

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1331

Session of
1999

INTRODUCED BY RAYMOND, APRIL 20, 1999

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 14, 1999

AN ACT

1 ~~Relating to notification of condemnation proceedings by a public~~ <—
2 ~~utility.~~

3 AMENDING TITLE 66 (PUBLIC UTILITIES) OF THE PENNSYLVANIA <—
4 CONSOLIDATED STATUTES, PROVIDING FOR SUPPLY CHOICE FOR
5 CUSTOMERS OF NATURAL GAS UTILITIES AND FOR RESTRUCTURING OF
6 THE NATURAL GAS UTILITY INDUSTRY AND FOR UTILITY INDUSTRY
7 RESTRUCTURING.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 ~~Section 1. Notification of condemnation.~~ <—

11 ~~A public utility or pipeline company possessing the authority~~
12 ~~to condemn real property must provide written notice of its~~
13 ~~intent to condemn any real property to all municipalities in~~
14 ~~which the real property is located at least 120 days prior to~~
15 ~~initiating any action under the act of June 22, 1964 (Sp.Sess.,~~
16 ~~P.L.84, No.6) known as the Eminent Domain Code.~~

17 ~~Section 2. Exception.~~

18 ~~A public utility or pipeline company is not required to~~
19 ~~provide the notice required under section 1 where it is acting~~
20 ~~in response to an emergency.~~

1 ~~Section 3. Effective date.~~

2 ~~This act shall take effect in 60 days.~~

3 SECTION 1. SECTIONS 1307(F) AND (G), 1317 AND 1318 OF TITLE <—
4 66 OF THE PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO
5 READ:

6 § 1307. SLIDING SCALE OF RATES; ADJUSTMENTS.

7 * * *

8 (F) RECOVERY OF NATURAL GAS COSTS.--

9 (1) NATURAL GAS [DISTRIBUTORS] DISTRIBUTION COMPANIES,
10 AS DEFINED IN SECTION 2202 (RELATING TO DEFINITIONS), WITH
11 GROSS INTRASTATE ANNUAL OPERATING REVENUES IN EXCESS OF
12 \$40,000,000 MAY FILE TARIFFS REFLECTING ACTUAL AND PROJECTED
13 INCREASES OR DECREASES IN THEIR NATURAL GAS COSTS AND THE
14 TARIFFS SHALL HAVE AN EFFECTIVE DATE SIX MONTHS FROM THE DATE
15 OF FILING. THE COMMISSION SHALL PROMULGATE REGULATIONS
16 ESTABLISHING THE TIME AND MANNER OF SUCH FILING, BUT, EXCEPT
17 FOR ADJUSTMENTS PURSUANT TO A TARIFF MECHANISM AUTHORIZED IN
18 THIS TITLE, NO SUCH NATURAL GAS [UTILITY] DISTRIBUTION
19 COMPANY SHALL VOLUNTARILY FILE MORE THAN ONE SUCH TARIFF IN A
20 12-MONTH PERIOD: PROVIDED, THAT [NOTHING]:

21 (I) NOTHING CONTAINED HEREIN SHALL PROHIBIT ANY
22 PARTY FROM ADVISING THE COMMISSION THAT THERE HAS BEEN OR
23 THERE IS ANTICIPATED TO BE A SIGNIFICANT DIFFERENCE
24 BETWEEN THE NATURAL GAS COSTS TO THE [UTILITY] NATURAL
25 GAS DISTRIBUTION COMPANY AND THE COSTS REFLECTED IN THE
26 THEN EFFECTIVE TARIFF OR THE COMMISSION FROM ACTING UPON
27 SUCH ADVICE.

28 (II) A NATURAL GAS DISTRIBUTION COMPANY MAY ALSO
29 FILE A TARIFF TO ESTABLISH A MECHANISM BY WHICH SUCH
30 NATURAL GAS DISTRIBUTION COMPANY MAY FURTHER ADJUST ITS

1 RATES FOR NATURAL GAS SALES ON A REGULAR, BUT NO MORE
2 FREQUENT THAN MONTHLY, BASIS TO REFLECT ACTUAL OR
3 PROJECTED CHANGES IN NATURAL GAS COSTS REFLECTED IN RATES
4 ESTABLISHED PURSUANT TO PARAGRAPH (2), SUBJECT TO ANNUAL
5 RECONCILIATION UNDER PARAGRAPH (5). IN THE EVENT THAT THE
6 NATURAL GAS DISTRIBUTION COMPANY ADJUSTS RATES MORE
7 FREQUENTLY THAN QUARTERLY, IT SHALL ALSO OFFER RETAIL GAS
8 CUSTOMERS A FIXED RATE OPTION WHICH RECOVERS NATURAL GAS
9 COSTS OVER A 12-MONTH PERIOD, SUBJECT TO ANNUAL
10 RECONCILIATION UNDER PARAGRAPH (5). THE COMMISSION SHALL,
11 WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THIS
12 SUBPARAGRAPH, PROMULGATE RULES OR REGULATIONS GOVERNING
13 SUCH ADJUSTMENTS AND FIXED RATE OPTION, BUT THE
14 COMMISSION SHALL NOT PROHIBIT SUCH ADJUSTMENTS OR FIXED
15 RATE OPTION.

16 (2) THE COMMISSION SHALL CONDUCT AN INVESTIGATION AND
17 HOLD A HEARING OR HEARINGS, WITH NOTICE, TO [INVESTIGATE]
18 REVIEW THE TARIFFS AND CONSIDER THE PLANS FILED PURSUANT TO
19 SECTION 1317 (RELATING TO REGULATIONS OF NATURAL GAS COSTS).
20 WHERE THERE HAS BEEN AN INDICATION OF CONSUMER INTEREST, THE
21 HEARING SHALL BE HELD IN THE SERVICE TERRITORY OF THE NATURAL
22 GAS [DISTRIBUTOR] DISTRIBUTION COMPANY. PRIOR TO THE
23 EFFECTIVE DATE OF THE FILING, THE COMMISSION SHALL ISSUE AN
24 ORDER ESTABLISHING THE RATE TO BE CHARGED TO REFLECT SUCH
25 [INCREASES OR DECREASES] CHANGES IN NATURAL GAS COSTS. [RATES
26 ESTABLISHED UNDER THIS SUBSECTION DO NOT CONSTITUTE EITHER A
27 SLIDING SCALE OF RATES OR AN AUTOMATIC ADJUSTMENT SUBJECT TO
28 THE PROHIBITIONS IN SUBSECTIONS (A) AND (B).] THE COMMISSION
29 SHALL ANNUALLY REVIEW AND APPROVE PLANS FOR PURPOSES OF
30 RELIABILITY AND SUPPLY. SUCH RATES, HOWEVER, ARE SUBJECT TO

1 THE [KINDS] TYPES OF AUDITS, REPORTS AND PROCEEDINGS REQUIRED
2 BY SUBSECTION (D).

3 (3) WITHIN 60 DAYS FOLLOWING THE END OF SUCH 12-MONTH
4 PERIOD AS THE COMMISSION SHALL DESIGNATE, EACH [PUBLIC
5 UTILITY] NATURAL GAS DISTRIBUTION COMPANY SUBJECT TO THIS
6 SUBSECTION SHALL FILE WITH THE COMMISSION A STATEMENT WHICH
7 SPECIFIES FOR SUCH PERIOD:

8 (I) THE TOTAL REVENUES RECEIVED PURSUANT TO THIS
9 SECTION.

10 (II) THE TOTAL [GAS EXPENSE] NATURAL GAS COSTS
11 INCURRED.

12 (III) THE DIFFERENCE BETWEEN THE AMOUNTS SPECIFIED
13 BY SUBPARAGRAPHS (I) AND (II).

14 (IV) [EVIDENCE EXPLAINING HOW ACTUAL] HOW ACTUAL
15 NATURAL GAS COSTS INCURRED DIFFER FROM THE NATURAL GAS
16 COSTS ALLOWED UNDER PARAGRAPH (2) AND WHY SUCH
17 DIFFERENCES OCCURRED.

18 (V) HOW THESE NATURAL GAS COSTS ARE CONSISTENT WITH
19 A LEAST COST PROCUREMENT POLICY AS REQUIRED BY SECTION
20 1318 (RELATING TO DETERMINATION OF JUST AND REASONABLE
21 [NATURAL] GAS COST RATES).

22 SUCH REPORT SHALL BE A MATTER OF PUBLIC RECORD AND COPIES
23 THEREOF SHALL BE MADE AVAILABLE BY THE [GAS DISTRIBUTOR]
24 NATURAL GAS DISTRIBUTION COMPANY TO ANY PERSON UPON REQUEST.
25 COPIES OF THE REPORTS SHALL BE FILED WITH THE OFFICE OF
26 CONSUMER ADVOCATE AND THE OFFICE OF SMALL BUSINESS ADVOCATE
27 AT THE SAME TIME AS THEY ARE FILED WITH THE COMMISSION.

28 (4) THE COMMISSION SHALL HOLD A PUBLIC HEARING ON THE
29 SUBSTANCE OF SUCH STATEMENT SUBMITTED BY A [UTILITY] NATURAL
30 GAS DISTRIBUTION COMPANY AS REQUIRED IN PARAGRAPH (3) AND ON

1 ANY RELATED MATTERS.

2 (5) THE COMMISSION, AFTER HEARING, SHALL DETERMINE THE
3 PORTION OF THE [COMPANIES] COMPANY'S NATURAL GAS DISTRIBUTION
4 ACTUAL NATURAL GAS COSTS IN THE PREVIOUS 12-MONTH PERIOD
5 WHICH MEET THE STANDARDS SET OUT IN SECTION 1318. THE
6 COMMISSION SHALL, BY ORDER, DIRECT EACH [GAS UTILITY] NATURAL
7 GAS DISTRIBUTION COMPANY SUBJECT TO THIS SUBSECTION TO REFUND
8 TO ITS [PATRONS ANY] CUSTOMERS GAS REVENUES COLLECTED
9 PURSUANT TO PARAGRAPH (2) WHICH EXCEED THE AMOUNT OF ACTUAL
10 [GAS EXPENSES] NATURAL GAS COSTS INCURRED CONSISTENT WITH THE
11 STANDARDS IN SECTION 1318 AND TO RECOVER FROM ITS [PATRONS]
12 CUSTOMERS ANY AMOUNT BY WHICH THE ACTUAL [GAS EXPENSES,]
13 NATURAL GAS COSTS, WHICH HAVE BEEN INCURRED CONSISTENT WITH
14 THE STANDARDS IN SECTION 1318, EXCEED THE REVENUES COLLECTED
15 PURSUANT TO PARAGRAPH (2). ABSENT GOOD REASON TO THE
16 CONTRARY, THE COMMISSION SHALL ISSUE ITS ORDER WITHIN SIX
17 MONTHS FOLLOWING THE FILING OF THE STATEMENT DESCRIBED IN
18 PARAGRAPH (3). REFUNDS TO [PATRONS] CUSTOMERS SHALL BE MADE
19 WITH INTEREST, [WHICH SHALL BE THE AVERAGE RATE OF INTEREST
20 SPECIFIED FOR RESIDENTIAL MORTGAGE LENDING BY THE SECRETARY
21 OF BANKING IN ACCORDANCE WITH THE ACT OF JANUARY 30, 1974
22 (P.L.13, NO.6), REFERRED TO AS THE LOAN INTEREST AND
23 PROTECTION LAW,] AT THE LEGAL RATE OF INTEREST PLUS TWO
24 PERCENT, DURING THE PERIOD OR PERIODS FOR WHICH THE
25 COMMISSION ORDERS REFUNDS[:], AND RECOVERIES FROM CUSTOMERS
26 SHALL INCLUDE INTEREST AT THE LEGAL RATE OF INTEREST:
27 PROVIDED, THAT NOTHING CONTAINED HEREIN SHALL LIMIT THE
28 APPLICABILITY OF ANY DEFENSES, PRINCIPLES OR DOCTRINES WHICH
29 WOULD PROHIBIT THE COMMISSION'S INQUIRY INTO ANY MATTERS
30 THAT WERE DECIDED FINALLY IN THE COMMISSION'S ORDER ISSUED

1 UNDER PARAGRAPH (2).

2 (6) THE COMMISSION SHALL REQUIRE THAT CUSTOMERS
3 TRANSFERRING FROM SALES TO TRANSPORTATION SERVICE BE SUBJECT
4 TO THE OVER OR UNDER COLLECTION ADJUSTMENT PROVIDED FOR IN
5 PARAGRAPH (5) AND SHALL REQUIRE FURTHER THAT CUSTOMERS
6 TRANSFERRING FROM TRANSPORTATION SERVICE TO SALES SERVICE NOT
7 BE SUBJECT TO THE OVER OR UNDER COLLECTION ADJUSTMENT FOR AN
8 APPROPRIATE PERIOD FOLLOWING EITHER SUCH TRANSFER.

9 (G) DEFINITION.--AS USED IN THIS SECTION, [THE TERM "NATURAL
10 GAS" INCLUDES NATURAL GAS, LIQUEFIED NATURAL GAS, SYNTHETIC
11 NATURAL GAS AND ANY NATURAL GAS SUBSTITUTES.] THE TERMS "NATURAL
12 GAS COSTS" AND "GAS COSTS" INCLUDE THE DIRECT COSTS PAID BY A
13 NATURAL GAS DISTRIBUTION COMPANY FOR THE PURCHASE AND THE
14 DELIVERY OF NATURAL GAS TO ITS SYSTEM IN ORDER TO SUPPLY ITS
15 CUSTOMERS. SUCH COSTS MAY INCLUDE COSTS PAID UNDER AGREEMENTS TO
16 PURCHASE NATURAL GAS FROM SELLERS; COSTS PAID FOR TRANSPORTING
17 NATURAL GAS TO ITS SYSTEM; COSTS PAID FOR NATURAL GAS STORAGE
18 SERVICE FROM OTHERS, INCLUDING THE COSTS OF INJECTING AND
19 WITHDRAWING NATURAL GAS FROM STORAGE; ALL CHARGES, FEES, TAXES
20 AND RATES PAID IN CONNECTION WITH SUCH PURCHASES, PIPELINE
21 GATHERING, STORAGE AND TRANSPORTATION; AND COSTS PAID FOR
22 EMPLOYING FUTURES, OPTIONS AND OTHER RISK MANAGEMENT TOOLS.
23 "NATURAL GAS" AND "GAS" INCLUDE NATURAL GAS, LIQUIFIED NATURAL
24 GAS, SYNTHETIC NATURAL GAS AND ANY NATURAL GAS SUBSTITUTES.

25 § 1317. REGULATION OF NATURAL GAS COSTS.

26 (A) GENERAL RULE.--IN EVERY RATE PROCEEDING INSTITUTED BY A
27 NATURAL GAS DISTRIBUTION UTILITY, PURSUANT TO SECTION 1307(F)
28 (RELATING TO SLIDING SCALE OF RATES; ADJUSTMENTS), EACH SUCH
29 UTILITY SHALL BE REQUIRED TO [PROVIDE] SUPPLY TO THE COMMISSION
30 SUCH INFORMATION, TO BE ESTABLISHED BY COMMISSION REGULATION

1 WITHIN 120 DAYS OF THE PASSAGE OF THIS SECTION, THAT WILL PERMIT
2 THE COMMISSION TO MAKE SPECIFIC FINDINGS AS TO WHETHER THE
3 UTILITY IS PURSUING A LEAST COST FUEL PROCUREMENT POLICY,
4 CONSISTENT WITH THE UTILITY'S OBLIGATION TO PROVIDE SAFE,
5 ADEQUATE AND RELIABLE SERVICE TO ITS CUSTOMERS. SUCH INFORMATION
6 SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, INFORMATION, DATA AND
7 STATEMENTS REGARDING:

8 (1) THE UTILITY'S PARTICIPATION IN RATE PROCEEDINGS
9 BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION WHICH AFFECT
10 THE UTILITY'S GAS COSTS.

11 (2) THE UTILITY'S EFFORTS TO NEGOTIATE FAVORABLE
12 CONTRACTS WITH GAS SUPPLIERS AND TO RENEGOTIATE EXISTING
13 CONTRACTS WITH GAS SUPPLIERS OR TAKE LEGAL ACTIONS NECESSARY
14 TO RELIEVE THE UTILITY FROM EXISTING CONTRACT TERMS WHICH ARE
15 OR MAY BE ADVERSE TO THE INTERESTS OF THE UTILITY'S
16 RATEPAYERS.

17 (3) THE UTILITY'S EFFORTS TO SECURE LOWER COST GAS
18 SUPPLIES BOTH WITHIN AND OUTSIDE OF THE COMMONWEALTH,
19 INCLUDING THE USE OF TRANSPORTATION ARRANGEMENTS WITH
20 PIPELINES AND OTHER GAS DISTRIBUTION COMPANIES.

21 (4) THE SOURCES AND AMOUNTS OF ALL GAS SUPPLIES WHICH
22 HAVE BEEN WITHHELD OR HAVE BEEN CAUSED TO BE WITHHELD FROM
23 THE MARKET BY THE UTILITY AND THE REASONS WHY SUCH GAS IS NOT
24 TO BE UTILIZED.

25 (B) INTEGRATED GAS COMPANIES.--IN THE CASE OF A NATURAL GAS
26 DISTRIBUTION UTILITY WHICH PURCHASES ALL OR PART OF ITS GAS
27 SUPPLIES FROM AN AFFILIATED INTEREST, AS THAT TERM IS DEFINED IN
28 SECTION 2101 (RELATING TO DEFINITION OF AFFILIATED INTEREST),
29 SUCH UTILITY SHALL, IN ADDITION TO THE MATERIALS REQUIRED IN
30 SUBSECTION (A), BE REQUIRED TO PROVIDE TO THE COMMISSION SUCH

1 INFORMATION, TO BE ESTABLISHED BY COMMISSION REGULATION WITHIN
2 120 DAYS OF THE PASSAGE OF THIS SECTION, THAT WILL PERMIT THE
3 COMMISSION TO MAKE SPECIFIC FINDINGS AS TO WHETHER ANY PURCHASES
4 OF GAS FROM AN AFFILIATED INTEREST ARE CONSISTENT WITH A LEAST
5 COST FUEL PROCUREMENT POLICY, CONSISTENT WITH THE UTILITY'S
6 OBLIGATION TO PROVIDE SAFE, ADEQUATE AND RELIABLE SERVICE TO ITS
7 CUSTOMERS. SUCH INFORMATION SHALL INCLUDE, BUT NEED NOT BE
8 LIMITED TO, STATEMENTS REGARDING:

9 (1) EFFORTS MADE BY THE UTILITY TO OBTAIN GAS SUPPLIES
10 FROM NONAFFILIATED INTERESTS.

11 (2) THE SPECIFIC REASONS WHY THE UTILITY HAS PURCHASED
12 GAS SUPPLIES FROM AN AFFILIATED INTEREST AND DEMONSTRATION
13 THAT SUCH PURCHASES ARE CONSISTENT WITH A LEAST COST FUEL
14 PROCUREMENT POLICY.

15 (3) THE SOURCES AND AMOUNTS OF ALL GAS SUPPLIES WHICH
16 HAVE BEEN WITHHELD FROM THE MARKET BY THE UTILITY OR ANY
17 AFFILIATED INTEREST AND THE REASONS WHY SUCH GAS IS NOT BEING
18 UTILIZED.

19 (C) RELIABILITY PLANS.--AS PART OF ITS FILING UNDER SECTION
20 1307(F) OR IF IT IS NOT REQUIRED TO MAKE SUCH A FILING ON AN
21 ANNUAL BASIS, A NATURAL GAS DISTRIBUTION COMPANY, AS DEFINED IN
22 SECTION 2202 (RELATING TO DEFINITIONS), SHALL FILE A PROPOSED
23 RELIABILITY PLAN WITH THE COMMISSION WHICH SHALL, AT A MINIMUM,
24 IDENTIFY THE FOLLOWING:

25 (1) THE PROJECTED PEAK DAY AND SEASONAL REQUIREMENTS OF
26 THE FIRM CUSTOMERS UTILIZING THE DISTRIBUTION SYSTEM OF THE
27 NATURAL GAS DISTRIBUTION COMPANY DURING THE 12-MONTH
28 PROJECTED PERIOD SPECIFIED IN SECTION 1307(F)(1). WHERE
29 OPERATIONALLY REQUIRED, THE DESIGN PEAK DAY REQUIREMENTS
30 SHALL BE SPECIFIED FOR DISCRETE SEGMENTS OF EACH NATURAL GAS

1 DISTRIBUTION SYSTEM.

2 (2) THE TRANSPORTATION CAPACITY, STORAGE, PEAKING OR ON
3 SYSTEM PRODUCTION THAT ENSURES DELIVERABILITY OF THE NATURAL
4 GAS SUPPLIES NECESSARY TO MEET SUCH PROJECTED PERIOD PEAK DAY
5 AND SEASONAL REQUIREMENTS.

6 (D) SUPPLY PLANS.--AS PART OF ITS FILING UNDER SECTION
7 1307(F), A NATURAL GAS DISTRIBUTION COMPANY SHALL FILE A
8 PROPOSED PLAN WITH THE COMMISSION FOR ACQUISITION OR RECEIPT OF
9 NATURAL GAS SUPPLIES.

10 [(C)] (E) DEFINITION.--AS USED IN THIS SECTION, THE [TERM
11 "NATURAL GAS" INCLUDES NATURAL GAS, LIQUIFIED NATURAL GAS,
12 SYNTHETIC NATURAL GAS AND ANY NATURAL GAS SUBSTITUTES] TERMS
13 "NATURAL GAS COSTS," "GAS COSTS," "NATURAL GAS" AND "GAS" SHALL
14 HAVE THE SAME DEFINITIONS AS PROVIDED IN SECTION 1307(G).

15 § 1318. DETERMINATION OF JUST AND REASONABLE [NATURAL] GAS COST
16 RATES.

17 (A) GENERAL RULE.--IN ESTABLISHING JUST AND REASONABLE RATES
18 FOR THOSE NATURAL GAS DISTRIBUTION [UTILITIES] COMPANIES, AS
19 DEFINED IN SECTION 2202 (RELATING TO DEFINITIONS), WITH GROSS
20 INTRASTATE OPERATING REVENUES IN EXCESS OF \$40,000,000 UNDER
21 SECTION 1307(F) (RELATING TO SLIDING SCALE OF RATES;
22 ADJUSTMENTS) OR 1308(D) (RELATING TO VOLUNTARY CHANGES IN RATES)
23 OR ANY OTHER RATE PROCEEDING, THE COMMISSION SHALL CONSIDER THE
24 MATERIALS PROVIDED BY THE UTILITIES PURSUANT TO SECTION 1317
25 (RELATING TO REGULATION OF NATURAL GAS COSTS). NO RATES FOR A
26 NATURAL GAS DISTRIBUTION UTILITY SHALL BE DEEMED JUST AND
27 REASONABLE UNLESS THE COMMISSION FINDS THAT THE UTILITY IS
28 PURSUING A LEAST COST FUEL PROCUREMENT POLICY, CONSISTENT WITH
29 THE UTILITY'S OBLIGATION TO PROVIDE SAFE, ADEQUATE AND RELIABLE
30 SERVICE TO ITS CUSTOMERS. IN MAKING SUCH A DETERMINATION, THE

COMMISSION SHALL BE REQUIRED TO MAKE SPECIFIC FINDINGS WHICH
SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, FINDINGS THAT:

(1) THE UTILITY HAS FULLY AND VIGOROUSLY REPRESENTED THE
INTERESTS OF ITS RATEPAYERS IN PROCEEDINGS BEFORE THE FEDERAL
ENERGY REGULATORY COMMISSION.

(2) THE UTILITY HAS TAKEN ALL PRUDENT STEPS NECESSARY TO
NEGOTIATE FAVORABLE GAS SUPPLY CONTRACTS AND TO RELIEVE THE
UTILITY FROM TERMS IN EXISTING CONTRACTS WITH ITS GAS
SUPPLIERS WHICH ARE OR MAY BE ADVERSE TO THE INTERESTS OF THE
UTILITY'S RATEPAYERS.

(3) THE UTILITY HAS TAKEN ALL PRUDENT STEPS NECESSARY TO
OBTAIN LOWER COST GAS SUPPLIES ON BOTH SHORT-TERM AND LONG-
TERM BASES BOTH WITHIN AND OUTSIDE THE COMMONWEALTH,
INCLUDING THE USE OF GAS TRANSPORTATION ARRANGEMENTS WITH
PIPELINES AND OTHER DISTRIBUTION COMPANIES.

(4) THE UTILITY HAS NOT WITHHELD FROM THE MARKET OR
CAUSED TO BE WITHHELD FROM THE MARKET ANY GAS SUPPLIES WHICH
SHOULD HAVE BEEN UTILIZED AS PART OF A LEAST COST FUEL
PROCUREMENT POLICY.

(B) LIMITATION ON GAS PURCHASED FROM AFFILIATES.--IN ANY
INSTANCE IN WHICH A NATURAL GAS DISTRIBUTION [UTILITY] COMPANY
PURCHASES ALL OR PART OF ITS GAS SUPPLIES FROM AN AFFILIATED
INTEREST, AS THAT TERM IS DEFINED IN SECTION 2101 (RELATING TO
DEFINITION OF AFFILIATED INTEREST), THE COMMISSION, IN ADDITION
TO THE DETERMINATIONS AND FINDINGS SET FORTH IN SUBSECTION (A),
SHALL BE REQUIRED TO MAKE SPECIFIC FINDINGS WITH REGARD TO THE
JUSTNESS AND REASONABLENESS OF ALL SUCH PURCHASES. SUCH FINDINGS
SHALL INCLUDE, BUT NOT BE LIMITED TO FINDINGS:

(1) THAT THE UTILITY HAS FULLY AND VIGOROUSLY ATTEMPTED
TO OBTAIN LESS COSTLY GAS SUPPLIES ON BOTH SHORT-TERM AND

1 LONG-TERM BASES FROM NONAFFILIATED INTERESTS.

2 (2) THAT EACH CONTRACT FOR THE PURCHASE OF GAS FROM ITS
3 AFFILIATED INTEREST IS CONSISTENT WITH A LEAST COST FUEL
4 PROCUREMENT POLICY.

5 (3) THAT NEITHER THE UTILITY NOR ITS AFFILIATED INTEREST
6 HAS WITHHELD FROM THE MARKET ANY GAS SUPPLIES WHICH SHOULD
7 HAVE BEEN UTILIZED AS PART OF A LEAST COST FUEL PROCUREMENT
8 POLICY.

9 (C) SHUT-IN GAS; SPECIAL RULE.--IN DETERMINING WHETHER A GAS
10 UTILITY HAS PURCHASED THE LEAST COSTLY NATURAL GAS AVAILABLE,
11 THE COMMISSION SHALL CONSIDER AS AVAILABLE TO THE UTILITY ANY
12 GAS SUPPLIES THAT REASONABLY COULD HAVE BEEN BROUGHT TO MARKET
13 DURING THE RELEVANT PERIOD BUT WHICH WERE VOLUNTARILY WITHHELD
14 FROM THE MARKET BY THE UTILITY OR AN AFFILIATED INTEREST OF THE
15 UTILITY.

16 (D) OTHER REGULATORY APPROVALS.--THE FACT THAT A CONTRACT OR
17 RATE HAS BEEN APPROVED BY A FEDERAL REGULATORY AGENCY FOR
18 INTERSTATE RATEMAKING PURPOSES SHALL NOT, IN AND OF ITSELF, BE
19 ADEQUATE TO SATISFY THE UTILITY'S BURDEN OF PROOF THAT GAS
20 PRICES AND VOLUMES ASSOCIATED WITH SUCH CONTRACT OR RATE ARE
21 JUST AND REASONABLE FOR PURPOSES OF THIS SECTION.

22 (E) REPORTS.--EACH NATURAL GAS DISTRIBUTION UTILITY WITH
23 GROSS INTRASTATE ANNUAL OPERATING REVENUES IN EXCESS OF
24 \$40,000,000 SHALL FILE WITH THE COMMISSION [AND], THE OFFICE OF
25 CONSUMER ADVOCATE AND THE OFFICE OF SMALL BUSINESS ADVOCATE, IN
26 ACCORDANCE WITH REGULATIONS TO BE PRESCRIBED BY THE COMMISSION,
27 QUARTERLY REPORTS SETTING FORTH THE ACTUAL GAS COSTS INCURRED BY
28 THE UTILITY ON A MONTHLY BASIS. ACTUAL GAS COSTS SHALL BE
29 REVIEWED FOR THEIR ACCURACY BY THE BUREAU OF AUDITS AT LEAST
30 ANNUALLY AND THE RESULTS OF THAT REVIEW SHALL BE SUBMITTED TO

1 THE COMMISSION.

2 (F) DEFINITION.--AS USED IN THIS SECTION, THE [TERM INCLUDES
3 NATURAL GAS, LIQUIFIED NATURAL GAS, SYNTHETIC NATURAL GAS AND
4 ANY NATURAL GAS SUBSTITUTES.] TERMS "NATURAL GAS" "NATURAL GAS
5 COSTS," "GAS COSTS," AND "GAS" SHALL HAVE THE SAME DEFINITIONS
6 AS PROVIDED IN SECTION 1307(G).

7 SECTION 2. TITLE 66 IS AMENDED BY ADDING A CHAPTER TO READ:

8 CHAPTER 20

9 UTILITY INDUSTRY RESTRUCTURING

10 SEC.

11 2001. APPLICABILITY.

12 2002. FINDINGS AND PURPOSES.

13 2003. REQUIREMENTS.

14 2004. REQUIREMENTS RELATED TO WORK FORCE REDUCTION.

15 2005. DISPLACED EMPLOYEE PROGRAM.

16 2006. TRANSFERS OF OWNERSHIP.

17 2007. TRANSFERS TO CERTAIN SUBSIDIARIES.

18 2008. EXISTING SALES AGREEMENTS.

19 § 2001. APPLICABILITY.

20 IN ADDITION TO ANY OTHER SPECIFIC REQUIREMENTS CONTAINED IN
21 THIS TITLE, THE PROVISIONS OF THIS CHAPTER SHALL APPLY TO THE
22 RESTRUCTURING OR DEREGULATION OF ANY PUBLIC UTILITY INDUSTRY.

23 § 2002. FINDINGS AND PURPOSES.

24 (1) THE RELIABILITY AND SAFETY OF THE PUBLIC UTILITY
25 INDUSTRIES SUBJECT TO THIS TITLE HAVE DEPENDED ON A WORK
26 FORCE OF SKILLED AND DEDICATED EMPLOYEES EQUIPPED WITH
27 TECHNICAL TRAINING AND EXPERIENCE.

28 (2) THE INTEGRITY AND RELIABILITY OF THEIR SYSTEMS ALSO
29 HAVE DEPENDED ON EACH INDUSTRY'S COMMITMENT TO INVEST IN
30 REGULAR INSPECTION AND MAINTENANCE, TO ASSURE THAT THEY CAN

1 WITHSTAND THE DEMANDS OF HEAVY SERVICE REQUIREMENTS AND
2 EMERGENCY SITUATIONS.

3 (3) IT IS IN THE COMMONWEALTH'S INTEREST TO PROTECT THE
4 INTERESTS OF PUBLIC UTILITY EMPLOYEES WHO HAVE DEDICATED
5 THEMSELVES TO ASSURING RELIABLE SERVICE TO THE CITIZENS OF
6 THIS COMMONWEALTH AND WHO OTHERWISE MIGHT BE ECONOMICALLY
7 DISPLACED IN A RESTRUCTURED INDUSTRY.

8 § 2003. REQUIREMENTS.

9 THE GENERAL ASSEMBLY FURTHER FINDS THAT IT IS NECESSARY TO
10 ASSURE THAT EMPLOYEES OPERATING IN A RESTRUCTURED OR DEREGULATED
11 PUBLIC UTILITY INDUSTRY HAVE THE REQUISITE SKILLS, KNOWLEDGE AND
12 COMPETENCE TO PROVIDE SAFE, ADEQUATE AND RELIABLE SERVICE AND,
13 THEREFORE, ALL PUBLIC UTILITIES AND ALL OTHER PERSONS PROVIDING
14 SERVICES TO CONSUMERS USING THE FACILITIES OF A PUBLIC UTILITY
15 SHALL BE REQUIRED TO DEMONSTRATE THE COMPETENCE OF THEIR
16 EMPLOYEES TO WORK IN THE PUBLIC UTILITY INDUSTRY. THE KNOWLEDGE,
17 SKILLS AND COMPETENCE LEVELS TO BE DEMONSTRATED SHALL BE
18 CONSISTENT WITH THOSE GENERALLY REQUIRED OF OR BY COMPARABLE
19 PUBLIC UTILITIES IN THIS COMMONWEALTH WITH RESPECT TO THEIR
20 EMPLOYEES. ADEQUATE DEMONSTRATION OF REQUISITE KNOWLEDGE, SKILLS
21 AND COMPETENCE SHALL INCLUDE SUCH FACTORS AS COMPLETION BY THE
22 EMPLOYEE OF AN ACCREDITED OR OTHERWISE RECOGNIZED APPRENTICESHIP
23 PROGRAM FOR THE PARTICULAR CRAFT, TRADE OR SKILL, OR SPECIFIED
24 YEARS OF EMPLOYMENT WITH A PUBLIC UTILITY OR SIMILAR BUSINESS
25 PERFORMING THE PARTICULAR WORK FUNCTION. TO IMPLEMENT THIS
26 REQUIREMENT, THE COMMISSION, IN DETERMINING THAT A PERSON OR
27 PUBLIC UTILITY MEETS THE STANDARDS REQUIRED BY THIS CHAPTER,
28 SHALL REQUIRE THE PERSON OR PUBLIC UTILITY TO DEMONSTRATE THAT
29 THE PERSON OR PUBLIC UTILITY IS LICENSED TO DO BUSINESS IN THIS
30 COMMONWEALTH AND THAT THE EMPLOYEES OF THE PERSON OR PUBLIC

1 UTILITY THAT WILL BE INSTALLING, OPERATING AND MAINTAINING
2 FACILITIES AND SERVICES WITHIN THIS COMMONWEALTH, OR ANY OTHER
3 ENTITY WHICH THE PERSON OR PUBLIC UTILITY HAS CONTRACTED TO
4 PERFORM THOSE FUNCTIONS WITHIN THIS COMMONWEALTH, HAVE THE
5 REQUISITE KNOWLEDGE, SKILLS AND COMPETENCE TO PERFORM THOSE
6 FUNCTIONS IN A SAFE AND RESPONSIBLE MANNER IN ORDER TO PROVIDE
7 SAFE, ADEQUATE AND RELIABLE SERVICE IN ACCORDANCE WITH THE
8 CRITERIA STATED HEREIN.

9 § 2004. REQUIREMENTS RELATED TO WORK FORCE REDUCTION.

10 (A) WORK FORCE REDUCTION PLAN.--THE GENERAL ASSEMBLY FINDS
11 BASED ON EXPERIENCE IN INDUSTRIES THAT HAVE UNDERGONE
12 DEREGULATION, RESTRUCTURING AND TRANSITION, THAT THE
13 INTRODUCTION OF COMPETITION INTO THIS COMMONWEALTH'S REGULATED
14 INDUSTRIES MAY RESULT IN WORK FORCE REDUCTIONS BY PUBLIC
15 UTILITIES WHICH MAY ADVERSELY AFFECT PERSONS WHO HAVE BEEN
16 EMPLOYED IN THIS COMMONWEALTH'S REGULATED INDUSTRIES IN
17 FUNCTIONS IMPORTANT TO THE PUBLIC CONVENIENCE AND NECESSITY. THE
18 GENERAL ASSEMBLY FURTHER FINDS THAT THE IMPACTS ON EMPLOYEES AND
19 THEIR COMMUNITIES OF ANY NECESSARY REDUCTIONS IN THE INDUSTRY'S
20 WORK FORCE DIRECTLY CAUSED BY THE RESTRUCTURING OR DEREGULATION
21 OF AN INDUSTRY SUBJECT TO THIS TITLE SHALL BE MITIGATED TO THE
22 EXTENT PRACTICABLE THROUGH SUCH MEANS AS OFFERS OF VOLUNTARY
23 SEVERANCE, RETRAINING, EARLY RETIREMENT, OUTPLACEMENT,
24 CONTINUATION OF MEDICAL BENEFITS AND RELATED BENEFITS.
25 THEREFORE, BEFORE ANY SUCH REDUCTION IN THE WORK FORCE, A PUBLIC
26 UTILITY SHALL PRESENT TO ITS EMPLOYEES OR THEIR REPRESENTATIVES
27 A WORK FORCE REDUCTION PLAN OUTLINING THE MEANS BY WHICH THE
28 PUBLIC UTILITY INTENDS TO REASONABLY MITIGATE THE IMPACT OF SUCH
29 WORK FORCE REDUCTION ON ITS EMPLOYEES.

30 (B) EMPLOYEE TERMINATION.--BEGINNING MAY 1, 1999, IF A

1 PUBLIC UTILITY LAYS OFF OR TERMINATES ANY OF ITS EMPLOYEES,
2 EXCEPT FOR JUST CAUSE, THE PUBLIC UTILITY SHALL PROVIDE THE
3 COMMISSION WITH SUFFICIENT INFORMATION TO SHOW THAT WITH THE
4 REDUCTION OF EMPLOYEES THE PUBLIC UTILITY WILL STILL BE ABLE TO
5 ENSURE THE SAFETY, ADEQUACY AND RELIABILITY OF SERVICE TO ALL
6 CUSTOMERS AND PROVIDE AT LEAST 60 DAYS' WRITTEN NOTICE OF SUCH
7 LAYOFF OR TERMINATION TO THE PUBLIC UTILITY'S EMPLOYEES OR THE
8 EMPLOYEES' AUTHORIZED BARGAINING REPRESENTATIVE.

9 § 2005. DISPLACED EMPLOYEE PROGRAM.

10 THE DEPARTMENT OF LABOR AND INDUSTRY SHALL ESTABLISH AND
11 IMPLEMENT A PROGRAM TO ASSIST THE EMPLOYEES OF A PUBLIC UTILITY
12 WHO ARE DISPLACED BY RESTRUCTURING OR DEREGULATION. THE PROGRAM
13 SHALL BE DESIGNED TO ASSIST EMPLOYEES IN OBTAINING EMPLOYMENT
14 AND SHALL CONSIST OF UTILIZING THE FEDERAL FUNDS AVAILABLE FOR
15 THE PURPOSE OF RETRAINING AND OUTPLACEMENT SERVICES FOR SUCH
16 EMPLOYEES.

17 § 2006. TRANSFERS OF OWNERSHIP.

18 IN THE EVENT OF A SALE, PURCHASE, OR ANY OTHER TRANSFER OF
19 OWNERSHIP OF A PUBLIC UTILITY, OR OF ONE OR MORE PENNSYLVANIA
20 DIVISIONS OR BUSINESS UNITS OF A PUBLIC UTILITY, THE EXISTING
21 PUBLIC UTILITY'S CONTRACTS AND/OR AGREEMENTS WITH THE ACQUIRING
22 PERSON SHALL REQUIRE THAT THE ACQUIRING PERSON SHALL HIRE A
23 SUFFICIENT NUMBER OF NONSUPERVISORY EMPLOYEES TO OPERATE AND
24 MAINTAIN THE FACILITIES AND SERVICES OF THE PUBLIC UTILITY BY
25 INITIALLY MAKING OFFERS OF EMPLOYMENT TO THE NONSUPERVISORY WORK
26 FORCE OF THE PUBLIC UTILITY, OR THE DIVISION OR BUSINESS UNIT OF
27 THE PUBLIC UTILITY BEING TRANSFERRED, AT NO LESS THAN THE WAGE
28 RATES AND SUBSTANTIALLY EQUIVALENT FRINGE BENEFITS AND TERMS AND
29 CONDITIONS OF EMPLOYMENT THAT ARE IN EFFECT AT THE TIME OF
30 TRANSFER OF OWNERSHIP OF SAID DIVISION OR BUSINESS UNIT AND SAID

1 WAGE RATES AND SUBSTANTIALLY EQUIVALENT FRINGE BENEFITS AND
2 TERMS OF AND CONDITIONS OF EMPLOYMENT SHALL CONTINUE FOR AT
3 LEAST 30 MONTHS FROM THE TIME OF SAID TRANSFER OF OWNERSHIP
4 UNLESS THE PUBLIC UTILITY, THE ACQUIRING PERSON AND THE AFFECTED
5 EMPLOYEES MUTUALLY AGREE TO DIFFERENT TERMS AND CONDITIONS OF
6 EMPLOYMENT WITHIN THAT 30-MONTH PERIOD. THE PUBLIC UTILITY SHALL
7 OFFER A TRANSITION PLAN TO THOSE EMPLOYEES WHO ARE NOT OFFERED
8 JOBS BY THE ACQUIRING PERSON BECAUSE THAT PERSON HAS A NEED FOR
9 FEWER WORKERS. IF THERE IS LITIGATION CONCERNING THE SALE OR
10 OTHER TRANSFER OF OWNERSHIP OF THE PUBLIC UTILITY, OR THE
11 DIVISION OR BUSINESS UNIT OF THE PUBLIC UTILITY, THE 30-MONTH
12 PERIOD WILL BEGIN ON THE DATE THE ACQUIRING PERSON TAKES CONTROL
13 OR MANAGEMENT OF THE PUBLIC UTILITY OR THE DIVISION OR BUSINESS
14 UNIT OF THE PUBLIC UTILITY.

15 § 2007. TRANSFERS TO CERTAIN SUBSIDIARIES.

16 IF A PUBLIC UTILITY TRANSFERS OWNERSHIP OF ONE OR MORE
17 PENNSYLVANIA DIVISIONS OR BUSINESS UNITS TO A MAJORITY-OWNED
18 SUBSIDIARY OF THE PUBLIC UTILITY OR TO ANY AFFILIATED INTEREST
19 OF THE PUBLIC UTILITY AS DEFINED IN SECTION 2101 (RELATING TO
20 DEFINITION OF AFFILIATED INTEREST), THAT SUBSIDIARY OR
21 AFFILIATED INTEREST SHALL CONTINUE TO EMPLOY THE PUBLIC
22 UTILITY'S EMPLOYEES WHO WERE EMPLOYED BY THE PUBLIC UTILITY AT
23 SUCH DIVISION OR BUSINESS UNIT AT THE TIME OF THE TRANSFER UNDER
24 THE SAME TERMS AND CONDITIONS OF EMPLOYMENT AS THOSE EMPLOYEES
25 ENJOYED AT THE TIME OF THE TRANSFER. IF OWNERSHIP OF THE
26 SUBSIDIARY OR AFFILIATED INTEREST IS SUBSEQUENTLY SOLD OR
27 TRANSFERRED TO A THIRD PARTY, THESE PROVISIONS SHALL CONTINUE TO
28 APPLY.

29 § 2008. EXISTING SALES AGREEMENTS.

30 THE PROVISIONS OF SECTIONS 2006 (RELATING TO TRANSFERS OF

1 OWNERSHIP) AND 2007 (RELATING TO TRANSFERS TO CERTAIN
2 SUBSIDIARIES) SHALL NOT APPLY TO THE TRANSFER OF ANY DIVISION OR
3 BUSINESS UNIT OF A PUBLIC UTILITY WHICH WAS THE SUBJECT OF AN
4 EXECUTED SALES AGREEMENT ENTERED INTO BEFORE JANUARY 1, 1999.

5 SECTION 3. SUBPART D OF PART I OF TITLE 66 IS AMENDED BY
6 ADDING A CHAPTER TO READ:

7 CHAPTER 22

8 NATURAL GAS COMPETITION

9 SEC.

10 2201. SHORT TITLE OF CHAPTER.

11 2202. DEFINITIONS.

12 2203. STANDARDS FOR RESTRUCTURING OF NATURAL GAS UTILITY
13 INDUSTRY.

14 2204. IMPLEMENTATION.

15 2205. DUTIES OF NATURAL GAS DISTRIBUTION COMPANIES.

16 2206. CONSUMER PROTECTIONS AND CUSTOMER SERVICE.

17 2207. OBLIGATION TO SERVE.

18 2208. REQUIREMENTS FOR NATURAL GAS SUPPLIERS.

19 2209. MARKET POWER REMEDIATION.

20 2210. APPROVAL OF PROPOSED MERGERS, CONSOLIDATIONS,
21 ACQUISITIONS OR DISPOSITIONS.

22 2211. RATE CAPS.

23 § 2201. SHORT TITLE OF CHAPTER.

24 THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE NATURAL
25 GAS CHOICE AND COMPETITION ACT.

26 § 2202. DEFINITIONS.

27 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
28 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
29 CONTEXT CLEARLY INDICATES OTHERWISE:

30 "CONSUMER PROTECTION." THE STANDARDS, PRACTICES AND SERVICE

1 PROTECTIONS FOR RETAIL GAS CUSTOMERS, INCLUDING THOSE PROVIDED
2 FOR IN 52 PA. CODE CH. 56 (RELATING TO STANDARDS AND BILLING
3 PRACTICES FOR RESIDENTIAL UTILITY SERVICE), AS WELL AS
4 APPLICABLE FEDERAL AND STATE DEBT/CREDIT COLLECTION STATUTES AND
5 ANY REGULATIONS OR ORDERS OF THE COMMISSION THAT PROVIDE SUCH
6 PROTECTIONS, AS MAY BE MODIFIED BY THE COMMISSION FROM TIME TO
7 TIME.

8 "ENTITY." A PERSON OR CORPORATION AS DEFINED IN SECTION 102
9 (RELATING TO DEFINITIONS).

10 "NATURAL GAS DISTRIBUTION COMPANY." A PUBLIC UTILITY THAT
11 PROVIDES NATURAL GAS DISTRIBUTION SERVICES AND WHICH MAY PROVIDE
12 NATURAL GAS SUPPLY SERVICES AND OTHER SERVICES. FOR PURPOSES OF
13 THIS CHAPTER, THIS TERM DOES NOT INCLUDE:

14 (1) ANY PUBLIC UTILITY SUBJECT TO THE JURISDICTION OF
15 THE COMMISSION WHICH HAS ANNUAL GAS OPERATING REVENUES OF
16 LESS THAN \$6,000,000 PER YEAR, EXCEPT WHERE THE PUBLIC
17 UTILITY VOLUNTARILY PETITIONS THE COMMISSION TO BE INCLUDED
18 WITHIN THIS DEFINITION OR WHERE THE PUBLIC UTILITY SEEKS TO
19 PROVIDE NATURAL GAS SUPPLY SERVICES TO RETAIL GAS CUSTOMERS
20 OUTSIDE ITS SERVICE TERRITORY; OR

21 (2) ANY NATURAL GAS PUBLIC UTILITY SUBJECT TO THE
22 JURISDICTION OF THE COMMISSION THAT IS NOT INTERCONNECTED TO
23 AN INTERSTATE GAS PIPELINE BY MEANS OF A DIRECT CONNECTION OR
24 AN INDIRECT CONNECTION THROUGH THE DISTRIBUTION SYSTEM OF
25 ANOTHER NATURAL GAS PUBLIC UTILITY OR THROUGH A NATURAL GAS
26 GATHERING SYSTEM.

27 "NATURAL GAS DISTRIBUTION SERVICE." THE DELIVERY OF NATURAL
28 GAS TO RETAIL GAS CUSTOMERS UTILIZING THE JURISDICTIONAL
29 FACILITIES OF THE NATURAL GAS DISTRIBUTION COMPANY.

30 "NATURAL GAS SUPPLIER." AN ENTITY OTHER THAN A NATURAL GAS

1 DISTRIBUTION COMPANY, BUT INCLUDING NATURAL GAS DISTRIBUTION
2 COMPANY MARKETING AFFILIATES, WHICH PROVIDES NATURAL GAS SUPPLY
3 SERVICES TO RETAIL GAS CUSTOMERS UTILIZING THE JURISDICTIONAL
4 FACILITIES OF A NATURAL GAS DISTRIBUTION COMPANY. THE TERM
5 INCLUDES A NATURAL GAS DISTRIBUTION COMPANY THAT PROVIDES
6 NATURAL GAS SUPPLY SERVICES OUTSIDE ITS CERTIFICATED SERVICE
7 TERRITORIES. THE TERM INCLUDES A MUNICIPAL CORPORATION, ITS
8 AFFILIATES OR ANY JOINT VENTURE, TO THE EXTENT THAT IT CHOOSES
9 TO PROVIDE NATURAL GAS SUPPLY SERVICES TO RETAIL CUSTOMERS
10 LOCATED OUTSIDE OF ITS CORPORATE OR MUNICIPAL LIMITS, AS
11 APPLICABLE, OTHER THAN:

12 (I) AS PROVIDED PRIOR TO THE EFFECTIVE DATE OF THIS
13 CHAPTER, PURSUANT TO A CERTIFICATE OF PUBLIC CONVENIENCE
14 IF REQUIRED UNDER THIS TITLE;

15 (II) TOTAL NATURAL GAS SUPPLY SERVICES IN DE MINIMIS
16 AMOUNTS;

17 (III) NATURAL GAS SUPPLY SERVICES REQUESTED BY, OR
18 PROVIDED WITH THE CONSENT OF, THE PUBLIC UTILITY IN WHOSE
19 CERTIFICATED TERRITORY THE SERVICES ARE PROVIDED; OR

20 (IV) NATURAL GAS SUPPLY SERVICES PROVIDED TO THE
21 MUNICIPAL CORPORATION ITSELF OR ITS TENANTS ON LAND IT
22 OWNS OR LEASES, OR IS SUBJECT TO AN AGREEMENT OF SALE OR
23 PENDING CONDEMNATION, AS OF SEPTEMBER 1, 1999, TO THE
24 EXTENT PERMITTED BY APPLICABLE LAW INDEPENDENT OF THIS
25 CHAPTER.

26 THE TERM EXCLUDES AN ENTITY TO THE EXTENT THAT IT PROVIDES FREE
27 GAS TO END-USERS UNDER THE TERMS OF AN OIL OR GAS LEASE.

28 NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, A NATURAL GAS
29 SUPPLIER THAT IS NOT A NATURAL GAS DISTRIBUTION COMPANY IS NOT A
30 PUBLIC UTILITY AS DEFINED IN SECTION 102 (RELATING TO

1 DEFINITIONS) TO THE EXTENT THAT THE NATURAL GAS SUPPLIER IS
2 UTILIZING THE JURISDICTIONAL DISTRIBUTION FACILITIES OF A
3 NATURAL GAS DISTRIBUTION COMPANY OR IS PROVIDING OTHER SERVICES
4 AUTHORIZED BY THE COMMISSION.

5 "NATURAL GAS SUPPLY SERVICES."

6 (1) THE TERM INCLUDES:

7 (I) THE SALE OR ARRANGEMENT OF THE SALE OF NATURAL
8 GAS TO RETAIL GAS CUSTOMERS; AND

9 (II) SERVICES THAT MAY BE UNBUNDLED BY THE
10 COMMISSION UNDER SECTION 2203(3) (RELATING TO STANDARDS
11 FOR RESTRUCTURING OF NATURAL GAS UTILITY INDUSTRY).

12 (2) THE TERM DOES NOT INCLUDE DISTRIBUTION SERVICE.

13 "RELIABILITY." THE TERM COMPRISES ADEQUACY AND SECURITY. THE
14 TERM "ADEQUACY" MEANS THE PROVISION OF SUFFICIENT VOLUMES AND
15 DELIVERABILITY OF NATURAL GAS SO AS TO SUPPLY THE REQUIREMENTS
16 OF RETAIL GAS CUSTOMERS, TAKING INTO ACCOUNT PEAK AND SEASONAL
17 DEMANDS, AS WELL AS ISOLATED MARKET AREAS AND SYSTEM OPERATION
18 CONTINGENCIES. THE TERM "SECURITY" MEANS DESIGNING, MAINTAINING
19 AND OPERATING A SYSTEM SO THAT IT CAN SAFELY HANDLE EXTREME
20 CONDITIONS, AS WELL AS EMERGENCIES.

21 "RETAIL GAS CUSTOMER." A DIRECT PURCHASER OF NATURAL GAS
22 SUPPLY SERVICES OR NATURAL GAS DISTRIBUTION SERVICES, OTHER THAN
23 A NATURAL GAS SUPPLIER. THE TERM EXCLUDES AN OCCUPANT OF A
24 BUILDING OR FACILITY WHERE THE OWNER/OPERATORS MANAGE THE
25 INTERNAL DISTRIBUTION SYSTEM SERVING SUCH BUILDING OR FACILITY
26 AND SUPPLY NATURAL GAS AND OTHER RELATED SERVICES TO OCCUPANTS
27 OF THE BUILDING OR FACILITY; WHERE SUCH OWNER/OPERATORS ARE
28 DIRECT PURCHASERS OF NATURAL GAS SUPPLY SERVICE; AND WHERE THE
29 OCCUPANTS ARE NOT DIRECT PURCHASERS.

30 "UNIVERSAL SERVICE AND ENERGY CONSERVATION." POLICIES,

1 PRACTICES AND SERVICES THAT HELP RESIDENTIAL LOW-INCOME RETAIL
2 GAS CUSTOMERS AND OTHER RESIDENTIAL RETAIL GAS CUSTOMERS
3 EXPERIENCING TEMPORARY EMERGENCIES, AS DEFINED BY THE
4 COMMISSION, TO MAINTAIN NATURAL GAS SUPPLY AND DISTRIBUTION
5 SERVICES. THE TERM INCLUDES RETAIL GAS CUSTOMER ASSISTANCE
6 PROGRAMS, TERMINATION OF SERVICE PROTECTIONS AND CONSUMER
7 PROTECTION POLICIES AND SERVICES THAT HELP RESIDENTIAL LOW-
8 INCOME CUSTOMERS AND OTHER RESIDENTIAL CUSTOMERS EXPERIENCING
9 TEMPORARY EMERGENCIES TO REDUCE OR MANAGE ENERGY CONSUMPTION IN
10 A COST-EFFECTIVE MANNER, SUCH AS THE LOW-INCOME USAGE REDUCTION
11 PROGRAMS AND CONSUMER EDUCATION.

12 § 2203. STANDARDS FOR RESTRUCTURING OF NATURAL GAS UTILITY
13 INDUSTRY.

14 THE FOLLOWING INTERDEPENDENT STANDARDS SHALL GOVERN THE
15 COMMISSION'S ACTIONS IN ADOPTING RULES, ORDERS OR POLICIES AND
16 IN REVIEWING, ASSESSING AND APPROVING EACH NATURAL GAS
17 DISTRIBUTION COMPANY'S RESTRUCTURING FILINGS AND OVERSEEING THE
18 TRANSITION PROCESS AND REGULATION OF THE RESTRUCTURED NATURAL
19 GAS UTILITY INDUSTRY:

20 (1) THE COMMISSION SHALL ADOPT AND ENFORCE STANDARDS AS
21 NECESSARY TO ENSURE CONTINUATION OF THE SAFETY AND
22 RELIABILITY OF THE NATURAL GAS SUPPLY AND DISTRIBUTION
23 SERVICE TO ALL RETAIL GAS CUSTOMERS. IN ADOPTING THE
24 STANDARDS, THE COMMISSION SHALL CONSIDER THE ABSENCE OF ANY
25 APPLICABLE INDUSTRY STANDARDS AND PRACTICES OR ADOPT
26 STANDARDS IN CONFORMITY WITH INDUSTRY STANDARDS AND PRACTICES
27 MEETING THE STANDARDS OF THIS CHAPTER. THE APPLICATION OF
28 SUCH STANDARDS SHALL BE IN A MANNER THAT INCORPORATES THE
29 OPERATING REQUIREMENTS OF THE DIFFERENT NATURAL GAS
30 DISTRIBUTION COMPANIES.

1 (2) CONSISTENT WITH SECTION 2204 (RELATING TO
2 IMPLEMENTATION), THE COMMISSION SHALL ALLOW RETAIL GAS
3 CUSTOMERS TO CHOOSE AMONG NATURAL GAS SUPPLIERS AND NATURAL
4 GAS DISTRIBUTION COMPANIES TO THE EXTENT THAT THEY OFFER SUCH
5 NATURAL GAS SUPPLY SERVICES. RETAIL GAS CUSTOMERS SHALL BE
6 ABLE TO CHOOSE FROM THESE SUPPLIERS A VARIETY OF PRODUCTS,
7 INCLUDING, BUT NOT LIMITED TO, DIFFERENT SUPPLY AND PRICING
8 OPTIONS, AND SERVICES THAT EVOLVE AS THE COMPETITIVE
9 MARKETPLACE MATURES. NEITHER ANY NATURAL GAS SUPPLIER NOR ANY
10 NATURAL GAS DISTRIBUTION COMPANY SHALL OFFER INTERRUPTIBLE
11 GAS SERVICE TO ANY ESSENTIAL HUMAN NEEDS RETAIL GAS CUSTOMER
12 LACKING INSTALLED AND OPERABLE ALTERNATIVE FUEL CAPABILITY OR
13 TO ANY RESIDENTIAL RETAIL GAS CUSTOMER.

14 (3) THE COMMISSION SHALL REQUIRE NATURAL GAS
15 DISTRIBUTION COMPANIES TO UNBUNDLE NATURAL GAS SUPPLY
16 SERVICES SUCH THAT SEPARATE CHARGES FOR THE SERVICES CAN BE
17 SET FORTH IN TARIFFS AND ON RETAIL GAS CUSTOMERS' BILLS. IN
18 ITS RESTRUCTURING FILING, THE NATURAL GAS DISTRIBUTION
19 COMPANY SHALL ESTABLISH SYSTEM RELIABILITY STANDARDS AND
20 CAPACITY CONTRACT MITIGATION PARAMETERS AND ADDRESS THE
21 UNBUNDLING OF COMMODITY, CAPACITY, STORAGE, BALANCING AND
22 AGGREGATOR SERVICES. THE COMMISSION MAY ADDRESS THE
23 UNBUNDLING OF OTHER SERVICES ONLY THROUGH A RULEMAKING. IN
24 CONDUCTING THE RULEMAKING, THE COMMISSION SHALL CONSIDER THE
25 IMPACT OF SUCH UNBUNDLING ON THE LABOR FORCE, THE CREATION OF
26 STRANDED COSTS, SAFETY, RELIABILITY, CONSUMER PROTECTIONS,
27 UNIVERSAL SERVICE AND THE POTENTIAL FOR UNBUNDLING TO OFFER
28 SAVINGS, NEW PRODUCTS AND ADDITIONAL CHOICES OR SERVICES TO
29 RETAIL GAS CUSTOMERS. THE COMMISSION'S DECISIONS SHALL ASSURE
30 THAT STANDARDS AND PROCEDURES FOR SAFETY AND RELIABILITY,

1 CONSUMER PROTECTIONS AND UNIVERSAL SERVICE ARE MAINTAINED AT
2 LEVELS CONSISTENT WITH THIS CHAPTER.

3 (4) CONSISTENT WITH THE PROVISIONS OF SECTION 2204, THE
4 COMMISSION SHALL REQUIRE THAT A NATURAL GAS DISTRIBUTION
5 COMPANY THAT OWNS OR OPERATES JURISDICTIONAL DISTRIBUTION
6 FACILITIES SHALL PROVIDE DISTRIBUTION SERVICE TO ALL RETAIL
7 GAS CUSTOMERS IN ITS SERVICE TERRITORY AND TO ALL NATURAL GAS
8 SUPPLIERS, AFFILIATED OR NONAFFILIATED, ON NONDISCRIMINATORY
9 RATES, TERMS OF ACCESS AND OTHER CONDITIONS.

10 (5) THE COMMISSION SHALL REQUIRE THAT RESTRUCTURING OF
11 THE NATURAL GAS UTILITY INDUSTRY BE IMPLEMENTED IN A MANNER
12 THAT DOES NOT UNREASONABLY DISCRIMINATE AGAINST ONE CUSTOMER
13 CLASS FOR THE BENEFIT OF ANOTHER.

14 (6) AFTER NOTICE AND HEARINGS, THE COMMISSION SHALL
15 ESTABLISH FOR EACH NATURAL GAS DISTRIBUTION COMPANY AN
16 APPROPRIATE NONBYPASSABLE, COMPETITIVELY NEUTRAL COST-
17 RECOVERY MECHANISM WHICH IS DESIGNED TO RECOVER FULLY THE
18 NATURAL GAS DISTRIBUTION COMPANY'S UNIVERSAL SERVICE AND
19 ENERGY CONSERVATION COSTS OVER THE LIFE OF THESE PROGRAMS.
20 EXCEPT AS PROVIDED IN PARAGRAPH (10), POLICIES, ACTIVITIES
21 AND SERVICES UNDER THIS PARAGRAPH SHALL BE FUNDED AND SPENT
22 IN EACH NATURAL GAS DISTRIBUTION COMPANY'S SERVICE TERRITORY.
23 NOTHING IN THIS CHAPTER SHALL BE CONSTRUED TO PROHIBIT PUBLIC
24 FUNDING OR VOLUNTARY FUNDING BY THIRD PARTIES OF A NATURAL
25 GAS DISTRIBUTION COMPANY'S UNIVERSAL SERVICE AND ENERGY
26 CONSERVATION PROGRAMS.

27 (7) THE COMMISSION SHALL, AT A MINIMUM, CONTINUE THE
28 LEVEL AND NATURE OF THE CONSUMERS PROTECTIONS, POLICIES AND
29 SERVICES WITHIN ITS JURISDICTION THAT ARE IN EXISTENCE AS OF
30 THE EFFECTIVE DATE OF THIS CHAPTER TO ASSIST LOW-INCOME

1 RETAIL GAS CUSTOMERS TO AFFORD NATURAL GAS SERVICES.

2 (8) THE COMMISSION SHALL ENSURE THAT UNIVERSAL SERVICE
3 AND ENERGY CONSERVATION POLICIES, ACTIVITIES AND SERVICES ARE
4 APPROPRIATELY FUNDED AND AVAILABLE IN EACH NATURAL GAS
5 DISTRIBUTION SERVICE TERRITORY. THE COMMISSION SHALL
6 ENCOURAGE THE USE OF COMMUNITY-BASED ORGANIZATIONS THAT HAVE
7 THE NECESSARY TECHNICAL AND ADMINISTRATIVE EXPERIENCE TO BE
8 THE DIRECT PROVIDERS OF SERVICES OR PROGRAMS WHICH REDUCE
9 ENERGY CONSUMPTION OR OTHERWISE ASSIST LOW-INCOME RETAIL GAS
10 CUSTOMERS TO AFFORD NATURAL GAS SERVICE. PROGRAMS UNDER THIS
11 PARAGRAPH SHALL BE SUBJECT TO THE ADMINISTRATIVE OVERSIGHT OF
12 THE COMMISSION, WHICH SHALL ENSURE THAT THE PROGRAMS ARE
13 OPERATED IN A COST-EFFECTIVE MANNER.

14 (9) EACH NATURAL GAS DISTRIBUTION COMPANY SHALL SET
15 FORTH IN ITS RESTRUCTURING FILING AN INITIAL PROPOSAL TO MEET
16 ITS UNIVERSAL SERVICE AND ENERGY CONSERVATION OBLIGATIONS.

17 (10) CONSISTENT WITH PARAGRAPH (7), THE COMMISSION SHALL
18 CONVENE A TASK FORCE TO REVIEW UNIVERSAL SERVICE PROGRAMS AND
19 THEIR FUNDING. THE TASK FORCE SHALL ISSUE A REPORT TO THE
20 COMMISSION BY DECEMBER 31, 1999, AND ANNUALLY THEREAFTER.
21 RECOMMENDATIONS REGARDING THE USE OF GENERAL STATE REVENUE
22 SHALL BE CONCURRENTLY FORWARDED TO THE GENERAL ASSEMBLY.

23 (11) THE COMMISSION SHALL CONTINUE TO REGULATE RATES FOR
24 NATURAL GAS DISTRIBUTION SERVICES FOR NEW AND EXISTING RETAIL
25 GAS CUSTOMERS IN ACCORDANCE WITH CHAPTER 13 (RELATING TO
26 RATES AND RATE MAKING) AND THIS CHAPTER.

27 (12) THE COMMISSION SHALL MAKE ITS DETERMINATIONS
28 PURSUANT TO THIS CHAPTER AND SHALL ADOPT SUCH ORDERS OR
29 REGULATIONS AS NECESSARY AND APPROPRIATE TO ENSURE THAT
30 NATURAL GAS SUPPLIERS MEET THEIR SUPPLY AND RELIABILITY

OBLIGATIONS, INCLUDING, BUT NOT LIMITED TO, ESTABLISHING
PENALTIES FOR FAILURE TO DELIVER NATURAL GAS AND REVOKING
LICENSES. ANY AFFECTED ENTITY MAY AT ANY TIME PETITION THE
COMMISSION TO AMEND OR RESCIND ANY SUCH ORDER OR REGULATION
ISSUED OR PROMULGATED UNDER THIS CHAPTER.

(13) EACH NATURAL GAS DISTRIBUTION COMPANY SHALL SET
FORTH IN ITS RESTRUCTURING FILING AN INITIAL PROPOSAL TO MEET
ITS EMPLOYEE TRANSITION OBLIGATIONS PRECIPITATED BY THIS
CHAPTER.

(14) THE NATURAL GAS DISTRIBUTION COMPANY MAY CONTINUE
TO PROVIDE NATURAL GAS SERVICE TO ITS CUSTOMERS UNDER ALL
TARIFF RATE SCHEDULES AND RIDERS INCORPORATED INTO ITS
TARIFF, AND POLICIES OR PROGRAMS, EXISTING ON THE EFFECTIVE
DATE OF THIS CHAPTER.

(15) BEGINNING MAY 1, 1999, AND CONTINUING FOR A 36-
MONTH PERIOD THEREAFTER, IF A NATURAL GAS DISTRIBUTION
COMPANY LAYS OFF OR TERMINATES ANY OF ITS EMPLOYEES, EXCEPT
FOR JUST CAUSE, THE NATURAL GAS DISTRIBUTION COMPANY SHALL:

(I) PROVIDE THE COMMISSION WITH SUFFICIENT
INFORMATION TO SHOW THAT WITH THE REDUCTION OF EMPLOYEES
THE COMPANY WILL STILL BE ABLE TO ENSURE THE SAFETY AND
RELIABILITY OF NATURAL GAS DISTRIBUTION SERVICE TO ALL
RETAIL GAS CUSTOMERS, AS PROVIDED FOR BY THE COMMISSION
UNDER PARAGRAPH (1).

(II) PROVIDE AT LEAST 60 DAYS' WRITTEN NOTICE OF
SUCH LAYOFF OR TERMINATION TO THE COMPANY'S EMPLOYEES'
AUTHORIZED BARGAINING REPRESENTATIVE.

§ 2204. IMPLEMENTATION.

(A) COMMENCEMENT OF CUSTOMER CHOICE.--BEGINNING ON NOVEMBER
1, 1999, UNLESS THE COMMISSION FOR GOOD CAUSE SHOWN EXTENDS THIS

1 PERIOD BY NO MORE THAN EIGHT MONTHS, CONSISTENT WITH THIS
2 CHAPTER, ALL RETAIL GAS CUSTOMERS OF NATURAL GAS DISTRIBUTION
3 COMPANIES SHALL HAVE THE OPPORTUNITY TO PURCHASE NATURAL GAS
4 SUPPLY SERVICES FROM A NATURAL GAS SUPPLIER OR THEIR NATURAL GAS
5 DISTRIBUTION COMPANY TO THE EXTENT IT OFFERS SUCH SERVICES. THE
6 CHOICE OF NATURAL GAS SUPPLIERS SHALL REST WITH THE RETAIL GAS
7 CUSTOMER. THE COMMISSION SHALL ADOPT ORDERS, RULES, REGULATIONS
8 AND POLICIES AS SHALL BE NECESSARY AND APPROPRIATE TO IMPLEMENT
9 FULLY THIS CHAPTER WITHIN THE TIME FRAMES SPECIFIED IN THIS
10 CHAPTER, PROVIDED THAT THE COMMISSION MAY, IN THE CONTEXT OF
11 EACH NATURAL GAS DISTRIBUTION COMPANY'S RESTRUCTURING
12 PROCEEDING, ESTABLISH THE TIME FRAMES FOR IMPLEMENTATION OF
13 SPECIFIC COMPONENTS OF EACH NATURAL GAS DISTRIBUTION COMPANY'S
14 RESTRUCTURING PLAN.

15 (B) RESTRUCTURING FILINGS.--ALL NATURAL GAS DISTRIBUTION
16 COMPANIES IN THIS COMMONWEALTH SHALL FILE WITH THE COMMISSION,
17 PURSUANT TO A SCHEDULE TO BE DETERMINED BY THE COMMISSION IN
18 CONSULTATION WITH THE NATURAL GAS DISTRIBUTION COMPANIES, A
19 RESTRUCTURING FILING CONSISTENT WITH THIS CHAPTER AND WITH ANY
20 ORDERS, RULES OR REGULATIONS ADOPTED BY THE COMMISSION.

21 (C) COMMISSION REVIEW.--

22 (1) THE COMMISSION SHALL REVIEW THE RESTRUCTURING FILING
23 OF EACH NATURAL GAS DISTRIBUTION COMPANY AND SHALL, AFTER
24 OPEN EVIDENTIARY HEARINGS WITH PROPER NOTICE AND OPPORTUNITY
25 FOR ALL PARTIES TO CROSS-EXAMINE WITNESSES AND BRIEF ISSUES,
26 ISSUE AN ORDER ACCEPTING, MODIFYING OR REJECTING SUCH FILING
27 AT THE EARLIEST DATE POSSIBLE, BUT NO LATER THAN NINE MONTHS
28 FROM THE FILING DATE.

29 (2) IN ISSUING THE RESTRUCTURING ORDER, THE COMMISSION
30 MAY CONSIDER THE RESULTS OF ANY COLLABORATIVE PROCESS

1 PREVIOUSLY ENGAGED IN DURING OR PRIOR TO THE RESTRUCTURING
2 PROCEEDING.

3 (3) IF THE COMMISSION MODIFIES OR REJECTS A
4 RESTRUCTURING FILING, IT SHALL STATE THE SPECIFIC REASONS FOR
5 MODIFICATION OR REJECTION AND DIRECT THE NATURAL GAS
6 DISTRIBUTION COMPANY TO ADDRESS SUCH OBJECTIONS WITH ANOTHER
7 FILING WITHIN 30 DAYS OF THE ENTRY DATE OF THE COMMISSION
8 ORDER MODIFYING OR REJECTING THE PRIOR FILING.

9 (4) THE COMMISSION SHALL REVIEW THE ALTERNATIVE FILING,
10 SOLICIT COMMENTS AND REPLY COMMENTS FROM INTERESTED PARTIES
11 AND ISSUE A FINAL ORDER WITHIN 45 DAYS OF THE REVISED FILING.

12 (D) RELEASE, ASSIGNMENT OR TRANSFER OF CAPACITY.--

13 (1) A NATURAL GAS DISTRIBUTION COMPANY HOLDING CONTRACTS
14 FOR FIRM STORAGE OR TRANSPORTATION CAPACITY, INCLUDING GAS
15 SUPPLY CONTRACTS WITH PENNSYLVANIA PRODUCERS, ON THE
16 EFFECTIVE DATE OF THIS CHAPTER MAY, AT ITS OPTION, RELEASE,
17 ASSIGN OR OTHERWISE TRANSFER SUCH CAPACITY, OR PENNSYLVANIA
18 SUPPLY, IN WHOLE OR PART, ASSOCIATED WITH THOSE CONTRACTS ON
19 A NONDISCRIMINATORY BASIS TO LICENSED NATURAL GAS SUPPLIERS
20 OR LARGE COMMERCIAL OR INDUSTRIAL CUSTOMERS ON ITS SYSTEM.

21 (2) CONTRACTS WHICH BY THEIR TERMS MUST BE RENEWED
22 WITHIN 150 DAYS AFTER THE EFFECTIVE DATE OF THIS CHAPTER OR
23 CONTRACTS FOR WHICH THE LAST DAY FOR NOTICE OF RENEWAL OR
24 NONRENEWAL PURSUANT TO THE NOTICE PROVISION OF THE CONTRACT
25 HAS OCCURRED OR IS WITHIN 150 DAYS AFTER THE EFFECTIVE DATE
26 OF THIS CHAPTER AND WHICH ARE RENEWED PURSUANT TO SUCH NOTICE
27 REQUIREMENTS SHALL ALSO BE SUBJECT TO THE PROVISIONS OF THIS
28 SUBSECTION.

29 (3) SUCH RELEASE, ASSIGNMENT OR TRANSFER SHALL BE AT THE
30 APPLICABLE CONTRACT RATE FOR SUCH CAPACITY, OR PENNSYLVANIA

1 SUPPLY, AND SHALL BE SUBJECT TO APPLICABLE CONTRACTUAL
2 ARRANGEMENTS AND TARIFFS. THE AMOUNT SO RELEASED, ASSIGNED OR
3 TRANSFERRED SHALL BE SUFFICIENT TO SERVE THE LEVEL OF THE
4 CUSTOMERS' REQUIREMENTS FOR WHICH THE NATURAL GAS
5 DISTRIBUTION COMPANY HAS PROCURED SUCH CAPACITY, DETERMINED
6 IN ACCORDANCE WITH THE NATURAL GAS DISTRIBUTION COMPANY'S
7 TARIFF OR PROCEDURES APPROVED IN ITS RESTRUCTURING
8 PROCEEDINGS.

9 (4) THE LICENSED NATURAL GAS SUPPLIER SHALL ACCEPT SUCH
10 RELEASE, ASSIGNMENT OR TRANSFER OF THAT CAPACITY, OR
11 PENNSYLVANIA SUPPLY, AND ENTER INTO ALL APPLICABLE CONTRACTS
12 OR AGREEMENTS, AS A CONDITION OF SERVING RETAIL GAS CUSTOMERS
13 ON THE NATURAL GAS DISTRIBUTION COMPANY'S SYSTEM.

14 (5) ON OR AFTER JULY 1, 2002, THE COMMISSION SHALL HAVE
15 THE AUTHORITY TO PREVENT SUCH ASSIGNMENTS, RELEASES OR
16 TRANSFERS UNDER EITHER OF THE FOLLOWING CIRCUMSTANCES:

17 (I) THE NATURAL GAS DISTRIBUTION COMPANY, ALONE OR
18 TOGETHER WITH ONE OR MORE NATURAL GAS SUPPLIERS,
19 VOLUNTARILY PROPOSES AN ALTERNATIVE TO SUCH ASSIGNMENTS,
20 RELEASES OR TRANSFERS AND THE COMMISSION FINDS SUCH
21 ALTERNATIVE TO BE IN THE PUBLIC INTEREST; OR

22 (II) UPON THE PETITION OF THE LICENSED NATURAL GAS
23 SUPPLIER WHO DESIRES TO USE ALTERNATE INTERSTATE STORAGE
24 OR TRANSPORTATION CAPACITY TO SERVE ITS CUSTOMERS ON THE
25 NATURAL GAS DISTRIBUTION COMPANY'S SYSTEM, THE COMMISSION
26 MAKES THE FOLLOWING FINDINGS AND ISSUES A FINAL ORDER AS
27 TO WHICH ALL APPEALS HAVE BEEN EXHAUSTED IN WHICH:

28 (A) THE COMMISSION FINDS THAT THE ALTERNATE
29 CAPACITY WHICH THE NATURAL GAS SUPPLIER SEEKS TO
30 UTILIZE MEETS THE OPERATIONAL NEEDS AND RELIABILITY

1 STANDARDS OF THE NATURAL GAS DISTRIBUTION COMPANY.

2 (B) THE COMMISSION CONFIRMS THAT THE NATURAL GAS
3 DISTRIBUTION COMPANY'S SPECIFIC TRANSPORTATION AND
4 STORAGE CAPACITY CONTRACTS TO BE DISPLACED ARE NO
5 LONGER NEEDED TO SERVE FIRM CUSTOMERS OF THE NATURAL
6 GAS DISTRIBUTION COMPANY.

7 (C) THE COMMISSION AUTHORIZES THE NATURAL GAS
8 DISTRIBUTION COMPANY TO FOLLOW A SPECIFIC, WRITTEN
9 MITIGATION PLAN APPROVED BY THE COMMISSION OR, IF
10 SUCH A PLAN IS NOT APPROVED OR APPLICABLE, TO POST
11 THE DISPLACED CAPACITY FOR RELEASE IN ACCORDANCE WITH
12 THE RULES AND REGULATIONS OF THE FEDERAL ENERGY
13 REGULATORY COMMISSION AND APPLICABLE REQUIREMENTS OF
14 INTERSTATE PIPELINES.

15 (D) THE COMMISSION AUTHORIZES THE NATURAL GAS
16 DISTRIBUTION COMPANY TO RECOVER THE DIFFERENCE
17 BETWEEN THE AMOUNT THE NATURAL GAS DISTRIBUTION
18 COMPANY IS REQUIRED TO PAY UNDER THE APPLICABLE
19 CONTRACT TERMS FOR THE CAPACITY RELEASED, ASSIGNED OR
20 TRANSFERRED PURSUANT TO SUBPARAGRAPH (C) AND THE
21 AMOUNT THE NATURAL GAS DISTRIBUTION COMPANY RECEIVES
22 FROM AN ENTITY, IF ANY, THAT ACQUIRES SUCH CAPACITY.
23 UNDER NO CIRCUMSTANCES, HOWEVER, SHALL SUCH RECOVERY
24 RESULT IN SHIFTING OF COSTS BETWEEN CUSTOMER CLASSES
25 OR IN ANY INCREASE IN RATES TO CUSTOMERS WHO CONTINUE
26 TO PURCHASE NATURAL GAS SUPPLIES FROM THE NATURAL GAS
27 DISTRIBUTION COMPANY ACTING IN ITS SUPPLIER OF LAST
28 RESORT FUNCTION.

29 (6) PRIOR TO MAKING THE FILING PROVIDED FOR IN PARAGRAPH

30 (5), THE NATURAL GAS SUPPLIER SHALL MEET WITH THE NATURAL GAS

1 DISTRIBUTION COMPANY TO DISCUSS THE NATURAL GAS SUPPLIER'S
2 PROPOSED ALTERNATIVES TO THE EXISTING GAS SUPPLY OR CAPACITY
3 CONTRACTS OR TO THEIR MANDATORY ASSIGNMENT.

4 (7) THOSE NATURAL GAS DISTRIBUTION COMPANIES HAVING GAS
5 SUPPLY CONTRACTS WITH PENNSYLVANIA PRODUCERS MAY ADDRESS THE
6 ISSUE OF POST-JULY 1, 2002, ASSIGNMENT OF SUCH CONTRACTS IN
7 THEIR RESTRUCTURING PROCEEDING OR THEREAFTER.

8 (E) NEW AND RENEWED CAPACITY.--

9 (1) SUBJECT TO THE SERVICE OBLIGATIONS IMPOSED BY THIS
10 TITLE, AND TO THE EXTENT SUCH CAPACITY IS NOT NEEDED TO MEET
11 THE NATURAL GAS DISTRIBUTION COMPANY'S LEAST COST FUEL
12 PROCUREMENT AND OTHER APPLICABLE STANDARDS PURSUANT TO THIS
13 TITLE, PRIOR TO ENTERING INTO NEW OR RENEWED CONTRACTS FOR
14 FIRM STORAGE OR TRANSPORTATION CAPACITY NOT SUBJECT TO
15 SUBSECTION (D)(1), (2), (3) OR (4) EACH NATURAL GAS
16 DISTRIBUTION COMPANY SHALL OFFER ON A NONDISCRIMINATORY BASIS
17 TO EACH NATURAL GAS SUPPLIER LICENSED TO DO BUSINESS ON ITS
18 SYSTEM, AND TO LARGE VOLUME INDUSTRIAL OR COMMERCIAL
19 CUSTOMERS OF THE NATURAL GAS DISTRIBUTION COMPANY BEING
20 SERVED BY SUCH CONTRACTS, THE OPPORTUNITY TO RENEW SUCH
21 CONTRACTS, PURSUANT TO THE RULES AND REGULATIONS OF THE
22 FEDERAL ENERGY REGULATORY COMMISSION, OR TO ENTER INTO OTHER
23 CONTRACTS FOR CAPACITY.

24 (2) THE CAPACITY SHALL MEET THE RELIABILITY CRITERIA OF
25 THE NATURAL GAS DISTRIBUTION COMPANY AND, IN THE CASE OF
26 LARGE VOLUME INDUSTRIAL AND COMMERCIAL CUSTOMERS BEING SERVED
27 BY SUCH CONTRACTS, SHALL MEET THEIR CURRENT REQUIREMENTS.

28 (3) EACH NATURAL GAS DISTRIBUTION COMPANY SHALL UTILIZE
29 THE COLLABORATIVE PROCESS ESTABLISHED PURSUANT TO SUBSECTION
30 (F) TO ADDRESS ITS CAPACITY REQUIREMENTS.

1 (4) ABSENT THE NATURAL GAS SUPPLIER OR LARGE VOLUME
2 INDUSTRIAL OR COMMERCIAL CUSTOMER TAKING OR PROVIDING SUCH
3 CAPACITY, THE NATURAL GAS DISTRIBUTION COMPANY SHALL FILE
4 WITH AND OBTAIN APPROVAL FROM THE COMMISSION FOR SUCH
5 CONTRACTS NECESSARY TO ENSURE SUFFICIENT CAPACITY TO MEET
6 CURRENT AND PROJECTED CUSTOMER REQUIREMENTS CONSIDERING THE
7 COMMITMENTS OF NATURAL GAS SUPPLIERS.

8 (5) PRIOR TO BEING DISPLACED BY A NATURAL GAS SUPPLIER'S
9 ALTERNATE INTERSTATE STORAGE OR TRANSPORTATION CAPACITY,
10 CONTRACTS RENEWED OR ENTERED INTO BY THE NATURAL GAS
11 DISTRIBUTION COMPANY PURSUANT TO THIS SUBSECTION SHALL BE
12 SUBJECT TO THE PROCESS SET FORTH IN SUBSECTION (D).

13 (F) WORKING GROUP AND COLLABORATIVE PROCESS.--IN ITS
14 RESTRUCTURING PROCEEDING, A NATURAL GAS DISTRIBUTION COMPANY
15 SHALL SET FORTH A PROCESS TO ESTABLISH A WORKING GROUP OF
16 LICENSED NATURAL GAS SUPPLIERS HAVING CUSTOMERS ON THE NATURAL
17 GAS DISTRIBUTION COMPANY'S SYSTEM AND REPRESENTATIVES OF THE
18 RESIDENTIAL, COMMERCIAL AND INDUSTRIAL CUSTOMER CLASSES TO:

19 (1) MEET ON A SCHEDULED BASIS.

20 (2) SEEK RESOLUTION OF OPERATIONAL AND CAPACITY ISSUES
21 RELATED TO CUSTOMER CHOICE.

22 THE FINAL DETERMINATION OF OPERATIONAL AND RELIABILITY ISSUES
23 RESIDES WITH THE NATURAL GAS DISTRIBUTION COMPANY. IN ADDITION,
24 THE NATURAL GAS DISTRIBUTION COMPANY SHALL INCLUDE IN ITS
25 RESTRUCTURING FILING A COLLABORATIVE PROCESS TO ADDRESS BROADER
26 ISSUES RELATING TO UNBUNDLING, CUSTOMER CHOICE AND DEREGULATION.

27 (G) INVESTIGATION AND REPORT TO GENERAL ASSEMBLY.--FIVE
28 YEARS AFTER THE EFFECTIVE DATE OF THIS CHAPTER, THE COMMISSION
29 SHALL INITIATE AN INVESTIGATION OR OTHER APPROPRIATE PROCEEDING,
30 IN WHICH ALL INTERESTED PARTIES ARE INVITED TO PARTICIPATE, TO

1 DETERMINE WHETHER EFFECTIVE COMPETITION FOR NATURAL GAS SUPPLY
2 SERVICES EXISTS ON THE NATURAL GAS DISTRIBUTION COMPANIES'
3 SYSTEMS IN THIS COMMONWEALTH. THE COMMISSION SHALL REPORT ITS
4 FINDINGS TO THE GENERAL ASSEMBLY. SHOULD THE COMMISSION CONCLUDE
5 THAT EFFECTIVE COMPETITION DOES NOT EXIST, THE COMMISSION SHALL
6 RECONVENE THE STAKEHOLDERS IN THE NATURAL GAS INDUSTRY IN THIS
7 COMMONWEALTH TO EXPLORE AVENUES, INCLUDING LEGISLATIVE, FOR
8 ENCOURAGING INCREASED COMPETITION IN THIS COMMONWEALTH.

9 (H) DISPLACED EMPLOYEE PROGRAM.--THE DEPARTMENT OF LABOR AND
10 INDUSTRY SHALL ESTABLISH AND IMPLEMENT A PROGRAM TO ASSIST THE
11 NATURAL GAS DISTRIBUTION COMPANY EMPLOYEES WHO ARE DISPLACED BY
12 THE TRANSITION TO RETAIL COMPETITION PRECIPITATED BY THIS
13 CHAPTER. THE PROGRAM SHALL BE DESIGNED TO ASSIST EMPLOYEES IN
14 OBTAINING EMPLOYMENT AND SHALL CONSIST OF UTILIZING THE FEDERAL
15 FUNDS AVAILABLE FOR THE PURPOSE OF RETRAINING AND OUTPLACEMENT
16 SERVICES FOR SUCH EMPLOYEES.

17 § 2205. DUTIES OF NATURAL GAS DISTRIBUTION COMPANIES.

18 (A) INTEGRITY OF DISTRIBUTION SYSTEM.--

19 (1) EACH NATURAL GAS DISTRIBUTION COMPANY SHALL MAINTAIN
20 THE INTEGRITY OF ITS DISTRIBUTION SYSTEM AT LEAST IN
21 CONFORMITY WITH THE STANDARDS ESTABLISHED BY THE FEDERAL
22 DEPARTMENT OF TRANSPORTATION AND SUCH OTHER STANDARDS
23 PRACTICED BY THE INDUSTRY IN A MANNER SUFFICIENT TO PROVIDE
24 SAFE AND RELIABLE SERVICE TO ALL RETAIL GAS CUSTOMERS
25 CONNECTED TO ITS SYSTEM CONSISTENT WITH THIS TITLE AND THE
26 COMMISSION'S ORDERS OR REGULATIONS.

27 (2) IN PERFORMING SUCH DUTIES, THE NATURAL GAS
28 DISTRIBUTION COMPANY SHALL IMPLEMENT PROCEDURES TO REQUIRE
29 ALL NATURAL GAS SUPPLIERS TO SUPPLY NATURAL GAS TO THE
30 NATURAL GAS DISTRIBUTION COMPANY AT LOCATIONS, VOLUMES,

1 QUALITIES AND PRESSURES THAT ARE ADEQUATE TO MEET THE NATURAL
2 GAS SUPPLIER'S SUPPLY AND RELIABILITY OBLIGATIONS TO ITS
3 RETAIL GAS CUSTOMERS AND THE NATURAL GAS DISTRIBUTION
4 COMPANY'S SUPPLY AND RELIABILITY OBLIGATIONS TO ITS RETAIL
5 GAS CUSTOMERS. THE PROCEDURES SHALL INCLUDE, BUT NOT BE
6 LIMITED TO:

7 (I) A COMMUNICATION PROTOCOL WITH NATURAL GAS
8 SUPPLIERS.

9 (II) AN ABILITY TO ISSUE SYSTEM MAINTENANCE ORDERS
10 TO CONTROL THE FLOW OF GAS INTO THE DISTRIBUTION SYSTEM.

11 (III) THE RIGHT TO ISSUE AND ENFORCE PENALTIES
12 PURSUANT TO COMMISSION DIRECTION, PROVIDED, HOWEVER, THAT
13 THE COMMISSION MAY APPROVE ADDITIONAL PROCEDURES OF LIKE
14 NATURE BY ORDER OR REGULATION TO PRESERVE RELIABILITY.

15 (B) INSTALLATION AND IMPROVEMENT OF FACILITIES.--

16 (1) THE NATURAL GAS DISTRIBUTION COMPANY SHALL NOT HAVE
17 AN OBLIGATION TO INSTALL NONSTANDARD FACILITIES, EITHER AS TO
18 TYPE OR LOCATION, FOR THE PURPOSE OF RECEIVING NATURAL GAS
19 FROM THE NATURAL GAS SUPPLIER UNLESS THE NATURAL GAS SUPPLIER
20 OR ITS RETAIL GAS CUSTOMER PAYS THE FULL COST OF THESE
21 FACILITIES.

22 (2) NOTHING IN THIS CHAPTER SHALL PREVENT THE NATURAL
23 GAS DISTRIBUTION COMPANY FROM MAINTAINING AND UPGRADING ITS
24 SYSTEM TO MEET RETAIL GAS CUSTOMER REQUIREMENTS CONSISTENT
25 WITH THE REQUIREMENT OF SECTION 1501 (RELATING TO CHARACTER
26 OF SERVICE AND FACILITIES) OR COMPLIANCE WITH OTHER STATUTORY
27 AND REGULATORY REQUIREMENTS.

28 (3) DISPUTES CONCERNING FACILITIES SHALL BE SUBJECT TO
29 THE JURISDICTION OF THE COMMISSION AND MAY BE INITIATED BY
30 THE FILING OF A COMPLAINT UNDER SECTION 701 (RELATING TO

COMPLAINTS) BY THE COMMISSION OR ANY INTERESTED PARTY.

(C) CUSTOMER BILLING.--

(1) SUBJECT TO THE RIGHT OF A RETAIL GAS CUSTOMER TO CHOOSE TO RECEIVE SEPARATE BILLS FROM ITS NATURAL GAS SUPPLIER FOR NATURAL GAS SUPPLY SERVICE, THE NATURAL GAS DISTRIBUTION COMPANY SHALL BE RESPONSIBLE FOR BILLING EACH OF ITS RETAIL GAS CUSTOMERS FOR NATURAL GAS DISTRIBUTION SERVICE, CONSISTENT WITH THE ORDERS OR REGULATIONS OF THE COMMISSION, REGARDLESS OF THE IDENTITY OF THE PROVIDER OF NATURAL GAS SUPPLY SERVICES.

(2) (I) BILLS TO RETAIL GAS CUSTOMERS SHALL CONTAIN SUFFICIENT UNBUNDLED CHARGE INFORMATION TO ENABLE THE CUSTOMER TO DETERMINE THE BASIS FOR THOSE CHARGES AND SHALL COMPLY WITH SECTION 1509 (RELATING TO BILLING PROCEDURES). AT A MINIMUM, SUCH CHARGES SHALL INCLUDE THOSE SERVICES WHICH ARE UNBUNDLED AS A RESULT OF A RESTRUCTURING FILING OR RULEMAKING.

(II) BILLS TO RETAIL RESIDENTIAL CUSTOMERS RENDERED BY A NATURAL GAS DISTRIBUTION COMPANY FOR NATURAL GAS DISTRIBUTION SERVICES SHALL INCLUDE INFORMATION REQUIRED BY COMMISSION REGULATIONS GOVERNING STANDARDS AND BILLING PRACTICES FOR RESIDENTIAL UTILITY SERVICE.

(III) BILLS RENDERED BY A NATURAL GAS DISTRIBUTION COMPANY ON BEHALF OF A NATURAL GAS SUPPLIER SHALL INCLUDE, IN A FORM AND MANNER DETERMINED BY THE NATURAL GAS DISTRIBUTION COMPANY, IN CONSULTATION WITH THE NATURAL GAS SUPPLIER, THE FOLLOWING INFORMATION WITH RESPECT TO NATURAL GAS SUPPLIER SERVICES: THE NAME OF THE NATURAL GAS SUPPLIER; THE RATES, CHARGES OR PRICES OF NATURAL GAS SUPPLY SERVICES BILLED, INCLUDING ADJUSTMENTS

1 TO PRIOR PERIOD BILLINGS, IF APPLICABLE, AND TAXES, IF
2 APPLICABLE; AND THE NATURAL GAS SUPPLIER'S TOLL-FREE
3 TELEPHONE NUMBER AND HOURS OF OPERATION FOR CUSTOMER
4 INQUIRIES.

5 (3) INCREMENTAL COSTS RELATING TO BILLING SERVICES
6 DESIGNED, IMPLEMENTED AND RENDERED BY THE NATURAL GAS
7 DISTRIBUTION COMPANY, AT ITS ELECTION, ON BEHALF OF A NATURAL
8 GAS SUPPLIER OR OTHER ENTITY MAY BE RECOVERED THROUGH FEES
9 CHARGED BY THE NATURAL GAS DISTRIBUTION COMPANY TO THE
10 NATURAL GAS SUPPLIER OR OTHER ENTITY. EITHER PARTY MAY
11 REQUEST THAT THE COMMISSION CONSIDER THE APPROPRIATE LEVEL OF
12 THE FEE. IN DOING SO, THE COMMISSION SHALL CONSIDER FEES
13 CHARGED BY OTHER NATURAL GAS DISTRIBUTION COMPANIES FOR
14 SIMILAR SERVICES. THE COMMISSION SHALL EITHER PERMIT THE FEE
15 TO CONTINUE AS SET OR SHALL ESTABLISH AN ALTERNATIVE
16 MECHANISM TO PERMIT FULL RECOVERY OF UNRECOVERED JUST AND
17 REASONABLE COSTS FROM THE SUPPLIER OR THE SUPPLIER'S
18 CUSTOMERS. NOTHING IN THIS SECTION SHALL PERMIT THE RECOVERY
19 OF SUCH COSTS FROM NATURAL GAS SUPPLY SERVICE CUSTOMERS OF
20 THE NATURAL GAS DISTRIBUTION COMPANY.

21 (4) IF SERVICES ARE PROVIDED BY AN ENTITY OTHER THAN THE
22 NATURAL GAS DISTRIBUTION COMPANY, THE ENTITY THAT PROVIDED
23 THOSE SERVICES SHALL FURNISH TO THE NATURAL GAS DISTRIBUTION
24 COMPANY BILLING DATA SUFFICIENT TO ENABLE THE NATURAL GAS
25 DISTRIBUTION COMPANY TO TIMELY BILL RETAIL GAS CUSTOMERS. THE
26 ENTITY SHALL PROVIDE DATA FOR BILLING PURPOSES IN A FORMAT
27 AND IN A TIME FRAME AS REQUIRED BY THE NATURAL GAS
28 DISTRIBUTION COMPANY. THE NATURAL GAS DISTRIBUTION COMPANY
29 SHALL CONSIDER THE DATA AND INFORMATION CONFIDENTIAL AND
30 SHALL TREAT IT AS SUCH.

1 (5) NO NATURAL GAS DISTRIBUTION COMPANY SHALL BE
2 REQUIRED TO FORWARD PAYMENT TO ENTITIES PROVIDING SERVICES TO
3 CUSTOMERS AND ON WHOSE BEHALF THE NATURAL GAS DISTRIBUTION
4 COMPANY IS BILLING THOSE CUSTOMERS BEFORE THE NATURAL GAS
5 DISTRIBUTION COMPANY HAS RECEIVED PAYMENT FOR THOSE SERVICES
6 FROM CUSTOMERS. THE COMMISSION SHALL ISSUE GUIDELINES
7 ADDRESSING THE APPLICATION OF PARTIAL PAYMENTS.

8 (6) NATURAL GAS DISTRIBUTION COMPANIES AND NATURAL GAS
9 SUPPLIERS SHALL TAKE REASONABLE STEPS TO ALLOW RETAIL GAS
10 CUSTOMERS TO CONTRIBUTE VIA THEIR BILL TO HARDSHIP ENERGY
11 FUNDS WHICH BENEFIT LOW-INCOME RESIDENTIAL RETAIL GAS
12 CONSUMERS.

13 (D) ENHANCED METERING.--SUBJECT TO COMMISSION APPROVAL, THE
14 NATURAL GAS DISTRIBUTION COMPANY MAY REQUIRE THE INSTALLATION,
15 AT THE RETAIL GAS CUSTOMER'S EXPENSE, OF ENHANCED METERING
16 CAPABILITY SUFFICIENT TO MATCH THE NATURAL GAS DELIVERED BY THE
17 RETAIL GAS CUSTOMER'S NATURAL GAS SUPPLIER OR SUPPLIERS WITH
18 CONSUMPTION BY THAT RETAIL GAS CUSTOMER. IN EXERCISING ITS
19 DISCRETION, THE COMMISSION SHALL CONSIDER THE EFFECT ON LOW-
20 INCOME RETAIL GAS CUSTOMERS.

21 § 2206. CONSUMER PROTECTIONS AND CUSTOMER SERVICE.

22 (A) QUALITY.--A NATURAL GAS DISTRIBUTION COMPANY SHALL BE
23 RESPONSIBLE FOR CUSTOMER SERVICE FUNCTIONS CONSISTENT WITH THE
24 ORDERS AND REGULATIONS OF THE COMMISSION, INCLUDING, BUT NOT
25 LIMITED TO, METER READING, INSTALLATION, TESTING AND MAINTENANCE
26 AND EMERGENCY RESPONSE FOR ALL CUSTOMERS, AND COMPLAINT
27 RESOLUTION AND COLLECTIONS RELATED TO THE SERVICE PROVIDED BY
28 THE NATURAL GAS DISTRIBUTION COMPANY. CUSTOMER SERVICE AND
29 CONSUMER PROTECTIONS AND POLICIES FOR RETAIL GAS CUSTOMERS
30 SHALL, AT A MINIMUM, BE MAINTAINED AT THE SAME LEVEL OF QUALITY

1 UNDER RETAIL COMPETITION AS IN EXISTENCE ON THE EFFECTIVE DATE
2 OF THIS CHAPTER.

3 (B) CHANGE OF SUPPLIERS.--THE COMMISSION SHALL, BY ORDER OR
4 REGULATION, ESTABLISH PROCEDURES TO ENSURE THAT A NATURAL GAS
5 DISTRIBUTION COMPANY DOES NOT CHANGE A RETAIL GAS CUSTOMER'S
6 NATURAL GAS SUPPLIER WITHOUT DIRECT ORAL CONFIRMATION FROM THE
7 CUSTOMER OF RECORD OR WRITTEN EVIDENCE OF THE CUSTOMER'S CONSENT
8 TO A CHANGE OF SUPPLIER.

9 (C) CUSTOMER INFORMATION.--THE COMMISSION SHALL, BY ORDER OR
10 REGULATION, ESTABLISH REQUIREMENTS THAT EACH NATURAL GAS
11 DISTRIBUTION COMPANY AND NATURAL GAS SUPPLIER PROVIDE ADEQUATE,
12 ACCURATE CUSTOMER INFORMATION TO ENABLE RETAIL GAS CUSTOMERS TO
13 MAKE INFORMED CHOICES REGARDING THE PURCHASE OF ALL NATURAL GAS
14 SERVICES OFFERED BY THAT PROVIDER. INFORMATION SHALL BE PROVIDED
15 TO RETAIL GAS CUSTOMERS IN AN UNDERSTANDABLE FORMAT THAT ENABLES
16 RETAIL GAS CUSTOMERS TO COMPARE PRICES AND SERVICES ON A UNIFORM
17 BASIS.

18 (D) CONSUMER EDUCATION.--PRIOR TO THE IMPLEMENTATION OF ANY
19 RESTRUCTURING PLAN UNDER SECTION 2204 (RELATING TO
20 IMPLEMENTATION), EACH NATURAL GAS DISTRIBUTION COMPANY, IN
21 CONJUNCTION WITH THE COMMISSION AND CONSISTENT WITH THE
22 GUIDELINES ESTABLISHED BY THE COMMISSION, SHALL IMPLEMENT A
23 CONSUMER EDUCATION PROGRAM TO INFORM CUSTOMERS OF THE CHANGES IN
24 THE NATURAL GAS UTILITY INDUSTRY. THE PROGRAM SHALL PROVIDE
25 RETAIL GAS CUSTOMERS WITH INFORMATION NECESSARY TO HELP THEM
26 MAKE APPROPRIATE CHOICES AS TO THEIR NATURAL GAS SERVICE. THE
27 EDUCATION PROGRAM SHALL BE SUBJECT TO APPROVAL BY THE
28 COMMISSION. THE CONSUMER EDUCATION PROGRAM SHALL INCLUDE GOALS,
29 OBJECTIVES AND AN ACTION PLAN THAT IS DESIGNED TO BE OBJECTIVE,
30 EASILY UNDERSTOOD, UTILIZES A UNIFORM MEASUREMENT AS ESTABLISHED

1 BY THE COMMISSION FOR THE COST OF GAS, BE AVAILABLE IN LANGUAGES
2 THAT THE COMMISSION REQUIRES TO MEET THE NEEDS OF A SERVICE
3 TERRITORY AND BE SEPARATE AND DISTINCT FROM MARKETING.

4 (E) CONSUMER EDUCATION COST RECOVERY.--THE CONSUMER
5 EDUCATION PROGRAM SHALL BE SUBJECT TO APPROVAL BY THE COMMISSION
6 AND SHALL BE FUNDED IN EACH NATURAL GAS DISTRIBUTION SERVICE
7 TERRITORY BY A NONBYPASSABLE, COMPETITIVELY NEUTRAL COST
8 RECOVERY MECHANISM THAT FULLY RECOVERS THE REASONABLE COST OF
9 SUCH PROGRAM. TO THE EXTENT THAT THE INDUSTRIAL CUSTOMER CLASS
10 IS NOT CURRENTLY ASSIGNED SUCH COSTS ON THE EFFECTIVE DATE OF
11 THIS CHAPTER, IT SHALL NOT BE ASSIGNED SUCH COSTS IN THE FUTURE.

12 (F) TENANTS' RIGHTS.--NOTHING IN THIS CHAPTER SHALL BE
13 CONSTRUED TO RESTRICT THE RIGHTS OF TENANTS PURSUANT TO
14 SUBCHAPTER B OF CHAPTER 15 (RELATING TO DISCONTINUANCE OF
15 SERVICE TO LEASED PREMISES).

16 § 2207. OBLIGATION TO SERVE.

17 (A) SUPPLIER OF LAST RESORT.--

18 (1) AFTER THE EFFECTIVE DATE OF THIS CHAPTER, THE
19 NATURAL GAS DISTRIBUTION COMPANY SHALL SERVE AS THE SUPPLIER
20 OF LAST RESORT FOR RESIDENTIAL, SMALL COMMERCIAL, SMALL
21 INDUSTRIAL AND ESSENTIAL HUMAN NEEDS CUSTOMERS AND ANY OTHER
22 CUSTOMER CLASSES DETERMINED BY THE COMMISSION IN THE NATURAL
23 GAS DISTRIBUTION COMPANY'S RESTRUCTURING PROCEEDING UNTIL
24 SUCH TIME AS THE COMMISSION, PURSUANT TO THIS SECTION,
25 APPROVES AN ALTERNATIVE SUPPLIER OR SUPPLIERS TO PROVIDE SUCH
26 SERVICES TO ANY OR ALL OF THE NATURAL GAS DISTRIBUTION
27 COMPANY'S CUSTOMERS.

28 (2) FOR PURPOSES OF THIS SECTION, A SUPPLIER OF LAST
29 RESORT IS A NATURAL GAS DISTRIBUTION COMPANY OR NATURAL GAS
30 SUPPLIER WHICH IS DESIGNATED BY THE COMMISSION TO PROVIDE

1 NATURAL GAS SUPPLY SERVICE WITH RESPECT TO ONE OR MORE OF THE
2 FOLLOWING SERVICES:

3 (I) NATURAL GAS SUPPLY SERVICES TO THOSE CUSTOMERS
4 WHO HAVE NOT CHOSEN AN ALTERNATIVE NATURAL GAS SUPPLIER
5 OR WHO CHOOSE TO BE SERVED BY THEIR SUPPLIER OF LAST
6 RESORT;

7 (II) NATURAL GAS SUPPLY SERVICES TO THOSE CUSTOMERS
8 WHO ARE REFUSED SUPPLY SERVICE FROM A NATURAL GAS
9 SUPPLIER; OR

10 (III) NATURAL GAS SUPPLY SERVICES TO THOSE CUSTOMERS
11 WHOSE NATURAL GAS SUPPLIER HAS FAILED TO DELIVER ITS
12 REQUIREMENTS.

13 NO CUSTOMER SHALL HAVE MORE THAN ONE SUPPLIER OF LAST RESORT
14 DESIGNATED FOR ANY OF THE SERVICES SET FORTH IN THIS
15 PARAGRAPH.

16 (B) CONSUMER PROTECTION.--SERVICE BY THE SUPPLIER OF LAST
17 RESORT SHALL BE SUBJECT TO ALL CONSUMER PROTECTION STANDARDS,
18 INCLUDING THOSE CONTAINED IN 52 PA. CODE CH. 56 (RELATING TO
19 STANDARDS AND BILLING PRACTICES FOR RESIDENTIAL UTILITY SERVICE)
20 AND TO ALL UNIVERSAL SERVICE OBLIGATIONS.

21 (C) NATURAL GAS DISTRIBUTION COMPANY.--THE NATURAL GAS
22 DISTRIBUTION COMPANY SHALL DELIVER NATURAL GAS TO THE EXTENT
23 THAT IT IS PROVIDED BY ALL NATURAL GAS SUPPLIERS, OR SUPPLIERS
24 OF LAST RESORT, AS THE CASE MAY BE, IN ACCORDANCE WITH THE
25 NATURAL GAS DISTRIBUTION COMPANY'S TARIFF.

26 (D) STANDARDS OF SERVICE.--CONSISTENT WITH THE STANDARDS SET
27 FORTH IN SECTION 1501 (RELATING TO CHARACTER OF SERVICE AND
28 FACILITIES) AND APPLICABLE ORDERS OF THE COMMISSION, A SUPPLIER
29 OF LAST RESORT UNDER SUBSECTION (A)(2)(III) SHALL PROVIDE
30 SUFFICIENT SUPPLIES AS TO QUANTITY, QUALITY, PRESSURE AND

1 LOCATION TO MEET THE OPERATIONAL RELIABILITY REQUIREMENTS OF THE
2 NATURAL GAS DISTRIBUTION COMPANY'S SYSTEM, INCLUDING, BUT NOT
3 LIMITED TO, A FAILURE OF ONE OR MORE NATURAL GAS SUPPLIERS TO:

4 (1) SUPPLY NATURAL GAS TO THEIR RETAIL GAS CUSTOMERS IN
5 CONFORMANCE WITH THEIR CONTRACTUAL OBLIGATIONS TO SUCH
6 CUSTOMERS; OR

7 (2) SATISFY APPLICABLE RELIABILITY STANDARDS AND
8 OBLIGATIONS.

9 (E) DISCONTINUATION OF SERVICE.--THE NATURAL GAS
10 DISTRIBUTION COMPANY SHALL CONTINUE PROVIDING SERVICES AS THE
11 SUPPLIER OF LAST RESORT TO ALL OF ITS CUSTOMERS FOR ALL OF THE
12 NATURAL GAS SUPPLY SERVICES DESCRIBED IN SUBSECTION (A)(2),
13 UNLESS, AT ITS DISCRETION, IT REQUESTS AND RECEIVES COMMISSION
14 APPROVAL TO DISCONTINUE PROVIDING ONE OR MORE SUCH SUPPLIER OF
15 LAST RESORT OBLIGATION. IN APPROVING SUCH A PETITION, THE
16 COMMISSION SHALL ALSO APPROVE ANOTHER PARTY AS THE ALTERNATIVE
17 SUPPLIER OF LAST RESORT FOR EACH CUSTOMER OR CUSTOMER GROUP FOR
18 WHICH THE NATURAL GAS DISTRIBUTION COMPANY NO LONGER PROVIDES
19 SUCH NATURAL GAS SUPPLY SERVICES.

20 (F) REGULATIONS.--THE COMMISSION SHALL PROMULGATE
21 REGULATIONS SETTING FORTH THE STANDARDS FOR APPROVING AN
22 ALTERNATIVE SUPPLIER OF LAST RESORT CONSISTENT WITH THE
23 PROVISIONS OF THIS TITLE, INCLUDING A MECHANISM TO ENSURE THAT
24 THE RATES CHARGED BY ANY ALTERNATE SUPPLIER OF LAST RESORT ARE
25 JUST AND REASONABLE.

26 (G) ORGANIZED LABOR.--DURING THE FIVE-YEAR PERIOD FOLLOWING
27 THE EFFECTIVE DATE OF THIS CHAPTER, APPROVAL OF AN ALTERNATIVE
28 SUPPLIER OF LAST RESORT PURSUANT TO SUBSECTION (E) SHALL NOT BE
29 GRANTED UNLESS THE ENTITY DESIGNATED BY THE COMMISSION TO
30 SUCCEED THE NATURAL GAS DISTRIBUTION COMPANY IN THE PROVISION

1 OF SERVICE TO THESE CUSTOMERS AGREES TO RECOGNIZE RELEVANT UNION
2 AND COLLECTIVE BARGAINING AGREEMENTS OF THE NATURAL GAS
3 DISTRIBUTION COMPANY THEN IN PLACE.

4 (H) PETITION TO BECOME SUPPLIER OF LAST RESORT.--AFTER THE
5 FIVE-YEAR PERIOD FOLLOWING THE EFFECTIVE DATE OF THIS CHAPTER,
6 ANY PARTY MAY PETITION THE COMMISSION TO BECOME THE SUPPLIER OF
7 LAST RESORT TO SOME OR ALL CUSTOMERS EXCEPT FOR THOSE CUSTOMERS
8 IDENTIFIED IN SUBSECTION (A)(2)(I).

9 (I) NOTICE REQUIRED PRIOR TO MARKET EXIT.--

10 (1) A NATURAL GAS SUPPLIER MAY NOT EXIT THE MARKET
11 WITHOUT PROVIDING NOTICE AS DETERMINED BY THE COMMISSION IN
12 THE RESTRUCTURING PROCEEDING OF THE NATURAL GAS DISTRIBUTION
13 COMPANY TO ITS CUSTOMERS, THE SUPPLIER OF LAST RESORT AND THE
14 NATURAL GAS DISTRIBUTION COMPANY.

15 (2) IF FIRM GAS SUPPLY CONTRACTS WITH PENNSYLVANIA
16 NATURAL GAS PRODUCERS OR STORAGE OR TRANSPORTATION CAPACITY
17 CONTRACTS USED BY THE NATURAL GAS SUPPLIER TO SERVE SUCH
18 RETAIL GAS CUSTOMERS WERE EITHER ASSIGNED OR RELEASED TO THE
19 NATURAL GAS SUPPLIER OR CONSTITUTE CAPACITY WHICH WAS
20 ACQUIRED BY THE NATURAL GAS SUPPLIER AS THE RESULT OF
21 NONRENEWAL OF A STORAGE OR TRANSPORTATION CAPACITY CONTRACT
22 PREVIOUSLY HELD BY THE NATURAL GAS DISTRIBUTION COMPANY, THE
23 NATURAL GAS SUPPLIER SHALL OFFER THE SUPPLIER OF LAST RESORT
24 OR SUCCESSOR NATURAL GAS SUPPLIER A RIGHT OF FIRST REFUSAL TO
25 UTILIZE SUCH PENNSYLVANIA SUPPLY CONTRACTS OR STORAGE OR
26 TRANSPORTATION CAPACITY CONTRACTS AT ITS CONTRACT COST AS
27 LONG AS NEEDED TO SERVE THOSE CUSTOMERS.

28 (3) IF THE STORAGE OR TRANSPORTATION CAPACITY CONTRACTS
29 HELD BY THE NATURAL GAS SUPPLIER WERE ACQUIRED IN ANOTHER
30 MANNER, AND THERE WAS NOT SUFFICIENT NOTICE GIVEN TO THE

SUPPLIER OF LAST RESORT AND THE NATURAL GAS DISTRIBUTION
COMPANY, OR IF THERE IS NOT ALTERNATIVE STORAGE OR
TRANSPORTATION CAPACITY AVAILABLE WHICH IS OPERATIONALLY
SUFFICIENT TO SERVE THE MARKET THE NATURAL GAS SUPPLIER WAS
SERVING, THEN THE SUPPLIER OF LAST RESORT SHALL BE PROVIDED
WITH A RIGHT TO USE SUCH STORAGE OR TRANSPORTATION CAPACITY
AS DESIGNATED BY THE NATURAL GAS SUPPLIER, AT THE CONTRACT
COST, UNTIL THE SUPPLIER OF LAST RESORT IS ABLE TO ACQUIRE
REPLACEMENT CAPACITY SUFFICIENT TO SERVE ITS CUSTOMERS USING
REASONABLE AND DILIGENT EFFORTS TO DO SO.

(4) IF A DISPUTE ARISES UNDER THIS SUBSECTION, THE
AGGRIEVED PARTY MAY FILE A COMPLAINT WITH THE COMMISSION FOR
RESOLUTION WITHIN 45 DAYS.

(J) DUTY INVOLVING LOST CUSTOMERS.--TO THE EXTENT THAT A
NATURAL GAS SUPPLIER LOSES RETAIL GAS CUSTOMERS SUCH THAT ITS
CAPACITY REQUIREMENTS TO A NATURAL GAS DISTRIBUTION COMPANY ARE
REDUCED BELOW THE LEVEL ESTABLISHED BY THE COMMISSION FOR SUCH
PURPOSE IN THE NATURAL GAS DISTRIBUTION COMPANY'S RESTRUCTURING
PROCEEDING, THE NATURAL GAS SUPPLIER SHALL HAVE THE SAME
OBLIGATIONS SET FORTH IN SUBSECTION (I).

(K) RATE AFTER SERVICE DISCONTINUED.--IN THE EVENT THE
NATURAL GAS SUPPLIER DISCONTINUES SERVICE OR DEFAULTS BEFORE ITS
CONTRACT WITH THE CUSTOMER EXPIRES, THE RETAIL GAS CUSTOMER
SHALL BE SERVED BY THE SUPPLIER OF LAST RESORT AT THE
COMMISSION-APPROVED SUPPLIER OF LAST RESORT RATE COMMENCING WITH
THE NEXT BILLING CYCLE. HOWEVER, THE RETAIL GAS CUSTOMER SHALL
CONTINUE TO BE CHARGED THE RATE THE CUSTOMER NEGOTIATED WITH THE
DISCONTINUING OR DEFAULTING NATURAL GAS SUPPLIER FOR THE
REMAINDER OF THE BILLING CYCLE. ANY DIFFERENCE BETWEEN THE COST
INCURRED BY THE SUPPLIER OF LAST RESORT AND THE AMOUNT PAYABLE

1 BY THE RETAIL GAS CUSTOMER SHALL BE RECOVERED FROM THE NATURAL
2 GAS SUPPLIER OR FROM THE BOND OR OTHER SECURITY PROVIDED BY THE
3 NATURAL GAS SUPPLIER WITHOUT RECOURSE TO ANY RETAIL GAS CUSTOMER
4 NOT OTHERWISE CONTRACTUALLY COMMITTED FOR THE DIFFERENCE.

5 § 2208. REQUIREMENTS FOR NATURAL GAS SUPPLIERS.

6 (A) LICENSE REQUIREMENTS.--NO ENTITY SHALL ENGAGE IN THE
7 BUSINESS OF A NATURAL GAS SUPPLIER UNLESS IT HOLDS A LICENSE
8 ISSUED BY THE COMMISSION. TO THE EXTENT THAT A NATURAL GAS
9 DISTRIBUTION COMPANY PROVIDES NATURAL GAS SUPPLY SERVICE OUTSIDE
10 OF ITS CHARTERED OR CERTIFICATED TERRITORY, IT ALSO MUST HOLD A
11 LICENSE. A LICENSE SHALL NOT BE REQUIRED FOR CUSTOMERS WHO MAKE
12 DE MINIMIS INCIDENTAL SALES OR REALES TO THEMSELVES, AN
13 AFFILIATE OR TO OTHER NONRESIDENTIAL RETAIL GAS CUSTOMERS.

14 (B) LICENSE APPLICATION AND ISSUANCE.--AN APPLICATION FOR A
15 NATURAL GAS SUPPLIER LICENSE SHALL BE MADE TO THE COMMISSION IN
16 WRITING, BE VERIFIED BY OATH OR AFFIRMATION AND BE IN SUCH FORM
17 AND CONTAIN SUCH INFORMATION AS THE COMMISSION MAY, BY RULE OR
18 ORDER, REQUIRE. A LICENSE SHALL BE ISSUED TO ANY APPLICANT,
19 AUTHORIZING THE WHOLE OR ANY PART OF THE SERVICE COVERED BY THE
20 APPLICATION, IF IT IS FOUND THAT THE APPLICANT IS FIT, WILLING
21 AND ABLE TO PERFORM PROPERLY THE SERVICE PROPOSED AND TO CONFORM
22 TO THE APPLICABLE PROVISIONS OF THIS TITLE AND THE ORDERS AND
23 REGULATIONS OF THE COMMISSION, INCLUDING THOSE CONCERNING
24 STANDARDS AND BILLING PRACTICES, AND THAT THE PROPOSED SERVICE,
25 TO THE EXTENT AUTHORIZED BY THE LICENSE, WILL BE CONSISTENT WITH
26 THE PUBLIC INTEREST. OTHERWISE, SUCH APPLICATION SHALL BE
27 DENIED.

28 (C) FINANCIAL FITNESS.--

29 (1) IN ORDER TO ENSURE THE SAFETY AND RELIABILITY OF THE
30 NATURAL GAS SUPPLY SERVICE IN THIS COMMONWEALTH, NO NATURAL

1 GAS SUPPLIER LICENSE SHALL BE ISSUED OR REMAIN IN FORCE
2 UNLESS THE APPLICANT OR HOLDER, AS THE CASE MAY BE, COMPLIES
3 WITH ALL OF THE FOLLOWING:

4 (I) FURNISHES A BOND OR OTHER SECURITY IN A FORM AND
5 AMOUNT TO ENSURE THE FINANCIAL RESPONSIBILITY OF THE
6 NATURAL GAS SUPPLIER. THE CRITERIA EACH NATURAL GAS
7 DISTRIBUTION COMPANY SHALL USE TO DETERMINE THE AMOUNT
8 AND FORM OF SUCH BOND OR OTHER SECURITY SHALL BE SET
9 FORTH IN THE NATURAL GAS DISTRIBUTION COMPANY'S
10 RESTRUCTURING FILING. IN APPROVING THE CRITERIA,
11 COMMISSION CONSIDERATIONS SHALL INCLUDE, BUT NOT BE
12 LIMITED TO, THE FINANCIAL IMPACT ON THE NATURAL GAS
13 DISTRIBUTION COMPANY OR AN ALTERNATIVE SUPPLIER OF LAST
14 RESORT OF A DEFAULT OR SUBSEQUENT BANKRUPTCY OF A NATURAL
15 GAS SUPPLIER. THE COMMISSION SHALL PERIODICALLY REVIEW
16 THE CRITERIA UPON PETITION BY ANY PARTY. THE AMOUNT AND
17 FORM OF THE BOND OR OTHER SECURITY MAY BE MUTUALLY AGREED
18 TO BETWEEN THE NATURAL GAS DISTRIBUTION COMPANY OR THE
19 ALTERNATE SUPPLIER OF LAST RESORT AND THE NATURAL GAS
20 SUPPLIER OR FAILING THAT SHALL BE DETERMINED BY CRITERIA
21 APPROVED BY THE COMMISSION.

22 (II) PROVIDES THE COMMISSION WITH THE ADDRESS OF THE
23 PARTICIPANT'S PRINCIPAL OFFICE IN THIS COMMONWEALTH OR
24 THE ADDRESS OF THE PARTICIPANT'S REGISTERED AGENT IN THIS
25 COMMONWEALTH, THE LATTER BEING THE ADDRESS AT WHICH THE
26 PARTICIPANT MAY BE SERVED PROCESS.

27 (2) FAILURE OF A NATURAL GAS SUPPLIER TO COMPLY WITH ANY
28 PROVISION OF THIS CHAPTER OR THE RULES, REGULATIONS, ORDERS
29 OR DIRECTIVES OF THE DEPARTMENT OF REVENUE OR OF THE
30 COMMISSION, INCLUDING, BUT NOT LIMITED TO, ENGAGING IN

1 ANTICOMPETITIVE BEHAVIOR, SHALL BE CAUSE FOR THE COMMISSION
2 TO REVOKE THE LICENSE OF THE NATURAL GAS SUPPLIER.

3 (D) TRANSFERABILITY OF LICENSES.--NO LICENSE ISSUED UNDER
4 THIS CHAPTER MAY BE TRANSFERRED WITHOUT PRIOR COMMISSION
5 APPROVAL.

6 (E) FORM OF REGULATION OF NATURAL GAS SUPPLIERS.--EXCEPT
7 WHERE A NATURAL GAS SUPPLIER SERVES AS A SUPPLIER OF LAST
8 RESORT, THE COMMISSION MAY FORBEAR FROM EXTENDING ITS REGULATION
9 OF NATURAL GAS SUPPLIERS BEYOND LICENSING, BONDING, RELIABILITY
10 AND CONSUMER SERVICES AND PROTECTIONS, INCLUDING ALL APPLICABLE
11 PORTIONS OF 52 PA. CODE CH. 56 (RELATING TO STANDARDS AND
12 BILLING PRACTICES FOR RESIDENTIAL UTILITY SERVICE). SUBJECT TO
13 THE PROVISIONS OF SECTION 2207 (RELATING TO OBLIGATION TO
14 SERVE), NOTHING IN THIS SECTION SHALL PRECLUDE A NATURAL GAS
15 SUPPLIER, UPON APPROPRIATE AND REASONABLE NOTICE TO THE RETAIL
16 GAS CUSTOMER, SUPPLIER OF LAST RESORT, AND THE NATURAL GAS
17 DISTRIBUTION COMPANY, FROM CANCELING ITS CONTRACT WITH ANY
18 CUSTOMER FOR LEGAL CAUSE, SUBJECT TO THE CUSTOMER'S RIGHT TO
19 HAVE CONTINUED SERVICE FROM THE SUPPLIER OF LAST RESORT.

20 (F) AVAILABILITY OF THE SERVICE OF NATURAL GAS SUPPLIERS.--
21 PRIOR TO LICENSING ANY NATURAL GAS SUPPLIER, THE COMMISSION
22 SHALL SET FORTH STANDARDS TO ENSURE THAT ALL CUSTOMER CLASSES
23 MAY CHOOSE TO PURCHASE NATURAL GAS FROM A NATURAL GAS SUPPLIER.
24 THE COMMISSION SHALL ALSO ENSURE THAT NATURAL GAS SUPPLIERS
25 COMPLY WITH APPLICABLE PROVISIONS OF 52 PA. CODE CH. 56.

26 (G) OPEN AND NONDISCRIMINATORY ACCESS.--IN ADDITION TO
27 MEETING THE LICENSE REQUIREMENTS APPLICABLE TO APPLICANTS UNDER
28 SUBSECTION (B), A MUNICIPAL CORPORATION SHALL, BEFORE IT IS
29 PERMITTED TO PROVIDE NATURAL GAS SUPPLY SERVICES AS A NATURAL
30 GAS SUPPLIER, DEMONSTRATE, AND THE COMMISSION SHALL DETERMINE,

1 THAT BY THE DATE OF THE ISSUANCE OF THE LICENSE, IT WILL PROVIDE
2 OTHER NATURAL GAS SUPPLIERS OPEN AND NONDISCRIMINATORY ACCESS TO
3 ITS GAS DISTRIBUTION SYSTEM UNDER STANDARDS THAT ARE COMPARABLE
4 TO THIS TITLE, TAKING INTO CONSIDERATION THE PARTICULAR
5 CIRCUMSTANCES OF THE MUNICIPAL CORPORATION'S OWNERSHIP AND/OR
6 OPERATION OF THE GAS DISTRIBUTION SYSTEM.

7 § 2209. MARKET POWER REMEDIATION.

8 (A) INTERIM STANDARDS OF CONDUCT.--WITHIN 120 DAYS OF THE
9 EFFECTIVE DATE OF THIS CHAPTER, THE COMMISSION SHALL PROVIDE BY
10 ORDER BINDING, INTERIM GUIDELINES FOR STANDARDS OF CONDUCT
11 GOVERNING THE ACTIVITIES OF AND RELATIONSHIPS BETWEEN NATURAL
12 GAS DISTRIBUTION COMPANIES AND THEIR AFFILIATED NATURAL GAS
13 SUPPLIERS AND OTHER NATURAL GAS SUPPLIERS AND MONITOR AND
14 ENFORCE COMPLIANCE WITH THOSE STANDARDS.

15 (B) PERMANENT STANDARDS OF CONDUCT.--THE COMMISSION SHALL
16 THEREUPON PROMULGATE REGULATIONS SETTING FORTH PERMANENT
17 STANDARDS OF CONDUCT GOVERNING THE ACTIVITIES OF AND
18 RELATIONSHIPS BETWEEN NATURAL GAS DISTRIBUTION COMPANIES AND
19 THEIR AFFILIATED NATURAL GAS SUPPLIERS AND OTHER NATURAL GAS
20 SUPPLIERS AND MONITOR AND ENFORCE COMPLIANCE WITH THESE
21 STANDARDS. THE COMMISSION SHALL NEITHER FAVOR NOR DISFAVOR
22 CONDUCT OR OPERATIONS BY AND BETWEEN A NATURAL GAS DISTRIBUTION
23 COMPANY AND AN AFFILIATED NATURAL GAS SUPPLIER OR A
24 NONAFFILIATED NATURAL GAS SUPPLIER.

25 (C) CONTENTS OF STANDARDS.--STANDARDS OF CONDUCT SHALL
26 PROVIDE FOR:

27 (1) NO DISCRIMINATION AGAINST OR PREFERENTIAL TREATMENT
28 OF ANY NATURAL GAS SUPPLIER, INCLUDING AN AFFILIATED NATURAL
29 GAS SUPPLIER.

30 (2) NO DISCLOSURE OR PREFERENTIAL SHARING OF ANY

1 CONFIDENTIAL INFORMATION TO OR WITH ANY INDIVIDUAL NATURAL
2 GAS SUPPLIER.

3 (3) ADEQUATE RULES PROHIBITING CROSS-SUBSIDIZATION OF AN
4 AFFILIATED NATURAL GAS SUPPLIER BY A NATURAL GAS DISTRIBUTION
5 COMPANY.

6 (4) MAINTENANCE OF SEPARATE BOOKS AND RECORDS BY THE
7 NATURAL GAS DISTRIBUTION COMPANY AND ITS AFFILIATED NATURAL
8 GAS SUPPLIER.

9 (5) SUFFICIENT PHYSICAL AND OPERATIONAL SEPARATION, BUT
10 NOT INCLUDING LEGAL DIVESTITURE, TO ACCOMPLISH PARAGRAPHS
11 (1), (2), (3) AND (4).

12 (6) AN INFORMAL DISPUTE RESOLUTION PROCEDURE.

13 (7) A SYSTEM OF PENALTIES FOR NONCOMPLIANCE WITH THE
14 FINAL SET OF STANDARDS OF CONDUCT CONSISTENT WITH EXISTING
15 COMMISSION REGULATIONS.

16 (D) LIMITATION.--THE STANDARDS SHALL NOT PROHIBIT THE
17 NATURAL GAS DISTRIBUTION COMPANY AND ITS AFFILIATED NATURAL GAS
18 SUPPLIER FROM USING OR SHARING SIMILAR CORPORATE NAMES,
19 TRADEMARKS, TRADE DRESS OR SERVICE MARKS.

20 (E) INITIATION OF INVESTIGATIONS.--UPON COMPLAINT OR UPON
21 ITS OWN MOTION, FOR GOOD CAUSE SHOWN, THE COMMISSION SHALL
22 CONDUCT AN INVESTIGATION OF THE IMPACT ON THE PROPER FUNCTIONING
23 OF A FULLY COMPETITIVE RETAIL NATURAL GAS MARKET, OF MERGERS,
24 CONSOLIDATIONS, ACQUISITION OR DISPOSITION OF ASSETS OR
25 SECURITIES OF NATURAL GAS SUPPLIERS AND ANTICOMPETITIVE OR
26 DISCRIMINATORY CONDUCT AFFECTING THE RETAIL DISTRIBUTION OF
27 NATURAL GAS.

28 (F) CONDUCT OF INVESTIGATIONS.--

29 (1) THE COMMISSION MAY REQUIRE A NATURAL GAS SUPPLIER TO
30 PROVIDE INFORMATION, INCLUDING DOCUMENTS AND TESTIMONY, IN

1 ACCORDANCE WITH THE COMMISSION'S REGULATIONS REGARDING THE
2 DISCOVERY OF INFORMATION.

3 (2) MATERIAL WHICH THE COMMISSION DETERMINES TO BE
4 CONFIDENTIAL, PROPRIETARY OR TRADE SECRET INFORMATION
5 PROVIDED UNDER THIS SUBSECTION SHALL NOT BE DISCLOSED TO ANY
6 PERSON NOT DIRECTLY EMPLOYED OR RETAINED BY THE COMMISSION TO
7 CONDUCT THE INVESTIGATION WITHOUT THE CONSENT OF THE PARTY
8 PROVIDING THE INFORMATION.

9 (3) NOTWITHSTANDING THE PROHIBITION ON DISCLOSURE OF
10 INFORMATION IN PARAGRAPH (2), THE COMMISSION SHALL DISCLOSE
11 INFORMATION OBTAINED UNDER THIS SUBSECTION TO THE OFFICE OF
12 CONSUMER ADVOCATE AND THE OFFICE OF SMALL BUSINESS ADVOCATE
13 UNDER AN APPROPRIATE CONFIDENTIALITY AGREEMENT. THE
14 COMMISSION MAY DISCLOSE THE INFORMATION TO APPROPRIATE
15 FEDERAL OR STATE LAW ENFORCEMENT OFFICIALS IF IT DETERMINES
16 THAT THE DISCLOSURE OF THE INFORMATION IS NECESSARY TO
17 PREVENT OR RESTRAIN A VIOLATION OF FEDERAL OR STATE LAW AND
18 IT PROVIDES THE PARTY THAT PROVIDED THE INFORMATION WITH
19 REASONABLE NOTICE AND OPPORTUNITY TO PREVENT OR LIMIT
20 DISCLOSURE.

21 (G) REFERRALS AND INVESTIGATION.--IF, AS A RESULT OF THE
22 INVESTIGATION CONDUCTED UNDER THIS SECTION, THE COMMISSION HAS
23 REASON TO BELIEVE THAT ANTICOMPETITIVE OR DISCRIMINATORY
24 CONDUCT, INCLUDING THE UNLAWFUL EXERCISE OF MARKET POWER, IS
25 PREVENTING THE RETAIL GAS CUSTOMERS FROM OBTAINING THE BENEFITS
26 OF A PROPERLY FUNCTIONING AND EFFECTIVELY COMPETITIVE RETAIL
27 NATURAL GAS MARKET, THE COMMISSION, PURSUANT TO ITS REGULATIONS,
28 SHALL:

29 (1) REFER ITS FINDINGS TO THE ATTORNEY GENERAL, THE
30 UNITED STATES DEPARTMENT OF JUSTICE, THE SECURITIES AND

1 EXCHANGE COMMISSION OR THE FEDERAL ENERGY REGULATORY
2 COMMISSION.

3 (2) SUBJECT TO SUBSECTION (C)(3), DISCLOSE ANY
4 INFORMATION IT HAS OBTAINED IN THE COURSE OF ITS
5 INVESTIGATION TO THE AGENCY OR AGENCIES TO WHICH IT HAD MADE
6 A REFERRAL UNDER PARAGRAPH (1).

7 (3) INTERVENE, AS PROVIDED AND PERMITTED BY LAW OR
8 REGULATION, IN ANY PROCEEDINGS INITIATED AS A RESULT OF A
9 REFERRAL MADE UNDER PARAGRAPH (1).

10 (H) MARKETING STANDARDS.--AS PART OF EACH NATURAL GAS
11 DISTRIBUTION COMPANY'S RESTRUCTURING PROCEEDING, THE COMMISSION
12 MAY, IN ITS DISCRETION, DEVELOP AND APPLY DIFFERENT STANDARDS OF
13 CONDUCT TO THE NATURAL GAS DISTRIBUTION COMPANY'S MARKETING
14 ACTIVITIES RELATED TO NATURAL GAS SUPPLY SERVICES. NO SUCH
15 STANDARDS SHALL APPLY TO THE NATURAL GAS DISTRIBUTION COMPANY'S
16 MARKETING DIVISION OR OPERATIONS UNTIL THE COMMISSION ISSUES AN
17 ORDER IN THE CONTEXT OF THAT NATURAL GAS DISTRIBUTION COMPANY'S
18 RESTRUCTURING PROCEEDING.

19 (I) DEFINITION.--SUBJECT TO THE CONDITIONS SET FORTH IN
20 SUBSECTION (H), FOR THE PURPOSES OF THIS SECTION, THE TERM
21 "AFFILIATED NATURAL GAS SUPPLIER" INCLUDES MARKETING ACTIVITIES
22 RELATED TO NATURAL GAS SUPPLY SERVICES BY THE MARKETING DIVISION
23 OR THE MARKETING OPERATION OF A NATURAL GAS DISTRIBUTION
24 COMPANY.

25 § 2210. APPROVAL OF PROPOSED MERGERS, CONSOLIDATIONS,
26 ACQUISITIONS OR DISPOSITIONS.

27 (A) GENERAL RULE.--IN THE EXERCISE OF AUTHORITY THE
28 COMMISSION OTHERWISE MAY HAVE TO APPROVE MERGERS OR
29 CONSOLIDATIONS INVOLVING NATURAL GAS DISTRIBUTION COMPANIES OR
30 NATURAL GAS SUPPLIERS OR THE ACQUISITION OR DISPOSITION OF

ASSETS OR SECURITIES OF NATURAL GAS DISTRIBUTION COMPANIES OR
NATURAL GAS SUPPLIERS, THE COMMISSION SHALL CONSIDER:

(1) WHETHER THE PROPOSED MERGER, CONSOLIDATION,
ACQUISITION OR DISPOSITION IS LIKELY TO RESULT IN
ANTICOMPETITIVE OR DISCRIMINATORY CONDUCT, INCLUDING THE
UNLAWFUL EXERCISE OF MARKET POWER, WHICH WILL PREVENT RETAIL
GAS CUSTOMERS FROM OBTAINING THE BENEFITS OF A PROPERLY
FUNCTIONING AND EFFECTIVELY COMPETITIVE RETAIL NATURAL GAS
MARKET.

(2) THE EFFECT OF THE PROPOSED MERGER, CONSOLIDATION,
ACQUISITION OR DISPOSITION ON THE EMPLOYEES OF THE NATURAL
GAS DISTRIBUTION COMPANY AND ON ANY AUTHORIZED COLLECTIVE
BARGAINING AGENT REPRESENTING THOSE EMPLOYEES.

(B) PROCEDURE.--UPON REQUEST FOR ANY APPROVAL IDENTIFIED IN
SUBSECTION (A), THE COMMISSION SHALL PROVIDE NOTICE AND AN
OPPORTUNITY FOR OPEN, PUBLIC EVIDENTIARY HEARINGS. IF THE
COMMISSION FINDS, AFTER HEARING, THAT A PROPOSED MERGER,
CONSOLIDATION, ACQUISITION OR DISPOSITION IS LIKELY TO RESULT IN
ANTICOMPETITIVE OR DISCRIMINATORY CONDUCT, INCLUDING THE
UNLAWFUL EXERCISE OF MARKET POWER, WHICH WILL PREVENT RETAIL GAS
CUSTOMERS FROM OBTAINING BENEFITS OF A PROPERLY FUNCTIONING AND
EFFECTIVELY COMPETITIVE RETAIL NATURAL GAS MARKET, THE
COMMISSION SHALL NOT APPROVE SUCH PROPOSED MERGER,
CONSOLIDATION, ACQUISITION OR DISPOSITION, EXCEPT UPON SUCH
TERMS AND CONDITIONS AS IT FINDS NECESSARY TO PRESERVE THE
BENEFITS OF A PROPERLY FUNCTIONING AND EFFECTIVELY COMPETITIVE
RETAIL NATURAL GAS MARKET.

(C) PRESERVATION OF RIGHTS.--NOTHING IN THIS SECTION SHALL
RESTRICT THE RIGHT OF ANY PARTY TO PURSUE ANY OTHER REMEDY
AVAILABLE TO IT.

§ 2211. RATE CAPS.

(A) GENERAL RULE.--EXCEPT AS PROVIDED UNDER SUBSECTIONS (D), (E), (F) AND (G), FOR A PERIOD FROM THE EFFECTIVE DATE OF THIS CHAPTER UNTIL JANUARY 1, 2001, THE TOTAL NON-GAS COST CHARGES OF A NATURAL GAS DISTRIBUTION COMPANY FOR SERVICE TO ANY RETAIL GAS CUSTOMER SHALL NOT EXCEED THE MAXIMUM NON-GAS COST CHARGES THAT ARE CONTAINED IN THE NATURAL GAS DISTRIBUTION COMPANY'S TARIFF AS OF THE EFFECTIVE DATE OF THIS CHAPTER.

(B) RECOVERY OF DEFERRED COSTS.--

(1) IN A RESTRUCTURING PROCEEDING, THE NATURAL GAS DISTRIBUTION COMPANY MAY IDENTIFY CATEGORIES OF COSTS RESULTING FROM THIS CHAPTER.

(2) THE NATURAL GAS DISTRIBUTION COMPANY MAY SEEK PERMISSION IN ITS RESTRUCTURING PROCEEDING TO CAPITALIZE AND TO AMORTIZE SUCH COSTS OVER AN APPROPRIATE PERIOD TO BE DETERMINED BY THE COMMISSION. THE AMORTIZATION SHALL COMMENCE AT THE TIME WHEN RESTRUCTURING ORDERS ARE ISSUED. THE NATURAL GAS DISTRIBUTION COMPANY MAY SEEK RECOVERY OF THE UNAMORTIZED BALANCE OF SUCH COSTS IN A FUTURE RATE PROCEEDING AND THE COMMISSION SHALL ALLOW RECOVERY OF SUCH COSTS PROVIDED THAT THE COMMISSION DETERMINES THAT SUCH COSTS ARE REASONABLE AND THAT THE RESULTING RATES ARE JUST AND REASONABLE.

(C) DEFERRAL OF COSTS.--COSTS RECOVERABLE UNDER SECTIONS 2203(6) (RELATING TO STANDARDS FOR RESTRUCTURING OF NATURAL GAS UTILITY INDUSTRY) AND 2206(E) (RELATING TO CONSUMER PROTECTIONS AND CUSTOMER SERVICE), IN EXCESS OF AMOUNTS ALREADY REFLECTED IN A NATURAL GAS DISTRIBUTION COMPANY'S RATES, WHICH ARE INCURRED BETWEEN THE DATE OF ENTRY OF THE COMMISSION'S RESTRUCTURING ORDER AND THE EARLIER OF THE DATE ON WHICH THE COMMISSION AUTHORIZES COMMENCEMENT OF RECOVERY OR JUNE 30, 2002, MAY BE

1 DEFERRED FOR RECOVERY IN THE FUTURE. SUCH DEFERRALS SHALL BE
2 WITHOUT INTEREST.

3 (D) CIRCUMSTANCES FOR EXCEPTIONS.--A NATURAL GAS
4 DISTRIBUTION COMPANY MAY SEEK, AND THE COMMISSION MAY APPROVE,
5 AN EXCEPTION TO THE LIMITATIONS SET FORTH IN THIS SECTION UNDER
6 ANY OF THE FOLLOWING CIRCUMSTANCES:

7 (1) THE NATURAL GAS DISTRIBUTION COMPANY MEETS THE
8 REQUIREMENTS FOR EXTRAORDINARY RELIEF UNDER SECTION 1308(E)
9 (RELATING TO VOLUNTARY CHANGES IN RATES).

10 (2) THE NATURAL GAS DISTRIBUTION COMPANY DEMONSTRATES
11 THAT A RATE INCREASE IS NECESSARY IN ORDER TO PRESERVE THE
12 RELIABILITY OF THE NATURAL GAS DISTRIBUTION SYSTEM.

13 (3) THE NATURAL GAS DISTRIBUTION COMPANY IS SUBJECT TO
14 SIGNIFICANT INCREASES IN THE RATE OF FEDERAL TAXES OR OTHER
15 SIGNIFICANT INCREASES IN COSTS RESULTING FROM CHANGES IN LAW
16 OR REGULATIONS THAT WOULD NOT ALLOW THE NATURAL GAS
17 DISTRIBUTION COMPANY TO EARN A FAIR RATE OF RETURN.

18 (E) INTERCLASS AND INTRACLASS COST SHIFTS.--FOR THE PERIOD
19 FROM THE EFFECTIVE DATE OF THIS CHAPTER UNTIL JANUARY 1, 2001,
20 INTERCLASS OR INTRACLASS COST SHIFTS ARE PROHIBITED. THIS
21 PROHIBITION AGAINST COST SHIFTING MAY BE ACCOMPLISHED BY
22 MAINTAINING THE COST ALLOCATION METHODOLOGY ACCEPTED BY THE
23 COMMISSION FOR EACH NATURAL GAS DISTRIBUTION COMPANY IN THE
24 COMPANY'S MOST RECENT BASE RATE PROCEEDING.

25 (F) STATE TAX ADJUSTMENT SURCHARGE.--THE NATURAL GAS
26 DISTRIBUTION COMPANY SHALL REMAIN SUBJECT TO THE STATE TAX
27 ADJUSTMENT SURCHARGE AND SHALL BE PERMITTED TO ADJUST ITS STATE
28 TAX ADJUSTMENT SURCHARGE MECHANISM TO REFLECT STATE TAX CHANGES
29 OR ADDITIONS. THE NATURAL GAS DISTRIBUTION COMPANY SHALL ALSO
30 REMAIN SUBJECT TO EXISTING RIDERS OR SURCHARGES FOR THE

1 COLLECTION OF NON-GAS TRANSITION COSTS PURSUANT TO FEDERAL
2 ENERGY REGULATORY COMMISSION DECISIONS.

3 (G) PROVISIONS RELATING TO INTERSTATE PIPELINES.--

4 (1) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS
5 CHAPTER, IF A NATURAL GAS DISTRIBUTION COMPANY'S CURRENT BASE
6 RATE REVENUES REFLECT THE MARGINS REALIZED THROUGH THE
7 UTILIZATION OF FIRM INTERSTATE PIPELINE TRANSPORTATION AND
8 STORAGE CAPACITY TO SERVE THE INTERRUPTIBLE MARKET WHEN SUCH
9 CAPACITY IS NOT NEEDED TO MAKE FIRM RETAIL DELIVERIES, THEN
10 THE NATURAL GAS DISTRIBUTION COMPANY SHALL BE PERMITTED TO
11 INCREASE BASE RATES AND, AT THE SAME TIME, REDUCE PURCHASED
12 GAS COST RATES, AS DESCRIBED IN THIS CHAPTER.

13 (2) THE UTILITY MAY PROPOSE SUCH A CHANGE IN TREATMENT,
14 CONSISTENT WITH THE FOLLOWING REQUIREMENTS:

15 (I) BASE RATES OF CUSTOMERS WHO PAY PURCHASED GAS
16 COST RATES PURSUANT TO SECTION 1307(F) (RELATING TO
17 SLIDING SCALE OF RATES; ADJUSTMENTS) SHALL BE INCREASED
18 BY AN AMOUNT EQUAL TO THE MARGIN RECEIVED FOR SERVICE
19 PROVIDED TO EXISTING INTERRUPTIBLE SALES AND
20 TRANSPORTATION SERVICE CUSTOMERS USING CAPACITY REFLECTED
21 IN RATES ESTABLISHED UNDER SECTION 1307(F) BASED UPON THE
22 REVENUE FOR SUCH SERVICES FOR THE MOST RECENT 12-MONTH
23 PERIOD IMMEDIATELY PRECEDING THE APPLICATION.

24 (II) PURCHASED GAS COST RATES ESTABLISHED PURSUANT
25 TO SECTION 1307(F) SHALL BE DECREASED BY AN AMOUNT EQUAL
26 TO THE AMOUNT BY WHICH BASE RATES ARE INCREASED IN
27 SUBPARAGRAPH (I).

28 (III) PURCHASED GAS COST RATES ESTABLISHED PURSUANT
29 TO SECTION 1307(F) SHALL THEREAFTER BE RECONCILED TO
30 REFLECT THE MARGINS REALIZED FROM INTERRUPTIBLE SALES AND

1 INTERRUPTIBLE TRANSPORTATION CUSTOMERS UTILIZING CAPACITY
2 REFLECTED IN RATES ESTABLISHED UNDER SECTION 1307(F).

3 (H) INTERSTATE PIPELINE TRANSPORTATION.--

4 (1) EXCEPT AS SPECIFICALLY SET FORTH IN THIS SUBSECTION,
5 NOTHING IN THIS SECTION OR SECTION 2204(D) (RELATING TO
6 IMPLEMENTATION) SHALL PREVENT A NATURAL GAS DISTRIBUTION
7 COMPANY FROM RECOVERING COSTS PAID UNDER THE TERMS OF
8 INTERSTATE PIPELINE TRANSPORTATION AND STORAGE CAPACITY
9 CONTRACTS WHICH ARE NOT FULLY RECOVERED THROUGH A RELEASE,
10 ASSIGNMENT OR TRANSFER OF SUCH CAPACITY TO ANOTHER NATURAL
11 GAS SUPPLIER IF SUCH UNRECOVERED COSTS ARISE UNDER THE TERMS
12 OF A NATURAL GAS TRANSPORTATION PILOT PROGRAM APPROVED BY THE
13 COMMISSION FOR SUCH COMPANY ON OR BEFORE FEBRUARY 1, 1999.

14 (2) SUCH UNRECOVERED INTERSTATE PIPELINE TRANSPORTATION
15 AND CAPACITY COSTS INCURRED UNDER SUCH PROGRAMS THROUGH
16 OCTOBER 31, 2004, MAY BE RECOVERED FROM A CLASS OR CLASSES OF
17 CUSTOMERS IN ACCORDANCE WITH SUCH PROGRAM PROVIDED THAT THE
18 TOTAL VOLUMETRIC CHARGE FOR SUCH COSTS DOES NOT EXCEED ONE
19 PERCENT OF THE VOLUMETRIC CHARGE FOR RESIDENTIAL NATURAL GAS
20 SALES SERVICE SET FORTH IN THE NATURAL GAS DISTRIBUTION
21 COMPANY'S TARIFF IN EFFECT AT THE TIME.

22 (3) WITH RESPECT TO SUCH PILOT PROGRAMS, THE COMMISSION
23 MAY DETERMINE TO EXTEND SUCH PROGRAMS TO INCLUDE ALL
24 CUSTOMERS OF THAT COMPANY PURSUANT TO THE REQUIREMENTS OF
25 THIS CHAPTER, AND NOTHING IN THIS SECTION OR SECTION 2204(D)
26 SHALL PREVENT UNRECOVERED INTERSTATE PIPELINE AND
27 TRANSPORTATION CAPACITY COSTS INCURRED THROUGH OCTOBER 31,
28 2004, UNDER SUCH PROGRAMS FROM BEING RECOVERED IN ACCORDANCE
29 WITH SUCH PROGRAMS PROVIDED THAT THE TOTAL VOLUMETRIC CHARGE
30 FOR SUCH COSTS DOES NOT EXCEED THE ONE PERCENT LIMIT

1 SPECIFIED IN PARAGRAPH (2) FOR PILOT PROGRAMS.

2 SECTION 4. THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY
3 PROVISION OF THIS ACT OR ITS APPLICATION TO ANY PERSON OR
4 CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY SHALL NOT AFFECT
5 OTHER PROVISIONS OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN
6 EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.

7 SECTION 5. THIS ACT CONSTITUTES THE LEGISLATION REFERRED TO
8 IN SECTION 33(3) OF THE ACT OF MAY 12, 1999 (P.L. , NO.4),
9 ENTITLED "AN ACT AMENDING THE ACT OF MARCH 4, 1971 (P.L.6,
10 NO.2), ENTITLED 'AN ACT RELATING TO TAX REFORM AND STATE
11 TAXATION BY CODIFYING AND ENUMERATING CERTAIN SUBJECTS OF
12 TAXATION AND IMPOSING TAXES THEREON; PROVIDING PROCEDURES FOR
13 THE PAYMENT, COLLECTION, ADMINISTRATION AND ENFORCEMENT THEREOF;
14 PROVIDING FOR TAX CREDITS IN CERTAIN CASES; CONFERRING POWERS
15 AND IMPOSING DUTIES UPON THE DEPARTMENT OF REVENUE, CERTAIN
16 EMPLOYERS, FIDUCIARIES, INDIVIDUALS, PERSONS, CORPORATIONS AND
17 OTHER ENTITIES; PRESCRIBING CRIMES, OFFENSES AND PENALTIES,'
18 REVISING AND ADOPTING SALES AND USE TAX PROVISIONS ON PROCESSING
19 EXCLUSIONS, CREDIT SALES AND BAD DEBT SALES; REVISING PERSONAL
20 INCOME TAX PROVISIONS ON SMALL CORPORATIONS; EXPANDING
21 ELIGIBILITY FOR SPECIAL POVERTY PROVISIONS; REVISING ESTIMATED
22 TAX DECLARATIONS; ELIMINATING LOTTERY FUND TRANSFERS; REVISING
23 CORPORATE NET INCOME TAX PROVISIONS ON NONPROFIT ORGANIZATIONS,
24 NET LOSS DEDUCTIONS AND APPORTIONMENT OF BUSINESS INCOME;
25 REVISING CAPITAL STOCK FRANCHISE TAX PROVISIONS TO REDUCE THE
26 RATE OF TAXATION, REDUCE THE MINIMUM TAX, AND FURTHER PROVIDE
27 FOR CAPITAL STOCK FRANCHISE TAX EXEMPTIONS, EXCLUSIONS AND
28 PROCEEDS; ELIMINATING THE UTILITIES GROSS RECEIPTS TAX ON
29 NATURAL GAS; MAKING OMNIBUS AMENDMENTS TO THE PUBLIC UTILITY
30 REALTY TAX; PROVIDING FOR A TAX CREDIT FOR COAL WASTE REMOVAL

1 AND ULTRACLEAN FUELS; FURTHER PROVIDING FOR MALT BEVERAGE TAX
2 CREDITS; FURTHER PROVIDING FOR THE RATE OF TAXATION FOR THE
3 PUBLIC TRANSPORTATION ASSISTANCE FUND; FURTHER PROVIDING FOR
4 ESTIMATED TAX, FOR PAYMENT OF HARNESS AND THOROUGHBRED RACING
5 TAXES AND FOR CORPORATE TAX TREATMENT OF AUTOMOBILE CLUBS; AND
6 MAKING A REPEAL." THE SECRETARY OF REVENUE SHALL PUBLISH NOTICE
7 OF THE ENACTMENT OF THIS ACT IN THE PENNSYLVANIA BULLETIN.

8 SECTION 6. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

9 (1) THE ADDITION OF 66 PA.C.S. §§ 2004(B) AND 2203(15)
10 SHALL TAKE EFFECT MAY 1, 1999.

11 (2) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

12 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT JULY 1,
13 1999, OR IMMEDIATELY, WHICHEVER OCCURS LATER.