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PUBLIC UTILITIES AND TRANSPORTATION Distribution, Storage, and Sale of Gas: Provide for Annual Change of Marketers by Retail Consumers; Limit Deposits Required by Marketers; Provide for Deposit Refunds; Require Public Service Commission to Publicize Marketer Information; Authorize Public Service Commission to Adopt Rules and Regulations Relating to Pricing, Billing, and Customer Service Practices by Marketers; Change Provisions Regarding Temporary Directives; Authorize Public Service Commission to Impose Temporary Directives on Marketers Under Certain

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Conditions; Provide for Penalties for Certain Violations by Marketers; Require Marketers to Contact Customers over Bill Disputes; Prohibit Marketers from Reporting Customers to Credit Agency for Default Payments Until Certain Conditions are Met; Require Marketers to Provide a Credit or a Refund for Overpayments; Change the Provisions Relating to Universal Service Funds; Provide Additional Purposes for a Fund; Provide Priority of Fund Assistance of Low-Income Customers

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PUBLIC UTILITIES AND PUBLIC TRANSPORTATION

Distribution, Storage, and Sale of Gas: Provide for Annual Change of Marketers by Retail Consumers; Limit Deposits Required by Marketers; Provide for Deposit Refunds; Require Public Service Commission to Publicize Marketer Information; Authorize Public Service Commission to Adopt Rules and Regulations Relating to Pricing, Billing, and Customer Service Practices By Marketers; Change Provisions Regarding Temporary Directives; Authorize Public Service Commission to Impose Temporary Directives on Marketers Under Certain Conditions; Provide for Penalties for Certain Violations by Marketers; Require Marketers to Contact Customers over Bill Disputes; Prohibit Marketers from Reporting Customers to Credit Agency for Default Payments Until Certain Conditions are Met; Require Marketers to Provide a Credit or a Refund for Overpayments; Change the Provisions Relating to Universal Service Funds; Provide Additional Purposes for a Fund; Provide Priority of Fund to Assistance of Low-Income Customers

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

BILL NUMBER: SB 217

ACT NUMBER: 369

GEORGIA LAWS: 2001 Ga. Laws 1206

SUMMARY: The Act allows natural gas customers to change marketers at least once a year without paying a service charge. The Act limits deposit amounts a marketer may require from customers and provides for deposit refunds once certain conditions are met. The Act places the Public Service Commission (PSC) in charge of publishing marketer information, including pricing comparisons, so as to aid the public in making informed decisions on their natural gas use. The Act requires that marketers put certain information on all bills in compliance with rules and regulations

adopted by the PSC. The Act authorizes the PSC to impose temporary directives when certain market conditions exist. The Act imposes penalties upon gas marketers who willfully violate deregulation laws. The Act mandates that marketers contact customers about billing disputes. Further, the Act prohibits marketers from reporting customers to credit agencies until marketers contact the customer or obtain a judgment against the customer. The Act calls for marketers to automatically and immediately refund or credit customer overpayments. The Act provides for additional uses of the universal services fund and places a temporary priority on payments from the fund to assist low-income customers.

EFFECTIVE DATE: April 28, 2001¹

History

Georgia's natural gas deregulation occurred in 1997.² Prior to deregulation, the Atlanta Gas Light Company (AGL) was the regulated monopoly supplying gas service to the Atlanta area.³ The Public Service Commission (PSC) regulated the industry by determining the price of gas to be charged to consumers.⁴

AGL pushed for natural gas deregulation partly due to a dispute that occurred between the monopolized gas provider and its largest industrial customer, Arcadian Corporation, a producer of nitrogen fertilizer.⁵ To

1. See 2001 Ga. Laws 1206, §§ 6-7, at 1212. The Act took effect upon approval by the Governor. See *id.*, § 6, at 1212.

2. See 1997 Ga. Laws 798; *Review of Selected 1997 Georgia Legislation*, 14 GA. ST. U. L. REV. 264 (1997). Gas deregulation was actually lobbied for during the 1996 legislative session by the then-regulated monopoly Atlanta Gas Light Company. See *Review of Selected 1997 Georgia Legislation, supra*, at 265.

3. See *Review of Selected 1997 Georgia Legislation, supra* note 2, at 265.

4. See *id.* at 264. The price of natural gas was averaged over a one-year period so that consumer bills did not vary dramatically throughout the year. See *id.*

5. See Telephone Interview with Rep. Jimmy Skipper, House District No. 137 (Apr. 3, 2001) [hereinafter Skipper Interview]; Matthew C. Quinn & Jim Galloway, *Georgia's Price Crisis*, ATLANTA J. CONST., Apr. 1, 2001, at G1. Arcadian had its plant in Augusta, Georgia, and produced approximately

cut down on production costs, Arcadian received approval from the Federal Energy Regulatory Commission to connect directly into an interstate pipeline that crossed Arcadian's property, thus allowing Arcadian to buy wholesale directly from the wellhead.⁶ In response to Arcadian's defection to the wholesale market, AGL asked the PSC for permission to offer Arcadian and other bypass customers a special discount rate in order to compete with wholesale distributors.⁷ The PSC approved AGL's request and allowed discounts to "bypass" users who had the capacity to tap into the wholesale pipeline; these lower prices to interruptible customers resulted in higher prices being passed on to residential and small-business customers.⁸

Later, AGL approached the PSC about deregulating rates to the regulated monopoly's 650 largest industrial customers.⁹ After the PSC denied AGL's request, AGL asked the General Assembly for help in deregulating rates for its industrial users.¹⁰ In 1996, HB 1153 was introduced to deregulate natural gas, but Senate Majority Leader Sonny Perdue called for a study by the Joint Legislative Committee to investigate the impact deregulation would have on consumers before considering such a bill.¹¹ After performing the study, Senator Perdue and others introduced SB 215 during the 1997 General Assembly—a bill that completely changed the 1996 proposal.¹² As a result of deregulation, AGL became strictly a pipes-only distribution company, in which AGL

545,000 tons of ammonia per year. *See* Quinn & Galloway, *supra*, at G1. Natural gas is an essential element of ammonia, and Arcadian allocated about forty percent of its production costs to natural gas. *See id.*

6. *See* Skipper Interview, *supra* note 5; *see also* Quinn & Galloway, *supra* note 5, at G1. Arcadian was AGL's largest customer; Arcadian's defection resulted in a loss of approximately \$4 million per year in revenue for the regulated monopoly. *See* Quinn & Galloway, *supra* note 5, at G1.

7. *See* Skipper Interview, *supra* note 5. AGL serviced essentially four different types of consumers before the 1997 gas deregulation: residential, small business, commercial, and interruptible customers. *See id.* Interruptible customers were generally big commercial users who got their gas at a lower cost because they agreed to have their gas supply terminated when the system had an insufficient supply to service the demand of all other customers. *See id.*; *Review of Selected 1997 Georgia Legislation*, *supra* note 2, at 265. Interruptible customers had a backup energy system in place (such as propane) when an interruption occurred. *See* Skipper Interview, *supra* note 5.

8. *See* Skipper Interview, *supra* note 5; Quinn & Galloway, *supra* note 5, at G1.

9. *See* Quinn & Galloway, *supra* note 5, at G1.

10. *See id.* Many large industrial customers independently pushed for deregulation because they felt price gouged by AGL. *See id.* During regulation, the cost of natural gas at the wellhead was passed on directly to the customer with no profit margin for AGL; AGL made its money on the delivery of the gas. *See Review of Selected 1997 Georgia Legislation*, *supra* note 2, at 263-65. Under this pricing structure, large volume customers paid a larger portion of the pipeline costs. *See id.*

11. *See Review of Selected 1997 Georgia Legislation*, *supra* note 2, at 265.

12. *See id.* The new legislation, which passed both houses unanimously, was drafted by Senator Perdue and House Majority Whip Jimmy Skipper. *See* State of Georgia Final Composite Status Sheet, SB 215, Mar. 28, 1997; Quinn & Galloway, *supra* note 5, at G1.

distributes the commodity and marketers sell the commodity to consumers.¹³ The 1997 deregulation structure allowed natural gas marketers to charge customers for the cost of gas from the wellhead, which included the cost of using the pipeline to reach the consumer plus markup.¹⁴ Once deregulation took effect, nineteen gas marketers scrambled to sign up the 1.4 million AGL customers who were shifting to gas marketers.¹⁵

Optimism was high when Governor Zell Miller signed the 1997 deregulation bill into law; creators of the bill estimated that deregulation would lower prices by ten to fifteen percent.¹⁶ However, implementation of the Act happened quickly and resulted in many consumer-related problems.¹⁷ One major complaint legislators, the PSC, and gas marketers received from customers pertained to billing problems.¹⁸ When deregulation occurred, AGL had all the billing information on natural gas users, which had to be passed on to the appropriate marketer for each shifting customer; the industry was ill-equipped to handle this massive change.¹⁹ As a result, some natural gas customers received bills three to six months late and thus were hit with bill amounts ranging from \$500 to \$1000.²⁰ In 2000, the PSC received 16,000 complaints about natural gas marketers, of which 13,000 dealt with billing-related problems.²¹ Another complaint filed by gas consumers involved increasing gas bills that occurred after deregulation.²² Thus, SB 217,

13. See Skipper Interview, *supra* note 5. However, AGL's subsidiary Georgia Natural Gas Service became a natural gas marketer. See *id.*

14. See *id.* After deregulation, the commodity charges were deregulated while pipes charges remained regulated. See *id.*

15. See Quinn & Galloway, *supra* note 5, at G1. Only eight of the initial nineteen marketers are still conducting business in Georgia. See *id.*

16. See *id.* "[Deregulation] will bear the fruit of lower prices and better services." *Id.* (quoting Senator Perdue).

17. See Skipper Interview, *supra* note 5; Telephone Interview with Senator Greg Hecht, Senate District No. 34 (Apr. 4, 2001) [hereinafter Hecht Interview].

18. See Skipper Interview, *supra* note 5; Hecht Interview, *supra* note 17.

19. See Skipper Interview, *supra* note 5; Hecht Interview, *supra* note 17. Many of the original nineteen marketers were "small, under-capitalized, and with insufficient gas supply, capacity management or retailing expertise." FOSTER ASSOCIATES, INC., FOSTER NATURAL GAS REPORT 21 (Mar. 1, 2001) (quoting Paula Rospot, President and Chief Operating Officer, Atlanta Gas Light Company).

20. See Audio Recording of Senate Proceedings, Feb. 26, 2001 (remarks by Sen. Greg Hecht), at <http://www.state.ga.us/services/leg/audio/2001archive.html> [hereinafter Senate Audio].

21. See *id.*

22. See Skipper Interview, *supra* note 5; Hecht Interview, *supra* note 17; Senate Audio, *supra* note 20 (remarks by Sen. Nathan Dean); Rhonda Cook, *Bill OK'd to Aid Gas Consumers Senate Passes Legislation that Gives Customers More Access to Fuel Marketers*, ATLANTA J. CONST., Feb. 27, 2001, at B5. Some legislators contend that the price hikes are not a result of deregulation. See Senate Audio, *supra* note 20

introduced during the 2001 legislative session, focused the General Assembly's attention toward remedying specific consumer issues.²³

SB 217

Introduction

Senators Greg Hecht of the 34th District, Nathan Dean of the 31st District, Charles Walker of the 22nd District, Terrell Starr of the 44th District, Regina Thomas of the 2nd District, and David Scott of the 36th District sponsored SB 217.²⁴ Senator Hecht introduced the bill on the Senate floor on February 20, 2001.²⁵ The Senate assigned the bill to its Finance and Public Utilities Committee, which favorably reported the bill, as substituted.²⁶ The Senate adopted the Committee substitute and passed the bill unanimously on February 26, 2001.²⁷ On February 27, 2001, the House introduced the bill and moved to engross it.²⁸ The House engrossed the bill on March 1, 2001 and assigned it to its Industry Committee.²⁹ On March 7, 2001, the Committee favorably reported the bill without change.³⁰ The House unanimously passed the

(remarks by Sen. Eric Johnson). In comparison with Southeastern states that are still regulated, Georgia's price per therm is anywhere from two to twenty percent lower. *See id.* Creators of deregulation contend that the higher prices resulted from West Coast producers capping their wells and shortening supply because the prices of natural gas had gotten too low. *See Skipper Interview, supra note 5.* At the same time, electric utilities constructed peak shaving plants, which utilities use in peak usage periods to produce more electricity. *See id.* These peak shaving plants are powered by natural gas instead of coal or nuclear power and consequently increase demand for natural gas. *See id.* Additionally, during the 2000-2001 winter season, Georgia experienced an unusually cold period. *See id.* As a result, demand was high and supply was low, a combination that resulted in higher prices. *See id.*

23. *See Skipper Interview, supra note 5; Hecht Interview, supra note 17; Rhonda Cook, Natural Gas Bill OK'd, ATLANTA J. CONST., Mar. 14, 2001, at C2.* Although SB 217 did not directly deal with higher prices, it addressed the customer service issues and added provisions to educate consumers on marketer information. *See Skipper Interview, supra note 5; Hecht Interview, supra note 17.* The bill was also an attempt to address other complaints filed by customers such as misnomers and misunderstandings. *See Senate Audio, supra note 20 (remarks by Sen. Nathan Dean).*

24. *See SB 217, as introduced, 2001 Ga. Gen. Assem.*

25. *See State of Georgia Final Composite Status Sheet, SB 217, Mar. 21, 2001.*

26. *See id.*

27. *See id.; Georgia Senate Voting Record, SB 217 (Feb. 26, 2001).*

28. *See State of Georgia Final Composite Status Sheet, SB 217, Mar. 21, 2001.* The House had already passed an identical bill, HB 665. *See Audio Recording of House Proceedings, Mar. 13, 2001 (remarks by Rep. Jimmy Skipper), at <http://www.state.ga.us/services/leg/audio/2001archive.html> [hereinafter House Audio].*

29. *See id.*

30. *See State of Georgia Final Composite Status Sheet, SB 217, Mar. 21, 2001.*

bill on March 13, 2001, without change.³¹ Governor Roy Barnes signed the bill into law on April 28, 2001.³²

Senate Committee Treatment

The Senate Finance and Public Utilities Committee made two substitutions to the original bill by altering the language of section 2, which dealt with temporary directives.³³ The Committee removed language from new Code section 46-4-157(b) that would have limited the PSC's ability to act on an emergency basis by imposing temporary measures through pricing regulations and other procedures when non-competitive market conditions were present.³⁴ The original bill would have allowed the PSC to act and impose temporary measures in order to "protect the interests of retail customers in [a specific] delivery group" only when it determined that market conditions were no longer competitive "for a specific delivery group."³⁵

The substituted bill would have eliminated the determination for a specific delivery group and would have provided the PSC authority to act and implement protective directives for "retail customers in the state" when it believes "market conditions are no longer competitive."³⁶ Thus, the introduced bill's requirement of a specific delivery group was removed and replaced with the need to protect retail customers in the state.³⁷ Senator Hecht explained that the reason for this change was better wording.³⁸ Representative Jimmy Skipper added that in the original deregulation Act, Georgia was broken up into nine delivery groups or regions, and once a region had five marketers soliciting customers, the region was considered deregulated.³⁹ Representative Skipper said the reason for replacing "delivery group" with "in this state" resulted from the fact that delivery groups no longer exist in Georgia as the entire state has been deregulated.⁴⁰

The Committee substitute also altered the language that details the circumstances necessary to determine when the market conditions are

31. *See id.*; Georgia House of Representatives Voting Record, SB 217 (Mar. 13, 2001).

32. *See* 2001 Ga. Laws 1206, § 7, at 1212.

33. *Compare* SB 217, as introduced, 2001 Ga. Gen. Assem., with SB 217 (SCS), 2001 Ga. Gen. Assem.

34. *Compare* SB 217, as introduced, 2001 Ga. Gen. Assem., with SB 217 (SCS), 2001 Ga. Gen. Assem.

35. SB 217, as introduced, 2001 Ga. Gen. Assem.

36. *Compare* SB 217, as introduced, 2001 Ga. Gen. Assem., with SB 217 (SCS), 2001 Ga. Gen. Assem.

37. *Compare* SB 217, as introduced, 2001 Ga. Gen. Assem., with SB 217 (SCS), 2001 Ga. Gen. Assem.

38. *See* Hecht Interview, *supra* note 17.

39. *See* Skipper Interview, *supra* note 5.

40. *See id.*

no longer competitive.⁴¹ The introduced bill stated that when there are “only three marketers” soliciting and servicing residential and small business customers, circumstances may exist that show the market is no longer competitive, while the Committee substitute would have provided for the possibility of a non-competitive market when “there are three or less marketers” soliciting and servicing such customers.⁴² Both Senator Hecht and Representative Skipper acknowledged that this alteration was merely a wording change.⁴³

Consideration by the House

The House assigned the bill to the House Industry Committee, which favorably reported the bill without change.⁴⁴ Before the House floor adopted SB 217 as reported, Representative Glenn Richardson of the 26th District made a passionate plea to his colleagues regarding a bill he introduced twice during the legislative session that attempted to eliminate state sales tax on natural gas for one year.⁴⁵ Richardson told the House that he felt SB 217 was a “good step forward” but that legislators failed its constituents by not taking action on his state tax elimination bill because his bill would have given consumers quick relief to a current problem.⁴⁶ Governor Roy E. Barnes signed SB 217 into law on April 28, 2001.⁴⁷

The Act

Code Section 46-4-156

The Act amends Code section 46-4-156, which relates to customer assignment methodology, by adding new subsections (g) and (h).⁴⁸ Subsection (g) allows a retail customer to change natural gas marketers

41. Compare SB 217, as introduced, 2001 Ga. Gen. Assem., with SB 217 (SCS), 2001 Ga. Gen. Assem.

42. Compare SB 217, as introduced, 2001 Ga. Gen. Assem., with SB 217 (SCS), 2001 Ga. Gen. Assem.

43. See Hecht Interview, *supra* note 17; Skipper Interview, *supra* note 5.

44. See State of Georgia Final Composite Status Sheet, SB 217, Mar. 21, 2001.

45. See House Audio, *supra* note 28 (remarks by Rep. Glenn Richardson).

46. See *id.* He stated: “If we can’t be responsive to the people to a problem that we create, then we need to go home because we are not doing any good here.” *Id.* Upon commencement of his speech, Rep. Richardson received applause from the gallery. See *id.*

47. See 2001 Ga. Laws 1206, § 7, at 1212.

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

at least once a year without incurring any service charge for the change.⁴⁹

Subsection (h) allows marketers to obtain deposits from retail customers before providing gas service to them but caps any required deposit at one hundred percent of the customer's average monthly bill.⁵⁰ Before the General Assembly codified this deposit provision, the PSC was responsible for regulating deposits and allowed marketers to require deposits of 2.5 times a customer's highest monthly bill.⁵¹ Subsection (h) adds that when a marketer requires a deposit and the customer has made timely bill payments for six months, then the marketer shall refund the deposit within sixty days of that sixth payment.⁵² Additionally, when a retail customer changes marketers or discontinues service with a marketer, that marketer must refund any deposit to the customer within sixty days of such notice as long as the customer has satisfied all outstanding payments to the marketer.⁵³

Code Section 46-4-157

The Act amends Code section 46-4-157 by adding a subsection (a) and bringing existing subcategories (1) and (2) under this provision.⁵⁴ Subsection (a) invokes an expedited hearing pursuant to the rules of the Georgia Administrative Procedure Act to determine whether market conditions exist, as identified in subsections (1) and (2), such that the PSC can impose temporary directives on an emergency basis to protect the interests of retail customers in a specific delivery group.⁵⁵

The Act also amends Code section 46-4-157 by adding subsection (b), which allows the PSC to impose temporary measures to protect retail

49. Compare 1999 Ga. Laws 153, § 1, at 153-56 (formerly found at O.C.G.A. § 46-4-156 (Supp. 2000)), with O.C.G.A. § 46-4-156 (Supp. 2001). There was discussion about letting customers change twice a year without incurring a service charge, but AGL told the legislature that such a provision would be overly expensive to them. See Skipper Interview, *supra* note 5.

50. Compare 1999 Ga. Laws 153, § 1, at 153-56 (formerly found at O.C.G.A. § 46-4-156 (Supp. 2000)), with O.C.G.A. § 46-4-156 (Supp. 2001). The average monthly bill is based on the customer's past usage and current marketer prices. See Skipper Interview, *supra* note 5.

51. See Hecht Interview, *supra* note 17; Walter C. Jones, *Republicans Offer Natural-Gas Plans*, AUGUSTA CHRON., Feb. 15, 2001, at C11.

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

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

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

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

customers in the state if the Commission finds that market conditions are no longer competitive.⁵⁶ Subsection (b) defines competitive market conditions as having at least three marketers soliciting and providing distribution services to residential and small business users.⁵⁷ However, subsection (b) states that in any case where there are three or less marketers, market conditions may be deemed non-competitive upon a clear and convincing finding by the PSC that, due to collusion among marketers, prices for natural gas are not being adequately constrained by market forces and are higher than they should be.⁵⁸ This new subsection provides for immediate review of any directives implemented by the PSC in the Superior Court of Fulton County.⁵⁹

Code Section 46-4-160

The Act amends Code section 46-4-160 by providing the PSC with additional authority granted under existing subsection (a).⁶⁰ Subpart (a)(5) allows the PSC to adopt reasonable rules and regulations regarding billing requirements.⁶¹ Under this subpart, marketers are required to provide universal information on customer bills such as: gas consumption amount, price per therm, distribution charges, and any service charges.⁶² Subpart (a)(6) requires that the PSC adopt rules and regulations that call for marketers to provide for cash payment receipt services within the state.⁶³ This requirement was implemented to aid

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

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

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

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

60. 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).

61. 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).

62. See Senate Audio, *supra* note 20 (remarks by Sen. Greg Hecht). The Act does not include an implementation measure; rather, compliance is regulated through the PSC, which can impose penalties upon marketers that do not comply with billing requirements. See Hecht Interview, *supra* note 17.

63. 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). The Act requires that out-of-state marketers have the ability to process cash payments. See Skipper Interview, *supra* note 5. The Act's subpart (a)(6) involved a compromise with legislators who wanted out-of-state marketers to maintain and operate an office within Georgia. See *id.* However, the Act requires only that these marketers have a contact point and not maintain an office within the state per se, because such a provision would result in additional costs to out-of-state marketers that would ultimately be passed on to the consumer. See *id.* Marketers can interpret what

consumers who do not have checking accounts but still need natural gas as an energy source.⁶⁴ Subpart (a)(7) authorizes the PSC to implement rules and regulations requiring marketers to inform customers as to where they can obtain price comparison information of gas marketers.⁶⁵

The Act further amends Code section 46-4-160 by adding subsections (h) through (j). Subsection (h) requires the PSC to publish quarterly, in newspapers throughout the state, a summary of price per therm and other charges by each marketer.⁶⁶ Subsection (h) also requires Georgia Public Telecommunications (GPTV) to provide this comparison information to the public once a month during designated times determined by GPTV.⁶⁷ Subsection (i) amends the Code section by requiring marketers to issue bills to customers within thirty days of the date of the actual monthly meter reading.⁶⁸ Subsection (j) states that willful violations of the Code section or rule and regulations issued under the Code are subject to the penalties identified in Code section 46-2-91.⁶⁹

Code Section 46-4-160.1

The Act added new Code section 46-4-160.1, which details the proper procedures marketers must follow when they have a billing dispute with

constitutes a "contact point," but may be fined by the PSC if the Commission determines that a marketer has not set up a proper cash payment location. *See id.*

64. *See* Hecht Interview, *supra* note 17.

65. *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). The purpose behind this subpart is to help consumers compare prices and shop around for the best bargain. *See* Senate Audio, *supra* note 20 (remarks by Sen. Greg Hecht). On the floor, Senator Hecht noted that this requirement was "critical" because in December 2000 there was a \$120 difference in a person's bill between the lowest marketer rate and the highest marketer rate. *See id.*

66. *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). The PSC expressed concern toward this provision contending that they did not have the necessary funds to pay for the ads. *See* Dick Pettys, *Gas Deregulation Co-Sponsor Offers Some Changes to Law*, APNEWSWIRES, Feb. 13, 2001, available at Westlaw, News file. According to Representative Jimmy Skipper, the General Assembly remedied the PSC's concern by allocating \$250,000 in the state's budget for these ads through a line item under the PSC's portion. *See* Skipper Interview, *supra* note 5.

67. *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).

68. *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). Subsection (i) provides marketers with a fifteen-day grace period from the thirty-day billing requirement before any penalties may issue from the PSC. *See id.*

69. *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).

a customer.⁷⁰ When a billing conflict arises, marketers must contact the customer by telephone or other verifiable means in an attempt to resolve the dispute.⁷¹ Furthermore, the marketer cannot report the customer to a credit bureau without first either conferring with the customer and attempting to rectify the disputed bill or obtaining a judgment against the customer.⁷²

Code Section 46-4-160.2

The Act added new Code section 46-4-160.2, which addresses overpayment problems and requires marketers to automatically and immediately credit customer accounts or issue refunds to customers for overpayments.⁷³ All credits or refunds must be made within sixty days of discovery of the overpayment.⁷⁴

Code Section 46-4-161

The Act amends Code section 46-4-161, which relates to the universal service funds of electing distributing companies.⁷⁵ The amended section allows for an additional use of the fund in assisting low-income customers to defray the cost of high bills that occur in times of emergency.⁷⁶ Subpart (a)(4) states that only ten percent of the fund can be used annually in helping low-income customers.⁷⁷ The section added that notwithstanding any other provisions in the Code section, the

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

71. See *id.*

72. See *id.*; Senate Audio, *supra* note 20 (remarks by Sen. Greg Hecht).

73. See O.C.G.A. § 46-4-160.2 (Supp. 2001). This section prohibits marketers from requiring a written request from customers for a refund or credit before taking such action. See *id.*

74. See *id.*

75. 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). When the initial gas deregulation took effect in 1997, the universal service fund was created to encourage marketers to enter the newly created deregulated market. See Skipper Interview, *supra* note 5. Originally, the fund was used (1) to help pay for additional pipelines, and (2) to help marketers recover some money lost due to bad customer debts. See 1997 Ga. Laws 798, § 4, at 822-24 (formerly found at O.C.G.A. § 46-4-161 (Supp. 2000)); Skipper Interview, *supra* note 5. Large industrial gas users pay for the fund. See Skipper Interview, *supra* note 5; Tony Hefleman, *Georgia Assembly Not Likely to Offer Help on Natural-Gas Prices*, MACON TEL., Feb. 12, 2001, available at Westlaw, GANEWS database.

76. 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). Emergency situations may include gas use during the winter or at times when rates are high. See Hecht Interview, *supra* note 17.

77. 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).

fund's primary use for the twenty-four months after the Act's effective date is to assist low-income persons facing price increases.⁷⁸

Opposition to SB 217

Opposition to this bill came from legislators who wanted to re-regulate the natural gas industry.⁷⁹ Senate Majority Leader Charles Walker of the 22nd District proposed re-regulation if two or more marketers set gas prices at \$1.50 per therm or higher.⁸⁰ Representative Nan Orrock of the 56th District offered a bill that would declare a state of emergency and place Georgia under a regulated system.⁸¹ Senator Regina Thomas of the 2nd District also introduced her own re-regulation bill.⁸²

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78. 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).

79. See Pettys, *supra* note 66.

80. See *id.*

81. See Chad Roedemeier, *House Leaders Offer New Rules, But Not Reregulation of Gas Industry*, AP NEWSWIRES, Feb. 16, 2001, available at Westlaw, GANEWS database.

82. See Dave Williams & Doug Gross, *Session Turns to Natural Gas Lawmakers Will Debate Options to Curtail Soaring Prices in Industry, Including Controls on Deregulation*, AUGUSTA CHRON., Feb. 19, 2001, at C1.