

House Bill 1325

By: Representatives Lewis of the 15th, Burkhalter of the 50th, Richardson of the 19th, Keen of the 179th, and Wix of the 33rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 46-4-155 of the Official Code of Georgia Annotated, relating to
2 regulation of unbundled services, peaking service, customer services, and interstate capacity
3 assets with regard to the distribution, storage, and sale of gas, so as to provide for definitions;
4 to provide for the requirements upon which the electing distribution company shall include
5 proposed strategic infrastructure assets in the capacity supply and strategic infrastructure
6 plan; to provide for the information that must be filed with any capacity supply and strategic
7 infrastructure plan; to provide for a public hearing on the plan; to provide for a procedure for
8 the Public Service Commission to approve or adopt a capacity supply and strategic
9 infrastructure plan; to provide that the Public Service Commission shall not in a subsequent
10 proceeding fail to approve any long-term capacity assets and any strategic infrastructure
11 assets which were included in a plan previously approved by the commission; to provide for
12 cost recovery; to provide for legislative findings and declarations; to provide for related
13 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 The General Assembly finds and declares as follows:

- 17 (1) The high and rising cost of natural gas has caused financial hardship on homeowners,
18 small businesses, and low-income citizens of Georgia;
- 19 (2) The rising demand for natural gas as a clean-burning fuel source coupled with a
20 limited supply of natural gas will continue to boost heating and electricity costs;
- 21 (3) Elba Island Liquefied Natural Gas Terminal on the Georgia coast is one of the
22 nation's key receiving points for imported natural gas;
- 23 (4) The provision of an increased diversity of natural gas supplies to Georgia will offset
24 part of the need for supplies from the Gulf of Mexico and will help stabilize or lower the
25 price for natural gas in Georgia, helping to create a favorable energy market for Georgia
26 consumers;

1 (5) More natural gas capacity and supply is necessary to accommodate economic
2 development and job creation in Georgia;

3 (6) A favorable energy market in Georgia will aid economic development, help attract
4 new jobs, and help to secure existing jobs;

5 (7) More competition in delivering natural gas will put a downward pressure on prices
6 which could lead to lower prices for Georgians; and

7 (8) In order to meet the energy demands of Georgians and the rest of this nation and to
8 benefit the Georgia economy, there is a need to provide means of accessing and
9 delivering natural gas within this state.

10 **SECTION 2.**

11 Code Section 46-4-155 of the Official Code of Georgia Annotated, relating to regulation of
12 unbundled services, peaking service, customer services, and interstate capacity assets with
13 regard to the distribution, storage, and sale of gas, is amended by adding a new subsection
14 (f) to read as follows:

15 "(f)(1) As used in this subsection, the term:

16 (A) 'LNG' means liquefied natural gas.

17 (B) 'Strategic infrastructure asset' means intrastate assets providing access to the
18 imported liquefied natural gas market through the Elba Island LNG Terminal facility
19 on the Georgia coast for firm distribution service to retail customers.

20 (C) 'Strategic infrastructure asset cost' means costs that include, but are not limited to,
21 feasibility studies, preliminary engineering, facility and system modeling, engineering
22 design and procedure development, permits, utility service extensions, bidding, material
23 and equipment attainment, site preparation, legal services, environmental compliance,
24 utility locating, construction, labor, materials and equipment, project management
25 services, testing, inspections, community outreach, public meetings, land rights
26 attainment, erosion control, land surveys, safety and fire protection, site remediation,
27 and security.

28 (2) The electing distribution company shall include proposed strategic infrastructure
29 assets in the capacity supply plan filed pursuant to paragraph (3) of subsection (e) of this
30 Code section when the construction, modification, or procurement of such additional
31 assets will provide for at least one of the following:

32 (A) A lower total plan cost compared to the cost of the best alternative plan using only
33 interstate capacity assets to meet its forecast system requirements;

34 (B) Greater reliability of delivery of gas supply to and within its system for firm
35 distribution service to retail customers; or

1 (C) A more economical gas supply for retail customers by providing access to a greater
2 diversity of gas supply sources.

3 (3) A capacity supply plan containing proposed strategic infrastructure assets shall be
4 filed with the commission as a capacity supply and strategic infrastructure plan and said
5 plan shall include such reasonable detail regarding the proposed strategic infrastructure
6 assets as the commission may require including a description of the strategic
7 infrastructure to be constructed, acquired, or modified; an explanation of the need for
8 such strategic infrastructure investment; the projected cost of the infrastructure
9 investment; and the projected schedule for completion.

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

17 (5) Following such a hearing, the commission shall either approve or deny any proposed
18 strategic infrastructure assets and shall not modify the electing distribution company's
19 proposal related to such strategic infrastructure assets. Should the commission fail or
20 refuse to issue an order by the ninetieth day after the electing distribution company's
21 filing which either approves, approves with modification to the capacity supply portion
22 of the plan, or disapproves the capacity supply and strategic infrastructure plan filed by
23 the electing distribution company, the capacity supply and strategic infrastructure plan
24 proposed by the electing distribution company shall thereupon be deemed approved by
25 operation of law.

26 (6) After the approval of a capacity supply and strategic infrastructure plan, the
27 commission shall not in a subsequent proceeding fail to approve any strategic
28 infrastructure assets included in the plan which were previously approved by the
29 commission in a prior plan and shall continue to provide for cost recovery of such
30 strategic infrastructure assets separate and apart from the electing distribution company's
31 base rates as more fully described in paragraph (7) of this subsection.

32 (7) The electing distribution company shall file the estimated cost of any proposed
33 capacity supply and strategic infrastructure plan. Any order approving a capacity supply
34 and strategic infrastructure plan shall include cost recovery for the electing distribution
35 company of the actual cost of the capacity supply and strategic infrastructure plan
36 pursuant to the provisions set forth in this subsection absent a showing of fraud,
37 concealment, failure to disclose a material fact, imprudence, or criminal misconduct. The

1 electing distribution company shall be entitled to recover 100 percent of the actual
 2 strategic infrastructure asset costs not to exceed 120 percent of the estimated cost filed
 3 with the commission. If such actual strategic infrastructure asset cost exceeds the
 4 estimated cost filed with the commission by not more than 120 percent, then the electing
 5 distribution company shall be entitled to recover the amount that exceeds the filed
 6 estimate up to 120 percent of the estimate only if such costs are shown by the electing
 7 distribution company to have been reasonable and prudent. The commission shall
 8 provide for cost recovery by a monthly capacity supply and strategic infrastructure charge
 9 to the marketers that shall not be placed in and that shall be maintained separate and apart
 10 from the base rates of the electing distribution company. Each marketer may identify the
 11 capacity supply and strategic infrastructure asset cost as a separate item on a customer's
 12 monthly bill. Should a marketer elect to identify such charge, the line item shall
 13 specifically state the purpose of the charge and said charge shall be collected as provided
 14 by law or previous orders of the commission.

15 (8) The cost of capacity assets shall be charged and be collected as provided by law or
 16 previous orders of the commission. The cost of strategic infrastructure assets shall be
 17 recovered by the electing distribution company based on the net incremental cost. The
 18 commission shall provide for a recovery mechanism that shall be in the form of an
 19 incremental charge, separate and apart from the then existing rates of the electing
 20 distribution company. The rate shall be determined by calculating the electing
 21 distribution company's net investment (invested capital less accumulated depreciation
 22 and accumulated deferred income taxes) multiplied by the pre-tax rate of return plus the
 23 incremental operating and maintenance costs associated with the strategic infrastructure
 24 assets. The return on investment and depreciation used in the computation of this charge
 25 shall be the same as those determined by the commission in the last fully litigated rate
 26 case before the commission by the electing distribution company. The cost as estimated
 27 of newly proposed strategic infrastructure assets included in a capacity supply and
 28 strategic infrastructure plan shall not exceed 25 percent of the electing distribution
 29 company's rate base at the time of the filing of such plan."

30 SECTION 3.

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

33 SECTION 4.

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