

No. 1999-21

## AN ACT

HB 1331

Amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, providing for supply choice for customers of natural gas utilities and for restructuring of the natural gas utility industry; and making repeals.

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

Section 1. Section 102 of Title 66 of the Pennsylvania Consolidated Statutes is amended by adding a definition to read:

§ 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this part which are applicable to specific provisions of this part, the following words and phrases when used in this part shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

***“City natural gas distribution operation.” A collection of real and personal assets used for distributing natural gas to retail gas customers owned by a city or a municipal authority, nonprofit corporation or public corporation formed pursuant to section 2212(m) (relating to city natural gas distribution operations).***

\* \* \*

Section 2. Sections 1307(f) and (h), 1317 and 1318 of Title 66 are amended to read:

§ 1307. Sliding scale of rates; adjustments.

\* \* \*

(f) Recovery of natural gas costs.—

(1) Natural gas [**distributors**] ***distribution companies, as defined in section 2202 (relating to definitions),*** with gross intrastate annual operating revenues in excess of \$40,000,000 may file tariffs reflecting ***actual and projected*** increases or decreases in their natural gas costs, and the tariffs shall have an effective date six months from the date of filing. The commission shall promulgate regulations establishing the time and manner of such filing, but, ***except for adjustments pursuant to a tariff mechanism authorized in this title,*** no such natural gas [**utility**] ***distribution company*** shall voluntarily file more than one such tariff in a 12-month period: Provided, That [**nothing**]:

(i) ***Nothing*** contained herein shall prohibit any party from advising the commission that there has been or there is anticipated to be a significant difference between the natural gas costs to the [**utility**]

*natural gas distribution company* and the costs reflected in the then effective tariff or the commission from acting upon such advice.

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

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

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

- (i) The total revenues received pursuant to this section.
- (ii) The total [gas expense] *natural gas costs* incurred.
- (iii) The difference between the amounts specified by subparagraphs (i) and (ii).
- (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 pursuant to paragraph (2). Absent good reason to the contrary, the commission shall issue its order within six months following the filing of the statement described in paragraph (3). Refunds to [patrons] *customers* shall be made with interest, [which shall be the average rate of interest specified for residential mortgage lending by the Secretary of Banking in accordance with the act of January 30, 1974 (P.L.13, No.6), referred to as the Loan Interest and Protection Law,] *at the legal rate of interest plus two percent*, during the period or periods for which the commission orders refunds[:], *and recoveries from customers shall include interest at the legal rate of interest*: Provided, That nothing contained herein shall limit the applicability of any defenses, principles or doctrines which would prohibit the commission's inquiry into any matters that were decided finally in the commission's order issued under paragraph (2).

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

\* \* \*

(h)<sup>1</sup> Definition.—As used in this section, [the term “natural gas” includes natural gas, liquefied natural gas, synthetic natural gas and any natural gas substitutes.] *the terms “natural gas costs” and “gas costs”*

---

<sup>1</sup>(g) in enrolled bill.

*include the direct costs paid by a natural gas distribution company for the purchase and the 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(h).<sup>1</sup>*

§ 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

---

<sup>1</sup>“(g).” in enrolled bill.

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 utility.

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

(e) Reports.—Each natural gas distribution utility with gross intrastate annual operating revenues in excess of \$40,000,000 shall file with the commission [and], the Office of Consumer Advocate *and the Office of*

*Small Business Advocate*, in accordance with regulations to be prescribed by the commission, quarterly reports setting forth the actual gas costs incurred by the utility on a monthly basis. Actual gas costs shall be reviewed for their accuracy by the Bureau of Audits at least annually and the results of that review shall be submitted to the commission.

(f) 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,” “natural gas costs,” “gas costs” and “gas” shall have the same definitions as provided in section 1307(h).*<sup>1</sup>

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.

2205. Duties of natural gas distribution companies.

2206. Consumer protections and customer service.

2207. Obligation to serve.

2208. Requirements for natural gas suppliers.

2209. Market power remediation.

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

2211. Rate caps.

2212. City natural gas distribution operations.

§ 2201. Short title of chapter.

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

§ 2202. Definitions.

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

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

---

<sup>1</sup>“(g).” in enrolled bill.

“Entity.” A person or corporation as defined in section 102 (relating to definitions), including, for purposes of this chapter, a city natural gas distribution operation.

“Local commission.” The local body or agency designated under applicable law as responsible for setting the rates and charges of a city natural gas distribution operation immediately prior to the date the commission assumes jurisdiction over the city natural gas distribution operation.

“Natural gas distribution company.” A public utility or city natural gas distribution operation that provides natural gas distribution services and which may provide natural gas supply services and other services. For purposes of this chapter, this term does not include:

(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:

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

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

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

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

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

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

(6) After notice and hearings, the commission shall establish for each natural gas distribution company an appropriate nonbypassable,

competitively neutral cost-recovery mechanism which is designed to recover fully the natural gas distribution company's universal service and energy conservation costs over the life of these programs. Except as provided in paragraph (10), policies, activities and services under this paragraph shall be funded and spent in each natural gas distribution company's service territory. Nothing in this chapter shall be construed to prohibit public funding or voluntary funding by third parties of a natural gas distribution company's universal service and energy conservation programs.

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

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

(9) Each natural gas distribution company shall set forth in its restructuring filing an initial proposal to meet its universal service and energy conservation obligations.

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

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

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

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

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

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

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

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

§ 2204. Implementation.

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

(b) Restructuring filings.—All natural gas distribution companies in this Commonwealth, except city natural gas distribution operations, 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. A city natural gas distribution operation shall file with the commission its restructuring filing pursuant to section 2212 (relating to city natural gas distribution operations).

(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.

(5) The restructuring filing for a city natural gas distribution operation shall also include an initial tariff filing.

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

(1) A natural gas distribution company holding contracts for firm storage or transportation capacity, including gas supply contracts with Pennsylvania producers, on the effective date of this chapter, or a city natural gas distribution operation on the date the commission assumes jurisdiction over such city natural gas distribution operation, may at its option release, assign or otherwise transfer such capacity or Pennsylvania supply, in whole or part, associated with those contracts on a nondiscriminatory basis to licensed natural gas suppliers or large commercial or industrial customers on its system.

(2) Contracts which by their terms must be renewed within 150 days after the effective date of this chapter or, with respect to a city natural gas distribution operation, within 90 days after the date the commission assumes jurisdiction over such city natural gas distribution operation or contracts for which the last day for notice of renewal or nonrenewal pursuant to the notice provision of the contract has occurred or is within 150 days after the effective date of this chapter or, with respect to a city natural gas distribution operation, within 90 days after the date the commission assumes jurisdiction over such city natural gas distribution operation and which are renewed pursuant to such notice requirements shall also be subject to the provisions of this subsection.

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

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

(5) On or after July 1, 2002, or, in the case of a city natural gas distribution operation, March 1, 2005, the commission shall have the authority to prevent such assignments, releases or transfers under either of the following circumstances:

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

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

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

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

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

(D) The commission authorizes the natural gas distribution company to recover the difference between the amount the natural gas distribution company is required to pay under the applicable contract terms for the capacity released, assigned or transferred pursuant to clause (C) and the amount the natural gas distribution company receives from an entity, if any, that acquires such capacity. Under no circumstances, however, shall such recovery result in shifting of costs between customer classes or in any increase in rates to customers who continue to purchase natural gas supplies from the natural gas distribution company acting in its supplier of last resort function.

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

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

(e) New and renewed capacity.—

(1) Subject to the service obligations imposed by this title, and to the extent such capacity is not needed to meet the natural gas distribution company's least-cost fuel procurement and other applicable standards pursuant to this title, prior to entering into new or renewed contracts for firm storage or transportation capacity not subject to subsection (d)(1), (2), (3) or (4), each natural gas distribution company shall offer on a nondiscriminatory basis to each natural gas supplier licensed to do business on its system, and to large volume industrial or commercial customers of the natural gas distribution company being served by such contracts, the opportunity to renew such contracts, pursuant to the rules and regulations of the Federal Energy Regulatory Commission, or to enter into other contracts for capacity.

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

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

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

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

(f) Working group and collaborative process.—In its 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.

(i) Audit requirement.—Prior to the commencement of the restructuring proceeding of a city natural gas distribution operation, the commission shall provide for an independent management audit of all employees, records, equipment, contracts, assets, liabilities, appropriations and obligations related to a city natural gas distribution operation pursuant to section 516 (relating to audits of certain utilities). The city natural gas distribution operation shall have a 60-day period to submit written comments on the audit report to the commission.

#### § 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 procedures). At a minimum, such charges shall include those services which are unbundled as a result of a restructuring filing or rulemaking.

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

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

(3) Incremental costs relating to billing services designed, implemented and rendered by the natural gas distribution company, at its election, on behalf of a natural gas supplier or other entity may be recovered through fees charged by the natural gas distribution company to the natural gas supplier or other entity. Either party may request that the commission consider the appropriate level of the fee. In doing so, the commission shall consider fees charged by other natural gas distribution companies for similar services. The commission shall either permit the fee to continue as set or shall establish an alternative mechanism to permit full recovery of unrecovered just and reasonable costs from the supplier or the supplier's customers. Nothing in this section shall permit the recovery of such costs from natural gas supply service customers of the natural gas distribution company.

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

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

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

(d) Enhanced metering.—Subject to commission approval, the 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 to retail gas customers in an understandable format that enables retail gas customers to compare prices and services on a uniform basis.

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

(e) Consumer education cost recovery.—The consumer education program shall be subject to approval by the commission and shall be funded in each natural gas distribution service territory by a nonbypassable, competitively neutral cost-recovery mechanism that fully recovers the reasonable cost of such program. To the extent that the industrial customer class is not currently assigned such costs on the effective date of 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 requirements.

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

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

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

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

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

(2) satisfy applicable reliability standards and obligations.

(e) Discontinuation of service.—The natural gas distribution company shall continue providing services as the supplier of last resort to all of its customers for all of the natural gas supply services described in subsection (a)(2) unless, at its discretion, it requests and receives commission 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 (e) 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.

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

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

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

(j) Duty involving lost customers.—To the extent that a natural gas supplier loses retail gas customers such that its capacity requirements to a natural gas distribution company are reduced below the level established by the commission for such purpose in the natural gas distribution company's

restructuring proceeding, the natural gas supplier shall have the same obligations set forth in subsection (i).

(k) Rate after service discontinued.—In the event the natural gas supplier discontinues service or defaults before its contract with the customer expires, the retail gas customer shall be served by the supplier of last resort at the commission-approved supplier of last resort rate commencing with the next billing cycle. However, the retail gas customer shall continue to be charged the rate the customer negotiated with the discontinuing or defaulting natural gas supplier for the remainder of the billing cycle. Any difference between the cost incurred by the supplier of last resort and the amount payable 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 other nonresidential retail gas customers.

(b) License application and issuance.—An application for a natural gas supplier license shall be made to the commission in writing, be verified by oath or affirmation and be in such form and contain such information as the commission may, by rule or order, require. A license shall be issued to any applicant, authorizing the whole or any part of the service covered by the application, if it is found that the applicant is fit, willing and able to perform properly the service proposed and to conform to the applicable provisions of this title and the orders and regulations of the commission, including those concerning standards and billing practices, and that the proposed service, to the extent authorized by the license, will be consistent with the public interest. Otherwise, such application shall be denied.

(c) Financial fitness.—

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

(i) Furnishes a bond or other security in a form and amount to ensure the financial responsibility of the natural gas supplier. The criteria each natural gas distribution company shall use to determine the amount and form of such bond or other security shall be set forth in the natural gas distribution company's restructuring filing. In approving the criteria, commission considerations shall include, but not be limited to, the financial impact on the natural gas distribution company or an

alternative supplier of last resort of a default or subsequent bankruptcy of a natural gas supplier. The commission shall periodically review the criteria upon petition by any party. The amount and form of the bond or other security may be mutually agreed to between the natural gas distribution company or the alternate supplier of last resort and the natural gas supplier or, failing that, shall be determined by criteria approved by the commission.

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

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

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

(e) Form of regulation of natural gas suppliers.—Except where a natural gas supplier serves as a supplier of last resort, the commission may forbear from extending its regulation of natural gas suppliers beyond licensing, bonding, reliability and consumer services and protections, including all applicable portions of 52 Pa. Code Ch. 56 (relating to standards and billing practices for residential utility service). Subject to the provisions of section 2207 (relating to obligation to 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 commission regulations.

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

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

(f) Conduct of investigations.—

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

(2) Material which the commission determines to be confidential, proprietary or trade secret information provided under this subsection shall not be disclosed to any person not directly employed or retained by the



commission to conduct the investigation without the consent of the party providing the information.

(3) Notwithstanding the prohibition on disclosure of information in paragraph (2), the commission shall disclose information obtained under this subsection to the Office of Consumer Advocate and the Office of Small Business Advocate under an appropriate confidentiality agreement. The 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) 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 nongas cost charges of a natural gas distribution company for service to any retail gas customer shall not exceed the maximum nongas 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 that a rate increase is necessary in order to preserve the reliability of the natural gas distribution system.

(3) The natural gas distribution company is subject to 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.

(e) Interclass and intraclass cost shifts.—Except as provided in section 2212, 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, other than a city natural gas distribution operation, 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 nongas 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 natural gas distribution company may propose such a change in treatment, consistent with the following requirements:

(i) Base rates of customers who pay purchased gas cost rates pursuant to section 1307(f) (relating to sliding scale of rates; adjustments) shall be increased by an amount equal to the margin received for service provided to existing interruptible sales and

transportation service customers using capacity reflected in rates established under section 1307(f) based upon the revenue for such services for the most recent 12-month period immediately preceding the application.

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

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

(h) Interstate pipeline transportation.—

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

(2) Such unrecovered interstate pipeline transportation and capacity costs incurred under such programs through October 31, 2004, may be recovered from a class or classes of customers in accordance with such program provided that the total volumetric charge for such costs does not exceed 1% of the volumetric charge for residential natural gas sales service set forth in the natural gas distribution company's tariff in effect at the time.

(3) With respect to such pilot programs, the commission may determine to extend such programs to include all customers of that company pursuant to the requirements of this chapter, and nothing in this section or section 2204(d) shall prevent unrecovered interstate pipeline and transportation capacity costs incurred through October 31, 2004, under such programs from being recovered in accordance with such programs provided that the total volumetric charge for such costs does not exceed the 1% limit specified in paragraph (2) for pilot programs.

§ 2212. City natural gas distribution operations.

(a) Application.—The provisions of this section shall apply only to city natural gas distribution operations.

(b) Commission jurisdiction.—Subject to the provisions of this section, commencing July 1, 2000, public utility service being furnished or rendered by a city natural gas distribution operation within its municipal limits shall be subject to regulation and control by the commission with the same force as if the service were rendered by a public utility.

(c) Applicability of other chapters.—Commencing July 1, 2000, to the extent not inconsistent with this section, the provisions of this title, other than Chapters 11 (relating to certificates of public convenience), 19 (relating to securities and obligations) and 21 (relating to relations with affiliated interests), shall apply to the public utility service of a city natural gas distribution operation with the same force as if the city natural gas distribution operation was a public utility under section 102 (relating to definitions), provided that, upon request of a city natural gas distribution operation, the commission may suspend or waive the application to a city natural gas distribution operation of any provision of this title, including any provision of this chapter other than this section. Chapter 11 shall apply to a city natural gas distribution operation to the extent it seeks to provide natural gas distribution services outside of its corporate or municipal limits. Chapter 19 shall apply to issuances of securities for the benefit of a city natural gas distribution operation by an issuer other than a city to the extent provided in subsection (e) but shall not apply to issuances of securities by a city.

(d) Continuation of tariff.—For purposes of this section, prior tariff means the tariff, rate schedule and riders incorporated into the tariff of a city natural gas distribution operation on the date the commission assumes jurisdiction over such city natural gas distribution operation. A city natural gas distribution operation shall continue to provide natural gas supply and natural gas distribution services to its customers under the prior tariff and the policies or programs existing on the date that the commission assumes jurisdiction over the city natural gas distribution operation until the effective date of the final order entered by the commission approving the restructuring plan and new tariff of the city natural gas distribution operations unless such effective date has been stayed by a court of competent jurisdiction, in which event the prior tariff will continue in force until such stay has been dissolved. Where the prior tariff refers to, incorporates or includes a local commission, it shall be interpreted as referring to, incorporating or including the commission. Subject to subsection (s), the commission shall resolve all questions, disputes or conflicts arising under the prior tariff. Nothing contained in this section shall prevent a city natural gas distribution operation from requesting or, if so requested, the commission from approving modifications to the prior tariff at any time prior to the effective date of the final order approving the restructuring plan and new tariff.

(e) Securities of city natural gas distribution operations.—Notwithstanding any provision of this title to the contrary, in determining the city natural gas distribution operation's revenue requirement and approving overall rates and charges, the commission shall follow the same ratemaking methodology and requirements that were applicable to the city natural gas distribution operation prior to the assumption of jurisdiction by the commission, and such obligation shall continue until the date on which all approved bonds have been retired, redeemed, advance refunded or otherwise defeased. However, this section shall not prevent the commission from approving changes in the rates payable

by any class of ratepayers of the city natural gas distribution operation so long as the revenue requirement and the overall rates and charges are not adversely affected by such changes. Notwithstanding any provision in this title to the contrary, the commission shall permit the city natural gas distribution operation to impose, charge or collect rates or charges as necessary to permit the city or municipal authority formed pursuant to subsection (m) that issued bonds on behalf of a city natural gas distribution operation to comply with its covenants to the holders of any approved bonds. Notwithstanding any provision in this title to the contrary, the commission shall not require a city natural gas distribution operation to take action, or omit taking any actions, pursuant to this title if such action or omission would have the effect of causing the interest on tax-exempt bonds issued by a city or municipal authority formed pursuant to subsection (m) on behalf of a city natural gas distribution operation to be includable in the gross income of the holders of such bonds for Federal income tax purposes. For purposes of this section, approved bonds shall mean all bonds:

(1) issued by a city on behalf of a city natural gas distribution operation under the act of October 18, 1972 (P.L.955, No.234), known as The First Class City Revenue Bond Act, or the act of December 7, 1982 (P.L.827, No.231), known as The City of Philadelphia Municipal Utility Inventory and Receivables Financing Act, that were issued and outstanding on the date the commission assumed jurisdiction over the city natural gas distribution operation;

(2) issued by the city after the date the commission assumed jurisdiction over the city natural gas distribution operation unless the governing body of the city, at the time of approval of the bond issuance, determines that such bonds shall not be approved bonds;

(3) issued by the city or a municipal authority, nonprofit corporation or public corporation formed pursuant to subsection (m) for the purpose of refunding, redeeming, repaying or otherwise defeasing approved bonds; or

(4) issued by a municipal authority formed pursuant to subsection (m) for purposes other than refunding, redeeming, repaying or otherwise defeasing approved bonds unless the commission determines, at the time of the registration of a securities certificate pursuant to section 1903 (relating to registration or rejection of securities certificates), that the bonds should not be approved bonds.

Notwithstanding any provision of this title to the contrary, a city owning a city natural gas distribution operation may continue to issue bonds on behalf of the city natural gas distribution operation pursuant to The First Class City Revenue Bond Act and under The City of Philadelphia Municipal Utility Inventory and Receivables Financing Act, and any municipal authority formed pursuant to subsection (m) may issue bonds on behalf of the city natural gas distribution operation pursuant to the act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945, and

as otherwise provided by law. All documents that are required to be submitted to the governing body of the city by The First Class City Revenue Bond Act or The City of Philadelphia Municipal Utility Inventory and Receivables Financing Act or, in the case of an issuance of securities by a municipal authority, the Municipality Authorities Act of 1945 shall also be submitted to the commission for its information. Any issuance of securities by a municipal authority formed pursuant to subsection (m) on behalf of a city natural gas distribution operation, other than issuances of bonds for the purpose of refunding, redeeming, repaying or otherwise defeasing approved bonds, shall be subject to the provisions of Chapter 19 provided that commission determinations with respect to the registration of a securities certificate under Chapter 19 for the issuance of securities by a municipal authority formed pursuant to subsection (m) shall be determinations with respect to public debt and the commission shall employ its abbreviated securities certificate process to such issuances.

(f) Transfers to city.—The commission shall permit the city natural gas distribution operation to impose, charge or collect rates and charges as necessary to permit the city natural gas distribution operation to transfer or pay to the city that is the owner of the city natural gas distribution operation, on an annual basis, such amount as may be specified from time to time in the applicable ordinances of the city or agreements of the city approved by ordinances. If the amount so specified shall exceed 110% of the amount that was authorized for transfer or payment to the city at the close of the fiscal year of the city ending June 30, 2000, such additional amount shall be subject to review and approval of the commission, which approval shall be given unless such additional amount would not be just and reasonable.

(g) Restructuring and tariff filings.—A city natural gas distribution operation shall file with the commission an initial tariff and a restructuring filing consistent with this chapter, and with any orders, rules or regulations adopted by the commission after the effective date of this chapter no later than July 1, 2002, and, unless the city natural gas operation agrees, no earlier than December 31, 2001, pursuant to a schedule to be determined by the commission in consultation with a city natural gas distribution operation. The commission shall conduct an initial rate proceeding pursuant to its procedures for such filings. Hearings on the tariff and restructuring filings shall be held within the municipal limits of the city in which the city natural gas distribution operation is located to the extent practicable.

(h) Restructuring proceedings.—In the restructuring proceeding of a city natural gas distribution operation, in addition to the requirements of section 2204(c) (relating to implementation):

(1) The city natural gas distribution operation shall file a plan to convert its existing information technology, accounting, billing, collection, gas purchasing and other operating systems and procedures to comply with the requirements applicable to jurisdictional natural gas utilities under this title and the applicable rules, regulations and orders. The commission shall

examine the cost and burdens of converting existing systems and procedures of a city natural gas distribution operation to meet the requirements of this title generally applicable to natural gas distribution companies. If requested by the city natural gas distribution operation, the commission shall determine whether the cost of conversion of any system or procedure is prudent in light of the benefits to be obtained. In the event that the commission determines that the costs would not be prudent, it may waive application to the city natural gas distribution operation of any provision of this title or the commission's rules, regulations and orders as appropriate. In the event that the commission determines that such costs should be incurred, the commission shall permit the city natural gas distribution operation to fully recover such costs through a nonbypassable charge imbedded in the distribution rates of the city natural gas distribution operation.

(2) In its restructuring proceeding, a city natural gas distribution operation may propose an automatic adjustment mechanism or mechanisms in lieu of or as a supplement to section 1307 (relating to sliding scale of rates; adjustments) to adjust rates for fluctuations in gas and nongas costs, including, but not limited to, an automatic adjustment mechanism or mechanisms to recover the costs of providing programs for low-income ratepayers and other assisted ratepayers. The commission may approve or modify the automatic adjustment mechanism or mechanisms proposed by the city natural gas distribution operation, or the commission may approve a section 1307 adjustment for a city natural gas distribution operation. However, the automatic adjustment mechanism, whether section 1307 or any alternative proposed by the city natural gas distribution operation, utilized for city natural gas distribution operations must enable the city or municipal authority formed pursuant to subsection (m) that issued bonds on behalf of a city natural gas distribution operation to fully comply at all times with its covenants to the holders of any approved bonds.

(i) Powers of the Consumer Advocate; Small Business Advocate.—The Consumer Advocate shall represent the interests of consumers as a party, or otherwise participate for the purpose of representing an interest of consumers, before the commission in any matter properly before the commission relating to a city natural gas distribution operation. The Consumer Advocate is authorized, in addition to any other authority conferred on him, to represent an interest of consumers which is presented to him for his consideration upon petition in writing by a substantial number of persons who make, direct, use or are ultimate recipients of a product or services supplied by a city natural gas distribution operation. The Small Business Advocate shall represent the interest of small business consumers as a party, or otherwise participate for the purpose of representing an interest of small business consumers, before the commission in any matter properly before the commission relating to a city natural gas distribution operation. The Small Business Advocate is authorized, in addition to any other authority conferred on him, to represent



an interest of small business consumers which is presented to him for his consideration upon petition in writing by a substantial number of small business consumers who make, direct, use or are ultimate recipients of a product or services supplied by a city natural gas distribution operation.

(j) Commencement of customer choice.—Beginning with the commencement of the first fiscal year of a city natural gas distribution operation after the order approving the restructuring plan of a city natural gas distribution operation becomes effective, all retail gas customers of city natural gas distribution operations shall have the opportunity to purchase natural gas supply services from a natural gas supplier or the city natural gas distribution operation to the extent it offers the service. After that date, the choice of natural gas suppliers shall rest with the retail gas customer.

(k) City instrumentality.—Unless and until the governing body of a city that owns a city natural gas distribution operation otherwise provides:

(1) a city natural gas distribution operation shall be deemed an instrumentality of the city that owns it and independently authorized to establish and maintain pension, welfare and other employee benefit plans for the benefit of those individuals who render services in connection with its operations; and

(2) for the purpose of being a participant in such plans or programs, those individuals who render services exclusively and directly related to the operations of the city natural gas distribution operation shall be deemed employees of the city natural gas distribution operation as a distinct entity from the city. If any pension plan established and maintained by or on behalf of a city natural gas distribution operation is or becomes subject to the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act, the provisions of Chapters 5 and 6 of that act (relating to financially distressed municipal pension system recovery programs) shall not require any pension plan of a city natural gas distribution operation to be aggregated with any pension plan established and maintained by the city.

(l) Assisted cities.—Notwithstanding any other provision of this title, no assisted city shall be required to take any action under this title if the effect of the action is to cause a variation in the financial plan of such assisted city approved pursuant to section 209 of the act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class. As used in this subsection, “assisted city” and “variation” shall have the meanings set forth or construed in the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class.

(m) Corporate action.—A city that owns a city natural gas distribution operation may form a nonprofit corporation or public corporation or municipal authority under the Municipality Authorities Act of 1945 in order to own, manage, operate, lease or carry out natural gas supply and/or distribution services for, in place of or on behalf of the city natural gas distribution operation, provided that no such entity shall provide natural gas

supply services outside of the municipal limits of the city unless licensed as a natural gas supplier. Notwithstanding subsections (b) and (c), if a city forms an entity pursuant to this section to provide natural gas supply services, whether inside or outside of the city, the entity shall be deemed an affiliated interest of the city natural gas distribution operation, and Chapter 21 shall apply with respect to that affiliated interest. A municipal authority formed pursuant to the authorization of this section shall not exercise the power of eminent domain outside of the municipal limits of the city in which it is seated. Any entity created under this section or otherwise to own, manage, operate, lease or carry out natural gas supply and/or distribution services for or on behalf of a city or a city natural gas distribution operation shall be deemed a local agency for purposes of 42 Pa.C.S. Ch. 85 (relating to matters affecting government units).

(n) Collections.—Nothing contained in this title shall abrogate the power of a city natural gas distribution operation to collect delinquent receivables through the imposition of liens pursuant to section 3 of the act of May 16, 1923 (P.L.207, No.153), referred to as the Municipal Claim and Tax Lien Law, or otherwise.

(o) Existing customer contracts.—Notwithstanding the provisions of this chapter, where an agreement for natural gas service, evidenced by a signed writing between a city natural gas distribution operation and any customer, exists prior to the date the commission assumes jurisdiction over a city natural gas distribution operation, the customer shall be bound by its terms and conditions and shall not have the right to receive natural gas service from another source until the expiration of the term of the agreement or otherwise pursuant to the terms and conditions of the agreement.

(p) License application and issuance.—A city natural gas distribution operation may apply for a license pursuant to the procedures under section 2208 (relating to requirements for natural gas suppliers). Subject to the requirement that it qualify for and obtain a natural gas supplier's license under section 2208, a city natural gas distribution operation is authorized to engage in the business of a natural gas supplier outside its municipal or corporate limits.

(q) Commission assessment.—In order to ensure that the commission will be able to carry out its obligations with respect to city natural gas operations, the chief executive officer of a city natural gas distribution operation shall file, no later than March 31, 2000, a sworn statement showing its gross intrastate operating revenues for the immediately preceding fiscal year in the same manner as required by section 510(b) (relating to assessment for regulatory expenses upon public utilities). The commission shall use such revenues in accordance with the procedures set forth in section 510(b) and shall bill, no earlier than July 1, 2000, each city natural gas distribution operation its proportional share of the commission's expenses pursuant to section 510(b)(4). A city natural gas distribution operation shall pay the

resulting assessment in accordance with and subject to the provisions contained in section 510.

(r) Senior citizens.—

(1) The commission may approve a program designed to provide discounted rates for natural gas distribution and supply services to senior citizens residing in the service territory of a city natural gas distribution operation provided that such rates and the terms of such program are just and reasonable.

(2) Individual ratepayers who, as of the date the initial tariff of a city natural gas distribution operation becomes effective pursuant to subsection (d), are properly receiving discounted gas rates pursuant to the terms of a program specifically designed to provide assistance to senior citizens contained in the prior tariff shall be entitled to continue to receive such discount under the terms of the prior tariff unless and until the program is modified by ordinance of the governing body of the city, in which event such individuals shall be entitled to receive only the discount provided under the terms of the modified program, as it may be further modified by ordinance from time to time 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, insofar as they are inconsistent with this act.

Section 5. The provisions of this act shall not supersede:

Act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945, except for section 4B(1) of that act to the extent that section 4B(1) grants a municipal authority formed pursuant to 66 Pa.C.S. § 2212(m) the power of eminent domain outside its municipal limits.

Act of October 18, 1972 (P.L.955, No.234), known as The First Class City Revenue Bond Act.

Act of December 7, 1982 (P.L.827, No.231), known as The City of Philadelphia Municipal Utility Inventory and Receivables Financing Act.

Section 6. The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Section 7. This act constitutes the legislation referred to in section 33(3) of the act of May 12, 1999 (P.L.26, No.4), entitled "An act amending the act of March 4, 1971 (P.L.6, No.2), entitled 'An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties,' revising and adopting sales and use tax provisions on processing exclusions, credit sales and bad debt sales; revising personal income tax provisions on small corporations; expanding eligibility for special poverty provisions; revising estimated tax declarations; eliminating Lottery Fund transfers; revising corporate net income tax provisions on nonprofit organizations, net loss deductions and apportionment of business income; revising capital stock franchise tax provisions to reduce the rate of taxation, reduce the minimum tax, and further provide for capital stock franchise tax exemptions, exclusions and proceeds; eliminating the utilities gross receipts tax on natural gas; making omnibus amendments to the public utility realty tax; providing for a tax credit for coal waste removal and ultraclean fuels; further providing for malt beverage tax credits; further providing for the rate of taxation for the Public Transportation Assistance Fund; further providing for estimated tax, for payment of harness and thoroughbred racing taxes and for corporate tax treatment of automobile clubs; and making a repeal." The Secretary of Revenue shall publish notice of the enactment of this act in the Pennsylvania Bulletin.

Section 8. The following acts and parts of acts are repealed insofar as they are inconsistent with this act:

Act of June 25, 1919 (P.L.581, No.274), referred to as the First Class City Government Law.

Act of April 21, 1949 (P.L.665, No.155), known as the First Class City Home Rule Act.

Section 9. This act shall take effect as follows:

- (1) The following provisions shall take effect June 30, 2000:
  - (i) The addition of the definition of "city natural gas distribution operation" in 66 Pa.C.S. § 102.
  - (ii) The inclusion of a city natural gas distribution operation in the definition of "natural gas distribution company" in 66 Pa.C.S. § 2202.
  - (iii) The addition of 66 Pa.C.S. § 2212.
  - (iv) Section 4 of this act.
  - (v) Section 8 of this act.
- (2) The following provisions shall take effect immediately:
  - (i) The addition of 66 Pa.C.S. § 2203(15).
  - (ii) This section.
- (3) The following provisions shall take effect July 1, 1999, or immediately, whichever is later:
  - (i) The amendment of 66 Pa.C.S. §§ 1307(f) and (h)<sup>1</sup>, 1317 and 1318.
  - (ii) The addition of 66 Pa.C.S. § 2201.
  - (iii) Except as provided in paragraph (1)(ii), the addition of 66 Pa.C.S. § 2202.
  - (iv) Except as provided in paragraph (2)(i), the addition of 66 Pa.C.S. § 2203.
  - (v) The addition of 66 Pa.C.S. §§ 2204 through 2211.

APPROVED—The 22nd day of June, A.D. 1999.

THOMAS J. RIDGE

---

<sup>1</sup>"(g)" in enrolled bill.