report and request for approval was made at a public meeting of the Commission, to enter upon a hearing concerning the propriety of the applicable NOPV, payment, or compromise. In the event the Commission does not exercise this power within the 45-day period, the payment or agreed compromise referenced in the report shall be deemed approved by the Commission by operation of law at the expiration of the 45-day period and the NOPV and related investigation shall be deemed closed.

(Source: P.A. 91-814, eff. 6-13-00.)

(220 ILCS 20/7.5 new)

Sec. 7.5. NOPV; Commission hearing.

(a) For the purposes of this Section, "violation" means a

failure to comply with any provision of this Act or any Commission order or rule issued under this Act.

(b) After investigation and determination of a probable violation, the pipeline safety manager may issue and deposit in the United States mail an NOPV. Any NOPV so issued and mailed may also be posted on the Commission's website as a public document, subject to the requirements of Section 4-404 of the Public Utilities Act.

(c) An NOPV shall set forth, at a minimum, the following:
(1) the date the NOPV was issued and deposited in the United States mail; (2) a description of the violation or violations alleged; (3) the date and location of the safety incident, if applicable, related to each alleged violation; (4) a detailed description of the circumstances that support the determination of each proposed violation; (5) a detailed description of the corrective action required with respect to each proposed violation; (6) the amount of the penalty, if any, recommended with respect to each proposed violation; (7) the applicable recommended deadline for payment of each proposed penalty and for completion of each proposed corrective action (in no event shall any recommended deadline be less than 30 days after the date of the NOPV); (8) notification that any such recommended deadline may be extended by mutual agreement of the parties for the purpose of facilitating settlement or compromise; and (9) a brief description of the procedures by which any recommended penalty or proposed corrective action may

be challenged at the Commission or approved pursuant to subsection (f) of Section 7.

(d) Payment in full of each of the recommended penalties and full completion of each of the proposed corrective actions, as identified in the NOPV and in accordance with the terms and conditions set forth in the NOPV, including without limitation the respective recommended deadlines set forth in the NOPV for such payment or completion, shall constitute a final resolution of the NOPV, subject to the approval by the Commission of the recommended penalty and payment in accordance with subsection (f) of Section 7.

(e) If one or more of the alleged violations set forth in an NOPV is contested, then the Commission shall have the power and it is hereby given authority, either upon complaint or upon its own motion, upon reasonable notice, to enter upon a hearing under this Act concerning the incident referenced in the NOPV, in accordance with Article X of the Public Utilities Act. If a recommended penalty is not paid prior to the deadline recommended in the NOPV or other mutually agreed upon date, or if one or more of the proposed corrective actions set forth in an NOPV is not fully and timely completed in accordance with the terms and conditions set forth in the NOPV, the NOPV shall be deemed contested.

(f) The Commission shall have the power to adopt rules to implement this Section to the extent the Commission deems such rules necessary or desirable.

Public Act 098-0526

SB1458 Enrolled

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Section 99. Effective date. This Act takes effect upon becoming law.