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# PUBLIC UTILITIES AND PUBLIC TRANSPORTATION Distribution, Storage and Sale of Gas: Amend the "Natural Gas Competition and Deregulation Act"; Provide That a Retail Customer May Change Marketers Once a Year Without Penalty; Limit the Amount of Deposit; Provide for Deposit Refunds; Require Certain Disclosures by the Public Service Commission; Authorize Said Commission to Regulate the Gas Market Under Certain Conditions; Regulate Marketer Billing Practices; Change the Provisions of the Universal Service Fund

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## **PUBLIC UTILITIES AND PUBLIC TRANSPORTATION**

***Distribution, Storage and Sale of Gas: Amend the "Natural Gas Competition and Deregulation Act"; Provide That a Retail Customer May Change Marketers Once a Year Without Penalty; Limit the Amount of Deposit; Provide for Deposit Refunds; Require Certain Disclosures by the Public Service Commission; Authorize Said Commission to Regulate the Gas Market Under Certain Conditions; Regulate Marketer Billing Practices; Change the Provisions of the Universal Service Fund***

**CODE SECTIONS:** O.C.G.A. §§ 46-4-156, -157, -160 (amended), 46-4-160.1, -160.2 (new), 46-4-161 (amended)

**BILL NUMBER:** HB 665

**ACT NUMBER:** 338

**GEORGIA LAWS:** 2001 Ga. Laws 1084

**SUMMARY:** The Act amends the Natural Gas Competition and Deregulation Act of 1997 by codifying several consumer protection measures. The Act permits consumers to change marketers once a year without incurring a service fee, and it limits the deposit amount a marketer may charge. The Act sets forth criteria for determining when the gas market is not competitive and when the Public Service Commission may regulate an uncompetitive market. The Act regulates marketer billing practices and requires marketers to publish certain information related to their billing practices. The Act also mandates that the universal service fund be used primarily to assist low-income customers in times of emergency and hardship.

**EFFECTIVE DATE:** April 27, 2001<sup>1</sup>

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1. See 2001 Ga. Laws 1084, §§ 6-7, at 1090. The Act became effective upon approval by the Governor. See *id.*, § 6, at 1090.

*History*

In 1997, the Georgia General Assembly deregulated the Georgia natural gas industry by passing the “Natural Gas Competition and Deregulation Act.”<sup>2</sup> The Deregulation Act had the purpose of helping consumers; however, the industry was not adequately prepared for deregulation.<sup>3</sup> At least one legislator called deregulation a “major mistake.”<sup>4</sup> Even deregulation supporters acknowledged that the gas marketers that came into the state after deregulation were not doing an adequate job.<sup>5</sup>

Poor customer service by the gas marketers has been the number one consumer complaint in the state for the past three years.<sup>6</sup> People specifically complained about receiving bills six to eight months late.<sup>7</sup> When the bills arrived, they were often for hundreds of dollars.<sup>8</sup> The situation was causing serious financial problems for many people, particularly senior citizens on fixed incomes.<sup>9</sup> When consumers called the marketers to complain, they often received no response.<sup>10</sup> Representative Mike Snow called a marketer in Houston several times for one of his constituents, but received no response.<sup>11</sup> Representative Snow remarked, “[i]f they don’t call back a state legislator who can affect their business, then how likely is it that they will respond to consumers?”<sup>12</sup>

The volume and severity of consumer complaints led legislators to draft HB 665.<sup>13</sup> The thrust of the bill was to rectify some of the mistakes

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2. See 1997 Ga. Laws 798, § 4, at 803 (codified at O.C.G.A. § 46-4-150 (Supp. 2000)).

3. See Telephone Interview with Rep. Mark Burkhalter, House District No. 41 (May 1, 2001) [hereinafter Burkhalter Interview]; Rhonda Cook, *House Gas Bill Rolls to Passage 142-0: But Legislator Cautions that Deregulation is Here to Stay, Blames Prices on Marketers*, ATLANTA J. CONST., Mar. 2, 2001, at D1.

4. Cook, *supra* note 3, at D1.

5. See Burkhalter Interview, *supra* note 3. Representative Newt Hudson, Chairman of the Industry Committee that handled the legislation, noted, “[t]he villain in this is the marketers who didn’t keep their end of the bargain.” Cook, *supra* note 3, at D1.

6. See Burkhalter Interview, *supra* note 3.

7. See Telephone Interview with Rep. Mike Snow, House District No. 2 (May 3, 2001) [hereinafter Snow Interview].

8. See Snow Interview, *supra* note 7.

9. See *id.*

10. See *id.*; Cook, *supra* note 3, at D1.

11. See Snow Interview, *supra* note 7.

12. See *id.*

13. See Cook, *supra* note 3, at D1.

made in deregulation.<sup>14</sup> The bill, however, is not a move towards re-regulation of the natural gas industry.<sup>15</sup> The bill protects consumers while allowing deregulation to work itself out.<sup>16</sup>

### *HB 665*

Representatives Jimmy Skipper of the 137th District, Newt Hudson of the 156th District, Mike Snow of the 2nd District, Mark Burkhalter of the 41st District, Jeffery Williams of the 83rd District, and Tracy Stallings of the 100th District sponsored HB 665.<sup>17</sup> HB 665 and a motion to engross were introduced on February 16, 2001.<sup>18</sup> On February 20, 2001, the motion to engross prevailed.<sup>19</sup> The House assigned the bill to its Industry Committee, which favorably reported the bill on February 21, 2001.<sup>20</sup> The House unanimously passed the engrossed bill on March 1, 2001.<sup>21</sup> On March 2, 2001, the Senate assigned the bill to its Finance and Public Utilities Committee, which favorably reported the bill on March 12, 2001.<sup>22</sup> The Senate unanimously passed the engrossed bill on March 19, 2001.<sup>23</sup> Governor Barnes signed HB 665 into law on April 27, 2001.<sup>24</sup>

### *The Act*

The Act amends Article 5 of Chapter 4 of Title 46 of the Georgia Code, known as the "Natural Gas Competition and Deregulation Act."<sup>25</sup>

Section 1 of the Act amends Code section 46-4-156 by adding subsection (g), which allows retail customers to change gas marketers at least once a year without charge.<sup>26</sup> Section 1 further amends Code

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14. See Snow Interview, *supra* note 7.

15. See David Pendered, *Legislation Would Buoy Gas Consumers*, ATLANTA J. CONST., Mar. 3, 2001, at H5.

16. See Burkhalter Interview, *supra* note 3.

17. See HB 665, as introduced, 2001 Ga. Gen. Assem.

18. See State of Georgia Final Composite Status Sheet, HB 665, Mar. 21, 2001.

19. See *id.*

20. See *id.*

21. See Georgia House of Representatives Voting Record, HB 665 (Mar. 1, 2001).

22. See State of Georgia Final Composite Status Sheet, HB 665, Mar. 21, 2001.

23. See Georgia Senate Voting Record, HB 665 (Mar. 19, 2001).

24. See 2001 Ga. Laws 1084, § 7, at 1090. The Act became effective upon approval by the Governor. See *id.*, § 6, at 1090.

25. Compare 1999 Ga. Laws 153, § 1, at 154-56 (formerly found at O.C.G.A. § 46-4-156 (Supp. 2000)), with O.C.G.A. § 46-4-156 (Supp. 2001).

26. Compare 1999 Ga. Laws 153, § 1, at 154-56 (formerly found at O.C.G.A. § 46-4-156 (Supp. 2000)), with O.C.G.A. § 46-4-156 (Supp. 2001).

section 46-4-156 by adding subsection (h), which requires marketers to limit deposit amounts to one month's bill and refund such deposits in a timely manner.<sup>27</sup>

Section 2 of the Act amends Code section 46-4-157 by inserting language that authorizes the Public Service Commission (PSC) to protect the interests of retail gas customers by imposing price regulations on marketers if the PSC determines that the market is no longer competitive.<sup>28</sup> The Act provides that "market conditions shall be considered competitive as long as there are at least three marketers soliciting and providing distribution services to residential and small business customers in this state."<sup>29</sup>

Section 3 of the Act amends Code section 46-4-160 by expanding the PSC's authority to include the regulation of marketers' billing practices, marketers' customer service presence in the state, and marketers' monthly cost and price disclosures.<sup>30</sup>

Section 4 of the Act adds new Code section 46-4-160.1, which requires marketers to telephonically confer with a retail customer concerning any billing dispute before reporting the customer's name to a credit reporting agency.<sup>31</sup> Section 4 of the Act also adds new Code section 46-4-160.2, which mandates that a marketer must automatically and immediately provide a credit or refund to any retail customer who has made an overpayment due to that marketer's error or mistake.<sup>32</sup>

Section 5 of the Act amends Code section 46-4-161 by directing the PSC to utilize the universal service fund to assist low-income customers in times of general emergency.<sup>33</sup> Further, for the twenty-four months following passage of the Act, the PSC is directed to use the fund primarily to assist low-income persons subject to price increases.<sup>34</sup>

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27. Compare 1999 Ga. Laws 153, § 1, at 154-56 (formerly found at O.C.G.A. § 46-4-156 (Supp. 2000)), with O.C.G.A. § 46-4-156 (Supp. 2001).

28. Compare 1997 Ga. Laws 798, § 4, at 817-18 (formerly found at O.C.G.A. § 46-4-157 (Supp. 2000)), with O.C.G.A. § 46-4-157 (Supp. 2001).

29. See O.C.G.A. § 46-4-157(b) (Supp. 2001).

30. Compare 1997 Ga. Laws 798, § 4, at 821-22 (formerly found at O.C.G.A. § 46-4-160 (Supp. 2000)), with O.C.G.A. § 46-4-160 (Supp. 2001).

31. See O.C.G.A. § 46-4-160.1 (Supp. 2001).

32. See O.C.G.A. § 46-4-160.2 (Supp. 2001).

33. Compare 1997 Ga. Laws 798, § 4, at 822-24 (formerly found at O.C.G.A. § 46-4-161 (Supp. 2000)), with O.C.G.A. § 46-4-161 (Supp. 2001).

34. Compare 1997 Ga. Laws 798, § 4, at 822-24 (formerly found at O.C.G.A. § 46-4-161 (Supp. 2000)), with O.C.G.A. § 46-4-161 (Supp. 2001).