

House Bill 270

By: Representatives Snow of the 2<sup>nd</sup>, Day of the 153<sup>rd</sup>, Barnard of the 154<sup>th</sup>, Stuckey of the 67<sup>th</sup>, Smith of the 103<sup>rd</sup> and others

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,  
2 known as the "Natural Gas Competition and Deregulation Act," so as to change certain  
3 provisions relating to universal service funds of electing distribution companies; to change  
4 the provisions relating to the purpose of such funds; to repeal provisions relating to payments  
5 from any fund to marketers; to provide for considerations of the Public Service Commission  
6 in determining the appropriate amount of the fund for each fiscal year; to provide for  
7 payments from the fund on behalf of low income, elderly, and disabled retail customers; to  
8 provide for payments from the fund to residential and small business retail customers; to  
9 authorize the commission to promulgate rules for marketers to use in determining the  
10 eligibility of residential and small business customers for funding from the universal service  
11 fund; to provide that it shall be a condition of certification for marketers that they must  
12 provide advertisements concerning the provisions of this Act and aid and assist customers  
13 applying for payments from a universal service fund; to limit distributions from the fund to  
14 any electing distribution company; to provide that no investment in new facilities shall be  
15 financed from the universal service fund during the winter heating season; to repeal  
16 conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 **SECTION 1.**

19 Article 5 of Chapter 4 of Title 46 of the Official Code of Georgia Annotated, known as the  
20 "Natural Gas Competition and Deregulation Act," is amended by striking in its entirety Code  
21 Section 46-4-161, relating to universal service funds of electing distribution companies, and  
22 inserting in lieu thereof a new Code Section 46-4-161 to read as follows:

23 "46-4-161.

24 (a) The commission shall create for each electing distribution company a universal service  
25 fund for the purpose of:

1 (1) Assuring that gas is available for sale by marketers to firm retail customers within the  
2 territory certificated to each such marketer; ~~and~~

3 (2) Enabling the electing distribution company to expand its facilities and service in the  
4 public interest; and

5 (3) Assuring that residential and small business customers can absorb the impact of rate  
6 increases during the winter heating season.

7 (b) The fund shall be administered by the commission under rules to be promulgated by  
8 the commission in accordance with the provisions of this Code section. Prior to the  
9 beginning of each fiscal year, ~~of the electing distribution company~~, the commission shall  
10 determine the amount of the fund appropriate for such fiscal year. In making such  
11 determination, the commission shall consider the following:

12 ~~(1) The amount required to provide appropriate compensation to marketers with respect~~  
13 ~~to uncollectible accounts arising from commodity sales to firm retail customers; and~~

14 ~~(2)~~(1) The amount required to provide sufficient contributions in aid of construction to  
15 permit the electing distribution company to extend and expand its facilities from time to  
16 time as the commission deems to be in the public interest; and

17 (2) The amount required to assure that any proposed price increases during the winter  
18 heating season can be paid out of the fund on behalf of low income, elderly, and disabled  
19 persons.

20 (c) The fund shall be created and maintained from time to time from the following sources:

21 (1) Rate refunds to the electing distribution company from its interstate pipeline  
22 suppliers;

23 (2) Any earnings allocable to ratepayers under performance based rates of the electing  
24 distribution company authorized by this article;

25 (3) A surcharge to the rates for firm distribution service of the electing distribution  
26 company authorized for such purpose by the commission from time to time; and

27 (4) Any other payments to the fund provided by law.

28 (d) Any amounts remaining in such fund at the end of a fiscal year shall be available for  
29 refund to residential and small business retail customers in such manner as the commission  
30 shall deem equitable. The balance at fiscal year end, whether positive or negative, after  
31 such refund, if any, shall become the initial balance of the fund for the ensuing fiscal year  
32 and shall be considered by the commission in making the determination required in  
33 subsection (b) of this Code section. In no event shall any such refund provided for in this  
34 subsection be made during the winter heating season.

35 (e) Moneys in the fund shall be deposited in a separate, interest-bearing escrow account  
36 maintained by the electing distribution company at any state or federally chartered bank,  
37 trust company, or savings and loan association located in this state. Upon application to

1 the commission, the commission shall order the distribution of an appropriate portion of  
 2 such moneys ~~on a quarterly basis~~ and in accordance with the provisions of this Code  
 3 section. Interest earned on moneys in the fund shall accrue to the benefit of the fund.

4 (f) The commission shall promulgate rules pursuant to Chapter 13 of Title 50, the 'Georgia  
 5 Administrative Procedure Act,' for marketers to use in determining the eligibility of  
 6 residential and small business customers for funding from the universal service fund. Such  
 7 rules shall include, but not be limited to, provisions for direct payment to marketers on  
 8 behalf of such customers. It shall be a condition of certification for marketers that they  
 9 must provide advertisements concerning the provisions of this subsection and aid and assist  
 10 customers applying for payments from universal service funds. In determining whether to  
 11 grant the application of a marketer for a distribution from the fund in whole or in part, the  
 12 commission shall consider:

13 ~~(1) The expenditures reasonably required for commodity sales by a marketer within the~~  
 14 ~~relevant territory based upon the cost of gas as established by published cost indexes, the~~  
 15 ~~transportation charges of the interstate pipeline involved, and the rates for firm~~  
 16 ~~distribution service of the electing distribution company. The commission shall also~~  
 17 ~~consider the actual costs incurred to serve the customers and revenues available to the~~  
 18 ~~marketer from sales within the affected territory available to provide a fair return to the~~  
 19 ~~marketer;~~

20 ~~(2) Whether the marketer pursued reasonable diligence in seeking to recover the~~  
 21 ~~uncollectible accounts; and~~

22 ~~(3) The reduction to the total amount of the uncollectible accounts appropriate to assure~~  
 23 ~~that marketers pursue reasonable diligence in their collection efforts.~~

24 (g)(1) In determining whether to grant the application of an electing distribution  
 25 company for a distribution from the fund in whole or in part, the commission shall  
 26 consider:

27 (A) The capital budget of the electing distribution company for the relevant fiscal year;

28 (B) The estimated total overall applicable cost of the proposed extension, including  
 29 construction costs, financing costs, working capital requirements, and engineering and  
 30 contracting fees, as well as all other costs that are necessary and reasonable;

31 (C) The projected initial service date of the new facilities, the estimated revenues to the  
 32 electing distribution company during the first five fiscal years following the initial  
 33 service date, and the estimated rate of return to the electing distribution company  
 34 produced by such revenues during each such fiscal year;

35 (D) The amount of the contribution in aid of construction required for the revenues  
 36 from the proposed new facility to produce a just and reasonable return to the electing  
 37 distribution company; and

- 1 (E) Whether the proposed new facility is in the public interest.
- 2 (2) In no event shall the distribution to an electing distribution company from the fund  
3 for facilities and service expansion during any fiscal year exceed 5 3 percent of the  
4 ~~capital budget of such company~~ universal service fund for such fiscal year.
- 5 (3) Any investment in new facilities financed from the universal service fund shall be  
6 accounted for as a contribution in aid of construction.
- 7 (4) No investment in new facilities shall be financed from the universal service fund  
8 during the winter heating season."

9 **SECTION 2.**

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