

NATURAL GAS UNBUNDLING IN NEW JERSEY

IMPLEMENTATION OF FULL NATURAL GAS UNBUNDLING IN NEW JERSEY

Proceedings are now underway before the New Jersey Board of Public Utilities (“BPU” or “Board”) to complete the process of bringing consumer choice to all of New Jersey’s users of natural gas. All of New Jersey’s commercial and industrial consumers now have the option of buying natural gas from either their local natural gas utility or from an alternative supplier, but this option is now available to only a limited number of residential consumers. The Electric Discount and Energy Competition Act of 1999, P.L. 1999, c. 23 (the “Act”) directs the Board to make choice available to all consumers, including residential consumers, by December 31, 1999. Proceedings to carry out this directive were initiated by the Board in late April. These proceedings also provide the opportunity to review and improve upon the customer choice programs that are already in effect for commercial and industrial natural gas customers.

The Ratepayer Advocate is representing the interests of New Jersey’s gas consumers in these proceedings, which includes both the establishment of the overall policies for implementing competition in New Jersey’s natural gas marketplace, and the review of specific plans submitted by each of the State’s four local gas utilities to provide choice for their customers. In late July, the Ratepayer Advocate filed comprehensive testimony which set forth both the general policy goals and specific recommendations which the Ratepayer Advocate believes should be implemented to create a robust competitive natural gas market in New Jersey. The Ratepayer Advocate will be filing further testimony to address the companies’ responses to these policies and recommendations in early September, and will be participating in the evidentiary hearings which have been tentatively scheduled by the Board for September, 1999. The Ratepayer Advocate is also participating in a “Gas Implementation Working Group” established by the Board to discuss and attempt to resolve the many practical issues that must be resolved to implement full customer choice by December 31, 1999.

In this process, the Ratepayer Advocate is urging the Board adopt the following overall policy goals:

- to create a viable competitive market with lower rates for consumers;
- to establish a structure that encourages the broadest possible customer choice;
- to maintain basic utility service at reasonable rates for all residential customers;
- to insure that all natural gas customers share the benefits of competition;
- to maintain existing supply reliability and effective consumer protection;
- to encourage development of a robust marketplace attracting competitors and businesses to New Jersey;

- to promote use of natural gas as an environmentally-sound energy choice.

The following is an explanation of how customer choice will work, and the Ratepayer Advocate guidelines for achieving these goals for all consumers.

HOW CUSTOMER CHOICE WORKS

In the past, natural gas was provided to consumers as a monopoly service by regulated companies. Local gas utilities were given a franchise by the State to be the exclusive providers of natural gas within specific geographic areas known as service territories. The price and quality of service was regulated by the BPU. Gas service was considered a “natural monopoly” because it did not make economic sense for more than one company to build and operate the network of pipes, known as the “distribution system” which carries gas to the locations where gas is used.

New Jersey’s gas utilities offer two principal services: gas supply and gas distribution. Gas supply (sometimes referred to as “commodity” service) is the service of buying the gas at the wellhead and arranging its delivery to the utility’s distribution system in New Jersey. Gas distribution (sometimes referred to as “transportation” service) is the service of transporting the gas through the utility’s distribution system to consumers.

In order to achieve competition in the gas supply market, the rates charged by the utilities must be “unbundled” into their separate components. This allows consumers to shop for the commodity gas in the competitive market, and pay the utility only for distribution service, which will remain a monopoly service. Under the Act, the commodity service provided by the utilities will be known as “Basic Gas Supply Service.” Customers will have the choice of continuing to receive Basic Gas Supply Service from the utility, or purchasing gas supply from an alternative supplier, known as a “third-party supplier.” Basic Gas Supply Service will be available to consumers who decide to purchase gas from an alternative supplier and thereafter choose to return to the utility, or for some reason have service discontinued by the third party supplier.

In the proceedings before the Board, the Ratepayer Advocate is urging the adoption of policies that will create a vibrant competitive natural gas market in New Jersey. With such a market, all of New Jersey’s natural gas consumers may expect increased choice, lower costs, and, ultimately new technologies using natural gas. The following is a summary of the Ratepayer Advocate’s goals and objectives for the State’s natural gas markets.

THE RATEPAYER ADVOCATE'S GUIDELINES FOR ACHIEVING A COMPETITIVE NATURAL GAS MARKETPLACE

PROVIDE CONSUMERS WITH CLEAR, EASY TO UNDERSTAND INFORMATION.

In order to shop intelligently, consumers must be provided with clear, easy to understand information. The first step in this process is a well-planned, well-executed consumer education program. A statewide consumer education program, developed and implemented under the Board's authority, has already begun. This program includes both a statewide mass-media campaign and "grassroots" efforts by the individual utilities. The Ratepayer Advocate will be working with the Board to assess the success of this program.

Consumers also need clear, easy to understand pricing information on their bills. In order to shop intelligently, customers must be able to understand the unbundled rate for Basic Gas Supply Service, which will function as the "shopping credit," or price to compare against offers by third-party suppliers. The Ratepayer Advocate is proposing that the Board require the utilities' bills clearly label and graphically separate the Basic Gas Supply rate, in a uniform format that will apply throughout the State. This will allow consumers to easily compare the utility's Basic Gas Supply charges with the rates offered by third-party suppliers.

Consumers must also understand their usage patterns, which will vary considerably from month to month for consumers with gas heat. The Ratepayer Advocate is proposing that 12-month usage histories be required to be provided by the utilities on all utility bills. The Ratepayer Advocate is also proposing that the enrollment packages to be sent to consumers by the utilities contain information to educate consumers on how to read their bills, how to compare prices, and how to select a supplier.

CREATE A SHOPPING CREDIT WHICH PROMOTES COMPETITION.

The Basic Gas Supply Service rate, which serves as the "shopping credit," needs to be set at a level that will provide a baseline price for comparison shopping by customers and will provide an incentive for third party suppliers to compete in New Jersey's natural gas market. If the shopping credit is too low, then third party suppliers will not enter the market, and consumers will have no opportunity to shop for an alternative supplier. The Ratepayer Advocate is proposing that the Basic Gas Supply Service rates for each of the four gas utilities be set at level that will allow all consumers to have a choice of suppliers, and have the opportunity to achieve savings by shopping for natural gas.

SIMPLIFY ENROLLMENT.

Enrollment should be simple. Enrollment packages should be sent to all consumers at the commencement of full competition. Customers should not be required to "order" the information packet from their gas utility, as is being proposed by the utilities, as this would create an unnecessary

barrier to customers who wish to shop. The Ratepayer Advocate is also opposing restrictions on enrollment such as limiting enrollment to specific time periods, and requiring suppliers to sign up a minimum number of customers before being permitted to provide service to customers on a utility's system.

The enrollment process itself should be simple. The Board has issued an order requiring that customers obtain a "wet signature" in order to sign up consumers. The Board established this requirement due to concerns that other sign-up methods, such as by telephone, would create an increased risk of "slamming," that is, "signing up" customers without their permission. The Ratepayer Advocate recognizes concerns about slamming, but believes that equal or better protections can be provided using other enrollment procedures which are simpler for consumers. The Ratepayer Advocate is urging the Board to consider alternative programs such as Internet enrollment, and telephone enrollment procedures that require confirmation by a neutral third party for sign-up calls that are initiated by the competitive suppliers.

**ELIMINATE
SWITCHING FEES AND
OTHER BARRIERS.**

Switching fees, that is, charges for switching to a third-party supplier, switching suppliers, or returning to Basic Gas Supply Service, can be a substantial impediment to competition. This was recognized in a provision in the Act which prohibits all switching fees for residential customers. Switching fees also can be a substantial deterrent to choice for smaller commercial customers, some of which use no more natural gas than a typical residential customer. The utilities currently charge switching fees of up to \$50 for their commercial and industrial customers. The Ratepayer Advocate is proposing the elimination of switching fees for commercial customers.

The Ratepayer Advocate also is opposing other utility proposals that could deter consumers from choosing an alternative supplier. The Ratepayer Advocate is opposing utility proposals to charge higher rates or penalties to customers who choose a third-party supplier, and then later return to Basic Gas Supply Service. Similarly, the Ratepayer Advocate is opposing proposals to require consumers who return to Basis Gas Supply Service to take service from the utility for a minimum period of time, such as a year, before being permitted to shop for another third-party supplier. In the new world of competition, consumers require flexibility in exploring the new marketplace.

**FACILITATE
AGGREGATION OF
SMALL CONSUMERS.**

The Ratepayer Advocate has consistently expressed concern that residential and small commercial customers may not realize the benefits of competition because they do not have usage volume that is attractive to third party suppliers. Since economies of scale favor large customers,

small customers can benefit from programs which allow them to combine or “aggregate” their gas usage, and solicit offers from suppliers to provide gas supply service to the aggregated group. Under the Act, local governments can act as facilitators on behalf of residential and business customers in exercising choice. Municipalities and counties can combine their needs for gas and electric service with those of business and residential customers. The Ratepayer Advocate is urging the Board to require the utilities to provide municipal and county governments with the information they need to aggregate their constituents.

Aggregated usage data: In order to solicit bids from suppliers, government aggregators will need information on their constituents’ energy usage patterns on an aggregated basis. The Ratepayer Advocate has proposed that utilities be required to make this information available in electronic form by zip code classifications.

Address lists: Under the Act, a governing body must notify its residential customers of their right to decline participation in the government aggregation program. Some of this information may not be easily available to municipalities. For example, there may be tenants who pay their own tax bills but are not listed on a municipality’s tax rolls. The Ratepayer Advocate is proposing that the utilities be required to make this information available in electronic form.

Individual usage data: In order to decide whether to participate in an aggregation program, consumers will need information about their own usage patterns. The Ratepayer Advocate is proposing that utilities be required to supply this information within two weeks of receiving a request from a consumer.

List of third-party suppliers: Government aggregators and consumers will also need current information about which third-party suppliers are offering service in their geographic areas. The Ratepayer Advocate is proposing that each utility be required to maintain and disseminate a list of licensed third-party suppliers operating in its service areas to its customers twice a year, and maintain a current listing on its Internet web site.

**GIVE COMPETING
MARKETERS ACCESS
TO THE RESOURCES
THEY NEED TO SERVE
THE MARKET.**

In order to serve gas consumers in New Jersey, a third party supplier must purchase gas at the wellhead and arrange to have it transported to New Jersey via the interstate pipelines. Unlike the supply of gas at the wellhead, the available capacity on the interstate pipelines for transporting gas, and for related services such as storing gas in storage facilities

operated by the pipelines, is limited. Because of their historic role as exclusive providers of gas supply service, the incumbent utilities control a significant portion of these limited resources. As customers begin to shop for gas supply, the utilities will no longer need these resources to provide gas supply service to customers who have chosen another supplier. The Ratepayer Advocate has proposed that the utilities be required to offer their interstate pipeline and storage resources to these customers or their suppliers, before they are offered to anyone else.

Suppliers should not, however, be forced to take interstate pipeline and storage resources that are offered by the utility. Some suppliers may be able to make other, more economic, arrangements to deliver gas to New Jersey. For this reason, the Ratepayer Advocate is opposing the proposals of two of the utilities to require suppliers to accept the pipeline and storage resources offered by the utility.

**UNBUNDLE THE
COMPONENT PARTS
OF GAS SUPPLY, SO
THAT SUPPLIERS CAN
OFFER MORE
OPTIONS TO
CONSUMERS.**

Although most customers may continue to purchase gas supply as a single package, this service actually includes several component parts in the gas supply marketplace. Even though these components are “invisible” to the average consumer, they are important to the suppliers that will be competing in the State’s natural gas market. These components include:

Commodity service: buying gas at the wellhead

Interstate pipeline transportation: transporting gas over the interstate pipelines to the utility’s distribution system.

Storage: storing gas, usually in large underground facilities operated by the interstate pipelines. (Storage enables suppliers to “stock up” when prices are low.)

Peak shaving: supplementing deliveries from the interstate pipelines with small quantities of gas stored at facilities located within each utility’s service territory on cold days when consumers are using unusually large quantities of gas.

Balancing: making up differences in the amounts scheduled for delivery to the utility each day, with the amounts actually used by consumers.

The more of these component services are unbundled, the greater will be the ability of alternative suppliers to offer choices to consumers. None of the utilities currently offer unbundled rates for all of the components of gas supply service. The Ratepayer Advocate has proposed that the utilities be directed to offer a minimum level of unbundled services,

including an option which gives suppliers the option of providing at least some balancing services to all customers, by December 31, 1999, and to develop and implement additional options by October 1, 2000, in time for the 2000-01 winter heating season.

**ENCOURAGE
COMPETITION FOR
ALL CUSTOMER
SERVICES NOW
PROVIDED BY THE
UTILITIES.**

Some other services now provided by the utilities also are potentially competitive services. These include:

Metering: providing and maintaining the meters that measure customers' usage of gas.

Meter reading: reading meters and providing the readings to the utility and/or alternative suppliers.

Billing: preparing and mailing bills.

Other "customer account" services: a variety of functions, including collecting and recording bill payments and responding to customer inquiries.

Opening some or all of these services to competition could greatly expand the choices available to consumers and encourage technical innovation. The potential benefits include lower costs, as suppliers achieve economies by offering services such as meter reading and billing for more than one service, creating opportunities for suppliers to offer "packages" combining more than one service (such as electric, gas and energy management services) development of new technologies, such as metering technologies and services that will help consumers save money by managing their energy usage.

The Act requires the Board to initiate a proceeding not later than March 31, 1999 to consider whether some or all of these services should be opened to competition. To facilitate this process, the Board has ordered the utilities to develop unbundled rates for these services. To date, none of the utilities has complied with the Board's Order. The Ratepayer Advocate has requested that this be done no later than the end of August, 1999.

The utilities also provide some services that are already subject to competition. These include a variety of appliance servicing repair programs and energy conservation services such as energy audits and home weatherization programs.

The Ratepayer Advocate also is urging the Board to adopt a policy that utilities' investments in services that are potentially

competitive should be at the risk of the utility's shareholders and not ratepayers. Investments in technologies such as automatic gas consumption monitoring, for example, should be undertaken with shareholder funds, and without a guarantee that the costs will be recovered from ratepayers.

**CAREFULLY REVIEW
UTILITY REQUESTS
FOR RECOVERY OF
ADDITIONAL COSTS.**

Some of the utilities' petitions include requests that the Board give them advance approval to collect from ratepayers additional costs which they assert will occur as a result of competition. These include costs of interstate pipeline and storage capacity which the utilities assert may be "stranded" as a result of the movement of customers to third party suppliers, and "lost revenues," and a variety of other costs the utilities contend may occur. Such costs could diminish or eliminate the savings that are expected to result from competition. The Ratepayer Advocate is urging the Board to adopt a policy that no such cost recovery will be permitted unless a utility demonstrates in a hearing before the Board that it has actually incurred such costs, that they were the direct result of competition, and that they could not have been avoided or mitigated by the utility. The utilities have been aware for a number of years that gas supply services would become competitive, and should have been planning accordingly.

**PRESERVE EXISTING
SERVICE LEVELS AND
CONSUMER
PROTECTIONS.**

Competition should not come at the expense of existing levels of service and consumer protections. Reliable gas service is essential. Under competition, economic incentives can be used to assure reliability. These include monetary penalties and temporary or permanent suspensions for third-party suppliers which fail to meet their commitments to deliver gas to New Jersey. To supplement these incentives, third-party suppliers may be required to demonstrate that they have adequate interstate pipeline transportation and storage capacity to meet their delivery obligations. The Ratepayer Advocate is proposing that reliability assurance measures be included in regulations or standards to be issued by the BPU, and included in the utilities' standard agreements with third party suppliers. It is important, however, to assure that these measures be enforced fairly and in a non-discriminatory manner. Therefore, the Ratepayer Advocate has recommended that these measures be subject to oversight by the Board, including a requirement that temporary or permanent suspensions of third-party suppliers be subject to approval by the Board.

The Ratepayer Advocate also has urged the Board to establish benchmarks and service standards to assure that the services customers have come to take for granted, such as easy telephone access to customer service representatives and convenient neighborhood offices--as well as safety-related services such as investigation of gas leaks-- are maintained. The Ratepayer Advocate is also proposing that the utilities be required to

take steps to assure that “budget billing” plans remain available, and that customers do not have their service disconnected for nonpayment of a third-party supplier’s portion of their utility bills.

ENSURE UNIVERSAL SERVICE.

It is also important that consumers who have difficulty paying their utility bills not be disadvantaged as a result of competition. The Ratepayer Advocate is proposing a number of measures to assure that these consumers continue to receive natural gas service.

Creation of universal service fund: The Act authorizes the creation of a universal service fund. This fund should be established and funded at a level that will provide adequate levels of basic affordable rate assistance, emergency rate assistance, and energy efficiency assistance.

Aggregation: Service can be provided to low-income consumers at a lower cost through aggregation. The Ratepayer Advocate is proposing that the Board (1) require each of the utilities to develop a low-income aggregation pilot project, and (2) create an Assistance in Aggregation Project to provide technical assistance in the aggregation of low-income consumers.

Data reporting and tracking: To measure the utilities’ success in maintaining universal service, the Ratepayer Advocate is proposing the establishment of reporting mechanisms to track the impacts of natural gas competition on low-income consumers generally, and universal service in particular.

PREVENT MARKETING ABUSES.

Consumers should be protected from the marketing abuses by unscrupulous third-party suppliers. The Ratepayer Advocate has proposed that the Board adopt strong consumer protection regulations, including prohibitions on unfair contract provisions. Since abuses by suppliers engaged in door-to-door sales have been a particular problem in other states, the Ratepayer Advocate has urged the adoption of regulations that specifically address door-to-door sales.

ESTABLISH RULES FOR FAIR COMPETITION.

In order for competition to flourish, there must be regulations that prevent utilities and their affiliates from taking unfair advantage of the name recognition and other benefits that have resulted from their status as exclusive providers of gas service, and from the utilities’ continuing control of access to their distribution systems. The Act requires the Board to adopt standards governing the gas and electric utilities’ relationships with their affiliates. Proposed Interim Affiliate Relations Rules were issued for comment in March, but have not yet been finalized. The Ratepayer Advocate has urged the Board to act promptly to adopt

strong affiliate relations rules. The Ratepayer Advocate is also urging the Board to include in these rules a prohibition on the use of a similar name or logo by the a utility's retail sales affiliate. The Ratepayer Advocate is also urging that the utilities not be permitted to use their standard contracts with third-party suppliers to erect barriers to competition. Provisions such as credit-worthiness standards and penalties for failures to deliver are necessary, but they should be reasonable and administered fairly. The Ratepayer Advocate has proposed that the Board adopt a uniform form of agreement between utilities and third party suppliers, and that the utilities' administration of such agreements be subject to appropriate oversight by the Board.

**FACILITATE
UTILITY-SUPPLIER
DEALINGS WITH
UTILITIES.**

In order for competition to succeed, utilities must have in place efficient, standardized procedures for exchanging data with third party suppliers. The Ratepayer Advocate is working with the Board to establish uniform statewide electronic data interchange procedures. Similarly, uniformity in the operational rules and procedures which govern the utilities' communication of gas delivery requirements to third-party suppliers, and those which govern the suppliers' deliveries of the gas to the utilities, will make it easier for third-party suppliers to participate in New Jersey's gas market. The Ratepayer Advocate is working with the Board to establish uniform operational rules for all gas utilities.

GLOSSARY OF NATURAL GAS TERMS

BALANCING SERVICE	The service of making up differences between the amount of natural gas delivered to the GDC at the city gate by a third party supplier and the amount of gas actually used by the supplier's customers. The gas unbundling filings submitted by New Jersey's GDCs include proposals to establish unbundled rates for a variety of different types of balancing services.
BASIC GAS SUPPLY SERVICE	The "default" gas commodity service to be provided to consumers who do not elect to buy gas from a third party supplier.
BURNER TIP	The point at which natural gas is used.
CITY GATE	The point at which the local distribution company takes delivery of natural gas from an interstate pipeline.
DEKATHERM (DTH)	A unit of heating value equal to ten therms. A typical residential heating customer in New Jersey uses about 100 dekatherms of natural gas per year.
DISTRIBUTION SERVICE	The gas delivery service provided by the GDC. This service encompasses the delivery of the natural gas from the city gate to the burner tip, using the GDC's network of pipes within New Jersey. Historically, New Jersey's GDCs have referred to this service as "transportation" service.
GAS DISTRIBUTION COMPANY ("GDC")	A state-regulated gas utility which delivers gas to end users within its service territory. New Jersey has four GDCs: NUI Corporation (d/b/a Elizabethtown Gas Company), New Jersey Natural Gas Company, Public Service Electric and Gas Company, and South Jersey Gas Company. Also referred to as "local distribution company" or "LDC."
GAS SUPPLY SERVICE	The service of purchasing natural gas as the wellhead and arranging for delivery of the gas to the local utility's city gates. In a competitive market, consumers have the choice of buying gas supply service either from the local utility or from a third party supplier.
INTERSTATE PIPELINE	A pipeline which transports gas across state lines. Interstate pipelines are regulated by the Federal Energy Regulatory Commission.
INTERSTATE PIPELINE CAPACITY	Refers to contractual rights to use interstate pipeline facilities, including both pipelines and storage facilities, for the delivery specified amounts of natural gas. Capacity rights are generally stated in Dekatherms per day.
INTERSTATE	Refers to a variety of storage services offered by interstate pipelines at

PIPELINE STORAGE SERVICE

storage facilities, usually depleted oil or gas fields or other underground geological reservoirs. Storage services have varying conditions, such as the maximum amounts and timing of the customer's deliveries of gas into the storage facility, and withdrawals of gas from the facility.

INTERSTATE PIPELINE TRANSPORTATION SERVICE

The service of transporting gas over an interstate pipeline.

LOCAL DISTRIBUTION COMPANY (LDC)

See "Gas distribution company (GDC)"

MERCHANT FUNCTION

The function of providing bundled gas service to consumers, currently provided by GDCs. The New Jersey energy restructuring legislation authorizes the Board of Public Utilities to consider requiring an GDC to cease performing this function, by assigning a supplier other than the GDC to provide basic gas supply service.

NOMINATION

Amount of natural gas purchased by a consumer or supplier to be delivered at a specified delivery point, such as a city gate, within a certain time period, typically a 24-hour period.

SALES SERVICE

The bundled transportation and gas supply service currently provided by the GDCs to customers who buy the gas supply from the local distribution company.

THERM

A unit of heating value used by GDCs and suppliers for billing purposes. A typical residential heating customer in New Jersey uses about 1000 therms of natural gas per year.

THIRD PARTY SUPPLIER ("TPS")

A competitive supplier of natural gas.

TRANSPORTATION SERVICE

Term used to refer to both interstate pipeline transportation service, and the distribution service provide by local gas utilities.

WELLHEAD

The site at which natural gas comes out of the ground, typically used as a pricing point for the gas commodity.