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June 18, 2010

RECEIVED
JUN 21 2010
PUBLIC SERVICE COMMISSION

Via Hand Delivery
Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601

Re: Case No. 2010-00146
An Investigation of Natural Gas Retail Competition Programs

Dear Mr. Derouen:

Enclosed for filing in the above-captioned matter please find an original plus ten (10) copies of Testimony of Marlon Cummings on Behalf of Association of Community Ministries.

Please confirm your receipt of this filing by placing the stamp of your office with the date received on the enclosed additional copy, and returning it to me in the enclosed self addressed stamped envelope.

Thank you for your assistance in this matter. Please contact me if you need further information.

Very truly yours,

Eileen Ordover

Eileen Ordover
Attorney for ACM

Cc: Parties of record

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

JUN 21 2010

PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF NATURAL GAS RETAIL COMPETITION PROGRAMS	))	**CASE NO. 2010-00146**

TESTIMONY OF
MARLON CUMMINGS

ASSOCIATION OF COMMUNITY MINISTRIES

ON BEHALF OF
ASSOCIATION OF COMMUNITY MINISTRIES

Filed: June 18, 2010

Q. Please state your name, title and address.

A. My name is Marlon Cummings and I am Treasurer of the Board of Directors of the Association of Community Ministries ("ACM"). I have been appointed by the Board to represent ACM in all low-income utility issues.

Q. Please describe ACM.

A. ACM is a Kentucky 501(c)(3) nonprofit corporation and its membership is comprised of 15 independent community ministries that provide services to the Louisville Metro area. The common mission for all 15 members is to provide an emergency assistance network in partnership with the Louisville Metro Government, local congregations, and other businesses and organizations. Each Ministry serves a specific geographical area to ensure that all of Louisville Metro is covered under the umbrella of the ACM. Among the social services provided by ACM members are utility assistance programs.

Q. Describe ACM's activities regarding utility issues.

A. Our member agencies provide financial assistance with utility bills to low-income persons year round. Our agencies help clients negotiate payment plans with the utility companies when they fall behind, and help them avoid utility disconnections. The agencies obtain funding from donations and local governments grants. These agencies also distribute Community Winterhelp funds from January through April each year. ACM utility assistance providers routinely refer customers to the federal Low Income Home Energy Assistance Program ("LIHEAP") when it is in operation. ACM is one of the joint applicants for the current Louisville Gas & Electric Company Home Energy Assistance Program.

Q. Describe your employment and educational background.

A. Currently and for the past 12 years I have been Executive Director of Jeffersontown Area Ministries, which is one of the member agencies of ACM and which provides emergency utility and rental assistance and a variety of other social services to residents in the Jeffersontown area. I have been on the Board of Directors of ACM since 1994. I served the Jeffersontown Christian Church (Disciples of Christ), from 1985 until 1996, as the Family and Youth Minister. I have a Bachelor of Arts in Business from Bellarmine University and received my Minister's license from the Kentucky Region of the Christian Church (Disciples of Christ) in conjunction with the Lexington Theological Seminary.

Q. Have you previously testified before the Commission?

A. Yes, I filed testimony in the pending LG&E base rate case, Case No. 2009-00549, *Application Of Louisville Gas And Electric Company For An Adjustment Of Electric And Gas Base Rates* on behalf of ACM, and in the immediately prior LG&E base rate case, No. 2008-00252, *Application Of Louisville Gas And Electric Company For An Adjustment Of Its Electric And Gas Base Rates* on behalf of ACM and POWER. I have also filed testimony in Case No. 2006-00045, *Consideration Of The Requirements Of The Federal Energy Policy Act Of 2005 Regarding Time-Based Metering, Demand Response And Interconnection Service* on behalf of Metro Human Needs Alliance and in Case No. 2007-00477, *An Investigation Of The Energy And Regulatory Issues In Section 50 Of Kentucky's 2007 Energy Act* on behalf of ACM.

Q. What is the Purpose of your testimony?

A. I offer this testimony to voice ACM's concerns regarding the potential impact of natural gas retail competition on low income consumers, and the issues ACM believes the legislature and the Commission must address in considering whether retail competition is to be allowed in Kentucky and, if so, under what conditions.

Q. How has ACM identified these concerns?

A. Since being notified of this Investigation, we have sought out information about the experience of low income customers in states that have adopted natural gas retail competition programs, and how those programs have attempted to address their needs. Towards that end, I have reviewed information from the LIHEAP Clearinghouse,[1] newspaper coverage, and other sources available to the general public regarding implementation of natural gas restructuring, deregulation and retail competition in particular states.

Q. Please identify the major areas of concern that have emerged from your research.

A. Our concerns fall into three broad areas. First, we are concerned that retail competition will result in higher gas bills for our clients and other low income customers. Second, we are concerned because Kentucky currently lacks the kind of low-income energy assistance programs mandated by other states in connection with natural gas restructuring and deregulation. Third, given the vulnerable population we serve, ACM is extremely concerned about the potential for consumer confusion and consumer fraud.

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[1] The LIHEAP Clearinghouse is a resource maintained by the U.S. Department of Health and Human Services/Administration for Children and Families, which administers the federally-funded Low Income Home Energy Assistance Program.

Q. Please elaborate on ACM's concerns about higher gas bills.

A. According to media reports I've reviewed from Georgia, Illinois and Ohio, many residential consumers saw substantial increases in their natural gas bills when retail competition was implemented. Copies of such articles are attached to this testimony as "Exhibit A." The possibility of such increases in KY is particularly alarming to ACM, as our clients are already struggling to make ends meet. Even without rate increases, the level of need for assistance with utility bills is increasing beyond the ability of ACM members to meet it. In fiscal year 2009-10, requests for services from ACM member agencies increased by 30%. And even while increasing their total utility assistance payments to LG&E by 20%, ACM agencies were still forced to turn away needy customers due to lack of sufficient funding.

Q. Please elaborate on ACM's concern that Kentucky currently lacks the low-income energy assistance programs mandated by other states in connection with natural gas restructuring and deregulation.

A. Based upon my review of information in the LIHEAP Clearinghouse, which can be accessed at www.liheap.ncat.org, it appears that states restructuring or deregulating natural gas service to residential customers have also, through legislation and/or regulation, put into place mandatory low income energy assistance programs to ameliorate the potential harsh impact on low-income customers. By way of example, a sampling of LIHEAP reports (for the states of Georgia, Ohio, Pennsylvania, Montana, Rhode Island and Massachusetts) summarizing low income energy assistance programs mandated in connection with natural gas restructuring and deregulation and operated through public benefit funds, universal service funds, and system benefit funds is attached to this testimony as Exhibit "B." According to these reports, restructuring and deregulating states have mandated through legislation or regulation such measures as percentage of income payment plans; gas rate assistance programs; special rates and/or discounts for low-income customers; arrearage management and forgiveness plans; and, in Georgia's implementation of retail competition, designation of a regulated provider to serve low-income natural gas customers and/or those with poor credit. Kentucky law does not contain protections of comparable and sufficient magnitude. There are a variety of models of assistance available, and before retail competition proceeds, there needs to be evaluation undertaken to decide which, if any, can adequately protect Kentucky's low-income consumers.

Q. Please elaborate on ACM's concern about the potential for consumer confusion and consumer fraud.

A. I have paid particular attention to the experience of Georgia, which instituted natural gas retail competition in 1997. News reports I reviewed concerning implementation in Georgia, copies of which are among those attached to this testimony in Exhibit C, describe marketer fraud targeted at low income and elderly consumers, ACM's constituency. One article reported that marketers were going door-to-door in low income residential areas to solicit business from customers without fully explaining gas rates, contract terms and procedures. Another explained that customers were facing "slamming," whereby a customer's service was changed from one provider to another without permission. It was also reported that ultimately the Georgia Public Service Commission instituted provider certification measures to protect consumers and began to assess fines against natural gas marketers who were engaging in "slamming." According to a report by the U.S. Energy Information Administration, which is also included in Exhibit C, because of these problems the Georgia legislature eventually stepped in to create a Natural Gas Consumers Relief Act and a Natural Gas Consumers' Bill of Rights. I am aware from my review of other news reports, including those attached as parts of Exhibits A and C, that "slamming," aggressive and deceptive marketing practices, and confusing contracts and bills have also been widespread problems elsewhere.

Q. Does that conclude your testimony?

A. Yes.

VERIFICATION

COMMONWEALTH OF KENTUCKY)
) SS:
COUNTY OF JEFFERSON)

The undersigned, Marlon Cummings, being duly sworn, deposes and says he is Treasurer of the Board of Directors of Association of Community Ministries, that he has personal knowledge of the matters set forth in the foregoing testimony, and the answers contained therein are true and correct to the best of his information, knowledge and belief.

Marlon Cummings

MARLON CUMMINGS

Subscribed and sworn to before me, this 18th day of June, 2010.

NOTARY PUBLIC
KENTUCKY STATE AT LARGE

My Commission expires: March 1, 2012.

Exhibit A

NewsBank, inc. Access World News

FUEL FOR THE FIRE - RESIDENTIAL CONSUMERS WERE SUPPOSED TO BENEFIT FROM DEREGULATION OF THE STATE'S NATURAL GAS INDUSTRY. INSTEAD, THEIR COSTS HAVE SKYROCKETED.

Savannah Morning News (GA) - Sunday, November 12, 2000

Author: *Ben Werner Savannah Morning News*

Residential natural gas customers say they have been burned at the expense of large business users. Politicians say they got duped by lobbyists. Atlanta Gas Light's profits have soared.

Deregulation of Georgia's natural gas industry a little more than a year ago was supposed to save residential consumers money. Instead it's cost them plenty, although no one has taken the time to determine just how much.

There's plenty of finger-pointing but few solutions.

Members of the Georgia Public Service Commission, the agency charged with overseeing public utilities, blame state legislators who voted for the deregulation. The legislators blame lobbyists for big business and Atlanta Gas Light, which they claim led them astray. Atlanta Gas officials say deregulation wasn't their idea and they simply made the best of the situation.

Even Lt. Gov. Mark Taylor, who supported deregulation at the time as a House member, admits "it has been a total fiasco for the consumer."

Over the past two years, about 22,400 of Georgia's 1.5 million natural gas users called the Public Service Commission to complain about everything from confusing, inaccurate and costlier bills to having their natural gas supplier go bankrupt. Commissioner Philip Nowicki said by far the most complaints -- nearly 17,000 -- were about the bills.

Taylor and others expect natural gas deregulation to be a hot topic when the General Assembly meets in January. There are even rumblings of efforts to re-regulate the industry, although it's unclear how much support that would receive.

Most members of the Savannah-area legislative delegations aren't happy with deregulation and want change even though they initially supported the program.

It was anticipated switching to a deregulated natural gas state would not be an easy process, but the level of consumer frustration was not expected, said Rep. Lester George Jackson, D-Savannah.

"We're going to have to go back and see if we did something wrong," Jackson said.

WHAT HAPPENED

The legislation, once promised to make Georgia the nation's deregulated model, has turned into a political quagmire of shifting blame around Atlanta.

"We all just got snookered on the deregulation of gas," said Sen. Regina Thomas, D-Savannah.

Before voting for deregulation, Thomas remembers being told that the Public Service Commission would be able to regulate prices Atlanta Gas charges for delivering gas. Atlanta Gas, which used to operate as a state-controlled monopoly, was to turn over the actual supplying of gas to marketing companies. Atlanta Gas would still be paid for letting the other companies use its lines. In effect, Atlanta Gas got rid of many of its costs, while maintaining the most profitable part of its operation. What Thomas and other legislators say they found out the hard way was that the legislation they passed gave the Public Service Commission no control over the prices and customer service fees the 10 competing marketing companies could charge.

"There was nothing in there that made the PSC a watchdog," Thomas said.

Large commercial users of natural gas have been able to negotiate their costs with the marketers and generally are paying considerably less than before deregulation. In turn, the marketers have shifted administrative costs to smaller residential customers, who have little to no leverage, according to Bobby Baker, a member of the Public Service Commission.

Residential customers using natural gas as backup to heat pumps or the 59,000 Savannah-area residents whose heating demands are limited to just a few months are seeing no benefits from deregulation.

Even getting estimates of what residents are paying under deregulation as compared to the old systems is hard to come by. The Public Service Commission has not crunched the numbers to find out by how much average natural gas bills have increased.

"I'm pretty sure they're paying more," Baker said. "Mainly the large customers, the commercial customers like dry cleaners, are seeing savings. They're happy as clams."

Three years ago, in a newspaper interview, Baker expressed skepticism that deregulation would mean cheaper bills for gas customers.

THE BLAME GAME

Competition is good for business. Monopolies are bad. Those ideas made gas deregulation a popular idea for state legislators. When they passed a deregulation bill in 1997, legislators felt they had endeared themselves to not only voters but to the large industries and businesses that bankroll many of their campaigns.

So on April 1, 1999, when Georgia's state-regulated natural gas market completed its switch to an open, competitive market, many people felt that the marketers would use low prices and high value to win customers. Everyone would be better off than when the state regulated gas bills.

Wrong.

By adding the price of gas, customer service fees, taxes and the cost of delivering natural gas to a house, it now has become the most expensive energy utility available, said Charlie Smith, owner of Smith Air Conditioning in Savannah.

Baker says that results from flawed legislation.

"A lot of this goes back to how the legislation was drafted," Baker said. "Pricing was changed to allow fixed costs to be shifted to anyone (marketers) wanted, and this has been passed on to residential customers."

The average homeowner has been stuck with whatever the marketers offer, which is generally similar. The large gas business customers, with bills routinely in the hundreds to thousands of dollars each month, have bargained for lower rates.

Even Sen. Sonny Perdue, D-Bonaire, who sponsored the deregulation legislation, admits things have gone awry.

The base charge -- the amount passed on to Atlanta Gas -- was something always expected, Perdue said. Average residential customers now pay $16.92 a month for the base charge. But all the extra charges, such as customer service fees that can be increased with no reason, never came up when the legislation was being discussed.

Perdue said he sponsored the legislation after sitting on a committee made up of legislators and industry representatives.

"From my perspective there's been a bungled approach. There are many types of charges I didn't foresee," Perdue said. "All these surcharges were never anticipated."

Marketers, though, say the new billing structure is something customers are getting used to. Roger Schrum, general manager of marketing with SCANA Energy, said the fees pay for services that used to all be bundled under one charge.

Schrum said it is important to remember that marketers, such as SCANA, don't produce natural gas. These companies simply purchase it and then sell it to consumers. The price marketers pay for natural gas has increased dramatically, from about 25 cents per therm to 50 cents over the past year, Schrum said. This increase has been passed on to the customers.

"When people look at bills and say, 'I'm paying more now than before,' that's not quite right," Schrum said.

When the legislature opened up natural gas to competition, though, Baker said it also freed marketers to charge whatever they could under the guise of customer service fees. These fees, which are not affected by natural gas prices, have fluctuated wildly over the past year. SCANA's customer service fee, for example, has traveled from $3.50 to $2.28 to $3.95 to $4.95.

"The problem that we face is that with the passage of gas deregulation, the law has stripped us of control over marketers," Baker said.

Though members of the Public Service Commission expressed some concerns about the deregulation legislation, the measure, supported heavily by the manufacturing community and Atlanta Gas Light, passed unanimously with few questions and little debate.

At the time, Perdue was quoted as saying, "The PSC will determine who is allowed to do what things in Georgia ... the PSC has total discretion in determining this thing and pulling the plug."

RESIDENTS HOT UNDER THE COLLAR

Ken Hoddinott of Chatham County says since deregulation his gas bills have steadily increased. Hoddinott said he and his neighbors are trying their best to conserve gas, but are fearful of what their bills might be during a cold winter.

Hoddinott is a member of The Landings Association Natural Gas Subcommittee, an organization that sifts through natural gas information for the Skidaway Island community's nearly 3,000 households.

Hoddinott said when he compares his pre-deregulation bills with post-deregulation bills, the results are nothing like the promises once made and not welcomed by his neighbors.

For instance, in October 1998, before deregulation, Hoddinott said his monthly gas bill was $51.15. A year later, he paid $72.44.

But Hoddinott's gas usage increased and the cost for gas -- measured in a unit called therms -- increased by about 10 cents per therm between 1998 and 1999. He admits that those increases would have happened with or without deregulation.

Before deregulation, Hoddinott paid a base charge of $23 with $2.90 tax. After deregulation, he paid a base charge of $20.67, with $4.09 tax and an added customer service fee of $3.95. That customer service fee has since increased by a $1.

The Public Service Commission posts rates for all the marketers on the fifth of each month on its Web site at www.psc.state.ga.us, so consumers can compare deals being offered by the various gas sellers. But those rates can and do change constantly after the postings, further confusing consumers.

Baker says it will take legislative action to restore some enforcement power for the Public Service Commission. Before deregulation, the PSC played a strong role in controlling rates, much like it still does with electricity, he said.

But legislators say the PSC needs to do a better job of exercising the authority it already has over the natural gas marketers.

"At this point, it is in the PSC's hands to pressure the marketers," said Sen. Eric Johnson, R-Savannah. "We are trying to get the marketers to voluntarily make changes, or we'll have to take a closer look at this in January."

Johnson, who supported deregulation, said some possibilities that could be considered by the General Assembly include capping customer service fees or including these charges into the per therm rates customers are charged.

"But that might defeat the original purpose (of deregulation) and people may not like this," Johnson said.

The only action so far toward quelling consumer angst has been a shifting of costs during peak and low-use periods, but that ultimately does nothing to change the cost of a customer's yearly gas bill.

Commissioner Lauren "Bubba" McDonald, chairman of the PSC's Energy Committee, authored a plan to lower the base paid to Atlanta Gas Light for delivering gas by 5 percent per month during warm-weather months. But those charges would increase in the cold-weather months to ensure that Atlanta Gas Light Co. collects the same annual fee. Critics say the plan just makes it more expensive to use gas in the winter, when costs are already higher.

Perdue thinks deregulation can still work. He says the process just needs some tweaking to make it more palatable to residential consumers. But some residents believe the plan needs to be scrapped altogether.

TOO MUCH INFORMATION?

Johnson said his office regularly gets six to seven phone calls a week from constituents unhappy about their gas bills.

"That's significant, but nothing like when property assessments go up," Johnson said.

Many of the callers simply can't understand their bills, which include several itemized fees and charges. Before deregulation, Atlanta Gas wrapped all costs and fees into just a couple of categories.

But Johnson thinks the new bills are positive because "consumers are getting a lot more information" about what they are paying.

The extra items on the bills are necessitated in part by all the extra players. The base charge is listed as a separate fee since that money is given to Atlanta Gas to keep its line system working. The other charges all go to the marketers, such as SCANA Energy and Georgia Natural Gas Services, which do all the selling and buying of natural gas.

However, each marketer has its own individual way of listing charges on its bill, Hoddinott said. This only adds to the confusion and mumbo-jumbo used to explain why monthly gas bills are increasing.

"The bill from AGL had just three items," Hoddinott said. "Base charge, consumption charge -- that's when they'd read the meter -- and then the local tax. Now that's pretty simple."

Hoddinott says that based on his group's bills it seems the base charge given to Atlanta Gas is actually lower than before since that company no longer has to do billing. Hoddinott said his old Atlanta Gas bills before deregulation included a $23 base charge. Now that charge is $20.60 per month.

"The whole thing that is wrong with deregulation is this customer service charge," Hoddinott said. "It's a fourth item. Remember, we had three."

SCANA, which was Hoddinott's marketer, imposed eight different customer service charges on bills during 11 months. He said that charge varied from $2.28 to $4.95 a month, money the company said is paid to process bills.

In August, Hoddinott switched his gas service to Columbia Energy Group, which had a $3.75 customer service charge as of Sept. 5.

"I don't know whether we are better off or not," Hoddinott said.

DEREGULATION WINNERS

One thing that deregulation did do was make Atlanta Gas Light more profitable. The company set up and now reports to a publicly traded holding company AGL Resources. AGL Resources, in turn, set up its own natural gas marketing company -- Georgia Natural Gas -- to compete with SCANA and the other marketers.

AGL Resources was created with the purpose of becoming a major force in natural gas marketing in the Southeast, said Clayton Preble, senior vice president for AGL Resources.

To survive deregulation and make AGL Resources more profitable, Preble said the company had to figure out ways to run more efficiently.

"We have really transformed the company," he said. "We had to shed costs. We've had to scale ourselves down."

At first, though, deregulation was not kind to AGL Resources. During 1999, AGL Resources' revenues dropped $270 million from $1.338 billion in 1998. The company's income dropped by $6.2 million to $74.4 million during this period.

This drop is credited to the Nov. 1, 1998, start of customers switching from Atlanta Gas Light Co. to certified marketers for natural gas purchases. By Sep. 30, 1999, about 1.2 million customers, about 82 percent of Atlanta Gas Light's total customers, had made to the switch. As a result, the company sold less gas.

This year, though, AGL Resources has rebounded. The company's revenues for the three months that ended Aug. 31 were $131 million. This is down from $185 million reported during the same three months a year earlier, but AGL Resources' income of $13.9 million for the three month period this year is considerably higher than the $7.2 million it posted during the same three months in 1999.

As a distribution company only, Atlanta Gas Light has driven costs out of everything that weren't necessary, Preble said. But even with some moderate successes during the first full year of operation in a deregulated Georgia, Preble said the company is still not meeting its full potential.

Preble said AGL Resources' master plan -- to go into other states -- has been delayed somewhat because Georgia has been one of only a few states to tinker with deregulation. In the Southeast, most states have been a lot slower to open up their markets.

BOON FOR BIG BUSINESS

Smith Air Conditioning's Charlie Smith says small businesses and offices, including his, have been hurt by deregulation just as bad as residential customers. An office that only uses gas for heat is charged for having the gas lines to the business even when it isn't using heat.

But large industrial customers of natural gas have made out well. Just as with residential consumers, though, no one has actually studied it to determine how much.

The large industries defend their savings, saying they were unfairly subsidizing residential customers before deregulation. Under deregulation, everyone pays based on how much they use, said Roy Bowen, president of the Georgia Textile Manufactures Association.

While residential and small business customers that require constant natural gas service have seen fees increase, Bowen said members of his organization have benefited from the system because of their contracts with the marketers.

Five years ago, though, when deregulating natural gas was first being discussed in Atlanta, Bowen claimed that opening up the market would benefit everyone, from the biggest manufacturers to new homeowners.

Though residential consumers argue they have yet to see any savings, Bowen defends the costs savings his members have received. He cites the fact that in the case of natural gas shortages residential consumers would get served first. Industries get served last if the supply is available. However, no one has actually determined the likelihood of that happening in Georgia.

The large industrial "customers, in some sense, are holding down the costs," Bowen said. "What my concern is that consumers are linking the increasing price to deregulation."

THE FUTURE

Deregulation is not the sole reason Ralph Cleveland moved to Savannah, but it helped.

Cleveland, manager of Atlanta Gas Light's southeast Georgia service area, describes himself as a huge energy fan. As a student at Georgia Tech University he took as many classes as possible about energy. Courses included plant design and the history of energy.

He is a firm believer that ultimately a deregulated market will be the best thing for the energy industry and for its customers.

But Cleveland does not think Georgia's current deregulation situation is ideal. He's quick to admit that consumers are grumbling now because the new freedom of choice arrived with few obvious benefits but a lot of hassles.

"Today when people make a choice, the service is not that different from what it was like before," Cleveland said.

So far, deregulation has done little but change where gas bills get mailed each month, he said.

What can happen under deregulation, Cleveland said, is that every customer will have the same types of choices that are now available only to the large industrial users. Every house will have the technology to pick the cheapest energy source. When this happens, then the base rate paid to keep the delivery system safe and reliable will have some value.

The local problem of paying a base rate even when little or no gas is used leaves consumers with the perception that they are paying for nothing. Cleveland said the first marketer that bundles several services together, providing a product for consumers all year, will be able to fulfill the potential of deregulation.

"It takes a lot of faith," Cleveland said. "It takes some faith that some good will come out of this. It takes faith in the creative potential of man."

ELECTRICITY?

The key to Cleveland's vision of deregulation down the road, though, is deregulating the electricity market, too. Once people can contract with a single utility for all their energy needs, consumers will really have choice. A single company could provide gas, electricity and alternative energies to homes that would be outfitted with equipment to easily switch back and forth.

The problem, though, is the natural gas industry's deregulation has left most of the elected officials responsible for opening more utility markets thinking that once burned is enough.

Lt. Gov. Taylor does not expect anyone anytime soon to even broach the subject of deregulating electricity.

"We've had a difficult period here," Taylor said. "I'm sure if we had to do it over again, the General Assembly would be less trusting."

Complicating the electricity issue are the problems that have resulted from California's deregulation of the utility. The state is now considering re-regulating the industry.

Consumers in California, especially in the San Diego area, found their electricity prices were two to three times higher this past summer than a year earlier. The state's deregulation of the electrical utilities was blamed for the sharp increases that have now spurred the Federal Energy Regulatory Commission to step in.

Perhaps more troubling for deregulation fans, though, is the growing perception among voters that such plans are not worth the bother. According to a recent national survey, nearly 53 percent of 600 respondents said they expected their electricity bills to increase as a result of deregulation.

The annual electricity deregulation consumer awareness survey was conducted for the national accounting and consulting firm Deloitte & and Touche by Media, Pa.-based International Communications Research. It was released in September and is said to reflect a growing awareness on the part of consumers of what deregulating electrical utilities will mean.

In 1999, 44 percent of the respondents had a negative view of deregulating electricity. In 1998, 38 percent of the survey's respondents held such a view.

The experience in California is said to be partly to blame for this jump, but so too is an increasing awareness of deregulation.

Locally, deregulation has become paramount to a dirty word for many of the elected officials who would vote on opening Georgia's electrical markets.

State Rep. Ron Stephens, R-Garden City, called the natural gas deregulation "the biggest travesty that we've done in this state." Stephens, who represents west Chatham County, was not in office when the deregulation legislation passed. Stephens said he'll never support any deregulation measures, adding that he would even re-regulate the natural gas industry.

Sharing this view, Bordeaux, predicts the deregulation of natural gas means any future deregulation ideas will be closely scrutinized before coming to a vote.

"I think it taught us we want to go very, very slow before deregulating anything else," Bordeaux said.

Thomas paints an even more bleak picture for the potential to open up electricity to competition.

"I hope that the people in the electricity industry are not hoping we'll give relief to them," Thomas said. "I'll never support deregulation again."

THE CHOICE

What does all this mean for the Coastal Empire? It could be time for residents of the Coastal Empire to think about how much natural gas their lifestyle needs.

During the quickly approaching peak gas using months, the U.S. Department of Energy predicts prices will shoot up more than $1.20 per 1,000 cubic feet at the wellhead -- the gas industry's version of paying at the pump.

When asked by customers what they should do about gas, Smith said he's taken to suggesting natural gas' mortal foe -- the heat pump. It is the one choice not listed among gas marketers' literature promoting deregulation. Choosing a heating source other than gas could become more popular.

"Here in the Sunbelt, the heat pump is a very efficient way to heat your house," Smith said.

A heat pump is an alternate way to heat or air condition a home or office. Heat pumps generally take air from a hot water source and transfer it to the area being heated.

Even Smith -- a gas man by trade who installs furnaces when his air-conditioning business slows -- is having second thoughts about natural gas.

"I'm contemplating putting a propane tank in my office," Smith said. "I can buy LP (propane gas) for $1.40 a therm and am paying $3 a therm for natural gas."

Business reporter Ben Werner can be reached at 652-0381 or by e-mail at bwerner@savannahnow.com.

WHO TO CALL

- Mark Taylor, president of the Senate, (404) 656-5030, voted for gas deregulation

- Sen. Eric Johnson, 354-4626, voted for deregulation

- Sen. Regina Thomas, 231-0600, voted for deregulation as a House member

- Rep. Lester Jackson, Savannah, 233-7970, voted for deregulation

- Rep. Dorothy B. Pelote, Savannah, 232-4659, voted for deregulation

- Rep. Ron Stephens, Garden City, 966-5665, was not in the House at the time

- Rep. Tom Bordeaux, Savannah, 233-7180, voted for deregulation

- Rep. Anne Mueller, Savannah, 925-2219, voted for deregulation

- Rep. Burke Day, Tybee Island, 786-5000, voted for deregulation

THE DDDC

The 1997 state law opening the natural-gas market to competition instituted a flat charge every month for gas delivery, an item on bills labeled Dedicated Design Day Capacity. The DDDC is calculated by estimating the size pipe required to deliver the maximum amount of fuel a customer would need on the coldest day of the year and then dividing that figure by 12 months. Customers pay this amount regardless of how much or how little gas they actually use. The money goes to Atlanta Gas Light, which owns the pipes. Homes and businesses are assessed the pass-through charge each month regardless of whether any gas is used. So a homeowner who uses gas only for winter heating still ends up with a gas bill in the summer.

Caption: Photos by John Carrington/Savannah Morning News
(1) Top left: Ken Hoddinott, a member of the Landings homeowners gas commission on Skidaway Island, points out questionable customer service charges from records he has kept.
(2) Top right: Charlie Smith of Smith Air Conditioning explains to a visitor changes in the gas industry since deregulation.
(3) Left: Gas bills marked by customers at The Landings on Skidaway Island have pointed out questionable charges.
(4) Ralph Cleveland, Atlanta Gas Light Company's southeast Georgia service area manager, is a firm believer that ultimately a deregulated market will be the best thing for the energy industry and for its customers.
GRAPHIC: Vita Salvemini/Savannah Morning News
UNDERSTANDING AGL'S NEW ROLE AND WHERE GAS MARKETERS FIT IN
In 1998, the Georgia Public Service Commission deregulated Georgia' Natural gas market and Atlanta Gas Light was no longer the sole distributor and marker of natural gas in the state. Since the AGL has become the deliverer of natural gas and independent companies sell and market it.
SOURCE: Atlanta Gas Light Co. Georgia Public service Commission

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Gas deregulation's high price - Marketplace competition fails to lower home heating bills, forcing state legislators to rethink alternatives that have burned some consumers

Chicago Tribune (IL) - Thursday, March 26, 2009

Author: *Joshua Boak, Tribune Reporter*

When Illinois officially deregulated natural gas markets in 2002, state legislators predicted that competition would reduce home heating bills.

The exact opposite has occurred, critics say, which is one reason legislation to reform the marketplace for home heat is pending in Springfield.

If you receive a phone call or letter offering the chance to lock in gas prices and suggesting savings, here is what you need to know:

*Homeowners are almost always better off with their local utility than contracting with another supplier, including affiliates of the local utility, according to the Citizens Utility Board. CUB said 91 percent of the supplier plans it has analyzed are bad for consumers.

*Make sure you know who you're dealing with because company names and logos can be confusing. Even mainstream gas companies have affiliate suppliers that may charge higher rates.

Marketing abuses in the industry have been so widespread that a bill reforming some gas industry practices awaits Gov. Pat Quinn's signature. The bill would make it far less costly for customers to exit fixed-rate gas contracts, limiting the charge to $50 from up to $1,000 or more. But it fails to address the confusion that customers such as new homeowner Christopher Sandoval experienced when registering for gas service over the phone.

Sandoval, a 31-year-old pastor, said he thought he had signed up with Nicor Gas, not an affiliate called Nicor Advanced Energy that charged him $3,300 last year, or $2,000 more than he would have paid Nicor Gas, according to publicly available utility rates.

"I did not realize there was any difference at all," Sandoval said. "I told them I thought they were being deceptive in how they promote themselves with the same name and same logo."

A Nicor Inc. spokeswoman said the Naperville company follows state guidelines for distinguishing between its utility and affiliates. The company said it released Sandoval from his contract two months early and refunded him $1,400, explaining that Nicor Advanced Energy miscalculated Sandoval's charges based on past usage by his house's former residents.

Nicor said its affiliate customers who paid several hundred dollars more might have locked in their payments at the wrong time, right before market prices fell to their lowest level in seven years and monthly utility rates began to decrease. The company said some customers receive savings.

"This is not sold as a money-saving program," said Nicor spokeswoman Annette Martinez. "It provides you with peace of mind knowing what you're going to pay."

Similar statements were made by spokesmen for other suppliers. "If there's an added benefit of saving money, that's nice," said U.S. Energy Savings spokesman Gord Potter, noting that customers who signed a five-year contract in April 2004 saved $32, about $6.40 a year.

Dominion Retail spokesman Dan Donovan criticized the CUB analysis of supplier plans, saying its customers can switch among its contracts at any time to find the best deal so their losses are not as substantial as CUB claims. Dominion said its customers on average pay 2.7 percent above the utility rate, though it declined to release data showing how it reached that figure.

The sales pitches are often nuanced, implying rather than stating that locking in rates would save money. "Natural gas prices historically rise during cold winter months, so it is important that you lock in your fixed price with Dominion Retail right now," reads a letter the company sent Illinois residents last fall.

About 280,000 Illinois households received gas service last year from alternative suppliers, up from 108,118 in 2002. The companies often tempt customers to lock-in rates after gas prices peak, according to consumer advocates. The companies said they pitch new customers when people are thinking about the home heating season.

For example, Al Glodowski of Naperville received a pitch for a year-long contract for gas from IGS Energy Services, one of 15 state-certified gas suppliers, at $1.40 per therm after gas prices spiked in July. Because market prices dropped steeply, IGS said it lowered the fixed rate to $0.89 per therm for March and February. That price is still about 40 percent above the utility rate. "Luckily I didn't bite off on that one," Glodowski said.

Still, most consumers don't know enough about expected gas price swings to make good decisions.

"Unless you're pretty sophisticated, it's a crapshoot," said John Howat, a senior policy analyst for the National Consumer Law Center. "This [gas deregulation] experiment has not panned out well for small consumers."

Gladys Ware is a case in point. The 79-year-old Riverdale woman switched to Nicor Advanced Energy from Nicor Gas in June, believing that a $192-a-month fixed-rate plan would protect her from sky-high winter heating bills. The rate, however, seemed excessive to her daughter, Otylia Jenkins, who complained to the supplier.

Nicor Advanced Energy agreed to lower Ware's monthly rate by $30. Even with the discount, Ware would have paid $624 less had she remained with Nicor Gas based on her gas usage, according to publicly available utility rates.

Before deregulation, consumers had no choice but to rely on their local utility, which sold gas at cost and made its money on delivery fees.

This model changed in 2002, after surging gas prices the previous year induced a panic about home heating costs. State legislators responded by passing a law giving consumers alternatives to local utilities, figuring customer choice would lead to lower prices. The bill's sponsor, then-Rep. Vince Persico, also said the bill was "designed to protect consumers from fraud and fly-by-night operations," according to transcripts.

But disreputable sales practices quickly appeared.

The Illinois attorney general sued three gas suppliers -- Illinois Natural Gas, U.S. Energy Savings and Santanna Energy Services -- for consumer fraud. Illinois Natural Gas settled with the attorney general in 2005, agreeing not to switch customers over from the utilities Nicor Gas, Peoples Gas and North Shore Gas. As part of a 2006 settlement in the Santanna Energy case, the company refunded $3.3 million to customers. The U.S. Energy Savings lawsuit is pending.

Separately, an affiliate of Peoples Gas, the Chicago utility, was fined $40,000 by the Illinois Commerce Commission in 2004 for selling fixed-rate plans that had loopholes allowing it to raise prices.

As consumer complaints piled up, the Illinois attorney general's office in April drafted a bill that would have banned alternative suppliers from selling gas to residential customers. That would have been the most drastic action taken by any of the 13 states that deregulated natural gas.

"We started working on legislation because of concerns that consumers were losing money, not benefiting, from contracts with alternative natural gas suppliers," said Atty. Gen. Lisa Madigan.

But the ban was stricken from the bill during negotiations last summer among utilities, suppliers, legislators, state officials and CUB, said its co-sponsor, Rep. Marlow Colvin (D-Chicago).

The resulting legislation calls for suppliers to improve their sales records so the companies can be held accountable for what they promise customers. Also, suppliers would no longer be able to keep people locked in contracts by charging high cancellation fees.

"What we were trying to do was protect the consumer," Colvin said. "Putting a lot of folks out of business wasn't anyone's intention."

But the bill ignores concerns about potential confusion and conflicts of interest when a mainline utility promotes what ends up as more expensive gas contracts sold by affiliates.

If you go online to change your addresses, for instance, you can unintentionally sign up with an alternative supplier. Nicor's corporate Web site features a photo of a woman hoisting a box. "Moving soon?" reads the caption. A form on the next page registers consumers with supplier affiliate Nicor Advanced Energy.

Nicor discloses that Nicor Advanced Energy is separate from the utility at the bottom of the screen, beneath 10 sentences in small print about the registration process. The disclosure fulfills the letter of the law, said Martinez.

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jboak@tribune.com

In Business

Regulators approve $69 million rate hike for Nicor Gas customers. PAGE 23

Caption: Photo(s)
Photo (color): Christopher Sandoval thought he had signed up for Nicor Gas instead of affiliate Nicor Advanced Energy, which charged him $2,000 more than he would have paid Nicor Gas. JOSE M. OSORIO/TRIBUNE PHOTO Photo: Gladys Ware, 79, of Riverdale dumped Nicor Gas in June and ended up paying $624 extra for her natural gas on Nicor Advanced Energy's fixed-rate plan. It could have been worse: She got a $30 per month discount after complaining to the Nicor Gas affiliate. DAVID PIERINI/TRIBUNE PHOTO (News section, Page 1) Graphic (color): Confusing logos... Several new homeowners claim they mistakenly registered with a spinoff of their local utility, Nicor Gas. The confusion stems from the fact that the spinoff has a similar name and logo as the utility, a problem not addressed by a state bill reforming natural gas sales. UTILITY LOGO: Nicor GAS AFFILIATE LOGO: Nicor ADVANCED ENERGY (Logo difference) . . . and aggressive marketing . . . Many natural gas companies claim consumers can insulate themselves from volatile gas prices by locking in a fixed-rate. What the sales pitches neglect to say is that their fixed rate is often higher than what the local utility charges. Consider this solicitation letter in September from Dominion Retail: "Nicor Gas' natural gas price changes monthly and was as high as $1.45 per therm this past July. Take control of your natural gas costs and select a fixed price of $0.997 per therm that is guaranteed not to change through your September 2010 meter read." The average utility rate during the length of this plan has been 67 cents a therm. A customer would have paid 23 percent more, or an additional $340, during the last seven months. . . . have helped boost gas affiliate profits Since Illinois began certifying alternative natural gas suppliers in 2002, revenues and income for Nicor's retail division increased significantly. The affiliate's profit margin is more than double the utility's. SUPPLIER CUSTOMERS HAVE SURGED SINCE 2002, Scale in thousands of people: 2007: 234,763 OPERATING PROFIT MARGIN OF NICOR RETAIL AFFILIATES VS. NICOR UTILITY 2008: Affiliates: 11.2% Utility: 3.9% SOURCES: Dominion Retail, Nicor Inc., Tribune reporting, Illinois Commerce Commission, Nicor TRIBUNE Graphic (color): Pricey alternative By locking in a fixed rate of $162 per month with the alternative gas company Nicor Advanced Energy, Gladys Ware paid nearly $625 more than she would have with the company's parent utility, Nicor Gas. Gladys Ware's monthly gas bill, June '08 - Feb. '09 June-February total: Nicor Advanced Energy: $1,458 Nicor Gas: $834 SOURCE: Citizens Utility Board TRIBUNE (News section, Page 1)
Memo: TRIBUNE WATCHDOG / NEWS FOCUS: Your heating bill

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BIG NATURAL-GAS BILLS MAKE FOR A WINTER OF DISCONTENT

Columbus Dispatch, The (OH) - Sunday, January 14, 2001

Author: *Phil Porter ; Dispatch Business Reporter*

When Jeff Lyon opened his December bill from Columbia Gas of Ohio, the amount jumped off the page like a furnace igniting to full flame.

"I was expecting much higher than a year ago, but I certainly wasn't expecting $349," said the Upper Arlington homeowner, who paid $119 a year ago. "That was a shock."

Although most would agree that Lyon's bill seems outrageous, he can afford to pay it.

"I'm not living week to week," he said.

Mount Vernon resident Katie Smith is another story.

She and her husband both work to support their two children, but they're struggling to pay their December heating bill.

"I think something needs to be done for people like me who make too much money to be eligible for home-heating assistance," she said.

Natural-gas users throughout the state are enduring a winter of discontent as soaring gas rates take large, unexpected bites out of family budgets.

Consumers say they're puzzled and angry.

Higher gas bills are coming at a time when much-trumpeted customer-choice programs are supposed to be reducing monthly bills.

Industry insiders, though, don't see deregulation as the culprit; they're blaming a temporary shortage of natural gas.

Extremely low natural-gas prices in previous years prompted companies to curb exploration efforts. When this winter's record-setting cold kick-started consumption, sufficient supplies weren't available.

Basic economics say that when demand outstrips supply, prices rise. Consumers can only hope that the two even out soon, allowing prices to drop to more normal levels.

Jim Quinn, vice president of A.G. Edwards in New York, said market prices for natural gas might ease in the next few months. But it could take a couple of years of higher-than-normal rates before the supply of gas catches up with demand.

He said the market "needs self-discovery" -- not government intrusion -- to reach equilibrium.

Until that happens, Gov. Bob Taft and other state officials have started looking for ways to help struggling consumers contend with rising costs. The state is considering rebates or rate cuts -- and might tinker with the gross-receipts tax to provide the relief.

The emerging plan is little solace to those who received significantly higher heating bills last month.

Calls to Columbia Gas have overloaded phone lines since December bills were sent, prompting the occasional use of tapes asking customers to call back later.

"This is normally the time of year when we're swamped, and we're above swamped," said Columbia Gas spokesman Steve Jablonski.

The utility said its average December residential bill was $146.70, compared with $107.13 a year ago.

Angry customers are asking why their bills are so high and why regulators have failed to intervene. The utility's response: It's not fully to blame for a temporary nationwide shortage of natural gas during an unusually cold winter.

Columbia Gas officials understand that the utility faces its greatest customer unrest since the early 1980s. John W. Partridge Jr., senior vice president of Columbia Gas, and others insist that deregulation should not be blamed for the situation.

"Deregulation has absolutely nothing to do with it," said Alan Schriber, chairman of the Public Utilities Commission of Ohio. "We have to remember that in the late 1970s and early 1980s there were natural-gas shortages.

"I would suggest that if we were under a strict regulatory regime right now, prices probably would be higher and we'd have shortages."

Even so, more pain is already in the pipeline: On Feb. 1, rates for Columbia Gas customers will increase to 86 cents from 74 cents per 100 cubic feet of natural gas, a 16 percent jump.

PUCO plans to review the planned increase to make sure it's in line with the company's costs.

"Our job is to favor no one," Schriber said. "But the past two months have been the coldest on record. This has been a case of a huge increase in demand and not enough supply."

Paying now for last winter

Some states are taking a strategy different from Ohio's by holding the line on rate increases this year with the goal of catching up later. The PUCO is resisting that approach but is under heavy pressure to reconsider.

"A deferral of a price increase is a pay-me-now-or-pay-me-later situation that can be very dangerous," Schriber said.

Everyone agrees that these are unusual times. The past three winters were much warmer than normal, meaning "prices were low and people weren't drilling," Partridge said.

More recently, drilling has quadrupled, but it will take awhile to catch up with burgeoning demand. Less than three weeks ago, natural-gas prices hit an all-time high of $10.10 per 1,000 cubic feet on the New York Mercantile Exchange. Prices have come down some since, but they remain well above the $2.12 it cost for the same 1,000 cubic feet a year ago.

Things are little different for those who heat their homes with propane. In some places, they've seen bills rise 40 percent this winter.

"It is understandable why some customers are confused and in some cases angered by higher bills," Partridge said.

The price spike has been like a whipsaw to a minority of choice customers who were returned to the open market after their supplier was thrown out of the program.

The choice program allows Columbia's 1.3 million Ohio customers to shop for alternative suppliers and lower prices. Since the fall, however, one natural-gas marketer has withdrawn and two others have been kicked out of the program for failure to deliver gas.

In June, Thomas S. McLoughlin of Hilliard signed an annual contract with D&L Marketing of Youngstown at 41 cents per 100 cubic feet of gas. But after the company withdrew from the program in the fall, he reverted to Columbia's rate of 74 cents.

"I am an unhappy consumer at this point," McLoughlin said. "You play by the rules required by the utility and the government and then sort of get left out in the cold."

Seeing the choice pay off

Not all consumers are facing higher heating bills.

Some customers in the choice program are tickled with the natural-gas prices they're paying, having locked in lower rates.

Columbia said the bulk of 500,000 customers enrolled in the program are seeing savings that average 10 percent.

"I'm happy," said Greg Trimble, a Powell customer of Interstate Gas Supply who saved $86 on his December bill through the choice program. He has a fixed rate of 40 cents per 100 cubic feet through April. "I figure I will save $300 for the entire season."

Some disgruntled consumers think more protection is needed when a marketer fails.

In two instances, Ohio Consumers' Counsel Robert S. Tongren sued in an effort to recoup customer losses. In a case against Energy Max of Youngstown, though, the PUCO raised concerns about whether the commission has jurisdiction over marketers.

Depending upon the outcome, Tongren said he might have to appeal to the Ohio Supreme Court or go to the General Assembly to ensure that marketers can't unilaterally break a contract.

He would like the legislature to:

* Create new financial requirements for gas marketers.

* Allow residents of cities to band together to bargain for better rates.

* Explore alternatives for consumers reverting to their original utility when a gas marketer fails.

Other customer questions center on whether Columbia Gas of Ohio's rates, including for delivery, are competitive with those in other regions.

Wayne Shaner of Upper Arlington complained that his December bill was $125.99 for a 1,600-square-foot house and wonders why his son's bill in the Upper Peninsula of Michigan for slightly less gas totaled only $57.96.

"Is the PUCO in bed with the energy companies?" Shaner asked. "Why is natural gas higher in cost here?"

From his bill, Shaner paid $30.90 to Columbia Gas for service and delivery, while his son paid only $7 for a meter-reading fee to Senco Energy in Newberry, Mich.

"How does Columbia Gas justify charging more during the winter to deliver gas when their costs to deliver are not variable?" asked Jeff Born of Upper Arlington. "It's almost as if Columbia gets a commission the more gas we use."

Columbia Gas' service and delivery rates were frozen in 1994 and will remain so through 2004, Partridge said. Columbia's service charge is $6.50; the delivery charge varies based on how much gas is delivered. In 1995, the company attempted to spread delivery costs more evenly over an entire year, but bad press resulted in a reversal of the policy.

Natural-gas and delivery prices are lower in producing states such as Michigan, where gas and storage areas are nearby, Jablonski said.

Natural-gas prices varied nationwide last year from a high of $2.13 per 100 cubic feet in Hawaii to 35 cents in gas-rich Alaska. Columbia says its service and delivery rates are comparable to those of other gas utilities in Ohio.

The utility is not allowed any financial return on the sale of gas; it is allowed a regulated profit of 9 percent above its costs to provide service and delivery.

Putting a strain on help

This year's double whammy of cold weather and higher prices also strains resources to assist the poor.

Besides efforts by state officials, President Clinton recently released an additional $20 million for Ohio's Home Energy Assistance Program, the federal program designed to help the neediest people pay heating bills. Last year, more than 310,000 Ohio households received help paying winter bills.

This year, HEAP applications are up 30 percent statewide. The Columbus Metropolitan Area Community Action Organization, which implements the program locally, reports similar increases.

"We have clients saying their house is cold and their gas bill is so high they can't pay it," said Kevin Brown, energy conservation director with the organization.

Last year, the agency helped nearly 11,000 low-income people with winter bills. Brown said government agencies can't help all who inquire, especially moderate-income people who exceed the minimum-income requirements.

A family of four earning more than $25,575 a year is ineligible for energy-assistance programs. Brown is seeking donations from Columbia Gas and other private donors to start a program to provide weatherization for moderate-income residents.

Columbia Gas plans to give 10,000 home weatherization kits to low-income people. It also offers weatherization and insulation for low-income people in a program called WarmChoice, which is expected to help 2,100 people this year.

The kits are paid for by shareholders, while WarmChoice is subsidized by Columbia Gas customers, Jablonski said. Customers who want to do more to help low-income people stay warm can contribute to a Salvation Army-administered fuel-funds program -- Heatshare -- in which the utility matches donations.

Columbia officials also say it's not too late to obtain the price breaks of choice this winter, but there normally is a 30-day lag time in getting into the program. Options have narrowed as prices have soared. Only four companies offered savings from the utility's rate as of Jan. 5, compared with 12 that did so last fall.

pporter@dispatch.com

Caption: Graphic , Photo
(1) Graphic
(2) Doral Chenoweth III / Dispatch
Upper Arlington resident Jeff Lyon paid $230 more for natural gas in December than he did the previous December.
(3) Graphic
Memo: Common questions

WHAT CAN I DO TO REDUCE MY GAS BILLS?

Utility and state officials encourage conservation measures, including covering glass with plastic, weatherstripping doors and windows, improving insulation and turning down thermostats.

See Page A6

HOW CAN I INQUIRE ABOUT MY BILL?

Consumers with bill-related questions or concerns can call the Consumers' Counsel hot line at 877-742-5622, the Public Utilities Commission of Ohio at 800-686-7826 or Columbia Gas at 800-344-4077.

WHAT IF I CAN'T PAY?

A family of four whose annual income is less than $25,575 can seek assistance through these programs:

I The Home Energy Assistance Program helps low-income people pay their winter bills. For information, call the Columbus Metropolitan Area Community Action Organization at 614-258-4485 or the Ohio Department of Development at 800-282-0880. CMACAO also has free, do-it-yourself weatherization kits. Both offices provide some home-weatherization help to individuals who qualify. The state weatherization number is 614-466-6797.

I Emergency HEAP Assistance provides a credit of up to $175 from community-action agencies to those whose service has been disconnected or who are facing disconnection. Call 800-282-0880.

I Energy Credits are geared to low-income seniors or disabled people who qualify. Call the Department of Development at 800-282-0880

I The Percentage of Income Payment Plan is a bill-payment assistance plan. Call 800-344-4077.

I WarmChoice offers free weatherization for those who qualify. Call 800-952-3037.

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Exhibit B

State PBF/ USF History, Legislation, Implementation

Georgia
Last Updated: January 2010
Summary

One unique result of Georgia's experience with natural gas deregulation was the creation of a regulated provider — designed to offer low-income households lower cost gas and to serve customers who cannot get service elsewhere.

The regulated provider is required to serve two types of customers: Group 1 customers, defined as LIHEAP-eligible, and Group 2 customers, defined as those unable to obtain natural gas service as a result of poor credit or those who have been refused service by another marketer.

The Georgia Public Service Commission (PSC) chose SCANA Energy as the regulated provider in June of 2002, and it has reappointed SCANA three times since. The latest appointment, in March 2009, gave SCANA a two-year term through August 2011.

Households meeting the low-income requirements established by the Georgia Department of Human Resources, the LIHEAP office, qualify for a reduced security deposit, special rates and a lower customer service fee. Customers apply through their local community action agencies. As of January 2010, SCANA was serving nearly 29,000 low-income customers, up 15 percent from the 25,117 it was serving in January of 2009.

According to PSC website, the rates for Group 1 households are approximately 10 to 14 cents per therm lower than the current variable rates, and low-income seniors citizens receive an additional two cents per therm discount, plus their monthly customer service charge is $1.00 less and the $100 deposit for new senior citizen accounts is waived. The rate for Group 2 customers are higher than the current market rates to offset the added costs and risks associated with serving these customers.

While the regulated provider's gas prices are supposed to be lower than prices of other providers, that has not always been the case; as a result, the PSC has had to step in and provide supplemental funding for low-income customer's gas bills. (See background section).

The regulated provider is partially funded through Georgia's Universal Service Fund (USF), another result of Georgia's gas deregulation. Established under the original deregulation law and funded through surcharges on large industrial users and certain profits from Atlanta Gas Light (AGL), the deregulated natural gas company, the USF was originally designed to reimburse marketers for uncollectible accounts and pay for extension of natural gas service into new territory; any balance at the end of the fiscal year was to be reimbursed to customers.

The law was amended in 2001 and 2002 to allow a portion of the fund to be used for low -income energy assistance programs. The Natural Gas Consumers' Relief Act changed the law so that "assisting low-income residential consumers in times of emergency as determined by the commission, and consumers of the regulated provider" were the primary purposes of the USF. According to the law, funding cannot exceed $25 million yearly.

In response to higher gas costs that have regularly hit the state, the PSC has utilized the USF on several other occasions through early 2008. The most recent were: the release in December of 2006 of $5.2 million, which provided a $150 credit to about 35,000 low-income seniors, and the release in February 2008 of $7 million to assist over 26,000 low-income customers on the Atlanta Gas Light system with grants of up to $250 for winter natural gas bill. The total amount of USF funds disbursed by the PSC to low-income households since 2001 is nearly $60 million. The PSC did not release any USF funds for low-income purposes in 2009, perhaps because gas prices had fallen and LIHEAP funding had dramatically increased.

A third result of the state's gas deregulation has been the imposition of fines on gas marketers, some of which the PSC has directed be paid to the state LIHEAP office.

During 2003, the PSC ordered three marketers to contribute to LIHEAP: 1) Energy America, $400,000, for "slamming" customers – that is, signing them up without their consent; 2) Southern Company, $100,000, for failure to abide by disconnection rules; and 3) ACN Energy, $17,000, also for disconnection violations.

In January of 2004, natural gas marketer Energy America was ordered to pay at least $60,750 to the state LIHEAP because of its failure to properly credit payments from LIHEAP to over 50 customers' accounts. Included was a $125 credit to each customer who had been wrongly disconnected, plus $5 for each day of disconnection. In August of 2004, Shell Energy Services was ordered to contribute $50,000 to the Georgia LIHEAP as punishment for switching customers without their authority.

Background

Georgia's 1997 Natural Gas Competition and Deregulation Act forced most natural gas customers to choose a competitive marketer. One provision required that customers who had not selected a marketer by May 1999 be randomly assigned to a competitive supplier. (The law applied to customers of Atlanta Gas Light Company (AGL), the state's largest utility; the other large utility, United Cities, decided not to open its territory to competition.)

Nineteen marketers entered a field previously dominated by two companies, bringing with them new pricing methods, delayed billings, erroneous billings and, in some cases, illegal practices such as slamming.

To complicate matters, Georgia consumers were hit with increased prices for natural gas during the unusually cold winter of 2000-01 when monthly bills soared to hundreds of dollars.

In response to public outcry over high heating bills, the PSC voted in January 2001 to prohibit natural gas marketers from disconnecting residential customers for nonpayment until April 1, 2001. When the moratorium expired, marketers disconnected 124,000 customers. As the winter of 2001-02 began, about 64,000 customers remained disconnected because of arrearages, and many did not have the means to have their gas turned back on. In November, then-Governor Roy Barnes appointed a task force to investigate how to protect natural gas customers from high prices and disconnection.

In February 2002, the Governor's Blue Ribbon Task Force on Natural Gas released its final report, calling for a "multi-pronged approach" that neither dismantled deregulation nor relied entirely on the free market. The task force dismissed the increasingly popular idea of returning to a natural gas monopoly because of serious financial and legal barriers. Its report noted, for example, that legal claims from marketers could run as high as $500 million if the state were to put them out of business.

Instead, the task force recommended that the PSC designate a provider with regulated rates that could serve low-income and other residential consumers who needed an alternative to competitive marketers.

The General Assembly rated the natural gas issue a top priority for its 2002 session. Using the recommendations of his natural gas task force, Governor Barnes sponsored the Natural Gas Consumers' Relief Act and lawmakers voted overwhelmingly to approve it.

Along with creating the regulated provider, the Act clarified the purpose of the USF as "assisting low-income residential consumers in times of emergency as determined by the commission, and consumers of the regulated provider." It also established a number of consumer protections. It limited late fees to $10 or 1.5 percent of past due balance (whichever is greater), limited deposits to $150, and prohibited newly published prices from being applied to already consumed gas.

In June 2002, the PSC selected SCANA, one of three marketers to bid, as the regulated natural gas provider. When its program started in September 2002, SCANA was offering rates 10 to 14 cents per therm less than other residential rates; seniors were to receive rates of 12 to 16 cents less per therm. However, the company did not procure enough gas through long-term contracts to honor those prices for longer than a few months. Its regulated-provider contract with the PSC allowed the company to adjust prices to reflect higher wholesale prices the first half of 2003. Because that adjustment was so severe — forcing the company's low-income enrollees to pay the highest prices in the state — the PSC tapped the state's USF for $750,000 to give the regulated-provider enrollees a $50 bill credit in June of 2003. Customers transferred to SCANA because of credit problems did not receive the bill credit.

As mentioned above, the PSC has continued to utilize the USF to help low-income households when high natural gas prices have hit the state.

Other Payment Assistance

In 1987, the PSC mandated that major gas and electric utilities waive their monthly service charge for customers age 65 or over earning less than $10,000 per year (the income limit has been raised to $14,355). Also, seniors who get the senior citizen's discount will receive a $6.00 per month fuel credit to their bills. The amount of the waiver has increased over the years as part of electric and gas utility rate case settlements.

Effective January 1, 2005, Georgia Power's senior citizen discount increased to $14.00 per month from $10.50; the same increase in the discount was effective May 1, 2005 for low-income seniors who are customers of Atlanta Gas Light. Around 55,000 seniors receive the electric discount yearly, and about 35,000 receive the gas discount.

For more information, see:

Frequently Asked Questions About the Regulated Provider

PSC Order on the Regulated Provider

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Georgia PBF/ USF History, Legislation, Implementation

Legislation Cite and Date
HB 1568 (2002)
SB 217 (4/01)
SB 215 (1997)

Low-Income Provisions
Initial legislation authorized a Universal Service Fund primarily to benefit the gas industry; SB 217 expanded its purpose to "assisting low-income residential consumers in times of emergency as determined by the commission." HB 1568 created a regulated gas provider, a marketer chosen through a bidding process, who is charged with providing lower rates to low-income, senior and other high risk households.

Low-Income Rate Assistance
The Universal Service Fund has been used in response to emergencies (gas price spikes and severe weather) several times since SB 217. Sporadic releases since the winter of 2001 have gone to low-income seniors and LIHEAP-eligible households. Since late 2002, the USF has also been used to cover arrearages of low-income households served by the regulated provider.

Low-Income Conservation
NA

Annual Funding (12/2006-2/2008)
Rate Assistance: $12.2 million

Funding Mechanism
Surcharge on large industrial users and certain profits from Atlanta Gas Light.

Administration
Georgia Public Service Commission

Pre-Restructuring Funding
Rate Assistance: $9 million from a low-income senior discount (monthly service charge waiver) for gas and electric, in effect since 1987; this program continues in addition to USF.

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State PBF/ USF History, Legislation, Implementation

Ohio

Last Updated: July 2009

Summary

Ohio's longstanding Percentage of Income Payment Plan (PIPP) has been restructured for the first time in its 26-year history. However, it is likely the new program won't be in place until the winter of 2010-11, according to a ruling by the Public Utilities Commission of Ohio (PUCO). Consumer groups have contested the ruling.

When the new program is implemented, low-income participants will pay a maximum of 6 percent of their incomes on their natural gas bills and 6 percent on their electric bills for a total of 12 percent, or 10 percent if they heat with electricity. PIPP customers must make a minimum payment of $10 per month. This compares to a maximum energy bill payment of 15 percent of income (generally 10 percent for gas and 5 percent electric) for low-income participants in the existing PIPP.

Participants will also be offered a standard arrearage-crediting program. If they make their monthly PIPP payment on time, they will receive a bill credit that is the difference, if any, between their monthly PIPP payment and their bill. Furthermore, for each timely payment, they will receive a credit amounting to 1/24th of their historic arrearages. The arrearage crediting program was designed to keep low-income customers from falling deeper into debt; it is also expected to help control PIPP program costs by encouraging responsible payment behavior.

First implemented in 1983, based on an order of the Public Utilities Commission of Ohio, Ohio's PIPP is the largest and oldest state-mandated PIPP in the country, serving over 200,000 households during FY 2008 under separate gas and electric components. It requires customers with incomes up to 150 percent of federal poverty guidelines to pay a percent of their monthly household incomes to the utility or utilities providing their primary and secondary heating service. There are several different PIPP plans, but the maximum PIPP payment is 15 percent of the household's income. If customers remain current on their PIPP payments, they cannot be shut off at any time regardless of the amount of their arrears. The amount of the bill not covered by a combination of the customer's PIPP payment, the LIHEAP payment, and any other energy assistance the customer may receive, is recovered through riders or surcharges on gas and electricity bills.

Originally, the PIPP had been funded by a PIPP rider, or ratepayer surcharge, on customers of Ohio's regulated electric and gas utilities. The state's 1999 restructuring legislation (see "History" section below) created a Universal Service Fund (USF) to fund the electric PIPP, along with an energy efficiency and consumer education program for PIPP households. The law converted the electric PIPP rider to a universal service rider, assessed on customers of eight electric utilities. The gas PIPP rider remained unchanged for gas utilities, as did the gas portion of the PIPP.

In 2006, a PIPP reform working group began studying ways to improve the PIPP and it finalized proposals for program changes during 2008 and 2009, with final rules for both programs approved by the PUCO in the latter year. The working group was composed of staff from the Ohio Department of Development (ODOD), the LIHEAP grantee; the PUCO, the Office of Consumer Counsel and low-income advocacy and consumer groups.

According to presentations by the group, the reform proposals were designed to improve the program as follows:

- Contain escalating costs while continuing to provide a valuable benefit. The rider revenue required for the 2008 electric USF ($148 million) had increased by more than 100 percent over the 2001 level ($64.6 million). Enrollment for the electric PIPP was around 137,500 customers in 2001; it had soared to over 230,000 by 2009.

- Increase payment frequency while reducing PIPP payment requirements. Many stakeholders saw the 15 percent of income customer payment as too high, and program records showed that less than 9 percent of participating households made their PIPP payment every month. The group initially recommended a more affordable amount of between 6 to 8 percent of income.

- Create more program similarity between the gas and the electric PIPPs. The gas PIPP payment is made year-round, while the electric PIPP payment is the PIPP amount or the actual bill, whichever is higher, for the months outside the winter heating season. Under the new rules, the electric PIPP will be year-round.

- Create a uniform arrearage crediting program for accruing and past arrearages. As mentioned above, the restructured PIPP will have a standard arrearage crediting program for gas and electric customers, designed to limit accrued arrears and help customers manage past arrears.

- Create a better way to repackage energy assistance programs, including LIHEAP, to make payment plans more affordable and reduce reliance on emergency LIHEAP. The number of repeat users of emergency LIHEAP in recent years has been as high as 40 percent. The restructured program will require customers to meet a standard for payments in order to retain eligibility for PIPP.

- Stabilize costs and reimbursement methods in order to avoid a cash-flow dilemma that has required ODOD to borrow funds to avoid paying penalties to companies.

History

Ohio's restructuring legislation, signed into law July 6, 1999, established a Universal Service Fund (USF) for low-income customer assistance programs, to include the state's existing PIPP, targeted low-income energy-efficiency programs, a consumer education program, and administration costs. Funding originates from a universal service rider assessed on retail electric distribution service rates.

The legislation assigned administration of these programs to the ODOD, the LIHEAP and weatherization grantee, with a goal of lowering program administration costs and providing a one-stop shop for program clients. (Prior to the restructuring law, Ohio's utilities administered their PIPPs and energy efficiency programs; gas utilities continue to administer their programs.)

ODOD's Office of Community Services had been involved in operational aspects of PIPP since the program's inception. Effective October 2000, it began to administer the PIPP portion of the USF funds.

The restructuring law requires utilities to collect the rider revenues and remit them to OCS, which must keep them in an interest-bearing account called the USF. OCS verifies the amount of unpaid PIPP customers' bills, called PIPP arrears, and returns that amount to the appropriate company. Remaining funds from the rider collection stay in the USF, to be spent on electric energy efficiency and consumer education services to high-consumption, high-arrears PIPP households.

During a year-long process of USF implementation after the law's passage, a USF rider was determined for each electric utility territory to cover the newly authorized programs. The rider is adjusted each year, based on the revenue requirements of the programs, and the revenue collected varies because it is based on electric consumption.

USF rider revenues for 2008 totaled around $148 million; they are projected to total around $156 million for 2009. While the majority of the rider revenues funds the PIPP (at least $120 million during 2009), about $7 million is set aside each year for the low-income energy efficiency program and $6 million for consumer education. By comparison, rider revenues for 2001 were $64.6 million, while the amount spent on the PIPP was less than $50 million.

The natural gas PIPP, administered by the utilities, served over 211,000 households during 2008, up from 194,000 during 2006. The program cost about $85 million during 2006; costs were not available for later years. The gas PIPP rider is embedded in gas distribution charges and companies collect for costs as needed, rather than readjusting the rider annually.

Energy Efficiency

The low-income efficiency program, called the Electric Partnership Program (EPP), began in March 2002, and is targeted to high consumption, high arrears PIPP or PIPP-eligible households who are customers of the state's investor-owned electric utilities. Its goal is to reduce electric consumption by these households in order to reduce the growth of PIPP household arrears and, as a result, reduce the amount of money ratepayers pay to support the PIPP.

As of June 2007, the program had helped over 45,000 PIPP households, providing 26,081 new energy efficient refrigerators, 9,784 freezers, and 635,489 compact fluorescent light bulbs.

The third impact evaluation of the EPP was completed in June 2006 and is posted on the website of the Ohio Department of Development, the weatherization grantee. The evaluation shows the EPP continues to produce substantial electricity savings in thousands of PIPP households each year.

The EPP is composed of two types of programs: a baseload efficiency program which audits lighting, appliances and all other uses of electricity not related to heating, and installs appropriate measures; and a weatherization program for those who heat with electricity and who have moderate to high usage.

The program provides in-home audits, appropriate electric baseload and thermal energy efficiency measures, and consumer education. The major baseload measures are replacement of inefficient refrigerators and freezers and installation of compact fluorescent light bulbs. Weatherization measures include insulation and heating system inspections. EPP also addresses health and safety issues. The education component varies in intensity depending on the PIPP customer's electric consumption and other factors. Participants may receive in-home visits, attend workshops or receive materials by mail.

As to whether EPP has reduced PIPP costs, the evaluation notes that the $12.7 million in lifetime bill savings shown in the evaluation will reduce the cost of PIPP by an estimated $11.3 million and provide about $1.4 million in out-of-pocket savings to the participants.

ODOD's Office of Energy Efficiency (OEE), the state weatherization grantee, administers the EPP. In coordination with OCS, it monitors monthly consumption, bill payment and arrearage data from electric utilities for their PIPP accounts. Households whose total energy burdens exceed a certain threshold are targeted for EPP and conservation education services. (For more information, see the LIHEAP Networker, Issue # 41.)

A unique feature of Ohio's restructuring law forgave arrearages owed by elderly (age 65 and older) or disabled PIPP customers who had complied with their payment responsibilities. As of the end of 2001, utilities had forgiven over 22,000 accounts totaling about $34 million. The arrearage forgiveness provision was one-time, not ongoing.

In 2003, the PUCO authorized arrearage crediting programs in several gas utility territories; these permit gas PIPP customers who pay their bills on time to eliminate arrearages over three years. Credits are provided annually. In 2005-06 gas companies forgave about $6.5 million in PIPP arrearages. The gas arrearage crediting programs were the model for the standard arrearage crediting program that will be implemented once the reformed PIPP gets underway.

Per the restructuring legislation, ODOD is also authorized to aggregate electric PIPP customers for the purpose of seeking competitive generation supplies; any savings that results from aggregation of PIPP customers would be reinvested in the EPP. The gas supplies of PIPP customers are already aggregated (see Residential Natural Gas Choice Programs: Overview and Close-up Of Low-income Aggregation).

ODOD issued an RFP in 2002 seeking a supplier to aggregate electric PIPP customers, either statewide or in selected regions or utility territories. ODOD received three bids, but did not find savings significant enough to accept any of them, a reflection of the lack of competitive electricity prices within the state. ODOD issued another RFP in 2004, but it was withdrawn due to continued lack of competition in the market and rate stabilization cases pending before the regulatory commission that prevented prudent forecasting by potential bidders and the department.

For more information, see:

Rules for the restructured electric PIPP

Rules for the restructured gas PIPP, along with other case documents

The Ohio LIHEAP website, or the consumer information page of the Public Utilities Commission of Ohio

The 1999 restructuring Ohio law

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Ohio PBF/ USF History, Legislation, Implementation

Legislation Cite and Date
SB 3 (7/99)

Low-Income Provisions
Ohio's Percentage of Income Payment Plan (PIPP) has been restructured for the first time in its 26-year history. However, it is likely the new program won't be in place until the winter of 2010-11.

In 1999, SB 3 established a Universal Service Fund (USF) to provide funding for the low-income customer assistance programs, to include the existing electric Percentage of Income Payment Plan (PIPP), low-income energy-efficiency programs, and a consumer education program. Prior to that the electric and gas PIPP were funded by utilities as a result of a 1989 regulatory order. The gas PIPP continues under utility administration.

Low-Income Rate Assistance
When the new program is implemented, low-income participants will pay a maximum of 6 percent of their incomes on their natural gas bills and 6 percent on their electric bills for a total of 12 percent, or 10 percent if they heat with electricity. PIPP customers must make a minimum payment of $10 per month.

Participants will also be offered a standard arrearage-crediting program. If they make their monthly PIPP payment on time, they will receive a bill credit that is the difference, if any, between their monthly PIPP payment and their bill. Furthermore, for each timely payment, they will receive a credit amounting to 1/24th of their historic arrearages.

Currently, PIPP customers with incomes up to 150 percent of federal poverty guidelines pay a percent of their monthly household incomes to the utility or utilities providing their primary and secondary heating service. PIPP plans vary, but the maximum PIPP payment is 15 percent of the household's income. The amount of the bill not covered by a combination of the customer's PIPP payment, the LIHEAP payment, and any other energy assistance the customer may receive, is recovered through the universal service rider.

Low-Income Conservation
The Electric Partnership Program began in March 2002 and is targeted to high consumption, high arrears PIPP households. Measures include in-home energy audits and installation of appropriate electric baseload and thermal energy efficiency measures, along with consumer education.

Annual Funding Electric PIPP (2008)
Rate Assistance: $133 million
Conservation: $7 million
Consumer Education: $6 million

Enrollment in the Electric PIPP (FY 2008)
230,000

Annual Funding Gas PIPP (2006)
Rate Assistance: $85 million
Arrearage Forgiveness: $6.5 million

Enrollment in the Gas PIPP (FY 2008)
211,000

Funding Mechanism
Electric—universal service rider, a charge assessed on retail electric distribution customers and all natural gas customers.

Gas—PIPP rider embedded in gas distribution charges, companies collect for costs as needed, rather than readjusting the rider annually.

Administration
Electric PIPP Rate assistance: Ohio Department of Development, Office of Community Services, the LIHEAP grantee

Electric Conservation: Ohio Department of Development, Office of Energy Efficiency, the WAP grantee

Gas PIPP: utilities

Pre-Restructuring Funding
Rate Assistance: NA as utilities administered program. (The gas PIPP totals about $50 million)

Conservation: $8 million yearly (mostly gas)

Reports / Evaluations

State Report: Ohio, from Ratepayer-Funded Low-Income Energy Programs: Performance and Possibilities, APPRISE and Fisher, Sheehan, and Colton, July 2007

Third Ohio Electric Partnership Program Impact Evaluation, Michael Blasnik, June 2006

Page Last Updated: February 1, 2010

State PBF/ USF History, Legislation, Implementation

Pennsylvania
Last Updated: November 2009
Summary

Pennsylvania 's electric and gas utilities spent about $394 million on low-income rate assistance and energy efficiency programs during 2008, a 10 percent increase over the $358 million spent in 2007. Most of these programs were mandated under the state's utility restructuring laws.

Pennsylvania is into its tenth year of experience with electric restructuring. Electric utility restructuring became law in September 1996, and electric choice began in January 1999. In June 1999, it became one of the first states to offer both gas and electric supplier choice with the passage of natural gas competition legislation.

Both the electric and the gas restructuring legislation required regulated utilities to continue their existing low-income rate assistance and energy efficiency programs and consumer protection provisions beyond restructuring.

The following summarizes electric restructuring universal service provisions, followed by natural gas provisions.

Electric companies

Regarding low-income programs, Pennsylvania's restructuring law states that "the Commonwealth must, at a minimum, continue the protections, policies, and services that now assist customers who are low-income to afford electric service." It also states that "electric distribution companies should continue to be the provider of last resort in order to ensure the availability of universal electric service in this Commonwealth unless another provider of last resort is approved by the Commission."

The costs of universal service and energy conservation services are recovered by non-bypassable, competitively neutral distribution service charges, according to the law. Electric cooperatives are also required to continue their universal service and energy conservation programs, using the same funding mechanism.

Electric restructuring plans filed by eight major electric utilities went into effect January 1, 1999. Each subsequent year, through 2008, the plans have shown considerable gains in low-income program funding and enrollments. The programs are to continue at least at those levels because the restructuring legislation stipulates that universal service programs are to be appropriately funded and available.

The most common form of utility rate assistance in Pennsylvania is the Customer Assistance Program (CAP). The programs must follow the universal service guidelines set forth in the relevant state statute at 52 Pa. Code, subchapters 54.71 through 58.15. In place at most major gas and electric utilities for over a decade, CAPs usually provide a percentage-of-bill plan or a percentage-of-income payment plan, wherein low-income customers' utility payments are based upon their incomes and/or utility bills. Some programs include utility arrearage forgiveness; others provide flat rate discounts or bill credits.

CAP expenditures have been increasing every year since 1998; and since 2003 they have more than tripled, from $107.6 million that year to nearly $364 million in 2008.

Likewise, enrollments have increased in the past five years, from 290,193 households receiving rate assistance through CAPs in 2003 to 419,980 in 2008.

Low-income energy efficiency is provided through the Low-Income Usage Reduction Program (LIURP), which was mandated by a 1987 Public Utility Commission (PUC) order, renewed in 1992 through 1996, and continued under the universal service provisions of restructuring legislation. Pre-restructuring funding levels were established at about 2/10 of one percent of each utility's total revenues; post-restructuring levels have been established in restructuring filings. Total spending has tripled from $10.2 million in 1996 to $30.1 million in 2008. (See chart below). LIURP includes an education component that addresses energy savings and regular bill payment behavior and provides application assistance.

The PUC addressed the question of who will administer the low-income programs early on. In July 1997, the PUC issued a Final Order establishing Guidelines for Universal Service and Energy Conservation Programs. The PUC order stated that utilities themselves should continue to administer their programs, relying on community-based organizations. Currently, some utilities use community action agencies and community-based organizations to administer their programs locally.

The Order stated that the "universal service funding mechanism should be collected by the electric distribution company (EDC) as a non-bypassable distribution charge, paid by all customers. Universal service and LIHEAP benefits should be assigned to the EDC."

The state office that administers LIHEAP, the Department of Public Welfare, has also weighed in on assignment of LIHEAP benefits. It has maintained its policy of sending the LIHEAP payment to the EDCs because it believes this is the best way to protect low-income customers. Under Pennsylvania's restructuring statute, the EDCs are the suppliers of last resort, they remain regulated, and they must comply with the state's winter termination rules.

The department also decided it would not split the LIHEAP benefit between suppliers and distributors, nor would it split the benefit between electric and gas utilities or other vendors. This is because a two or three way division of benefits would be administratively burdensome and would likely result in a very small grant to each entity. (Currently Pennsylvania LIHEAP clients may designate which vendor — gas, electric or bulk fuel — is their primary heating vendor, and the payment is sent to the vendor they designate.)

The Final Order did not specify any particular spending level for universal service or energy conservation. In its tentative order, the PUC had recommended expansion of spending on these programs and had pegged funding of at least 0.2 percent of revenues for LIURP and 0.5 percent of jurisdictional revenues for customer assistance programs. Some local agencies and some members of the state legislature had concurred. Utilities, on the other hand, opposed specific funding levels for LIURP or CAPS. They cited the rate cap that was imposed under the restructuring legislation as a limiting factor, adding that they should not be expected to expand existing programs or incur increased expenses. They also recommended that each utility determine its own funding based on existing programs and customer needs.

The Final Order stated that each restructuring filing must include a needs assessment to "ensure that programs are well directed to meet the greatest need in the community for affordable energy. The needs assessment should examine the market for an acceptance of universal service programming in the territory."

Gas companies

According to reports filed with the Pennsylvania PUC and the state LIHEAP office under the leveraging incentive program, gas rate assistance programs (also known as CAPs) amounted to about $20 million in 1998. Low-Income Usage Reduction or conservation programs funded by gas utility ratepayers totaled about $7.3 million. From

1999 through 2001, the PUC and seven major gas utilities agreed on enrollment levels for gas universal service programs as part of restructuring filings. Funding levels were not established in the filings; rather, utilities must spend what is necessary to meet the enrollment levels.

As with electric low-income programs, all of the gas companies have committed to expanding their CAP enrollment levels. For example, CAPs enrolled about 54,000 households in 1998; enrollment reached over 182,000 by the end of 2006, falling to 171,000 during 2007, and climbing to 179,958 in 2008. Spending has jumped from around $20 million in 1998 to over $175 million during 2008. (See chart below.) As is the case with electric utilities, gas programs must follow the guidelines of the Pennsylvania statute at 52 Pa. Code, subchapters 62.1 through 62.8.

The above-mentioned totals include the low-income expenditures and enrollments of the municipal utility Philadelphia Gas Works (PGW.) Under the 1999 gas restructuring law, PGW was placed under the jurisdiction of the PUC, effective July 2000. Prior to that, it was under the jurisdiction of the Philadelphia Gas Commission; it was not required to file a restructuring plan and its low-income programs did not fall under the state's universal service guidelines. PGW's restructuring plan was approved by the PUC in April 2003, and it went into effect in September 2003. In its plan, PGW committed to serving 65,000 customers through its CAP. During 2008 its CAP served about 78,000 customers at a cost of about $102.5 million.

In addition to the above-mentioned assistance, PGW has for many years provided a 20 percent rate discount to seniors aged 65 and over of all income levels, amounting to about $20 million per year and serving 80,000 households. In its restructuring plan, PGW said it would phase out the program, keeping it in place for currently enrolled customers, but adding no new customers after September 1, 2003.

The following chart shows electric and gas utility CAP and LIURP enrollment and funding levels for 1996 and 1998 (pre-restructuring) and for the last two years, 2007 and 2008.

Pennsylvania Universal Service Funding History			
	Prior to Restructuring		
Electric	**1996**	**2007**	**2008**
CAP Enrollment	45,707	219,748	240,002
CAP Funding	$26,000,000	$147,635,291	$189,171,318
LIURP Funding	$10,200,000	$20,558,560	$21,634,127
Natural Gas	**1998**	**2007**	**2008**
CAP Enrollment	54,646	171,014	179,958
CAP Funding	$20,600,000	$182,732,645	$174,497,927
LIURP Funding	$7,385,659	$7,505,665	$8,918,930
Total		**2007**	**2008**
CAP Enrollment		390,762	419,960
CAP Funding		$330,367,936	$363,669,245
LIURP Funding		$28,064,225	$30,553,057

Information on low-income programs is available at the Public Utility Commission website; the universal service plans of most the utilities are also found at this website (bottom of page).

A copy of the statutes governing universal service may be found at www.pacode.com/secure/search.asp; search for "Chapter 52" or "universal service."

Report on 2008 Universal Service Programs and Collection Performance of the Pennsylvania Electric Distribution and Natural Gas Distribution Companies, the PUC's annual report on universal service programs.

Reports from the Natural Gas Task Force (2001 through 2004)

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Pennsylvania PBF/ USF History, Legislation, Implementation

Legislation Cite and Date

HB 1590 (11/96) Electricity Generation Customer Choice & Competition Act
HB 1331 (11/99) Natural Gas Choice and Competition Act

Low-Income Provisions

Restructuring legislation states that "the Commonwealth must, at a minimum, continue the protections, policies, and services that now assist customers who are low-income to afford electric service." It also states that "electric distribution companies should continue to be the provider of last resort in order to ensure the availability of universal electric service in this Commonwealth unless another provider of last resort is approved by the Commission."

Low-Income Rate Assistance

Electric restructuring plans filed by eight major electric utilities went into effect January 1, 1999; gas utilities followed during 2000 through 2003. The most common form of rate assistance in Pennsylvania is the Customer Assistance Program (CAP), which usually provides a percentage-of-bill plan or a percentage-of-income payment plan, wherein low -income customers' utility payments are based upon their incomes and/or utility bills. Some programs include utility arrearage forgiveness; others provide flat rate discounts or bill credits.

Low-Income Conservation

Provided through the Low-Income Usage Reduction Program (LIURP), which was mandated by a 1987 Public Utility Commission order and continued under the universal service provisions of restructuring legislation.

Annual Funding (2008)

Rate Assistance: $189.2 million (electric); $174.5 million gas
Conservation: $21.6 million (electric); $8.9 million gas

Funding Mechanism

Non-bypassable distribution service charges, all gas and electric residential customers contribute

Administration

Utilities

Pre-Restructuring Funding

Rate Assistance: $26 million (electric); $20.6 million (gas)
Conservation: $10.2 million (electric); $7.4 million (gas)

Information on low-income programs is available at the Public Utility Commission website; the universal service plans of most the utilities are also found at the bottom of this web page.

Statutes governing universal service; search for "Chapter 52" or "universal service."

Report on 2008 Universal Service Programs and Collection Performance of the Pennsylvania Electric Distribution and Natural Gas Distribution Companies, the PUC's annual report on universal service programs.

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State PBF/ USF History, Legislation, Implementation

Montana

Last updated: August 2009

Summary

Montana's 1997 restructuring legislation established an electric universal systems benefits charge (USBC), a portion of which funds low-income energy assistance and conservation. Beginning January 1, 1999, the law required all utilities to set aside 2.4 percent of their retail sales revenues (based on 1995 levels) to fund "energy conservation, renewable resource projects and applications, and low-income energy assistance" through July 1, 2003.

The 2001 legislature extended the USBC through December 2005 and the 2005 legislature extended it through 2009. The 2009 legislature removed the termination date and the Montana Public Service Commission (MPSC) through Order 6679e in December 2008 made permanent the existing low-income bill discount through the state's largest utility.

A minimum of 17 percent of the system benefits pool, roughly $2.3 million per year, must be spent on low-income energy and weatherization assistance. Electric cooperatives are required to participate in the universal system benefits portion of the law, although they can choose not to open their markets up to competition.

Montana also passed legislation restructuring its gas industry. This legislation established a USBC, which all natural gas transmission or distribution service providers began charging to all end users in May 1997. A natural gas utility's annual funding requirement for conservation and low-income energy bill assistance within the USBC was 0.42 percent of the utility's 1995 revenue. In 2007 this was changed so that the requirement is now a minimum of 0.42 percent of a utility's previous year's revenue. Both the electric and gas utilities can receive credits for internal programs or activities that qualify as universal system benefits programs.

The lion's share of the electric USBC comes from NorthWestern Energy, the state's largest electric and gas utility. In February 1999, the MPSC ruled that 21 percent of that total would be allocated among low-income weatherization, bill payment assistance, small low-income renewables projects, outreach, and Energy Share, a fuel fund that provides emergency bill assistance.

The 21 percent allocation for low-income purposes is an increase in the floor amount of 17 percent set in the restructuring legislation. The USBC covers NorthWestern's costs for the 10 percent low-income rate discount provided in Montana since 1991, along with low-income weatherization. That discount was increased from 10 percent to 15 percent in June 1999; currently it is 25 percent from November through April and 15 percent from May through October.

In 2008, the NorthWestern electric USBC generated $9.6 million. Of that, about $3.6 million was spent on low-income programs — payment assistance, the Energy Share fuel fund, and the free weatherization program. Over 11,500 low-income customers received at least a 15 percent discount on their electric bills at a cost of about $1.9 million, and at least 186 households received free weatherization measures totaling about $625,000.

Under the gas USBC, NorthWestern collected about $2.3 million during 2008 and spent $1.6 million on rate assistance for 7,761 households and $585,000 on low-income weatherization for 178 households, with the remainder for non-low-income conservation. The rate assistance total includes $170,649 allocated from electric USB funds in order to cover gas USB shortfalls. This allocation was ordered by the Montana Public Service Commission in late 2005 due to higher natural gas supply costs and more customers signing up for energy assistance, which, in turn, put increased pressure on the gas discount. The gas discount, which had been at 15 percent since 2000, has been 30 percent from November through April since 2005.

The discounts are currently administered through the state LIHEAP and weatherization grantee, the Department of Public Health and Human Services. The state flags LIHEAP recipients for the discount, sends the information to the utility, and these households receive the discount automatically. The department also administers most of the weatherization funds, which are spent locally by community action agencies.

Low-income USBC expenditures by other Montana utilities (investor-owned and rural electric cooperatives) totaled about $1.5 million during 2008.

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Montana PBF/USF History, Legislation, Implementation

Legislation Cite and Date
SB 390 (electric) (4/97)
SB 396 (gas) (5/97)

Low-Income Provisions
1997 restructuring legislation established an electric universal systems benefits charge (USBC), all utilities were required to set aside 2.4 percent of their retail sales revenues (based on 1995 levels) to fund "energy conservation, renewable resource projects and applications, and low-income energy assistance" through July 1, 2003. The 2001 legislature extended the USBC through December 2005 and the 2005 legislature extended it through 2009. The 2009 legislature removed the termination date and the Montana Public Service Commission made permanent the existing low-income bill discount through the state's largest utility.

Legislation restructuring the gas industry in 1997 also established a USBC which all natural gas transmission or distribution service providers began charging to all end users in May 1997.

Low-Income Rate Assistance
The electric and gas USBC covers utilities' costs for low-income discounts and Energy Share, a fuel fund that provides emergency bill assistance.

Low-Income Conservation
The USBC covers utilities' costs for low-income weatherization.

Annual Funding (2008)
Rate Assistance: $3.5 million
Conservation: $1.2 million

Funding Mechanism
Electric: universal system benefits charge, 21 percent of the system benefits pool is allocated for low-income energy and weatherization assistance.

Gas: universal system benefits charge, a minimum of 0.42 percent of the utility's previous year's revenue funds conservation and low-income energy bill assistance.

Administration
Utilities and Montana Public Service Commission

Pre-Restructuring Funding
Rate Assistance: $853,000
Conservation: $650,000

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State PBF/ USF History, Legislation, Implementation

Rhode Island

Last update: August 2009

Summary

Rhode Island's Utility Restructuring Act of 1996 states that costs for low-income assistance and weatherization programs "shall be included in the distribution rates charged to all other customers" and using the 2.3 mil per kWh charge specified in the bill, the Public Utility Commission set up a demand-side management (DSM) program in 1997 to include 1) residential customers, 2) large commercial and industrial customers, 3) small commercial and industrial customers, and 4) renewable energy projects.

In November 2008, National Grid (NGrid) filed a Settlement of Parties that outlines its plan for energy efficiency programs for 2009. The Commission reviewed the design and implementation of NGrid's proposed plan and approved the Settlement with a budget of $32.4 million for electric DSM programs. The budget is an increase of over $11 million from 2008's budget and includes $2.4 million for residential low-income programs and $7.2 million for all-residential programs.

In the Settlement, NGrid agrees to continue eight electric DSM programs funded through a 3.2 mils per kWh charge, an increase from the previously set 2.3 mils per kWh, and five gas DSM programs funded through a $0.15 per decatherm charge.

Approved gas funding for 2009 is set at $7.6 million—$1.4 million for residential low-income programs and $2.2 million for non low-income residential programs.

The Single Family Low Income Services is the only program exclusively for electric and gas low-income households. LIHEAP-eligible customers living in 1-4 unit buildings are eligible for ENERGY STAR refrigerators and lighting. Heating system replacement, safety inspections, weatherization measures and CO_2 detectors are available through this program if DOE funds are not available. The program, administered by the Rhode Island State Energy Office and local community action agencies, has a projected budget of $2.6 million for 2009 and expects to serve 1,439 households.

Another energy efficiency program, EnergyWise, was expanded to include all residential customers in 2001. The program offers incentives for gas and electric customers to conduct efficiency improvements to single and multi-family residences. The proposed 2009 budget is about $3.05 million for electric measures and $1.03 million for gas measures.

EnergyWise also provides services to Public Housing Authority properties and other low-income multi-family buildings. Co-payments are waived on all measures except refrigerators for state and federally-funded buildings and facilities where at least 50 percent of the tenants are low income. EnergyWise expects to provide services to 1,097 low-income participants in 2009 with expenditures of $725,000.

All residents can participate in the ENERGY STAR Homes program. Rhode Island Housing encourages developers to build to ENERGY STAR Home standards and about 114 low-income homes (30 percent) are completed each year with a projected budget of $285,000 for 2009.

Funds collected through the ratepayer charge also supplement the State Energy Office's weatherization program that assists about 1,000 low-income households each year with energy audits, appliance and furnace replacement, window repair, energy efficient lighting, water saving, air-sealing and insulation measures and health and safety education.

The restructuring law preserved special rates for NGrid's low-income customers and for 2009, the Commission approved a per kWh credit of 1.306 cents, applicable to the first 450 kWhs used each month, for an expected 32,000 households. To qualify for the discount, a customer must be the head of household and receive Social Security, LIHEAP, Medicaid or other supplemental assistance.

On June 29, 2006, Rhode Island Governor Donald L. Carcieri signed The Comprehensive Energy Conservation, Efficiency and Affordability Act of 2006 that was expected to start providing energy bill relief to low-income households in FY 2008. The bill was the culmination of several years of effort by advocacy groups to get a low-income energy assistance program.

The Act established the Affordable Energy Fund through a gross receipts tax on both electric and gas utilities and a sales tax on heating oil. Funding was projected to total approximately $15 million per year, with revenues from the 2 percent gross receipts tax providing about $14 million, and about $1 million coming from the heating oil tax.

Starting in November 2007, National Grid low-income customers were to receive a 50 percent discount on natural gas distribution rates and low-income customers of Block Island Power Company and Pascoag Utility District were to receive a 50 percent reduction on electric charges for usage up to 500 kWh per month.

However, due to budget constraints, the Rhode Island General Assembly eliminated all funding for the Energy Affordability Fund for FY 2008 and the FY 2009 state budget repealed the Act.

A debt forgiveness plan that started in July 2007 is still in effect. LIHEAP-eligible customers (125 percent of federal poverty level) of the three utilities will have 37.5 percent of their current unpaid electric and gas bill balance forgiven at the end of 3 years if the customer initially pays 25 percent of the unpaid balance and pays 1/36th of one-half of the remaining balance per month for 36 months. The customer must keep current with payments for current usage. The arrearage forgiveness plans are expected to be funded by $1 million from the Affordable Energy Fund in 2010.

For more information:

PUC Order No. 19179, approves continuation of demand side management programs, January 1, 2008

Summary of the Comprehensive Energy Conservation, Efficiency and Affordability Act of 2006

Rhode Island Energy Affordability Fund Usage, strategic plan, March 1, 2007

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Rhode Island PBF/ USF History, Legislation, Implementation

Legislation Cite and Date
96-H 8124 (2/96)

Low-Income Provisions
Restructuring legislation preserves all existing special rates for low-income customers and also opens the door for introducing new rates and programs. In addition, preserves all existing regulations dealing with "deposit and deferred payment arrangements, winter moratorium and medical emergency protections, and customer dispute resolution procedures. "Rules apply to "any public utility which distributes electricity."

Low-Income Rate Assistance
The restructuring law preserved special rates for low-income customers.

Low-Income Conservation
The Single Family Low Income Services (formerly named the Low Income Appliance Program) is the only program exclusively for low-income households. The program replaces old and inefficient refrigerators with ENERGY STAR refrigerators and lighting and provides electric water heating energy efficiency measures. The residential program, EnergyWise, also provides services to Public Housing Authority properties and other low-income multifamily buildings. Through the ENERGY STAR Homes program about 133 low-income homes are completed each year.

Annual Funding
Rate Assistance: $2.3 million (2009)
Conservation (2009): $2.6 million - Single Family Low Income Services
$725,000 - EnergyWise multifamily buildings
$285,000 - ENERGY STAR Homes

Funding Mechanism
Conservation: 3.2 mils per kWh charge on electric distribution rates and $0.15 per decatherm charge for gas customers.

Administration
Utility

Pre-Restructuring Funding
Rate Assistance: $2 million yearly
Conservation: $400,000

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State PBF/ USF History, Legislation, Implementation

Massachusetts
Last updated: April 2010
Summary

More than a dozen gas, electric and combination investor-owned utilities in Massachusetts offered low-income utility rate discounts to 253,586 households, totaling about $68.5 million, in FY 2009.

The natural gas discount is mandated by state regulation, while the electric discount is codified through the state's 1997 restructuring legislation. Since restructuring, a number of policy changes have occurred that have impacted discount enrollment and funding levels. In most cases, the changes were instituted as a result of periodic investigations and subsequent rulings by the state's regulatory commission, sometimes spearheaded by an active network of advocates. The changes, which relate to the discount program, automatic enrollment in the discount, arrearage management programs, and energy efficiency, are chronicled below, starting with the most recent ones.

Discount Rates

An order released September 15, 2008 by the state's regulatory agency, the Department of Public Utilities (DPU), required utilities to file new low-income discount rates that restored the percentage value of those discounts to their level as of 1998.

The DPU and advocates had noted that since the advent of restructuring, the actual value of the discounts had been eroding considerably due to higher commodity prices. Specifically, Massachusetts' residential natural gas prices had increased 64 percent between 2002 and 2007 and average electricity prices had jumped at least 52 percent. The escalating prices had prompted the DPU in February 2008 to open an investigation into expanding low-income consumer protections and assistance, including standards for arrearage management programs, the discount rates, service termination, and energy efficiency programs.

Comments filed by the utilities, the Massachusetts Energy Directors Association, the Low-Income Weatherization and Fuel Assistance Network, and others almost unanimously supported the need to expand the discounts. Utilities were to file their new bill tariffs by October 15, with the discounts to begin November 1.

The levels of discounts are still being finalized. An order by the DPU in February 2010 requires utilities to file bill tariffs that resembled a filing by National Grid in a 2009 rate case. In an order approving the company's low-income rate design, the DPU said other gas and electric companies should file revised rate design proposals for low-income customers that comply with the standard set by National Grid. Its revised discount was a flat 25 percent off the total bill compared to prior discounts that varied by consumption. According to the DPU, the revised model is beneficial because the low-income discount would be uniform regardless of consumption or energy prices, thus eliminating the need for frequent adjustments and lessening confusion among customers. Companies were instructed to file revised tariffs by March 1, 2010, and most companies complied, proposing discounts in the 25 percent range.

On November 6, 2008, the DPU ordered electric companies to increase the discount rate eligibility level to that of the state's LIHEAP program, which had been raised to 60 percent of state median income (SMI) from 200 percent of federal poverty guidelines as of November 1. According to Massachusetts state law, eligibility for the discounts must follow LIHEAP eligibility. The state had raised the LIHEAP income maximum because its LIHEAP funding had nearly been doubled after Congress appropriated LIHEAP a record $5.1 billion nationally in September 2008.

This wasn't the first time the state had raised the discount income eligibility maximum. In response to higher energy prices during the winter of 2005-2006, the Massachusetts legislature raised the income eligibility ceiling for the discounts to 200 percent of the federal poverty guidelines from the previous level of 175 percent, again to correspond with the LIHEAP income maximum.

Automatic Enrollment Process

Also important to increasing enrollment in the utility discounts is an automatic enrollment process begun in 2005 by the DPU's predecessor, the Department of Transportation and Energy (DTE). Comments filed during the 2008 DPU investigation credited automatic enrollment with enrolling 90,000 new households into the discount rates.

The process began in December 2001, when the DTE opened a proceeding (D.T.E. 01-106), to investigate increasing the penetration rate for the electric discount, as well as discounts for natural gas and telephone service.

In August 2003, after extensive meetings with stakeholders, the DTE issued an order establishing a process for automatic enrollment for the gas and electric discounts. The order stipulated the following:

1. A Memorandum of Understanding between DTE and the state's Executive Office of Health and Human Services (EOHHS) outlined changes that were to be made to EOHHS application forms for such means-tested benefit programs as food stamps and TANF. (EOHHS administers a range of health and human service programs through over a dozen departments within it and has a database of program beneficiaries).

2. Applicants are asked to give their permission to release limited information to utility companies (name, address, a unique identifying number). This allows EOHHS to certify the EOHHS applicant/beneficiary as income-eligible for utility discounts.

3. Utilities must share information electronically with EOHHS to identify those EOHHS-served households that are income-eligible for the discounts. EOHHS will use its database to match the names on customer lists provided by utilities.

4. The utilities must presumptively place these income-eligible households on the appropriate discount rate within 60 days of learning that they are income eligible. The utilities also must send notices to the households informing them that they have been placed on the discount rate and that they have the right to be removed from the discount upon request.

It took over a year for various issues related to implementation of the August order, including cost recovery by the utilities, to be resolved. On December 6, 2004, the DTE ordered all state electric and gas companies to share their customer lists within 30 days of the order date with the EOHHS so that automatic enrollment could begin. That agency is responsible for identifying eligible utility customers and then directing the utilities to automatically enroll them unless the customers opt out. An opt-out form may be placed on utility websites.

The DTE required utilities to submit quarterly reports tracking the number of customers enrolled in the discounts through the computer match as well as by traditional means such as the LIHEAP application process at community action agencies and through utilities. Enrollment records on the DPU website show that as of January 2010, 221,339 customers received the electric low-income discount, up from 179,330 in December 2008.

Arrearage Management

Along with more unaffordable utility bills and less valuable bill discounts, Massachusetts has also seen increased numbers of low-income households with high arrearages in the years after restructuring. In 2006, as a result of a new state law (Chapter 140), the DPU directed each gas and electric company to establish an arrearage management program (AMP) targeted at their low-income customers with overdue utility bill balances. Enrollees must agree to an affordable payment plan and, in return, they receive some forgiveness of their debt.

Chapter 140 requires that each company offer all low-income consumers with an account in arrears a payment plan of no less than four months, with a down payment of no more than 25 percent of the total arrearage. The remaining arrears balance is divided into equal payments, and a company may seek approval from the DPU for a payment agreement of less than four months if good cause is shown.

According to the most recent figures from the DPU, approximately 3,500 low-income consumers enrolled in the programs in 2006 and gas and electric utilities received over $1 million in bill payments from these participants while forgiving approximately $300,000 in arrearages.

Noting that nearly all AMPs were under enrolled, the DPU in its February 2008 investigation asked for suggestions on strengthening and improving participation in AMPs. It stated that higher enrollment and more successful participation in AMPs could increase low-income customers' ability to pay their bills, and could reduce utility arrears and service terminations, thereby decreasing utilities' costs in terminating and restoring service.

In the September 2008 order, the DPU required utilities to expand their pilot arrearage management programs to every low-income customer with a sufficiently large arrearage. Utilities were to file an AMP plan no later than February 28, 2009 , that includes a company-administered program, with either automatic enrollment of eligible consumers or, at a minimum, a procedure for notifying all consumers in arrears of the existence of the AMP. Eligibility for these programs was expanded to 60 percent of SMI in November of 2008.

The DPU and utilities were to continue working with a Best Practices group to develop standard AMP features that would increase program scope and benefit.

Energy Efficiency

Massachusetts' restructuring law also established a low-income conservation fund through a 0.25 mills per kWh charge on every electric customer, which has amounted to about $15 million per year for low-income electric efficiency programs. A conservation charge on natural gas customer's bills has funded about $7 million per year in gas low-income energy efficiency programs.

As of 2010, these charges (along with other new funding sources detailed below), continue to fund the low-income programs, but their budgets will increase substantially over the next three years due to impacts of the Green Communities Act, a comprehensive energy reform bill passed in 2008. The Act requires all electric and gas distribution companies and municipal aggregators to develop energy efficiency plans that provide for the acquisition of all available energy efficiency and demand reduction resources that are cost-effective or less expensive than supply.

In an order dated January 28, 1010, the DPU approved three-year energy efficiency plans with programs for all customer classes, including low income, by the state's natural gas utilities, and another order approved three-year plans by the electric utilities.

According to the Act, electric program administrators must dedicate 10 percent of their efficiency program funds to low-income customers, gas program administrators 20 percent.

According to the plans submitted, electric low-income programs will receive $36.5 million in 2010 (more than double the $15 million they received in prior years), increasing to $48.3 million in 2011 and $61.2 million in 2012. They include single- and multi-family building retrofit programs and new construction. Gas low-income programs will receive $16.6 million in 2010 (about double what they received in 2009); this increases to $21.4 million in 2011, and $27.6 million in 2012.

Per the plans, the electric programs will have five sources of funding: 1) the above-mentioned mandatory 0.25 mills per kWh system benefits charge; (2) revenues from the forward capacity market administered by Independent System Operator-New England; (3) revenues from cap and trade auctions known as the Regional Greenhouse Gas Initiative (RGGI); (4) other funding sources; and (5) an energy efficiency surcharge.

The gas utility programs will continue to be funded by the conservation charge, which is now called the energy efficiency surcharge.

During 2008, about $4 million in RGGI funds paid for heating system repairs and replacements for low-income households; in 2009 RGGI funds expanded existing utility energy efficiency programs, including those for low-income.

The low-income energy efficiency programs have been and will continue to be implemented through the existing weatherization and energy assistance network, primarily community action agencies. The utility funds are combined with federal weatherization funds to expand the number of jobs completed and the work performed in low-income dwellings. Typical measures include attic and/or wall insulation, blower door directed air sealing, heating system repairs and replacements and ventilation. Priority is given to high-use households, as well as to elderly households and those with young children. Because high usage is often the cause of high arrearages, the efficiency programs are well-coordinated with the arrearage management programs.

About 17,000 low-income households received efficiency services through utility funds during FY 2009, at a cost of about $21 million. Services are offered to customers with incomes below 60 percent of the state's median income, which equates to about 225 percent of federal poverty guidelines.

According to the Network's comments in D.P.U. 08-4, in the past ten years, Massachusetts' low-income energy efficiency programs have won many national awards and proven cost-effective on a societal basis. The electric programs, achieved a benefit/cost ratio of 2.9 in the period of 2003-2005, according to a recent report. In 2006, the low-income electricity programs saved 17 MW of summer demand, 44 MW of winter demand, and 179,000 mWh of energy.

For participants, this has meant average savings of about 10 percent in baseload electricity consumption and about 20 percent in heating fuel. The high quality and cost-effectiveness of these programs could not have occurred without the skill and cooperation of the utilities and the program administrators, the Network wrote.

For more information:

Documents filed on the DPU's February 2008 investigation into the discount, arrearage and energy efficiency programs are available at the DPU website's File Room.

Earlier documents filed on the low-income discount enrollment issue are available at the DPU website's File Room.

Green Communities Act implementation

Massachusetts PBF/ USF History, Legislation, Implementation

Legislation Cite and Date
Chapter 164, Acts of 1997 (12/97)

Low-Income Provisions
"Electricity service is essential to the health and well-being of all residents of the Commonwealth," and "The restructuring of the existing electricity systems should not undermine the policy of the Commonwealth that electricity bills for low-income residents should remain as affordable as possible."

Low-Income Rate Assistance
Restructuring legislation required electric and combination investor-owned utilities to continue offering utility rate discounts ranging from 11 to 43 percent of low-income households' bills. On November 6, 2008, the DPU ordered electric companies to increase the discount rate eligibility level to that of the state's LIHEAP program, which had been raised to 60 percent of state median income (SMI) from 200 percent of federal poverty guidelines as of November 1.

Low-Income Conservation
The restructuring law established a conservation fund, through a charge on every electric customer; a portion of this goes to low-income electric efficiency programs; although not part of restructuring legislation, a conservation charge on natural gas customers funds gas low-income energy efficiency programs.

Annual Funding (2009)
Rate Assistance: $68.5 million
Conservation: $23 million ($15 million electric / $8 million gas)

Funding Mechanism
Rate Assistance: Included in distribution company rates which are adjusted periodically in rate cases, all customer classes contribute.

Conservation: 0.25 mills per kWh charge, all electric customers contribute.

Administration
Utilities, with implementation by subgrantees who administer LIHEAP and weatherization.

Pre-Restructuring Funding
Rate Assistance: $36 million yearly
Conservation: $3 million yearly

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Exhibit C

LIHEAP NETWORKER
ISSUE #34
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Compiled by the LIHEAP Clearinghouse

(Note: The content of this publication does not necessarily reflect the views or policies of the U.S. Department of Health and
Human Services, nor does mention of trade names, commercial products, organizations, or program activities imply
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ARTICLES INDEX

Georgia's Gas Deregulation: A Mixed Blessing for Poor, Elderly

Since Georgia deregulated its natural gas industry in 1997, it's been a topsy-turvy world for just about all gas consumers, but especially for elderly and low-income, according to the state LIHEAP office, community action agencies, and the state's consumer counsel.

The combined forces of 19 new marketers entering a field previously dominated by two companies, a new pricing method, delayed billings, erroneous billings, and illegal practices such as slamming, prompted the Georgia Public Service Commission to draft regulations against slamming (unauthorized switching of service) and to force one gas company to refund customers for over-billing.

Georgia's 1997 Natural Gas Competition and Deregulation Act allowed choice to customers of the state's two largest investor-owned gas utilities. Atlanta Gas Light (AGL), the largest utility, began providing choice to its 1.4 million customers shortly thereafter, but the other utility decided not to open up its territory.

Confusion reigned from the beginning, according to a paper by the Georgia Consumer's Utility Counsel Division (CUCD), as several provisions of the new legislation were gradually implemented from late 1998 through the present.

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Gas marketers were allowed to compete for the sale of gas beginning November 1, 1998. Shortly thereafter, AGL changed its methodology for billing its natural gas services. In May 1999 another provision kicked in – the "random assignment" of customers – which meant that customers had to select a marketer, and if they did not, they would be randomly assigned to a default marketer. By October 1999, AGL was out of the supply business and was solely a distribution company.

The result was increases in consumer gas bills and consumer complaints. In early 1999, the PSC conducted an investigation, which resulted in an immediate refund of $14.5 million. The increasing bills also caused consumers to sign up with the new marketers who had been certified to market natural gas.

At first there were 19 new marketers certified by the PSC. According to the CUCD, by November 1999 at least five were under review by the PSC for possible revocation or modification of their certificates due to slamming or other rule violations. One marketer went bankrupt.

The PSC took further action to remedy the situation last month, when it approved new regulations to strengthen its existing rules against slamming. The new rules add record-keeping and sign-up verification requirements, and add several specifics about confirmation of switched accounts.

The commission also approved procedures for AGL to refund an estimated $34 million to 1.26 million customers. The money was over-collected last year when the company was billing customers for gas on the basis of estimated wholesale gas costs during the transition to a deregulated gas market.

Still awaiting PSC action is a request by the CUCD to require gas marketers to disclose their average prices and allow consumers to make "apples to apples" price comparisons.

An article in the *Atlanta Journal-Constitution* in November 1999 found that while industrial and business users were reporting gas savings, most residential consumers were not. However, a PSC official was quoted as saying that savings would "filter down" once the market has stabilized.

LIHEAP involvement

LIHEAP and its local administering agencies were on the frontlines in dealing with frustrated consumers, said Wendy Bailey-Parks, state LIHEAP coordinator.

Some marketers did not have billing procedures in place in time, so they either did not send bills, or they billed for several months at a time, a particular hardship for the low income and the elderly. As consumers changed marketers, payments sometimes went to the wrong vendor.

Downloaded from http://liheap.ncat.org/newslett/34net.htm

Because some marketers had not signed vendor agreements with the state LIHEAP office, some local agencies had to mail out payments directly to clients rather than to the supplier, Bailey-Parks explained, resulting in increased workloads for agencies.

She added that billing and crediting problems continue with the new marketers, especially those who have hired other entities to be billing agents but have not created a mechanism for crediting LIHEAP payments to a customer's account.

Some marketers were reportedly going door-to-door in housing developments and low-income neighborhoods, she added.

Georgia's community action agencies became involved both in providing consumer education and in advocating on behalf of their clients with marketers, said Elaine Whitehead, of ACTION Inc, a CAA in Athens. Some took the incentive to get educational information from the PSC out through the community action network, with a priority of educating the elderly.

On the positive side, Bailey-Parks noted that in March community action agencies will begin spending $1 million from AGL's fuel fund, called the HEAT program, to help low-income households with home fuel emergencies. Now that AGL is out of the supply business, the future of HEAT is somewhat uncertain, she said, because it is up to new marketers to carry on the program by soliciting donations from their customers, and matching the donations, as AGL did. She said AGL has tried to get new marketers to buy into the fuel fund, and several marketers have done so.

She added that AGL has begun to hold meetings for new marketers every month and her office has attended the last two in order to explain LIHEAP to the marketers and alert them of problems.

For more information, contact Bailey-Parks at: (404) 657-3377.

Downloaded from http://liheap.ncat.org/newslett/34net.htm

NewsBank inc. Access World News

Deceptive practices alleged against natural gas marketer

The Atlanta Journal and The Atlanta Constitution - Saturday, April 17, 1999

Author: *Matthew C. Quinn; Staff*

State regulators are investigating allegations of deceptive practices against another of the 20 marketers certified to sell natural gas in Georgia.

Jim Hurt, director of the Consumer Utility Counsel Division of the Governor's Office of Consumer Affairs, said his office is looking into 48 complaints of "unfair and deceptive practices" against Energy America, a Connecticut-based marketer.

The allegations include "slamming," the unauthorized switching of customers from one supplier to another without the customer's full consent or legal authority, Hurt said.

Energy America spokesman Al McDonald said the complaints stem from promotional material that might have led to the perception that Energy America was affiliated with Atlanta Gas Light Co., the longtime monopoly that is now withdrawing from gas sales.

The company has printed new promotional material that drops references to what it had been calling its "Atlanta Gas Light Energy Select Program."

McDonald said Energy America, owned by San Diego-based Sempra Energy and Direct Energy of Calgary, Alberta, was "innocent of intentional wrongdoing."

Energy America unveiled the new material and outlined new sales procedures to Hurt's office and the state Public Service Commission earlier this week. McDonald said the company has severed its relationship with a number of door-to-door sales agents, instituted a training program and started requiring agents to obtain written authorizations from new customers.

Hurt said his investigation continues. "We are attempting to determine what the scope of the problem is with this company. Every time we think we have resolved it, we find that the scope is larger than we had been dealing with," he said.

And under the state's 1997 natural gas deregulation law, the PSC can impose fines of $15,000 plus $10,000 for each day a "slamming" violation occurs and revoke a company's certification to do business.

The term "slamming" is often used to cover a range of deceptive practices that carry similar penalties.

"We are not going to put up with it," PSC member Lauren McDonald said.

Hurt's Consumer Utility Counsel Division can seek additional penalties of up to $5,000 a day.

Hurt said slamming allegations were "not unexpected" under deregulation, noting that many such complaints have been lodged against long-distance telephone suppliers since that industry was deregulated two years ago.

He also noted that the approaching "random assignment" of natural gas customers who have not chosen marketers by Aug. 11 may offer an incentive for slamming. That's because marketers will be assigned customers based on the number they can sign up between now and then.

Among other complaints:

Shell Energy Services, a certified marketer, filed a complaint with the PSC this month saying it had "verbal confirmations" from customers alleging they had been switched to another marketer without authorization.

The complaint did not identify the marketer.

PSC Chairman Stan Wise said last month that the commission had received "slamming" complaints against United Gas Management of Georgia. He said later he was satisfied the company was taking adequate steps to deal with the complaints.

PSC member McDonald also said a certain number of complaints are predictable.

"My competitors in the hardware business talked about me, and I talked about them," said the former small businessman. "That's the marketplace."

ON THE WEB: Natural Gas decisions? Compare prices on Access Atlanta.

www.ajc.com/links/

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Natural Gas Marketer Slapped with Largest PSC Assesment Ever

(September 5) On September 2, the Georgia Public Service Commission (Commission) approved in a 3 to 2 vote the largest assesment ever against a natural gas marketer in order to resolve 138 allegations of slamming against Energy America. Slamming is the switching of a consumer's natural gas marketer without the consumer's authorization.

The settlement would require the company to contribute $400,000 to the Low Income Heat Energy Assistance Program (LIHEAP) plus $100 credits to each of the 138 customers slammed for a total payment of $413,800. In addition, Energy America would pay $5 to these customers for each day it took the gas marketer to return the customers to their preferred provider after being slammed. The company would also have 15 days to credit accounts of additional customers identified as being slammed.

The Commission approved an amendment that would prevent the company from receiving a tax benefit from its LIHEAP contribution. Commissioner David Burgess noted that customers would receive free gas during the time they were switched from their preferred provider.

To prevent similar problems, the settlement requires the company to develop and deliver training on Commission natural gas rules to its employees and agents, and, for the next two years, to submit all proposed direct mail, email, television or billboard advertising to the Commission for its review.

Energy America is also prohibited from engaging in activities to sign up new or former customers for a 12-month period without prior Commission approval.

In May and August 2003, the Commission held hearings on slamming allegations against Energy America, a subsidiary of Centrica (a Canadian/UK company with over 6 million customers in Europe and North America).

The Commission initiated this case when 14 consumers filed complaints after being contacted during the summer and fall of 2002 by a telemarketing firm hired by Energy America. The Commission found that Energy America had engaged in 138 instances of alleged "slamming," the unauthorized switching of customers'preferred natural gas providers, and other alleged violations of Commission rules. These unauthorized switches occurred even though Energy America had been sanctioned by this Commission in 2000 for unauthorized switching violations related to a door-to-door sales campaign.

Source: Georgia Public Service Commission

Retail Unbundling - Georgia

Status: The State has implemented a comprehensive unbundling program for 82 percent of its residential gas customers.

Overview: Since October 1, 1999, all residential natural gas customers (approximately 1.5 million) in Atlanta Gas Light Company's (AGL) service territory must purchase their supply directly from marketers certified by the Georgia Public Service Commission (PSC). This represents more than 80 percent of the residential gas customers in the State. AGL no longer sells natural gas but continues to provide distribution and transportation services. Legislation passed in 1997 allowed the State's two investor-owned utilities, AGL and United Cities Gas Company (a division of Atmos Energy Corporation), to unbundle services. Accordingly, AGL offered supplier choice to its customers in November 1998. By May 1999, enough consumers had chosen service from marketers that the PSC determined that sufficient competition existed in AGL's market area to allow the company to exit the merchant function. United Cities Gas Company has chosen not to unbundle gas services.

Concerns about the billing practices of some marketers and the high prices to residential customers in the winter of 2000-2001 led to passage of the Natural Gas Consumers' Relief Act in April 2002, which revised the Natural Gas Competition and Deregulation Act enacted in 1997. The legislation gives the PSC authority to issue emergency orders, such as price regulations, if it determines that market conditions are no longer competitive (specifically, if 90 percent of customers are served by three or fewer marketers). It also includes a consumer bill of rights, provides for a regulated gas provider, and removes legal restrictions that prohibited electric companies from selling natural gas.

At one time, 19 companies were on the PSC's list of approved marketers. However, several of these companies declared bankruptcy and others exited the market because of poor performance. As of December 2009, 11 marketers were certified in AGL's service area, although 2 of the companies are prohibited from enrolling new customers and their accounts have been transferred to other marketers because of financial problems and/or service complaints. The PSC revised its marketer rules in 2008 to prohibit marketers from preventing customers from switching to another marketer or provider. It also placed restrictions on a marketer's ability to trade customers and expanded the financial information that a marketer must report to the PSC each quarter.

In June 2002, SCANA Energy, a unit of SCANA Corporation, was selected as the regulated provider to serve low-income customers and customers who are unable to receive service from a marketer. The PSC approved a lowest-cost pricing plan and a special rate for senior citizens. SCANA's reimbursement for nonpaying low-income customers comes from the State's universal service fund, which is funded by surcharges on large industrial gas users. SCANA's contract has been extended four times, and in March 2009 the PSC voted to renew SCANA's contract for the 2 years from September 1, 2009, through August 31, 2011. (The PSC selects the regulated provider through a competitive bid process among certificated marketers.)

EIA State Data: In 2008, Georgia had 1,791,256 residential and 126,804 commercial customers. They consumed approximately 119 and 52 billion cubic feet of natural gas, respectively. The average prices residential and commercial customers paid for natural gas from local distribution companies and marketers were $18.26 and $14.30 per thousand cubic feet, respectively.

Eligibility and Participation in Retail Choice Programs:

Eligibility and Participation by Customer Class, December 2009

Customer Type	2008 Customer Total	Eligible December 2009		Participating December 2009		
		Total	Percent of 2008 Customer Total	Total	Percent of Eligible	Percent of 2008 Customer Total
Residential	1,791,256	1,461,748	81.6	1,461,748	100	81.6

Commercial	126,804	93,667	73.9	93,667	100	73.9
Total	**1,918,060**	**1,555,415**	**81.1**	**1,555,415**	**100**	**81.1**

Sources: **2008 Customer Total**: Energy Information Administration, *Natural Gas Annual 2008* (March 2010). **Eligibility Rate:** Based on customer totals for Atlanta Gas Light reported on Form EIA-176, "Annual Report of Natural and Supplemental Gas Supply and Disposition," which is the primary data source for EIA's *Natural Gas Annual*. **Participation Rates:** Georgia Public Service Commission (December 2009).

Regulatory and Legislative Actions on Retail Unbundling

Summary: The Georgia General Assembly enacted the Natural Gas Competition and Deregulation Act and Alternative Form of Regulation Act in April 1997, which allowed companies other than utilities to sell natural gas to residential consumers and altered the regulatory framework of the State's natural gas industry. Beginning November 1, 1998, all customers of Atlanta Gas Light (AGL), the State's largest investor-owned utility (1.4 million customers), could purchase gas from marketers rather than from AGL. By May 1999, the Georgia Public Service Commission (PSC) determined that sufficient competition existed in AGL's market area to allow the company to exit the merchant function. Since October 1, 1999, AGL has provided distribution services only and all customers in AGL's delivery area purchase gas directly from marketers. The PSC adopted rules in 2000 to protect consumers from unauthorized switching and designated a default provider (to be selected each year) in case a marketer is unable to continue service. The PSC also set up a monthly "scorecard" on its web site showing the number of complaints received about marketers as to billing, service, and deceptive marketing practices.

Additional consumer protection measures were adopted as a result of the Natural Gas Consumers' Relief Act enacted in April 2002, which revised the Natural Gas Competition and Deregulation Act of 1997. The legislation gives the PSC authority to issue emergency orders, such as price regulations, if it determines that market conditions are no longer competitive (90 percent of customers are served by three or fewer marketers). It also includes a consumer bill of rights, provides for a regulated gas provider, and removes legal restrictions that prohibited electric companies from selling natural gas. The legislation incorporated many of the suggestions contained in a report of the Blue Ribbon Task Force established by Governor Barnes in late 2001 to assess the impact of deregulation in the State. Also prior to the legislation, the PSC had authorized (November 2001) a review of marketers' ratesetting methods to determine whether the companies' bad debts were keeping retail rates high. The PSC in May 2003 adopted final rules for determining if natural gas prices are competitive, as required by the Natural Gas Consumers Relief Act of 2002.

Regulatory and Legislative Actions

Legislation	01/06	**Legislation approved to reduce tax on natural gas and liquid propane sales** (House Bill 970). Legislature approves tax cut that suspends half the tax collected on consumer purchases of natural gas from January 1 to April 30, 2006, and liquid propane until March 31, 2006. Bill is a response to Governor Perdue's Executive Order issued in December 2005 that suspended taxes on natural gas.
	01/06	**Legislation proposed to re-regulate retail gas market** (House Bill 1108 and Senate Bill 448). Proposals would prohibit marketers from renewing contracts and return customers to AGL, who would again serve as the regulated supplier and transporter. Similar bills were rejected in 2000, 2001, and 2002. Another proposal would require selection of more than one regulated gas provider for low-income and high-risk customers. (The proposals were rejected during the session.)
	04/02	**The Natural Gas Consumers' Relief Act** (House Bill 1568, signed into law 4/25/02). Revises the Natural Gas Competition and Deregulation Act. Gives PSC authority to issue emergency orders such as price regulations if market conditions are no longer competitive (90% of customers are served by 3 or fewer marketers). Includes a consumer bill of rights, and provides for a regulated gas provider. Removes legal restrictions that prohibited electric

		companies from selling natural gas.
	04/99	**Legislative amendment** (House Bill 822). Amends the Natural Gas Competition and Deregulation Act. Allows the PSC to set more general criteria for determining that adequate market conditions exist in a particular delivery area. Removes requirement that alternative suppliers account for one-third of peak-day market before customers who have not chosen an alternative provider can be randomly assigned a service provider.
	04/97	**The Natural Gas Competition and Deregulation Act**, O.C.G.A. § 46-4-150 et seq and Alternative Form of Regulation Act (O.C.G.A. § 46-2-23.1 et seq). The legislation provides guidelines for the unbundling of Georgia's natural gas industry and directs the PSC to set rules accordingly. An LDC may be released from the obligation to provide merchant service when at least five marketers (unaffiliated with the LDC) are operating within a service area and account for at least one-third of the area's peak-day requirements (applies until 9/30/01). It gives the PSC authority to certify marketers and to specify how to deal with issues of stranded costs. The legislation establishes a sharing mechanism for profits from capacity release during the transition and a method for assigning capacity to marketers. It also directs the PSC to establish and administer a universal service fund to help assure natural gas availability and service. The legislation does not affect gas companies owned by municipalities or other governmental entities.
Regulatory Actions	05/09	**PSC penalizes Stream Energy for slamming.** The company did not admit wrongdoing but agreed to pay penalties to resolve customer allegations that their service had been switched to Stream Energy without their consent. The company must file a progress report with PSC within 90 days of the signed agreement date. The PSC issued an interim certificate to the company in April 2008.
	03/09	**SCANA retained as regulated provider.** The PSC voted to renew SCANA Energy's contract as the regulated provider in AGL's service area for the 2 years from September 1, 2009, through August 31, 2011. The regulated provider provides natural gas service to low-income consumers and to customers who are unable to obtain natural gas service from other marketers because of poor credit. SCANA has been the regulated provider since the program was established in 2002.
	10/08	**Catalyst Energy's customers transferred to MXEnergy.** The Federal bankruptcy court approved the transfer of Catalyst Energy's 30,000 natural gas customers to MXEnergy, another marketer in AGL's service territory. The PSC had conditionally approved the transfer after Catalyst filed for bankruptcy. Catalyst lost its line of credit with Constellation Energy, which was a trading partner of Lehman Brothers who filed for bankruptcy in September.
	06/08	**PSC approves agreement to resolve complaints about SCANA Energy's variable rate plans.** Customers had complained that they were not notified when cheaper rates were available under the company's variable rate plans. The agreement specifies that up to 50,000 variable-rate customers who switched to another SCANA rate plan between March 1, 2007, and October 31, 2008, will receive a $25 credit in November 2008. If more than 50,000 customers qualify for the credit, the credits will be reduced accordingly. The total credit amount will be capped at $1.25 million. Customers' bills will be reformatted to show the name of the customer's plan on the bill. The agreement also specifies that SCANA cannot object to a rulemaking that would require marketers to notify customers of new or retired pricing plans.
		Stream Energy Georgia conditionally approved as gas marketer. The company plans to use the "Multi-Level Marketing" program of its affiliate Ignite to promote its supply service in Georgia. The PSC issued an interim

	04/08	certificate that requires the company to report quarterly on complaints regarding enrollment problems and the details of enrollments through its Ignite affiliate compared with direct calls, Internet, or other contacts, and provide updated training materials if it initiates other marketer methods. The PSC will review Stream's operations in the State after 3 months.
	03/08	**Georgia Natural Gas accepts settlement to resolve complaints about its variable rate plans.** Customers had complained that they were not notified when cheaper rates were available under the company's variable rate plans. The marketer agreed to issue $2.5 million in rebates. Up to 100, 000 variable-rate customers who switch to another rate plan between December 2006 and July 2008 will receive a $25 credit in August 2008. If more than 100,000 customers qualify for the credit, the amount will be reduced accordingly.
	02/08	**PSC revises marketer rule.** The revision prohibits marketers from preventing customers from switching to another marketer or provider. It also places restrictions on a marketer's ability to trade customers and expands the financial information that a marketer needs to report to the PSC each quarter. It also clarifies marketer certification procedures.
	01/08	**Constellation NewEnergy-Gas Division LLC approved as gas marketer.** The PSC certified Constellation as a marketer in the State of Georgia. The company expects to serve commercial and industrial customers in the State.
	10/07	**PSC issues notice of proposed rulemaking revising marketer certificate rules.** The PSC intends to amend marketer certification rules to require additional information from applicants, specify requirements for marketers purchasing or transferring customers from existing marketers, and spell out language to be used in continuous gas service agreements. The rules would also eliminate the requirement for marketers to file monthly reports with the PSC but would expand the information needed in quarterly financial reports.
	07/07	**Fireside Natural Gas LLC approved as gas marketer.** The PSC certified Fireside Natural Gas as a marketer in AGL's service territory. The company was formed in 2007 by the owner of Energy Solutions, Inc., a wholesale industrial natural gas marketing company.
	06/07	**SCANA retained as regulated provider.** The PSC voted to renew SCANA Energy's contract as the regulated provider in AGL's service area for the 2 years from September 1, 2007, through August 31, 2009. The regulated provider provides natural gas service to low-income consumers and to customers who are unable to obtain natural gas service from other marketers because of poor credit.
	11/06	**Commerce Energy customers transferred to GNG.** The PSC approved the transfer of Commerce Energy, Inc. retail natural gas customers to Georgia Natural Gas (GNG). Commerce currently serves approximately 6,500 retail natural gas customers in Georgia. GNG and Commerce must jointly send a notification letter to all affected customers. GNG must honor Commerce's fixed-rate contracts and Commerce's current charge for customers on a variable price plan. Customers can switch to another marketer without charge prior to the effective transfer date.
	02/06	**Catalyst Energy approved as gas marketer.** The PSC certified Catalyst Energy LLC as a marketer in AGL's service territory. Catalyst is a privately owned minority enterprise based in the Atlanta area. The company must file monthly financial statements with the PSC and is subject to a PSC-performance review in May 2006. Enrollment numbers are to be limited to 3,000 until the company can demonstrate that it has sufficient capital to take on additional customers.

	01/06	**Gas South LLC approved as gas marketer.** PSC approved Gas South's application as a marketer in Atlanta Gas Light's (AGL) service territory and authorized the transfer of the customers of Southern Company Gas to Gas South. The company must honor all existing contracts between Southern Company Gas and its customers. Gas South is a consumer-owned electric utility
	10/05	**PSC approves disbursement from Universal Service Fund.** PSC approved disbursement of $6 million from the Universal Service Fund to the Department of Human Resources to supplement grants from the federally funded Low-Income Home Energy Assistance Program (LIHEAP).
	08/05	**PSC issues Notice of Inquiry on multiple natural gas systems within a single certificated area.** PSC asked for comments on what factors should be considered if multiple natural gas systems were allowed to operate within a single service area.
	07/05	**PSC adopts affiliate transaction guidelines for AGL.**
	07/05	**Commerce Energy approved as gas marketer.** PSC approved Commerce Energy's application for a natural gas marketer certificate of authority. It also approved the transfer of all customers and assets of gas marketer ACN Energy to Commerce Energy.
	06/05	**SCANA retained as regulated provider.** PSC voted to renew SCANA's contract as the regulated provider in AGL's service area for the 2 years from September 1, 2005, through August 31, 2007. The regulated provider provides natural gas service to low income consumers and to customers who are unable to obtain natural gas service from other marketers because of poor credit. SCANA has been the regulated provider since the program was set up in 2002.
	01/05	**Marketer late fee policy changed.** PSC voted to raise the minimum balance that late fees can be assessed on past due accounts from $10 to $30. The late fee remains at $10 or 1.5 percent, whichever is greater.

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IT'S A FLIMFLAM SLAM. CUSTOMERS FLEECED BY UTILITY SCAMMERS

New York Daily News (NY) - Sunday, July 27, 2008

Author: *WILLIAM SHERMAN DAILY NEWS STAFF WRITER*

THOUSANDS OF New Yorkers are being conned into paying more for gas and electricity by energy brokers running a unique scam - the utility slam.

Slamming is the practice of switching utility suppliers without the customer's knowledge or duping them into a bad deal.

Targeting residents and businesses, brokers use fast-talking telemarketers and salesmen to lure customers with promises of rates lower than those of Con Edison.

Sometimes they learn account numbers and switch gas or electric service without permission. Salespeople even masquerade as Con Ed employees to get the job done.

Other methods include using salespeople to persuade low-level employees of midsize and small businesses to switch to the energy brokers. By the time the bills arrive, hidden charges have turned promised low rates into high ones.

For example, Vincent Cirello, director of purchasing for Equinox Fitness clubs, was shocked when he started crunching the numbers on his company's utility bills: They had somehow skyrocketed $30,000 in three months.

"I checked into it and found out what happened," he said. "I was slammed."

Equinox is just one of many businesses, including electronics chains, supermarkets and restaurants - along with residential customers - victimized by slammers.

They are small gas and electric brokers known as energy-service companies - companies that emerged in the past 10 years after utility deregulation as an alternative to Con Ed.

The idea was to promote competition between natural-gas and electricity providers and offer consumers lower prices. In midtown Manhattan, for example, 17 such companies sell electricity, and 19 companies sell natural gas.

The energy-service companies buy electricity and gas from wholesalers to sell on a retail basis, using Con Ed's pipelines and cables.

In the competition for the hundreds of millions of dollars in potential energy profits, some companies use deceptive marketing techniques.

Con Ed says about 30,000 customers a month are switched to the so-called ESCOs, of which about 900 later say they never authorized the switch. They're switched back when the broker can't show proof of consent, said Michael Clendenin of Con Ed.

The state Public Service Commission recorded 2,680 complaints between January 2007 and this past April.

Smaller businesses, the elderly and consumers with limited knowledge of English are the usual targets, according to the commission and the New York Consumer Protection Board.

"Many consumers are still being taken advantage of by the unsavory marketing practices used by some ESCOs," said Mindy Bockstein, head of the consumer board.

Jay Kooper, vice president of the Retail Energy Supply Association, insisted, "The industry as a whole has an excellent compliance record, and we're always looking to improve."

Basically, the slam-scam works like this:

Working on commission, telemarketers start with lists of possible customers.

"They'll call and say, 'We're Con Ed and we have to check something,' or, 'We're offering a special deal, but we have to verify your account number,' " energy consultant Richard Eby said.

Door-to-door salesmen often wear shirts with fake Con Ed logos or take notes on fake Con Ed stationery, said Deborah Rausch, spokeswoman for the Consumer Protection Board.

Once the account number is obtained, the ESCO notifies Con Ed the switch has been made. Con Ed notifies customers by mail that they've been switched, but many people don't read those notices, agency officials say.

All bills go out on Con Ed letterhead, so customers don't get any warning flags.

"A lot of people just look at the first page of the bill, where the amount is listed, and pay that amount," Eby said.

Unless customers check the second page, where the actual provider is listed, they won't know they've been slammed.

Ken Ballan, chief financial officer of Bronx-based Dexter Chemicals, switched to US Energy Savings Corp. for electricity at 12.2 cents a kilowatt-hour, far lower than what Con Ed was charging.

But when the bill came, there was also a "customer charge" - of $677.61.

"Nobody told me about that," he said. When he added up the bill's components, he said, "It turned out I was paying 28.3 cents a kilowatt-hour, much more than Con Ed was charging."

Gordon Potter, senior vice president for US Energy Savings Corp., said that when Ballan protested, he was let out of the contract with no termination fee.

Potter added that his company has discontinued the "customer charge" practice, which he said was a billing misunderstanding.

PSC officials said the number of complaints and incidents of alleged fraud is a "small fraction" of the ESCO business, but the agency has proposed expanded consumer protections.

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CONSUMERS HAZY ON HEATING OPTIONS - FEW TRY ALTERNATE NATURAL GAS SUPPLIERS

Chicago Tribune - Thursday, March 9, 2000

Author: *Janet Kidd Stewart, Tribune Staff Writer.*

So many utilities, so little time.

Customers appear to be pouring cold water on a pilot program designed to introduce market competition into their choice of heating suppliers, despite a deluge of advertising intended to encourage them to participate.

Just 9 percent of eligible residential customers this year have signed up for a pilot competitive program offered by Nicor Gas Co., the Naperville-based natural gas utility serving the northern third of the state, except for the city of Chicago.

Of 265,000 eligible residential customers, just 24,800 have signed contracts with one of five suppliers in the Customer Select program, including Nicor Energy, the deregulated competitive unit of the utility, officials said Wednesday.

Of 157,000 eligible commercial customers, just 10,085 have signed on for competition, or 6 percent.

Nicor officials say they are pleased with the results of the program so far. Counting the participants from the previous two years, they say about 15 percent of eligible customers have signed up for competition, and that's with a few weeks still to go on this year's campaign.

"It's not inconceivable that we'll hit 20 percent, and we're pleased with that given that this is the first major utility [in this area] to try anything of this size," said John Madziarzyk, director, rate projects, for Nicor Gas. Madziarzyk said the company has tried to make its mailings, brochures and other materials as easy to understand as possible.

Critics say the Customer Select program, offered to all existing commercial customers and residential customers in 16 area communities, is confusing and, at times, misleading about what, if any, savings they may offer. The communities participating are Addison, Bloomingdale, Bloomington, Bolingbrook, Carol Stream, Downers Grove, Glendale Heights, Glen Ellyn, Joliet, Lockport, Loves Park, Machesney Park, Normal, Rockford, Roscoe and Wheaton.

"We've given the contract to experts, who can't tell us what the price is tied to. There's no way to know a price," said Martin Cohen, executive director of watchdog Citizens Utility Board. "A customer has to take it on faith that there's a savings, and there very well may not be."

Among those residential customers taking a pass on competition is William Burger, finance director for the Village of Glendale Heights. Burger spent a 34-year career with Westinghouse Electric Co., working in finance, purchasing and regulatory issues with the big Pittsburgh corporation. He declined to sign up for the program for his Glendale Heights home.

"I did not sign up. I tried to understand it, but I must confess it's very unclear. We couldn't tell what our results would be," the finance director said.

One business customer involved in the program last year is also among the unmoved.

Michael Papadopoulos, a 60-year-old entrepreneur in Naperville who runs an automobile import repair shop, said he recently fought to get back into the regulated side of the business because his gas bill under Nicor Energy in the pilot program was $187 higher than if he had stayed with Nicor Gas. He claims the company reimbursed him for the difference, though Nicor officials contacted Wednesday said they were unaware of the case.

Dion Smith, national accounts manager for Volunteer Energy Services, one of the alternative providers participating in the pilot, commended Nicor Gas on its education efforts. "Generally speaking, the program is sound, but it's a real `buyer beware' situation for customers," he said. Smith said Nicor has done a good job of setting up the program, but gripes that some players in the pilot are leading to more confusion.

For example, Nicor Energy is one of the "alternative" providers participating in the pilot. Nicor Energy is a unit of the larger Nicor Gas but is not regulated by the Illinois Commerce Commission. "Get $20 cash!" a recent Nicor Energy marketing piece trumpets as it tries to get customers to sign up for service over the Internet.

Such similar company names add to confusion about the program and create an unfair advantage for incumbents, critics argue. And it forces smaller competitors to engage in teaser rates, too, Smith argues.

Customers, fed up with slamming and heavy telemarketing by telephone companies, may be simply tired of having to investigate all the claims.

"I wouldn't say people have been flocking to it," said Rick Carnutte, marketing representative of The Energy Cooperative, one of the participating alternative suppliers. He declined to disclose how many customers have signed up for service with the Ohio not-for-profit cooperative, but also said the percentage of people even signing up for the pilot seems lower than in other states where he has seen competitive test programs.

Regardless of any shortcomings on Nicor's part, he said, customers in general are reluctant to change carriers simply because they don't view the potential cost savings as significant enough to warrant spending time on figuring out which company has the best rates.

"We're a cooperative, owned by our members, so any profits we make go back to members, but price isn't selling these programs right now," he said. Consumers have shown a general skepticism about the alternative plans, perhaps a carryover from telephone deregulation, which has led to consumer headaches from slamming, he said.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Testimony of Marlon Cummings on behalf of Association of Community Ministries was served on the following parties on the 18th day of June, 2010 by United States mail, postage prepaid.

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