

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**

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;  
 29 to prohibit a marketer from requiring a retail customer to whom it owes a credit or refund to

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1 submit in writing a request for such credit or refund before the marketer complies with the  
 2 provisions of this Act; to change the provisions relating to universal service funds; to provide  
 3 for additional purposes for such a fund; to provide for priority of payments from such fund  
 4 for assistance to low-income customers; to provide an effective date; to repeal conflicting  
 5 laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

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

15 (h) A marketer may require a deposit from a retail customer prior to providing gas  
 16 distribution service to such customer; provided, however, that such deposit cannot exceed  
 17 100 percent of the customer's average monthly bill based on past customer usage and  
 18 current marketer prices. In any case where a marketer has required a deposit from a retail  
 19 customer and such customer has paid all bills from the marketer in a timely manner for a  
 20 period of six months, the marketer shall be required to refund the deposit to the customer  
 21 within 60 days. In any event, a deposit shall be refunded to a retail customer within 60  
 22 days of the date that a retail customer changes marketers or discontinues service, provided  
 23 the retail customer has satisfied all of his or her outstanding financial obligations to the  
 24 marketer."

25 **SECTION 2.**

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

29 "46-4-157.

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

32 (1) The commission determines for a specific delivery group, as to which the  
 33 commission has issued an order pursuant to subsection (b) of Code Section 46-4-156, that  
 34 the prices for natural gas paid by retail customers in such delivery group are not

1 constrained by market forces and are significantly higher than such prices would be if  
2 they were constrained by market forces; or

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

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

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

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

### 12 SECTION 3.

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

16 "46-4-160.

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

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

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

21 (3) Adopt reasonable rules governing service quality; and

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

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

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

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

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

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

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

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

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

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

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

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

35 (j) Any marketer which willfully violates any provision of this Code section or any duly  
36 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

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

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

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

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

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

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

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

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

## 25 SECTION 6.

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

## 28 SECTION 7.

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