

Senate Bill 500

By: Senators Thompson of the 33rd, Dean of the 31st, Starr of the 44th, Mullis of the 53rd, Walker of the 22nd, Stokes of the 43rd and Tanksley of the 32nd

**AS PASSED SENATE**

A BILL TO BE ENTITLED

AN ACT

1 To enact the "Natural Gas Consumers' Relief Act;" to amend Chapter 2 of Title 46 of the  
 2 Official Code of Georgia Annotated, relating to the Public Service Commission, so as to  
 3 allow 90 days for commission orders after a hearing regarding electric fuel cost recovery or  
 4 adoption or amendment of natural gas capacity supply plans; to provide for discovery rights  
 5 of all parties to proceedings before the commission related to the distribution, storage, and  
 6 sale of gas; to authorize the Public Service Commission to seek an injunction against the  
 7 violation of any law administered by the commission or any rule, order, or regulation  
 8 established by the commission; to amend Article 5 of Chapter 4 of Title 46 of the Official  
 9 Code of Georgia Annotated, the "Natural Gas Competition and Deregulation Act," so as to  
 10 revise extensively and comprehensively; to revise legislative findings and intent; to provide  
 11 a bill of rights for consumers; to revise definitions; to provide for a continuing requirement  
 12 of financial and technical ability for marketers; to provide that EMC gas affiliates are eligible  
 13 to receive certificates of authority as marketers; to provide for terms and conditions  
 14 governing the relationship between an electric membership corporation and its EMC gas  
 15 affiliate; to provide for a reasonable method of rate design; to provide that a fee for  
 16 distribution services shall not be required for certain billing periods; to change a provision  
 17 relating to an electing distribution company's revenues from interruptible service; to  
 18 authorize a surcharge on customers receiving interruptible service; to require a hearing  
 19 relating to direct assignment of interstate capacity assets; to clarify and change provisions  
 20 relating to changing marketers; to change a provision relating to the amount of deposits  
 21 charged to natural gas consumers; to provide for additional circumstances when the  
 22 commission is authorized to issue temporary directives to protect retail customers; to require  
 23 an electing distribution company to cooperate with certificated marketers and the regulated  
 24 provider; to provide for service quality standards for electing distribution companies,  
 25 commission review of performance with regard to such standards, and penalties; to provide  
 26 for rules governing marketers' terms of service, disclosure by marketers, the contents of  
 27 consumer bills, and review for compliance with such rules; to provide certain remedies for  
 28 consumers determined to be victims of slamming; to prohibit a marketer responsible for

1 slamming a consumer from making certain reports to credit reporting agencies and provide  
 2 for payment to consumers for violations; to provide that certain consumer protection rules  
 3 shall be self-executing; to delete a provision prohibiting refusal to sell gas by marketers in  
 4 certain circumstances; to prohibit estimated bills, unreasonable late fees, and retroactive rate  
 5 increases; to provide for filing changes in the terms and conditions for service with the  
 6 commission and for the commission's authority related to such changes; to provide for a  
 7 system for voluntary contributions to assist low-income residential consumers; to create the  
 8 Natural Gas Consumer Education Advisory Board and provide for the duty, members,  
 9 officers, appointment of members, and expenses of members of such board; to provide for  
 10 a private right of action and for the application of Part 2 of Article 15 of Chapter 1 of Title  
 11 10, the "Fair Business Practices Act of 1975"; to change certain provisions relating to the  
 12 universal service fund; to establish a maximum for the surcharge to the rates for firm  
 13 distribution for deposit in the universal service fund; to provide for certain powers and  
 14 purposes of electric membership corporations relating to natural gas; to provide for selection  
 15 of a regulated provider; to provide for the terms, conditions, rates, and customers for  
 16 regulated gas services; to provide for reimbursements from the universal service fund in  
 17 certain circumstances; to provide for related matters; to provide an effective date; to repeal  
 18 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 Consumers' Relief Act."

22 **SECTION 2.**

23 Chapter 2 of Title 46 of the Official Code of Georgia Annotated, relating to the Public  
 24 Service Commission, is amended in Code Section 46-2-26, relating to use of fuel-adjustment  
 25 tariffs, procedures for rate changes based solely on changes in fuel costs, the commission's  
 26 power over rate changes pursuant to procedures or contracts approved by a federal regulatory  
 27 agency, and disclosures required for utilities seeking rate changes, by striking subsection (e)  
 28 and inserting in lieu thereof the following:

29 "(e) Following such hearing, the commission shall issue an order stating the base rates to  
 30 be used by the utility during the next three consecutive calendar months, or until changed  
 31 as provided in this Code section. Should the commission fail or refuse to issue such order  
 32 by the ~~forty-fifth~~ ninetieth day after the utility's filing, the base rates proposed by the utility  
 33 shall thereupon be deemed adopted by operation of law."

**SECTION 3.**

Said chapter is further amended in Code Section 46-2-57, relating to discovery, commission petitions for orders, injunctions, and subpoenas, and extension of suspension period, by striking subsection (a) and inserting in lieu thereof the following:

"(a) In any case pending before it, the commission, in addition to its now existing authority to do so, is authorized to issue an order permitting its employees and agents to take depositions and otherwise obtain discovery of any matter, not privileged, which is relevant to the subject matter involved in the investigation, proceeding, or petition before the commission, in the same manner prescribed in Chapter 11 of Title 9 for discovery in civil actions. ~~In any case involving an application of a gas company to establish just and reasonable rates pursuant to Code Section 46-2-23.1 or 46-4-154, intervenors who are granted party status pursuant to Code Section 46-2-59, as well as the gas company subject to the particular proceeding,~~ proceeding before the commission arising under this title and related to the distribution, storage, and sale of gas, all parties to the proceeding shall have all discovery rights available under Chapter 11 of Title 9."

**SECTION 4.**

Said chapter is further amended by inserting a new Code section to be designated Code Section 46-2-95 to read as follows:

"46-2-95.

The commission may bring a civil action to enjoin the violation of any law administered by the commission or any rule, order, or regulation established by the commission. It shall not be necessary to allege or prove that there is no adequate remedy at law to obtain an injunction under this Code section."

**SECTION 5.**

Article 5 of Chapter 4 of Title 46 of the Official Code of Georgia Annotated, the "Natural Gas Competition and Deregulation Act," is amended by striking Code Section 46-4-151, relating to legislative findings and intent, and inserting in lieu thereof the following:

"46-4-151.

(a) The General Assembly finds:

- (1) It is in the public interest to establish a new regulatory model for the natural gas industry in Georgia to reflect the transition to a reliance on market based competition as the best mechanism for the selection and provision of natural gas services at the most efficient pricing; ~~and~~
- (2) In order to ensure the implementation of this new reliance on market based competition, any regulatory impediments, whether statutory or administrative, to

1 competition for natural gas services must be removed in those areas of the natural gas  
2 industry where competition actually exists;

3 (3) All consumers are entitled to receive natural gas service on reasonable terms and at  
4 reasonable prices; and

5 (4) That protecting natural gas consumers is the most important factor to consider in any  
6 decisions to be made in accordance with this article.

7 (b) It is the intent of this article to:

8 (1) Promote competition in the natural gas industry;

9 (2) Protect the consumer during and after the transition to a competitive natural gas  
10 market;

11 (3) Maintain and encourage safe and reliable natural gas service;

12 (4) Deregulate those components of the natural gas industry subject to actual  
13 competition;

14 (5) Continue to regulate those natural gas services subject to monopoly power;

15 (6) Promote an orderly and expeditious transition of the natural gas industry toward fully  
16 developed competition;

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

21 (8) Allow gas companies the opportunity to compete effectively in a competitive  
22 marketplace;

23 (9) Provide a bill of rights for consumers as follows:

24 (A) All consumers must have access to reliable, safe, and affordable gas service,  
25 including high quality customer service;

26 (B) All consumers must have the right to receive accurate, easily understood  
27 information about gas marketers, services, plans, terms and conditions, and rights and  
28 remedies. The information must be unbiased, accurate, and understandable in a written  
29 form, which allows for comparison of prices and terms of service;

30 (C) All consumers must receive the benefits of new services, technological advances,  
31 improved efficiency, and competitive prices;

32 (D) Standards for protecting consumers in matters such as deposit and credit  
33 requirements, service denials and terminations, and deferred payment provisions must  
34 be applied fairly to all consumers;

35 (E) All consumers must be protected from unfair, deceptive, fraudulent, and  
36 anticompetitive practices, including, but not limited to, practices such as cramming,

1 slamming, and providing deceptive information regarding billing terms and conditions  
 2 of service;

3 (F) All consumers shall receive accurate and timely bills from their marketers;

4 (G) All consumers are entitled to protection of their privacy and must be protected  
 5 from improper use of their customer records or payment histories without their express  
 6 consent;

7 (H) All consumers must be protected from price increases resulting from inequitable  
 8 price shifting; and

9 (I) All consumers have the right to a fair and efficient process for resolving differences  
 10 with marketers, including a system of internal review and an independent system of  
 11 external review; and

12 (10) Provide that, in the event of any conflict between paragraph (9) of this subsection  
 13 and any other paragraph of this subsection, the provisions of paragraph (9) shall override  
 14 such other paragraph or paragraphs."

#### 15 SECTION 6.

16 Said article is further amended by striking Code Section 46-4-152, relating to definitions, and  
 17 inserting in lieu thereof the following:

18 "46-4-152.

19 As used in this article, the term:

20 (1) 'Adequate market conditions' means the existence of market conditions in relation to  
 21 distribution service within a particular delivery group that have been determined pursuant  
 22 to subsection (b) of Code Section 46-4-156 to warrant customer assignment.

23 (2) 'Affiliate' means another person which controls, is controlled by, or is under common  
 24 control with such person.

25 (3) 'Ancillary service' means a service that is ancillary to the receipt or delivery of  
 26 natural gas, including without limitation storage, balancing, peaking, and customer  
 27 services.

28 (4) 'Commodity sales service' means the sale of natural gas exclusive of any distribution  
 29 or ancillary service.

30 (4.1) 'Consumer' means a retail customer of commodity sales service or of firm  
 31 distribution service who uses such service or services primarily for personal, family, or  
 32 household purposes.

33 (5) 'Control' includes without limitation the possession, directly or indirectly and whether  
 34 acting alone or in conjunction with others, of the authority to direct or cause the direction  
 35 of the management or policies of a person. A voting interest of 10 percent or more  
 36 creates a rebuttable presumption of control. A voting interest of 25 percent or more is

1 deemed to constitute control. The term control includes the terms controlling, controlled  
2 by, and under control with.

3 (5.1) 'Cramming' means billing for goods or services not requested or authorized by a  
4 consumer.

5 (6) 'Customer assignment' means the process described in subsection (e) of Code Section  
6 46-4-156 whereby retail customers within a particular distribution group who are not  
7 under contract for distribution service from a marketer are randomly assigned to  
8 certificated marketers.

9 (7) 'Customer service' means a function related to serving a retail customer including  
10 without limitation billing, meter reading, turn-on service, and turn-off service.  
11 Notwithstanding any provision of law to the contrary, any person may perform one or  
12 more customer services without first becoming certificated in accordance with Code  
13 Section 46-4-153.

14 (8) 'Delivery group' means a set of individual delivery points on one or more interstate  
15 pipeline suppliers to a gas company that may be aggregated and utilized for the  
16 distribution of gas to a particular set of retail customers.

17 (9) 'Distribution service' means the delivery of natural gas by and through the intrastate  
18 instrumentalities and facilities of a gas company or of a marketer certificated pursuant to  
19 Code Section 46-4-153, regardless of the party having title to the natural gas.

20 (10) 'Electing distribution company' means a gas company which elects to become  
21 subject to the provisions of this article and satisfies the requirements of Code Section  
22 46-4-154.

23 (10.1) 'Electric membership corporation' or 'EMC' means any person defined in  
24 paragraph (3) or (5) of Code Section 46-3-171.

25 (10.2) 'Electric utility' means any electric power company subject to the rate regulation  
26 of the commission in accordance with Code Sections 46-2-20 and 46-2-21.

27 (10.3) 'Electricity activities' means all activities associated with the generation,  
28 transportation, marketing, and distribution of electricity.

29 (10.4) 'EMC gas affiliate' means a separately organized person, the majority interest of  
30 which is owned or held by or, with respect to a cooperative, managed by one or more  
31 cooperatives or electric membership corporations and which applies to the commission  
32 for a certificate of authority pursuant to Code Section 46-4-153.

33 (11) 'Firm' means a type of distribution service which ordinarily is not subject to  
34 interruption or curtailment.

35 (11.1) 'Gas activities' means all activities associated with the transportation, marketing,  
36 and distribution of natural gas conducted by a person certificated pursuant to Code

1 Section 46-4-153. Such term shall not mean the production, transportation, marketing,  
 2 or distribution of liquefied petroleum gas.

3 (12) 'Interruptible' means a type of distribution service which is subject to interruption  
 4 or curtailment.

5 (12.1) 'Low-income residential consumer' shall include any residential consumer of  
 6 natural gas identified by the Department of Human Resources as eligible for public  
 7 assistance in paying bills for natural gas service in accordance with Code Section 46-1-5.

8 (12.2) 'Majority interest' means the ownership of 51 percent or more of:

9 (A) The partnership interests in a general or limited partnership;

10 (B) The membership interests of a limited liability company; or

11 (C) The stock in a for profit corporation which entitles the shareholder to vote and  
 12 share in common or preferred dividends.

13 (13) 'Marketer' means any person certificated by the commission to provide commodity  
 14 sales service or distribution services pursuant to Code Section 46-4-153 ~~or~~ and ancillary  
 15 services incident thereto.

16 (14) 'Person' means any corporation, whether public or private; company; individual;  
 17 firm; partnership; or association, including a cooperative or an electric membership  
 18 corporation.

19 (14.1) 'Regulated gas service' means gas service provided by a regulated provider of  
 20 natural gas.

21 (14.2) 'Regulated provider of natural gas' means the entity selected by the commission  
 22 to provide to consumers natural gas commodity service and ancillary services incident  
 23 thereto in accordance with Code Section 46-4-166.

24 (15) 'Retail customer' or 'retail purchaser' means a person who purchases commodity  
 25 sales service or distribution service and such purchase is not for the purpose of resale.

26 (15.1) 'Slamming' means changing or causing a change of a consumer's service from one  
 27 marketer or provider to another marketer or provider without request or authorization  
 28 from the consumer.

29 (16) 'Straight fixed variable' means a rate form in which the fixed costs of providing  
 30 distribution service are recovered through one or more fixed components and the variable  
 31 costs are recovered through one or more variable components.

32 (17) 'Winter heating season' means the calendar days from October 1 of one year through  
 33 March 31, inclusive, of the following year."

## 34 SECTION 7.

35 Said article is further amended in Code Section 46-4-153, relating to certificates of authority,  
 36 by striking subsection (d) and inserting in lieu thereof the following:

1 "(d) Any certificate of authority issued by the commission is subject to revocation,  
 2 suspension, or adjustment where the commission finds upon complaint and hearing that a  
 3 marketer has failed repeatedly or has failed willfully to meet obligations to its retail  
 4 customers and consumers which are imposed by this article, regulations issued pursuant  
 5 to this article, or the marketer's certificate of authority; has engaged in unfair competition;  
 6 or has abused its market position."

7 "(f) All gas marketers are required to continue to possess financial and technical capability  
 8 to render service and offer service pursuant to contractual terms and conditions the  
 9 commission from time to time finds economically viable for delivery groups served. This  
 10 is a continuing obligation and may be reviewed by the commission at any time."

### 11 SECTION 8.

12 Said article is further amended by inserting a new Code section to be designated Code  
 13 Section 46-4-153.1 to read as follows:

14 "46-4-153.1.

15 (a) Notwithstanding any other provision of this article or Article 4 of Chapter 3 of this  
 16 title, the commission shall have authority to issue certificates of authority to an EMC gas  
 17 affiliate but shall not have authority to issue certificates of authority to an electric  
 18 membership corporation. The commission's order granting a certificate of authority to an  
 19 EMC gas affiliate shall include terms and conditions to govern the relationship between the  
 20 electric membership corporation and its EMC gas affiliate. The terms and conditions shall  
 21 be designed to prevent cross-subsidization between the provision of electricity and the  
 22 provision of natural gas services, to encourage and promote fair competition in the overall  
 23 retail natural gas market, and to protect the privacy of both electric and natural gas  
 24 consumers.

25 (b) The order by the commission pursuant to this Code section shall include the  
 26 requirements set forth in this subsection, as well as such other rules as the commission shall  
 27 determine are necessary to protect electric and natural gas consumers and promote  
 28 competition:

29 (1) To ensure that cross-subsidizations do not occur between the electricity services of  
 30 an electric membership corporation and the gas activities of its gas affiliate, the terms and  
 31 conditions ordered by the commission shall provide that each electric membership  
 32 corporation having a gas affiliate shall:

33 (A) Fully allocate all electricity activities costs and gas activities costs, including costs  
 34 for any shared services, between the electric membership corporation's electricity  
 35 activities and the gas activities of its gas affiliate, in accordance with the applicable  
 36 uniform system of accounts and generally accepted accounting principles, as applicable;

1 (B) Develop and maintain a cost allocation manual, approved by the commission,  
2 describing the electric membership corporation's methods of cost allocation and such  
3 other information and policies reasonably required by the commission to ensure  
4 compliance with this article and the terms and conditions ordered by the commission.

5 Such manual shall:

6 (i) Establish rules for the pricing of transactions between an electric membership  
7 corporation and its gas affiliate, including the transfer of assets between the two;

8 (ii) Provide that any loans from the electric membership corporation to its gas  
9 affiliate shall be at market rates, shall not reflect rates which may be obtained through  
10 the use of any tax exempt financing, and may not be tied directly to any loans from  
11 the federal or state government;

12 (iii) Require the electric membership corporation and its gas affiliate to maintain  
13 separate books of accounts and records which shall, subject to the commission's rules  
14 for treatment of trade secrets, be subject to production and inspection by the  
15 commission for the sole purpose of confirming compliance with this article, the cost  
16 allocation manual, and the terms and conditions of the gas affiliate's certificate; and

17 (iv) Require the annual filing of a statement with the commission certifying the  
18 compliance by the electric membership corporation and its gas affiliate with the  
19 approved cost allocation manual;

20 (C) Not charge any costs of the gas affiliate to the electricity customers of the electric  
21 membership corporation; and

22 (D) Require that any customer service that an electric membership corporation provides  
23 to its gas affiliate must also be offered to all marketers at the same rate and on the same  
24 terms and conditions as provided to the gas affiliate. Any such services provided to the  
25 gas affiliate or marketers must be on a strictly confidential basis, such that the electric  
26 membership corporation does not share information regarding one marketer with any  
27 other marketer, including an EMC gas affiliate; and

28 (2) To protect customer privacy and prevent the misuse of customer information, the  
29 terms and conditions ordered by the commission shall provide that no electric  
30 membership corporation shall release any proprietary customer information to its gas  
31 affiliate without obtaining prior verifiable authorization from the customer, as determined  
32 in accordance with rules established by the commission.

33 (c) The terms and conditions shall accommodate the organizational structures of electric  
34 membership corporations.

35 (d) To assure separate but coordinating governance of an electric membership corporation  
36 and its gas affiliate, the terms and conditions shall prohibit more than one-half of the

1 persons serving as members of the board of directors of a gas affiliate from at the same  
2 time serving on the board of directors of an electric membership corporation.

3 (e) Notwithstanding anything to the contrary contained in this Code section, the  
4 commission shall make accommodation for the specific legal requirements imposed by  
5 state or federal laws applicable to electric membership corporations and other  
6 cooperatives."

## 7 SECTION 9.

8 Said article is further amended by striking Code Section 46-4-154, relating to notice of  
9 election, unbundling, rates, and application requirements, and inserting in lieu thereof the  
10 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) After notice and hearing, establish ~~Establish~~ rates for firm distribution service using  
20 the straight fixed variable a reasonable ~~the straight fixed variable~~ method of rate design, ~~subject to the provisions~~  
21 ~~of subsection (b) of this Code section; which may, at the commission's discretion, include~~  
22 a straight fixed variable method of rate design; provided, however, that a consumer shall  
23 not be required to pay a fee for distribution service during any billing period when the  
24 consumer's meter is turned off;

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

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

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

32 ~~(b) If the commission determines that inefficiencies in the rate design or other causes in~~  
33 ~~existence immediately preceding the implementation of the straight fixed variable rate~~  
34 ~~design will result in a material fluctuation of rates for firm distribution service to a group~~  
35 ~~of retail customers upon implementation of straight fixed variable rate design, the~~  
36 ~~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.~~

9 ~~However, 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 that~~  
 13 ~~would be recovered by the electing distribution company under the straight fixed variable~~  
 14 ~~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~~ 98 percent of  
 21 the 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 (e) The commission shall establish a surcharge on all volumes of gas received on an  
 15 interruptible basis by customers over the electing distribution company's distribution  
 16 system in an amount not to exceed 1 percent of the index price for natural gas as published  
 17 the first of the month in *Inside FERC's Gas Market Report* index of spot gas delivered to  
 18 pipelines for Southern Natural Gas Company (Louisiana), calculated monthly on the basis  
 19 of decatherms delivered to each such customer on an interruptible basis. The electing  
 20 distribution company or marketer providing distribution service to an interruptible  
 21 customer shall be responsible for remitting such amount to the universal service fund."

## 22 SECTION 10.

23 Said article is further amended in Code Section 46-4-155, relating to regulation of unbundled  
 24 services and capacity supply plans, by striking subsection (e) and inserting in lieu thereof the  
 25 following:

26 "(e)(1) As used in this subsection, the term 'interstate capacity assets' means interstate  
 27 transportation and out-of-state gas storage capacity.

28 (2) If, pursuant to the provisions of this article, the rates for commodity sales service of  
 29 an electing distribution company within a delivery group or groups become no longer  
 30 subject to the approval of the commission nor to the provisions of Code Section  
 31 46-2-26.5, the electing distribution company nevertheless shall continue to be responsible  
 32 for acquiring and contracting for the interstate capacity assets necessary for gas to be  
 33 made available on its system, whether directly or by assignment to marketers, for firm  
 34 distribution service to retail customers within such delivery group or groups unless  
 35 determined otherwise by the commission in accordance with this subsection.

1 (3) At least every third year following the date when the rates for commodity sales  
2 service within a delivery group or groups become no longer subject to commission  
3 approval nor to the provisions of Code Section 46-2-26.5, the electing distribution  
4 company shall file, on or before August 1 of such year, a capacity supply plan which  
5 designates the array of available interstate capacity assets selected by the electing  
6 distribution company for the purpose of making gas available on its system for firm  
7 distribution service to retail customers in such delivery group or groups.

8 (4) Not less than ten days after any such filing by an electing distribution company, the  
9 commission shall conduct a public hearing on the filing. The electing distribution  
10 company's testimony shall be under oath and shall, with any corrections thereto,  
11 constitute the electing distribution company's affirmative case. At any hearing conducted  
12 pursuant to this subsection, the burden of proof to show that the proposed capacity supply  
13 plan is appropriate shall be upon the electing distribution company.

14 (5) Following such a hearing, the commission shall issue an order approving the capacity  
15 supply plan filed by the electing distribution company or adopting a capacity supply plan  
16 for the electing distribution company that the commission deems appropriate. Should the  
17 commission fail or refuse to issue an order by the ~~forty-fifth~~ ninetieth day after the  
18 electing distribution company's filing which either approves the capacity supply plan  
19 filed by the electing distribution company or adopts a different capacity supply plan for  
20 the electing distribution company, the capacity supply plan proposed by the electing  
21 distribution company shall thereupon be deemed approved by operation of law.

22 (6) Any capacity supply plan approved or adopted by the commission shall:

23 (A) Specify the range of the requirements to be supplied by interstate capacity assets;

24 (B) Describe the array of interstate capacity assets selected by the electing distribution  
25 company to meet such requirements;

26 (C) Describe the criteria of the electing distribution company for entering into contracts  
27 under such array of interstate capacity assets from time to time to meet such  
28 requirements; provided, however, that a capacity supply plan approved or adopted by  
29 the commission shall not prescribe the individual contracts to be executed by the  
30 electing distribution company in order to implement such plan; and

31 (D) Specify the portion of the interstate capacity assets which must be retained and  
32 utilized by the electing distribution company in order to manage and operate its system.

33 (7) When interstate capacity assets that are contained in a capacity supply plan approved  
34 or adopted by the commission are allocated by the electing distribution company to a  
35 marketer pursuant to the provisions of this article, all of the costs of the interstate capacity  
36 assets thus allocated shall be borne by such marketer.

1 (8) The provisions of law relating to parties, intervention, and discovery in proceedings  
2 before the commission shall apply with respect to proceedings under this subsection.

3 (9) All commission orders issued pursuant to this subsection shall contain the  
4 commission's findings of fact and conclusions of law upon which the commission's  
5 action is based. Any such order shall be deemed a final order subject to judicial review  
6 under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

7 (10) Prior to the approval or adoption of a capacity supply plan pursuant to this  
8 subsection, the interstate capacity assets of the electing distribution company in the most  
9 current gas supply plan of such company approved or adopted by the commission  
10 pursuant to the provisions of Code Section 46-2-26.5 shall be treated as a capacity supply  
11 plan that is approved or adopted by the commission for purposes of this subsection.

12 (11) After a capacity supply plan has become effective pursuant to provisions of this  
13 subsection as a result of a proceeding before the commission, the commission shall retain  
14 jurisdiction of the proceeding for the purposes set forth in this subsection. Upon  
15 application of the affected electing distribution company or the consumers' utility counsel  
16 division of the Governor's Office of Consumer Affairs or upon its own initiative, the  
17 commission may, after affording due notice and opportunity for hearing to the affected  
18 electing distribution company and the intervenors in the proceeding, amend the capacity  
19 supply plan of the affected electing distribution company. Any such amendment shall not  
20 adversely affect rights under any contract entered into pursuant to such plan without the  
21 consent of the parties to such contracts. If an amendment proceeding is initiated by the  
22 affected electing distribution company and the commission fails or refuses to issue an  
23 order by the ~~forty-fifth~~ ninetieth day after the electing distribution company's filing, the  
24 amended capacity supply plan proposed by the electing distribution company shall  
25 thereupon be deemed approved by operation of law.

26 (12) After an electing distribution company has no obligation to provide commodity  
27 sales service to retail customers pursuant to the provisions of Code Section 46-4-156 and  
28 upon the petition of any interested person and after notice and opportunity for hearing  
29 afforded to the electing distribution company, all parties to the most current proceeding  
30 establishing a capacity supply plan for such electing distribution company, the  
31 consumers' utility counsel division of the Governor's Office of Consumer Affairs, and  
32 all marketers who have been issued a certificate of authority pursuant to Code Section  
33 46-4-153, the commission may issue an order eliminating the responsibility of the  
34 electing distribution company for acquiring and contracting for interstate capacity assets  
35 necessary for gas to be made available on its system as well as the obligation of such  
36 electing distribution company to file any further capacity supply plans with the

1 commission pursuant to the provisions of this subsection, if the commission determines  
2 that:

3 (A) Marketers can and will secure adequate and reliable interstate capacity assets  
4 necessary to make gas available on the system of the electing distribution company for  
5 service to firm retail customers;

6 (B) Adequate, reliable, and economical interstate capacity assets will not be diverted  
7 from use for service to retail customers in Georgia;

8 (C) There is a competitive, highly flexible, and reasonably accessible market for  
9 interstate capacity assets for service to retail customers in Georgia;

10 (D) Elimination of such responsibility on the part of the electing distribution company  
11 would not adversely affect competition for natural gas service to retail customers in  
12 Georgia; and

13 (E) Elimination of such responsibility on the part of the electing distribution company  
14 is otherwise in the public interest.

15 If the commission eliminates the responsibility of an electing distribution company for  
16 acquiring and contracting for interstate capacity assets and filing further capacity supply  
17 plans in accordance with this subsection, the commission shall annually review the  
18 assignment of interstate capacity assets.

19 (13) Notwithstanding any other provisions in this Code section to the contrary, no later  
20 than July 1, 2003, the commission shall, after notice afforded to the electing distribution  
21 company, the consumers' utility counsel division of the Governor's Office of Consumer  
22 Affairs, and all marketers who have been issued a certificate of authority in accordance  
23 with Code Section 46-4-153, hold a hearing regarding a plan for direct assignment of  
24 interstate assets. After such hearing, the commission may adopt a plan for direct  
25 assignment of interstate capacity assets held by the electing distribution company, except  
26 for those interstate capacity assets reasonably required for balancing. If adopted, the plan  
27 shall provide for interstate capacity assets to be assigned to certificated marketers who  
28 desire assignment and who are qualified technically and financially to manage interstate  
29 capacity assets. Marketers who accept assignment of interstate capacity assets shall be  
30 required by the commission to use such assets primarily to serve retail customers in  
31 Georgia and shall be permitted to use such assets outside Georgia so long as the  
32 reliability of the system is not compromised. Thereafter, the commission shall annually  
33 review the assignment of interstate capacity assets."

#### 34 SECTION 11.

35 Said article is further amended in Code Section 46-4-156, relating to customer assignment;  
36 determination of adequate market conditions; notice to customers; petition proceedings;

1 changes in marketers; and deposits, by striking paragraph (3) of subsection (b) and  
2 subsections (g) and (h) and inserting in lieu thereof the following:

3 "(3) Subject to subsection (d) of this Code section and provided that all initial  
4 assignments of rights to intrastate capacity for firm distribution service, interstate  
5 pipeline, and underground storage by an electing distribution company to marketers, as  
6 necessary for marketers to initiate service to all firm retail customers with which they  
7 have contracted or to which they have been assigned as provided for in this Code section,  
8 whether by allocation pursuant to a tariff approved under paragraph (3) or (4) of  
9 subsection ~~(d)~~ (c) of Code Section 46-4-154 or by contract, are effective pursuant to the  
10 terms of such tariff or contract and, provided, further, that all initial assignments of rights  
11 under firm wellhead gas supply contracts by an electing distribution company to  
12 marketers, as necessary for marketers to initiate service to all firm retail customers with  
13 which they have contracted or to which they have been assigned as provided for in this  
14 Code section, by allocation pursuant to a tariff approved under Code Section 46-4-154  
15 are effective pursuant to the terms of such tariff, an electing distribution company has no  
16 obligation to provide commodity sales service to retail customers."

17 "(g) Notwithstanding any other provision of this article, a ~~retail customer~~ consumer shall  
18 be authorized to change marketers at least once a year without incurring any service charge  
19 relating to such change to an alternative marketer. No marketer shall charge any consumer  
20 a service charge relating to a change to an alternative marketer if such consumer has not  
21 changed marketers within the previous 12 months. Except as otherwise provided in a  
22 legally binding contract between the marketer and the consumer, no marketer shall require  
23 a notice period from a consumer before changing such consumer's service to an alternative  
24 marketer. The commission shall investigate methods to expedite the electing distribution  
25 company's processes for switching consumers to the consumers' preferred marketer and  
26 may enter appropriate orders to expedite switching consumers.

27 (h) A marketer may require a deposit, not to exceed \$150.00, from a ~~retail customer~~  
28 consumer prior to providing gas distribution service to such ~~customer~~; provided, however,  
29 ~~that such deposit cannot exceed 100 percent of the customer's average monthly bill based~~  
30 ~~on past customer usage and current marketer prices~~ consumer. A marketer is not  
31 authorized to require an increase in the deposit of a consumer if such consumer has paid  
32 all bills from the marketer in a timely manner for a period of three months. A marketer  
33 shall refund to any consumer who is not currently delinquent on payments to the marketer  
34 any deposit amount exceeding \$150.00 within 30 days following the effective date of this  
35 subsection. In any case where a marketer has required a deposit from a ~~retail customer~~  
36 consumer and such ~~customer~~ consumer has paid all bills from the marketer in a timely  
37 manner for a period of six months, the marketer shall be required to refund the deposit to

1 the ~~customer~~ consumer within 60 days. In any event, a deposit shall be refunded to a ~~retail~~  
 2 ~~customer~~ consumer within 60 days of the date that a ~~retail customer~~ such consumer  
 3 changes marketers or discontinues service, provided ~~the retail customer~~ that such consumer  
 4 has satisfied all of his or her outstanding financial obligations to the marketer."

## 5 SECTION 12.

6 Said article is further amended by striking Code Section 46-4-157, relating to temporary  
 7 directives, and inserting in lieu thereof the following:

8 "46-4-157.

9 (a) If, in an expedited hearing pursuant to the provisions of Chapter 13 of Title 50, the  
 10 'Georgia Administrative Procedure Act':

11 (1) The commission determines for a specific delivery group, as to which the  
 12 commission has issued an order pursuant to subsection (b) of Code Section 46-4-156, that  
 13 the prices for natural gas paid by firm retail customers in such delivery group are not  
 14 constrained by market forces and are significantly higher than such prices would be if  
 15 they were constrained by market forces; or

16 (2) The commission determines for a specific delivery group, as to which the  
 17 commission has not issued an order pursuant to subsection (b) of Code Section 46-4-156,  
 18 that the prices charged by an electing distribution company to ~~residential customers~~  
 19 consumers for commodity sales services, which prices have not been approved by the  
 20 commission pursuant to Code Section 46-2-26.5, are generally not constrained by market  
 21 forces and are significantly higher than such prices would be if they were constrained by  
 22 market forces,

23 then the commission, on an emergency basis, may by order temporarily impose such  
 24 directives on gas companies subject to its jurisdiction as are required to protect the interests  
 25 of firm retail customers in such delivery group including but not limited to price  
 26 regulations and the imposition upon the electing distribution company of the obligation to  
 27 serve retail customers in such delivery group under the same or similar conditions to those  
 28 under which such customers were served prior to customer assignment in such delivery  
 29 group. In no event shall such emergency directives extend beyond the first day of July  
 30 immediately following the next full annual session of the General Assembly after the  
 31 imposition of such directives. In its order the commission shall provide for recovery of all  
 32 costs reasonably incurred by the electing distribution company in complying with the  
 33 directives. Any such directives shall be drawn as narrowly as possible to accomplish the  
 34 purpose of protecting the public on an interim basis. No such directive shall impose any  
 35 condition upon the electing distribution company which unreasonably burdens the  
 36 company. Such directives shall be immediately reviewable in the Superior Court of Fulton

1 County in the same manner and subject to the same procedures as the review of any other  
 2 contested case under the provisions of Code Section 50-13-19. ~~The provisions of this Code~~  
 3 ~~section shall not apply to a delivery group for which customer assignment occurred more~~  
 4 ~~than four years prior to the date of notice of the expedited hearing.~~

5 ~~(b) If, in an expedited hearing pursuant to the provisions of Chapter 13 of Title 50, the~~  
 6 ~~'Georgia Administrative Procedure Act,' the commission determines that market conditions~~  
 7 ~~are no longer competitive, then the commission, on an emergency basis, may by order~~  
 8 ~~temporarily impose such directives on marketers as are required to protect the interests of~~  
 9 ~~retail customers in the state, including, but not limited to, price regulations on the~~  
 10 ~~marketers. For purposes of this subsection, market conditions shall be considered~~  
 11 ~~competitive as long as there are at least three marketers soliciting and providing~~  
 12 ~~distribution services to residential and small business customers in this state; provided,~~  
 13 ~~however, that, in any case where there are three or less marketers soliciting and providing~~  
 14 ~~distribution services to residential and small business customers in this state, market~~  
 15 ~~conditions shall not be considered competitive if the commission upon clear and~~  
 16 ~~convincing evidence determines that as a result of collusion among such marketers, prices~~  
 17 ~~for natural gas paid by retail customers are not being adequately constrained by market~~  
 18 ~~forces and are significantly higher than such prices would be if they were constrained by~~  
 19 ~~market forces. In no event shall such emergency directives extend beyond the first day of~~  
 20 ~~July immediately following the next full annual session of the General Assembly after the~~  
 21 ~~imposition of such directives. Any such directives shall be drawn as narrowly as possible~~  
 22 ~~to accomplish the purpose of protecting the public on an interim basis. Such directives shall~~  
 23 ~~be immediately reviewable in the Superior Court of Fulton County in the same manner and~~  
 24 ~~subject to the same procedures as the review of any other contested case under the~~  
 25 ~~provisions of Code Section 50-13-19.~~

26 (b) If, in an expedited hearing pursuant to the provisions of Chapter 13 of Title 50, the  
 27 'Georgia Administrative Procedure Act,' the commission makes any of the determinations  
 28 described in subsection (c), (d), or (e) of this Code section, the commission may, on a  
 29 temporary basis, by order impose on marketers such directives as are required to protect  
 30 the interest of retail customers in a specific delivery group, including but not limited to  
 31 price regulations. In no event shall such emergency directives extend beyond the first day  
 32 of July in the year immediately following imposition of such directives. Any such  
 33 directives shall be drawn as narrowly as possible to accomplish the purpose of protecting  
 34 the public on an interim basis. Such directives shall be immediately reviewable in the  
 35 Superior Court of Fulton County in the same manner and subject to the same procedures  
 36 as the review of any other contested case under the provisions of Code Section 50-13-19.

1 (c) Upon determination by the commission that market conditions are no longer  
 2 competitive, the commission may impose directives as described in subsection (b) of this  
 3 Code section. For purposes of this subsection, market conditions shall not be considered  
 4 competitive if more than 90 percent of retail customers in a specific delivery group are  
 5 served by three or fewer marketers.

6 (d) Upon determination by the commission that prices paid by retail customers for natural  
 7 gas in a specific delivery group are not constrained by market forces and are significantly  
 8 higher than such prices would be if they were constrained by market forces, the  
 9 commission may impose directives as described in subsection (b) of this Code section. For  
 10 purposes of this subsection, prices for natural gas shall be considered constrained by  
 11 market forces whenever marketers who serve in the aggregate 50 percent of the retail  
 12 market in the applicable delivery group are charging, on average, retail prices that are  
 13 within 30¢ per therm of the index prices for natural gas as published in *Inside FERC's Gas*  
 14 *Market Report* or as determined by trading on the New York Mercantile Exchange, plus  
 15 all applicable interstate pipeline and storage charges including all demand and commodity  
 16 costs, as determined by the commission.

17 (e) If the commission determines upon clear and convincing evidence that market  
 18 conditions are no longer competitive within a specific delivery group, the commission may  
 19 impose directives as described in subsection (b) of this Code section. For purposes of this  
 20 subsection, market conditions shall not be considered competitive if collusion between two  
 21 marketers or collusion among more than two marketers has resulted in fixing prices for  
 22 more than 50 percent of the retail customers in a specific delivery group."

### 23 SECTION 13.

24 Said article is further amended in Code Section 46-4-158, relating to the obligations of an  
 25 electing distribution company, by striking subsection (a) and inserting in lieu thereof the  
 26 following:

27 "(a) An electing distribution company which provides firm distribution service under this  
 28 article must:

29 (1) Offer an allocation of such distribution service to marketers separately from any  
 30 commodity sales service or other service;

31 (2) Provide such allocation of such distribution service to marketers without undue  
 32 discrimination or preference, including undue discrimination or preference in the quality  
 33 of service provided, the duration of service, the categories, prices, or volumes of natural  
 34 gas to be distributed, customer classification, or other undue discrimination or preference  
 35 of any kind; and

1 (3) Provide all marketers with equal and timely access to information relevant to the  
 2 availability of such service, including without limitation the availability of capacity at  
 3 delivery points, through the use of an electronic bulletin board; and

4 (4) Cooperate with each certificated marketer and each regulated provider of natural gas  
 5 to achieve the intentions of this article set out in subsection (b) of Code Section  
 6 46-4-151."

#### 7 **SECTION 14.**

8 Said article is further amended by inserting new Code sections to be designated Code  
 9 Sections 46-4-158.1 through 46-4-158.4 to read as follows:

10 "46-4-158.1.

11 (a) Not later than September 1, 2002, the commission shall promulgate rules and  
 12 regulations to establish service quality standards for each electing distribution company,  
 13 including, but not limited to, minimal performance standards for posting data on the  
 14 electronic bulletin board; meter reading; meter turn-ons and turn-offs; forecasting; call  
 15 center response times; lost and unaccounted for natural gas; acquiring and managing  
 16 interstate capacity assets, including retained storage; and any other service quality  
 17 standards deemed necessary by the commission.

18 (b) Each electing distribution company shall file reports with the commission showing its  
 19 performance with regard to service quality standards established in accordance with this  
 20 Code section. Such reports shall be filed at least quarterly, or on a more frequent basis if  
 21 ordered by the commission.

22 (c) Failure to comply with service quality standards established in accordance with this  
 23 Code section shall subject an electing distribution company to fines as determined by the  
 24 commission. Fines assessed under this subsection shall be payable to the universal service  
 25 fund.

26 (d) At least annually the commission shall conduct a proceeding to review the electing  
 27 distribution company's compliance with the service quality standards.

28 (e) If the commission determines that an electing distribution company has failed to  
 29 satisfactorily meet the performance standards for system forecasting, including setting the  
 30 daily supply requirement and the marketer firm obligation, or has otherwise demonstrated  
 31 an inability to perform such function properly, then the commission may enter an order  
 32 relieving the electing distribution company of its system forecasting responsibilities and  
 33 may establish a competitive request for proposal process to select an independent entity  
 34 with the technical and financial ability to perform the role of system forecasting, including  
 35 setting the daily supply requirement and the marketer firm obligation. The agreement for  
 36 system forecasting shall include standards for evaluating the performance of the forecaster

1 and for awarding incentives for superior performance and imposing disincentives for  
 2 unsatisfactory performance. The commission shall establish an appropriate mechanism to  
 3 recover the cost of performing such functions.

4 (f) If the commission determines that the public interest would be served thereby, the  
 5 commission may enter an order establishing a competitive request for proposal process to  
 6 select an independent auditor or auditors for the purpose of examining:

7 (1) The daily, monthly, and annual accounting of transactions among each electing  
 8 distribution company, its affiliated companies, and certificated marketers; and

9 (2) Compliance with the provisions of subsections (b) and (c) of Code Section 46-4-159.

10 (g) Any independent auditor selected in accordance with subsection (f) of this Code  
 11 section shall prepare a semiannual audit report to the commission. Unless a written  
 12 objection clearly specifying one or more errors or inaccuracies in the audit report is filed  
 13 within ten days after the audit report is filed with the commission, the audit report shall be  
 14 accepted by the commission. If an objection is filed, the commission shall conduct an  
 15 expedited hearing within ten days after the objection is filed to determine whether to accept  
 16 the audit report. A final decision shall be issued five days after such a hearing. An audit  
 17 report, along with its status as accepted or not accepted by the commission, shall be  
 18 admissible in any litigation relating to transactions described or evaluated in the audit  
 19 report.

20 (h) Sale of gas held in storage for a marketer by an electing distribution company shall be  
 21 prohibited.

22 46-4-158.2.

23 The commission shall by September 1, 2002, adopt rules governing a marketer's terms of  
 24 service for natural gas consumers. Such rules shall provide, without limitation, that:

25 (1) Each retail natural gas marketer shall establish policies and procedures for handling  
 26 billing disputes and requests for payment arrangements, which must be approved by the  
 27 commission;

28 (2) A marketer's advertised prices shall reflect the prices in disclosure statements and  
 29 billed prices and shall be presented in the standard pricing unit of the electing distribution  
 30 company;

31 (3) The consumer shall have a right to contact the commission and the consumers' utility  
 32 counsel division of the Governor's Office of Consumer Affairs if he or she is not satisfied  
 33 with the response of the marketer;

34 (4) Marketers shall provide all consumers with a three-day right of rescission following  
 35 the receipt of the disclosure statement, which shall be provided to consumers at times

1 specified in rules and regulations of the commission. Consumers may cancel an  
2 agreement in writing or electronically by contacting the marketer;

3 (5) Whenever a marketer offers a fixed term agreement and the expiration date of such  
4 agreement is approaching, or whenever a marketer proposes to change its terms of service  
5 under any type of agreement, the marketer shall provide written notification to the natural  
6 gas consumer, clearly explaining the consumer's options at that point, including, but not  
7 limited to, the option to seek another marketer;

8 (6) A marketer shall not charge cancellation fees to a low-income residential consumer  
9 seeking service from the regulated provider;

10 (7) Gas service to a consumer shall be disconnected only for failure to pay for service  
11 from the consumer's current marketer. A marketer may not request disconnection of  
12 service for nonpayment of a bill which was not sent to the consumer in a timely manner.  
13 Every marketer shall be required to offer at least one reasonable payment arrangement  
14 to a consumer prior to requesting that such consumer be disconnected for failure to pay.  
15 Disconnection of service to a consumer is authorized no earlier than 15 days after a notice  
16 that service will be disconnected;

17 (8) Marketers shall be prohibited from sending estimated bills to natural gas consumers;  
18 and

19 (9) No marketer shall be authorized to prevent a consumer from obtaining distribution  
20 and commodity sales service from another marketer or provider.

21 46-4-158.3.

22 The commission shall, by September 1, 2002, adopt rules and regulations requiring  
23 marketers which provide firm distribution service under this article to provide adequate and  
24 accurate consumer information to enable consumers to make informed choices regarding  
25 the purchase of natural gas services. Such rules shall provide, without limitation, that:

26 (1) A disclosure statement shall be provided to consumers in an understandable format  
27 that enables such consumers to compare prices and services on a uniform basis. Rules  
28 adopted by the commission shall provide when disclosure statements shall be provided  
29 to consumers. Such disclosure statements shall include, but shall not be limited to, the  
30 following:

31 (A) For fixed rate charges for natural gas service, a clear disclosure of the components  
32 of the fixed rate, the actual prices charged by the marketer and by the electing  
33 distribution company, presented in a single standard pricing unit which includes any  
34 charges imposed by the marketer, so that the consumer can compare rates among  
35 marketers. This disclosure shall not include state and local sales taxes. The standard  
36 pricing disclosure unit must include all recurring monthly charges;

1 (B) For variable rate charges for natural gas service, a clear and understandable  
 2 explanation of the factors that will cause the price to vary and how often the price can  
 3 change, the starting price, and the ceiling price, if any, so that the consumer can  
 4 compare rates among marketers. This disclosure shall not include state and local sales  
 5 taxes. The standard pricing disclosure unit must include all recurring monthly charges;

6 (C) A statement that the standard unit price does not include state and local taxes or  
 7 distribution charges imposed by the electing distribution company;

8 (D) The length of the agreement, including the starting date and expiration date, if  
 9 applicable;

10 (E) The billing interval and any late payment fees;

11 (F) The marketer's credit, deposit, and collection policies and procedures;

12 (G) How to contact the marketer for information or complaints;

13 (H) A statement of the natural gas consumer's right to contact the commission and the  
 14 consumers' utility counsel division of the Governor's Office of Consumer Affairs if he  
 15 or she is not satisfied with the response of the marketer, including the local and toll-free  
 16 telephone numbers of these agencies;

17 (I) The division name and telephone number for information regarding heating  
 18 assistance administered by the Department of Human Resources;

19 (J) The following statement:

20 'A consumer shall have a three-day right of rescission following the receipt of this  
 21 disclosure at the time of initiating service or when informed of a change in terms or  
 22 conditions. You, the consumer, may cancel in writing or electronically by contacting  
 23 the marketer.';

24 (K) The following statement:

25 'If you have a fixed term agreement with us and it is approaching the expiration date,  
 26 or whenever we propose to change our terms of service in any type of agreement, you  
 27 will receive written notification from us prior to the date of expiration of or change  
 28 to the agreement. We will explain your options to you in this advance notification.';

29 (L) A statement setting forth the requirements of paragraphs (6) through (9) of Code  
 30 Section 46-4-158.2; and

31 (M) A statement that deposits shall not exceed \$150.00; and

32 (2) Natural gas consumers' bills shall be accurate and understandable and shall contain  
 33 sufficient information for a consumer to compute and compare the total cost of  
 34 competitive retail natural gas services. Such bills shall include, but not be limited to, the  
 35 following:

36 (A) The consumer's name, billing address, service address, and natural gas company  
 37 account number;

1 (B) The dates of service covered by the bill, an itemization of each type of competitive  
 2 natural gas service covered by the bill, any related billing components, the charge for  
 3 each type of natural gas service, and any other information the consumer would need  
 4 to recalculate the bill for accuracy;

5 (C) The applicable billing determinants, including beginning meter reading, ending  
 6 meter reading, multipliers, and any other consumption adjustments;

7 (D) The amount billed for the current period, any unpaid amounts due from previous  
 8 periods, any payments or credits applied to the consumer's account during the current  
 9 period, any late payment charges or gross and net charges, if applicable, and the total  
 10 amount due and payable;

11 (E) The due date for payment to keep the account current;

12 (F) The current balance of the account, if the natural gas consumer is billed according  
 13 to a budget plan;

14 (G) Options and instructions on how the natural gas consumer can make a payment;

15 (H) A toll-free or local telephone number and address for consumer billing questions  
 16 or complaints for any retail natural gas company whose charges appear on the bill;

17 (I) The applicable electing distribution company's 24 hour local or toll-free telephone  
 18 number for reporting service emergencies; and

19 (J) An explanation of any codes and abbreviations used.

20 46-4-158.4.

21 The commission shall review marketers' compliance with rules promulgated in accordance  
 22 with Code Sections 46-4-158.2 and 46-4-158.3."

### 23 SECTION 15.

24 Said article is further amended by striking Code Section 46-4-160, relating to marketers and  
 25 provision of information to the public regarding prices of marketers, and inserting in lieu  
 26 thereof the following:

27 "46-4-160.

28 (a) With respect to a marketer certificated pursuant to Code Section 46-4-153, the  
 29 commission shall have authority to:

30 (1) Adopt reasonable rules and regulations governing the certification of a marketer;

31 (2) Grant, modify, impose conditions upon, or revoke a certificate;

32 (3) Adopt reasonable rules governing service quality. In promulgating consumer  
 33 protection rules under this article, the commission shall, to the extent practicable, provide  
 34 for rules with a self-executing mechanism to resolve such complaints in a timely manner.

35 Such consumer protection rules shall encourage marketers to resolve complaints without

1 recourse to the commission and shall expedite the handling of those complaints that do  
 2 require action by the commission by providing, where practicable, set remedies and  
 3 penalties for violations of the rules;

4 (4) Resolve complaints against a marketer regarding that marketer's service;

5 (5) Adopt reasonable rules and regulations relating to billing practices of marketers and  
 6 information required on customers' bills. The commission shall require at a minimum  
 7 that bills specify the gas consumption amount, price per therm, distribution charges, and  
 8 any service charges. The commission shall prescribe performance standards for marketer  
 9 billing relating to accuracy and timeliness of customer bills;

10 (6) Adopt reasonable rules and regulations relating to minimum resources which  
 11 marketers are required to have in this state for customer service purposes. The rules and  
 12 regulations shall require a marketer to have and maintain the ability to process cash  
 13 payments from customers in this state. The rules and regulations shall provide  
 14 procedures relating to the handling and disposition of customer complaints; and

15 (7) Adopt reasonable rules and regulations requiring marketers to provide notification  
 16 to retail customers of or include with customer bills information relating to where  
 17 customers may obtain pricing information relative to gas marketers.

18 (b) Prior to the determination by the commission pursuant to Code Section 46-4-156 that  
 19 adequate market conditions exist within a delivery group, each marketer must separately  
 20 state on its bills to retail customers within the delivery group the charges for firm  
 21 distribution service and for commodity sales.

22 ~~(c) A marketer shall not refuse to sell gas to a potential firm retail customer within the~~  
 23 ~~territory covered by the marketer's certificate of authority if the sale can be made by the~~  
 24 ~~marketer pursuant to the rules for service authorized by the marketer's certificate of~~  
 25 ~~authority and upon terms that will provide the marketer with just and adequate~~  
 26 ~~compensation. The~~ Except as otherwise provided by this article, the price at which a  
 27 marketer sells gas shall not be ~~fixed~~ regulated by the commission.

28 (d) The commission and the consumers' utility counsel division of the Governor's Office  
 29 of Consumer Affairs shall have access to the books and records of marketers as may be  
 30 necessary to ensure compliance with the provisions of this article and with the  
 31 commission's rules and regulations promulgated under this article.

32 (e) Except as otherwise provided in this article, certification of a person as a marketer by  
 33 the commission pursuant to Code Section 46-4-153 does not subject the person to the  
 34 jurisdiction of the commission under this title, including without limitation the provisions  
 35 of Article 2 of Chapter 2 of this title.

1 (f) The provisions of Article 3 of Chapter 2 of this title shall apply to an investigation or  
 2 hearing regarding a marketer. The provisions of Articles 4 and 5 of Chapter 2 of this title  
 3 shall apply to a marketer.

4 ~~(g) The provisions of Part 2 of Article 15 of Chapter 1 of Title 10, the 'Fair Business  
 5 Practices Act of 1975,' shall apply to a marketer.~~

6 ~~(h)~~(g) The commission, subject to receiving state funds for such purpose, is required to  
 7 have published at least quarterly in newspapers throughout the state a summary of the price  
 8 per therm and any other amounts charged to retail customers by each marketer operating  
 9 in this state and any additional information which the commission deems appropriate to  
 10 assist customers in making decisions regarding choice of a marketer. In addition, the  
 11 commission shall make such information available to Georgia Public Telecommunications  
 12 (GPTV) under the jurisdiction of the Georgia Public Telecommunications Commission  
 13 which will provide such information to the general public at a designated time at least once  
 14 a month.

15 ~~(i)~~(h) A marketer shall render a bill to retail customers for services within 30 days of the  
 16 date following the actual monthly meter reading. ~~A 15 day grace period is permitted prior  
 17 to the application of any penalty.~~ A marketer's bill shall utilize the results of the actual  
 18 meter reading. The price for natural gas billed to a natural gas consumer shall not exceed  
 19 the marketer's published price effective at the beginning of the consumer's billing cycle.  
 20 A marketer shall allow the natural gas consumer a reasonable period of time to pay the bill  
 21 from the date the consumer receives the bill, prior to the application of any late fees or  
 22 penalties. Marketers shall not impose unreasonable late fees or penalties and in no event  
 23 shall any such fees or penalties exceed 1.5 percent of the past due balance.

24 ~~(j)~~(i) Any marketer which willfully violates any provision of this Code section or any duly  
 25 promulgated rules or regulations issued under this Code section or which fails, neglects,  
 26 or refuses to comply with any order of the commission after notice thereof shall be liable  
 27 for any penalties authorized under Code Section 46-2-91.

28 (j) As used in this subsection, the phrase 'terms and conditions' does not include price. At  
 29 least 30 days prior to the effective date of any changes in the terms and conditions for  
 30 service authorized by the marketer's certificate of authority, a marketer shall file such  
 31 changes with the commission. Such changes to the terms and conditions of service shall  
 32 go into effect on the effective date proposed by the marketer; provided, however, that the  
 33 commission shall be authorized to suspend the effective date of the proposed changes for  
 34 up to 90 days if it appears to the commission that the proposed terms and conditions are  
 35 unconscionable or are unfair, deceptive, misleading, or confusing to consumers. If the  
 36 commission does not issue a final decision on the proposed terms and conditions of service  
 37 within the 90 day suspension period, the proposed changes shall be deemed approved.

1 (k) Any consumer determined by the commission to be the victim of slamming shall be  
 2 able to switch back to his or her desired marketer without any charge. The commission  
 3 shall determine the rate per therm to be paid by such a consumer during the period such a  
 4 consumer was switched without his or her consent to a different marketer, and any refund  
 5 owed to such a consumer by the marketer who switched the consumer without his or her  
 6 consent shall be paid within 30 days of the date the commission determined the consumer  
 7 was a victim of slamming. No marketer responsible for slamming a consumer who is  
 8 determined to be a victim of slamming shall report to a credit reporting agency any moneys  
 9 owed by such a consumer to such marketer; any marketer who violates the prohibition set  
 10 out in this sentence shall be required by the commission to pay such a consumer \$1,000.00  
 11 for each such prohibited report."

12

### SECTION 16.

13 Said article is further amended by inserting new Code sections to be designated Code  
 14 Sections 46-4-160.3 through 46-4-160.5 to read as follows:

15 "46-4-160.3.

16 In order to assist low-income residential consumers, the commission may establish a  
 17 system by which each marketer's customers may make voluntary contributions to assist  
 18 low-income consumers. Contributions received by a marketer shall be deposited in the  
 19 universal service fund to be used to assist low-income consumers.

20 46-4-160.4.

21 (a) There is created the Natural Gas Consumer Education Advisory Board, whose duty it  
 22 shall be to advise and make recommendations to the director of the consumers' utility  
 23 counsel division of the Governor's Office of Consumer Affairs. The board shall consist  
 24 of five members who shall be appointed by the Governor and shall include at least one  
 25 representative for each of the following: marketers, natural gas consumers, and electing  
 26 distribution companies. There shall be one member appointed from each commission  
 27 electoral district. Board members shall serve at the pleasure of the Governor.

28 (b) The board shall elect its chairperson and shall convene upon the call of the  
 29 administrator at a time and place specified in writing by the administrator. Each member  
 30 of the board shall serve without pay but shall receive standard state per diem for expenses  
 31 and receive standard travel allowance while attending meetings and while in the discharge  
 32 of his or her responsibilities.

33 (c) The board shall assist the director in an advisory capacity only in carrying out the  
 34 duties and functions of such official concerning policy matters relating to the development

1 and implementation of state-wide education programs for natural gas consumers or  
2 consumers of any other utility that may be deregulated in the future.

3 46-4-160.5.

4 (a) Any natural gas consumer who is damaged by a marketer's violation of any provision  
5 of Code Section 46-4-160, any duly promulgated rules or regulations issued under such  
6 Code section, or any commission order shall be entitled to maintain a civil action and shall  
7 be entitled to recover actual damages sustained by the consumer, as well as incidental  
8 damages, consequential damages, reasonable attorney's fees, and court costs.

9 (b) Any violation of Code Section 46-4-160 or any duly promulgated rules or regulations  
10 issued under such Code section is declared to be a violation of Part 2 of Article 15 of  
11 Chapter 1 of Title 10, the 'Fair Business Practices Act of 1975.' Any remedy available  
12 under such Act shall be available to any natural gas consumer and any action by the  
13 administrator that such Act authorizes for a violation of such Act shall be authorized for  
14 violation of Code Section 46-4-160 or any duly promulgated rules or regulations issued  
15 under such Code section. This subsection shall not be construed to provide that other  
16 violations of this article or rules promulgated under this article are not violations of such  
17 Act.

18 (c) The provisions of this Code section shall apply to violations of subsections (g) and (h)  
19 of Code Section 46-4-156, Code Sections 46-4-158.2, 46-4-160.1, and 46-4-160.2, and  
20 substantial violations of Code Section 46-4-158.3."

## 21 **SECTION 17.**

22 Said article is further amended by striking Code Section 46-4-161, relating to the universal  
23 service fund, and inserting in lieu thereof the following:

24 "46-4-161.

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

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

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

31 (3) ~~Assisting low-income customers in times of emergency as determined by the~~  
32 ~~commission; and consumers of the regulated provider of natural gas in accordance with~~  
33 Code Section 46-4-166.

34 (4) ~~Providing energy conservation assistance to low-income customers in a fair and~~  
35 ~~equitable manner as determined by the commission; provided, however, that not more~~

1 ~~than 10 percent of the amount in the universal service fund shall be expended for such~~  
 2 ~~purpose in any calendar year.~~

3 (b)(1) The fund shall be administered by the commission under rules to be promulgated  
 4 by the commission in accordance with the provisions of this Code section. Prior to the  
 5 beginning of each fiscal year of the electing distribution company, the commission shall  
 6 determine the amount of the fund appropriate for such fiscal year. In making such  
 7 determination, the commission shall consider the following:

8 ~~(A) The amount required to provide appropriate compensation to marketers with~~  
 9 ~~respect to uncollectible accounts arising from commodity sales to firm retail customers;~~

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

13 ~~(C)(2) The amount required to assist low-income persons subject to price increases~~  
 14 ~~consumers of the regulated provider of natural gas in accordance with Code Section~~  
 15 ~~46-4-166.~~

16 ~~(2) Notwithstanding any other provisions of this Code section, the commission shall,~~  
 17 ~~pursuant to rules and regulations, administer and expend moneys in the fund primarily~~  
 18 ~~for the purpose provided in subparagraph (C) of paragraph (1) of this subsection for the~~  
 19 ~~24 months immediately succeeding April 27, 2001.~~

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, not to exceed  
 27 1 percent of the monthly charge to an individual customer for the volume of natural gas  
 28 used by the customer for the month, not including any charges for distribution,  
 29 transportation, ancillary service, or customer service; and

30 (4) Surcharges on customers receiving interruptible service over the electing distribution  
 31 company's distribution system imposed by the commission and directed to the universal  
 32 service fund in accordance with Code Section 46-4-154;

33 (5) Refunds of deposits required by marketers as a condition for service, if such refunds  
 34 have not been delivered to or claimed by the consumer within two years;

35 (6) Funds deposited by marketers in accordance with Code Section 46-4-160.3; and

36 ~~(4)(7) Any other payments to the fund provided by law.~~

1 ~~(d) Any amounts remaining in such fund at the end of a fiscal year shall be available for~~  
 2 ~~refund to retail customers in such manner as the commission shall deem equitable. The~~  
 3 balance at fiscal year end, whether positive or negative, ~~after such refund, if any,~~ shall  
 4 become the initial balance of the fund for the ensuing fiscal year and shall be considered  
 5 by the commission in making the determination required in subsection (b) of this Code  
 6 section.

7 (e) Moneys in the fund shall be deposited in a separate, interest-bearing escrow account  
 8 maintained by the electing distribution company at any state or federally chartered bank,  
 9 trust company, or savings and loan association located in this state. Upon application to the  
 10 commission, the commission shall order the distribution of an appropriate portion of such  
 11 moneys on a quarterly basis and in accordance with the provisions of this Code section.  
 12 Interest earned on moneys in the fund shall accrue to the benefit of the fund.

13 ~~(f) In determining whether to grant the application of a marketer for a distribution from the~~  
 14 ~~fund in whole or in part, the commission shall consider:~~

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

22 ~~(2) Whether the marketer pursued reasonable diligence in seeking to recover the~~  
 23 ~~uncollectable accounts; and~~

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

26 (f) Distributions to the regulated provider shall be made in accordance with Code Section  
 27 46-4-166.

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

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

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

35 (C) The projected initial service date of the new facilities, the estimated revenues to the  
 36 electing distribution company during the first five fiscal years following the initial

1 service date, and the estimated rate of return to the electing distribution company  
2 produced by such revenues during each such fiscal year;

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

6 (E) Whether the proposed new facility is in the public interest.

7 (2) In no event shall the distribution to an electing distribution company from the fund  
8 for facilities and service expansion during any fiscal year exceed 5 percent of the capital  
9 budget of such company for such fiscal year.

10 (3) Any investment in new facilities financed from the universal service fund shall be  
11 accounted for as a contribution in aid of construction."

### 12 SECTION 18.

13 Said article is further amended by striking in its entirety Code Section 46-4-164, relating to  
14 construction of the article, and inserting in lieu thereof the following:

15 "46-4-164.

16 (a) Nothing in this article shall be deemed to apply or impose requirements not otherwise  
17 existing on gas distribution companies owned by any county, municipality, other political  
18 subdivision, or governmental authority of this state; nor are the provisions of this article  
19 intended to increase or decrease the authority and jurisdiction of the commission with  
20 respect to the distribution, sale, or transportation of gas by any county, municipality, other  
21 political subdivision, or governmental authority of this state. Nothing in this article shall  
22 be construed to limit or otherwise affect the existing powers of municipal corporations or  
23 other political subdivisions of this state relating to the granting of franchises or the levying  
24 or imposition of taxes, fees, or charges.

25 (b) Notwithstanding any provision of law to the contrary, including, without limitation,  
26 Article 4 of Chapter 3 of this title, an electric membership corporation may make and  
27 maintain investments in, lend funds to, and guarantee the debts and obligations of an EMC  
28 gas affiliate in total not to exceed 15 percent of such electric membership corporation's net  
29 utility plant, excluding electric generation and transmission assets as defined by the Federal  
30 Energy Regulatory Commission Uniform System of Accounts in effect at the time of such  
31 investment, loan, or guarantee; and an EMC gas affiliate of an electric membership  
32 corporation organized and operating pursuant to Article 4 of Chapter 3 of this title may  
33 apply for and be granted a certificate of authority to provide any service as authorized  
34 under this article. The creation, capitalization, or provision of management for (1) an EMC  
35 gas affiliate engaged in activities subject to the provisions of this article and the rules and  
36 regulations established by the commission or (2) other persons providing customer services

1 shall be deemed to be among the purposes of an electric membership corporation as  
 2 specified in paragraphs (2) and (3) of Code Section 46-3-200. Nothing in this article shall  
 3 be deemed to increase or decrease the authority and jurisdiction of the commission with  
 4 respect to such electric membership corporation except as to gas activities undertaken by  
 5 the electric membership corporation or its EMC gas affiliate as authorized under this  
 6 chapter."

#### 7 **SECTION 19.**

8 Said article is further amended by inserting a new Code section to be designated Code  
 9 Section 46-4-166 to read as follows:

10 "46-4-166.

11 (a) By July 1, 2002, the commission shall select a regulated provider of natural gas to  
 12 serve:

13 (1) Group 1, low-income residential consumers; and

14 (2) Group 2, firm natural gas consumers:

15 (A) Whose credit or payment history was cited by a marketer as reason for refusal of  
 16 service; or

17 (B) Whose payment history was cited by the regulated provider as reason for transfer  
 18 from Group 1 to Group 2.

19 (b) The selection shall be made through a competitive request for proposal process.  
 20 Certificated marketers shall be eligible to submit proposals. Selection criteria for the  
 21 regulated provider shall include, but not be limited to, the following:

22 (1) Financial viability, as defined in Code Section 46-4-153;

23 (2) Technical expertise, as defined in Code Section 46-4-153;

24 (3) The amount of the proposed deposit requirements, proposed price structure,  
 25 proposed customer charge, and cost recovery;

26 (4) The terms and conditions proposed for transfers of consumers from Group 1 to Group  
 27 2 and from Group 2 to Group 1; and

28 (5) The terms and conditions proposed for termination of service for Group 1 consumers  
 29 and Group 2 consumers.

30 (c) If no proposals are filed with the commission to become the regulated provider of  
 31 natural gas, the commission shall designate the electing distribution company, or, if it  
 32 consents, any other gas or electric utility holding a certificate of public convenience and  
 33 necessity from the commission to serve as the regulated provider of natural gas. A  
 34 regulated provider who is not a certificated marketer shall not be authorized to provide  
 35 natural gas commodity service to any consumer not included in subsection (a) of this Code  
 36 section.

1 (d) The regulated provider selected by the commission shall establish two rates for  
2 consumers served by the regulated provider of natural gas, which rates shall be approved  
3 by the commission as a part of the selection process for the regulated provider:

4 (1) The rate for a low-income residential consumer shall be based upon actual  
5 commodity cost, a reasonable rate of return, and costs for transportation and distribution,  
6 if applicable. Any low-income residential consumer may transfer to the regulated  
7 provider without being required to pay in full any debt to a marketer for previous service  
8 and without termination in service due to failure to pay such a debt. The regulated  
9 provider shall have access to the universal service fund to recover bad debt arising from  
10 service to low-income residential consumers in accordance with rules and regulations  
11 promulgated by the commission and designed to encourage efficient debt collection  
12 practices by the regulated provider. The electing distribution company shall waive any  
13 base distribution charge for each low-income residential consumer whose age exceeds  
14 65 years. A low-income residential consumer served by the regulated provider at this rate  
15 shall be subject to transfer to Group 2 for failure to pay distribution or commodity  
16 charges under the terms and conditions specified in the proposal and accepted by the  
17 commission; and

18 (2) The rate for Group 2 consumers shall be set to incorporate risks associated with these  
19 customers. The regulated provider shall be authorized to terminate service to a Group 2  
20 consumer for failure to pay for commodity or distribution service. The regulated provider  
21 shall not have access to the universal service fund to recover bad debt arising from  
22 service to such consumers. A Group 2 consumer shall be eligible to transfer to Group 1  
23 if such a consumer is eligible by income for Group 1 and meets criteria specified in the  
24 proposal and accepted by the commission.

25 (e) The commission is authorized to promulgate rules and regulations to implement this  
26 Code section.

27 (f) The commission shall annually review the performance of the regulated provider. The  
28 commission shall utilize the process set forth in subsections (a) and (b) of this Code section  
29 to select a regulated provider of natural gas every two years. If the commission determines,  
30 in its discretion, that such an action is in the public interest, the commission may extend  
31 the service of a regulated provider for a third year, or may terminate the service of a  
32 regulated provider after one year."

### 33 **SECTION 20.**

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

1

**SECTION 21.**

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