

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1331 Session of
1999

INTRODUCED BY RAYMOND AND TULLI, APRIL 20, 1999

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 16, 1999

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, providing for supply choice for
3 customers of natural gas utilities and for restructuring of
4 the natural gas utility industry and for utility industry <—
5 restructuring.; AND MAKING REPEALS. <—

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 ~~Section 1. Sections 1307(f) and (g), 1317 and 1318 of Title~~ <—
9 ~~66 of the Pennsylvania Consolidated Statutes are amended to~~
10 ~~read:~~

11 ~~§ 1307. Sliding scale of rates; adjustments.~~

12 ~~* * *~~

13 ~~(f) Recovery of natural gas costs.~~

14 ~~(1) Natural gas [distributors] distribution companies,~~
15 ~~as defined in section 2202 (relating to definitions), with~~
16 ~~gross intrastate annual operating revenues in excess of~~
17 ~~\$40,000,000 may file tariffs reflecting actual and projected~~
18 ~~increases or decreases in their natural gas costs and the~~
19 ~~tariffs shall have an effective date six months from the date~~

1 of filing. The commission shall promulgate regulations
2 establishing the time and manner of such filing, but, ~~except~~
3 ~~for adjustments pursuant to a tariff mechanism authorized in~~
4 ~~this title, no such natural gas [utility] distribution~~
5 ~~company shall voluntarily file more than one such tariff in a~~
6 ~~12 month period: Provided, That [nothing]:~~

7 ~~(i) Nothing contained herein shall prohibit any~~
8 ~~party from advising the commission that there has been or~~
9 ~~there is anticipated to be a significant difference~~
10 ~~between the natural gas costs to the [utility] natural~~
11 ~~gas distribution company and the costs reflected in the~~
12 ~~then effective tariff or the commission from acting upon~~
13 ~~such advice.~~

14 ~~(ii) A natural gas distribution company may also~~
15 ~~file a tariff to establish a mechanism by which such~~
16 ~~natural gas distribution company may further adjust its~~
17 ~~rates for natural gas sales on a regular, but no more~~
18 ~~frequent than monthly, basis to reflect actual or~~
19 ~~projected changes in natural gas costs reflected in rates~~
20 ~~established pursuant to paragraph (2), subject to annual~~
21 ~~reconciliation under paragraph (5). In the event that the~~
22 ~~natural gas distribution company adjusts rates more~~
23 ~~frequently than quarterly, it shall also offer retail gas~~
24 ~~customers a fixed rate option which recovers natural gas~~
25 ~~costs over a 12 month period, subject to annual~~
26 ~~reconciliation under paragraph (5). The commission shall,~~
27 ~~within 60 days of the effective date of this~~
28 ~~subparagraph, promulgate rules or regulations governing~~
29 ~~such adjustments and fixed rate option, but the~~
30 ~~commission shall not prohibit such adjustments or fixed~~

1 ~~rate option.~~

2 ~~(2) The commission shall conduct an investigation and~~
3 ~~hold a hearing or hearings, with notice, to [investigate]~~
4 ~~review the tariffs and consider the plans filed pursuant to~~
5 ~~section 1317 (relating to regulations of natural gas costs).~~
6 ~~Where there has been an indication of consumer interest, the~~
7 ~~hearing shall be held in the service territory of the natural~~
8 ~~gas [distributor] distribution company. Prior to the~~
9 ~~effective date of the filing, the commission shall issue an~~
10 ~~order establishing the rate to be charged to reflect such~~
11 ~~[increases or decreases] changes in natural gas costs. [Rates~~
12 ~~established under this subsection do not constitute either a~~
13 ~~sliding scale of rates or an automatic adjustment subject to~~
14 ~~the prohibitions in subsections (a) and (b).] The commission~~
15 ~~shall annually review and approve plans for purposes of~~
16 ~~reliability and supply. Such rates, however, are subject to~~
17 ~~the [kinds] types of audits, reports and proceedings required~~
18 ~~by subsection (d).~~

19 ~~(3) Within 60 days following the end of such 12 month~~
20 ~~period as the commission shall designate, each [public~~
21 ~~utility] natural gas distribution company subject to this~~
22 ~~subsection shall file with the commission a statement which~~
23 ~~specifies for such period:~~

24 ~~(i) The total revenues received pursuant to this~~
25 ~~section.~~

26 ~~(ii) The total [gas expense] natural gas costs~~
27 ~~incurred.~~

28 ~~(iii) The difference between the amounts specified~~
29 ~~by subparagraphs (i) and (ii).~~

30 ~~(iv) [Evidence explaining how actual] How actual~~

~~natural gas costs incurred differ from the natural gas costs allowed under paragraph (2) and why such differences occurred.~~

~~(v) How these natural gas costs are consistent with a least cost procurement policy as required by section 1318 (relating to determination of just and reasonable [natural] gas cost rates).~~

~~Such report shall be a matter of public record and copies thereof shall be made available by the [gas distributor] natural gas distribution company to any person upon request. Copies of the reports shall be filed with the Office of Consumer Advocate and the Office of Small Business Advocate at the same time as they are filed with the commission.~~

~~(4) The commission shall hold a public hearing on the substance of such statement submitted by a [utility] natural gas distribution company as required in paragraph (3) and on any related matters.~~

~~(5) The commission, after hearing, shall determine the portion of the [companies] company's natural gas distribution actual natural gas costs in the previous 12 month period which meet the standards set out in section 1318. The commission shall, by order, direct each [gas utility] natural gas distribution company subject to this subsection to refund to its [patrons any] customers gas revenues collected pursuant to paragraph (2) which exceed the amount of actual [gas expenses] natural gas costs incurred consistent with the standards in section 1318 and to recover from its [patrons] customers any amount by which the actual [gas expenses,] natural gas costs, which have been incurred consistent with the standards in section 1318, exceed the revenues collected~~

1 pursuant to paragraph (2). Absent good reason to the
2 contrary, the commission shall issue its order within six
3 months following the filing of the statement described in
4 paragraph (3). Refunds to [patrons] customers shall be made
5 with interest, [which shall be the average rate of interest
6 specified for residential mortgage lending by the Secretary
7 of Banking in accordance with the act of January 30, 1974
8 (P.L.13, No.6), referred to as the Loan Interest and
9 Protection Law,] at the legal rate of interest plus two
10 percent, during the period or periods for which the
11 commission orders refunds[:], and recoveries from customers
12 shall include interest at the legal rate of interest:
13 Provided, That nothing contained herein shall limit the
14 applicability of any defenses, principles or doctrines which
15 would prohibit the commission's inquiry into any matters
16 that were decided finally in the commission's order issued
17 under paragraph (2).

18 (6) The commission shall require that customers
19 transferring from sales to transportation service be subject
20 to the over or under collection adjustment provided for in
21 paragraph (5) and shall require further that customers
22 transferring from transportation service to sales service not
23 be subject to the over or under collection adjustment for an
24 appropriate period following either such transfer.

25 (g) Definition. As used in this section, [the term "natural
26 gas" includes natural gas, liquefied natural gas, synthetic
27 natural gas and any natural gas substitutes.] the terms "natural
28 gas costs" and "gas costs" include the direct costs paid by a
29 natural gas distribution company for the purchase and the
30 delivery of natural gas to its system in order to supply its

~~customers. Such costs may include costs paid under agreements to purchase natural gas from sellers; costs paid for transporting natural gas to its system; costs paid for natural gas storage service from others, including the costs of injecting and withdrawing natural gas from storage; all charges, fees, taxes and rates paid in connection with such purchases, pipeline gathering, storage and transportation; and costs paid for employing futures, options and other risk management tools.~~

~~"Natural gas" and "gas" include natural gas, liquified natural gas, synthetic natural gas and any natural gas substitutes.~~

~~§ 1317. Regulation of natural gas costs.~~

~~(a) General rule. In every rate proceeding instituted by a natural gas distribution utility, pursuant to section 1307(f) (relating to sliding scale of rates; adjustments), each such utility shall be required to [provide] supply to the commission such information, to be established by commission regulation within 120 days of the passage of this section, that will permit the commission to make specific findings as to whether the utility is pursuing a least cost fuel procurement policy, consistent with the utility's obligation to provide safe, adequate and reliable service to its customers. Such information shall include, but need not be limited to, information, data and statements regarding:~~

~~(1) The utility's participation in rate proceedings before the Federal Energy Regulatory Commission which affect the utility's gas costs.~~

~~(2) The utility's efforts to negotiate favorable contracts with gas suppliers and to renegotiate existing contracts with gas suppliers or take legal actions necessary to relieve the utility from existing contract terms which are~~

~~or may be adverse to the interests of the utility's
ratepayers.~~

~~(3) The utility's efforts to secure lower cost gas
supplies both within and outside of the Commonwealth,
including the use of transportation arrangements with
pipelines and other gas distribution companies.~~

~~(4) The sources and amounts of all gas supplies which
have been withheld or have been caused to be withheld from
the market by the utility and the reasons why such gas is not
to be utilized.~~

~~(b) Integrated gas companies. In the case of a natural gas
distribution utility which 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),
such utility shall, in addition to the materials required in
subsection (a), be required to provide to the commission such
information, to be established by commission regulation within
120 days of the passage of this section, that will permit the
commission to make specific findings as to whether any purchases
of gas from an affiliated interest are consistent with a least
cost fuel procurement policy, consistent with the utility's
obligation to provide safe, adequate and reliable service to its
customers. Such information shall include, but need not be
limited to, statements regarding:~~

~~(1) Efforts made by the utility to obtain gas supplies
from nonaffiliated interests.~~

~~(2) The specific reasons why the utility has purchased
gas supplies from an affiliated interest and demonstration
that such purchases are consistent with a least cost fuel
procurement policy.~~

~~(3) The sources and amounts of all gas supplies which have been withheld from the market by the utility or any affiliated interest and the reasons why such gas is not being utilized.~~

~~(c) Reliability plans. As part of its filing under section 1307(f) or if it is not required to make such a filing on an annual basis, a natural gas distribution company, as defined in section 2202 (relating to definitions), shall file a proposed reliability plan with the commission which shall, at a minimum, identify the following:~~

~~(1) The projected peak day and seasonal requirements of the firm customers utilizing the distribution system of the natural gas distribution company during the 12 month projected period specified in section 1307(f)(1). Where operationally required, the design peak day requirements shall be specified for discrete segments of each natural gas distribution system.~~

~~(2) The transportation capacity, storage, peaking or on system production that ensures deliverability of the natural gas supplies necessary to meet such projected period peak day and seasonal requirements.~~

~~(d) Supply plans. As part of its filing under section 1307(f), a natural gas distribution company shall file a proposed plan with the commission for acquisition or receipt of natural gas supplies.~~

~~[(c)] (e) Definition. As used in this section, the [term "natural gas" includes natural gas, liquified natural gas, synthetic natural gas and any natural gas substitutes] terms "natural gas costs," "gas costs," "natural gas" and "gas" shall have the same definitions as provided in section 1307(g).~~

~~§ 1318. Determination of just and reasonable [natural] gas cost rates.~~

~~(a) General rule. In establishing just and reasonable rates for those natural gas distribution [utilities] companies, as defined in section 2202 (relating to definitions), with gross intrastate operating revenues in excess of \$40,000,000 under section 1307(f) (relating to sliding scale of rates; adjustments) or 1308(d) (relating to voluntary changes in rates) or any other rate proceeding, the commission shall consider the materials provided by the utilities pursuant to section 1317 (relating to regulation of natural gas costs). No rates for a natural gas distribution utility shall be deemed just and reasonable unless the commission finds that the utility is pursuing a least cost fuel procurement policy, consistent with the utility's obligation to provide safe, adequate and reliable 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 long term bases from nonaffiliated interests.~~

~~(2) That each contract for the purchase of gas from its affiliated interest is consistent with a least cost fuel procurement policy.~~

~~(3) That neither the utility nor its affiliated interest has withheld from the market any gas supplies which should have been utilized as part of a least cost fuel procurement policy.~~

~~(c) Shut in gas; special rule. In determining whether a gas utility has purchased the least costly natural gas available, the commission shall consider as available to the utility any gas supplies that reasonably could have been brought to market during the relevant period but which were voluntarily withheld from the market by the utility or an affiliated interest of the~~

1 utility.

2 ~~(d) Other regulatory approvals. The fact that a contract or~~
3 ~~rate has been approved by a Federal regulatory agency for~~
4 ~~interstate ratemaking purposes shall not, in and of itself, be~~
5 ~~adequate to satisfy the utility's burden of proof that gas~~
6 ~~prices and volumes associated with such contract or rate are~~
7 ~~just and reasonable for purposes of this section.~~

8 ~~(e) Reports. Each natural gas distribution utility with~~
9 ~~gross intrastate annual operating revenues in excess of~~
10 ~~\$40,000,000 shall file with the commission [and], the Office of~~
11 ~~Consumer Advocate and the Office of Small Business Advocate, in~~
12 ~~accordance with regulations to be prescribed by the commission,~~
13 ~~quarterly reports setting forth the actual gas costs incurred by~~
14 ~~the utility on a monthly basis. Actual gas costs shall be~~
15 ~~reviewed for their accuracy by the Bureau of Audits at least~~
16 ~~annually and the results of that review shall be submitted to~~
17 ~~the commission.~~

18 ~~(f) Definition. As used in this section, the [term includes~~
19 ~~natural gas, liquified natural gas, synthetic natural gas and~~
20 ~~any natural gas substitutes.] terms "natural gas" "natural gas~~
21 ~~costs," "gas costs," and "gas" shall have the same definitions~~
22 ~~as provided in section 1307(g).~~

23 Section 2. Title 66 is amended by adding a chapter to read:

24 CHAPTER 20

25 UTILITY INDUSTRY RESTRUCTURING

26 Sec.

27 2001. Applicability.

28 2002. Findings and purposes.

29 2003. Requirements.

30 2004. Requirements related to work force reduction.

1 ~~2005.— Displaced employee program.~~

2 ~~2006.— Transfers of ownership.~~

3 ~~2007.— Transfers to certain subsidiaries.~~

4 ~~2008.— Existing sales agreements.~~

5 ~~§ 2001.— Applicability.~~

6 ~~In addition to any other specific requirements contained in~~
7 ~~this title, the provisions of this chapter shall apply to the~~
8 ~~restructuring or deregulation of any public utility industry.~~

9 ~~§ 2002.— Findings and purposes.~~

10 ~~(1) The reliability and safety of the public utility~~
11 ~~industries subject to this title have depended on a work~~
12 ~~force of skilled and dedicated employees equipped with~~
13 ~~technical training and experience.~~

14 ~~(2) The integrity and reliability of their systems also~~
15 ~~have depended on each industry's commitment to invest in~~
16 ~~regular inspection and maintenance, to assure that they can~~
17 ~~withstand the demands of heavy service requirements and~~
18 ~~emergency situations.~~

19 ~~(3) It is in the Commonwealth's interest to protect the~~
20 ~~interests of public utility employees who have dedicated~~
21 ~~themselves to assuring reliable service to the citizens of~~
22 ~~this Commonwealth and who otherwise might be economically~~
23 ~~displaced in a restructured industry.~~

24 ~~§ 2003.— Requirements.~~

25 ~~The General Assembly further finds that it is necessary to~~
26 ~~assure that employees operating in a restructured or deregulated~~
27 ~~public utility industry have the requisite skills, knowledge and~~
28 ~~competence to provide safe, adequate and reliable service and,~~
29 ~~therefore, all public utilities and all other persons providing~~
30 ~~services to consumers using the facilities of a public utility~~

~~1 shall be required to demonstrate the competence of their
2 employees to work in the public utility industry. The knowledge,
3 skills and competence levels to be demonstrated shall be
4 consistent with those generally required of or by comparable
5 public utilities in this Commonwealth with respect to their
6 employees. Adequate demonstration of requisite knowledge, skills
7 and competence shall include such factors as completion by the
8 employee of an accredited or otherwise recognized apprenticeship
9 program for the particular craft, trade or skill, or specified
10 years of employment with a public utility or similar business
11 performing the particular work function. To implement this
12 requirement, the commission, in determining that a person or
13 public utility meets the standards required by this chapter,
14 shall require the person or public utility to demonstrate that
15 the person or public utility is licensed to do business in this
16 Commonwealth and that the employees of the person or public
17 utility that will be installing, operating and maintaining
18 facilities and services within this Commonwealth, or any other
19 entity which the person or public utility has contracted to
20 perform those functions within this Commonwealth, have the
21 requisite knowledge, skills and competence to perform those
22 functions in a safe and responsible manner in order to provide
23 safe, adequate and reliable service in accordance with the
24 criteria stated herein.~~

~~25 § 2004. Requirements related to work force reduction.~~

~~26 (a) Work force reduction plan. The General Assembly finds
27 based on experience in industries that have undergone
28 deregulation, restructuring and transition, that the
29 introduction of competition into this Commonwealth's regulated
30 industries may result in work force reductions by public~~

~~utilities which may adversely affect persons who have been employed in this Commonwealth's regulated industries in functions important to the public convenience and necessity. The General Assembly further finds that the impacts on employees and their communities of any necessary reductions in the industry's work force directly caused by the restructuring or deregulation of an industry subject to this title shall be mitigated to the extent practicable through such means as offers of voluntary severance, retraining, early retirement, outplacement, continuation of medical benefits and related benefits.~~

~~Therefore, before any such reduction in the work force, a public utility shall present to its employees or their representatives a work force reduction plan outlining the means by which the public utility intends to reasonably mitigate the impact of such work force reduction on its employees.~~

~~(b) Employee termination. Beginning May 1, 1999, if a public utility lays off or terminates any of its employees, except for just cause, the public utility shall provide the commission with sufficient information to show that with the reduction of employees the public utility will still be able to ensure the safety, adequacy and reliability of service to all customers and provide at least 60 days' written notice of such layoff or termination to the public utility's employees or the employees' authorized bargaining representative.~~

~~§ 2005. Displaced employee program.~~

~~The Department of Labor and Industry shall establish and implement a program to assist the employees of a public utility who are displaced by restructuring or deregulation. The program shall be designed to assist employees in obtaining employment and shall consist of utilizing the Federal funds available for~~

~~the purpose of retraining and outplacement services for such employees.~~

~~§ 2006. Transfers of ownership.~~

~~In the event of a sale, purchase, or any other transfer of ownership of a public utility, or of one or more Pennsylvania divisions or business units of a public utility, the existing public utility's contracts and/or agreements with the acquiring person shall require that the acquiring person shall hire a sufficient number of nonsupervisory employees to operate and maintain the facilities and services of the public utility by initially making offers of employment to the nonsupervisory work force of the public utility, or the division or business unit of the public utility being transferred, at no less than the wage rates and substantially equivalent fringe benefits and terms and conditions of employment that are in effect at the time of transfer of ownership of said division or business unit and said wage rates and substantially equivalent fringe benefits and terms of and conditions of employment shall continue for at least 30 months from the time of said transfer of ownership unless the public utility, the acquiring person and the affected employees mutually agree to different terms and conditions of employment within that 30 month period. The public utility shall offer a transition plan to those employees who are not offered jobs by the acquiring person because that person has a need for fewer workers. If there is litigation concerning the sale or other transfer of ownership of the public utility, or the division or business unit of the public utility, the 30 month period will begin on the date the acquiring person takes control or management of the public utility or the division or business unit of the public utility.~~

~~§ 2007. Transfers to certain subsidiaries.~~

~~If a public utility transfers ownership of one or more Pennsylvania divisions or business units to a majority owned subsidiary of the public utility or to any affiliated interest of the public utility as defined in section 2101 (relating to definition of affiliated interest), that subsidiary or affiliated interest shall continue to employ the public utility's employees who were employed by the public utility at such division or business unit at the time of the transfer under the same terms and conditions of employment as those employees enjoyed at the time of the transfer. If ownership of the subsidiary or affiliated interest is subsequently sold or transferred to a third party, these provisions shall continue to apply.~~

~~§ 2008. Existing sales agreements.~~

~~The provisions of sections 2006 (relating to transfers of ownership) and 2007 (relating to transfers to certain subsidiaries) shall not apply to the transfer of any division or business unit of a public utility which was the subject of an executed sales agreement entered into before January 1, 1999.~~

~~Section 3. Subpart D of Part I of Title 66 is amended by adding a chapter to read:~~

~~CHAPTER 22~~

~~NATURAL GAS COMPETITION~~

~~Sec.~~

~~2201. Short title of chapter.~~

~~2202. Definitions.~~

~~2203. Standards for restructuring of natural gas utility industry.~~

~~2204. Implementation.~~

1 ~~2205. Duties of natural gas distribution companies.~~

2 ~~2206. Consumer protections and customer service.~~

3 ~~2207. Obligation to serve.~~

4 ~~2208. Requirements for natural gas suppliers.~~

5 ~~2209. Market power remediation.~~

6 ~~2210. Approval of proposed mergers, consolidations,~~
7 ~~acquisitions or dispositions.~~

8 ~~2211. Rate caps.~~

9 ~~§ 2201. Short title of chapter.~~

10 ~~This chapter shall be known and may be cited as the Natural~~
11 ~~Gas Choice and Competition Act.~~

12 ~~§ 2202. Definitions.~~

13 ~~The following words and phrases when used in this chapter~~
14 ~~shall have the meanings given to them in this section unless the~~
15 ~~context clearly indicates otherwise:~~

16 ~~"Consumer protection." The standards, practices and service~~
17 ~~protections for retail gas customers, including those provided~~
18 ~~for in 52 Pa. Code Ch. 56 (relating to standards and billing~~
19 ~~practices for residential utility service), as well as~~
20 ~~applicable Federal and State debt/credit collection statutes and~~
21 ~~any regulations or orders of the commission that provide such~~
22 ~~protections, as may be modified by the commission from time to~~
23 ~~time.~~

24 ~~"Entity." A person or corporation as defined in section 102~~
25 ~~(relating to definitions).~~

26 ~~"Natural gas distribution company." A public utility that~~
27 ~~provides natural gas distribution services and which may provide~~
28 ~~natural gas supply services and other services. For purposes of~~
29 ~~this chapter, this term does not include:~~

30 ~~(1) any public utility subject to the jurisdiction of~~

~~the commission which has annual gas operating revenues of less than \$6,000,000 per year, except where the public utility voluntarily petitions the commission to be included within this definition or where the public utility seeks to provide natural gas supply services to retail gas customers outside its service territory; or~~

~~(2) any natural gas public utility subject to the jurisdiction of the commission that is not interconnected to an interstate gas pipeline by means of a direct connection or an indirect connection through the distribution system of another natural gas public utility or through a natural gas gathering system.~~

~~"Natural gas distribution service." The delivery of natural gas to retail gas customers utilizing the jurisdictional facilities of the natural gas distribution company.~~

~~"Natural gas supplier." An entity other than a natural gas distribution company, but including natural gas distribution company marketing affiliates, which provides natural gas supply services to retail gas customers utilizing the jurisdictional facilities of a natural gas distribution company. The term includes a natural gas distribution company that provides natural gas supply services outside its certificated service territories. The term includes a municipal corporation, its affiliates or any joint venture, to the extent that it chooses to provide natural gas supply services to retail customers located outside of its corporate or municipal limits, as applicable, other than:~~

~~(i) as provided prior to the effective date of this chapter, pursuant to a certificate of public convenience if required under this title;~~

~~(ii) total natural gas supply services in de minimis amounts;~~

~~(iii) natural gas supply services requested by, or provided with the consent of, the public utility in whose certificated territory the services are provided; or~~

~~(iv) natural gas supply services provided to the municipal corporation itself or its tenants on land it owns or leases, or is subject to an agreement of sale or pending condemnation, as of September 1, 1999, to the extent permitted by applicable law independent of this chapter.~~

~~The term excludes an entity to the extent that it provides free gas to end users under the terms of an oil or gas lease.~~

~~Notwithstanding any other provision of this title, a natural gas supplier that is not a natural gas distribution company is not a public utility as defined in section 102 (relating to definitions) to the extent that the natural gas supplier is utilizing the jurisdictional distribution facilities of a natural gas distribution company or is providing other services authorized by the commission.~~

~~"Natural gas supply services."~~

~~(1) The term includes:~~

~~(i) The sale or arrangement of the sale of natural gas to retail gas customers; and~~

~~(ii) services that may be unbundled by the commission under section 2203(3) (relating to standards for restructuring of natural gas utility industry).~~

~~(2) The term does not include distribution service.~~

~~"Reliability." The term comprises adequacy and security. The term "adequacy" means the provision of sufficient volumes and~~

~~deliverability of natural gas so as to supply the requirements of retail gas customers, taking into account peak and seasonal demands, as well as isolated market areas and system operation contingencies. The term "security" means designing, maintaining and operating a system so that it can safely handle extreme conditions, as well as emergencies.~~

~~"Retail gas customer." A direct purchaser of natural gas supply services or natural gas distribution services, other than a natural gas supplier. The term excludes an occupant of a building or facility where the owner/operators manage the internal distribution system serving such building or facility and supply natural gas and other related services to occupants of the building or facility; where such owner/operators are direct purchasers of natural gas supply service; and where the occupants are not direct purchasers.~~

~~"Universal service and energy conservation." Policies, practices and services that help residential low income retail gas customers and other residential retail gas customers experiencing temporary emergencies, as defined by the commission, to maintain natural gas supply and distribution services. The term includes retail gas customer assistance programs, termination of service protections and consumer protection policies and services that help residential low income customers and other residential customers experiencing temporary emergencies to reduce or manage energy consumption in a cost effective manner, such as the low income usage reduction programs and consumer education.~~

~~§ 2203. Standards for restructuring of natural gas utility industry.~~

~~The following interdependent standards shall govern the~~

~~commission's actions in adopting rules, orders or policies and in reviewing, assessing and approving each natural gas distribution company's restructuring filings and overseeing the transition process and regulation of the restructured natural gas utility industry:~~

~~(1) The commission shall adopt and enforce standards as necessary to ensure continuation of the safety and reliability of the natural gas supply and distribution service to all retail gas customers. In adopting the standards, the commission shall consider the absence of any applicable industry standards and practices or adopt standards in conformity with industry standards and practices meeting the standards of this chapter. The application of such standards shall be in a manner that incorporates the operating requirements of the different natural gas distribution companies.~~

~~(2) Consistent with section 2204 (relating to implementation), the commission shall allow retail gas customers to choose among natural gas suppliers and natural gas distribution companies to the extent that they offer such natural gas supply services. Retail gas customers shall be able to choose from these suppliers a variety of products, including, but not limited to, different supply and pricing options, and services that evolve as the competitive marketplace matures. Neither any natural gas supplier nor any natural gas distribution company shall offer interruptible gas service to any essential human needs retail gas customer lacking installed and operable alternative fuel capability or to any residential retail gas customer.~~

~~(3) The commission shall require natural gas~~

1 ~~distribution companies to unbundle natural gas supply~~
2 ~~services such that separate charges for the services can be~~
3 ~~set forth in tariffs and on retail gas customers' bills. In~~
4 ~~its restructuring filing, the natural gas distribution~~
5 ~~company shall establish system reliability standards and~~
6 ~~capacity contract mitigation parameters and address the~~
7 ~~unbundling of commodity, capacity, storage, balancing and~~
8 ~~aggregator services. The commission may address the~~
9 ~~unbundling of other services only through a rulemaking. In~~
10 ~~conducting the rulemaking, the commission shall consider the~~
11 ~~impact of such unbundling on the labor force, the creation of~~
12 ~~stranded costs, safety, reliability, consumer protections,~~
13 ~~universal service and the potential for unbundling to offer~~
14 ~~savings, new products and additional choices or services to~~
15 ~~retail gas customers. The commission's decisions shall assure~~
16 ~~that standards and procedures for safety and reliability,~~
17 ~~consumer protections and universal service are maintained at~~
18 ~~levels consistent with this chapter.~~

19 ~~(4) Consistent with the provisions of section 2204, the~~
20 ~~commission shall require that a natural gas distribution~~
21 ~~company that owns or operates jurisdictional distribution~~
22 ~~facilities shall provide distribution service to all retail~~
23 ~~gas customers in its service territory and to all natural gas~~
24 ~~suppliers, affiliated or nonaffiliated, on nondiscriminatory~~
25 ~~rates, terms of access and other conditions.~~

26 ~~(5) The commission shall require that restructuring of~~
27 ~~the natural gas utility industry be implemented in a manner~~
28 ~~that does not unreasonably discriminate against one customer~~
29 ~~class for the benefit of another.~~

30 ~~(6) After notice and hearings, the commission shall~~

1 ~~establish for each natural gas distribution company an~~
2 ~~appropriate nonbypassable, competitively neutral cost~~
3 ~~recovery mechanism which is designed to recover fully the~~
4 ~~natural gas distribution company's universal service and~~
5 ~~energy conservation costs over the life of these programs.~~
6 ~~Except as provided in paragraph (10), policies, activities~~
7 ~~and services under this paragraph shall be funded and spent~~
8 ~~in each natural gas distribution company's service territory.~~
9 ~~Nothing in this chapter shall be construed to prohibit public~~
10 ~~funding or voluntary funding by third parties of a natural~~
11 ~~gas distribution company's universal service and energy~~
12 ~~conservation programs.~~

13 ~~(7) The commission shall, at a minimum, continue the~~
14 ~~level and nature of the consumers protections, policies and~~
15 ~~services within its jurisdiction that are in existence as of~~
16 ~~the effective date of this chapter to assist low income~~
17 ~~retail gas customers to afford natural gas services.~~

18 ~~(8) The commission shall ensure that universal service~~
19 ~~and energy conservation policies, activities and services are~~
20 ~~appropriately funded and available in each natural gas~~
21 ~~distribution service territory. The commission shall~~
22 ~~encourage the use of community based organizations that have~~
23 ~~the necessary technical and administrative experience to be~~
24 ~~the direct providers of services or programs which reduce~~
25 ~~energy consumption or otherwise assist low income retail gas~~
26 ~~customers to afford natural gas service. Programs under this~~
27 ~~paragraph shall be subject to the administrative oversight of~~
28 ~~the commission, which shall ensure that the programs are~~
29 ~~operated in a cost effective manner.~~

30 ~~(9) Each natural gas distribution company shall set~~

1 ~~forth in its restructuring filing an initial proposal to meet~~
2 ~~its universal service and energy conservation obligations.~~

3 ~~(10) Consistent with paragraph (7), the commission shall~~
4 ~~convene a task force to review universal service programs and~~
5 ~~their funding. The task force shall issue a report to the~~
6 ~~commission by December 31, 1999, and annually thereafter.~~
7 ~~Recommendations regarding the use of general State revenue~~
8 ~~shall be concurrently forwarded to the General Assembly.~~

9 ~~(11) The commission shall continue to regulate rates for~~
10 ~~natural gas distribution services for new and existing retail~~
11 ~~gas customers in accordance with Chapter 13 (relating to~~
12 ~~rates and rate making) and this chapter.~~

13 ~~(12) The commission shall make its determinations~~
14 ~~pursuant to this chapter and shall adopt such orders or~~
15 ~~regulations as necessary and appropriate to ensure that~~
16 ~~natural gas suppliers meet their supply and reliability~~
17 ~~obligations, including, but not limited to, establishing~~
18 ~~penalties for failure to deliver natural gas and revoking~~
19 ~~licenses. Any affected entity may at any time petition the~~
20 ~~commission to amend or rescind any such order or regulation~~
21 ~~issued or promulgated under this chapter.~~

22 ~~(13) Each natural gas distribution company shall set~~
23 ~~forth in its restructuring filing an initial proposal to meet~~
24 ~~its employee transition obligations precipitated by this~~
25 ~~chapter.~~

26 ~~(14) The natural gas distribution company may continue~~
27 ~~to provide natural gas service to its customers under all~~
28 ~~tariff rate schedules and riders incorporated into its~~
29 ~~tariff, and policies or programs, existing on the effective~~
30 ~~date of this chapter.~~

1 ~~(15) Beginning May 1, 1999, and continuing for a 36-~~
2 ~~month period thereafter, if a natural gas distribution~~
3 ~~company lays off or terminates any of its employees, except~~
4 ~~for just cause, the natural gas distribution company shall:~~

5 ~~(i) Provide the commission with sufficient~~
6 ~~information to show that with the reduction of employees~~
7 ~~the company will still be able to ensure the safety and~~
8 ~~reliability of natural gas distribution service to all~~
9 ~~retail gas customers, as provided for by the commission~~
10 ~~under paragraph (1).~~

11 ~~(ii) Provide at least 60 days' written notice of~~
12 ~~such layoff or termination to the company's employees'~~
13 ~~authorized bargaining representative.~~

14 ~~§ 2204. Implementation.~~

15 ~~(a) Commencement of customer choice. Beginning on November~~
16 ~~1, 1999, unless the commission for good cause shown extends this~~
17 ~~period by no more than eight months, consistent with this~~
18 ~~chapter, all retail gas customers of natural gas distribution~~
19 ~~companies shall have the opportunity to purchase natural gas~~
20 ~~supply services from a natural gas supplier or their natural gas~~
21 ~~distribution company to the extent it offers such services. The~~
22 ~~choice of natural gas suppliers shall rest with the retail gas~~
23 ~~customer. The commission shall adopt orders, rules, regulations~~
24 ~~and policies as shall be necessary and appropriate to implement~~
25 ~~fully this chapter within the time frames specified in this~~
26 ~~chapter, provided that the commission may, in the context of~~
27 ~~each natural gas distribution company's restructuring~~
28 ~~proceeding, establish the time frames for implementation of~~
29 ~~specific components of each natural gas distribution company's~~
30 ~~restructuring plan.~~

~~(b) Restructuring filings. All natural gas distribution companies in this Commonwealth shall file with the commission, pursuant to a schedule to be determined by the commission in consultation with the natural gas distribution companies, a restructuring filing consistent with this chapter and with any orders, rules or regulations adopted by the commission.~~

~~(c) Commission review.—~~

~~(1) The commission shall review the restructuring filing of each natural gas distribution company and shall, after open evidentiary hearings with proper notice and opportunity for all parties to cross examine witnesses and brief issues, issue an order accepting, modifying or rejecting such filing at the earliest date possible, but no later than nine months from the filing date.~~

~~(2) In issuing the restructuring order, the commission may consider the results of any collaborative process previously engaged in during or prior to the restructuring proceeding.~~

~~(3) If the commission modifies or rejects a restructuring filing, it shall state the specific reasons for modification or rejection and direct the natural gas distribution company to address such objections with another filing within 30 days of the entry date of the commission order modifying or rejecting the prior filing.~~

~~(4) The commission shall review the alternative filing, solicit comments and reply comments from interested parties and issue a final order within 45 days of the revised filing.~~

~~(d) Release, assignment or transfer of capacity.—~~

~~(1) A natural gas distribution company holding contracts for firm storage or transportation capacity, including gas~~

1 ~~supply contracts with Pennsylvania producers, on the~~
2 ~~effective date of this chapter may, at its option, release,~~
3 ~~assign or otherwise transfer such capacity, or Pennsylvania~~
4 ~~supply, in whole or part, associated with those contracts on~~
5 ~~a nondiscriminatory basis to licensed natural gas suppliers~~
6 ~~or large commercial or industrial customers on its system.~~

7 ~~(2) Contracts which by their terms must be renewed~~
8 ~~within 150 days after the effective date of this chapter or~~
9 ~~contracts for which the last day for notice of renewal or~~
10 ~~nonrenewal pursuant to the notice provision of the contract~~
11 ~~has occurred or is within 150 days after the effective date~~
12 ~~of this chapter and which are renewed pursuant to such notice~~
13 ~~requirements shall also be subject to the provisions of this~~
14 ~~subsection.~~

15 ~~(3) Such release, assignment or transfer shall be at the~~
16 ~~applicable contract rate for such capacity, or Pennsylvania~~
17 ~~supply, and shall be subject to applicable contractual~~
18 ~~arrangements and tariffs. The amount so released, assigned or~~
19 ~~transferred shall be sufficient to serve the level of the~~
20 ~~customers' requirements for which the natural gas~~
21 ~~distribution company has procured such capacity, determined~~
22 ~~in accordance with the natural gas distribution company's~~
23 ~~tariff or procedures approved in its restructuring~~
24 ~~proceedings.~~

25 ~~(4) The licensed natural gas supplier shall accept such~~
26 ~~release, assignment or transfer of that capacity, or~~
27 ~~Pennsylvania supply, and enter into all applicable contracts~~
28 ~~or agreements, as a condition of serving retail gas customers~~
29 ~~on the natural gas distribution company's system.~~

30 ~~(5) On or after July 1, 2002, the commission shall have~~

1 ~~the authority to prevent such assignments, releases or~~
2 ~~transfers under either of the following circumstances:~~

3 ~~(i) the natural gas distribution company, alone or~~
4 ~~together with one or more natural gas suppliers,~~
5 ~~voluntarily proposes an alternative to such assignments,~~
6 ~~releases or transfers and the commission finds such~~
7 ~~alternative to be in the public interest; or~~

8 ~~(ii) upon the petition of the licensed natural gas~~
9 ~~supplier who desires to use alternate interstate storage~~
10 ~~or transportation capacity to serve its customers on the~~
11 ~~natural gas distribution company's system, the commission~~
12 ~~makes the following findings and issues a final order as~~
13 ~~to which all appeals have been exhausted in which:~~

14 ~~(A) The commission finds that the alternate~~
15 ~~capacity which the natural gas supplier seeks to~~
16 ~~utilize meets the operational needs and reliability~~
17 ~~standards of the natural gas distribution company.~~

18 ~~(B) The commission confirms that the natural gas~~
19 ~~distribution company's specific transportation and~~
20 ~~storage capacity contracts to be displaced are no~~
21 ~~longer needed to serve firm customers of the natural~~
22 ~~gas distribution company.~~

23 ~~(C) The commission authorizes the natural gas~~
24 ~~distribution company to follow a specific, written~~
25 ~~mitigation plan approved by the commission or, if~~
26 ~~such a plan is not approved or applicable, to post~~
27 ~~the displaced capacity for release in accordance with~~
28 ~~the rules and regulations of the Federal Energy~~
29 ~~Regulatory Commission and applicable requirements of~~
30 ~~interstate pipelines.~~

1 ~~(D) The commission authorizes the natural gas~~
2 ~~distribution company to recover the difference~~
3 ~~between the amount the natural gas distribution~~
4 ~~company is required to pay under the applicable~~
5 ~~contract terms for the capacity released, assigned or~~
6 ~~transferred pursuant to subparagraph (c) and the~~
7 ~~amount the natural gas distribution company receives~~
8 ~~from an entity, if any, that acquires such capacity.~~
9 ~~Under no circumstances, however, shall such recovery~~
10 ~~result in shifting of costs between customer classes~~
11 ~~or in any increase in rates to customers who continue~~
12 ~~to purchase natural gas supplies from the natural gas~~
13 ~~distribution company acting in its supplier of last~~
14 ~~resort function.~~

15 ~~(6) Prior to making the filing provided for in paragraph~~
16 ~~(5), the natural gas supplier shall meet with the natural gas~~
17 ~~distribution company to discuss the natural gas supplier's~~
18 ~~proposed alternatives to the existing gas supply or capacity~~
19 ~~contracts or to their mandatory assignment.~~

20 ~~(7) Those natural gas distribution companies having gas~~
21 ~~supply contracts with Pennsylvania producers may address the~~
22 ~~issue of post July 1, 2002, assignment of such contracts in~~
23 ~~their restructuring proceeding or thereafter.~~

24 ~~(c) New and renewed capacity.—~~

25 ~~(1) Subject to the service obligations imposed by this~~
26 ~~title, and to the extent such capacity is not needed to meet~~
27 ~~the natural gas distribution company's least cost fuel~~
28 ~~procurement and other applicable standards pursuant to this~~
29 ~~title, prior to entering into new or renewed contracts for~~
30 ~~firm storage or transportation capacity not subject to~~

1 ~~subsection (d)(1), (2), (3) or (4) each natural gas~~
2 ~~distribution company shall offer on a nondiscriminatory basis~~
3 ~~to each natural gas supplier licensed to do business on its~~
4 ~~system, and to large volume industrial or commercial~~
5 ~~customers of the natural gas distribution company being~~
6 ~~served by such contracts, the opportunity to renew such~~
7 ~~contracts, pursuant to the rules and regulations of the~~
8 ~~Federal Energy Regulatory Commission, or to enter into other~~
9 ~~contracts for capacity.~~

10 ~~(2) The capacity shall meet the reliability criteria of~~
11 ~~the natural gas distribution company and, in the case of~~
12 ~~large volume industrial and commercial customers being served~~
13 ~~by such contracts, shall meet their current requirements.~~

14 ~~(3) Each natural gas distribution company shall utilize~~
15 ~~the collaborative process established pursuant to subsection~~
16 ~~(f) to address its capacity requirements.~~

17 ~~(4) Absent the natural gas supplier or large volume~~
18 ~~industrial or commercial customer taking or providing such~~
19 ~~capacity, the natural gas distribution company shall file~~
20 ~~with and obtain approval from the commission for such~~
21 ~~contracts necessary to ensure sufficient capacity to meet~~
22 ~~current and projected customer requirements considering the~~
23 ~~commitments of natural gas suppliers.~~

24 ~~(5) Prior to being displaced by a natural gas supplier's~~
25 ~~alternate interstate storage or transportation capacity,~~
26 ~~contracts renewed or entered into by the natural gas~~
27 ~~distribution company pursuant to this subsection shall be~~
28 ~~subject to the process set forth in subsection (d).~~

29 ~~(f) Working group and collaborative process. In its~~
30 ~~restructuring proceeding, a natural gas distribution company~~

~~shall set forth a process to establish a working group of licensed natural gas suppliers having customers on the natural gas distribution company's system and representatives of the residential, commercial and industrial customer classes to:~~

~~(1) Meet on a scheduled basis.~~

~~(2) Seek resolution of operational and capacity issues related to customer choice.~~

~~The final determination of operational and reliability issues resides with the natural gas distribution company. In addition, the natural gas distribution company shall include in its restructuring filing a collaborative process to address broader issues relating to unbundling, customer choice and deregulation.~~

~~(g) Investigation and report to General Assembly. Five years after the effective date of this chapter, the commission shall initiate an investigation or other appropriate proceeding, in which all interested parties are invited to participate, to determine whether effective competition for natural gas supply services exists on the natural gas distribution companies' systems in this Commonwealth. The commission shall report its findings to the General Assembly. Should the commission conclude that effective competition does not exist, the commission shall reconvene the stakeholders in the natural gas industry in this Commonwealth to explore avenues, including legislative, for encouraging increased competition in this Commonwealth.~~

~~(h) Displaced employee program. The Department of Labor and Industry shall establish and implement a program to assist the natural gas distribution company employees who are displaced by the transition to retail competition precipitated by this chapter. The program shall be designed to assist employees in obtaining employment and shall consist of utilizing the Federal~~

~~funds available for the purpose of retraining and outplacement services for such employees.~~

~~§ 2205. Duties of natural gas distribution companies.~~

~~(a) Integrity of distribution system.—~~

~~(1) Each natural gas distribution company shall maintain the integrity of its distribution system at least in conformity with the standards established by the Federal Department of Transportation and such other standards practiced by the industry in a manner sufficient to provide safe and reliable service to all retail gas customers connected to its system consistent with this title and the commission's orders or regulations.~~

~~(2) In performing such duties, the natural gas distribution company shall implement procedures to require all natural gas suppliers to supply natural gas to the natural gas distribution company at locations, volumes, qualities and pressures that are adequate to meet the natural gas supplier's supply and reliability obligations to its retail gas customers and the natural gas distribution company's supply and reliability obligations to its retail gas customers. The procedures shall include, but not be limited to:~~

~~(i) A communication protocol with natural gas suppliers.~~

~~(ii) An ability to issue system maintenance orders to control the flow of gas into the distribution system.~~

~~(iii) The right to issue and enforce penalties pursuant to commission direction, provided, however, that the commission may approve additional procedures of like nature by order or regulation to preserve reliability.~~

~~(b) Installation and improvement of facilities.—~~

~~(1) The natural gas distribution company shall not have an obligation to install nonstandard facilities, either as to type or location, for the purpose of receiving natural gas from the natural gas supplier unless the natural gas supplier or its retail gas customer pays the full cost of these facilities.~~

~~(2) Nothing in this chapter shall prevent the natural gas distribution company from maintaining and upgrading its system to meet retail gas customer requirements consistent with the requirement of section 1501 (relating to character of service and facilities) or compliance with other statutory and regulatory requirements.~~

~~(3) Disputes concerning facilities shall be subject to the jurisdiction of the commission and may be initiated by 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~~

1 ~~procedures). At a minimum, such charges shall include~~
2 ~~those services which are unbundled as a result of a~~
3 ~~restructuring filing or rulemaking.~~

4 ~~(ii) Bills to retail residential customers rendered~~
5 ~~by a natural gas distribution company for natural gas~~
6 ~~distribution services shall include information required~~
7 ~~by commission regulations governing standards and billing~~
8 ~~practices for residential utility service.~~

9 ~~(iii) Bills rendered by a natural gas distribution~~
10 ~~company on behalf of a natural gas supplier shall~~
11 ~~include, in a form and manner determined by the natural~~
12 ~~gas distribution company, in consultation with the~~
13 ~~natural gas supplier, the following information with~~
14 ~~respect to natural gas supplier services: the name of the~~
15 ~~natural gas supplier; the rates, charges or prices of~~
16 ~~natural gas supply services billed, including adjustments~~
17 ~~to prior period billings, if applicable, and taxes, if~~
18 ~~applicable; and the natural gas supplier's toll free~~
19 ~~telephone number and hours of operation for customer~~
20 ~~inquiries.~~

21 ~~(3) Incremental costs relating to billing services~~
22 ~~designed, implemented and rendered by the natural gas~~
23 ~~distribution company, at its election, on behalf of a natural~~
24 ~~gas supplier or other entity may be recovered through fees~~
25 ~~charged by the natural gas distribution company to the~~
26 ~~natural gas supplier or other entity. Either party may~~
27 ~~request that the commission consider the appropriate level of~~
28 ~~the fee. In doing so, the commission shall consider fees~~
29 ~~charged by other natural gas distribution companies for~~
30 ~~similar services. The commission shall either permit the fee~~

1 ~~to continue as set or shall establish an alternative~~
2 ~~mechanism to permit full recovery of unrecovered just and~~
3 ~~reasonable costs from the supplier or the supplier's~~
4 ~~customers. Nothing in this section shall permit the recovery~~
5 ~~of such costs from natural gas supply service customers of~~
6 ~~the natural gas distribution company.~~

7 ~~(4) If services are provided by an entity other than the~~
8 ~~natural gas distribution company, the entity that provided~~
9 ~~those services shall furnish to the natural gas distribution~~
10 ~~company billing data sufficient to enable the natural gas~~
11 ~~distribution company to timely bill retail gas customers. The~~
12 ~~entity shall provide data for billing purposes in a format~~
13 ~~and in a time frame as required by the natural gas~~
14 ~~distribution company. The natural gas distribution company~~
15 ~~shall consider the data and information confidential and~~
16 ~~shall treat it as such.~~

17 ~~(5) No natural gas distribution company shall be~~
18 ~~required to forward payment to entities providing services to~~
19 ~~customers and on whose behalf the natural gas distribution~~
20 ~~company is billing those customers before the natural gas~~
21 ~~distribution company has received payment for those services~~
22 ~~from customers. The commission shall issue guidelines~~
23 ~~addressing the application of partial payments.~~

24 ~~(6) Natural gas distribution companies and natural gas~~
25 ~~suppliers shall take reasonable steps to allow retail gas~~
26 ~~customers to contribute via their bill to hardship energy~~
27 ~~funds which benefit low income residential retail gas~~
28 ~~consumers.~~

29 ~~(d) Enhanced metering. Subject to commission approval, the~~
30 ~~natural gas distribution company may require the installation,~~

~~at the retail gas customer's expense, of enhanced metering capability sufficient to match the natural gas delivered by the retail gas customer's natural gas supplier or suppliers with consumption by that retail gas customer. In exercising its discretion, the commission shall consider the effect on low-income retail gas customers.~~

~~§ 2206. Consumer protections and customer service.~~

~~(a) Quality. A natural gas distribution company shall be responsible for customer service functions consistent with the orders and regulations of the commission, including, but not limited to, meter reading, installation, testing and maintenance and emergency response for all customers, and complaint resolution and collections related to the service provided by the natural gas distribution company. Customer service and consumer protections and policies for retail gas customers shall, at a minimum, be maintained at the same level of quality under retail competition as in existence on the effective date of this chapter.~~

~~(b) Change of suppliers. The commission shall, by order or regulation, establish procedures to ensure that a natural gas distribution company does not change a retail gas customer's natural gas supplier without direct oral confirmation from the customer of record or written evidence of the customer's consent to a change of supplier.~~

~~(c) Customer information. The commission shall, by order or regulation, establish requirements that each natural gas distribution company and natural gas supplier provide adequate, accurate customer information to enable retail gas customers to make informed choices regarding the purchase of all natural gas services offered by that provider. Information shall be provided~~

1 ~~to retail gas customers in an understandable format that enables~~
2 ~~retail gas customers to compare prices and services on a uniform~~
3 ~~basis.~~

4 ~~(d) Consumer education. Prior to the implementation of any~~
5 ~~restructuring plan under section 2204 (relating to~~
6 ~~implementation), each natural gas distribution company, in~~
7 ~~conjunction with the commission and consistent with the~~
8 ~~guidelines established by the commission, shall implement a~~
9 ~~consumer education program to inform customers of the changes in~~
10 ~~the natural gas utility industry. The program shall provide~~
11 ~~retail gas customers with information necessary to help them~~
12 ~~make appropriate choices as to their natural gas service. The~~
13 ~~education program shall be subject to approval by the~~
14 ~~commission. The consumer education program shall include goals,~~
15 ~~objectives and an action plan that is designed to be objective,~~
16 ~~easily understood, utilizes a uniform measurement as established~~
17 ~~by the commission for the cost of gas, be available in languages~~
18 ~~that the commission requires to meet the needs of a service~~
19 ~~territory and be separate and distinct from marketing.~~

20 ~~(e) Consumer education cost recovery. The consumer~~
21 ~~education program shall be subject to approval by the commission~~
22 ~~and shall be funded in each natural gas distribution service~~
23 ~~territory by a nonbypassable, competitively neutral cost~~
24 ~~recovery mechanism that fully recovers the reasonable cost of~~
25 ~~such program. To the extent that the industrial customer class~~
26 ~~is not currently assigned such costs on the effective date of~~
27 ~~this chapter, it shall not be assigned such costs in the future.~~

28 ~~(f) Tenants' rights. Nothing in this chapter shall be~~
29 ~~construed to restrict the rights of tenants pursuant to~~
30 ~~Subchapter B of Chapter 15 (relating to discontinuance of~~

~~service to leased premises).~~

~~§ 2207. Obligation to serve.~~

~~(a) Supplier of last resort.~~

~~(1) After the effective date of this chapter, the natural gas distribution company shall serve as the supplier of last resort for residential, small commercial, small industrial and essential human needs customers and any other customer classes determined by the commission in the natural gas distribution company's restructuring proceeding until such time as the commission, pursuant to this section, approves an alternative supplier or suppliers to provide such services to any or all of the natural gas distribution company's customers.~~

~~(2) For purposes of this section, a supplier of last resort is a natural gas distribution company or natural gas supplier which is designated by the commission to provide natural gas supply service with respect to one or more of the following services:~~

~~(i) natural gas supply services to those customers who have not chosen an alternative natural gas supplier or who choose to be served by their supplier of last resort;~~

~~(ii) natural gas supply services to those customers who are refused supply service from a natural gas supplier; or~~

~~(iii) natural gas supply services to those customers whose natural gas supplier has failed to deliver its requirements.~~

~~No customer shall have more than one supplier of last resort designated for any of the services set forth in this~~

1 paragraph.

2 ~~(b) Consumer protection. Service by the supplier of last~~
3 ~~resort shall be subject to all consumer protection standards,~~
4 ~~including those contained in 52 Pa. Code Ch. 56 (relating to~~
5 ~~standards and billing practices for residential utility service)~~
6 ~~and to all universal service obligations.~~

7 ~~(c) Natural gas distribution company. The natural gas~~
8 ~~distribution company shall deliver natural gas to the extent~~
9 ~~that it is provided by all natural gas suppliers, or suppliers~~
10 ~~of last resort, as the case may be, in accordance with the~~
11 ~~natural gas distribution company's tariff.~~

12 ~~(d) Standards of service. Consistent with the standards set~~
13 ~~forth in section 1501 (relating to character of service and~~
14 ~~facilities) and applicable orders of the commission, a supplier~~
15 ~~of last resort under subsection (a)(2)(iii) shall provide~~
16 ~~sufficient supplies as to quantity, quality, pressure and~~
17 ~~location to meet the operational reliability requirements of the~~
18 ~~natural gas distribution company's system, including, but not~~
19 ~~limited to, a failure of one or more natural gas suppliers to:~~

20 ~~(1) supply natural gas to their retail gas customers in~~
21 ~~conformance with their contractual obligations to such~~
22 ~~customers; or~~

23 ~~(2) satisfy applicable reliability standards and~~
24 ~~obligations.~~

25 ~~(e) Discontinuation of service. The natural gas~~
26 ~~distribution company shall continue providing services as the~~
27 ~~supplier of last resort to all of its customers for all of the~~
28 ~~natural gas supply services described in subsection (a)(2),~~
29 ~~unless, at its discretion, it requests and receives commission~~
30 ~~approval to discontinue providing one or more such supplier of~~

~~last resort obligation. In approving such a petition, the commission shall also approve another party as the alternative supplier of last resort for each customer or customer group for which the natural gas distribution company no longer provides such natural gas supply services.~~

~~(f) Regulations. The commission shall promulgate regulations setting forth the standards for approving an alternative supplier of last resort consistent with the provisions of this title, including a mechanism to ensure that the rates charged by any alternate supplier of last resort are just and reasonable.~~

~~(g) Organized labor. During the five year period following the effective date of this chapter, approval of an alternative supplier of last resort pursuant to subsection (c) shall not be granted unless the entity designated by the commission to succeed the natural gas distribution company in the provision of service to these customers agrees to recognize relevant union and collective bargaining agreements of the natural gas distribution company then in place.~~

~~(h) Petition to become supplier of last resort. After the five year period following the effective date of this chapter, any party may petition the commission to become the supplier of last resort to some or all customers except for those customers identified in subsection (a)(2)(i).~~

~~(i) Notice required prior to market exit.~~

~~(1) A natural gas supplier may not exit the market without providing notice as determined by the commission in the restructuring proceeding of the natural gas distribution company to its customers, the supplier of last resort and the natural gas distribution company.~~

1 ~~(2) If firm gas supply contracts with Pennsylvania~~
2 ~~natural gas producers or storage or transportation capacity~~
3 ~~contracts used by the natural gas supplier to serve such~~
4 ~~retail gas customers were either assigned or released to the~~
5 ~~natural gas supplier or constitute capacity which was~~
6 ~~acquired by the natural gas supplier as the result of~~
7 ~~nonrenewal of a storage or transportation capacity contract~~
8 ~~previously held by the natural gas distribution company, the~~
9 ~~natural gas supplier shall offer the supplier of last resort~~
10 ~~or successor natural gas supplier a right of first refusal to~~
11 ~~utilize such Pennsylvania supply contracts or storage or~~
12 ~~transportation capacity contracts at its contract cost as~~
13 ~~long as needed to serve those customers.~~

14 ~~(3) If the storage or transportation capacity contracts~~
15 ~~held by the natural gas supplier were acquired in another~~
16 ~~manner, and there was not sufficient notice given to the~~
17 ~~supplier of last resort and the natural gas distribution~~
18 ~~company, or if there is not alternative storage or~~
19 ~~transportation capacity available which is operationally~~
20 ~~sufficient to serve the market the natural gas supplier was~~
21 ~~serving, then the supplier of last resort shall be provided~~
22 ~~with a right to use such storage or transportation capacity~~
23 ~~as designated by the natural gas supplier, at the contract~~
24 ~~cost, until the supplier of last resort is able to acquire~~
25 ~~replacement capacity sufficient to serve its customers using~~
26 ~~reasonable and diligent efforts to do so.~~

27 ~~(4) If a dispute arises under this subsection, the~~
28 ~~aggrieved party may file a complaint with the commission for~~
29 ~~resolution within 45 days.~~

30 ~~(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 by the retail gas customer shall be recovered from the natural gas supplier or from the bond or other security provided by the natural gas supplier without recourse to any retail gas customer not otherwise contractually committed for the difference.~~

~~§ 2208. Requirements for natural gas suppliers.~~

~~(a) License requirements. No entity shall engage in the business of a natural gas supplier unless it holds a license issued by the commission. To the extent that a natural gas distribution company provides natural gas supply service outside of its chartered or certificated territory, it also must hold a license. A license shall not be required for customers who make de minimis incidental sales or resales to themselves, an affiliate or to other nonresidential retail gas customers.~~

~~(b) License application and issuance. An application for a~~

1 ~~natural gas supplier license shall be made to the commission in~~
2 ~~writing, be verified by oath or affirmation and be in such form~~
3 ~~and contain such information as the commission may, by rule or~~
4 ~~order, require. A license shall be issued to any applicant,~~
5 ~~authorizing the whole or any part of the service covered by the~~
6 ~~application, if it is found that the applicant is fit, willing~~
7 ~~and able to perform properly the service proposed and to conform~~
8 ~~to the applicable provisions of this title and the orders and~~
9 ~~regulations of the commission, including those concerning~~
10 ~~standards and billing practices, and that the proposed service,~~
11 ~~to the extent authorized by the license, will be consistent with~~
12 ~~the public interest. Otherwise, such application shall be~~
13 ~~denied.~~

14 ~~(c) Financial fitness.—~~

15 ~~(1) In order to ensure the safety and reliability of the~~
16 ~~natural gas supply service in this Commonwealth, no natural~~
17 ~~gas supplier license shall be issued or remain in force~~
18 ~~unless the applicant or holder, as the case may be, complies~~
19 ~~with all of the following:~~

20 ~~(i) Furnishes a bond or other security in a form and~~
21 ~~amount to ensure the financial responsibility of the~~
22 ~~natural gas supplier. The criteria each natural gas~~
23 ~~distribution company shall use to determine the amount~~
24 ~~and form of such bond or other security shall be set~~
25 ~~forth in the natural gas distribution company's~~
26 ~~restructuring filing. In approving the criteria,~~
27 ~~commission considerations shall include, but not be~~
28 ~~limited to, the financial impact on the natural gas~~
29 ~~distribution company or an alternative supplier of last~~
30 ~~resort of a default or subsequent bankruptcy of a natural~~

1 ~~gas supplier. The commission shall periodically review~~
2 ~~the criteria upon petition by any party. The amount and~~
3 ~~form of the bond or other security may be mutually agreed~~
4 ~~to between the natural gas distribution company or the~~
5 ~~alternate supplier of last resort and the natural gas~~
6 ~~supplier or failing that shall be determined by criteria~~
7 ~~approved by the commission.~~

8 ~~(ii) Provides the commission with the address of the~~
9 ~~participant's principal office in this Commonwealth or~~
10 ~~the address of the participant's registered agent in this~~
11 ~~Commonwealth, the latter being the address at which the~~
12 ~~participant may be served process.~~

13 ~~(2) Failure of a natural gas supplier to comply with any~~
14 ~~provision of this chapter or the rules, regulations, orders~~
15 ~~or directives of the Department of Revenue or of the~~
16 ~~commission, including, but not limited to, engaging in~~
17 ~~anticompetitive behavior, shall be cause for the commission~~
18 ~~to revoke the license of the natural gas supplier.~~

19 ~~(d) Transferability of licenses. No license issued under~~
20 ~~this chapter may be transferred without prior commission~~
21 ~~approval.~~

22 ~~(e) Form of regulation of natural gas suppliers. Except~~
23 ~~where a natural gas supplier serves as a supplier of last~~
24 ~~resort, the commission may forbear from extending its regulation~~
25 ~~of natural gas suppliers beyond licensing, bonding, reliability~~
26 ~~and consumer services and protections, including all applicable~~
27 ~~portions of 52 Pa. Code Ch. 56 (relating to standards and~~
28 ~~billing practices for residential utility service). Subject to~~
29 ~~the provisions of section 2207 (relating to obligation to~~
30 ~~serve), nothing in this section shall preclude a natural gas~~

~~supplier, upon appropriate and reasonable notice to the retail gas customer, supplier of last resort, and the natural gas distribution company, from canceling its contract with any customer for legal cause, subject to the customer's right to have continued service from the supplier of last resort.~~

~~(f) Availability of the service of natural gas suppliers.~~

~~Prior to licensing any natural gas supplier, the commission shall set forth standards to ensure that all customer classes may choose to purchase natural gas from a natural gas supplier. The commission shall also ensure that natural gas suppliers comply with applicable provisions of 52 Pa. Code Ch. 56.~~

~~(g) Open and nondiscriminatory access. In addition to meeting the license requirements applicable to applicants under subsection (b), a municipal corporation shall, before it is permitted to provide natural gas supply services as a natural gas supplier, demonstrate, and the commission shall determine, that by the date of the issuance of the license, it will provide other natural gas suppliers open and nondiscriminatory access to its gas distribution system under standards that are comparable to this title, taking into consideration the particular circumstances of the municipal corporation's ownership and/or operation of the gas distribution system.~~

~~§ 2209. Market power remediation.~~

~~(a) Interim standards of conduct. Within 120 days of the effective date of this chapter, the commission shall provide by order binding, interim guidelines for standards of conduct governing the activities of and relationships between natural gas distribution companies and their affiliated natural gas suppliers and other natural gas suppliers and monitor and enforce compliance with those standards.~~

~~(b) Permanent standards of conduct. The commission shall thereupon promulgate regulations setting forth permanent standards of conduct governing the activities of and relationships between natural gas distribution companies and their affiliated natural gas suppliers and other natural gas suppliers and monitor and enforce compliance with these standards. The commission shall neither favor nor disfavor conduct or operations by and between a natural gas distribution company and an affiliated natural gas supplier or a nonaffiliated natural gas supplier.~~

~~(c) Contents of standards. Standards of conduct shall provide for:~~

~~(1) No discrimination against or preferential treatment of any natural gas supplier, including an affiliated natural gas supplier.~~

~~(2) No disclosure or preferential sharing of any confidential information to or with any individual natural gas supplier.~~

~~(3) Adequate rules prohibiting cross subsidization of an affiliated natural gas supplier by a natural gas distribution company.~~

~~(4) Maintenance of separate books and records by the natural gas distribution company and its affiliated natural gas supplier.~~

~~(5) Sufficient physical and operational separation, but not including legal divestiture, to accomplish paragraphs (1), (2), (3) and (4).~~

~~(6) An informal dispute resolution procedure.~~

~~(7) A system of penalties for noncompliance with the final set of standards of conduct consistent with existing~~

1 ~~commission regulations.~~

2 ~~(d) Limitation. The standards shall not prohibit the~~
3 ~~natural gas distribution company and its affiliated natural gas~~
4 ~~supplier from using or sharing similar corporate names,~~
5 ~~trademarks, trade dress or service marks.~~

6 ~~(e) Initiation of investigations. Upon complaint or upon~~
7 ~~its own motion, for good cause shown, the commission shall~~
8 ~~conduct an investigation of the impact on the proper functioning~~
9 ~~of a fully competitive retail natural gas market, of mergers,~~
10 ~~consolidations, acquisition or disposition of assets or~~
11 ~~securities of natural gas suppliers and anticompetitive or~~
12 ~~discriminatory conduct affecting the retail distribution of~~
13 ~~natural gas.~~

14 ~~(f) Conduct of investigations.~~

15 ~~(1) The commission may require a natural gas supplier to~~
16 ~~provide information, including documents and testimony, in~~
17 ~~accordance with the commission's regulations regarding the~~
18 ~~discovery of information.~~

19 ~~(2) Material which the commission determines to be~~
20 ~~confidential, proprietary or trade secret information~~
21 ~~provided under this subsection shall not be disclosed to any~~
22 ~~person not directly employed or retained by the commission to~~
23 ~~conduct the investigation without the consent of the party~~
24 ~~providing the information.~~

25 ~~(3) Notwithstanding the prohibition on disclosure of~~
26 ~~information in paragraph (2), the commission shall disclose~~
27 ~~information obtained under this subsection to the Office of~~
28 ~~Consumer Advocate and the Office of Small Business Advocate~~
29 ~~under an appropriate confidentiality agreement. The~~
30 ~~commission may disclose the information to appropriate~~

~~Federal or State law enforcement officials if it determines that the disclosure of the information is necessary to prevent or restrain a violation of Federal or State law and it provides the party that provided the information with reasonable notice and opportunity to prevent or limit disclosure.~~

~~(g) Referrals and investigation. If, as a result of the investigation conducted under this section, the commission has reason to believe that anticompetitive or discriminatory conduct, including the unlawful exercise of market power, is preventing the retail gas customers from obtaining the benefits of a properly functioning and effectively competitive retail natural gas market, the commission, pursuant to its regulations, shall:~~

~~(1) Refer its findings to the Attorney General, the United States Department of Justice, the Securities and Exchange Commission or the Federal Energy Regulatory Commission.~~

~~(2) Subject to subsection (c)(3), disclose any information it has obtained in the course of its investigation to the agency or agencies to which it had made a referral under paragraph (1).~~

~~(3) Intervene, as provided and permitted by law or regulation, in any proceedings initiated as a result of a referral made under paragraph (1).~~

~~(h) Marketing standards. As part of each natural gas distribution company's restructuring proceeding, the commission may, in its discretion, develop and apply different standards of conduct to the natural gas distribution company's marketing activities related to natural gas supply services. No such~~

~~standards shall apply to the natural gas distribution company's marketing division or operations until the commission issues an order in the context of that natural gas distribution company's restructuring proceeding.~~

~~(i) Definition. Subject to the conditions set forth in subsection (h), for the purposes of this section, the term "affiliated natural gas supplier" includes marketing activities related to natural gas supply services by the marketing division or the marketing operation of a natural gas distribution company.~~

~~§ 2210. Approval of proposed mergers, consolidations, acquisitions or dispositions.~~

~~(a) General rule. In the exercise of authority the commission otherwise may have to approve mergers or consolidations involving natural gas distribution companies or 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~~

1 ~~to amortize such costs over an appropriate period to be~~
2 ~~determined by the commission. The amortization shall commence~~
3 ~~at the time when restructuring orders are issued. The natural~~
4 ~~gas distribution company may seek recovery of the unamortized~~
5 ~~balance of such costs in a future rate proceeding and the~~
6 ~~commission shall allow recovery of such costs provided that~~
7 ~~the commission determines that such costs are reasonable and~~
8 ~~that the resulting rates are just and reasonable.~~

9 ~~(c) Deferral of costs. Costs recoverable under sections~~
10 ~~2203(6) (relating to standards for restructuring of natural gas~~
11 ~~utility industry) and 2206(e) (relating to consumer protections~~
12 ~~and customer service), in excess of amounts already reflected in~~
13 ~~a natural gas distribution company's rates, which are incurred~~
14 ~~between the date of entry of the commission's restructuring~~
15 ~~order and the earlier of the date on which the commission~~
16 ~~authorizes commencement of recovery or June 30, 2002, may be~~
17 ~~deferred for recovery in the future. Such deferrals shall be~~
18 ~~without interest.~~

19 ~~(d) Circumstances for exceptions. A natural gas~~
20 ~~distribution company may seek, and the commission may approve,~~
21 ~~an exception to the limitations set forth in this section under~~
22 ~~any of the following circumstances:~~

23 ~~(1) The natural gas distribution company meets the~~
24 ~~requirements for extraordinary relief under section 1308(e)~~
25 ~~(relating to voluntary changes in rates).~~

26 ~~(2) The natural gas distribution company demonstrates~~
27 ~~that a rate increase is necessary in order to preserve the~~
28 ~~reliability of the natural gas distribution system.~~

29 ~~(3) The natural gas distribution company is subject to~~
30 ~~significant increases in the rate of Federal taxes or other~~

~~significant increases in costs resulting from changes in law or regulations that would not allow the natural gas distribution company to earn a fair rate of return.~~

~~(c) Interclass and intraclass cost shifts. For the period from the effective date of this chapter until January 1, 2001, interclass or intraclass cost shifts are prohibited. This prohibition against cost shifting may be accomplished by maintaining the cost allocation methodology accepted by the commission for each natural gas distribution company in the company's most recent base rate proceeding.~~

~~(f) State tax adjustment surcharge. The natural gas distribution company shall remain subject to the State tax adjustment surcharge and shall be permitted to adjust its State tax adjustment surcharge mechanism to reflect State tax changes or additions. The natural gas distribution company shall also remain subject to existing riders or surcharges for the collection of non gas transition costs pursuant to Federal Energy Regulatory Commission decisions.~~

~~(g) Provisions relating to interstate pipelines.~~

~~(1) Notwithstanding any other provisions of this chapter, if a natural gas distribution company's current base rate revenues reflect the margins realized through the utilization of firm interstate pipeline transportation and storage capacity to serve the interruptible market when such capacity is not needed to make firm retail deliveries, then the natural gas distribution company shall be permitted to increase base rates and, at the same time, reduce purchased gas cost rates, as described in this chapter.~~

~~(2) The utility may propose such a change in treatment, consistent with the following requirements:~~

1 ~~(i) Base rates of customers who pay purchased gas~~
2 ~~cost rates pursuant to section 1307(f) (relating to~~
3 ~~sliding scale of rates; adjustments) shall be increased~~
4 ~~by an amount equal to the margin received for service~~
5 ~~provided to existing interruptible sales and~~
6 ~~transportation service customers using capacity reflected~~
7 ~~in rates established under section 1307(f) based upon the~~
8 ~~revenue for such services for the most recent 12 month~~
9 ~~period immediately preceding the application.~~

10 ~~(ii) Purchased gas cost rates established pursuant~~
11 ~~to section 1307(f) shall be decreased by an amount equal~~
12 ~~to the amount by which base rates are increased in~~
13 ~~subparagraph (i).~~

14 ~~(iii) Purchased gas cost rates established pursuant~~
15 ~~to section 1307(f) shall thereafter be reconciled to~~
16 ~~reflect the margins realized from interruptible sales and~~
17 ~~interruptible transportation customers utilizing capacity~~
18 ~~reflected in rates established under section 1307(f).~~

19 ~~(h) Interstate pipeline transportation.—~~

20 ~~(1) Except as specifically set forth in this subsection,~~
21 ~~nothing in this section or section 2204(d) (relating to~~
22 ~~implementation) shall prevent a natural gas distribution~~
23 ~~company from recovering costs paid under the terms of~~
24 ~~interstate pipeline transportation and storage capacity~~
25 ~~contracts which are not fully recovered through a release,~~
26 ~~assignment or transfer of such capacity to another natural~~
27 ~~gas supplier if such unrecovered costs arise under the terms~~
28 ~~of a natural gas transportation pilot program approved by the~~
29 ~~commission for such company on or before February 1, 1999.~~

30 ~~(2) Such unrecovered interstate pipeline transportation~~

1 ~~and capacity costs incurred under such programs through~~
2 ~~October 31, 2004, may be recovered from a class or classes of~~
3 ~~customers in accordance with such program provided that the~~
4 ~~total volumetric charge for such costs does not exceed one~~
5 ~~percent of the volumetric charge for residential natural gas~~
6 ~~sales service set forth in the natural gas distribution~~
7 ~~company's tariff in effect at the time.~~

8 ~~(3) With respect to such pilot programs, the commission~~
9 ~~may determine to extend such programs to include all~~
10 ~~customers of that company pursuant to the requirements of~~
11 ~~this chapter, and nothing in this section or section 2204(d)~~
12 ~~shall prevent unrecovered interstate pipeline and~~
13 ~~transportation capacity costs incurred through October 31,~~
14 ~~2004, under such programs from being recovered in accordance~~
15 ~~with such programs provided that the total volumetric charge~~
16 ~~for such costs does not exceed the one percent limit~~
17 ~~specified in paragraph (2) for pilot programs.~~

18 ~~Section 4. The provisions of this act are severable. If any~~
19 ~~provision of this act or its application to any person or~~
20 ~~circumstance is held invalid, the invalidity shall not affect~~
21 ~~other provisions or applications of this act which can be given~~
22 ~~effect without the invalid provision or application.~~

23 ~~Section 5. This act constitutes the legislation referred to~~
24 ~~in section 33(3) of the act of May 12, 1999 (P.L. , No.4),~~
25 ~~entitled "An act amending the act of March 4, 1971 (P.L.6,~~
26 ~~No.2), entitled 'An act relating to tax reform and State~~
27 ~~taxation by codifying and enumerating certain subjects of~~
28 ~~taxation and imposing taxes thereon; providing procedures for~~
29 ~~the payment, collection, administration and enforcement thereof;~~
30 ~~providing for tax credits in certain cases; conferring powers~~

1 ~~and imposing duties upon the Department of Revenue, certain~~
2 ~~employers, fiduciaries, individuals, persons, corporations and~~
3 ~~other entities; prescribing crimes, offenses and penalties, '~~
4 ~~revising and adopting sales and use tax provisions on processing~~
5 ~~exclusions, credit sales and bad debt sales; revising personal~~
6 ~~income tax provisions on small corporations; expanding~~
7 ~~eligibility for special poverty provisions; revising estimated~~
8 ~~tax declarations; eliminating Lottery Fund transfers; revising~~
9 ~~corporate net income tax provisions on nonprofit organizations,~~
10 ~~net loss deductions and apportionment of business income;~~
11 ~~revising capital stock franchise tax provisions to reduce the~~
12 ~~rate of taxation, reduce the minimum tax, and further provide~~
13 ~~for capital stock franchise tax exemptions, exclusions and~~
14 ~~proceeds; eliminating the utilities gross receipts tax on~~
15 ~~natural gas; making omnibus amendments to the public utility~~
16 ~~realty tax; providing for a tax credit for coal waste removal~~
17 ~~and ultraclean fuels; further providing for malt beverage tax~~
18 ~~credits; further providing for the rate of taxation for the~~
19 ~~Public Transportation Assistance Fund; further providing for~~
20 ~~estimated tax, for payment of harness and thoroughbred racing~~
21 ~~taxes and for corporate tax treatment of automobile clubs; and~~
22 ~~making a repeal." The Secretary of Revenue shall publish notice~~
23 ~~of the enactment of this act in the Pennsylvania Bulletin.~~

24 ~~Section 6. This act shall take effect as follows:~~

25 ~~(1) The addition of 66 Pa.C.S. §§ 2004(b) and 2203(15)~~
26 ~~shall take effect May 1, 1999.~~

27 ~~(2) This section shall take effect immediately.~~

28 ~~(3) The remainder of this act shall take effect July 1,~~
29 ~~1999, or immediately, whichever occurs later.~~

30 SECTION 1. SECTION 102 OF TITLE 66 OF THE PENNSYLVANIA

<—

1 CONSOLIDATED STATUTES IS AMENDED BY ADDING A DEFINITION TO READ:

2 § 102. DEFINITIONS.

3 SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT
4 PROVISIONS OF THIS PART WHICH ARE APPLICABLE TO SPECIFIC
5 PROVISIONS OF THIS PART, THE FOLLOWING WORDS AND PHRASES WHEN
6 USED IN THIS PART SHALL HAVE, UNLESS THE CONTEXT CLEARLY
7 INDICATES OTHERWISE, THE MEANINGS GIVEN TO THEM IN THIS SECTION:

8 "CITY NATURAL GAS DISTRIBUTION OPERATION." A COLLECTION OF
9 REAL AND PERSONAL ASSETS USED FOR DISTRIBUTING NATURAL GAS TO
10 RETAIL GAS CUSTOMERS OWNED BY A CITY OR A MUNICIPAL AUTHORITY,
11 NONPROFIT CORPORATION OR PUBLIC CORPORATION FORMED PURSUANT TO
12 SECTION 2212(M) (RELATING TO CITY NATURAL GAS DISTRIBUTION
13 OPERATIONS).

14 * * *

15 SECTION 2. SECTIONS 1307(F) AND (G), 1317 AND 1318 OF TITLE
16 66 ARE AMENDED TO READ:

17 § 1307. SLIDING SCALE OF RATES; ADJUSTMENTS.

18 * * *

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

20 (1) NATURAL GAS [DISTRIBUTORS] DISTRIBUTION COMPANIES,
21 AS DEFINED IN SECTION 2202 (RELATING TO DEFINITIONS), WITH
22 GROSS INTRASTATE ANNUAL OPERATING REVENUES IN EXCESS OF
23 \$40,000,000 MAY FILE TARIFFS REFLECTING ACTUAL AND PROJECTED
24 INCREASES OR DECREASES IN THEIR NATURAL GAS COSTS AND THE
25 TARIFFS SHALL HAVE AN EFFECTIVE DATE SIX MONTHS FROM THE DATE
26 OF FILING. THE COMMISSION SHALL PROMULGATE REGULATIONS
27 ESTABLISHING THE TIME AND MANNER OF SUCH FILING, BUT, EXCEPT
28 FOR ADJUSTMENTS PURSUANT TO A TARIFF MECHANISM AUTHORIZED IN
29 THIS TITLE, NO SUCH NATURAL GAS [UTILITY] DISTRIBUTION
30 COMPANY SHALL VOLUNTARILY FILE MORE THAN ONE SUCH TARIFF IN A

1 12-MONTH PERIOD: PROVIDED, THAT [NOTHING]:

2 (I) NOTHING CONTAINED HEREIN SHALL PROHIBIT ANY
3 PARTY FROM ADVISING THE COMMISSION THAT THERE HAS BEEN OR
4 THERE IS ANTICIPATED TO BE A SIGNIFICANT DIFFERENCE
5 BETWEEN THE NATURAL GAS COSTS TO THE [UTILITY] NATURAL
6 GAS DISTRIBUTION COMPANY AND THE COSTS REFLECTED IN THE
7 THEN EFFECTIVE TARIFF OR THE COMMISSION FROM ACTING UPON
8 SUCH ADVICE.

9 (II) A NATURAL GAS DISTRIBUTION COMPANY MAY ALSO
10 FILE A TARIFF TO ESTABLISH A MECHANISM BY WHICH SUCH
11 NATURAL GAS DISTRIBUTION COMPANY MAY FURTHER ADJUST ITS
12 RATES FOR NATURAL GAS SALES ON A REGULAR, BUT NO MORE
13 FREQUENT THAN MONTHLY, BASIS TO REFLECT ACTUAL OR
14 PROJECTED CHANGES IN NATURAL GAS COSTS REFLECTED IN RATES
15 ESTABLISHED PURSUANT TO PARAGRAPH (2), SUBJECT TO ANNUAL
16 RECONCILIATION UNDER PARAGRAPH (5). IN THE EVENT THAT THE
17 NATURAL GAS DISTRIBUTION COMPANY ADJUSTS RATES MORE
18 FREQUENTLY THAN QUARTERLY, IT SHALL ALSO OFFER RETAIL GAS
19 CUSTOMERS A FIXED RATE OPTION WHICH RECOVERS NATURAL GAS
20 COSTS OVER A 12-MONTH PERIOD, SUBJECT TO ANNUAL
21 RECONCILIATION UNDER PARAGRAPH (5). THE COMMISSION SHALL,
22 WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THIS
23 SUBPARAGRAPH, PROMULGATE RULES OR REGULATIONS GOVERNING
24 SUCH ADJUSTMENTS AND FIXED RATE OPTION, BUT THE
25 COMMISSION SHALL NOT PROHIBIT SUCH ADJUSTMENTS OR FIXED
26 RATE OPTION.

27 (2) THE COMMISSION SHALL CONDUCT AN INVESTIGATION AND
28 HOLD A HEARING OR HEARINGS, WITH NOTICE, TO [INVESTIGATE]
29 REVIEW THE TARIFFS AND CONSIDER THE PLANS FILED PURSUANT TO
30 SECTION 1317 (RELATING TO REGULATIONS OF NATURAL GAS COSTS).

1 WHERE THERE HAS BEEN AN INDICATION OF CONSUMER INTEREST, THE
2 HEARING SHALL BE HELD IN THE SERVICE TERRITORY OF THE NATURAL
3 GAS [DISTRIBUTOR] DISTRIBUTION COMPANY. PRIOR TO THE
4 EFFECTIVE DATE OF THE FILING, THE COMMISSION SHALL ISSUE AN
5 ORDER ESTABLISHING THE RATE TO BE CHARGED TO REFLECT SUCH
6 [INCREASES OR DECREASES] CHANGES IN NATURAL GAS COSTS. [RATES
7 ESTABLISHED UNDER THIS SUBSECTION DO NOT CONSTITUTE EITHER A
8 SLIDING SCALE OF RATES OR AN AUTOMATIC ADJUSTMENT SUBJECT TO
9 THE PROHIBITIONS IN SUBSECTIONS (A) AND (B).] THE COMMISSION
10 SHALL ANNUALLY REVIEW AND APPROVE PLANS FOR PURPOSES OF
11 RELIABILITY AND SUPPLY. SUCH RATES, HOWEVER, ARE SUBJECT TO
12 THE [KINDS] TYPES OF AUDITS, REPORTS AND PROCEEDINGS REQUIRED
13 BY SUBSECTION (D).

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

19 (I) THE TOTAL REVENUES RECEIVED PURSUANT TO THIS
20 SECTION.

21 (II) THE TOTAL [GAS EXPENSE] NATURAL GAS COSTS
22 INCURRED.

23 (III) THE DIFFERENCE BETWEEN THE AMOUNTS SPECIFIED
24 BY SUBPARAGRAPHS (I) AND (II).

25 (IV) [EVIDENCE EXPLAINING HOW ACTUAL] HOW ACTUAL
26 NATURAL GAS COSTS INCURRED DIFFER FROM THE NATURAL GAS
27 COSTS ALLOWED UNDER PARAGRAPH (2) AND WHY SUCH
28 DIFFERENCES OCCURRED.

29 (V) HOW THESE NATURAL GAS COSTS ARE CONSISTENT WITH
30 A LEAST COST PROCUREMENT POLICY AS REQUIRED BY SECTION

1 1318 (RELATING TO DETERMINATION OF JUST AND REASONABLE
2 [NATURAL] GAS COST RATES).
3 SUCH REPORT SHALL BE A MATTER OF PUBLIC RECORD AND COPIES
4 THEREOF SHALL BE MADE AVAILABLE BY THE [GAS DISTRIBUTOR]
5 NATURAL GAS DISTRIBUTION COMPANY TO ANY PERSON UPON REQUEST.
6 COPIES OF THE REPORTS SHALL BE FILED WITH THE OFFICE OF
7 CONSUMER ADVOCATE AND THE OFFICE OF SMALL BUSINESS ADVOCATE
8 AT THE SAME TIME AS THEY ARE FILED WITH THE COMMISSION.

9 (4) THE COMMISSION SHALL HOLD A PUBLIC HEARING ON THE
10 SUBSTANCE OF SUCH STATEMENT SUBMITTED BY A [UTILITY] NATURAL
11 GAS DISTRIBUTION COMPANY AS REQUIRED IN PARAGRAPH (3) AND ON
12 ANY RELATED MATTERS.

13 (5) THE COMMISSION, AFTER HEARING, SHALL DETERMINE THE
14 PORTION OF THE [COMPANIES] COMPANY'S NATURAL GAS DISTRIBUTION
15 ACTUAL NATURAL GAS COSTS IN THE PREVIOUS 12-MONTH PERIOD
16 WHICH MEET THE STANDARDS SET OUT IN SECTION 1318. THE
17 COMMISSION SHALL, BY ORDER, DIRECT EACH [GAS UTILITY] NATURAL
18 GAS DISTRIBUTION COMPANY SUBJECT TO THIS SUBSECTION TO REFUND
19 TO ITS [PATRONS ANY] CUSTOMERS GAS REVENUES COLLECTED
20 PURSUANT TO PARAGRAPH (2) WHICH EXCEED THE AMOUNT OF ACTUAL
21 [GAS EXPENSES] NATURAL GAS COSTS INCURRED CONSISTENT WITH THE
22 STANDARDS IN SECTION 1318 AND TO RECOVER FROM ITS [PATRONS]
23 CUSTOMERS ANY AMOUNT BY WHICH THE ACTUAL [GAS EXPENSES,]
24 NATURAL GAS COSTS, WHICH HAVE BEEN INCURRED CONSISTENT WITH
25 THE STANDARDS IN SECTION 1318, EXCEED THE REVENUES COLLECTED
26 PURSUANT TO PARAGRAPH (2). ABSENT GOOD REASON TO THE
27 CONTRARY, THE COMMISSION SHALL ISSUE ITS ORDER WITHIN SIX
28 MONTHS FOLLOWING THE FILING OF THE STATEMENT DESCRIBED IN
29 PARAGRAPH (3). REFUNDS TO [PATRONS] CUSTOMERS SHALL BE MADE
30 WITH INTEREST, [WHICH SHALL BE THE AVERAGE RATE OF INTEREST

1 SPECIFIED FOR RESIDENTIAL MORTGAGE LENDING BY THE SECRETARY
2 OF BANKING IN ACCORDANCE WITH THE ACT OF JANUARY 30, 1974
3 (P.L.13, NO.6), REFERRED TO AS THE LOAN INTEREST AND
4 PROTECTION LAW,] AT THE LEGAL RATE OF INTEREST PLUS TWO
5 PERCENT, DURING THE PERIOD OR PERIODS FOR WHICH THE
6 COMMISSION ORDERS REFUNDS[:], AND RECOVERIES FROM CUSTOMERS
7 SHALL INCLUDE INTEREST AT THE LEGAL RATE OF INTEREST:
8 PROVIDED, THAT NOTHING CONTAINED HEREIN SHALL LIMIT THE
9 APPLICABILITY OF ANY DEFENSES, PRINCIPLES OR DOCTRINES WHICH
10 WOULD PROHIBIT THE COMMISSION'S INQUIRY INTO ANY MATTERS
11 THAT WERE DECIDED FINALLY IN THE COMMISSION'S ORDER ISSUED
12 UNDER PARAGRAPH (2).

13 (6) THE COMMISSION SHALL REQUIRE THAT CUSTOMERS
14 TRANSFERRING FROM SALES TO TRANSPORTATION SERVICE BE SUBJECT
15 TO THE OVER OR UNDER COLLECTION ADJUSTMENT PROVIDED FOR IN
16 PARAGRAPH (5) AND SHALL REQUIRE FURTHER THAT CUSTOMERS
17 TRANSFERRING FROM TRANSPORTATION SERVICE TO SALES SERVICE NOT
18 BE SUBJECT TO THE OVER OR UNDER COLLECTION ADJUSTMENT FOR AN
19 APPROPRIATE PERIOD FOLLOWING EITHER SUCH TRANSFER.

20 (G) DEFINITION.--AS USED IN THIS SECTION, [THE TERM "NATURAL
21 GAS" INCLUDES NATURAL GAS, LIQUEFIED NATURAL GAS, SYNTHETIC
22 NATURAL GAS AND ANY NATURAL GAS SUBSTITUTES.] THE TERMS "NATURAL
23 GAS COSTS" AND "GAS COSTS" INCLUDE THE DIRECT COSTS PAID BY A
24 NATURAL GAS DISTRIBUTION COMPANY FOR THE PURCHASE AND THE
25 DELIVERY OF NATURAL GAS TO ITS SYSTEM IN ORDER TO SUPPLY ITS
26 CUSTOMERS. SUCH COSTS MAY INCLUDE COSTS PAID UNDER AGREEMENTS TO
27 PURCHASE NATURAL GAS FROM SELLERS; COSTS PAID FOR TRANSPORTING
28 NATURAL GAS TO ITS SYSTEM; COSTS PAID FOR NATURAL GAS STORAGE
29 SERVICE FROM OTHERS, INCLUDING THE COSTS OF INJECTING AND
30 WITHDRAWING NATURAL GAS FROM STORAGE; ALL CHARGES, FEES, TAXES

1 AND RATES PAID IN CONNECTION WITH SUCH PURCHASES, PIPELINE
2 GATHERING, STORAGE AND TRANSPORTATION; AND COSTS PAID FOR
3 EMPLOYING FUTURES, OPTIONS AND OTHER RISK MANAGEMENT TOOLS.
4 "NATURAL GAS" AND "GAS" INCLUDE NATURAL GAS, LIQUIFIED NATURAL
5 GAS, SYNTHETIC NATURAL GAS AND ANY NATURAL GAS SUBSTITUTES.

6 § 1317. REGULATION OF NATURAL GAS COSTS.

7 (A) GENERAL RULE.--IN EVERY RATE PROCEEDING INSTITUTED BY A
8 NATURAL GAS DISTRIBUTION UTILITY, PURSUANT TO SECTION 1307(F)
9 (RELATING TO SLIDING SCALE OF RATES; ADJUSTMENTS), EACH SUCH
10 UTILITY SHALL BE REQUIRED TO [PROVIDE] SUPPLY TO THE COMMISSION
11 SUCH INFORMATION, TO BE ESTABLISHED BY COMMISSION REGULATION
12 WITHIN 120 DAYS OF THE PASSAGE OF THIS SECTION, THAT WILL PERMIT
13 THE COMMISSION TO MAKE SPECIFIC FINDINGS AS TO WHETHER THE
14 UTILITY IS PURSUING A LEAST COST FUEL PROCUREMENT POLICY,
15 CONSISTENT WITH THE UTILITY'S OBLIGATION TO PROVIDE SAFE,
16 ADEQUATE AND RELIABLE SERVICE TO ITS CUSTOMERS. SUCH INFORMATION
17 SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, INFORMATION, DATA AND
18 STATEMENTS REGARDING:

19 (1) THE UTILITY'S PARTICIPATION IN RATE PROCEEDINGS
20 BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION WHICH AFFECT
21 THE UTILITY'S GAS COSTS.

22 (2) THE UTILITY'S EFFORTS TO NEGOTIATE FAVORABLE
23 CONTRACTS WITH GAS SUPPLIERS AND TO RENEGOTIATE EXISTING
24 CONTRACTS WITH GAS SUPPLIERS OR TAKE LEGAL ACTIONS NECESSARY
25 TO RELIEVE THE UTILITY FROM EXISTING CONTRACT TERMS WHICH ARE
26 OR MAY BE ADVERSE TO THE INTERESTS OF THE UTILITY'S
27 RATEPAYERS.

28 (3) THE UTILITY'S EFFORTS TO SECURE LOWER COST GAS
29 SUPPLIES BOTH WITHIN AND OUTSIDE OF THE COMMONWEALTH,
30 INCLUDING THE USE OF TRANSPORTATION ARRANGEMENTS WITH

PIPELINES AND OTHER GAS DISTRIBUTION COMPANIES.

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

(B) INTEGRATED GAS COMPANIES.--IN THE CASE OF A NATURAL GAS DISTRIBUTION UTILITY WHICH 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), SUCH UTILITY SHALL, IN ADDITION TO THE MATERIALS REQUIRED IN SUBSECTION (A), BE REQUIRED TO PROVIDE TO THE COMMISSION SUCH INFORMATION, TO BE ESTABLISHED BY COMMISSION REGULATION WITHIN 120 DAYS OF THE PASSAGE OF THIS SECTION, THAT WILL PERMIT THE COMMISSION TO MAKE SPECIFIC FINDINGS AS TO WHETHER ANY PURCHASES OF GAS FROM AN AFFILIATED INTEREST ARE CONSISTENT WITH A LEAST COST FUEL PROCUREMENT POLICY, CONSISTENT WITH THE UTILITY'S OBLIGATION TO PROVIDE SAFE, ADEQUATE AND RELIABLE SERVICE TO ITS CUSTOMERS. SUCH INFORMATION SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, STATEMENTS REGARDING:

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

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

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

(C) RELIABILITY PLANS.--AS PART OF ITS FILING UNDER SECTION

1 1307(F) OR IF IT IS NOT REQUIRED TO MAKE SUCH A FILING ON AN
2 ANNUAL BASIS, A NATURAL GAS DISTRIBUTION COMPANY, AS DEFINED IN
3 SECTION 2202 (RELATING TO DEFINITIONS), SHALL FILE A PROPOSED
4 RELIABILITY PLAN WITH THE COMMISSION WHICH SHALL, AT A MINIMUM,
5 IDENTIFY THE FOLLOWING:

6 (1) THE PROJECTED PEAK DAY AND SEASONAL REQUIREMENTS OF
7 THE FIRM CUSTOMERS UTILIZING THE DISTRIBUTION SYSTEM OF THE
8 NATURAL GAS DISTRIBUTION COMPANY DURING THE 12-MONTH
9 PROJECTED PERIOD SPECIFIED IN SECTION 1307(F)(1). WHERE
10 OPERATIONALLY REQUIRED, THE DESIGN PEAK DAY REQUIREMENTS
11 SHALL BE SPECIFIED FOR DISCRETE SEGMENTS OF EACH NATURAL GAS
12 DISTRIBUTION SYSTEM.

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

17 (D) SUPPLY PLANS.--AS PART OF ITS FILING UNDER SECTION
18 1307(F), A NATURAL GAS DISTRIBUTION COMPANY SHALL FILE A
19 PROPOSED PLAN WITH THE COMMISSION FOR ACQUISITION OR RECEIPT OF
20 NATURAL GAS SUPPLIES.

21 [(C)] (E) DEFINITION.--AS USED IN THIS SECTION, THE [TERM
22 "NATURAL GAS" INCLUDES NATURAL GAS, LIQUIFIED NATURAL GAS,
23 SYNTHETIC NATURAL GAS AND ANY NATURAL GAS SUBSTITUTES] TERMS
24 "NATURAL GAS COSTS," "GAS COSTS," "NATURAL GAS" AND "GAS" SHALL
25 HAVE THE SAME DEFINITIONS AS PROVIDED IN SECTION 1307(G).

26 § 1318. DETERMINATION OF JUST AND REASONABLE [NATURAL] GAS COST
27 RATES.

28 (A) GENERAL RULE.--IN ESTABLISHING JUST AND REASONABLE RATES
29 FOR THOSE NATURAL GAS DISTRIBUTION [UTILITIES] COMPANIES, AS
30 DEFINED IN SECTION 2202 (RELATING TO DEFINITIONS), WITH GROSS

1 INTRASTATE OPERATING REVENUES IN EXCESS OF \$40,000,000 UNDER
2 SECTION 1307(F) (RELATING TO SLIDING SCALE OF RATES;
3 ADJUSTMENTS) OR 1308(D) (RELATING TO VOLUNTARY CHANGES IN RATES)
4 OR ANY OTHER RATE PROCEEDING, THE COMMISSION SHALL CONSIDER THE
5 MATERIALS PROVIDED BY THE UTILITIES PURSUANT TO SECTION 1317
6 (RELATING TO REGULATION OF NATURAL GAS COSTS). NO RATES FOR A
7 NATURAL GAS DISTRIBUTION UTILITY SHALL BE DEEMED JUST AND
8 REASONABLE UNLESS THE COMMISSION FINDS THAT THE UTILITY IS
9 PURSUING A LEAST COST FUEL PROCUREMENT POLICY, CONSISTENT WITH
10 THE UTILITY'S OBLIGATION TO PROVIDE SAFE, ADEQUATE AND RELIABLE
11 SERVICE TO ITS CUSTOMERS. IN MAKING SUCH A DETERMINATION, THE
12 COMMISSION SHALL BE REQUIRED TO MAKE SPECIFIC FINDINGS WHICH
13 SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, FINDINGS THAT:

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

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

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

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

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

10 (1) THAT THE UTILITY HAS FULLY AND VIGOROUSLY ATTEMPTED
11 TO OBTAIN LESS COSTLY GAS SUPPLIES ON BOTH SHORT-TERM AND
12 LONG-TERM BASES FROM NONAFFILIATED INTERESTS.

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

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

20 (C) SHUT-IN GAS; SPECIAL RULE.--IN DETERMINING WHETHER A GAS
21 UTILITY HAS PURCHASED THE LEAST COSTLY NATURAL GAS AVAILABLE,
22 THE COMMISSION SHALL CONSIDER AS AVAILABLE TO THE UTILITY ANY
23 GAS SUPPLIES THAT REASONABLY COULD HAVE BEEN BROUGHT TO MARKET
24 DURING THE RELEVANT PERIOD BUT WHICH WERE VOLUNTARILY WITHHELD
25 FROM THE MARKET BY THE UTILITY OR AN AFFILIATED INTEREST OF THE
26 UTILITY.

27 (D) OTHER REGULATORY APPROVALS.--THE FACT THAT A CONTRACT OR
28 RATE HAS BEEN APPROVED BY A FEDERAL REGULATORY AGENCY FOR
29 INTERSTATE RATEMAKING PURPOSES SHALL NOT, IN AND OF ITSELF, BE
30 ADEQUATE TO SATISFY THE UTILITY'S BURDEN OF PROOF THAT GAS

1 PRICES AND VOLUMES ASSOCIATED WITH SUCH CONTRACT OR RATE ARE
2 JUST AND REASONABLE FOR PURPOSES OF THIS SECTION.

3 (E) REPORTS.--EACH NATURAL GAS DISTRIBUTION UTILITY WITH
4 GROSS INTRASTATE ANNUAL OPERATING REVENUES IN EXCESS OF
5 \$40,000,000 SHALL FILE WITH THE COMMISSION [AND], THE OFFICE OF
6 CONSUMER ADVOCATE AND THE OFFICE OF SMALL BUSINESS ADVOCATE, IN
7 ACCORDANCE WITH REGULATIONS TO BE PRESCRIBED BY THE COMMISSION,
8 QUARTERLY REPORTS SETTING FORTH THE ACTUAL GAS COSTS INCURRED BY
9 THE UTILITY ON A MONTHLY BASIS. ACTUAL GAS COSTS SHALL BE
10 REVIEWED FOR THEIR ACCURACY BY THE BUREAU OF AUDITS AT LEAST
11 ANNUALLY AND THE RESULTS OF THAT REVIEW SHALL BE SUBMITTED TO
12 THE COMMISSION.

13 (F) DEFINITION.--AS USED IN THIS SECTION, THE [TERM INCLUDES
14 NATURAL GAS, LIQUIFIED NATURAL GAS, SYNTHETIC NATURAL GAS AND
15 ANY NATURAL GAS SUBSTITUTES.] TERMS "NATURAL GAS" "NATURAL GAS
16 COSTS," "GAS COSTS," AND "GAS" SHALL HAVE THE SAME DEFINITIONS
17 AS PROVIDED IN SECTION 1307(G).

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

20 CHAPTER 22
21 NATURAL GAS COMPETITION

22 SEC.

23 2201. SHORT TITLE OF CHAPTER.

24 2202. DEFINITIONS.

25 2203. STANDARDS FOR RESTRUCTURING OF NATURAL GAS UTILITY
26 INDUSTRY.

27 2204. IMPLEMENTATION.

28 2205. DUTIES OF NATURAL GAS DISTRIBUTION COMPANIES.

29 2206. CONSUMER PROTECTIONS AND CUSTOMER SERVICE.

30 2207. OBLIGATION TO SERVE.

1 2208. REQUIREMENTS FOR NATURAL GAS SUPPLIERS.

2 2209. MARKET POWER REMEDIATION.

3 2210. APPROVAL OF PROPOSED MERGERS, CONSOLIDATIONS,
4 ACQUISITIONS OR DISPOSITIONS.

5 2211. RATE CAPS.

6 2212. CITY NATURAL GAS DISTRIBUTION OPERATIONS.

7 § 2201. SHORT TITLE OF CHAPTER.

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

10 § 2202. DEFINITIONS.

11 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
12 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
13 CONTEXT CLEARLY INDICATES OTHERWISE:

14 "CONSUMER PROTECTION." THE STANDARDS, PRACTICES AND SERVICE
15 PROTECTIONS FOR RETAIL GAS CUSTOMERS, INCLUDING THOSE PROVIDED
16 FOR IN 52 PA. CODE CH. 56 (RELATING TO STANDARDS AND BILLING
17 PRACTICES FOR RESIDENTIAL UTILITY SERVICE), AS WELL AS
18 APPLICABLE FEDERAL AND STATE DEBT/CREDIT COLLECTION STATUTES AND
19 ANY REGULATIONS OR ORDERS OF THE COMMISSION THAT PROVIDE SUCH
20 PROTECTIONS, AS MAY BE MODIFIED BY THE COMMISSION FROM TIME TO
21 TIME.

22 "ENTITY." A PERSON OR CORPORATION AS DEFINED IN SECTION 102
23 (RELATING TO DEFINITIONS) INCLUDING, FOR PURPOSES OF THIS
24 CHAPTER, A CITY NATURAL GAS DISTRIBUTION OPERATION.

25 "LOCAL COMMISSION." THE LOCAL BODY OR AGENCY DESIGNATED
26 UNDER APPLICABLE LAW AS RESPONSIBLE FOR SETTING THE RATES AND
27 CHARGES OF A CITY NATURAL GAS DISTRIBUTION OPERATION IMMEDIATELY
28 PRIOR TO THE DATE THE COMMISSION ASSUMES JURISDICTION OVER THE
29 CITY NATURAL GAS DISTRIBUTION OPERATION.

30 "NATURAL GAS DISTRIBUTION COMPANY." A PUBLIC UTILITY OR CITY

1 NATURAL GAS DISTRIBUTION OPERATION THAT PROVIDES NATURAL GAS
2 DISTRIBUTION SERVICES AND WHICH MAY PROVIDE NATURAL GAS SUPPLY
3 SERVICES AND OTHER SERVICES. FOR PURPOSES OF THIS CHAPTER, THIS
4 TERM DOES NOT INCLUDE:

5 (1) ANY PUBLIC UTILITY SUBJECT TO THE JURISDICTION OF
6 THE COMMISSION WHICH HAS ANNUAL GAS OPERATING REVENUES OF
7 LESS THAN \$6,000,000 PER YEAR, EXCEPT WHERE THE PUBLIC
8 UTILITY VOLUNTARILY PETITIONS THE COMMISSION TO BE INCLUDED
9 WITHIN THIS DEFINITION OR WHERE THE PUBLIC UTILITY SEEKS TO
10 PROVIDE NATURAL GAS SUPPLY SERVICES TO RETAIL GAS CUSTOMERS
11 OUTSIDE ITS SERVICE TERRITORY; OR

12 (2) ANY NATURAL GAS PUBLIC UTILITY SUBJECT TO THE
13 JURISDICTION OF THE COMMISSION THAT IS NOT INTERCONNECTED TO
14 AN INTERSTATE GAS PIPELINE BY MEANS OF A DIRECT CONNECTION OR
15 AN INDIRECT CONNECTION THROUGH THE DISTRIBUTION SYSTEM OF
16 ANOTHER NATURAL GAS PUBLIC UTILITY OR THROUGH A NATURAL GAS
17 GATHERING SYSTEM.

18 "NATURAL GAS DISTRIBUTION SERVICE." THE DELIVERY OF NATURAL
19 GAS TO RETAIL GAS CUSTOMERS UTILIZING THE JURISDICTIONAL
20 FACILITIES OF THE NATURAL GAS DISTRIBUTION COMPANY.

21 "NATURAL GAS SUPPLIER." AN ENTITY OTHER THAN A NATURAL GAS
22 DISTRIBUTION COMPANY, BUT INCLUDING NATURAL GAS DISTRIBUTION
23 COMPANY MARKETING AFFILIATES, WHICH PROVIDES NATURAL GAS SUPPLY
24 SERVICES TO RETAIL GAS CUSTOMERS UTILIZING THE JURISDICTIONAL
25 FACILITIES OF A NATURAL GAS DISTRIBUTION COMPANY. THE TERM
26 INCLUDES A NATURAL GAS DISTRIBUTION COMPANY THAT PROVIDES
27 NATURAL GAS SUPPLY SERVICES OUTSIDE ITS CERTIFICATED SERVICE
28 TERRITORIES. THE TERM INCLUDES A MUNICIPAL CORPORATION, ITS
29 AFFILIATES OR ANY JOINT VENTURE, TO THE EXTENT THAT IT CHOOSES
30 TO PROVIDE NATURAL GAS SUPPLY SERVICES TO RETAIL CUSTOMERS

1 LOCATED OUTSIDE OF ITS CORPORATE OR MUNICIPAL LIMITS, AS
2 APPLICABLE, OTHER THAN:

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

6 (II) TOTAL NATURAL GAS SUPPLY SERVICES IN DE MINIMIS
7 AMOUNTS;

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

11 (IV) NATURAL GAS SUPPLY SERVICES PROVIDED TO THE
12 MUNICIPAL CORPORATION ITSELF OR ITS TENANTS ON LAND IT
13 OWNS OR LEASES, OR IS SUBJECT TO AN AGREEMENT OF SALE OR
14 PENDING CONDEMNATION, AS OF SEPTEMBER 1, 1999, TO THE
15 EXTENT PERMITTED BY APPLICABLE LAW INDEPENDENT OF THIS
16 CHAPTER.

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

19 NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, A NATURAL GAS
20 SUPPLIER THAT IS NOT A NATURAL GAS DISTRIBUTION COMPANY IS NOT A
21 PUBLIC UTILITY AS DEFINED IN SECTION 102 (RELATING TO
22 DEFINITIONS) TO THE EXTENT THAT THE NATURAL GAS SUPPLIER IS
23 UTILIZING THE JURISDICTIONAL DISTRIBUTION FACILITIES OF A
24 NATURAL GAS DISTRIBUTION COMPANY OR IS PROVIDING OTHER SERVICES
25 AUTHORIZED BY THE COMMISSION.

26 "NATURAL GAS SUPPLY SERVICES."

27 (1) THE TERM INCLUDES:

28 (I) THE SALE OR ARRANGEMENT OF THE SALE OF NATURAL
29 GAS TO RETAIL GAS CUSTOMERS; AND

30 (II) SERVICES THAT MAY BE UNBUNDLED BY THE

COMMISSION UNDER SECTION 2203(3) (RELATING TO STANDARDS
FOR RESTRUCTURING OF NATURAL GAS UTILITY INDUSTRY).

(2) THE TERM DOES NOT INCLUDE DISTRIBUTION SERVICE.

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

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

"UNIVERSAL SERVICE AND ENERGY CONSERVATION." POLICIES,
PRACTICES AND SERVICES THAT HELP RESIDENTIAL LOW-INCOME RETAIL
GAS CUSTOMERS AND OTHER RESIDENTIAL RETAIL GAS CUSTOMERS
EXPERIENCING TEMPORARY EMERGENCIES, AS DEFINED BY THE
COMMISSION, TO MAINTAIN NATURAL GAS SUPPLY AND DISTRIBUTION
SERVICES. THE TERM INCLUDES RETAIL GAS CUSTOMER ASSISTANCE
PROGRAMS, TERMINATION OF SERVICE PROTECTIONS AND CONSUMER
PROTECTION POLICIES AND SERVICES THAT HELP RESIDENTIAL LOW-
INCOME CUSTOMERS AND OTHER RESIDENTIAL CUSTOMERS EXPERIENCING
TEMPORARY EMERGENCIES TO REDUCE OR MANAGE ENERGY CONSUMPTION IN

1 A COST-EFFECTIVE MANNER, SUCH AS THE LOW-INCOME USAGE REDUCTION
2 PROGRAMS AND CONSUMER EDUCATION.

3 § 2203. STANDARDS FOR RESTRUCTURING OF NATURAL GAS UTILITY
4 INDUSTRY.

5 THE FOLLOWING INTERDEPENDENT STANDARDS SHALL GOVERN THE
6 COMMISSION'S ACTIONS IN ADOPTING RULES, ORDERS OR POLICIES AND
7 IN REVIEWING, ASSESSING AND APPROVING EACH NATURAL GAS
8 DISTRIBUTION COMPANY'S RESTRUCTURING FILINGS AND OVERSEEING THE
9 TRANSITION PROCESS AND REGULATION OF THE RESTRUCTURED NATURAL
10 GAS UTILITY INDUSTRY:

11 (1) THE COMMISSION SHALL ADOPT AND ENFORCE STANDARDS AS
12 NECESSARY TO ENSURE CONTINUATION OF THE SAFETY AND
13 RELIABILITY OF THE NATURAL GAS SUPPLY AND DISTRIBUTION
14 SERVICE TO ALL RETAIL GAS CUSTOMERS. IN ADOPTING THE
15 STANDARDS, THE COMMISSION SHALL CONSIDER THE ABSENCE OF ANY
16 APPLICABLE INDUSTRY STANDARDS AND PRACTICES OR ADOPT
17 STANDARDS IN CONFORMITY WITH INDUSTRY STANDARDS AND PRACTICES
18 MEETING THE STANDARDS OF THIS CHAPTER. THE APPLICATION OF
19 SUCH STANDARDS SHALL BE IN A MANNER THAT INCORPORATES THE
20 OPERATING REQUIREMENTS OF THE DIFFERENT NATURAL GAS
21 DISTRIBUTION COMPANIES.

22 (2) CONSISTENT WITH SECTION 2204 (RELATING TO
23 IMPLEMENTATION), THE COMMISSION SHALL ALLOW RETAIL GAS
24 CUSTOMERS TO CHOOSE AMONG NATURAL GAS SUPPLIERS AND NATURAL
25 GAS DISTRIBUTION COMPANIES TO THE EXTENT THAT THEY OFFER SUCH
26 NATURAL GAS SUPPLY SERVICES. RETAIL GAS CUSTOMERS SHALL BE
27 ABLE TO CHOOSE FROM THESE SUPPLIERS A VARIETY OF PRODUCTS,
28 INCLUDING, BUT NOT LIMITED TO, DIFFERENT SUPPLY AND PRICING
29 OPTIONS, AND SERVICES THAT EVOLVE AS THE COMPETITIVE
30 MARKETPLACE MATURES. NEITHER ANY NATURAL GAS SUPPLIER NOR ANY

1 NATURAL GAS DISTRIBUTION COMPANY SHALL OFFER INTERRUPTIBLE
2 GAS SERVICE TO ANY ESSENTIAL HUMAN NEEDS RETAIL GAS CUSTOMER
3 LACKING INSTALLED AND OPERABLE ALTERNATIVE FUEL CAPABILITY OR
4 TO ANY RESIDENTIAL RETAIL GAS CUSTOMER.

5 (3) THE COMMISSION SHALL REQUIRE NATURAL GAS
6 DISTRIBUTION COMPANIES TO UNBUNDLE NATURAL GAS SUPPLY
7 SERVICES SUCH THAT SEPARATE CHARGES FOR THE SERVICES CAN BE
8 SET FORTH IN TARIFFS AND ON RETAIL GAS CUSTOMERS' BILLS. IN
9 ITS RESTRUCTURING FILING, THE NATURAL GAS DISTRIBUTION
10 COMPANY SHALL ESTABLISH SYSTEM RELIABILITY STANDARDS AND
11 CAPACITY CONTRACT MITIGATION PARAMETERS AND ADDRESS THE
12 UNBUNDLING OF COMMODITY, CAPACITY, STORAGE, BALANCING AND
13 AGGREGATOR SERVICES. THE COMMISSION MAY ADDRESS THE
14 UNBUNDLING OF OTHER SERVICES ONLY THROUGH A RULEMAKING. IN
15 CONDUCTING THE RULEMAKING, THE COMMISSION SHALL CONSIDER THE
16 IMPACT OF SUCH UNBUNDLING ON THE LABOR FORCE, THE CREATION OF
17 STRANDED COSTS, SAFETY, RELIABILITY, CONSUMER PROTECTIONS,
18 UNIVERSAL SERVICE AND THE POTENTIAL FOR UNBUNDLING TO OFFER
19 SAVINGS, NEW PRODUCTS AND ADDITIONAL CHOICES OR SERVICES TO
20 RETAIL GAS CUSTOMERS. THE COMMISSION'S DECISIONS SHALL ASSURE
21 THAT STANDARDS AND PROCEDURES FOR SAFETY AND RELIABILITY,
22 CONSUMER PROTECTIONS AND UNIVERSAL SERVICE ARE MAINTAINED AT
23 LEVELS CONSISTENT WITH THIS CHAPTER.

24 (4) CONSISTENT WITH THE PROVISIONS OF SECTION 2204, THE
25 COMMISSION SHALL REQUIRE THAT A NATURAL GAS DISTRIBUTION
26 COMPANY THAT OWNS OR OPERATES JURISDICTIONAL DISTRIBUTION
27 FACILITIES SHALL PROVIDE DISTRIBUTION SERVICE TO ALL RETAIL
28 GAS CUSTOMERS IN ITS SERVICE TERRITORY AND TO ALL NATURAL GAS
29 SUPPLIERS, AFFILIATED OR NONAFFILIATED, ON NONDISCRIMINATORY
30 RATES, TERMS OF ACCESS AND OTHER CONDITIONS.

1 (5) THE COMMISSION SHALL REQUIRE THAT RESTRUCTURING OF
2 THE NATURAL GAS UTILITY INDUSTRY BE IMPLEMENTED IN A MANNER
3 THAT DOES NOT UNREASONABLY DISCRIMINATE AGAINST ONE CUSTOMER
4 CLASS FOR THE BENEFIT OF ANOTHER.

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

18 (7) THE COMMISSION SHALL, AT A MINIMUM, CONTINUE THE
19 LEVEL AND NATURE OF THE CONSUMERS PROTECTIONS, POLICIES AND
20 SERVICES WITHIN ITS JURISDICTION THAT ARE IN EXISTENCE AS OF
21 THE EFFECTIVE DATE OF THIS CHAPTER TO ASSIST LOW-INCOME
22 RETAIL GAS CUSTOMERS TO AFFORD NATURAL GAS SERVICES.

23 (8) THE COMMISSION SHALL ENSURE THAT UNIVERSAL SERVICE
24 AND ENERGY CONSERVATION POLICIES, ACTIVITIES AND SERVICES ARE
25 APPROPRIATELY FUNDED AND AVAILABLE IN EACH NATURAL GAS
26 DISTRIBUTION SERVICE TERRITORY. THE COMMISSION SHALL
27 ENCOURAGE THE USE OF COMMUNITY-BASED ORGANIZATIONS THAT HAVE
28 THE NECESSARY TECHNICAL AND ADMINISTRATIVE EXPERIENCE TO BE
29 THE DIRECT PROVIDERS OF SERVICES OR PROGRAMS WHICH REDUCE
30 ENERGY CONSUMPTION OR OTHERWISE ASSIST LOW-INCOME RETAIL GAS

1 CUSTOMERS TO AFFORD NATURAL GAS SERVICE. PROGRAMS UNDER THIS
2 PARAGRAPH SHALL BE SUBJECT TO THE ADMINISTRATIVE OVERSIGHT OF
3 THE COMMISSION, WHICH SHALL ENSURE THAT THE PROGRAMS ARE
4 OPERATED IN A COST-EFFECTIVE MANNER.

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

8 (10) CONSISTENT WITH PARAGRAPH (7), THE COMMISSION SHALL
9 CONVENE A TASK FORCE TO REVIEW UNIVERSAL SERVICE PROGRAMS AND
10 THEIR FUNDING. THE TASK FORCE SHALL ISSUE A REPORT TO THE
11 COMMISSION BY DECEMBER 31, 1999, AND ANNUALLY THEREAFTER.
12 RECOMMENDATIONS REGARDING THE USE OF GENERAL STATE REVENUE
13 SHALL BE CONCURRENTLY FORWARDED TO THE GENERAL ASSEMBLY.

14 (11) THE COMMISSION SHALL CONTINUE TO REGULATE RATES FOR
15 NATURAL GAS DISTRIBUTION SERVICES FOR NEW AND EXISTING RETAIL
16 GAS CUSTOMERS IN ACCORDANCE WITH CHAPTER 13 (RELATING TO
17 RATES AND RATE MAKING) AND THIS CHAPTER.

18 (12) THE COMMISSION SHALL MAKE ITS DETERMINATIONS
19 PURSUANT TO THIS CHAPTER AND SHALL ADOPT SUCH ORDERS OR
20 REGULATIONS AS NECESSARY AND APPROPRIATE TO ENSURE THAT
21 NATURAL GAS SUPPLIERS MEET THEIR SUPPLY AND RELIABILITY
22 OBLIGATIONS, INCLUDING, BUT NOT LIMITED TO, ESTABLISHING
23 PENALTIES FOR FAILURE TO DELIVER NATURAL GAS AND REVOKING
24 LICENSES. ANY AFFECTED ENTITY MAY AT ANY TIME PETITION THE
25 COMMISSION TO AMEND OR RESCIND ANY SUCH ORDER OR REGULATION
26 ISSUED OR PROMULGATED UNDER THIS CHAPTER.

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

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

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

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

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

19 § 2204. IMPLEMENTATION.

20 (A) COMMENCEMENT OF CUSTOMER CHOICE.--BEGINNING ON NOVEMBER
21 1, 1999, UNLESS THE COMMISSION FOR GOOD CAUSE SHOWN EXTENDS THIS
22 PERIOD BY NO MORE THAN EIGHT MONTHS, CONSISTENT WITH THIS
23 CHAPTER, ALL RETAIL GAS CUSTOMERS OF NATURAL GAS DISTRIBUTION
24 COMPANIES OTHER THAN CITY NATURAL GAS DISTRIBUTION OPERATIONS
25 SHALL HAVE THE OPPORTUNITY TO PURCHASE NATURAL GAS SUPPLY
26 SERVICES FROM A NATURAL GAS SUPPLIER OR THEIR NATURAL GAS
27 DISTRIBUTION COMPANY TO THE EXTENT IT OFFERS SUCH SERVICES. THE
28 CHOICE OF NATURAL GAS SUPPLIERS SHALL REST WITH THE RETAIL GAS
29 CUSTOMER. THE COMMISSION SHALL ADOPT ORDERS, RULES, REGULATIONS
30 AND POLICIES AS SHALL BE NECESSARY AND APPROPRIATE TO IMPLEMENT

1 FULLY THIS CHAPTER WITHIN THE TIME FRAMES SPECIFIED IN THIS
2 CHAPTER, PROVIDED THAT THE COMMISSION MAY, IN THE CONTEXT OF
3 EACH NATURAL GAS DISTRIBUTION COMPANY'S RESTRUCTURING
4 PROCEEDING, ESTABLISH THE TIME FRAMES FOR IMPLEMENTATION OF
5 SPECIFIC COMPONENTS OF EACH NATURAL GAS DISTRIBUTION COMPANY'S
6 RESTRUCTURING PLAN.

7 (B) RESTRUCTURING FILINGS.--ALL NATURAL GAS DISTRIBUTION
8 COMPANIES IN THIS COMMONWEALTH, EXCEPT CITY NATURAL GAS
9 DISTRIBUTION OPERATIONS, SHALL FILE WITH THE COMMISSION,
10 PURSUANT TO A SCHEDULE TO BE DETERMINED BY THE COMMISSION IN
11 CONSULTATION WITH THE NATURAL GAS DISTRIBUTION COMPANIES, A
12 RESTRUCTURING FILING CONSISTENT WITH THIS CHAPTER AND WITH ANY
13 ORDERS, RULES OR REGULATIONS ADOPTED BY THE COMMISSION. A CITY
14 NATURAL GAS DISTRIBUTION OPERATION SHALL FILE WITH THE
15 COMMISSION ITS RESTRUCTURING FILING PURSUANT TO SECTION 2212
16 (RELATING TO CITY NATURAL GAS DISTRIBUTION OPERATIONS).

17 (C) COMMISSION REVIEW.--

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

25 (2) IN ISSUING THE RESTRUCTURING ORDER, THE COMMISSION
26 MAY CONSIDER THE RESULTS OF ANY COLLABORATIVE PROCESS
27 PREVIOUSLY ENGAGED IN DURING OR PRIOR TO THE RESTRUCTURING
28 PROCEEDING.

29 (3) IF THE COMMISSION MODIFIES OR REJECTS A
30 RESTRUCTURING FILING, IT SHALL STATE THE SPECIFIC REASONS FOR

1 MODIFICATION OR REJECTION AND DIRECT THE NATURAL GAS
2 DISTRIBUTION COMPANY TO ADDRESS SUCH OBJECTIONS WITH ANOTHER
3 FILING WITHIN 30 DAYS OF THE ENTRY DATE OF THE COMMISSION
4 ORDER MODIFYING OR REJECTING THE PRIOR FILING.

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

8 (5) THE RESTRUCTURING FILING FOR A CITY NATURAL GAS
9 DISTRIBUTION OPERATION SHALL ALSO INCLUDE AN INITIAL TARIFF
10 FILING.

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

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

23 (2) CONTRACTS WHICH BY THEIR TERMS MUST BE RENEWED
24 WITHIN 150 DAYS AFTER THE EFFECTIVE DATE OF THIS CHAPTER OR,
25 WITH RESPECT TO A CITY NATURAL GAS DISTRIBUTION OPERATION,
26 WITHIN 90 DAYS AFTER THE DATE THE COMMISSION ASSUMES
27 JURISDICTION OVER SUCH CITY NATURAL GAS DISTRIBUTION
28 OPERATION OR CONTRACTS FOR WHICH THE LAST DAY FOR NOTICE OF
29 RENEWAL OR NONRENEWAL PURSUANT TO THE NOTICE PROVISION OF THE
30 CONTRACT HAS OCCURRED OR IS WITHIN 150 DAYS AFTER THE

1 EFFECTIVE DATE OF THIS CHAPTER OR, WITH RESPECT TO A CITY
2 NATURAL GAS DISTRIBUTION OPERATION, WITHIN 90 DAYS AFTER THE
3 DATE THE COMMISSION ASSUMES JURISDICTION OVER SUCH CITY
4 NATURAL GAS DISTRIBUTION OPERATION AND WHICH ARE RENEWED
5 PURSUANT TO SUCH NOTICE REQUIREMENTS SHALL ALSO BE SUBJECT TO
6 THE PROVISIONS OF THIS SUBSECTION.

7 (3) SUCH RELEASE, ASSIGNMENT OR TRANSFER SHALL BE AT THE
8 APPLICABLE CONTRACT RATE FOR SUCH CAPACITY, OR PENNSYLVANIA
9 SUPPLY, AND SHALL BE SUBJECT TO APPLICABLE CONTRACTUAL
10 ARRANGEMENTS AND TARIFFS. THE AMOUNT SO RELEASED, ASSIGNED OR
11 TRANSFERRED SHALL BE SUFFICIENT TO SERVE THE LEVEL OF THE
12 CUSTOMERS' REQUIREMENTS FOR WHICH THE NATURAL GAS
13 DISTRIBUTION COMPANY HAS PROCURED SUCH CAPACITY, DETERMINED
14 IN ACCORDANCE WITH THE NATURAL GAS DISTRIBUTION COMPANY'S
15 TARIFF OR PROCEDURES APPROVED IN ITS RESTRUCTURING
16 PROCEEDINGS.

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

22 (5) ON OR AFTER JULY 1, 2002, OR, IN THE CASE OF A CITY
23 NATURAL GAS DISTRIBUTION OPERATION, MARCH 1, 2005, THE
24 COMMISSION SHALL HAVE THE AUTHORITY TO PREVENT SUCH
25 ASSIGNMENTS, RELEASES OR TRANSFERS UNDER EITHER OF THE
26 FOLLOWING CIRCUMSTANCES:

27 (I) THE NATURAL GAS DISTRIBUTION COMPANY, ALONE OR
28 TOGETHER WITH ONE OR MORE NATURAL GAS SUPPLIERS,
29 VOLUNTARILY PROPOSES AN ALTERNATIVE TO SUCH ASSIGNMENTS,
30 RELEASES OR TRANSFERS AND THE COMMISSION FINDS SUCH

1 ALTERNATIVE TO BE IN THE PUBLIC INTEREST; OR

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

8 (A) THE COMMISSION FINDS THAT THE ALTERNATE
9 CAPACITY WHICH THE NATURAL GAS SUPPLIER SEEKS TO
10 UTILIZE MEETS THE OPERATIONAL NEEDS AND RELIABILITY
11 STANDARDS OF THE NATURAL GAS DISTRIBUTION COMPANY.

12 (B) THE COMMISSION CONFIRMS THAT THE NATURAL GAS
13 DISTRIBUTION COMPANY'S SPECIFIC TRANSPORTATION AND
14 STORAGE CAPACITY CONTRACTS TO BE DISPLACED ARE NO
15 LONGER NEEDED TO SERVE FIRM CUSTOMERS OF THE NATURAL
16 GAS DISTRIBUTION COMPANY.

17 (C) THE COMMISSION AUTHORIZES THE NATURAL GAS
18 DISTRIBUTION COMPANY TO FOLLOW A SPECIFIC, WRITTEN
19 MITIGATION PLAN APPROVED BY THE COMMISSION OR, IF
20 SUCH A PLAN IS NOT APPROVED OR APPLICABLE, TO POST
21 THE DISPLACED CAPACITY FOR RELEASE IN ACCORDANCE WITH
22 THE RULES AND REGULATIONS OF THE FEDERAL ENERGY
23 REGULATORY COMMISSION AND APPLICABLE REQUIREMENTS OF
24 INTERSTATE PIPELINES.

25 (D) THE COMMISSION AUTHORIZES THE NATURAL GAS
26 DISTRIBUTION COMPANY TO RECOVER THE DIFFERENCE
27 BETWEEN THE AMOUNT THE NATURAL GAS DISTRIBUTION
28 COMPANY IS REQUIRED TO PAY UNDER THE APPLICABLE
29 CONTRACT TERMS FOR THE CAPACITY RELEASED, ASSIGNED OR
30 TRANSFERRED PURSUANT TO CLAUSE (C) AND THE AMOUNT THE

1 NATURAL GAS DISTRIBUTION COMPANY RECEIVES FROM AN
2 ENTITY, IF ANY, THAT ACQUIRES SUCH CAPACITY. UNDER NO
3 CIRCUMSTANCES, HOWEVER, SHALL SUCH RECOVERY RESULT IN
4 SHIFTING OF COSTS BETWEEN CUSTOMER CLASSES OR IN ANY
5 INCREASE IN RATES TO CUSTOMERS WHO CONTINUE TO
6 PURCHASE NATURAL GAS SUPPLIES FROM THE NATURAL GAS
7 DISTRIBUTION COMPANY ACTING IN ITS SUPPLIER OF LAST
8 RESORT FUNCTION.

9 (6) PRIOR TO MAKING THE FILING PROVIDED FOR IN PARAGRAPH
10 (5), THE NATURAL GAS SUPPLIER SHALL MEET WITH THE NATURAL GAS
11 DISTRIBUTION COMPANY TO DISCUSS THE NATURAL GAS SUPPLIER'S
12 PROPOSED ALTERNATIVES TO THE EXISTING GAS SUPPLY OR CAPACITY
13 CONTRACTS OR TO THEIR MANDATORY ASSIGNMENT.

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

18 (E) NEW AND RENEWED CAPACITY.--

19 (1) SUBJECT TO THE SERVICE OBLIGATIONS IMPOSED BY THIS
20 TITLE, AND TO THE EXTENT SUCH CAPACITY IS NOT NEEDED TO MEET
21 THE NATURAL GAS DISTRIBUTION COMPANY'S LEAST COST FUEL
22 PROCUREMENT AND OTHER APPLICABLE STANDARDS PURSUANT TO THIS
23 TITLE, PRIOR TO ENTERING INTO NEW OR RENEWED CONTRACTS FOR
24 FIRM STORAGE OR TRANSPORTATION CAPACITY NOT SUBJECT TO
25 SUBSECTION (D)(1), (2), (3) OR (4) EACH NATURAL GAS
26 DISTRIBUTION COMPANY SHALL OFFER ON A NONDISCRIMINATORY BASIS
27 TO EACH NATURAL GAS SUPPLIER LICENSED TO DO BUSINESS ON ITS
28 SYSTEM, AND TO LARGE VOLUME INDUSTRIAL OR COMMERCIAL
29 CUSTOMERS OF THE NATURAL GAS DISTRIBUTION COMPANY BEING
30 SERVED BY SUCH CONTRACTS, THE OPPORTUNITY TO RENEW SUCH

1 CONTRACTS, PURSUANT TO THE RULES AND REGULATIONS OF THE
2 FEDERAL ENERGY REGULATORY COMMISSION, OR TO ENTER INTO OTHER
3 CONTRACTS FOR CAPACITY.

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

8 (3) EACH NATURAL GAS DISTRIBUTION COMPANY SHALL UTILIZE
9 THE COLLABORATIVE PROCESS ESTABLISHED PURSUANT TO SUBSECTION
10 (F) TO ADDRESS ITS CAPACITY REQUIREMENTS.

11 (4) ABSENT THE NATURAL GAS SUPPLIER OR LARGE VOLUME
12 INDUSTRIAL OR COMMERCIAL CUSTOMER TAKING OR PROVIDING SUCH
13 CAPACITY, THE NATURAL GAS DISTRIBUTION COMPANY SHALL FILE
14 WITH AND OBTAIN APPROVAL FROM THE COMMISSION FOR SUCH
15 CONTRACTS NECESSARY TO ENSURE SUFFICIENT CAPACITY TO MEET
16 CURRENT AND PROJECTED CUSTOMER REQUIREMENTS CONSIDERING THE
17 COMMITMENTS OF NATURAL GAS SUPPLIERS.

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

23 (F) WORKING GROUP AND COLLABORATIVE PROCESS.--IN ITS
24 RESTRUCTURING PROCEEDING, A NATURAL GAS DISTRIBUTION COMPANY
25 SHALL SET FORTH A PROCESS TO ESTABLISH A WORKING GROUP OF
26 LICENSED NATURAL GAS SUPPLIERS HAVING CUSTOMERS ON THE NATURAL
27 GAS DISTRIBUTION COMPANY'S SYSTEM AND REPRESENTATIVES OF THE
28 RESIDENTIAL, COMMERCIAL AND INDUSTRIAL CUSTOMER CLASSES TO:

29 (1) MEET ON A SCHEDULED BASIS.

30 (2) SEEK RESOLUTION OF OPERATIONAL AND CAPACITY ISSUES

1 RELATED TO CUSTOMER CHOICE.

2 THE FINAL DETERMINATION OF OPERATIONAL AND RELIABILITY ISSUES
3 RESIDES WITH THE NATURAL GAS DISTRIBUTION COMPANY. IN ADDITION,
4 THE NATURAL GAS DISTRIBUTION COMPANY SHALL INCLUDE IN ITS
5 RESTRUCTURING FILING A COLLABORATIVE PROCESS TO ADDRESS BROADER
6 ISSUES RELATING TO UNBUNDLING, CUSTOMER CHOICE AND DEREGULATION.

7 (G) INVESTIGATION AND REPORT TO GENERAL ASSEMBLY.--FIVE
8 YEARS AFTER THE EFFECTIVE DATE OF THIS CHAPTER, THE COMMISSION
9 SHALL INITIATE AN INVESTIGATION OR OTHER APPROPRIATE PROCEEDING,
10 IN WHICH ALL INTERESTED PARTIES ARE INVITED TO PARTICIPATE, TO
11 DETERMINE WHETHER EFFECTIVE COMPETITION FOR NATURAL GAS SUPPLY
12 SERVICES EXISTS ON THE NATURAL GAS DISTRIBUTION COMPANIES'
13 SYSTEMS IN THIS COMMONWEALTH. THE COMMISSION SHALL REPORT ITS
14 FINDINGS TO THE GENERAL ASSEMBLY. SHOULD THE COMMISSION CONCLUDE
15 THAT EFFECTIVE COMPETITION DOES NOT EXIST, THE COMMISSION SHALL
16 RECONVENE THE STAKEHOLDERS IN THE NATURAL GAS INDUSTRY IN THIS
17 COMMONWEALTH TO EXPLORE AVENUES, INCLUDING LEGISLATIVE, FOR
18 ENCOURAGING INCREASED COMPETITION IN THIS COMMONWEALTH.

19 (H) DISPLACED EMPLOYEE PROGRAM.--THE DEPARTMENT OF LABOR AND
20 INDUSTRY SHALL ESTABLISH AND IMPLEMENT A PROGRAM TO ASSIST THE
21 NATURAL GAS DISTRIBUTION COMPANY EMPLOYEES WHO ARE DISPLACED BY
22 THE TRANSITION TO RETAIL COMPETITION PRECIPITATED BY THIS
23 CHAPTER. THE PROGRAM SHALL BE DESIGNED TO ASSIST EMPLOYEES IN
24 OBTAINING EMPLOYMENT AND SHALL CONSIST OF UTILIZING THE FEDERAL
25 FUNDS AVAILABLE FOR THE PURPOSE OF RETRAINING AND OUTPLACEMENT
26 SERVICES FOR SUCH EMPLOYEES.

27 (I) AUDIT REQUIREMENT.--PRIOR TO THE COMMENCEMENT OF THE
28 RESTRUCTURING PROCEEDING OF A CITY NATURAL GAS DISTRIBUTION
29 OPERATION, THE COMMISSION SHALL PROVIDE FOR AN INDEPENDENT
30 MANAGEMENT AUDIT OF ALL EMPLOYEES, RECORDS, EQUIPMENT,

1 CONTRACTS, ASSETS, LIABILITIES, APPROPRIATIONS AND OBLIGATIONS
2 RELATED TO A CITY NATURAL GAS DISTRIBUTION OPERATION PURSUANT TO
3 SECTION 516 (RELATING TO AUDITS OF CERTAIN UTILITIES). THE CITY
4 NATURAL GAS DISTRIBUTION OPERATION SHALL HAVE A 60-DAY PERIOD TO
5 SUBMIT WRITTEN COMMENTS ON THE AUDIT REPORT TO THE COMMISSION.

6 § 2205. DUTIES OF NATURAL GAS DISTRIBUTION COMPANIES.

7 (A) INTEGRITY OF DISTRIBUTION SYSTEM.--

8 (1) EACH NATURAL GAS DISTRIBUTION COMPANY SHALL MAINTAIN
9 THE INTEGRITY OF ITS DISTRIBUTION SYSTEM AT LEAST IN
10 CONFORMITY WITH THE STANDARDS ESTABLISHED BY THE FEDERAL
11 DEPARTMENT OF TRANSPORTATION AND SUCH OTHER STANDARDS
12 PRACTICED BY THE INDUSTRY IN A MANNER SUFFICIENT TO PROVIDE
13 SAFE AND RELIABLE SERVICE TO ALL RETAIL GAS CUSTOMERS
14 CONNECTED TO ITS SYSTEM CONSISTENT WITH THIS TITLE AND THE
15 COMMISSION'S ORDERS OR REGULATIONS.

16 (2) IN PERFORMING SUCH DUTIES, THE NATURAL GAS
17 DISTRIBUTION COMPANY SHALL IMPLEMENT PROCEDURES TO REQUIRE
18 ALL NATURAL GAS SUPPLIERS TO SUPPLY NATURAL GAS TO THE
19 NATURAL GAS DISTRIBUTION COMPANY AT LOCATIONS, VOLUMES,
20 QUALITIES AND PRESSURES THAT ARE ADEQUATE TO MEET THE NATURAL
21 GAS SUPPLIER'S SUPPLY AND RELIABILITY OBLIGATIONS TO ITS
22 RETAIL GAS CUSTOMERS AND THE NATURAL GAS DISTRIBUTION
23 COMPANY'S SUPPLY AND RELIABILITY OBLIGATIONS TO ITS RETAIL
24 GAS CUSTOMERS. THE PROCEDURES SHALL INCLUDE, BUT NOT BE
25 LIMITED TO:

26 (I) A COMMUNICATION PROTOCOL WITH NATURAL GAS
27 SUPPLIERS.

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

30 (III) THE RIGHT TO ISSUE AND ENFORCE PENALTIES

1 PURSUANT TO COMMISSION DIRECTION, PROVIDED, HOWEVER, THAT
2 THE COMMISSION MAY APPROVE ADDITIONAL PROCEDURES OF LIKE
3 NATURE BY ORDER OR REGULATION TO PRESERVE RELIABILITY.

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

5 (1) THE NATURAL GAS DISTRIBUTION COMPANY SHALL NOT HAVE
6 AN OBLIGATION TO INSTALL NONSTANDARD FACILITIES, EITHER AS TO
7 TYPE OR LOCATION, FOR THE PURPOSE OF RECEIVING NATURAL GAS
8 FROM THE NATURAL GAS SUPPLIER UNLESS THE NATURAL GAS SUPPLIER
9 OR ITS RETAIL GAS CUSTOMER PAYS THE FULL COST OF THESE
10 FACILITIES.

11 (2) NOTHING IN THIS CHAPTER SHALL PREVENT THE NATURAL
12 GAS DISTRIBUTION COMPANY FROM MAINTAINING AND UPGRADING ITS
13 SYSTEM TO MEET RETAIL GAS CUSTOMER REQUIREMENTS CONSISTENT
14 WITH THE REQUIREMENT OF SECTION 1501 (RELATING TO CHARACTER
15 OF SERVICE AND FACILITIES) OR COMPLIANCE WITH OTHER STATUTORY
16 AND REGULATORY REQUIREMENTS.

17 (3) DISPUTES CONCERNING FACILITIES SHALL BE SUBJECT TO
18 THE JURISDICTION OF THE COMMISSION AND MAY BE INITIATED BY
19 THE FILING OF A COMPLAINT UNDER SECTION 701 (RELATING TO
20 COMPLAINTS) BY THE COMMISSION OR ANY INTERESTED PARTY.

21 (C) CUSTOMER BILLING.--

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

30 (2) (I) BILLS TO RETAIL GAS CUSTOMERS SHALL CONTAIN

1 SUFFICIENT UNBUNDLED CHARGE INFORMATION TO ENABLE THE
2 CUSTOMER TO DETERMINE THE BASIS FOR THOSE CHARGES AND
3 SHALL COMPLY WITH SECTION 1509 (RELATING TO BILLING
4 PROCEDURES). AT A MINIMUM, SUCH CHARGES SHALL INCLUDE
5 THOSE SERVICES WHICH ARE UNBUNDLED AS A RESULT OF A
6 RESTRUCTURING FILING OR RULEMAKING.

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

12 (III) BILLS RENDERED BY A NATURAL GAS DISTRIBUTION
13 COMPANY ON BEHALF OF A NATURAL GAS SUPPLIER SHALL
14 INCLUDE, IN A FORM AND MANNER DETERMINED BY THE NATURAL
15 GAS DISTRIBUTION COMPANY, IN CONSULTATION WITH THE
16 NATURAL GAS SUPPLIER, THE FOLLOWING INFORMATION WITH
17 RESPECT TO NATURAL GAS SUPPLIER SERVICES: THE NAME OF THE
18 NATURAL GAS SUPPLIER; THE RATES, CHARGES OR PRICES OF
19 NATURAL GAS SUPPLY SERVICES BILLED, INCLUDING ADJUSTMENTS
20 TO PRIOR PERIOD BILLINGS, IF APPLICABLE, AND TAXES, IF
21 APPLICABLE; AND THE NATURAL GAS SUPPLIER'S TOLL-FREE
22 TELEPHONE NUMBER AND HOURS OF OPERATION FOR CUSTOMER
23 INQUIRIES.

24 (3) INCREMENTAL COSTS RELATING TO BILLING SERVICES
25 DESIGNED, IMPLEMENTED AND RENDERED BY THE NATURAL GAS
26 DISTRIBUTION COMPANY, AT ITS ELECTION, ON BEHALF OF A NATURAL
27 GAS SUPPLIER OR OTHER ENTITY MAY BE RECOVERED THROUGH FEES
28 CHARGED BY THE NATURAL GAS DISTRIBUTION COMPANY TO THE
29 NATURAL GAS SUPPLIER OR OTHER ENTITY. EITHER PARTY MAY
30 REQUEST THAT THE COMMISSION CONSIDER THE APPROPRIATE LEVEL OF

1 THE FEE. IN DOING SO, THE COMMISSION SHALL CONSIDER FEES
2 CHARGED BY OTHER NATURAL GAS DISTRIBUTION COMPANIES FOR
3 SIMILAR SERVICES. THE COMMISSION SHALL EITHER PERMIT THE FEE
4 TO CONTINUE AS SET OR SHALL ESTABLISH AN ALTERNATIVE
5 MECHANISM TO PERMIT FULL RECOVERY OF UNRECOVERED JUST AND
6 REASONABLE COSTS FROM THE SUPPLIER OR THE SUPPLIER'S
7 CUSTOMERS. NOTHING IN THIS SECTION SHALL PERMIT THE RECOVERY
8 OF SUCH COSTS FROM NATURAL GAS SUPPLY SERVICE CUSTOMERS OF
9 THE NATURAL GAS DISTRIBUTION COMPANY.

10 (4) IF SERVICES ARE PROVIDED BY AN ENTITY OTHER THAN THE
11 NATURAL GAS DISTRIBUTION COMPANY, THE ENTITY THAT PROVIDED
12 THOSE SERVICES SHALL FURNISH TO THE NATURAL GAS DISTRIBUTION
13 COMPANY BILLING DATA SUFFICIENT TO ENABLE THE NATURAL GAS
14 DISTRIBUTION COMPANY TO TIMELY BILL RETAIL GAS CUSTOMERS. THE
15 ENTITY SHALL PROVIDE DATA FOR BILLING PURPOSES IN A FORMAT
16 AND IN A TIME FRAME AS REQUIRED BY THE NATURAL GAS
17 DISTRIBUTION COMPANY. THE NATURAL GAS DISTRIBUTION COMPANY
18 SHALL CONSIDER THE DATA AND INFORMATION CONFIDENTIAL AND
19 SHALL TREAT IT AS SUCH.

20 (5) NO NATURAL GAS DISTRIBUTION COMPANY SHALL BE
21 REQUIRED TO FORWARD PAYMENT TO ENTITIES PROVIDING SERVICES TO
22 CUSTOMERS AND ON WHOSE BEHALF THE NATURAL GAS DISTRIBUTION
23 COMPANY IS BILLING THOSE CUSTOMERS BEFORE THE NATURAL GAS
24 DISTRIBUTION COMPANY HAS RECEIVED PAYMENT FOR THOSE SERVICES
25 FROM CUSTOMERS. THE COMMISSION SHALL ISSUE GUIDELINES
26 ADDRESSING THE APPLICATION OF PARTIAL PAYMENTS.

27 (6) NATURAL GAS DISTRIBUTION COMPANIES AND NATURAL GAS
28 SUPPLIERS SHALL TAKE REASONABLE STEPS TO ALLOW RETAIL GAS
29 CUSTOMERS TO CONTRIBUTE VIA THEIR BILL TO HARDSHIP ENERGY
30 FUNDS WHICH BENEFIT LOW-INCOME RESIDENTIAL RETAIL GAS

1 CONSUMERS.

2 (D) ENHANCED METERING.--SUBJECT TO COMMISSION APPROVAL, THE
3 NATURAL GAS DISTRIBUTION COMPANY MAY REQUIRE THE INSTALLATION,
4 AT THE RETAIL GAS CUSTOMER'S EXPENSE, OF ENHANCED METERING
5 CAPABILITY SUFFICIENT TO MATCH THE NATURAL GAS DELIVERED BY THE
6 RETAIL GAS CUSTOMER'S NATURAL GAS SUPPLIER OR SUPPLIERS WITH
7 CONSUMPTION BY THAT RETAIL GAS CUSTOMER. IN EXERCISING ITS
8 DISCRETION, THE COMMISSION SHALL CONSIDER THE EFFECT ON LOW-
9 INCOME RETAIL GAS CUSTOMERS.

10 § 2206. CONSUMER PROTECTIONS AND CUSTOMER SERVICE.

11 (A) QUALITY.--A NATURAL GAS DISTRIBUTION COMPANY SHALL BE
12 RESPONSIBLE FOR CUSTOMER SERVICE FUNCTIONS CONSISTENT WITH THE
13 ORDERS AND REGULATIONS OF THE COMMISSION, INCLUDING, BUT NOT
14 LIMITED TO, METER READING, INSTALLATION, TESTING AND MAINTENANCE
15 AND EMERGENCY RESPONSE FOR ALL CUSTOMERS, AND COMPLAINT
16 RESOLUTION AND COLLECTIONS RELATED TO THE SERVICE PROVIDED BY
17 THE NATURAL GAS DISTRIBUTION COMPANY. CUSTOMER SERVICE AND
18 CONSUMER PROTECTIONS AND POLICIES FOR RETAIL GAS CUSTOMERS
19 SHALL, AT A MINIMUM, BE MAINTAINED AT THE SAME LEVEL OF QUALITY
20 UNDER RETAIL COMPETITION AS IN EXISTENCE ON THE EFFECTIVE DATE
21 OF THIS CHAPTER.

22 (B) CHANGE OF SUPPLIERS.--THE COMMISSION SHALL, BY ORDER OR
23 REGULATION, ESTABLISH PROCEDURES TO ENSURE THAT A NATURAL GAS
24 DISTRIBUTION COMPANY DOES NOT CHANGE A RETAIL GAS CUSTOMER'S
25 NATURAL GAS SUPPLIER WITHOUT DIRECT ORAL CONFIRMATION FROM THE
26 CUSTOMER OF RECORD OR WRITTEN EVIDENCE OF THE CUSTOMER'S CONSENT
27 TO A CHANGE OF SUPPLIER.

28 (C) CUSTOMER INFORMATION.--THE COMMISSION SHALL, BY ORDER OR
29 REGULATION, ESTABLISH REQUIREMENTS THAT EACH NATURAL GAS
30 DISTRIBUTION COMPANY AND NATURAL GAS SUPPLIER PROVIDE ADEQUATE,

1 ACCURATE CUSTOMER INFORMATION TO ENABLE RETAIL GAS CUSTOMERS TO
2 MAKE INFORMED CHOICES REGARDING THE PURCHASE OF ALL NATURAL GAS
3 SERVICES OFFERED BY THAT PROVIDER. INFORMATION SHALL BE PROVIDED
4 TO RETAIL GAS CUSTOMERS IN AN UNDERSTANDABLE FORMAT THAT ENABLES
5 RETAIL GAS CUSTOMERS TO COMPARE PRICES AND SERVICES ON A UNIFORM
6 BASIS.

7 (D) CONSUMER EDUCATION.--PRIOR TO THE IMPLEMENTATION OF ANY
8 RESTRUCTURING PLAN UNDER SECTION 2204 (RELATING TO
9 IMPLEMENTATION), EACH NATURAL GAS DISTRIBUTION COMPANY, IN
10 CONJUNCTION WITH THE COMMISSION AND CONSISTENT WITH THE
11 GUIDELINES ESTABLISHED BY THE COMMISSION, SHALL IMPLEMENT A
12 CONSUMER EDUCATION PROGRAM TO INFORM CUSTOMERS OF THE CHANGES IN
13 THE NATURAL GAS UTILITY INDUSTRY. THE PROGRAM SHALL PROVIDE
14 RETAIL GAS CUSTOMERS WITH INFORMATION NECESSARY TO HELP THEM
15 MAKE APPROPRIATE CHOICES AS TO THEIR NATURAL GAS SERVICE. THE
16 EDUCATION PROGRAM SHALL BE SUBJECT TO APPROVAL BY THE
17 COMMISSION. THE CONSUMER EDUCATION PROGRAM SHALL INCLUDE GOALS,
18 OBJECTIVES AND AN ACTION PLAN THAT IS DESIGNED TO BE OBJECTIVE,
19 EASILY UNDERSTOOD, UTILIZES A UNIFORM MEASUREMENT AS ESTABLISHED
20 BY THE COMMISSION FOR THE COST OF GAS, BE AVAILABLE IN LANGUAGES
21 THAT THE COMMISSION REQUIRES TO MEET THE NEEDS OF A SERVICE
22 TERRITORY AND BE SEPARATE AND DISTINCT FROM MARKETING.

23 (E) CONSUMER EDUCATION COST RECOVERY.--THE CONSUMER
24 EDUCATION PROGRAM SHALL BE SUBJECT TO APPROVAL BY THE COMMISSION
25 AND SHALL BE FUNDED IN EACH NATURAL GAS DISTRIBUTION SERVICE
26 TERRITORY BY A NONBYPASSABLE, COMPETITIVELY NEUTRAL COST
27 RECOVERY MECHANISM THAT FULLY RECOVERS THE REASONABLE COST OF
28 SUCH PROGRAM. TO THE EXTENT THAT THE INDUSTRIAL CUSTOMER CLASS
29 IS NOT CURRENTLY ASSIGNED SUCH COSTS ON THE EFFECTIVE DATE OF
30 THIS CHAPTER, IT SHALL NOT BE ASSIGNED SUCH COSTS IN THE FUTURE.

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

§ 2207. OBLIGATION TO SERVE.

(A) SUPPLIER OF LAST RESORT.--

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

(2) FOR PURPOSES OF THIS SECTION, A SUPPLIER OF LAST
RESORT IS A NATURAL GAS DISTRIBUTION COMPANY OR NATURAL GAS
SUPPLIER WHICH IS DESIGNATED BY THE COMMISSION TO PROVIDE
NATURAL GAS SUPPLY SERVICE WITH RESPECT TO ONE OR MORE OF THE
FOLLOWING SERVICES:

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

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

(III) NATURAL GAS SUPPLY SERVICES TO THOSE CUSTOMERS
WHOSE NATURAL GAS SUPPLIER HAS FAILED TO DELIVER ITS

1 REQUIREMENTS.

2 NO CUSTOMER SHALL HAVE MORE THAN ONE SUPPLIER OF LAST RESORT
3 DESIGNATED FOR ANY OF THE SERVICES SET FORTH IN THIS
4 PARAGRAPH.

5 (B) CONSUMER PROTECTION.--SERVICE BY THE SUPPLIER OF LAST
6 RESORT SHALL BE SUBJECT TO ALL CONSUMER PROTECTION STANDARDS,
7 INCLUDING THOSE CONTAINED IN 52 PA. CODE CH. 56 (RELATING TO
8 STANDARDS AND BILLING PRACTICES FOR RESIDENTIAL UTILITY SERVICE)
9 AND TO ALL UNIVERSAL SERVICE OBLIGATIONS.

10 (C) NATURAL GAS DISTRIBUTION COMPANY.--THE NATURAL GAS
11 DISTRIBUTION COMPANY SHALL DELIVER NATURAL GAS TO THE EXTENT
12 THAT IT IS PROVIDED BY ALL NATURAL GAS SUPPLIERS, OR SUPPLIERS
13 OF LAST RESORT, AS THE CASE MAY BE, IN ACCORDANCE WITH THE
14 NATURAL GAS DISTRIBUTION COMPANY'S TARIFF.

15 (D) STANDARDS OF SERVICE.--CONSISTENT WITH THE STANDARDS SET
16 FORTH IN SECTION 1501 (RELATING TO CHARACTER OF SERVICE AND
17 FACILITIES) AND APPLICABLE ORDERS OF THE COMMISSION, A SUPPLIER
18 OF LAST RESORT UNDER SUBSECTION (A)(2)(III) SHALL PROVIDE
19 SUFFICIENT SUPPLIES AS TO QUANTITY, QUALITY, PRESSURE AND
20 LOCATION TO MEET THE OPERATIONAL RELIABILITY REQUIREMENTS OF THE
21 NATURAL GAS DISTRIBUTION COMPANY'S SYSTEM, INCLUDING, BUT NOT
22 LIMITED TO, A FAILURE OF ONE OR MORE NATURAL GAS SUPPLIERS TO:

23 (1) SUPPLY NATURAL GAS TO THEIR RETAIL GAS CUSTOMERS IN
24 CONFORMANCE WITH THEIR CONTRACTUAL OBLIGATIONS TO SUCH
25 CUSTOMERS; OR

26 (2) SATISFY APPLICABLE RELIABILITY STANDARDS AND
27 OBLIGATIONS.

28 (E) DISCONTINUATION OF SERVICE.--THE NATURAL GAS
29 DISTRIBUTION COMPANY SHALL CONTINUE PROVIDING SERVICES AS THE
30 SUPPLIER OF LAST RESORT TO ALL OF ITS CUSTOMERS FOR ALL OF THE

1 NATURAL GAS SUPPLY SERVICES DESCRIBED IN SUBSECTION (A)(2),
2 UNLESS, AT ITS DISCRETION, IT REQUESTS AND RECEIVES COMMISSION
3 APPROVAL TO DISCONTINUE PROVIDING ONE OR MORE SUCH SUPPLIER OF
4 LAST RESORT OBLIGATION. IN APPROVING SUCH A PETITION, THE
5 COMMISSION SHALL ALSO APPROVE ANOTHER PARTY AS THE ALTERNATIVE
6 SUPPLIER OF LAST RESORT FOR EACH CUSTOMER OR CUSTOMER GROUP FOR
7 WHICH THE NATURAL GAS DISTRIBUTION COMPANY NO LONGER PROVIDES
8 SUCH NATURAL GAS SUPPLY SERVICES.

9 (F) REGULATIONS.--THE COMMISSION SHALL PROMULGATE
10 REGULATIONS SETTING FORTH THE STANDARDS FOR APPROVING AN
11 ALTERNATIVE SUPPLIER OF LAST RESORT CONSISTENT WITH THE
12 PROVISIONS OF THIS TITLE, INCLUDING A MECHANISM TO ENSURE THAT
13 THE RATES CHARGED BY ANY ALTERNATE SUPPLIER OF LAST RESORT ARE
14 JUST AND REASONABLE.

15 (G) ORGANIZED LABOR.--DURING THE FIVE-YEAR PERIOD FOLLOWING
16 THE EFFECTIVE DATE OF THIS CHAPTER, APPROVAL OF AN ALTERNATIVE
17 SUPPLIER OF LAST RESORT PURSUANT TO SUBSECTION (E) SHALL NOT BE
18 GRANTED UNLESS THE ENTITY DESIGNATED BY THE COMMISSION TO
19 SUCCEED THE NATURAL GAS DISTRIBUTION COMPANY IN THE PROVISION
20 OF SERVICE TO THESE CUSTOMERS AGREES TO RECOGNIZE RELEVANT UNION
21 AND COLLECTIVE BARGAINING AGREEMENTS OF THE NATURAL GAS
22 DISTRIBUTION COMPANY THEN IN PLACE.

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

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

29 (1) A NATURAL GAS SUPPLIER MAY NOT EXIT THE MARKET
30 WITHOUT PROVIDING NOTICE AS DETERMINED BY THE COMMISSION IN

1 THE RESTRUCTURING PROCEEDING OF THE NATURAL GAS DISTRIBUTION
2 COMPANY TO ITS CUSTOMERS, THE SUPPLIER OF LAST RESORT AND THE
3 NATURAL GAS DISTRIBUTION COMPANY.

4 (2) IF FIRM GAS SUPPLY CONTRACTS WITH PENNSYLVANIA
5 NATURAL GAS PRODUCERS OR STORAGE OR TRANSPORTATION CAPACITY
6 CONTRACTS USED BY THE NATURAL GAS SUPPLIER TO SERVE SUCH
7 RETAIL GAS CUSTOMERS WERE EITHER ASSIGNED OR RELEASED TO THE
8 NATURAL GAS SUPPLIER OR CONSTITUTE CAPACITY WHICH WAS
9 ACQUIRED BY THE NATURAL GAS SUPPLIER AS THE RESULT OF
10 NONRENEWAL OF A STORAGE OR TRANSPORTATION CAPACITY CONTRACT
11 PREVIOUSLY HELD BY THE NATURAL GAS DISTRIBUTION COMPANY, THE
12 NATURAL GAS SUPPLIER SHALL OFFER THE SUPPLIER OF LAST RESORT
13 OR SUCCESSOR NATURAL GAS SUPPLIER A RIGHT OF FIRST REFUSAL TO
14 UTILIZE SUCH PENNSYLVANIA SUPPLY CONTRACTS OR STORAGE OR
15 TRANSPORTATION CAPACITY CONTRACTS AT ITS CONTRACT COST AS
16 LONG AS NEEDED TO SERVE THOSE CUSTOMERS.

17 (3) IF THE STORAGE OR TRANSPORTATION CAPACITY CONTRACTS
18 HELD BY THE NATURAL GAS SUPPLIER WERE ACQUIRED IN ANOTHER
19 MANNER, AND THERE WAS NOT SUFFICIENT NOTICE GIVEN TO THE
20 SUPPLIER OF LAST RESORT AND THE NATURAL GAS DISTRIBUTION
21 COMPANY, OR IF THERE IS NOT ALTERNATIVE STORAGE OR
22 TRANSPORTATION CAPACITY AVAILABLE WHICH IS OPERATIONALLY
23 SUFFICIENT TO SERVE THE MARKET THE NATURAL GAS SUPPLIER WAS
24 SERVING, THEN THE SUPPLIER OF LAST RESORT SHALL BE PROVIDED
25 WITH A RIGHT TO USE SUCH STORAGE OR TRANSPORTATION CAPACITY
26 AS DESIGNATED BY THE NATURAL GAS SUPPLIER, AT THE CONTRACT
27 COST, UNTIL THE SUPPLIER OF LAST RESORT IS ABLE TO ACQUIRE
28 REPLACEMENT CAPACITY SUFFICIENT TO SERVE ITS CUSTOMERS USING
29 REASONABLE AND DILIGENT EFFORTS TO DO SO.

30 (4) IF A DISPUTE ARISES UNDER THIS SUBSECTION, THE

1 AGGRIEVED PARTY MAY FILE A COMPLAINT WITH THE COMMISSION FOR
2 RESOLUTION WITHIN 45 DAYS.

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

10 (K) RATE AFTER SERVICE DISCONTINUED.--IN THE EVENT THE
11 NATURAL GAS SUPPLIER DISCONTINUES SERVICE OR DEFAULTS BEFORE ITS
12 CONTRACT WITH THE CUSTOMER EXPIRES, THE RETAIL GAS CUSTOMER
13 SHALL BE SERVED BY THE SUPPLIER OF LAST RESORT AT THE
14 COMMISSION-APPROVED SUPPLIER OF LAST RESORT RATE COMMENCING WITH
15 THE NEXT BILLING CYCLE. HOWEVER, THE RETAIL GAS CUSTOMER SHALL
16 CONTINUE TO BE CHARGED THE RATE THE CUSTOMER NEGOTIATED WITH THE
17 DISCONTINUING OR DEFAULTING NATURAL GAS SUPPLIER FOR THE
18 REMAINDER OF THE BILLING CYCLE. ANY DIFFERENCE BETWEEN THE COST
19 INCURRED BY THE SUPPLIER OF LAST RESORT AND THE AMOUNT PAYABLE
20 BY THE RETAIL GAS CUSTOMER SHALL BE RECOVERED FROM THE NATURAL
21 GAS SUPPLIER OR FROM THE BOND OR OTHER SECURITY PROVIDED BY THE
22 NATURAL GAS SUPPLIER WITHOUT RECOURSE TO ANY RETAIL GAS CUSTOMER
23 NOT OTHERWISE CONTRACTUALLY COMMITTED FOR THE DIFFERENCE.

24 § 2208. REQUIREMENTS FOR NATURAL GAS SUPPLIERS.

25 (A) LICENSE REQUIREMENTS.--NO ENTITY SHALL ENGAGE IN THE
26 BUSINESS OF A NATURAL GAS SUPPLIER UNLESS IT HOLDS A LICENSE
27 ISSUED BY THE COMMISSION. TO THE EXTENT THAT A NATURAL GAS
28 DISTRIBUTION COMPANY PROVIDES NATURAL GAS SUPPLY SERVICE OUTSIDE
29 OF ITS CHARTERED OR CERTIFICATED TERRITORY, IT ALSO MUST HOLD A
30 LICENSE. A LICENSE SHALL NOT BE REQUIRED FOR CUSTOMERS WHO MAKE

1 DE MINIMIS INCIDENTAL SALES OR REALES TO THEMSELVES, AN
2 AFFILIATE OR TO OTHER NONRESIDENTIAL RETAIL GAS CUSTOMERS.

3 (B) LICENSE APPLICATION AND ISSUANCE.--AN APPLICATION FOR A
4 NATURAL GAS SUPPLIER LICENSE SHALL BE MADE TO THE COMMISSION IN
5 WRITING, BE VERIFIED BY OATH OR AFFIRMATION AND BE IN SUCH FORM
6 AND CONTAIN SUCH INFORMATION AS THE COMMISSION MAY, BY RULE OR
7 ORDER, REQUIRE. A LICENSE SHALL BE ISSUED TO ANY APPLICANT,
8 AUTHORIZING THE WHOLE OR ANY PART OF THE SERVICE COVERED BY THE
9 APPLICATION, IF IT IS FOUND THAT THE APPLICANT IS FIT, WILLING
10 AND ABLE TO PERFORM PROPERLY THE SERVICE PROPOSED AND TO CONFORM
11 TO THE APPLICABLE PROVISIONS OF THIS TITLE AND THE ORDERS AND
12 REGULATIONS OF THE COMMISSION, INCLUDING THOSE CONCERNING
13 STANDARDS AND BILLING PRACTICES, AND THAT THE PROPOSED SERVICE,
14 TO THE EXTENT AUTHORIZED BY THE LICENSE, WILL BE CONSISTENT WITH
15 THE PUBLIC INTEREST. OTHERWISE, SUCH APPLICATION SHALL BE
16 DENIED.

17 (C) FINANCIAL FITNESS.--

18 (1) IN ORDER TO ENSURE THE SAFETY AND RELIABILITY OF THE
19 NATURAL GAS SUPPLY SERVICE IN THIS COMMONWEALTH, NO NATURAL
20 GAS SUPPLIER LICENSE SHALL BE ISSUED OR REMAIN IN FORCE
21 UNLESS THE APPLICANT OR HOLDER, AS THE CASE MAY BE, COMPLIES
22 WITH ALL OF THE FOLLOWING:

23 (I) FURNISHES A BOND OR OTHER SECURITY IN A FORM AND
24 AMOUNT TO ENSURE THE FINANCIAL RESPONSIBILITY OF THE
25 NATURAL GAS SUPPLIER. THE CRITERIA EACH NATURAL GAS
26 DISTRIBUTION COMPANY SHALL USE TO DETERMINE THE AMOUNT
27 AND FORM OF SUCH BOND OR OTHER SECURITY SHALL BE SET
28 FORTH IN THE NATURAL GAS DISTRIBUTION COMPANY'S
29 RESTRUCTURING FILING. IN APPROVING THE CRITERIA,
30 COMMISSION CONSIDERATIONS SHALL INCLUDE, BUT NOT BE

1 LIMITED TO, THE FINANCIAL IMPACT ON THE NATURAL GAS
2 DISTRIBUTION COMPANY OR AN ALTERNATIVE SUPPLIER OF LAST
3 RESORT OF A DEFAULT OR SUBSEQUENT BANKRUPTCY OF A NATURAL
4 GAS SUPPLIER. THE COMMISSION SHALL PERIODICALLY REVIEW
5 THE CRITERIA UPON PETITION BY ANY PARTY. THE AMOUNT AND
6 FORM OF THE BOND OR OTHER SECURITY MAY BE MUTUALLY AGREED
7 TO BETWEEN THE NATURAL GAS DISTRIBUTION COMPANY OR THE
8 ALTERNATE SUPPLIER OF LAST RESORT AND THE NATURAL GAS
9 SUPPLIER OR FAILING THAT SHALL BE DETERMINED BY CRITERIA
10 APPROVED BY THE COMMISSION.

11 (II) PROVIDES THE COMMISSION WITH THE ADDRESS OF THE
12 PARTICIPANT'S PRINCIPAL OFFICE IN THIS COMMONWEALTH OR
13 THE ADDRESS OF THE PARTICIPANT'S REGISTERED AGENT IN THIS
14 COMMONWEALTH, THE LATTER BEING THE ADDRESS AT WHICH THE
15 PARTICIPANT MAY BE SERVED PROCESS.

16 (2) FAILURE OF A NATURAL GAS SUPPLIER TO COMPLY WITH ANY
17 PROVISION OF THIS CHAPTER OR THE RULES, REGULATIONS, ORDERS
18 OR DIRECTIVES OF THE DEPARTMENT OF REVENUE OR OF THE
19 COMMISSION, INCLUDING, BUT NOT LIMITED TO, ENGAGING IN
20 ANTICOMPETITIVE BEHAVIOR, SHALL BE CAUSE FOR THE COMMISSION
21 TO REVOKE THE LICENSE OF THE NATURAL GAS SUPPLIER.

22 (D) TRANSFERABILITY OF LICENSES.--NO LICENSE ISSUED UNDER
23 THIS CHAPTER MAY BE TRANSFERRED WITHOUT PRIOR COMMISSION
24 APPROVAL.

25 (E) FORM OF REGULATION OF NATURAL GAS SUPPLIERS.--EXCEPT
26 WHERE A NATURAL GAS SUPPLIER SERVES AS A SUPPLIER OF LAST
27 RESORT, THE COMMISSION MAY FORBEAR FROM EXTENDING ITS REGULATION
28 OF NATURAL GAS SUPPLIERS BEYOND LICENSING, BONDING, RELIABILITY
29 AND CONSUMER SERVICES AND PROTECTIONS, INCLUDING ALL APPLICABLE
30 PORTIONS OF 52 PA. CODE CH. 56 (RELATING TO STANDARDS AND

1 BILLING PRACTICES FOR RESIDENTIAL UTILITY SERVICE). SUBJECT TO
2 THE PROVISIONS OF SECTION 2207 (RELATING TO OBLIGATION TO
3 SERVE), NOTHING IN THIS SECTION SHALL PRECLUDE A NATURAL GAS
4 SUPPLIER, UPON APPROPRIATE AND REASONABLE NOTICE TO THE RETAIL
5 GAS CUSTOMER, SUPPLIER OF LAST RESORT, AND THE NATURAL GAS
6 DISTRIBUTION COMPANY, FROM CANCELING ITS CONTRACT WITH ANY
7 CUSTOMER FOR LEGAL CAUSE, SUBJECT TO THE CUSTOMER'S RIGHT TO
8 HAVE CONTINUED SERVICE FROM THE SUPPLIER OF LAST RESORT.

9 (F) AVAILABILITY OF THE SERVICE OF NATURAL GAS SUPPLIERS.--
10 PRIOR TO LICENSING ANY NATURAL GAS SUPPLIER, THE COMMISSION
11 SHALL SET FORTH STANDARDS TO ENSURE THAT ALL CUSTOMER CLASSES
12 MAY CHOOSE TO PURCHASE NATURAL GAS FROM A NATURAL GAS SUPPLIER.
13 THE COMMISSION SHALL ALSO ENSURE THAT NATURAL GAS SUPPLIERS
14 COMPLY WITH APPLICABLE PROVISIONS OF 52 PA. CODE CH. 56.

15 (G) OPEN AND NONDISCRIMINATORY ACCESS.--IN ADDITION TO
16 MEETING THE LICENSE REQUIREMENTS APPLICABLE TO APPLICANTS UNDER
17 SUBSECTION (B), A MUNICIPAL CORPORATION SHALL, BEFORE IT IS
18 PERMITTED TO PROVIDE NATURAL GAS SUPPLY SERVICES AS A NATURAL
19 GAS SUPPLIER, DEMONSTRATE, AND THE COMMISSION SHALL DETERMINE,
20 THAT BY THE DATE OF THE ISSUANCE OF THE LICENSE, IT WILL PROVIDE
21 OTHER NATURAL GAS SUPPLIERS OPEN AND NONDISCRIMINATORY ACCESS TO
22 ITS GAS DISTRIBUTION SYSTEM UNDER STANDARDS THAT ARE COMPARABLE
23 TO THIS TITLE, TAKING INTO CONSIDERATION THE PARTICULAR
24 CIRCUMSTANCES OF THE MUNICIPAL CORPORATION'S OWNERSHIP AND/OR
25 OPERATION OF THE GAS DISTRIBUTION SYSTEM.

26 § 2209. MARKET POWER REMEDIATION.

27 (A) INTERIM STANDARDS OF CONDUCT.--WITHIN 120 DAYS OF THE
28 EFFECTIVE DATE OF THIS CHAPTER, THE COMMISSION SHALL PROVIDE BY
29 ORDER BINDING, INTERIM GUIDELINES FOR STANDARDS OF CONDUCT
30 GOVERNING THE ACTIVITIES OF AND RELATIONSHIPS BETWEEN NATURAL

1 GAS DISTRIBUTION COMPANIES AND THEIR AFFILIATED NATURAL GAS
2 SUPPLIERS AND OTHER NATURAL GAS SUPPLIERS AND MONITOR AND
3 ENFORCE COMPLIANCE WITH THOSE STANDARDS.

4 (B) PERMANENT STANDARDS OF CONDUCT.--THE COMMISSION SHALL
5 THEREUPON PROMULGATE REGULATIONS SETTING FORTH PERMANENT
6 STANDARDS OF CONDUCT GOVERNING THE ACTIVITIES OF AND
7 RELATIONSHIPS BETWEEN NATURAL GAS DISTRIBUTION COMPANIES AND
8 THEIR AFFILIATED NATURAL GAS SUPPLIERS AND OTHER NATURAL GAS
9 SUPPLIERS AND MONITOR AND ENFORCE COMPLIANCE WITH THESE
10 STANDARDS. THE COMMISSION SHALL NEITHER FAVOR NOR DISFAVOR
11 CONDUCT OR OPERATIONS BY AND BETWEEN A NATURAL GAS DISTRIBUTION
12 COMPANY AND AN AFFILIATED NATURAL GAS SUPPLIER OR A
13 NONAFFILIATED NATURAL GAS SUPPLIER.

14 (C) CONTENTS OF STANDARDS.--STANDARDS OF CONDUCT SHALL
15 PROVIDE FOR:

16 (1) NO DISCRIMINATION AGAINST OR PREFERENTIAL TREATMENT
17 OF ANY NATURAL GAS SUPPLIER, INCLUDING AN AFFILIATED NATURAL
18 GAS SUPPLIER.

19 (2) NO DISCLOSURE OR PREFERENTIAL SHARING OF ANY
20 CONFIDENTIAL INFORMATION TO OR WITH ANY INDIVIDUAL NATURAL
21 GAS SUPPLIER.

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

25 (4) MAINTENANCE OF SEPARATE BOOKS AND RECORDS BY THE
26 NATURAL GAS DISTRIBUTION COMPANY AND ITS AFFILIATED NATURAL
27 GAS SUPPLIER.

28 (5) SUFFICIENT PHYSICAL AND OPERATIONAL SEPARATION, BUT
29 NOT INCLUDING LEGAL DIVESTITURE, TO ACCOMPLISH PARAGRAPHS

30 (1), (2), (3) AND (4).

1 (6) AN INFORMAL DISPUTE RESOLUTION PROCEDURE.

2 (7) A SYSTEM OF PENALTIES FOR NONCOMPLIANCE WITH THE
3 FINAL SET OF STANDARDS OF CONDUCT CONSISTENT WITH EXISTING
4 COMMISSION REGULATIONS.

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

9 (E) INITIATION OF INVESTIGATIONS.--UPON COMPLAINT OR UPON
10 ITS OWN MOTION, FOR GOOD CAUSE SHOWN, THE COMMISSION SHALL
11 CONDUCT AN INVESTIGATION OF THE IMPACT ON THE PROPER FUNCTIONING
12 OF A FULLY COMPETITIVE RETAIL NATURAL GAS MARKET, OF MERGERS,
13 CONSOLIDATIONS, ACQUISITION OR DISPOSITION OF ASSETS OR
14 SECURITIES OF NATURAL GAS SUPPLIERS AND ANTICOMPETITIVE OR
15 DISCRIMINATORY CONDUCT AFFECTING THE RETAIL DISTRIBUTION OF
16 NATURAL GAS.

17 (F) CONDUCT OF INVESTIGATIONS.--

18 (1) THE COMMISSION MAY REQUIRE A NATURAL GAS SUPPLIER TO
19 PROVIDE INFORMATION, INCLUDING DOCUMENTS AND TESTIMONY, IN
20 ACCORDANCE WITH THE COMMISSION'S REGULATIONS REGARDING THE
21 DISCOVERY OF INFORMATION.

22 (2) MATERIAL WHICH THE COMMISSION DETERMINES TO BE
23 CONFIDENTIAL, PROPRIETARY OR TRADE SECRET INFORMATION
24 PROVIDED UNDER THIS SUBSECTION SHALL NOT BE DISCLOSED TO ANY
25 PERSON NOT DIRECTLY EMPLOYED OR RETAINED BY THE COMMISSION TO
26 CONDUCT THE INVESTIGATION WITHOUT THE CONSENT OF THE PARTY
27 PROVIDING THE INFORMATION.

28 (3) NOTWITHSTANDING THE PROHIBITION ON DISCLOSURE OF
29 INFORMATION IN PARAGRAPH (2), THE COMMISSION SHALL DISCLOSE
30 INFORMATION OBTAINED UNDER THIS SUBSECTION TO THE OFFICE OF

1 CONSUMER ADVOCATE AND THE OFFICE OF SMALL BUSINESS ADVOCATE
2 UNDER AN APPROPRIATE CONFIDENTIALITY AGREEMENT. THE
3 COMMISSION MAY DISCLOSE THE INFORMATION TO APPROPRIATE
4 FEDERAL OR STATE LAW ENFORCEMENT OFFICIALS IF IT DETERMINES
5 THAT THE DISCLOSURE OF THE INFORMATION IS NECESSARY TO
6 PREVENT OR RESTRAIN A VIOLATION OF FEDERAL OR STATE LAW AND
7 IT PROVIDES THE PARTY THAT PROVIDED THE INFORMATION WITH
8 REASONABLE NOTICE AND OPPORTUNITY TO PREVENT OR LIMIT
9 DISCLOSURE.

10 (G) REFERRALS AND INVESTIGATION.--IF, AS A RESULT OF THE
11 INVESTIGATION CONDUCTED UNDER THIS SECTION, THE COMMISSION HAS
12 REASON TO BELIEVE THAT ANTICOMPETITIVE OR DISCRIMINATORY
13 CONDUCT, INCLUDING THE UNLAWFUL EXERCISE OF MARKET POWER, IS
14 PREVENTING THE RETAIL GAS CUSTOMERS FROM OBTAINING THE BENEFITS
15 OF A PROPERLY FUNCTIONING AND EFFECTIVELY COMPETITIVE RETAIL
16 NATURAL GAS MARKET, THE COMMISSION, PURSUANT TO ITS REGULATIONS,
17 SHALL:

18 (1) REFER ITS FINDINGS TO THE ATTORNEY GENERAL, THE
19 UNITED STATES DEPARTMENT OF JUSTICE, THE SECURITIES AND
20 EXCHANGE COMMISSION OR THE FEDERAL ENERGY REGULATORY
21 COMMISSION.

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

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

29 (H) MARKETING STANDARDS.--AS PART OF EACH NATURAL GAS
30 DISTRIBUTION COMPANY'S RESTRUCTURING PROCEEDING, THE COMMISSION

1 MAY, IN ITS DISCRETION, DEVELOP AND APPLY DIFFERENT STANDARDS OF
2 CONDUCT TO THE NATURAL GAS DISTRIBUTION COMPANY'S MARKETING
3 ACTIVITIES RELATED TO NATURAL GAS SUPPLY SERVICES. NO SUCH
4 STANDARDS SHALL APPLY TO THE NATURAL GAS DISTRIBUTION COMPANY'S
5 MARKETING DIVISION OR OPERATIONS UNTIL THE COMMISSION ISSUES AN
6 ORDER IN THE CONTEXT OF THAT NATURAL GAS DISTRIBUTION COMPANY'S
7 RESTRUCTURING PROCEEDING.

8 (I) DEFINITION.--SUBJECT TO THE CONDITIONS SET FORTH IN
9 SUBSECTION (H), FOR THE PURPOSES OF THIS SECTION, THE TERM
10 "AFFILIATED NATURAL GAS SUPPLIER" INCLUDES MARKETING ACTIVITIES
11 RELATED TO NATURAL GAS SUPPLY SERVICES BY THE MARKETING DIVISION
12 OR THE MARKETING OPERATION OF A NATURAL GAS DISTRIBUTION
13 COMPANY.

14 § 2210. APPROVAL OF PROPOSED MERGERS, CONSOLIDATIONS,
15 ACQUISITIONS OR DISPOSITIONS.

16 (A) GENERAL RULE.--IN THE EXERCISE OF AUTHORITY THE
17 COMMISSION OTHERWISE MAY HAVE TO APPROVE MERGERS OR
18 CONSOLIDATIONS INVOLVING NATURAL GAS DISTRIBUTION COMPANIES OR
19 NATURAL GAS SUPPLIERS OR THE ACQUISITION OR DISPOSITION OF
20 ASSETS OR SECURITIES OF NATURAL GAS DISTRIBUTION COMPANIES OR
21 NATURAL GAS SUPPLIERS, THE COMMISSION SHALL CONSIDER:

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

29 (2) THE EFFECT OF THE PROPOSED MERGER, CONSOLIDATION,
30 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) AND SECTION 2212 (RELATING TO CITY NATURAL GAS
DISTRIBUTION OPERATIONS), 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
DEFERRED FOR RECOVERY IN THE FUTURE. SUCH DEFERRALS SHALL BE
WITHOUT INTEREST.

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

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

(2) THE NATURAL GAS DISTRIBUTION COMPANY DEMONSTRATES

1 THAT A RATE INCREASE IS NECESSARY IN ORDER TO PRESERVE THE
2 RELIABILITY OF THE NATURAL GAS DISTRIBUTION SYSTEM.

3 (3) THE NATURAL GAS DISTRIBUTION COMPANY IS SUBJECT TO
4 SIGNIFICANT INCREASES IN THE RATE OF FEDERAL TAXES OR OTHER
5 SIGNIFICANT INCREASES IN COSTS RESULTING FROM CHANGES IN LAW
6 OR REGULATIONS THAT WOULD NOT ALLOW THE NATURAL GAS
7 DISTRIBUTION COMPANY TO EARN A FAIR RATE OF RETURN.

8 (E) INTERCLASS AND INTRACLASS COST SHIFTS.--EXCEPT AS
9 PROVIDED IN SECTION 2212, FOR THE PERIOD FROM THE EFFECTIVE DATE
10 OF THIS CHAPTER UNTIL JANUARY 1, 2001, INTERCLASS OR INTRACLASS
11 COST SHIFTS ARE PROHIBITED. THIS PROHIBITION AGAINST COST
12 SHIFTING MAY BE ACCOMPLISHED BY MAINTAINING THE COST ALLOCATION
13 METHODOLOGY ACCEPTED BY THE COMMISSION FOR EACH NATURAL GAS
14 DISTRIBUTION COMPANY IN THE COMPANY'S MOST RECENT BASE RATE
15 PROCEEDING.

16 (F) STATE TAX ADJUSTMENT SURCHARGE.--THE NATURAL GAS
17 DISTRIBUTION COMPANY, OTHER THAN A CITY NATURAL GAS DISTRIBUTION
18 OPERATION, SHALL REMAIN SUBJECT TO THE STATE TAX ADJUSTMENT
19 SURCHARGE AND SHALL BE PERMITTED TO ADJUST ITS STATE TAX
20 ADJUSTMENT SURCHARGE MECHANISM TO REFLECT STATE TAX CHANGES OR
21 ADDITIONS. THE NATURAL GAS DISTRIBUTION COMPANY SHALL ALSO
22 REMAIN SUBJECT TO EXISTING RIDERS OR SURCHARGES FOR THE
23 COLLECTION OF NON-GAS TRANSITION COSTS PURSUANT TO FEDERAL
24 ENERGY REGULATORY COMMISSION DECISIONS.

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

26 (1) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS
27 CHAPTER, IF A NATURAL GAS DISTRIBUTION COMPANY'S CURRENT BASE
28 RATE REVENUES REFLECT THE MARGINS REALIZED THROUGH THE
29 UTILIZATION OF FIRM INTERSTATE PIPELINE TRANSPORTATION AND
30 STORAGE CAPACITY TO SERVE THE INTERRUPTIBLE MARKET WHEN SUCH

1 CAPACITY IS NOT NEEDED TO MAKE FIRM RETAIL DELIVERIES, THEN
2 THE NATURAL GAS DISTRIBUTION COMPANY SHALL BE PERMITTED TO
3 INCREASE BASE RATES AND, AT THE SAME TIME, REDUCE PURCHASED
4 GAS COST RATES, AS DESCRIBED IN THIS CHAPTER.

5 (2) THE NATURAL GAS DISTRIBUTION COMPANY MAY PROPOSE
6 SUCH A CHANGE IN TREATMENT, CONSISTENT WITH THE FOLLOWING
7 REQUIREMENTS:

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

17 (II) PURCHASED GAS COST RATES ESTABLISHED PURSUANT
18 TO SECTION 1307(F) SHALL BE DECREASED BY AN AMOUNT EQUAL
19 TO THE AMOUNT BY WHICH BASE RATES ARE INCREASED IN
20 SUBPARAGRAPH (I).

21 (III) PURCHASED GAS COST RATES ESTABLISHED PURSUANT
22 TO SECTION 1307(F) SHALL THEREAFTER BE RECONCILED TO
23 REFLECT THE MARGINS REALIZED FROM INTERRUPTIBLE SALES AND
24 INTERRUPTIBLE TRANSPORTATION CUSTOMERS UTILIZING CAPACITY
25 REFLECTED IN RATES ESTABLISHED UNDER SECTION 1307(F).

26 (H) INTERSTATE PIPELINE TRANSPORTATION.--

27 (1) EXCEPT AS SPECIFICALLY SET FORTH IN THIS SUBSECTION,
28 NOTHING IN THIS SECTION OR SECTION 2204(D) (RELATING TO
29 IMPLEMENTATION) SHALL PREVENT A NATURAL GAS DISTRIBUTION
30 COMPANY FROM RECOVERING COSTS PAID UNDER THE TERMS OF

1 INTERSTATE PIPELINE TRANSPORTATION AND STORAGE CAPACITY
2 CONTRACTS WHICH ARE NOT FULLY RECOVERED THROUGH A RELEASE,
3 ASSIGNMENT OR TRANSFER OF SUCH CAPACITY TO ANOTHER NATURAL
4 GAS SUPPLIER IF SUCH UNRECOVERED COSTS ARISE UNDER THE TERMS
5 OF A NATURAL GAS TRANSPORTATION PILOT PROGRAM APPROVED BY THE
6 COMMISSION FOR SUCH COMPANY ON OR BEFORE FEBRUARY 1, 1999.

7 (2) SUCH UNRECOVERED INTERSTATE PIPELINE TRANSPORTATION
8 AND CAPACITY COSTS INCURRED UNDER SUCH PROGRAMS THROUGH
9 OCTOBER 31, 2004, MAY BE RECOVERED FROM A CLASS OR CLASSES OF
10 CUSTOMERS IN ACCORDANCE WITH SUCH PROGRAM PROVIDED THAT THE
11 TOTAL VOLUMETRIC CHARGE FOR SUCH COSTS DOES NOT EXCEED 1% OF
12 THE VOLUMETRIC CHARGE FOR RESIDENTIAL NATURAL GAS SALES
13 SERVICE SET FORTH IN THE NATURAL GAS DISTRIBUTION COMPANY'S
14 TARIFF IN EFFECT AT THE TIME.

15 (3) WITH RESPECT TO SUCH PILOT PROGRAMS, THE COMMISSION
16 MAY DETERMINE TO EXTEND SUCH PROGRAMS TO INCLUDE ALL
17 CUSTOMERS OF THAT COMPANY PURSUANT TO THE REQUIREMENTS OF
18 THIS CHAPTER, AND NOTHING IN THIS SECTION OR SECTION 2204(D)
19 SHALL PREVENT UNRECOVERED INTERSTATE PIPELINE AND
20 TRANSPORTATION CAPACITY COSTS INCURRED THROUGH OCTOBER 31,
21 2004, UNDER SUCH PROGRAMS FROM BEING RECOVERED IN ACCORDANCE
22 WITH SUCH PROGRAMS PROVIDED THAT THE TOTAL VOLUMETRIC CHARGE
23 FOR SUCH COSTS DOES NOT EXCEED THE 1% LIMIT SPECIFIED IN
24 PARAGRAPH (2) FOR PILOT PROGRAMS.

25 § 2212. CITY NATURAL GAS DISTRIBUTION OPERATIONS.

26 (A) APPLICATION.--THE PROVISIONS OF THIS SECTION SHALL APPLY
27 ONLY TO CITY NATURAL GAS DISTRIBUTION OPERATIONS.

28 (B) COMMISSION JURISDICTION.--SUBJECT TO THE PROVISIONS OF
29 THIS SECTION, COMMENCING JULY 1, 2000, PUBLIC UTILITY SERVICE
30 BEING FURNISHED OR RENDERED BY A CITY NATURAL GAS DISTRIBUTION

1 OPERATION WITHIN ITS MUNICIPAL LIMITS SHALL BE SUBJECT TO
2 REGULATION AND CONTROL BY THE COMMISSION WITH THE SAME FORCE AS
3 IF THE SERVICE WERE RENDERED BY A PUBLIC UTILITY.

4 (C) APPLICABILITY OF OTHER CHAPTERS.--COMMENCING JULY 1,
5 2000, TO THE EXTENT NOT INCONSISTENT WITH THIS SECTION, THE
6 PROVISIONS OF THIS TITLE, OTHER THAN CHAPTERS 11 (RELATING TO
7 CERTIFICATES OF PUBLIC CONVENIENCE), 19 (RELATING TO SECURITIES
8 AND OBLIGATIONS) AND 21 (RELATING TO RELATIONS WITH AFFILIATED
9 INTERESTS), SHALL APPLY TO THE PUBLIC UTILITY SERVICE OF A CITY
10 NATURAL GAS DISTRIBUTION OPERATION WITH THE SAME FORCE AS IF THE
11 CITY NATURAL GAS DISTRIBUTION OPERATION WAS A PUBLIC UTILITY
12 UNDER SECTION 102 (RELATING TO DEFINITIONS), PROVIDED THAT UPON
13 REQUEST OF A CITY NATURAL GAS DISTRIBUTION OPERATION THE
14 COMMISSION MAY SUSPEND OR WAIVE THE APPLICATION TO A CITY
15 NATURAL GAS DISTRIBUTION OPERATION OF ANY PROVISION OF THIS
16 TITLE, INCLUDING ANY PROVISION OF THIS CHAPTER OTHER THAN THIS
17 SECTION. CHAPTER 11 SHALL APPLY TO A CITY NATURAL GAS
18 DISTRIBUTION OPERATION TO THE EXTENT IT SEEKS TO PROVIDE NATURAL
19 GAS DISTRIBUTION SERVICES OUTSIDE OF ITS CORPORATE OR MUNICIPAL
20 LIMITS. CHAPTER 19 SHALL APPLY TO ISSUANCES OF SECURITIES FOR
21 THE BENEFIT OF A CITY NATURAL GAS DISTRIBUTION OPERATION BY AN
22 ISSUER OTHER THAN A CITY TO THE EXTENT PROVIDED IN SUBSECTION
23 (E) BUT SHALL NOT APPLY TO ISSUANCES OF SECURITIES BY A CITY.

24 (D) CONTINUATION OF TARIFF.--FOR PURPOSES OF THIS SECTION,
25 PRIOR TARIFF MEANS THE TARIFF, RATE SCHEDULE AND RIDERS
26 INCORPORATED INTO THE TARIFF OF A CITY NATURAL GAS DISTRIBUTION
27 OPERATION ON THE DATE THE COMMISSION ASSUMES JURISDICTION OVER
28 SUCH CITY NATURAL GAS DISTRIBUTION OPERATION. A CITY NATURAL GAS
29 DISTRIBUTION OPERATION SHALL CONTINUE TO PROVIDE NATURAL GAS
30 SUPPLY AND NATURAL GAS DISTRIBUTION SERVICES TO ITS CUSTOMERS

1 UNDER THE PRIOR TARIFF AND THE POLICIES OR PROGRAMS, EXISTING ON
2 THE DATE THAT THE COMMISSION ASSUMES JURISDICTION OVER THE CITY
3 NATURAL GAS DISTRIBUTION OPERATION, UNTIL THE EFFECTIVE DATE OF
4 THE FINAL ORDER ENTERED BY THE COMMISSION APPROVING THE
5 RESTRUCTURING PLAN AND NEW TARIFF OF THE CITY NATURAL GAS
6 DISTRIBUTION OPERATIONS UNLESS SUCH EFFECTIVE DATE HAS BEEN
7 STAYED BY A COURT OF COMPETENT JURISDICTION, IN WHICH EVENT THE
8 PRIOR TARIFF WILL CONTINUE IN FORCE UNTIL SUCH STAY HAS BEEN
9 DISSOLVED. WHERE THE PRIOR TARIFF REFERS TO, INCORPORATES OR
10 INCLUDES A LOCAL COMMISSION, IT SHALL BE INTERPRETED AS
11 REFERRING TO, INCORPORATING OR INCLUDING THE COMMISSION. SUBJECT
12 TO SUBSECTION (S), THE COMMISSION SHALL RESOLVE ALL QUESTIONS,
13 DISPUTES OR CONFLICTS ARISING UNDER THE PRIOR TARIFF. NOTHING
14 CONTAINED IN THIS SECTION SHALL PREVENT A CITY NATURAL GAS
15 DISTRIBUTION OPERATION FROM REQUESTING, OR, IF SO REQUESTED, THE
16 COMMISSION FROM APPROVING, MODIFICATIONS TO THE PRIOR TARIFF AT
17 ANY TIME PRIOR TO THE EFFECTIVE DATE OF THE FINAL ORDER
18 APPROVING THE RESTRUCTURING PLAN AND NEW TARIFF.

19 (E) SECURITIES OF CITY NATURAL GAS DISTRIBUTION
20 OPERATIONS.--NOTWITHSTANDING ANY PROVISION OF THIS TITLE TO THE
21 CONTRARY, IN DETERMINING THE CITY NATURAL GAS DISTRIBUTION
22 OPERATION'S REVENUE REQUIREMENT AND APPROVING OVERALL RATES AND
23 CHARGES, THE COMMISSION SHALL FOLLOW THE SAME RATEMAKING
24 METHODOLOGY AND REQUIREMENTS THAT WERE APPLICABLE TO THE CITY
25 NATURAL GAS DISTRIBUTION OPERATION PRIOR TO THE ASSUMPTION OF
26 JURISDICTION BY THE COMMISSION AND SUCH OBLIGATION SHALL
27 CONTINUE UNTIL THE DATE ON WHICH ALL APPROVED BONDS HAVE BEEN
28 RETIRED, REDEEMED, ADVANCE REFUNDED OR OTHERWISE DEFEASED.
29 HOWEVER, THIS SECTION SHALL NOT PREVENT THE COMMISSION FROM
30 APPROVING CHANGES IN THE RATES PAYABLE BY ANY CLASS OF

1 RATEPAYERS OF THE CITY NATURAL GAS DISTRIBUTION OPERATION SO
2 LONG AS THE REVENUE REQUIREMENT AND THE OVERALL RATES AND
3 CHARGES ARE NOT ADVERSELY AFFECTED BY SUCH CHANGES.
4 NOTWITHSTANDING ANY PROVISION IN THIS TITLE TO THE CONTRARY, THE
5 COMMISSION SHALL PERMIT THE CITY NATURAL GAS DISTRIBUTION
6 OPERATION TO IMPOSE, CHARGE OR COLLECT RATES OR CHARGES AS
7 NECESSARY TO PERMIT THE CITY OR MUNICIPAL AUTHORITY FORMED
8 PURSUANT TO SUBSECTION (M) THAT ISSUED BONDS ON BEHALF OF A CITY
9 NATURAL GAS DISTRIBUTION OPERATION TO COMPLY WITH ITS COVENANTS
10 TO THE HOLDERS OF ANY APPROVED BONDS. NOTWITHSTANDING ANY
11 PROVISION IN THIS TITLE TO THE CONTRARY, THE COMMISSION SHALL
12 NOT REQUIRE A CITY NATURAL GAS DISTRIBUTION OPERATION TO TAKE
13 ACTION, OR OMIT TAKING ANY ACTIONS, PURSUANT TO THIS TITLE IF
14 SUCH ACTION OR OMISSION WOULD HAVE THE EFFECT OF CAUSING THE
15 INTEREST ON TAX-EXEMPT BONDS ISSUED BY A CITY OR MUNICIPAL
16 AUTHORITY FORMED PURSUANT TO SUBSECTION (M) ON BEHALF OF A CITY
17 NATURAL GAS DISTRIBUTION OPERATION TO BE INCLUDABLE IN THE GROSS
18 INCOME OF THE HOLDERS OF SUCH BONDS FOR FEDERAL INCOME TAX
19 PURPOSES. FOR PURPOSES OF THIS SECTION, APPROVED BONDS SHALL
20 MEAN ALL BONDS:

21 (1) ISSUED BY A CITY ON BEHALF OF A CITY NATURAL GAS
22 DISTRIBUTION OPERATION UNDER THE ACT OF OCTOBER 18, 1972
23 (P.L.955, NO.234), KNOWN AS THE FIRST CLASS CITY REVENUE BOND
24 ACT OR THE ACT OF DECEMBER 7, 1982 (P.L.827, NO.231), KNOWN
25 AS THE CITY OF PHILADELPHIA MUNICIPAL UTILITY INVENTORY AND
26 RECEIVABLES FINANCING ACT, THAT WERE ISSUED AND OUTSTANDING
27 ON THE DATE THE COMMISSION ASSUMED JURISDICTION OVER THE CITY
28 NATURAL GAS DISTRIBUTION OPERATION;

29 (2) ISSUED BY THE CITY AFTER THE DATE THE COMMISSION
30 ASSUMED JURISDICTION OVER THE CITY NATURAL GAS DISTRIBUTION

1 OPERATION UNLESS THE GOVERNING BODY OF THE CITY, AT THE TIME
2 OF APPROVAL OF THE BOND ISSUANCE, DETERMINES THAT SUCH BONDS
3 SHALL NOT BE APPROVED BONDS;

4 (3) ISSUED BY THE CITY OR A MUNICIPAL AUTHORITY,
5 NONPROFIT CORPORATION OR PUBLIC CORPORATION FORMED PURSUANT
6 TO SUBSECTION (M) FOR THE PURPOSE OF REFUNDING, REDEEMING,
7 REPAYING OR OTHERWISE DEFEASING APPROVED BONDS; OR

8 (4) ISSUED BY A MUNICIPAL AUTHORITY FORMED PURSUANT TO
9 SUBSECTION (M) FOR PURPOSES OTHER THAN REFUNDING, REDEEMING,
10 REPAYING OR OTHERWISE DEFEASING APPROVED BONDS UNLESS THE
11 COMMISSION DETERMINES, AT THE TIME OF THE REGISTRATION OF A
12 SECURITIES CERTIFICATE PURSUANT TO SECTION 1903 (RELATING TO
13 REGISTRATION OR REJECTION OF SECURITIES CERTIFICATES), THAT
14 THE BOND SHOULD NOT BE APPROVED BONDS.

15 NOTWITHSTANDING ANY PROVISION OF THIS TITLE TO THE CONTRARY, A
16 CITY OWNING A CITY NATURAL GAS DISTRIBUTION OPERATION MAY
17 CONTINUE TO ISSUE BONDS ON BEHALF OF THE CITY NATURAL GAS
18 DISTRIBUTION OPERATION PURSUANT TO THE FIRST CLASS CITY REVENUE
19 BOND ACT AND UNDER THE CITY OF PHILADELPHIA MUNICIPAL UTILITY
20 INVENTORY AND RECEIVABLES FINANCING ACT, AND ANY MUNICIPAL
21 AUTHORITY FORMED PURSUANT TO SUBSECTION (M) MAY ISSUE BONDS ON
22 BEHALF OF THE CITY NATURAL GAS DISTRIBUTION OPERATION PURSUANT
23 TO THE ACT OF MAY 2, 1945 (P.L.382, NO.164), KNOWN AS THE
24 MUNICIPALITY AUTHORITIES ACT OF 1945, AND AS OTHERWISE PROVIDED
25 BY LAW. ALL DOCUMENTS THAT ARE REQUIRED TO BE SUBMITTED TO THE
26 GOVERNING BODY OF THE CITY BY THE FIRST CLASS CITY REVENUE BOND
27 ACT OR THE CITY OF PHILADELPHIA MUNICIPAL UTILITY INVENTORY AND
28 RECEIVABLES FINANCING ACT OR, IN THE CASE OF AN ISSUANCE OF
29 SECURITIES BY A MUNICIPAL AUTHORITY, THE MUNICIPALITY
30 AUTHORITIES ACT OF 1945, SHALL ALSO BE SUBMITTED TO THE

1 COMMISSION FOR ITS INFORMATION. ANY ISSUANCE OF SECURITIES BY A
2 MUNICIPAL AUTHORITY FORMED PURSUANT TO SUBSECTION (M) ON BEHALF
3 OF A CITY NATURAL GAS DISTRIBUTION OPERATION, OTHER THAN
4 ISSUANCES OF BONDS FOR THE PURPOSE OF REFUNDING, REDEEMING,
5 REPAYING OR OTHERWISE DEFEASING APPROVED BONDS, SHALL BE SUBJECT
6 TO THE PROVISIONS OF CHAPTER 19 (RELATING TO SECURITIES AND
7 OBLIGATIONS) PROVIDED THAT COMMISSION DETERMINATIONS WITH
8 RESPECT TO THE REGISTRATION OF A SECURITIES CERTIFICATE UNDER
9 CHAPTER 19 FOR THE ISSUANCE OF SECURITIES BY A MUNICIPAL
10 AUTHORITY FORMED PURSUANT TO SUBSECTION (M) SHALL BE
11 DETERMINATIONS WITH RESPECT TO PUBLIC DEBT AND THE COMMISSION
12 SHALL EMPLOY ITS ABBREVIATED SECURITIES CERTIFICATE PROCESS TO
13 SUCH ISSUANCES.

14 (F) TRANSFERS TO CITY.--THE COMMISSION SHALL PERMIT THE CITY
15 NATURAL GAS DISTRIBUTION OPERATION TO IMPOSE, CHARGE OR COLLECT
16 RATES AND CHARGES AS NECESSARY TO PERMIT THE CITY NATURAL GAS
17 DISTRIBUTION OPERATION TO TRANSFER OR PAY TO THE CITY THAT IS
18 THE OWNER OF THE CITY NATURAL GAS DISTRIBUTION OPERATION, ON AN
19 ANNUAL BASIS, SUCH AMOUNT AS MAY BE SPECIFIED FROM TIME TO TIME
20 IN THE APPLICABLE ORDINANCES OF THE CITY OR AGREEMENTS OF THE
21 CITY APPROVED BY ORDINANCES. IF THE AMOUNT SO SPECIFIED SHALL
22 EXCEED 110% OF THE AMOUNT THAT WAS AUTHORIZED FOR TRANSFER OR
23 PAYMENT TO THE CITY AT THE CLOSE OF THE FISCAL YEAR OF THE CITY
24 ENDING JUNE 30, 2000, SUCH ADDITIONAL AMOUNT SHALL BE SUBJECT TO
25 REVIEW AND APPROVAL OF THE COMMISSION, WHICH APPROVAL SHALL BE
26 GIVEN UNLESS SUCH ADDITIONAL AMOUNT WOULD NOT BE JUST AND
27 REASONABLE.

28 (G) RESTRUCTURING AND TARIFF FILINGS.--A CITY NATURAL GAS
29 DISTRIBUTION OPERATION SHALL FILE WITH THE COMMISSION AN INITIAL
30 TARIFF AND A RESTRUCTURING FILING CONSISTENT WITH THIS CHAPTER,

1 AND WITH ANY ORDERS, RULES OR REGULATIONS ADOPTED BY THE
2 COMMISSION AFTER THE EFFECTIVE DATE OF THIS CHAPTER NO LATER
3 THAN JULY 1, 2002, AND, UNLESS THE CITY NATURAL GAS OPERATION
4 AGREES, NO EARLIER THAN DECEMBER 31, 2001, PURSUANT TO A
5 SCHEDULE TO BE DETERMINED BY THE COMMISSION IN CONSULTATION WITH
6 A CITY NATURAL GAS DISTRIBUTION OPERATION. THE COMMISSION SHALL
7 CONDUCT AN INITIAL RATE PROCEEDING PURSUANT TO ITS PROCEDURES
8 FOR SUCH FILINGS. HEARINGS ON THE TARIFF AND RESTRUCTURING
9 FILINGS SHALL BE HELD WITHIN THE MUNICIPAL LIMITS OF THE CITY IN
10 WHICH THE CITY NATURAL GAS DISTRIBUTION OPERATION IS LOCATED TO
11 THE EXTENT PRACTICABLE.

12 (H) RESTRUCTURING PROCEEDINGS.--IN THE RESTRUCTURING
13 PROCEEDING OF A CITY NATURAL GAS DISTRIBUTION OPERATION, IN
14 ADDITION TO THE REQUIREMENTS OF SECTION 2204(C) (RELATING TO
15 IMPLEMENTATION):

16 (1) THE CITY NATURAL GAS DISTRIBUTION OPERATION SHALL
17 FILE A PLAN TO CONVERT ITS EXISTING INFORMATION TECHNOLOGY,
18 ACCOUNTING, BILLING, COLLECTION, GAS PURCHASING AND OTHER
19 OPERATING SYSTEMS AND PROCEDURES TO COMPLY WITH THE
20 REQUIREMENTS APPLICABLE TO JURISDICTIONAL NATURAL GAS
21 UTILITIES UNDER THIS TITLE AND THE APPLICABLE RULES,
22 REGULATIONS AND ORDERS. THE COMMISSION SHALL EXAMINE THE COST
23 AND BURDENS OF CONVERTING EXISTING SYSTEMS AND PROCEDURES OF
24 A CITY NATURAL GAS DISTRIBUTION OPERATIONS TO MEET THE
25 REQUIREMENTS OF THIS TITLE GENERALLY APPLICABLE TO NATURAL
26 GAS DISTRIBUTION COMPANIES. IF REQUESTED BY THE CITY NATURAL
27 GAS DISTRIBUTION OPERATION, THE COMMISSION SHALL DETERMINE
28 WHETHER THE COST OF CONVERSION OF ANY SYSTEM OR PROCEDURE IS
29 PRUDENT IN LIGHT OF THE BENEFITS TO BE OBTAINED. IN THE EVENT
30 THAT THE COMMISSION DETERMINES THAT THE COSTS WOULD NOT BE

1 PRUDENT, IT MAY WAIVE APPLICATION TO THE CITY NATURAL GAS
2 DISTRIBUTION OPERATION OF ANY PROVISION OF THIS TITLE OR THE
3 COMMISSION'S RULES, REGULATIONS AND ORDERS AS APPROPRIATE. IN
4 THE EVENT THAT THE COMMISSION DETERMINES THAT SUCH COSTS
5 SHOULD BE INCURRED, THE COMMISSION SHALL PERMIT THE CITY
6 NATURAL GAS DISTRIBUTION OPERATION TO FULLY RECOVER SUCH
7 COSTS THROUGH A NONBYPASSABLE CHARGE IMBEDDED IN THE
8 DISTRIBUTION RATES OF THE CITY NATURAL GAS DISTRIBUTION
9 OPERATION.

10 (2) IN ITS RESTRUCTURING PROCEEDING, A CITY NATURAL GAS
11 DISTRIBUTION OPERATION MAY PROPOSE AN AUTOMATIC ADJUSTMENT
12 MECHANISM OR MECHANISMS IN LIEU OF, OR AS A SUPPLEMENT TO,
13 SECTION 1307 (RELATING TO SLIDING SCALE OF RATES;
14 ADJUSTMENTS) TO ADJUST RATES FOR FLUCTUATIONS IN GAS AND
15 NONGAS COSTS INCLUDING, BUT NOT LIMITED TO, AN AUTOMATIC
16 ADJUSTMENT MECHANISM OR MECHANISMS TO RECOVER THE COSTS OF
17 PROVIDING PROGRAMS FOR LOW-INCOME RATEPAYERS AND OTHER
18 ASSISTED RATEPAYERS. THE COMMISSION MAY APPROVE OR MODIFY THE
19 AUTOMATIC ADJUSTMENT MECHANISM OR MECHANISMS PROPOSED BY THE
20 CITY NATURAL GAS DISTRIBUTION OPERATION, OR THE COMMISSION
21 MAY APPROVE A SECTION 1307 ADJUSTMENT FOR A CITY NATURAL GAS
22 DISTRIBUTION OPERATION. HOWEVER, THE AUTOMATIC ADJUSTMENT
23 MECHANISM, WHETHER SECTION 1307 OR ANY ALTERNATIVE PROPOSED
24 BY THE CITY NATURAL GAS DISTRIBUTION OPERATION, UTILIZED FOR
25 CITY NATURAL GAS DISTRIBUTION OPERATIONS MUST ENABLE THE CITY
26 OR MUNICIPAL AUTHORITY FORMED PURSUANT TO SUBSECTION (M) THAT
27 ISSUED BONDS ON BEHALF OF A CITY NATURAL GAS DISTRIBUTION
28 OPERATION TO FULLY COMPLY AT ALL TIMES WITH ITS COVENANTS TO
29 THE HOLDERS OF ANY APPROVED BONDS.

30 (I) POWERS OF THE CONSUMER ADVOCATE; SMALL BUSINESS

1 ADVOCATE.--THE CONSUMER ADVOCATE SHALL REPRESENT THE INTERESTS
2 OF CONSUMERS AS A PARTY, OR OTHERWISE PARTICIPATE FOR THE
3 PURPOSE OF REPRESENTING AN INTEREST OF CONSUMERS, BEFORE THE
4 COMMISSION IN ANY MATTER PROPERLY BEFORE THE COMMISSION RELATING
5 TO A CITY NATURAL GAS DISTRIBUTION OPERATION. THE CONSUMER
6 ADVOCATE IS AUTHORIZED, IN ADDITION TO ANY OTHER AUTHORITY
7 CONFERRED ON HIM, TO REPRESENT AN INTEREST OF CONSUMERS WHICH IS
8 PRESENTED TO HIM FOR HIS CONSIDERATION UPON PETITION IN WRITING
9 BY A SUBSTANTIAL NUMBER OF PERSONS WHO MAKE, DIRECT, USE OR ARE
10 ULTIMATE RECIPIENTS OF A PRODUCT OR SERVICES SUPPLIED BY A CITY
11 NATURAL GAS DISTRIBUTION OPERATION. THE SMALL BUSINESS ADVOCATE
12 SHALL REPRESENT THE INTEREST OF SMALL BUSINESS CONSUMERS AS A
13 PARTY, OR OTHERWISE PARTICIPATE FOR THE PURPOSE OF REPRESENTING
14 AN INTEREST OF SMALL BUSINESS CONSUMERS, BEFORE THE COMMISSION
15 IN ANY MATTER PROPERLY BEFORE THE COMMISSION RELATING TO A CITY
16 NATURAL GAS DISTRIBUTION OPERATION. THE SMALL BUSINESS ADVOCATE
17 IS AUTHORIZED, IN ADDITION TO ANY OTHER AUTHORITY CONFERRED ON
18 HIM, TO REPRESENT AN INTEREST OF SMALL BUSINESS CONSUMERS WHICH
19 IS PRESENTED TO HIM FOR HIS CONSIDERATION UPON PETITION IN
20 WRITING BY A SUBSTANTIAL NUMBER OF SMALL BUSINESS CONSUMERS WHO
21 MAKE, DIRECT, USE OR ARE ULTIMATE RECIPIENTS OF A PRODUCT OR
22 SERVICES SUPPLIED BY A CITY NATURAL GAS DISTRIBUTION OPERATION.

23 (J) COMMENCEMENT OF CUSTOMER CHOICE.--BEGINNING WITH THE
24 COMMENCEMENT OF THE FIRST FISCAL YEAR OF A CITY NATURAL GAS
25 DISTRIBUTION OPERATION AFTER THE ORDER APPROVING THE
26 RESTRUCTURING PLAN OF A CITY NATURAL GAS DISTRIBUTION OPERATION
27 BECOMES EFFECTIVE, ALL RETAIL GAS CUSTOMERS OF CITY NATURAL GAS
28 DISTRIBUTION OPERATIONS SHALL HAVE THE OPPORTUNITY TO PURCHASE
29 NATURAL GAS SUPPLY SERVICES FROM A NATURAL GAS SUPPLIER OR THE
30 CITY NATURAL GAS DISTRIBUTION OPERATION TO THE EXTENT IT OFFERS

1 THE SERVICE. AFTER THAT DATE, THE CHOICE OF NATURAL GAS
2 SUPPLIERS SHALL REST WITH THE RETAIL GAS CUSTOMER.

3 (K) CITY INSTRUMENTALITY.--UNLESS AND UNTIL THE GOVERNING
4 BODY OF A CITY THAT OWNS A CITY NATURAL GAS DISTRIBUTION
5 OPERATION OTHERWISE PROVIDES:

6 (1) A CITY NATURAL GAS DISTRIBUTION OPERATION SHALL BE
7 DEEMED AN INSTRUMENTALITY OF THE CITY THAT OWNS IT AND
8 INDEPENDENTLY AUTHORIZED TO ESTABLISH AND MAINTAIN PENSION,
9 WELFARE AND OTHER EMPLOYEE BENEFIT PLANS FOR THE BENEFIT OF
10 THOSE INDIVIDUALS WHO RENDER SERVICES IN CONNECTION WITH ITS
11 OPERATIONS; AND

12 (2) FOR THE PURPOSE OF BEING A PARTICIPANT IN SUCH PLANS
13 OR PROGRAMS, THOSE INDIVIDUALS WHO RENDER SERVICES
14 EXCLUSIVELY AND DIRECTLY RELATED TO THE OPERATIONS OF THE
15 CITY NATURAL GAS DISTRIBUTION OPERATION SHALL BE DEEMED
16 EMPLOYEES OF THE CITY NATURAL GAS DISTRIBUTION OPERATION AS A
17 DISTINCT ENTITY FROM THE CITY. IF ANY PENSION PLAN
18 ESTABLISHED AND MAINTAINED BY OR ON BEHALF OF A CITY NATURAL
19 GAS DISTRIBUTION OPERATION IS OR BECOMES SUBJECT TO THE ACT
20 OF DECEMBER 18, 1984 (P.L.1005, NO.205), KNOWN AS THE
21 MUNICIPAL PENSION PLAN FUNDING STANDARD AND RECOVERY ACT, THE
22 PROVISIONS OF CHAPTERS 5 AND 6 OF THAT ACT (RELATING TO
23 FINANCIALLY DISTRESSED MUNICIPAL PENSION SYSTEM RECOVERY
24 PROGRAMS) SHALL NOT REQUIRE ANY PENSION PLAN OF A CITY
25 NATURAL GAS DISTRIBUTION OPERATION TO BE AGGREGATED WITH ANY
26 PENSION PLAN ESTABLISHED AND MAINTAINED BY THE CITY.

27 (L) ASSISTED CITIES.--NOTWITHSTANDING ANY OTHER PROVISION OF
28 THIS TITLE, NO ASSISTED CITY SHALL BE REQUIRED TO TAKE ANY
29 ACTION UNDER THIS TITLE IF THE EFFECT OF THE ACTION IS TO CAUSE
30 A VARIATION IN THE FINANCIAL PLAN OF SUCH ASSISTED CITY APPROVED

1 PURSUANT TO SECTION 209 OF THE ACT OF JUNE 5, 1991 (P.L.9,
2 NO.6), KNOWN AS THE PENNSYLVANIA INTERGOVERNMENTAL COOPERATION
3 AUTHORITY ACT FOR CITIES OF THE FIRST CLASS. AS USED IN THIS
4 SUBSECTION, "ASSISTED CITY" AND "VARIATION" SHALL HAVE THE
5 MEANINGS SET FORTH OR CONSTRUED IN THE PENNSYLVANIA
6 INTERGOVERNMENTAL COOPERATION AUTHORITY ACT FOR CITIES OF THE
7 FIRST CLASS.

8 (M) CORPORATE ACTION.--A CITY THAT OWNS A CITY NATURAL GAS
9 DISTRIBUTION OPERATION MAY FORM A NONPROFIT CORPORATION OR
10 PUBLIC CORPORATION OR MUNICIPAL AUTHORITY UNDER THE MUNICIPALITY
11 AUTHORITIES ACT OF 1945, IN ORDER TO OWN, MANAGE, OPERATE, LEASE
12 OR CARRY OUT NATURAL GAS SUPPLY AND/OR DISTRIBUTION SERVICES
13 FOR, IN PLACE OF, OR ON BEHALF OF, THE CITY NATURAL GAS
14 DISTRIBUTION OPERATION, PROVIDED THAT NO SUCH ENTITY SHALL
15 PROVIDE NATURAL GAS SUPPLY SERVICES OUTSIDE OF THE MUNICIPAL
16 LIMITS OF THE CITY UNLESS LICENSED AS A NATURAL GAS SUPPLIER.
17 NOTWITHSTANDING SUBSECTIONS (B) AND (C), IF A CITY FORMS AN
18 ENTITY PURSUANT TO THIS SECTION TO PROVIDE NATURAL GAS SUPPLY
19 SERVICES, WHETHER INSIDE OR OUTSIDE OF THE CITY, THE ENTITY
20 SHALL BE DEEMED AN AFFILIATED INTEREST OF THE CITY NATURAL GAS
21 DISTRIBUTION OPERATION AND CHAPTER 21 SHALL APPLY WITH RESPECT
22 TO THAT AFFILIATED INTEREST. A MUNICIPAL AUTHORITY FORMED
23 PURSUANT TO THE AUTHORIZATION OF THIS SECTION SHALL NOT EXERCISE
24 THE POWER OF EMINENT DOMAIN OUTSIDE OF THE MUNICIPAL LIMITS OF
25 THE CITY IN WHICH IT IS SEATED. ANY ENTITY CREATED UNDER THIS
26 SECTION OR OTHERWISE TO OWN, MANAGE, OPERATE, LEASE OR CARRY OUT
27 NATURAL GAS SUPPLY AND/OR DISTRIBUTION SERVICES, FOR, OR ON
28 BEHALF OF, A CITY OR A CITY NATURAL GAS DISTRIBUTION OPERATION
29 SHALL BE DEEMED A LOCAL AGENCY FOR PURPOSES OF 42 PA.C.S. CH.85
30 (RELATING TO MATTERS AFFECTING GOVERNMENT UNITS).

1 (N) COLLECTIONS.--NOTHING CONTAINED IN THIS TITLE SHALL
2 ABROGATE THE POWER OF A CITY NATURAL GAS DISTRIBUTION OPERATION
3 TO COLLECT DELINQUENT RECEIVABLES THROUGH THE IMPOSITION OF
4 LIENS PURSUANT TO SECTION 3 OF THE ACT OF MAY 16, 1923 (P.L.207,
5 NO.153), REFERRED TO AS THE MUNICIPAL CLAIM AND TAX LIEN LAW, OR
6 OTHERWISE.

7 (O) EXISTING CUSTOMER CONTRACTS.--NOTWITHSTANDING THE
8 PROVISIONS OF THIS CHAPTER, WHERE AN AGREEMENT FOR NATURAL GAS
9 SERVICE, EVIDENCED BY A SIGNED WRITING BETWEEN A CITY NATURAL
10 GAS DISTRIBUTION OPERATION AND ANY CUSTOMER, EXISTS PRIOR TO THE
11 DATE THE COMMISSION ASSUMES JURISDICTION OVER A CITY NATURAL GAS
12 DISTRIBUTION OPERATION, THE CUSTOMER SHALL BE BOUND BY ITS TERMS
13 AND CONDITIONS AND SHALL NOT HAVE THE RIGHT TO RECEIVE NATURAL
14 GAS SERVICE FROM ANOTHER SOURCE UNTIL THE EXPIRATION OF THE TERM
15 OF THE AGREEMENT OR OTHERWISE PURSUANT TO THE TERMS AND
16 CONDITIONS OF THE AGREEMENT.

17 (P) LICENSE APPLICATION AND ISSUANCE.--A CITY NATURAL GAS
18 DISTRIBUTION OPERATION MAY APPLY FOR A LICENSE PURSUANT TO THE
19 PROCEDURES UNDER SECTION 2208 (RELATING TO REQUIREMENTS FOR
20 NATURAL GAS SUPPLIERS). SUBJECT TO THE REQUIREMENT THAT IT
21 QUALIFY FOR AND OBTAIN A NATURAL GAS SUPPLIERS LICENSE UNDER
22 SECTION 2208, A CITY NATURAL GAS DISTRIBUTION OPERATION IS
23 AUTHORIZED TO ENGAGE IN THE BUSINESS OF A NATURAL GAS SUPPLIER
24 OUTSIDE ITS MUNICIPAL OR CORPORATE LIMITS.

25 (Q) COMMISSION ASSESSMENT.--IN ORDER TO ENSURE THAT THE
26 COMMISSION WILL BE ABLE TO CARRY OUT ITS OBLIGATIONS WITH
27 RESPECT TO CITY NATURAL GAS OPERATIONS, THE CHIEF EXECUTIVE
28 OFFICER OF A CITY NATURAL GAS DISTRIBUTION OPERATION SHALL FILE,
29 NO LATER THAN MARCH 31, 2000, A SWORN STATEMENT SHOWING ITS
30 GROSS INTRASTATE OPERATING REVENUES FOR THE IMMEDIATELY

1 PRECEDING FISCAL YEAR IN THE SAME MANNER AS REQUIRED BY SECTION
2 510(B) (RELATING TO ASSESSMENT FOR REGULATORY EXPENSES UPON
3 PUBLIC UTILITIES). THE COMMISSION SHALL USE SUCH REVENUES IN
4 ACCORDANCE WITH THE PROCEDURES SET FORTH IN SECTION 510(B) AND
5 SHALL BILL, NO EARLIER THAN JULY 1, 2000, EACH CITY NATURAL GAS
6 DISTRIBUTION OPERATION ITS PROPORTIONAL SHARE OF THE
7 COMMISSION'S EXPENSES PURSUANT TO SECTION 510(B)(4). A CITY
8 NATURAL GAS DISTRIBUTION OPERATION SHALL PAY THE RESULTING
9 ASSESSMENT IN ACCORDANCE WITH AND SUBJECT TO THE PROVISIONS
10 CONTAINED IN SECTION 510.

11 (R) SENIOR CITIZENS.--

12 (1) THE COMMISSION MAY APPROVE A PROGRAM DESIGNED TO
13 PROVIDE DISCOUNTED RATES FOR NATURAL GAS DISTRIBUTION AND
14 SUPPLY SERVICES TO SENIOR CITIZENS RESIDING IN THE SERVICE
15 TERRITORY OF A CITY NATURAL GAS DISTRIBUTION OPERATION
16 PROVIDED THAT SUCH RATES, AND THE TERMS OF SUCH PROGRAM, ARE
17 JUST AND REASONABLE.

18 (2) INDIVIDUAL RATEPAYERS WHO, AS OF THE DATE THE
19 INITIAL TARIFF OF A CITY NATURAL GAS DISTRIBUTION OPERATION
20 BECOMES EFFECTIVE PURSUANT TO SUBSECTION (D), ARE PROPERLY
21 RECEIVING DISCOUNTED GAS RATES PURSUANT TO THE TERMS OF A
22 PROGRAM SPECIFICALLY DESIGNED TO PROVIDE ASSISTANCE TO SENIOR
23 CITIZENS CONTAINED IN THE PRIOR TARIFF SHALL BE ENTITLED TO
24 CONTINUE TO RECEIVE SUCH DISCOUNT UNDER THE TERMS OF THE
25 PRIOR TARIFF UNLESS AND UNTIL THE PROGRAM IS MODIFIED BY
26 ORDINANCE OF THE GOVERNING BODY OF THE CITY, IN WHICH EVENT
27 SUCH INDIVIDUALS SHALL BE ENTITLED TO RECEIVE ONLY THE
28 DISCOUNT PROVIDED UNDER THE TERMS OF THE MODIFIED PROGRAM, AS
29 IT MAY BE FURTHER MODIFIED BY ORDINANCE FROM TIME TO TIME
30 THEREAFTER.

(3) NOTHING IN THIS TITLE SHALL REQUIRE THE COMMISSION TO APPROVE THE CONTINUATION OF THE PROGRAM IDENTIFIED IN PARAGRAPH (2) IN WHOLE OR PART FOR ANY PERSON OTHER THAN AN INDIVIDUAL IDENTIFIED IN PARAGRAPH (2).

(S) POWERS PRESERVED.--NOTHING CONTAINED IN THIS TITLE SHALL BE CONSTRUED TO ABROGATE OR LIMIT THE EXECUTIVE OR LEGISLATIVE POWERS OF A CITY THAT OWNS A CITY NATURAL GAS DISTRIBUTION OPERATION TO LEGISLATE OR OTHERWISE DETERMINE THE POWERS, FUNCTIONS, BUDGETS, ACTIVITIES AND MISSION OF THE CITY NATURAL GAS DISTRIBUTION OPERATION OR ANY RELATED ENTITY CREATED UNDER SUBSECTION (M), INCLUDING BUT NOT LIMITED TO, THE OWNERSHIP, GOVERNANCE, MANAGEMENT OR CONTROL THEREOF. NOTHING IN THIS TITLE SHALL LIMIT OR PREVENT THE PROPER CITY OFFICIALS AND AGENCIES FROM CONDUCTING AUDITS AND EXAMINATIONS OF THE FINANCIAL AFFAIRS OF THE CITY NATURAL GAS DISTRIBUTION OPERATION IN ACCORDANCE WITH THEIR OFFICIAL DUTIES.

(T) PROPRIETARY INFORMATION.--PROPRIETARY INFORMATION, TRADE SECRETS AND COMPETITIVELY SENSITIVE INFORMATION OF A CITY NATURAL GAS DISTRIBUTION OPERATION SHALL NOT BE PUBLIC RECORDS FOR PURPOSES OF THE ACT OF JUNE 21, 1957 (P.L.390, NO.212), REFERRED TO AS THE RIGHT-TO-KNOW LAW, AND SHALL NOT BE SUBJECT TO MANDATORY PUBLIC DISCLOSURE. NOTHING IN THIS SECTION SHALL EXEMPT A CITY NATURAL GAS DISTRIBUTION OPERATION FROM PROVIDING INFORMATION TO THE COMMISSION PURSUANT TO ITS OBLIGATION UNDER SECTIONS 501 (RELATING TO GENERAL POWERS), 504 (RELATING TO REPORTS BY PUBLIC UTILITIES), 505 (RELATING TO DUTY TO FURNISH INFORMATION TO COMMISSION; COOPERATION IN VALUING PROPERTY) AND 506 (RELATING TO INSPECTION OF FACILITIES AND RECORDS).

SECTION 4. SECTIONS 3-100, 3-909 AND 5-902 OF THE PHILADELPHIA HOME RULE CHARTER ARE ABROGATED ON JUNE 30, 2000,

1 INSO FAR AS THEY ARE INCONSISTENT WITH THIS ACT.

2 SECTION 5. THE PROVISIONS OF THIS ACT SHALL NOT SUPERSEDE:

3 ACT OF MAY 2, 1945 (P.L.382, NO.164), KNOWN AS THE
4 MUNICIPALITY AUTHORITIES ACT OF 1945, EXCEPT FOR SECTION 4B(L)
5 OF THAT ACT TO THE EXTENT THAT SECTION 4B(1) GRANTS A MUNICIPAL
6 AUTHORITY FORMED PURSUANT TO 66 PA.C.S. § 2212(M) THE POWER OF
7 EMINENT DOMAIN OUTSIDE ITS MUNICIPAL LIMITS.

8 ACT OF OCTOBER 18, 1972 (P.L.955, NO.234), KNOWN AS THE FIRST
9 CLASS CITY REVENUE BOND ACT.

10 ACT OF DECEMBER 7, 1982 (P.L.827, NO.231), KNOWN AS THE CITY
11 OF PHILADELPHIA MUNICIPAL UTILITY INVENTORY AND RECEIVABLES
12 FINANCING ACT.

13 SECTION 6. THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY
14 PROVISION OF THIS ACT OR ITS APPLICATION TO ANY PERSON OR
15 CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY SHALL NOT AFFECT
16 OTHER PROVISIONS OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN
17 EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.

18 SECTION 7. THIS ACT CONSTITUTES THE LEGISLATION REFERRED TO
19 IN SECTION 33(3) OF THE ACT OF MAY 12, 1999 (P.L. , NO.4),
20 ENTITLED "AN ACT AMENDING THE ACT OF MARCH 4, 1971 (P.L.6,
21 NO.2), ENTITLED 'AN ACT RELATING TO TAX REFORM AND STATE
22 TAXATION BY CODIFYING AND ENUMERATING CERTAIN SUBJECTS OF
23 TAXATION AND IMPOSING TAXES THEREON; PROVIDING PROCEDURES FOR
24 THE PAYMENT, COLLECTION, ADMINISTRATION AND ENFORCEMENT THEREOF;
25 PROVIDING FOR TAX CREDITS IN CERTAIN CASES; CONFERRING POWERS
26 AND IMPOSING DUTIES UPON THE DEPARTMENT OF REVENUE, CERTAIN
27 EMPLOYERS, FIDUCIARIES, INDIVIDUALS, PERSONS, CORPORATIONS AND
28 OTHER ENTITIES; PRESCRIBING CRIMES, OFFENSES AND PENALTIES, '
29 REVISING AND ADOPTING SALES AND USE TAX PROVISIONS ON PROCESSING
30 EXCLUSIONS, CREDIT SALES AND BAD DEBT SALES; REVISING PERSONAL

1 INCOME TAX PROVISIONS ON SMALL CORPORATIONS; EXPANDING
2 ELIGIBILITY FOR SPECIAL POVERTY PROVISIONS; REVISING ESTIMATED
3 TAX DECLARATIONS; ELIMINATING LOTTERY FUND TRANSFERS; REVISING
4 CORPORATE NET INCOME TAX PROVISIONS ON NONPROFIT ORGANIZATIONS,
5 NET LOSS DEDUCTIONS AND APPORTIONMENT OF BUSINESS INCOME;
6 REVISING CAPITAL STOCK FRANCHISE TAX PROVISIONS TO REDUCE THE
7 RATE OF TAXATION, REDUCE THE MINIMUM TAX, AND FURTHER PROVIDE
8 FOR CAPITAL STOCK FRANCHISE TAX EXEMPTIONS, EXCLUSIONS AND
9 PROCEEDS; ELIMINATING THE UTILITIES GROSS RECEIPTS TAX ON
10 NATURAL GAS; MAKING OMNIBUS AMENDMENTS TO THE PUBLIC UTILITY
11 REALTY TAX; PROVIDING FOR A TAX CREDIT FOR COAL WASTE REMOVAL
12 AND ULTRACLEAN FUELS; FURTHER PROVIDING FOR MALT BEVERAGE TAX
13 CREDITS; FURTHER PROVIDING FOR THE RATE OF TAXATION FOR THE
14 PUBLIC TRANSPORTATION ASSISTANCE FUND; FURTHER PROVIDING FOR
15 ESTIMATED TAX, FOR PAYMENT OF HARNESS AND THOROUGHBRED RACING
16 TAXES AND FOR CORPORATE TAX TREATMENT OF AUTOMOBILE CLUBS; AND
17 MAKING A REPEAL." THE SECRETARY OF REVENUE SHALL PUBLISH NOTICE
18 OF THE ENACTMENT OF THIS ACT IN THE PENNSYLVANIA BULLETIN.

19 SECTION 8. THE FOLLOWING ACTS AND PARTS OF ACTS ARE REPEALED
20 INsofar AS THEY ARE INCONSISTENT WITH THIS ACT:

21 ACT OF JUNE 25, 1919 (P.L.581, NO.274), REFERRED TO AS THE
22 FIRST CLASS CITY GOVERNMENT LAW.

23 ACT OF APRIL 21, 1949 (P.L.665, NO.155), KNOWN AS THE FIRST
24 CLASS CITY HOME RULE ACT.

25 SECTION 9. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

26 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT JUNE 30,
27 2000:

28 (I) THE ADDITION OF THE DEFINITION OF "CITY NATURAL
29 GAS DISTRIBUTION OPERATION" IN 66 PA.C.S. § 102.

30 (II) THE INCLUSION OF A CITY NATURAL GAS

1 DISTRIBUTION OPERATION IN THE DEFINITION OF "NATURAL GAS
2 DISTRIBUTION COMPANY" IN 66 PA.C.S. § 2202.

3 (III) THE ADDITION OF 66 PA.C.S. § 2212.

4 (IV) SECTION 4 OF THIS ACT.

5 (V) SECTION 8 OF THIS ACT.

6 (2) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT
7 IMMEDIATELY:

8 (I) THE ADDITION OF 66 PA.C.S. § 2203(15).

9 (II) THIS SECTION.

10 (3) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT JULY 1,
11 1999, OR IMMEDIATELY, WHICHEVER IS LATER:

12 (I) THE AMENDMENT OF 66 PA.C.S. §§ 1307(F) AND (G),
13 1317 AND 1318.

14 (II) THE ADDITION OF 66 PA.C.S. § 2201.

15 (III) EXCEPT AS PROVIDED IN PARAGRAPH (1)(II), THE
16 ADDITION OF 66 PA.C.S. § 2202.

17 (IV) EXCEPT AS PROVIDED IN PARAGRAPH (2)(I), THE
18 ADDITION OF 66 PA.C.S. § 2203.

19 (V) THE ADDITION OF 66 PA.C.S. §§ 2204 THROUGH 2211.