

Senate Bill 325

By: Senators Scott of the 36th, Thomas of the 10th, Thomas of the 54th, Fort of the 39th,  
Tate of the 38th and Kemp of the 3rd

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 5 of Chapter 4 of Title 46 of the Official Code of Georgia Annotated, the  
2 "Natural Gas Competition and Deregulation Act," so as to provide a short title; to provide  
3 for a finding of legislative intent; to provide that the Public Service Commission shall review  
4 and approve the terms of agreements for the provision of natural gas to residential customers;  
5 to change certain provisions relating to rates; to provide that rates and terms of service of an  
6 electing distribution company for interruptible distribution service and balancing service  
7 shall be subject to approval by the commission; to provide that customers shall be charged  
8 for gas at a rate not higher than the rate in effect during the time the gas was used; to provide  
9 that customers shall have the right to sue for damages; to change certain provisions relating  
10 to the universal service fund; to provide that the electing distribution company shall be  
11 designated as the regulated marketer; to provide that the designated regulated marketer shall  
12 be exclusively entitled to payments from the universal service fund; to provide for customers  
13 whose service has been discontinued for reasons of nonpayment; to provide for additional  
14 customers; to provide that no marketer may discontinue service for nonpayment; to provide  
15 that a marketer may transfer the account of a delinquent customer to the designated regulated  
16 marketer; to provide for charges; to provide for the regulation of such regulated marketer;  
17 to provide for budgeted billing; to provide for rules and regulations; to provide for related  
18 matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 **SECTION 1.**

21 This Act shall be known and may be cited as the "Natural Gas Consumer Protection Act."

22 **SECTION 2.**

23 Article 5 of Chapter 4 of Title 46 of the Official Code of Georgia Annotated, the "Natural  
24 Gas Competition and Deregulation Act," is amended by striking in its entirety paragraph (7)

1 of subsection (b) of Code Section 46-4-151, relating to legislative findings and intent, and  
 2 inserting in lieu thereof the following:

3 "(7) Provide for rate-making methods which the General Assembly finds appropriate for  
 4 the provision of natural gas services, including without limitation ~~the use of straight fixed~~  
 5 ~~variable rate design~~, the recovery of certain stranded costs; and the use of alternative  
 6 forms of rate regulation; and"

7 **SECTION 3.**

8 Said article is further amended by striking in its entirety Code Section 46-4-154, relating to  
 9 a notice of election, unbundling, rates, and application requirements, and inserting in lieu  
 10 thereof the following:

11 "46-4-154.

12 (a) A gas company may elect to become subject to the provisions of this article by filing  
 13 a notice of election with the commission and by filing an application to establish just and  
 14 reasonable rates, including separate rates for unbundled services. Pursuant to such  
 15 application, the commission shall:

16 (1) Maintain rates for interruptible distribution service at the levels set forth in the rate  
 17 schedules approved by the commission and in effect on the day the gas company files a  
 18 notice of election as provided for in this Code section;

19 (2) ~~Establish rates for firm distribution service using the straight fixed variable method~~  
 20 ~~of rate design, subject to the provisions of subsection (b) of this Code section~~ Review and  
 21 approve all terms and conditions with regard to the provision of commodity and service  
 22 to retail customers to ensure fairness to the customer and prevent overreaching by the  
 23 marketer;

24 (3) Establish separate rates and charges, which may be based on market value, for each  
 25 type of ancillary service which is classified separately;

26 (4) Provide for the recovery in rates of those costs which the commission determines are  
 27 prudently incurred and used and useful in providing utility service; and

28 (5) Provide for recovery of costs found by the commission to be stranded and necessary  
 29 to provide a reasonable return, provided that only prudently incurred stranded costs that  
 30 cannot be mitigated may be recovered.

31 ~~(b) If the commission determines that inefficiencies in the rate design or other causes in~~  
 32 ~~existence immediately preceding the implementation of the straight fixed variable rate~~  
 33 ~~design will result in a material fluctuation of rates for firm distribution service to a group~~  
 34 ~~of retail customers upon implementation of straight fixed variable rate design, the~~  
 35 ~~commission may make such adjustments to the rates for firm distribution service as it~~

1 ~~deems appropriate to phase in the straight fixed variable rate design for firm distribution~~  
 2 ~~service:~~

3 ~~(1) Over a 12 month period from the date the rates filed by the electing distribution~~  
 4 ~~company would otherwise be effective if such material fluctuation will be less than 10~~  
 5 ~~percent of the total gas charges for a group of retail customers; or~~

6 ~~(2) Over a 24 month period from the date the rates filed by the electing distribution~~  
 7 ~~company would otherwise be effective if such material fluctuation will be equal to or~~  
 8 ~~greater than 10 percent of the total gas charges for a group of retail customers. However,~~  
 9 ~~in no event shall any such adjustment be made if the adjustment results in~~  
 10 ~~cross-subsidization between retail customers receiving firm distribution service and retail~~  
 11 ~~customers receiving interruptible distribution service or if the adjustment reduces the~~  
 12 ~~revenues to the electing distribution company for firm distribution service below those~~  
 13 ~~that would be recovered by the electing distribution company under the straight fixed~~  
 14 ~~variable rate without such adjustment.~~

15 ~~(c)~~(b) In any proceeding before the commission to establish rates as provided in subsection  
 16 (a) of this Code section, the commission shall prescribe rates for the services and cost  
 17 recovery purposes specified in paragraphs ~~(2)~~, (3), (4), and (5) of subsection (a) of this  
 18 Code section at levels which are designed to recover the costs of service of the electing  
 19 distribution company as established by the commission in such proceeding. In such  
 20 proceeding, the commission shall also prescribe a mechanism by which 90 percent of the  
 21 revenues to the electing distribution company from rates for interruptible distribution  
 22 service shall be credited to the universal service fund established for that electing  
 23 distribution company pursuant to Code Section 46-4-161. Each electing distribution  
 24 company is authorized to retain for the benefit of its shareholders or owners 10 percent of  
 25 the revenues the electing distribution company received from rates for interruptible service.  
 26 Each electing distribution company which retains 10 percent of such revenues shall make  
 27 a report to the commission annually describing the benefits resulting to firm retail  
 28 customers from interruptible distribution service revenues.

29 ~~(d)~~(c) In addition to any other applicable filing requirements, any such application by a gas  
 30 company shall include the following:

- 31 (1) An identification of each component of natural gas service, including but not limited  
 32 to commodity sales service, distribution service, and ancillary services, which are to be  
 33 unbundled and offered under separate rates, together with the total costs to provide each  
 34 such service by the electing distribution company including a return on investment;  
 35 (2) Provisions for offering each unbundled service on an equal access, nondiscriminatory  
 36 basis;

1 (3) A description of the method by which the electing distribution company proposes to  
 2 allocate its intrastate capacity for firm distribution service to a marketer based upon the  
 3 peak requirements of the firm retail customers served by the marketer;

4 (4) A description of the method by which the electing distribution company proposes to  
 5 allocate its rights to interstate pipeline and underground storage to a marketer based upon  
 6 the peak requirements of the firm retail customers served by the marketer; and

7 (5) A plan for establishing and operating an electronic bulletin board by which the  
 8 electing distribution company will provide marketers with equal and timely access to  
 9 information relevant to the availability of firm distribution service.

10 ~~(e)~~(d) Notwithstanding any other provision of this title, the commission shall hold a  
 11 hearing regarding an application filed pursuant to this Code section and may suspend the  
 12 operation of the proposed schedules and defer the use of the proposed rates, charges,  
 13 classifications, or services for a period of not longer than six months."

#### 14 SECTION 4.

15 Said article is further amended by striking in its entirety paragraph (1) of subsection (c) of  
 16 Code Section 46-4-156, relating to customer assignment methodology, commission  
 17 determination of adequate market conditions and effect of such determination, notice to  
 18 customers, petition proceedings, and deposit, and inserting in lieu thereof the following:

19 "(1) The rates and terms of service of an electing distribution company for interruptible  
 20 distribution service and balancing service shall not be subject to approval by the  
 21 commission, ~~provided that all firm retail customers have contracted with or have been~~  
 22 ~~assigned to marketers as provided for in this Code section;"~~

#### 23 SECTION 5.

24 Said article is further amended by striking in its entirety subsection (i) of Code Section  
 25 46-4-160, relating to customer assignment methodology, commission determination of  
 26 adequate market conditions and effect of such determination, notice to customers, petition  
 27 proceedings, publication requirements, billing, and violations, and inserting in lieu thereof  
 28 the following:

29 "(i) A marketer shall render a bill to retail customers for services within 30 days of the date  
 30 following the actual monthly meter reading. The charges shown on a bill shall reflect a rate  
 31 not higher than the rate which was in effect during the billing period. A 15 day grace  
 32 period is permitted prior to the application of any penalty."



1 (d) On and after July 1, 2002, no marketer shall be authorized to terminate the service of  
2 any low-income customer for nonpayment. In lieu of terminating any such customer's  
3 service, the marketer is authorized to transfer the customer's account to the designated  
4 regulated marketer without an interruption in service.

5 (e) The commission shall establish reasonable rates for retail customers, using as a  
6 benchmark the simple average of the relevant index prices during bid week, as published  
7 in *Inside FERC's Gas Market Report* and *Natural Gas Intelligence* or as determined by  
8 trading on the New York Mercantile Exchange. The designated regulated marketer may  
9 only recover any start-up costs it may incur by amortizing such costs over a period of not  
10 less than five years.

11 (f) The designated regulated marketer shall be subject to the provisions of this Code  
12 section and all other provisions of this title exclusive of the remaining provisions of this  
13 article. The commission shall have the express authority to approve the initial rate schedule  
14 submitted by the designated regulated marketer and any changes or amendments thereto,  
15 including, without limitation, the distribution of commodity and service charges.

16 (g) The commission shall have the authority to provide for a budgeted billing plan for  
17 low-income customers.

18 (h) The commission shall have the authority to issue rules and regulations necessary to  
19 carry out the provisions of this Code section."  
20

#### 21 **SECTION 9.**

22 This Act shall become effective upon its approval by the Governor or upon its becoming law  
23 without such approval.

#### 24 **SECTION 10.**

25 All laws and parts of laws in conflict with this Act are repealed.