

Senate Bill 217

By: Senators Hecht of the 34<sup>th</sup>, Dean of the 31<sup>st</sup>, Walker of the 22<sup>nd</sup>, Starr of the 44<sup>th</sup>, Thomas of the 2<sup>nd</sup>, Scott of the 36<sup>th</sup>, Brown of the 26<sup>th</sup>, Tate of the 38<sup>th</sup> and others

**AS PASSED SENATE**

**A BILL TO BE ENTITLED**

**AN ACT**

1 To amend Article 5 of Chapter 4 of Title 46 of the Official Code of Georgia Annotated,  
2 known as the "Natural Gas Competition and Deregulation Act," so as to provide that a retail  
3 customer shall be authorized to change marketers at least once a year without incurring any  
4 service charge relating to such change to an alternative marketer; to limit the amount of  
5 deposit that a marketer may require from a retail customer; to provide for refunds of deposits  
6 under certain conditions; to require the Public Service Commission to have published at least  
7 quarterly in newspapers throughout the state a summary of the price per therm and any other  
8 amounts charged to retail customers by each marketer operating in this state and any  
9 additional information which the commission deems appropriate to assist customers in  
10 making decisions regarding choice of a marketer; to authorize the Public Service  
11 Commission to adopt rules and regulations relating to pricing information applicable to gas  
12 marketers and billing practices and customer services of such marketers; to provide other  
13 billing requirements for marketers; to change the provisions relating to temporary directives;  
14 to authorize said commission to impose temporary directives on marketers under certain  
15 conditions; to provide that any marketer which willfully violates certain provisions of law  
16 or any duly promulgated rules or regulations issued under such laws or which fails, neglects,  
17 or refuses to comply with any order of the Public Service Commission after notice thereof  
18 shall be liable for any penalties authorized under Code Section 46-2-91; to provide that in  
19 any case where there is a dispute between a marketer and a retail customer concerning the  
20 amount of a gas bill, the marketer shall be required to confer by telephone or some other  
21 verifiable means with the retail customer to attempt to resolve such dispute; to prohibit a  
22 marketer from reporting the name of a retail customer to any consumer reporting agency until  
23 the marketer has conferred with the retail customer and has complied in all respects with  
24 certain applicable laws and regulations or has obtained a judgment against the retail  
25 customer; to provide that whenever a marketer discovers or has called to its attention a  
26 billing error or other mistake acknowledged or admitted to by the marketer and resulting in  
27 an overpayment by a retail customer, such marketer shall be required automatically and  
28 immediately to provide a credit or refund of the amount of the overpayment to the customer;

to prohibit a marketer from requiring a retail customer to whom it owes a credit or refund to submit in writing a request for such credit or refund before the marketer complies with the provisions of this Act; to change the provisions relating to universal service funds; to provide for additional purposes for such a fund; to provide for priority of payments from such fund for assistance to low-income customers; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

### SECTION 1.

Article 5 of Chapter 4 of Title 46 of the Official Code of Georgia Annotated, known as the "Natural Gas Competition and Deregulation Act," is amended by adding at the end of Code Section 46-4-156, relating to customer assignment methodology, new subsections (g) and (h) to read as follows:

"(g) Notwithstanding any other provision of this article, a retail customer shall be authorized to change marketers at least once a year without incurring any service charge relating to such change to an alternative marketer.

(h) A marketer may require a deposit from a retail customer prior to providing gas distribution service to such customer; provided, however, that such deposit cannot exceed 100 percent of the customer's average monthly bill based on past customer usage and current marketer prices. In any case where a marketer has required a deposit from a retail customer and such customer has paid all bills from the marketer in a timely manner for a period of six months, the marketer shall be required to refund the deposit to the customer within 60 days. In any event, a deposit shall be refunded to a retail customer within 60 days of the date that a retail customer changes marketers or discontinues service, provided the retail customer has satisfied all of his or her outstanding financial obligations to the marketer."

### SECTION 2.

Said article is further amended by striking in its entirety Code Section 46-4-157, relating to temporary directives, and inserting in lieu thereof a new Code Section 46-4-157 to read as follows:

"46-4-157.

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

(1) The commission determines for a specific delivery group, as to which the commission has issued an order pursuant to subsection (b) of Code Section 46-4-156, that

1 the prices for natural gas paid by retail customers in such delivery group are not  
2 constrained by market forces and are significantly higher than such prices would be if  
3 they were constrained by market forces; or

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

11 then the commission, on an emergency basis, may by order temporarily impose such  
12 directives on gas companies subject to its jurisdiction as are required to protect the interests  
13 of retail customers in such delivery group including but not limited to price regulations and  
14 the imposition upon the electing distribution company of the obligation to serve retail  
15 customers in such delivery group under the same or similar conditions to those under which  
16 such customers were served prior to customer assignment in such delivery group. In no  
17 event shall such emergency directives extend beyond the first day of July immediately  
18 following the next full annual session of the General Assembly after the imposition of such  
19 directives. In its order the commission shall provide for recovery of all costs reasonably  
20 incurred by the electing distribution company in complying with the directives. Any such  
21 directives shall be drawn as narrowly as possible to accomplish the purpose of protecting  
22 the public on an interim basis. No such directive shall impose any condition upon the  
23 electing distribution company which unreasonably burdens the company. Such directives  
24 shall be immediately reviewable in the Superior Court of Fulton County in the same  
25 manner and subject to the same procedures as the review of any other contested case under  
26 the provisions of Code Section 50-13-19. The provisions of this Code section shall not  
27 apply to a delivery group for which customer assignment occurred more than four years  
28 prior to the date of notice of the expedited hearing.

29 (b) If, in an expedited hearing pursuant to the provisions of Chapter 13 of Title 50, the  
30 'Georgia Administrative Procedure Act,' the commission determines that market conditions  
31 are no longer competitive, then the commission, on an emergency basis, may by order  
32 temporarily impose such directives on marketers as are required to protect the interests of  
33 retail customers in the state, including, but not limited to, price regulations on the  
34 marketers. For purposes of this subsection, market conditions shall be considered  
35 competitive as long as there are at least three marketers soliciting and providing  
36 distribution services to residential and small business customers in this state; provided,  
37 however, that, in any case where there are three or less marketers soliciting and providing

distribution services to residential and small business customers in this state, market conditions shall not be considered competitive if the commission upon clear and convincing evidence determines that as a result of collusion among such marketers, prices for natural gas paid by retail customers are not being adequately constrained by market forces and are significantly higher than such prices would be if they were constrained by market forces. In no event shall such emergency directives extend beyond the first day of July immediately following the next full annual session of the General Assembly after the imposition of such directives. Any such directives shall be drawn as narrowly as possible to accomplish the purpose of protecting the public on an interim basis. Such directives shall be immediately reviewable in the Superior Court of Fulton County in the same manner and subject to the same procedures as the review of any other contested case under the provisions of Code Section 50-13-19."

### SECTION 3.

Said article is further amended by striking in its entirety Code Section 46-4-160, relating to authority of commission with respect to marketers, and inserting in lieu thereof a new Code Section 46-4-160 to read as follows:

"46-4-160.

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

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

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

(3) Adopt reasonable rules governing service quality; and

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

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

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

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

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

(c) A marketer shall not refuse to sell gas to a potential firm retail customer within the territory covered by the marketer's certificate of authority if the sale can be made by the marketer pursuant to the rules for service authorized by the marketer's certificate of authority and upon terms that will provide the marketer with just and adequate compensation. The price at which a marketer sells gas shall not be fixed by the commission.

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

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

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

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

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

(i) A marketer shall render a bill to retail customers for services within 30 days of the date following the actual monthly meter reading. A 15 day grace period is permitted prior to the application of any penalty.

(j) Any marketer which willfully violates any provision of this Code section or any duly promulgated rules or regulations issued under this Code section or which fails, neglects,

1 or refuses to comply with any order of the commission after notice thereof shall be liable  
2 for any penalties authorized under Code Section 46-2-91."

#### 3 **SECTION 4.**

4 Said article is further amended by adding between Code Sections 46-4-160 and 46-4-161  
5 new Code Sections 46-4-160.1 and 46-4-160.2 to read as follows:

6 "46-4-160.1.

7 In any case where there is a dispute between a marketer and a retail customer concerning  
8 the amount of a gas bill, the marketer shall be required to confer by telephone or some  
9 other verifiable means with the retail customer in an attempt to resolve such dispute. In  
10 case of any such dispute the marketer shall be prohibited from reporting the name of a  
11 retail customer to any consumer reporting agency as defined in Section 603(f) of the  
12 federal Fair Credit Reporting Act until the marketer has conferred with the retail customer  
13 and has complied in all respects with all applicable provisions of this article and the rules  
14 and regulations of the commission or has obtained a judgment against the retail customer.

15 46-4-160.2.

16 (a) Whenever a marketer discovers or has called to its attention a billing error or other  
17 mistake acknowledged or admitted to by the marketer and resulting in an overpayment by  
18 a retail customer of said marketer, such marketer shall be required automatically and  
19 immediately to provide:

20 (1) A credit of the amount of the overpayment to the account of the customer; or

21 (2) A refund of the amount of the overpayment to the customer.

22 (b) A marketer shall be prohibited from requiring a retail customer to whom it owes a  
23 credit or refund to submit in writing a request for such credit or refund before the marketer  
24 complies with the provisions of subsection (a) of this Code section. All credits to the  
25 account of the customer or refunds to the customer shall be made within 60 days after the  
26 overpayment has been acknowledged or admitted to by the marketer."

#### 27 **SECTION 5.**

28 Said article is further amended by striking in their entirety subsections (a) and (b) of Code  
29 Section 46-4-161, relating to universal service funds of electing distribution companies, and  
30 inserting in lieu thereof new subsections (a) and (b) to read as follows:

31 "(a) The commission shall create for each electing distribution company a universal service  
32 fund for the purpose of:

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

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

(3) Assisting low-income customers in times of emergency as determined by the commission; and

(4) Providing energy conservation assistance to low-income customers in a fair and equitable manner as determined by the commission; provided, however, that not more than 10 percent of the amount in the universal service fund shall be expended for such purpose in any calendar year.

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

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

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

(C) The amount required to assist low-income persons subject to price increases.

(2) Notwithstanding any other provisions of this Code section, the commission shall, pursuant to rules and regulations, administer and expend moneys in the fund primarily for the purpose provided in subparagraph (C) of paragraph (1) of this subsection for the 24 months immediately succeeding the effective date of this paragraph."

## SECTION 6.

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

## SECTION 7.

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