COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF NATURAL GAS RETAIL COMPETITION PROGRAMS	))	Case No. 2010-00146

ORDER

This matter is before the Commission on its own motion. The Kentucky General Assembly passed House Joint Resolution 141 during its 2010 Regular Session directing the Kentucky Public Service Commission to investigate natural gas retail competition programs and to submit a written report of its findings to the Legislative Research Commission no later than January 1, 2011. The Commission established this proceeding to carry out that directive and to facilitate the publication of the report. The Commission has completed its investigation and has prepared the attached report for submission. We find that with the inclusion of the attached report, the record in this proceeding is complete and that the case should be closed and removed from the Commission's docket.

IT IS HEREBY ORDERED that:

1. The report appended hereto is incorporated into this Order as if fully set forth herein.

2. The Executive Director shall cause a copy of this report to be delivered to the Legislative Research Commission.

3. This proceeding is closed and is removed from the Commission's docket.

By the Commission

ENTERED

DEC 2 8 2010

KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2010-00146 DATED DEC 2 8 2010

AN INVESTIGATION OF NATURAL GAS RETAIL COMPETITION PROGRAMS

CONDUCTED BY THE

KENTUCKY PUBLIC SERVICE COMMISSION

PURSUANT TO HOUSE JOINT RESOLUTION 141

JANUARY 1, 2011

DEFINITIONS

Bundled Gas Service – natural gas combined with transportation service and delivered to the customer's meter for a single price.

Cherry-Picking – Serving only the most profitable customers in a customer class.

CHOICE^{SM} – Columbia Gas of Kentucky, Inc.'s pilot small volume transportation service, a choice program which permits customers to choose their gas supplier.

Choice Program as used in the Report – Natural gas transportation service provided to all customers, including residential and small-volume commercial customers, permitting customers to choose their gas supplier.

Expanded Transportation Services as used in the Report – Natural gas transportation service offered to small industrial, commercial, educational and governmental entities that do not qualify under the LDCs' currently approved Large Volume Transportation tariffs, permitting customers to choose their gas supplier.

Kentucky Public Service Commission – is an agency of the Commonwealth of Kentucky with the statutory responsibility to regulate utilities and enforce the provisions of KRS Chapter 278.

LDC – Local Distribution Company is a utility subject to the jurisdiction of the Kentucky Public Service Commission that owns, controls, operates or manages any facility used or to be used for or in connection with the production, manufacture, storage, distribution, sale or furnishing of natural or manufactured gas or a mixture of same, to or for the public, for compensation, for light, heat, power or other uses.

Merchant Function – term used to indicate that an LDC is still able to sell natural gas to customers and is not a "pipes only" or transportation service-only provider.

Purchased Gas Adjustment (PGA), also known as the Gas Cost Adjustment (GCA) – a mechanism that permits jurisdictional natural gas distribution utilities to regularly adjust the price of natural gas supplied to consumers to reflect the utility's cost of purchasing that gas and transporting it via pipeline to its system. The PGA serves strictly as a mechanism for reflecting the costs of natural gas and pipeline transportation costs on a dollar-for-dollar basis.

Stranded costs – Costs that have been incurred by the LDC on behalf of its customers that may not be necessary if customers are served by alternative suppliers through a customer choice program.

Transition costs – Costs that will be incurred to implement competition by offering customer choice programs. These costs include, but are not limited to, billing system upgrades, additional personnel, employee training, customer education expenses, advertising expenses, and information technology upgrades.

Transportation Service – moving natural gas through underground pipelines to ultimate consumers as a separate service from the provision of the gas commodity itself.

INTRODUCTION

During its 2010 Regular Session, the Kentucky General Assembly passed House Joint Resolution 141 ("Resolution"), appended hereto as Appendix A, which was signed by Governor Steven L. Beshear on April 12, 2010. The General Assembly expressed therein the policy of the Commonwealth of Kentucky to "ensure that Kentucky natural gas customers receive reliable natural gas services at fair, just and reasonable rates." It further expressed that, in order to ensure price transparency and create purchasing options for consumers, natural gas retail competition programs should be evaluated. Accordingly, the Resolution directed the Kentucky Public Service Commission ("Commission") to commence a collaborative study of natural gas retail competition programs "to determine whether benefits could be derived from these programs, and to determine whether natural gas retail competition programs could be crafted to benefit Kentucky consumers." The Resolution further directed the Commission to prepare and submit a report to the General Assembly and the Legislative Research Commission ("LRC") no later than January 1, 2011. The Commission submits this report in fulfillment of that directive.

PROCEDURAL HISTORY

To carry out its mandate, the Commission initiated a formal proceeding, docketed as Case No. 2010-00146, on April 19, 2010, ordering each jurisdictional natural gas local distribution utility ("LDC") with 15,000 or more customers to participate as a party to the proceeding. The LDCs required to participate were: Atmos Energy Corporation ("Atmos"); Columbia Gas of Kentucky, Inc. ("Columbia"); Delta Natural Gas Company ("Delta"); Duke Energy Kentucky ("Duke Kentucky"); and Louisville Gas and Electric

Company ("LG&E"). No other utility sought to participate in the proceeding. The Commission also ordered its Executive Director to cause a copy of the initiating order to be sent to the Office of the Kentucky Attorney General ("AG"), all natural gas marketers known to provide natural gas service in the Commonwealth now or in the past, representatives of consumer groups and representatives of all customer classes that have frequently intervened in Commission proceedings of this nature. As a result, the Commission received and granted requests for intervention to AARP; Association of Community Ministries ("ACM"); Community Action Council of Lexington-Fayette, Bourbon, Harrison and Nicholas Counties ("CAC"); Interstate Gas Supply, Inc. ("IGS"), SouthStar Energy Services LLC., and Vectren Resource, LLC d/b/a as Vectren Source; MX Energy, Inc. ("MX"); Proliance Energy, LLC; Retail Energy Supply Association ("RESA"); Stand Energy Corporation ("Stand Energy"); Wal-Mart Stores East, LLP and Sam's East, Inc. (collectively "Walmart"); and the AG. After providing timely opportunity for intervention, the Commission established a procedural schedule for the orderly processing of the proceeding. The procedural schedule provided all parties to the proceeding the opportunity to file direct and rebuttal testimony, conduct discovery, participate fully in the public hearing, and submit written briefs.

The Commission conducted a hearing on October 19-20, 2010 to complete the evidentiary portion of the proceeding. The Commission also received public comment at the hearing from the owners of several businesses located in Northern Kentucky, including the owner of Stand Energy, who had enlisted and provided transportation for the other business owners. The business owners all expressed the opinion that the volumetric threshold levels and costs associated with transportation services presently available in Kentucky should be lowered.

In a further effort to examine natural gas retail competition programs approved and available in other jurisdictions, the Commission prepared a survey, which it sent to the National Association of Regulatory Utility Commissioners ("NARUC") on May 19, 2010, along with a request that NARUC forward the survey to its gas subcommittee members for response. The Commission received responses from members in eight states – Arkansas, California, Florida, Illinois, Maine, Maryland, Oregon and South Dakota. A brief summary and compilation of the responses is appended to this report as Appendix B.

BACKGROUND ON EXISTING TRANSPORTATION SERVICES

Until 1987, there was no requirement that Kentucky's natural gas utilities provide anything other than a "bundled" service to their customers. Bundled natural gas service involves supplying the gas commodity as well as providing the transportation and distribution services to deliver the gas to the customer's designated location. In 1987, changes in the natural gas industry occurred at the federal level as a result of Order 436[1] issued by the Federal Energy Regulatory Commission. In response, in Administrative Case No. 297,[2] the Commission ordered all natural gas jurisdictional LDCs to file transportation tariffs and begin providing, upon request, transportation service on their pipelines to any party connected to their systems meeting their tariff requirements. Each

[1] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 436, FERC Stats. & Regs. ¶ 30,665, 50 Fed. Reg. 42408 (1985).

[2] Administrative Case No. 297, An Investigation of the Impact of Federal Policy on Natural Gas to Kentucky Consumers and Suppliers (Ky. PSC Oct. 23, 1987).

LDC's tariff sets forth the criteria that a customer must meet to qualify for this type of service. The criteria include minimum volumes per customer and are utility-specific. Kentucky's five largest LDCs were already providing large-volume transportation service to qualifying customers pursuant to Commission-approved tariffs, and they continue to do so today. Volume thresholds vary among the five LDCs.

While the Commission made clear in its 1998 decision in Administrative Case No. 367[3] that LDCs could offer "customer choice" programs to small-volume customers, Columbia is the only Kentucky LDC that has proposed and been approved to make transportation service available to any customer, regardless of size, who desires to choose a third-party supplier (marketer). In addition to its traditional large-volume transportation service, since 2000 Columbia has operated its pilot CHOICE^{SM} program (small-volume gas transportation service) for its residential and small-volume non-residential customers using less than 25,000 Mcf (thousand cubic feet) of natural gas per year. Columbia is the supplier of last resort, meaning that it stands ready to serve any customer whose chosen marketer cannot provide the customer's gas supply for any reason. Columbia remains in the merchant function, both selling and transporting natural gas to consumers. Approximately 32,400 customers are currently participating in the pilot. The five marketers participating in the Columbia program are Gateway Energy Services Corporation, IGS, MX, Stand Energy, and Volunteer Energy Services.

The parameters of the program are set out in Columbia's small-volume gas transportation tariff, which is on file with and has been approved by the Commission.

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[3] Administrative Case No. 367, The Establishment of a Collaborative Forum to Discuss The Issues related to Natural Gas Unbundling and the Introduction of Competition to the Residential Natural Gas Market (Ky. PSC July 1, 1998).

Columbia is responsible for oversight of the program. The certification criteria for the marketers who wish to participate are set out in its tariff, and Columbia conducts the certification process and enforces the Code of Conduct that was developed and approved for its program by the Commission. Columbia also handles any complaints that arise under the program. The Commission monitors the program through Columbia's annual reports and periodically evaluates whether the program should be continued. The Commission first approved the program as a five-year pilot program effective February 1, 2000. The program has subsequently been granted two extensions and is currently approved through March 31, 2011.

Information provided to the Commission by Columbia indicates that, as of March 2010, participating customers cumulatively have paid \$17.3 million more since the program's inception 10 years ago than they would have paid under Columbia's tariff sales service. In contrast, through the program's first five years, participating customers cumulatively saved \$11.4 million compared to what they would have paid under Columbia's tariff sales service. The type of offerings made by the marketers has varied from the beginning of Columbia's program to the present. It is evident from information presented that whether a customer saved or lost money was highly dependent upon the cost of gas, the year reviewed, and the type of offerings made by the marketers.

Columbia provided survey results showing that 75 percent of CHOICE℠ customer survey respondents indicated they wanted the ability to choose their natural gas supplier, or marketer, even if they learned they had not saved money. This is borne out by the fact that enrollments were 28,838 in 2008, 32,621 in 2009, and are currently 32,356.

SUMMARY OF THE PARTIES' POSITIONS

Local Distribution Companies

The five LDCs that were parties to this proceeding share the opinion that choice programs and expanded transportation services should not be mandated by the General Assembly. They all believe that the individual LDC should be allowed to determine whether such programs would be beneficial to both the LDC and its customers and, if so, to craft programs to present to the Commission for approval.

Of the five LDCs, only Columbia believes that expanding transportation service to all customers is beneficial. As stated previously, Columbia is the only LDC with a choice program. The other four LDCs believe that, if choice programs are mandated statewide, the Commission would need to have a very significant role in the development of such programs. The Commission's role should include developing and conducting the certification process, creating and enforcing a Code of Conduct and handling any complaints against the marketers. In pre-filed testimony, Columbia's witness indicated that the Commission's role in its program in relation to oversight of marketers is the one area where improvement is needed.

The four LDCs that do not offer choice programs are concerned about added costs of implementing this type of program and think that any such costs should be borne by the marketers or program participants. They believe that the LDC should remain the supplier of last resort and that the obligation to serve should apply to both the LDC and the marketer to deter "cherry-picking" of customers. If the marketers do not procure their own pipeline capacity, the LDCs believe that marketers should be assigned pipeline capacity on a recallable basis to aid in managing the distribution system's integrity. They believe that managing the system's integrity will become more difficult if choice programs or expanded transportation services are required and, in their opinion, program participants and their LDCs could experience reliability problems.

The LDCs believe that, with Commission approval, they could offer the same rate design options as the marketers in order to give customers the choice of fixed pricing or index-based pricing. LDCs' natural gas sales rates reflect the price of natural gas at cost, adjusted for prior period under/over-recoveries through periodic Purchased Gas Adjustment ("PGA") filings with the Commission. Atmos, Delta, Duke Kentucky and LG&E do not believe that marketers can procure and sell gas to their customers more cheaply than they (the LDCs) can, due to the fact that, over time, they provide gas at cost through their PGAs. They do not believe their customers should be exposed to increased costs in order to implement choice programs and then fail to experience savings in their commodity cost of gas.

Marketers

All of the marketers, with the exception of Stand Energy, favor retail natural gas choice programs for residential customers and believe that choice programs should be mandated statewide. They believe that benefits of choice programs can be realized at the residential level. These marketers state that the realization of savings on the part of customers is not the only factor to consider when evaluating whether customers may benefit from such programs. They claim that customers benefit from having a choice of natural gas suppliers, from having the opportunity to lock in a fixed price for budgeting purposes or to be charged market-based prices as opposed to the LDCs' PGA pricing, and from the opportunity to achieve savings in their commodity cost of gas.

Stand Energy's position was unique in its focus on the expansion of existing transportation services provided pursuant to LDC tariffs to allow smaller commercial and industrial customers, plus institutional customers including schools and government facilities, the opportunity to purchase natural gas in a competitive market. Stand Energy is of the opinion that, with the exception of Duke Kentucky, the LDCs' current threshold levels to qualify for transportation service are too high and should be lowered to no more than 2,000 Mcf per year, which is Duke Kentucky's current threshold. Stand Energy also believes that the current tariffs on file for all the LDCs contain too many barriers to marketers wishing to compete within the LDCs' territories and that these barriers should be removed to promote more competition. Stand Energy has no particular interest in pursuing or serving the residential market. While it does not intend to market to residential customers, Stand Energy did state its willingness to serve any customer, no matter how small, who specifically requests such service.

The marketer group is concerned about all participants in the market having equal access to services paid for by all LDC customers through base rates, specifically billing systems. They believe the LDCs should perform the billing functions of the marketer because LDC customers have previously paid for the billing service. The marketers expressed the need to remove barriers in existing LDC tariffs, including what they see as high volumetric thresholds, administrative fees, meter fees and mandatory assignment of pipeline capacity. Some marketers believe that pipeline capacity rights should follow the customer and that the LDCs' primary goal should be to manage their distribution systems. They also state that, at some point, the marketers could serve as the supplier of last resort and that the LDCs could exit the merchant function, leaving only marketers to provide natural gas for customers' and system requirements.

All of the marketers supporting choice programs are of the opinion that the Commission will by necessity play a role in the implementation of the programs, including the certification of marketers and development of a Code of Conduct. Retail Energy Supply Association went further in stating that the Commission should create a special division to develop competition, remove barriers to entry and ensure a level playing field, including heightened oversight of the unregulated affiliates of the LDCs. Stand Energy believes that the current affiliate transaction rules established by statute do not ensure a level playing field.

Consumer Groups

The three consumer groups that participated in this proceeding were AARP, ACM and CAC. The consumer groups are of the opinion that choice programs should not be mandated. AARP went further to state that the LDCs should not be allowed to voluntarily propose such programs. All of the consumer groups share the concern that choice programs will result in customers paying more for their utility service and will cause more low-income customers to seek help from financial assistance programs. Another concern of the consumer groups is customer confusion regarding terms and conditions of the contracts entered into with marketers and the potential for marketers to use predatory tactics to procure customers. There was testimony indicating that the Columbia CHOICE^{SM} program had caused confusion among customers to whom some agencies provided assistance and that choice programs in other states caused customer confusion as well. Part of that testimony concerned confusion and frustration on the part of customers in Georgia concerning marketer activities, as well as marketer bankruptcies. None of the consumer groups testified that the customers they serve have expressed any desire to have a choice in their supplier of natural gas. It is the belief of the consumer groups that customers desire savings, and that there is no benefit to customer choice if customer savings cannot be achieved. Through its witness, AARP stated that rate design options, such as fixed pricing, could be provided by the LDCs if the desire or need for such a rate design was great in Kentucky.

All of the consumer groups agree that, if choice programs are mandated by the General Assembly, extensive consumer protections would have to be implemented, including: (1) requiring marketers to use the same per-unit basis when advertising and communicating their prices to consumers that the LDCs use in their pricing so consumers can have an "apples-to-apples" comparison; (2) prohibiting marketers from "locking in" customers for a fixed period of time; (3) prohibiting marketers from enrolling customers by telephone unless this is followed up with written confirmation; (4) requiring customers to give their consent in writing before the LDC can release their account information; (5) requiring marketers to accept any willing customer who selects them as a supplier – that is, no "cherry-picking"; (6) requiring the marketer to keep all costs of doing business completely separate from the LDC; (7) requiring marketers to reimburse the LDC for the costs of all services it provides to the marketers; (8) requiring that all stranded costs of the LDC be borne by the marketers; and (9) requiring the LDC to be the supplier of last resort. The consumer groups also stressed the importance of more emphasis being placed on consumer education and of the Commission having more oversight and authority over choice programs and the marketers seeking to serve the residential market.

The AG stated in his brief that effective retail natural gas competition should result in benefits consisting of at least better service, better quality, and better/lower rates. The AG concluded that competition would not provide the first two benefits because there would essentially be no change in quality and service, and found the third to be questionable.

Customers

Walmart was the only customer who intervened in this proceeding. In its brief, Walmart stated that it is among the group of commercial customers who consume less than the amount most Kentucky LDCs require to qualify for transportation services. Walmart was of the opinion that smaller commercial customers who currently do not qualify for transportation services would materially benefit from the introduction of expanded transportation, but it does not take a position on a choice program for residential customers.

DISCUSSION

Customer Benefits

As previously stated, the Commission was directed to determine whether natural gas retail competition programs could be crafted to benefit Kentucky consumers. The Commission finds that, with respect to natural gas competition, the concept of whether something is a "benefit" is too subjective to enable it to offer a definitive yes or no response. We find this to be applicable to expanded transportation services as well as choice programs.

The difficulty of such a determination is clearly exhibited in the positions of the parties: the LDCs, with the exception of Columbia, believe that choice programs cannot provide cost benefits to customers due to the LDCs' pass-through of gas prices at cost, while marketers must include a profit margin in their prices. Far from believing that Kentucky consumers can be benefited, they believe that customers could be harmed by paying more and losing their utility-assured security of supply. This position is shared by the consumer groups, who referenced customer experiences in other states, as well as in Kentucky, involving higher costs and deceptive marketing practices on the part of natural gas marketers. Data available from the federal Department of Energy's Energy Information Administration ("EIA"), introduced into evidence in the Commission's proceeding, tends to support the consumer groups' position concerning higher costs in other states. EIA data comparing prices in states where expanded transportation is available to residential customers, which is appended hereto as Appendix C, indicates that, in 2007, the average LDC price was lower than the average marketer price in seven of eight such states. In 2008, the data indicates that the average LDC price was lower than the average marketer price in five of the eight states. The EIA data, appended hereto as Appendix D, also indicates that in both 2007 and 2008, the two most recent years for which data was available, the average residential price for Kentucky natural gas customers was below the average residential marketer price in Ohio, the state with the lowest average marketer price.

The marketers argue that, while savings may be an issue to some customers, other customers believe there is benefit in having the ability to control their own natural gas supply and are willing to pay more for that control. They argue that this can be achieved by allowing customers to choose their suppliers and to choose alternative pricing options, such as fixed-price or variable market-based contracts, that best fit their respective risks and preferences. They assert that fixed-price contracts allow the customer price stability without the uncertainty of reconciliation that is traditionally required of the LDCs in the regulated paradigm. If the support for expanding transportation is that customers desire a fixed-price or variable market-based contract, the General Assembly should be aware that a utility, subject to certain conditions and with Commission approval, could offer such alternative options to its customers without requiring customer choice or expanding transportation services.

The marketers' belief that retail natural gas programs benefit customers by offering them a choice of gas suppliers and options in terms of pricing structures is shared by Columbia, which has over 30,000 customers in its 10-year-old program despite the fact that Columbia's GCA price has often been lower than the participating marketers' price offerings. Benefits cited by marketers also included hedging price risk, potential for innovation, opportunity for lower gas-supply cost, and the ability for consumers to play an active role in their purchasing decisions.

As stated above, customer expectations of competition in the form of choice programs or expanded transportation services vary, making a determination of whether something is actually a benefit to customers quite subjective. Some customers expect to benefit from participation in such programs by achieving financial savings. The Commission finds that, while a program may be crafted to provide an opportunity to achieve savings, actual savings cannot be guaranteed. Evidence was presented that some customers have benefited financially from competition; however, such evidence also indicated that the savings were not consistent, as they are highly dependent on the time period measured and the market price of natural gas, which is, as described by a proponent of competition, one of the most volatile priced commodities. Having reviewed the evidence, the Commission can only conclude that retail natural gas competition programs that include residential and the smallest non-residential consumers *can be crafted to provide* ***opportunities*** *for consumers to benefit based on their unique circumstances. Furthermore, the Commission finds that consumers can be protected against deceptive marketing practices and loss of gas service* ***if the necessary legislation and regulations are in place***. Certainly, there is no assurance of savings on the cost of gas, but the incurrence of stranded costs, transition costs, and additional regulatory costs is virtually guaranteed.

The record includes testimony by a spokesperson for Kentucky Consumers for Energy Choice ("KCEC"), a group formed during the 2008 legislative session to "add consumers' voices to the discussion about consumers' right to choose natural gas commodity products rather than having no choice and using the utility company's default natural gas." However, there is no evidence in the record that there is a groundswell of demand for choice programs on the part of small-volume users. During the course of this proceeding, evidence was introduced into the record that the cost of fliers used to enlist consumers in KCEC was paid by IGS and that the individuals to whom the enlistment flier was mailed were IGS customers participating in the Columbia CHOICE℠ program whose names were taken from a list provided by IGS. While IGS is certainly within its rights to ask its customers to support the initiative for expanded retail natural gas competition programs, the membership of 6,000 of its 22,000 customers in KCEC can only be interpreted to mean that those customers are satisfied with their own choice of supplier, and not that other utilities' customers are clamoring for a similar choice.

As for expanded transportation services to commercial and industrial consumers, and governmental and other public entities that do not currently qualify for existing transportation services, the Commission finds it appropriate to encourage Atmos, Delta, Duke Kentucky, and LG&E to evaluate their existing transportation tariffs within the context of the operation of their distribution systems and the maintenance of system integrity. The EIA data on marketer and LDC prices for commercial customers, contrary to the data on prices for residential customers, reflects that the average marketer price was lower than the average LDC price in the majority of states. See Appendix C. Therefore, the Commission will review the reasonableness of the existing transportation tariffs of each of the above-named LDCs and any proposed changes in rate design and product and service availability in their next individual general rate proceeding. While the Commission does not advocate mandating or legislating volumetric thresholds for gas transportation service, as we believe the LDCs are best equipped to propose and implement their own systems' products and programs, we are committed to ensuring the reasonableness of transportation tariffs by reviewing them in the LDCs' next rate cases.

<u>Elements the General Assembly Required the Commission to Review</u>

In addition to directing the Commission to determine whether competition programs can be crafted to benefit Kentucky consumers, the General Assembly directed the Commission to consider the following elements that would need to be incorporated in any proposed competition program:

(1) The role of the Commission in a competitive marketplace;

(2) The obligation to serve;

(3) The supplier of last resort;

(4) Alternative commodity procurement procedures;

(5) Non-discriminatory access to services offered;

(6) Codes of conduct for marketers and affiliates or regulated utilities;

(7) Billing, including the desirability of the purchase of receivables;

(8) Certification of suppliers;

(9) Transition costs;

(10) Stranded costs;

(11) Uncollectibles;

(12) Disconnections;

(13) Steps necessary to maintain system integrity;

(14) Access to pipeline storage capacity; and

(15) Impact of new natural gas retail competition on existing utility services.

The Commission placed the parties in this case on notice that these elements, among others, would be addressed by the Commission, and each of the parties that filed testimony addressed some, if not all, of these elements. The Commission agrees with the General Assembly that all of the elements set forth in Section 3 of the Resolution are important and should be included for review in any natural gas retail competition program proposed for Commission approval. The Commission reviewed generally all of the elements in this proceeding and finds that they should be divided into three categories: those that can be applied generally to any retail natural gas competition program approved; those that should be specifically reviewed on a case-by-case basis; and those that require additional authority for the Commission to properly consider and carry out.

The Commission finds that elements 2, 3, 5, and 12 above (the obligation to serve; the supplier of last resort; non-discriminatory access to services offered; and disconnections) are not unique to a specific utility and should be universally required of, and can be broadly applied to, any program approved. We find that marketers, as well as LDCs, should have the obligation to serve any customer requesting service, assuming an approved program is available for the customer's class of service. It is very important that the LDC remain in the merchant function with the continued obligation to serve customers choosing to receive utility-provided gas service and that the LDC stands ready as the supplier of last resort. There should be non-discriminatory access to both distribution and competitive sales service for all customers in an eligible class, regardless of economic status. We also find that, in any approved natural gas retail competition program, the utility should be the only entity permitted to disconnect service.

There was a great deal of testimony regarding issues that the Commission considers utility-specific and that involve costs that must be investigated more closely and properly determined on a case-by-case basis. Specifically, elements 4, 7, 9 through 11, 13 and 14 (alternative commodity procurement procedures; billing, including the desirability of the purchase of receivables; transition costs; stranded costs; uncollectibles; steps necessary to maintain system integrity; and access to pipeline storage capacity) cannot be universally applied. The Commission finds that these must be considered within the context of each LDC's proposed program and individual circumstances. It is fair to say that the participants in the Commission's proceeding have vastly different opinions on these issues with regard to their importance and how they should be resolved.

The Commission's recommendation on additional authority, involving elements 1, 6, and 8 (the role of the Commission in a competitive marketplace; codes of conduct for marketers and affiliates or regulated utilities; and certification of suppliers) is addressed below. The Commission cannot properly carry out its required role in a competitive marketplace, establish codes of conduct for marketers, or certify suppliers without specific statutory authority in these areas.

<u>Additional Commission Authority Necessary for Proper Implementation of Natural Gas Retail Competition</u>

It is clear that a majority of the participants in this proceeding oppose mandatory competition, but it is just as clear that the majority believe the Commission should play a significant role in any natural gas retail competition offered in Kentucky. The Commission agrees and finds that, regardless of whether the General Assembly mandates expanded transportation services or choice programs or simply allows the LDCs to continue to propose expanding transportation when they deem it appropriate for their individual companies and customers, the General Assembly should grant the Commission additional regulatory jurisdiction. Such jurisdiction should include, but not be limited to, the authority to:

(a) Certify marketers based on a finding that the marketer has the financial, technical and managerial abilities to provide gas service to Kentucky customers;

(b) Revoke, suspend, modify, limit or condition a marketer's certification if, after reasonable notice and hearing, the Commission determines that the marketer has failed to comply with the standards for certification;

(c) Assess penalties for marketer violations of any statute, regulation, tariff or Commission Order applicable to the marketer's provision of gas supply service in the Commonwealth of Kentucky;

(d) Adjudicate consumer complaints against marketers, as well as complaints filed by LDCs against marketers for failure to abide by the LDC's tariff;

(e) Develop and enforce a code of conduct for the marketers that participate in expanded transportation or retail competition programs; and

(f) Require marketers to file tariffs setting forth their rates, terms and conditions of service.

The Commission recognizes that the Resolution stated that nothing therein should be considered to interfere with existing natural gas retail competition programs, including the continuation or extension of such programs. However, the Commission's oversight at present over the lone pilot competition program approved in Kentucky and the marketers participating therein is through its jurisdictional authority over the regulated utility – Columbia. If the General Assembly grants the Commission the additional regulatory authority outlined above, the Commission finds that such authority should apply to Columbia's pilot program and any other existing expanded transportation service or choice program, but that it should not apply to any large-volume transportation service being provided.

Fiscal Impact on the Commission

Kentucky's jurisdictional utilities fund the Commission through assessments based on gross intrastate sales receipts pursuant to KRS 278.130 to KRS 278.150. If retail natural gas competition or expanded transportation services are authorized in Kentucky, the amount of natural gas sales subject to assessment will be reduced unless the General Assembly extends the applicability of KRS 278.130 to KRS 278.150 to include marketers' intrastate natural gas sales. A bill was introduced in the Kentucky Senate in 2009, Senate Bill No. 154 ("SB 154"), which would have extended the permissible sale of bulk natural gas to small commercial, small industrial, governmental and educational customers that consume more than 2,000 Mcf of natural gas per year. The Commission prepared and sent a fiscal impact statement on that bill to the LRC on February 20, 2009, a copy of which is attached hereto as Appendix E. The Commission explained in that statement that the five largest natural gas companies in Kentucky had combined gross intrastate sales receipts of $834,860,880 in 2007 and that SB 154 could result in an estimated $272,073,887 in lost sales receipts subject to assessment for a loss of revenue of approximately $380,903. In addition, the Commission estimated that it would be required to secure additional staff to properly regulate competition and protect Kentucky's natural gas consumers, at an additional cost of approximately $167,589 each fiscal year. Upon review of that statement, the Commission finds that, while Columbia is one of the five largest LDCs operating in Kentucky, its gross receipts should not have been included in the calculation of the fiscal impact since its CHOICE^{SM} program was in effect in 2007 and the impact already realized. Correcting for that error and recalculating the revenues actually subject to assessment, the Commission finds that the four largest LDCs, excluding Columbia, had gross intrastate sales receipts of $752,995,461 in 2007. SB 154 could have resulted in an estimated $307,801,146 in lost sales receipts subject to assessment, for a loss of revenue to the Commission of $430,921.

In addition to correcting the previous information, the Commission has updated the estimated lost revenues as well as the estimated additional costs. Based on 2009 annual reports filed with the Commission, the Commission finds that the four largest natural gas companies in Kentucky, excluding Columbia, had combined gross intrastate sales receipts in 2009 of $728,632,614. Expanding transportation services as described in SB 154 could result in an estimated $238,242,731 in lost sales receipts subject to the Commission's current assessment rate of .001583, resulting in a reduction of revenue of $377,138. The Commission estimates that the additional personnel expenditures for the current fiscal year would be $170,702.48. The calculation for the personnel expenditures in the form provided in the Commission's letter to the LRC on February 20, 2009 is appended hereto as Appendix F.

The Commission advises that the fiscal impact statement provided in 2009 and the updated financial information provided above relate to the effect of expanded transportation services only. If choice is mandated, the Commission's lost revenues and expenses would be greater.

SUMMARY

KRS Chapter 278 requires the Commission to approve rates that are fair, just and reasonable. The Commission finds that it would not be reasonable or consistent with its statutory responsibility to mandate that its regulated utilities offer choice programs or expanded transportation services without the additional statutory authority and consumer protections mentioned above and without the opportunity to review each utility's proposed transportation service offerings and its current rate design. We further find that, with the additional statutory authority referenced above and significant consumer protections and safeguards implemented and enforced, natural gas retail competition programs – both expanded transportation services and choice programs – can be designed to protect customers from deceptive marketing practices and loss of gas service. Whether there are benefits to such services and programs was not established with certainty and is highly dependent upon the cost of natural gas and customer perspective and opinion.

If the General Assembly deems it appropriate for Kentucky to have retail natural gas competition without guaranteed benefits, the Commission finds that the General Assembly would need to enact legislation that directs such action. As we previously stated, the evidence indicates that natural gas retail competition provides more benefits to consumers under expanded transportation service than to residential customers under choice programs. Therefore, the Commission notifies the General Assembly that, if it desires retail natural gas competition, it may authorize expanded transportation service only. In any competition program, whether voluntary or mandatory, we find it important that the LDCs remain in the merchant function and that customers retain the ability to receive service from their LDC.

The Commission believes that existing transportation thresholds bear further examination, and the Commission will evaluate each LDC's tariffs and rate design in each LDC's next general rate proceeding.

APPENDIX A

TO THE KENTUCKY PUBLIC SERVICE COMMISSION REPORT

ON NATURAL GAS RETAIL COMPETITION

A JOINT RESOLUTION relating to natural gas retail competition.

WHEREAS, it is the policy of the Commonwealth of Kentucky to ensure that Kentucky natural gas customers receive reliable natural gas services at fair, just and reasonable rates; and

WHEREAS, in order to ensure price transparency and to create purchasing options for consumers, and with the understanding that competition is reliant upon properly structured markets supported by both regulated and competitive business entities, natural gas retail competition programs should be evaluated;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. The Kentucky Public Service Commission (PSC) is hereby directed to commence a collaborative study of natural gas retail competition programs to determine if benefits could be derived from these programs, and to determine whether natural gas retail competition programs could be crafted to benefit Kentucky consumers. The study shall include an evaluation of existing natural gas retail competition programs. Upon completion of the study, the PSC shall make a written report to the General Assembly and the Legislative Research Commission of its findings and recommendations.

➔Section 2. As a part of the study directed by this Resolution, the PSC is encouraged to seek input from interested stakeholders, including but not limited to:

(1) The Attorney General;

(2) Regulated local distribution companies in Kentucky as defined in KRS 278.010(3)(b), if the local distribution companies do not include natural gas marketers;

(3) Natural gas marketers, including natural gas marketers that are not local distribution companies, utilities, natural gas companies, public service companies, or similar companies;

(4) Representatives from consumer groups; and

(5) Representatives from all classes of customers.

➔Section 3. The study and subsequent report to the General Assembly and the Legislative Research Commission directed by this Resolution shall consider and examine elements that shall be incorporated into any proposed natural gas retail competition program. The report shall examine the following issues which need to be addressed in order to adequately protect the public interest in any new natural gas retail competition program:

(1) The role of the PSC in a competitive marketplace;

(2) The obligation to serve;

(3) The supplier of last resort;

(4) Alternative commodity procurement procedures;

(5) Non-discriminatory access to services offered;

(6) Codes of conduct for marketers and affiliates of regulated utilities;

(7) Billing which should include the desirability of the purchase of receivables;

(8) Certification of suppliers;

(9) Transition costs;

(10) Stranded costs;

(11) Uncollectibles;

(12) Disconnections;

(13) Steps necessary to maintain system integrity;

(14) Access to pipeline storage capacity; and

(15) Impacts of new natural gas retail competition programs on existing utility services and customers.

The PSC shall also establish criteria by which the effectiveness of competition and benefits to customers can be measured.

➔Section 4. The report directed by this Resolution shall be provided to the Legislative Research Commission for appropriate distribution no later than January 1,

2011. Nothing in this joint resolution shall be construed to interfere with existing natural gas retail competition programs, including the continuation or extension of programs.

APPENDIX B

TO THE KENTUCKY PUBLIC SERVICE COMMISSION REPORT

ON NATURAL GAS RETAIL COMPETITION

The Commission's survey was conducted to determine whether other states offered retail small volume transportation service (both choice and expanded transportation) and general information regarding that service. The Commission received responses from eight states and of those states, five offer choice programs. It varied from state to state as to whether the programs were established by Commission order or by law and whether they were mandatory or voluntary. The respondents indicate that there is very little Commission oversight and little or no reporting requirements or assessments performed on the programs. Several of the respondents specifically indicated that whether the customers achieved savings from participation in the programs was not tracked.

	ARKANSAS	CALIFORNIA	FLORIDA	ILLINOIS	MAINE	MARYLAND	OREGON	SO.DAKOTA
IS RETAIL SMALL VOLUME TRANSPORTATION AVAILABLE IN YOUR STATE?	Not available	Yes Called "core aggregation" includes res.	Yes includes Residential	Yes includes residential	Yes for all comm.& Indus Not residential	Yes - includes residential	No Very Little interest	Yes includes residential
ORDER, STATUTE, REGULATION		PUC decision Early 1990s	Admin. Code Required SVT for all non-residential Permissive for res. (enabling rule) 3 LDCS switched to trans. only for res. and commer. on pilot basis	Order followed by statute	Order approving utility tariffs LDC offers non-daily metered to allow smaller to aggregate	Originally by Order Subsequent statutory authority for supplier licensing and consumer protections in 2000		Order Proposed by Company via tariffed rates
YEAR ESTABLISHED		1991	Code Rule Apr 2000 Orders in 2002 and 2004 establ. Pilots for 3 specific LDCs	Statute 2005	Transportation service for C/I in 1999 but telemeter requirements econ. Barrier for smaller	Pilot in 1995 Permanent in 1997 for certain gas utilities		Over 10 years ago
PERMANENT OR TEMPORARY/PILOT		Permanent	See above	Over 13 years PSC approved 4 SVT pilot Programs 3 are now permanent 1 no longer in effect	Permanent	Originally a pilot now permanent for certain gas utilities		Permanent
ALL LDCs OR JUST THE MAJOR LDCs		All major Unsure whether small LDCs provide	No	No, just the 3 approved	Yes no resid.	Available to residential in 3 largest LDC Available to non-residential in 2 other territories		3 LDCs 1 w/Specific SVT rate 1 no min. volumes 1 with min. volumes

	ARKANSAS	CALIFORNIA	FLORIDA	ILLINOIS	MAINE	MARYLAND	OREGON	SO.DAKOTA
MANDATORY OR VOLUNTARY ON PART OF LDC		Mandatory for all major LDCs	Voluntary	Voluntary	Mandatory for loads that fit criteria	Mandatory in for three largest LDCs		Voluntary
CUSTOMER PARTICIPATION RATE		As of 1/10 Approx. 2% Residential participation	3 LDCs providing SVT - 14,440 residential	2008 12% NICOR 6% Peoples 5% N. Shore	20-50% of LDC load; Migration to transporation was robust until mandatory capacity assignment	Varied 12% resid. 30% firm C/I 90% large C/I		Very small participation Too much admin. Work, meter exp., etc. to be viable.
MARKETER PARTICIPATION		Unsure of number No minimum requirement before SVT can be offered	Enabling Rule sets no minimum for Number of marketers	2008 16 Nicor 10 Peoples 7 N. Shore No mandatory minimum	1-5 No Minimum required	15 marketers in two territories 7 in another No set minimum		Few marketers currently No minimum Marketers expressed margins on gas sales very thin and only economically viable with larger volumes
CERTIFICATION PROCESS		No certification	PSC does not certify	PSC certifies based on Admin. Code Fin. Tech. & Managerial Requirements in Code Certified 17	No certification Must meet utility established criteria	PSC Certifies Must meet certain financial and operational qualifications		PSC does not certify nor regulate marketers
PSC OVERSIGHT OVER PROGRAM OR MARKETERS		Little oversight Core Aggregators must follow utility rules	Specifically exempt from PSC oversight by statute LDC sets qualifications and LDC selects marketers to participate	Marketer must file terms and conditions of service offerings with PSC before making it available.	PSC very little involvement with marketers unless complaint filed	Terms and conditions of marketers Do not regulate price of marketer Oversight per Code of Maryland Regs.		No oversight LDC SVT rates approved by PSC

	ARKANSAS	CALIFORNIA	FLORIDA	ILLINOIS	MAINE	MARYLAND	OREGON	SO.DAKOTA
CONSUMER PROTECTIONS		No specific protections; Core aggregators must follow CPUC adopted utility rules	PSC maintains oversight over tariff and consumer complaints	Code requires certain protections Citizen Utility Board tracks programs and files lawsuits as well as Attorney General		Referred to statute		Same as for sales customers
PENALTIES FOR MARKETER MISCONDUCT		No.	No PSC oversight	PSC by Code may order refund to customer; Assess fine; Issue cease and desist order; and for a pattern of violation can revoke certificate; Supplier may lose deposit with LDC	Utility tariffs contain balancing penalties and utility enforces	Penalties may be levied by PSC under Civil Proc. In Maryland PUC laws		No.
HAS THERE BEEN MARKETER FAILURE		Unknown	Not to responder's knowledge	Yes a number of suppliers have ceased to provide	One bankrupt	Yes, either filed bankruptcy or ceased service		No. Not without seamless shift to other providers
SUPPLIER OF LAST RESORT		Utility	Utility	Utility	Utility	Utility		None customer chooses supplier
BILLING, UNCOLLECTIBLES DISCONNECTIONS		Included in CPUC adopted rules for utility and part of utility tariffs		Suppliers have billing available from LDC or the option of billing on their own. No purchase of receivables.	Simply referred to rules on website	Utility only can disconnect Marketer billing and uncollectibles governed by Code of Maryland Regs.		Same as for sales customers

	ARKANSAS	CALIFORNIA	FLORIDA	ILLINOIS	MAINE	MARYLAND	OREGON	SO.DAKOTA
CODE OF CONDUCT FOR UTILITY AFFILIATES AND MARKETERS		Affiliate Transaction rules; not specifically related to SVT	Affiliate rules - yes by Rule (Admin. Code)	Yes by Statute	Rules on affiliate transactions	Code of Affiliates in COMAR 20.40.02 Non-Affiliated marketers governed by COMAR 20.54		No.
ROLE OF UTILITY AFFILIATES IN SVT		Unsure of question		Affiliates allowed to participate	Referred to statute	No special role for affiliate but must abide by Code of Maryland Regs.		Affiliate can perform marketing function
PROVISION FOR TRANSITION & STRANDED COSTS		Unknown	Utility allowed to recover costs of billing and other services to effect transportation only service No specific provisions for stranded costs	No provisions for transition or stranded costs have been implemented	Referred to order on website	Suppliers of firm service assigned transportation and storage capacity System and related costs for initial transition considered base rate costs; subsequent improvements recovered in the fees charged suppliers for utility provided services		Assigned to customers returning to sales service via rider
WHO BEARS MARKETING COSTS		There are no marketing costs	No specific requirements	Peoples & N. Shore costs borne by marketers as a group Nicor- costs borne by all eligible customers	Marketers bear own marketing expense. Utility bears administrative Costs	Costs related to marketing choice is to be borne by marketers		Might be included in rates via rate case

	ARKANSAS	CALIFORNIA	FLORIDA	ILLINOIS	MAINE	MARYLAND	OREGON	SO.DAKOTA
REPORTING REQUIREMENTS TO PSC		None	Only regular LDC reports; Marketers not required to report No report on savings	PSC tracks customer and supplier counts does not track savings	Marketers required to register with PSC by statute	PSC does not track savings Requires LDC to provide quarterly data on participation		Customer savings not tracked
ASSESSMENTS OF PROGRAM PERFORMED BY COMMISSION OR UTILITY		No response	Provided links to resources	Provided links to resources	None	None		N/A

APPENDIX C

TO THE KENTUCKY PUBLIC SERVICE COMMISSION REPORT

ON NATURAL GAS RETAIL COMPETITION

Table 24. Average Price of Natural Gas Delivered to Residential and Commercial Sector Consumers by Local Distribution and Marketers in Selected States, 2007-2008
(Nominal Dollars per Thousand Cubic Feet)

State	Residential							
	2007				2008			
	Local Distribution Company Average Price[a]	Marketer Average Price[b]	Combined Average Price[c]	Percent Sold by Local Distribution Company	Local Distribution Company Average Price[a]	Marketer Average Price[b]	Combined Average Price[c]	Percent Sold by Local Distribution Company
Florida	20.55	23.23	20.61	97.79	21.11	25.00	21.19	97.78
Georgia	14.64	18.02	17.53	14.35	15.46	18.73	18.26	14.43
Maryland	14.95	16.26	15.17	83.26	15.98	16.54	16.08	83.15
New Jersey	14.45	16.50	14.48	98.35	15.15	18.07	15.21	97.98
New York	[R]15.79	15.46	[R]15.73	[R]82.34	16.79	16.57	16.75	80.64
Ohio	13.05	13.95	13.47	53.01	14.60	14.45	14.52	52.47
Pennsylvania	14.56	15.77	14.66	92.01	16.14	17.05	16.22	91.82
Virginia	15.33	16.28	15.42	90.29	16.25	15.67	16.20	90.72

State	Commercial							
	2007				2008			
	Local Distribution Company Average Price[a]	Marketer Average Price[b]	Combined Average Price[c]	Percent Sold by Local Distribution Company	Local Distribution Company Average Price[a]	Marketer Average Price[b]	Combined Average Price[c]	Percent Sold by Local Distribution Company
District of Columbia	15.08	13.38	[R]13.69	[R]18.62	16.11	13.41	13.89	17.93
Florida	13.47	12.76	13.07	43.63	14.40	14.59	14.51	42.94
Georgia	[R]12.76	13.32	[R]13.21	[R]19.81	14.12	14.34	14.30	19.34
Maryland	13.28	11.90	12.30	29.12	14.34	12.63	13.14	29.63
Michigan	10.38	9.41	10.02	62.51	11.20	9.71	10.66	63.57
New York	[R]12.55	[R]11.16	[R]11.82	[R]47.12	12.89	12.84	12.86	45.76
Ohio	12.31	11.47	11.74	[R]32.16	13.78	12.33	12.79	31.14
Pennsylvania	13.58	11.63	12.77	[R]58.52	14.90	13.50	14.30	56.70
Virginia	12.35	11.48	11.99	58.84	13.61	12.05	12.98	59.14

[a] Price derived from Form EIA-176, "Annual Report of Natural and Supplemental Gas Supply and Disposition."

[b] Price derived from Form EIA-910, "Monthly Natural Gas Marketer Survey."

[c] Prices combined by weighting percent sold by local distribution companies versus percent sold by marketers according to volumes reported on Form EIA-176.

[R] Revised data.

Note: Prices represent the annual-average retail price for volumes delivered to residential and commercial customers by marketers who report on Form EIA-910, "Monthly Natural Gas Marketer Survey," and local distribution companies who report on Form EIA-176, "Annual Report of Natural and Supplemental Gas Supply and Disposition." Both sets of prices include the cost of the gas commodity/supply and all transportation and delivery charges. Since the prices reflect each State's aggregate of multiple local distribution companies and marketers, a comparison of the aggregate prices may not represent the realized price savings that an individual customer might have obtained. Localized tariff rates, distinct contract/pricing options, and contract timing may affect the price differential between marketers and licensed distribution companies. Additionally, the 2005 hurricane season may have affected future contract offerings beginning in 2006 as prices rose sharply during that period.

Sources: Energy Information Administration (EIA), Form EIA-176, "Annual Report of Natural and Supplemental Gas Supply and Disposition"; and Form EIA-910, "Monthly Natural Gas Marketer Survey."

APPENDIX D

TO THE KENTUCKY PUBLIC SERVICE COMMISSION REPORT

ON NATURAL GAS RETAIL COMPETITION

Table 23. Average Price of Natural Gas Delivered to Consumers by State and Sector, 2007
(Nominal Dollars per Thousand Cubic Feet)

State	Residential		Commercial		Industrial		Vehicle Fuel	Electric Power
	Average Price	Percent of Total Volume Delivered	Average Price	Percent of Total Volume Delivered	Average Price	Percent of Total Volume Delivered	Average Price	Average Price
Alabama	18.13	100.00	15.07	79.82	8.70	24.02	–	7.19
Alaska	8.68	100.00	7.57	76.01	4.67	69.96	–	3.58
Arizona	17.21	100.00	12.84	93.36	10.49	31.33	9.40	6.84
Arkansas	13.08	100.00	10.07	70.38	9.51	4.15	8.39	7.04
California	11.57	99.50	10.20	60.63	9.07	5.31	7.71	6.72
Colorado	8.84	100.00	8.10	95.70	7.21	0.45	8.72	4.35
Connecticut	16.39	98.20	12.61	71.49	10.54	50.04	20.57	7.81
Delaware	16.21	100.00	14.48	74.75	8.93	9.90	21.90	W
District of Columbia	15.67	76.23	13.70	100.00	–	–	9.49	–
Florida	20.61	100.00	13.07	100.00	10.56	3.10	12.82	9.35
Georgia	17.53	100.00	13.18	100.00	8.87	17.05	12.93	7.54
Hawaii	34.05	100.00	28.31	100.00	18.66	100.00	–	–
Idaho	11.47	100.00	10.67	84.81	9.39	1.96	11.42	W
Illinois	10.76	88.66	10.40	42.19	9.00	9.47	9.59	7.26
Indiana	11.29	96.23	10.20	78.08	8.45	7.43	6.09	7.48
Iowa	11.76	100.00	9.97	77.47	8.56	8.62	11.68	7.73
Kansas	12.97	100.00	12.03	64.81	7.17	5.95	–	6.31
Kentucky	12.05	96.17	11.30	81.71	8.37	16.62	–	W
Louisiana	14.19	100.00	11.21	98.06	7.07	25.91	12.00	7.53
Maine	16.90	100.00	14.82	46.21	13.40	5.72	–	W
Maryland	15.17	100.00	12.30	100.00	11.59	7.80	11.40	7.89
Massachusetts	16.99	99.91	15.08	65.30	14.83	29.89	12.84	8.11
Michigan	11.06	94.51	10.02	100.00	9.47	10.43	–	6.63
Minnesota	11.14	100.00	10.14	94.88	7.65	34.18	12.78	W
Mississippi	13.02	100.00	11.11	88.77	8.29	15.11	–	7.43
Missouri	13.42	100.00	11.82	76.97	11.02	12.61	8.44	W
Montana	9.91	99.86	9.76	78.50	9.75	0.76	7.64	W
Nebraska	11.15	85.66	9.16	63.91	7.97	10.90	–	8.97
Nevada	14.17	100.00	12.03	67.01	11.77	17.12	9.99	6.31
New Hampshire	16.71	100.00	15.42	71.24	13.45	15.31	–	W
New Jersey	14.48	100.00	12.10	44.17	9.63	20.64	–	8.17
New Mexico	11.99	100.00	10.00	64.03	8.54	10.61	5.77	W
New York	15.49	100.00	11.72	100.00	11.33	11.97	12.85	8.09
North Carolina	15.70	100.00	12.77	83.03	9.98	21.24	10.64	W
North Dakota	9.13	100.00	8.37	93.27	6.86	47.88	8.24	6.41
Ohio	13.47	100.00	11.74	100.00	10.63	2.68	–	7.88
Oklahoma	12.06	100.00	10.93	48.06	9.18	0.94	12.83	6.69
Oregon	14.65	100.00	12.36	98.46	9.30	21.78	6.59	6.10
Pennsylvania	14.66	100.00	12.77	100.00	10.64	5.44	10.83	8.01
Rhode Island	16.66	100.00	14.91	66.53	12.58	11.59	10.96	8.06
South Carolina	17.24	100.00	13.55	94.85	8.83	46.66	10.84	8.16
South Dakota	10.49	100.00	8.81	81.21	8.32	17.83	–	–
Tennessee	13.42	100.00	11.99	91.94	9.32	38.21	13.91	W
Texas	12.00	100.00	9.77	81.86	6.76	54.73	9.76	6.77
Utah	9.44	100.00	8.03	86.89	6.35	14.05	8.33	W
Vermont	15.99	100.00	12.79	100.00	9.08	77.97	–	7.72
Virginia	15.42	100.00	11.99	100.00	9.33	14.11	7.45	8.42
Washington	13.86	100.00	12.38	89.20	9.79	17.44	6.66	6.15
West Virginia	14.59	100.00	13.37	58.64	8.51	17.06	–	W
Wisconsin	12.02	100.00	10.36	75.48	9.62	18.53	9.21	7.56
Wyoming	8.84	54.02	7.89	49.29	6.61	2.96	5.79	W
Total	**13.06**	**98.04**	**11.32**	**80.46**	**7.68**	**22.26**	**8.45**	**7.31**

W Withheld.

– Not applicable.

Note: Totals may not equal sum of components due to independent rounding.

Sources: Energy Information Administration (EIA), Form EIA-176, "Annual Report of Natural and Supplemental Gas Supply and Disposition"; Federal Energy Regulatory Commission (FERC) Form 423, "Monthly Report of Cost and Quality of Fuels for Electric Plants"; Form EIA-423, "Monthly Report of Cost and Quality of Fuels for Electric Plants"; and Form EIA-910, "Monthly Natural Gas Marketer Survey".

Table 23. Average Price of Natural Gas Delivered to Consumers by State and Sector, 2008
(Nominal Dollars per Thousand Cubic Feet)

State	Residential		Commercial		Industrial		Vehicle Fuel	Electric Power
	Average Price	Percent of Total Volume Delivered	Average Price	Percent of Total Volume Delivered	Average Price	Percent of Total Volume Delivered	Average Price	Average Price
Alabama	18.30	100.00	15.58	80.17	10.57	27.20	17.32	10.03
Alaska	8.72	100.00	8.66	74.90	5.49	78.23	–	W
Arizona	17.60	100.00	13.01	93.06	10.47	29.65	11.00	8.60
Arkansas	14.09	100.00	11.32	64.49	10.56	3.87	–	9.23
California	12.75	99.31	11.75	56.69	10.80	4.85	11.32	8.23
Colorado	9.77	100.00	9.01	95.24	8.76	0.56	13.57	7.02
Connecticut	17.85	97.75	13.81	70.71	12.63	47.28	24.04	10.48
Delaware	16.07	100.00	14.24	70.55	12.54	5.81	26.48	W
District of Columbia	16.49	76.31	13.89	100.00	–	–	15.57	–
Florida	21.19	100.00	14.51	100.00	11.72	2.96	15.56	10.41
Georgia	18.26	100.00	14.30	100.00	11.02	16.10	12.91	10.40
Hawaii	44.57	100.00	39.01	100.00	26.74	100.00	–	–
Idaho	11.07	100.00	10.28	86.01	9.18	1.92	12.45	W
Illinois	12.07	87.82	11.70	43.26	10.58	9.36	12.75	10.10
Indiana	12.65	94.99	11.14	77.88	10.48	6.71	7.94	9.61
Iowa	11.91	100.00	10.25	75.75	9.33	6.91	11.97	W
Kansas	13.00	100.00	12.24	64.92	9.42	7.84	–	8.11
Kentucky	13.84	96.04	13.25	82.03	10.41	17.53	–	W
Louisiana	15.49	100.00	13.52	98.42	9.32	21.41	13.02	10.01
Maine	17.47	100.00	15.87	44.97	14.89	1.28	–	W
Maryland	16.08	100.00	13.14	100.00	13.46	6.32	14.66	11.16
Massachusetts	17.14	99.91	15.49	64.17	15.42	28.29	13.80	10.43
Michigan	11.93	93.95	10.66	100.00	10.26	12.90	–	8.75
Minnesota	11.29	100.00	10.52	95.73	9.05	33.23	19.51	9.23
Mississippi	13.96	100.00	12.48	90.38	10.37	12.24	–	9.62
Missouri	13.36	100.00	12.02	77.49	11.32	13.89	8.66	W
Montana	11.45	99.86	11.32	79.56	11.04	0.95	11.50	W
Nebraska	11.11	87.09	9.62	57.51	9.12	10.64	–	W
Nevada	13.33	100.00	11.21	67.01	11.10	17.84	9.24	8.26
New Hampshire	16.74	100.00	15.53	70.07	14.50	7.94	–	W
New Jersey	15.21	100.00	13.38	42.08	12.76	11.00	–	10.78
New Mexico	12.23	100.00	10.39	62.57	10.27	9.97	–	8.18
New York	16.75	100.00	12.86	100.00	12.30	11.44	18.55	10.85
North Carolina	16.58	100.00	14.19	84.52	12.10	19.07	–	11.13
North Dakota	10.34	100.00	9.58	93.41	8.30	46.22	11.32	NA
Ohio	14.52	100.00	12.79	100.00	12.71	2.68	–	10.79
Oklahoma	12.32	100.00	11.54	51.20	13.03	0.63	11.01	8.18
Oregon	13.89	100.00	11.57	98.54	9.07	20.14	8.03	7.08
Pennsylvania	16.22	100.00	14.30	100.00	12.09	5.70	8.30	10.46
Rhode Island	16.89	100.00	15.53	66.22	13.26	11.66	12.62	10.50
South Carolina	16.84	100.00	14.26	94.90	11.03	47.31	13.38	10.48
South Dakota	11.32	100.00	9.76	83.00	9.00	17.39	–	7.32
Tennessee	14.20	100.00	13.01	91.69	10.81	39.91	11.79	W
Texas	13.75	100.00	11.25	82.51	8.96	50.44	11.53	8.91
Utah	9.00	100.00	7.74	86.43	7.21	12.67	8.08	W
Vermont	18.31	100.00	14.31	100.00	9.60	79.62	–	9.14
Virginia	16.20	100.00	12.98	100.00	11.49	17.30	10.66	10.87
Washington	13.06	100.00	11.49	89.04	10.55	12.89	15.43	8.56
West Virginia	14.51	100.00	13.54	53.52	10.94	19.01	–	10.08
Wisconsin	12.81	100.00	11.18	76.82	10.57	18.32	11.01	9.24
Wyoming	10.16	77.32	8.87	65.61	7.55	3.15	6.51	W
Total	**13.89**	**97.88**	**12.23**	**79.93**	**9.67**	**20.54**	**11.75**	**9.26**

W Withheld.
– Not applicable.
NA Not available.
Note: Totals may not equal sum of components due to independent rounding.
Sources: Energy Information Administration (EIA), Form EIA-176, "Annual Report of Natural and Supplemental Gas Supply and Disposition"; Federal Energy Regulatory Commission (FERC) Form 423, "Monthly Report of Cost and Quality of Fuels for Electric Plants"; Form EIA-423, "Monthly Report of Cost and Quality of Fuels for Electric Plants"; and Form EIA-910, "Monthly Natural Gas Marketer Survey".

APPENDIX E

TO THE KENTUCKY PUBLIC SERVICE COMMISSION REPORT

ON NATURAL GAS RETAIL COMPETITION

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Governor

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INTER-AGENCY MEMORANDUM

TO: Perry Papka, LRC

CC: Stephanie Bell, Legislative Liaison
Kentucky Public Service Commission

FROM: David S. Samford, Deputy Executive Director
Kentucky Public Service Commission

RE: Fiscal Impact of SB 154

DATE: February 20, 2009

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Commission Staff estimates that SB 154 will cost the Commission at least $167,580 each fiscal year in additional expenditures for personnel necessary to implement and oversee the expanded provision of "bulk natural gas sales". Commission Staff also estimates that SB 154 could result in a revenue decrease of up to $380,903.44. Commission Staff is available to answer any additional questions you may have.

Expenditure Impacts

Kentucky law currently permits large industrial customers to purchase natural gas under similar special contracts with natural gas suppliers. SB 154 would extend the permissible sale of bulk natural gas to small commercial, small industrial, governmental and educational customers that consume more than 2,000 Mcf of natural gas per year. SB 154 calls for the promulgation of regulations, the certification of marketers, responding to consumer complaints and the continued review and approval of rates and tariffs. To fully implement SB 154, the Commission would, at a minimum, need to make expenditures to secure the services of the following staff: a full-time Public Utility Financial Analyst IV; a part-time Attorney III; a part-time Utility Regulatory Safety Inspector III; and a part-time Administrative Specialist II. The cost of these personnel expenditures in the current fiscal year would be as follows:

Position	Pay Grade	Full/Part	Monthly Salary	Annual Cost	FICA	Retirement	Health Ins	Life Ins	Total Cost
PUFA IV	15	100%	$4,280	$51,361	$3,733	$5,963	$7,000	$23	$68,080
Atty III	17	50%	$5,179	$31,072	$2,258	$3,607	$7,000	$23	$43,961
Ut Rg S I III	14	50%	$3,981	$23,885	$1,376	$2,773	$7,000	$23	$39,038
Adm Spec II	10	25%	2,658	$7,973	$579	$926	$7,000	$23	$16,501
								total salary and fringe	$167,580

Additional costs associated with these positions (e.g. office supplies, travel, training, etc.) are more difficult to quantify, but are certain to be incurred and would be in addition to the total personnel costs itemized above.

Revenue Impacts

The Commission is funded by an assessment on the gross intrastate sales receipts of jurisdictional utilities pursuant to KRS 278.130 to KRS 278.150. The five largest natural gas companies in Kentucky had combined gross intrastate sales receipts of $834,860,880.00 in 2007. Of this number, SB 154 would open the door for third-parties to provide bulk natural gas sales to customers who accounted for $272,073,887.00 – roughly 33% of the total gross intrastate sales of natural gas from these five utilities. Under SB 154, the sale of natural gas by bulk marketers would no longer be subject to the statutory assessment. Applying a millage rate of 1.4 to the potential natural gas market affected by SB 154 yields an estimated loss of revenue to the Commonwealth of approximately $380,903.44. Theoretically, the Commission would be made whole as its full budgeted amount would be spread over the remaining assessment base (which would pay a higher millage rate). The General Fund, however, would appear to lose the opportunity to collect this amount of current revenue.

APPENDIX F

TO THE KENTUCKY PUBLIC SERVICE COMMISSION REPORT

ON NATURAL GAS RETAIL COMPETITION

Fiscal Impact on Commission

Estimated additional personnel expenses:

Position	Grade	Full/Part Time	Monthly Salary	Annual Salary	FICA	Retirement (16.98%)	Life Insurance	Health Insurance	Total Costs
PUFA IV	15	100%	$4,280	$51,360	$3,732.59	$8,720.93	$23.76	$7,150.00	$70,987.28
Atty III	17	50%	$5,179	$31,074.	$2,258.30	$5,276.37	$23.76	$7,150.00	$45,782.43
Ut Rg SI III	14	50%	$3,981	$23,886	$1,735.92	$4,055.84	$23.76	$7,150.00	$36,851.52
Admin. Spec. II	10	25%	$2,658	$ 7,974	$ 579.51	$1,353.99	$23.76	$7,150.00	$17,081.26
Total									$170,702.48

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