

**BEFORE THE STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

IN THE MATTER OF THE RATE UNBUNDLING)	BPU Docket Nos.
FILINGS BY GAS PUBLIC UTILITIES)	GX99030121
PURSUANT TO SECTION 10, SUBSECTION A)	GO99030122
OF THE ELECTRIC DISCOUNT AND)	GO99030123
ENERGY COMPETITION ACT OF 1999)	GO99030124
)	GO99030125
ELIZABETHTOWN GAS COMPANY)	
NEW JERSEY NATURAL GAS COMPANY)	
PUBLIC SERVICE ELECTRIC & GAS COMPANY)	
SOUTH JERSEY GAS COMPANY)	

PREPARED DIRECT TESTIMONY OF

BARBARA ALEXANDER

ON

**OVERALL POLICY ON IMPLEMENTATION ISSUES;
SUPPLIER SELECTION PROCESS;
COMPETITIVE METERING; BILLING AND COLLECTIONS;
UTILITY- SUPPLIER INTERACTIONS; AFFILIATE RELATIONS;
CONSUMER PROTECTION AND REGULATION OF SUPPLIERS;
COMPANY-SPECIFIC COMMENTS**

Filed on Behalf of

THE NEW JERSEY DIVISION OF THE RATEPAYER ADVOCATE

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1 a. PLEASE STATE YOUR NAME, ADDRESS AND OCCUPATION.

2 A. My name is Barbara R. Alexander. My title is Consumer Affairs Consultant. I am a
3 consultant on consumer protection and customer service issues associated with utility
4 regulation. My address is 15 Wedgewood Dr., Winthrop, ME 04364. I appear in this
5 case as a witness on behalf of the Division of Ratepayer Advocate.

6 Q. PLEASE DESCRIBE YOUR BACKGROUND AND QUALIFICATIONS FOR YOUR
7 TESTIMONY IN THIS PROCEEDING.

8 A. I opened my consulting practice in March, 1996, after nearly ten years as the Director of
9 the Consumer Assistance Division of the Maine Public Utilities Commission. While there,
10 I testified as an expert witness on consumer protection, customer service and low-income
11 issues in rate cases and other investigations before the Commission. My current consulting
12 practice is directed to consumer protection, customer service and low-income issues
13 associated with the move to competition in the telephone, electric and gas industries. My
14 recent clients include the Pennsylvania Office of Consumer Advocate, New Jersey
15 Division of Ratepayer Advocate, Maryland Office of Peoples Counsel, Colorado Office of
16 Consumer Counsel, Vermont Department of Public Service, and the Maine Public Utilities
17 Commission. Among my publications are: Retail Electric Competition: A Blueprint for
18 Consumer Protection, (U.S. Department of Energy, Office of Energy Efficiency and
19 Renewable Energy, October, 1998)¹, “How to Construct a Service Quality Index in
20 Performance Based Ratemaking,” The Electricity Journal, April, 1996, and “The

¹Available on the Internet: http://www.eren.doe.gov/electricity_restructuring.

1 Transition to Local Telecommunications Competition: A New Challenge for Consumer
2 Protection” (Public Counsel Section, Washington Attorney General, October, 1997). The
3 recent DOE report is particularly pertinent to this proceeding. I identified and analyzed
4 policies for state consumer protection, consumer education, and universal service
5 regulation to accompany the move to retail electric competition. This publication has been
6 the basis for numerous workshops and training programs I have conducted on these issues
7 for Commissions and conferences on electric utility restructuring.

8 I am also an attorney, and a graduate of the University of Michigan (1968) and the
9 University of Maine School of Law (1976).

10 I have been involved in the implementation of retail electric competition in New
11 Jersey on behalf of the Ratepayer Advocate for several years. I filed testimony on
12 consumer protection, customer enrollment, default service, and Code of Conduct issues
13 for the Ratepayer Advocate in the Board’s electric restructuring proceedings (March-
14 April, 1998) and represented the Ratepayer Advocate at the public hearings recently held
15 by the Board on the adoption of Interim Consumer Protection, Licensing, Code of
16 Conduct and Anti-Slamming Standards.

17 b. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

18 A. The purpose of my testimony is to outline the consumer protection policies and programs
19 that should be addressed prior to the implementation of retail natural gas competition in
20 New Jersey and to point to the necessity of revising and correcting existing tariffs of
21 natural gas utilities to comply with these policies. I have developed a generic presentation

1 that will be filed for each distribution utility coupled with utility-specific comments which
2 point out the defects and needed changes for each utility's tariff and bill format for
3 residential customers. My utility specific recommendations appear in section 2 of this
4 testimony, which follows my generic testimony. An outline of my generic testimony is as
5 follows:

6 a. IMPLEMENTATION OF GAS CUSTOMER CHOICE

- 7 A. Timing; relationship to electric customer choice
- 8 B. Customer education; coordination with electric education campaign
- 9 C. Relationship to current pilot programs
- 10 D. Aggregation, convergence and the development of a competitive retail market for
- 11 residential customers

12 b. SUPPLIER SELECTION PROCESS; BASIC GAS SUPPLY SERVICE

- 13 A. Notification of customers of opportunity to choose; enrollment packages
- 14 B. Customer Authorization; use of wet signature should be reconsidered
- 15 C. GDC Letter to customer re switch; timing; relationship to meter/bill cycle
- 16 D. Frequency of customer change of supplier; prohibition on switch fees
- 17 E. Provision of Basic Supply Service: automatic; no fees; no minimum term

18 c. METERING

- 19 A. Interim obligations of GDC prior to declaration of metering as a competitive
- 20 service
- 21 B. Convergence and implications for residential customers: access to metering data
- 22 C. Metering investment and expenses re GDC prior to declaration of competition

23 d. BILLING AND COLLECTION

- 24 A. GDC Bill format: disclosure of gas supply charges; effective supply rate;
- 25 definitions; identification of supplier, address and phone number [critique of
- 26 current bill formats]
- 27 B. Supplier bills: price disclosure format
- 28 C. Multiple balance billing; application of partial payments
- 29 D. Disconnection rules

- 1 E. Presentation of GDC Basic Supply Service (price to compare)
2 F. Usage history
- 3 e. SUPPLIER/TPS INTERACTIONS
- 4 A. TPS Agreements; tariff implications
5 B. EDI: need for uniformity statewide; relationship to electric EDI format
- 6 f. AFFILIATE RELATIONS: CODE OF CONDUCT
- 7 A. Lack of New Jersey Interim Standards
8 B. Activities in other states
9 C. Dangers of delay
- 10 g. CONSUMER PROTECTION AND REGULATION OF SUPPLIERS
- 11 A. Why additional consumer protection rules are necessary
12 B. Length of contract term; automatic renewal clauses; use of negative options
13 C. Door to door sales
- 14 a. PLEASE SUMMARIZE YOUR GENERIC TESTIMONY APPLICABLE TO ALL
15 FOUR GAS UTILITY RESTRUCTURING FILINGS?
- 16 A. My key conclusions and recommendations are as follows:
- 17 b. Competition for natural gas supply will require customers to understand the unbundled
18 rate for gas supply service that appears on their monthly utility bill, their winter and
19 summer usage pattern, and use a method of comparing gas supply offers among
20 competitive suppliers and between suppliers and the gas supply rate that appears on their
21 unbundled utility bill. In order for a customer to shop, the Basic Gas Supply charges must
22 be presented in an average cents per therm format. This will then allow customers to
23 compare their current rate with that offered by suppliers, who are required by the Board's
24 Consumer Protection Standards to provide a cents per therm rate for their natural gas
25 service.
- 26 c. The Board should develop the minimum requirements for a specific natural gas
27 competition educational program and require the GDCs to file a specific education
28 program. Furthermore, the Board's education criteria should include, as required by
29 Section 36(b)(2)(d), "standards for the recovery of consumer education program costs
30 from customers which include reasonable measures and criteria to judge the success of the

1 program in enhancing customer understanding of retail choice.”

- 2 d. Each GDC should be required to file a specific budget and implementation plan for the
3 grass roots portion of the consumer education plan as part of this filing, since each GDC is
4 responsible for the grassroots portion of the statewide Consumer Education Program.²
5 The Board should not approve recovery of any GDC expenditures that fall outside the
6 scope of, or that are not specified within, the GDC’s filed grassroots implementation plan.
7 Further, in reviewing consumer education expenses, the Board should reiterate that it will
8 only approve recovery of prudently incurred consumer education expenditures that further
9 the neutral statewide Consumer Education Program, and it should specify that GDCs may
10 not recover GDC-specific consumer education materials.
- 11 e. The Board should order the utilities to evaluate the implications of their proposals for
12 customers currently shopping for natural gas supply under pilot programs and to propose
13 a separate method of communication and implementation of natural gas competition that
14 responds to the particular needs of these customers.
- 15 f. The Board’s policies and programs should respond to the obvious potential for the sale of
16 both electricity and natural gas products and services by the same supplier, perhaps in a
17 bundled price. The Competition Act allows government aggregation of both electricity
18 and natural gas services, but not until the gas market is opened for competition for
19 residential customers. Section 40(c). Therefore, there is every reason for the Board to
20 move rapidly to synchronize its policies and programs to accommodate this option. Of
21 course, the convergence of the sale of these products and services should not come at the
22 expense of customer disclosures and customer protections. While suppliers should be able
23 to advertise a bundled price, they should also be required to itemize these services and

² The Board has established two advisory groups to assist in developing and implementing a neutral statewide education program -- including mass media and grassroots components -- to provide consumers with information they need to make informed decisions in the new, deregulated energy marketplace. In the Matter of the Consumer Education Program on Electric Rate Discounts and Energy Competition, BPU Dkt. No. EX99040242 (May 20, 1999). Furthermore, the Board has ordered that electric or gas public utilities that have incurred or will incur expenses related to the statewide consumer education program presumptively shall recover those costs, provided that they meet standards for measures of success that the Board anticipates developing in September 1999. Only expenses that are “prudently incurred” can be recovered. In the Matter of the Consumer Education Program on Electric Rate Discounts and Energy Competition, BPU Dkt. No. EX99040242 (June 25, 1999). One of the two advisory groups, the Utility Education Counsel, has determined that each of New Jersey’s GDCs will be responsible for implementing the grassroots component of the statewide Consumer Education Program.

1 give separate price disclosures in a cents per kWh and cents per therm format.

2 g. The Board should order gas utilities to mail the necessary enrollment and customer
3 selection materials to every customer and should not require customers to call the utility to
4 request this information separately.

5 h. The Ratepayer Advocate supports the development of alternatives to a “wet signature”
6 requirement and urges the Board to encourage the development of alternative programs
7 that provide equal or better consumer protection against slamming.

8 i. The gas utility’s tariffs should set forth a Basic Gas Supply Service for residential and
9 other commercial customers. This service should be labeled and appear on customer bills
10 in a uniform format. There should be no limitations on the frequency with which
11 customers obtain such service. For example, customers should not be required to agree to
12 a one-year minimum contract term. No fees may be charged by the utility to obtain such
13 service, nor should this service be priced differently based on the reason why a customer
14 obtains this service, such as whether the customer’s supplier fails to delivery sufficient
15 quantities of natural gas into the transportation system.

16 j. Prior to the decision with respect to metering competition, the Board should require the
17 gas utilities to implement interim policies to prepare for the eventual development of a
18 competitive market for some or all of these services:

19 1. If metering of natural gas will be a competitive service in the future, gas utilities
20 should be informed by the Board in this proceeding that investments in gas
21 metering technology and automated gas consumption monitoring should be
22 undertaken at the risk of stockholders and not ratepayers. Gas utilities should be
23 obligated to take no steps which would impede the development of a competitive
24 market. The Ratepayer Advocate supports the development of competitive
25 metering at the earlier date set forth in a recent Electric Restructuring Board Order
26 with Public Service.³

27 2. Gas utilities should be required in this proceeding to provide gas usage information
28 to suppliers for those customers who have selected a TPS in an efficient manner,
29 i.e., electronic data transfer, so that suppliers can bill customers (if customers so
30 request) for competitive services. This will allow competitive gas suppliers that
31 also sell electric generation services to directly bill customers for these combined
32 services.

³See, Stipulation filed March 17, 1999, BPU Docket Nos. AEO97070461, E097070462, EO97070463 (Summary Order, dated April 21, 1999 did not address this provision of the Stipulation).

- 1 k. The gas utilities did not submit the necessary changes in their tariffs to accommodate
2 changes in billing practices, procedures, and billing formats necessary for the
3 implementation of retail gas competition. A gas utility bill that includes competitive gas
4 supply charges should graphically separate regulated from competitive or unregulated
5 charges. The supplier's name, address and phone number must be provided. The
6 customer's total for the TPS charges must be shown separately from the total owed for
7 regulated charges and the utility must track customer payments separately to comply with
8 the partial payment rules. If the gas utility does not already provide the customer with
9 historical usage information for the prior 12 months, it should be required to do so as soon
10 as possible. This information will allow customers to evaluate the impact of various
11 supplier rate offerings on their own usage pattern. The gas utility's charges and terms for
12 describing the services provided to customers should reflect a statewide use of common
13 terms and definitions.
- 14 l. Customers should not be removed from budget payment plans if they enter the
15 competitive market and choose a TPS. Customers should be eligible to retain their
16 annualized payment plans and utilities should offer that billing option to any TPS.
- 17 m. Partial payments by customers to natural gas utilities should be allocated first to regulated
18 services, using the same methodology required by the Board for electric utilities. If a gas
19 utility or a TPS bills for both natural gas and electricity, partial payments should be
20 allocated first to electricity services.
- 21 n. None of the gas utilities submitted tariff revisions that reflect a competitive market with
22 respect to the application for service, deposit, and credit and collection practices. For
23 example, utilities still reflect the use of the term "bill" when referring to the calculation or
24 need for a deposit, application of late payment charges, initiation of disconnection of
25 service, and other collection activities. In fact, utility tariffs should reflect such actions
26 based on the regulated portion of the bill, such as transportation charges or Basic Gas
27 Supply Service. The tariffs should clearly distinguish between regulated charges billed by
28 the gas utility and competitive service charges that may be billed by the utility, but which
29 are not subject to certain credit or collection activities. Most importantly, gas utility tariffs
30 must reflect the policy that utilities may not threaten disconnection for nonpayment of
31 competitive supplier charges, even if the utilities are permitted to buy the supplier's
32 receivables as several gas utilities propose to do. Gas utilities should track the balance
33 owed for regulated charges separately from those owed by the customer for TPS charges
34 and eliminate the latter category from the amount overdue that appears on any
35 disconnection notice issued to the customer.
- 36 o. The Board should require the utilities, suppliers, the Ratepayer Advocate and other
37 interested parties to develop a Third Party Supplier Agreement that will be uniform among

1 the gas utilities. Suppliers should not have to be subject to differing credit evaluations and
2 standards at each gas utility. Furthermore, these agreements, which should then be
3 approved by the Board and adopted as a tariff provision, should contain a uniform
4 approach to the utility's billing and administrative fees and the electronic data exchange
5 protocols that will be applicable to the transactions between the utility and the supplier.
6 Uniform and statewide EDI protocols should be adopted for gas restructuring. Finally,
7 this agreement can provide a uniform method of assuring compliance by both utilities and
8 suppliers with the Board's customer information privacy and anti-slamming rules.

9 p. While the Competition Act requires the Board to adopt affiliate relations standards
10 applicable to both electric and gas utilities within 90 days of the passage of the Act, the
11 Board has yet to do so. Proposed Standards were issued in March, but have not yet been
12 finalized. This poses significant problems and dangers for the short term creation of a
13 competitive market.

14 q. The Ratepayer Advocate urges the Board to adopt Affiliate Relations Standards that
15 prohibit the use of a similar name or logo by the utility's retail sales affiliate. If this
16 approach is not adopted, I urge the Commission to review carefully the legislation recently
17 adopted in Texas which requires that electric utilities must structurally separate their
18 business functions "...in a manner that provides for separation of personnel, information
19 flow, functions and operations...". In addition, the Commission must adopt a Code of
20 Conduct that ensures that a utility does not "allow a competitive affiliate, before
21 September 1, 2005, to use the utility's corporate name, trademark, brand or logo unless
22 the competitive affiliate includes on employee business cards and in its advertisements of
23 specific services to existing or potential residential or small commercial customers located
24 within the utility's certificated service area a disclaimer that states, '(Name of competitive
25 affiliate) is not the same company as (name of utility) and is not regulated by the Public
26 Utility Commission of Texas, and you do not have to buy (name of competitive affiliate)'s
27 products to continue to receive quality regulated services from (name of utility).'" [Sec.
28 39.051, 39.157, SB 7]

29 r. The Georgia Public Service Commission disallowed Atlanta Gas Light Company from
30 operating an affiliate under a similar name, finding that the utility would gain an unfair
31 advantage if customers confuse the name with that of the 140-year old gas supplier. The
32 utility finally settled the case by agreeing to use a different name for its marketing affiliate
33 ("Georgia Natural Gas Service"), but retain the use of the utility's blue flame logo.

34 s. With respect to consumer protection issues that should be addressed specifically to
35 respond to the sale of natural gas supply, the Board should adopt regulations or standards
36 that respond to these practices promptly:

37 1. Length of contract: Natural gas suppliers often offer residential customers multi-

1 year contracts with variable rate pricing. Furthermore, natural gas contracts often
2 also contain significant prepayment penalties. While electric contracts have mostly
3 appeared to be month to month contracts, natural gas is often sold on an annual
4 basis to reflect the difference between summer and winter usage and rates. This
5 poses consumer education issues at the very least and suggests that the Board may
6 want to prohibit unreasonable early termination penalties and specify certain
7 conspicuous disclosures associated with multi-year contracts .

8 2. Natural gas contracts often require the customer to notify the supplier in writing to
9 prevent an automatic renewal. Negative option renewals should be prohibited.

10 3. Door to door sales: Several natural gas marketers in other states have specialized
11 in door to door sales to residential customers. Unfortunately, the history of the
12 door to door sales technique is replete with consumer fraud and unfair sales
13 techniques. The Board should adopt specific consumer protection rules that
14 reflect the use of door-to-door sales techniques and require any marketer that
15 intends to use such a sales method to notify the Board and provide a copy of its
16 sales contracts, sales literature, and agent training materials to the Board and the
17 Division of Ratepayer Advocate prior to the use of door-to-door sales.

1 **PART I: IMPLEMENTATION OF GAS CUSTOMER CHOICE**

2 a. PLEASE DISCUSS THE TIMETABLE FOR THE IMPLEMENTATION OF GAS
3 CUSTOMER CHOICE AND ITS RELATIONSHIP TO THE IMPLEMENTATION OF
4 ELECTRIC COMPETITION.

5 A. The Electric Discount and Energy Competition Act (the “Competition Act” or “Act”)
6 mandates the full scale introduction of customer choice for electric service no earlier than
7 June 1, 1999, but no later than August 1, 1999. Act, Sec. 5. All retail customers of gas
8 public utilities may choose an alternative supplier no later than December 31, 1999, but
9 the Board may approve an accelerated schedule. Act, Sec. 10. Unlike electric rates,
10 natural gas customers will not see any mandated rate reductions, nor are current rates
11 capped or frozen.

12 The electric timetable has been delayed. In fact, while all electric customers will
13 see the Legislatively-mandated electric rate reductions beginning on August 1, customers
14 who choose a TPS will not see any additional bill savings due to retail electric competition
15 until late fall of 1999 or early January, 2000, when customers will receive their first bills
16 showing charges from Third Party Suppliers (TPS). Energy Order, July 7, 1999. This
17 delay is due in part to the need to develop a uniform Electronic Data Information (“EDI”)
18 system that will allow customer change orders and associated customer account
19 information to be transferred between utilities and suppliers. Whether these same system
20 needs will also result in a delay for the implementation of full scale gas competition is not

1 yet clear, but the current utility-specific data transmission systems and methods of
2 interacting with TPSs developed for natural gas pilot programs may not be compatible
3 with an effective full scale gas competition system. Furthermore, those electric utilities
4 that provide both electricity and natural gas services are making significant operational and
5 system changes for electric competition, and may simply be unable to make major billing
6 and data system changes in time to meet both the electric and natural gas competition
7 deadlines at the end of this year.⁴

8 The delay in the implementation of electric customer choice and the complexity of
9 the system changes necessary to create a competitive retail market for both electricity and
10 natural gas suggests that the Board should carefully design an implementation path for
11 natural gas choice that accommodates these developments. I am particularly concerned
12 about the potential customer confusion if customer education messages are not carefully
13 designed and implemented. I recommend that the Board make all efforts so as to allow
14 the public an opportunity to learn about electric competition, choose an electric supplier
15 and then learn about natural gas competition as planned. It will be vital that customers,
16 residential customers in particular, are not confused and overwhelmed by the changes in
17 their provision of both their electricity and natural gas energy supplies. I recommend that
18 the Board order the natural gas utilities to unbundle their rates and provide those
19 unbundled rates to customers as soon as possible. This will allow customers to learn

⁴ The Board should also give consideration to the need for Y2K compliance efforts by utilities at this same time.

1 about the various unbundled services, focus on the competition gas supply portion of the
2 bill, and shop for gas services starting January 1, 2000.

3 b. WHAT RECOMMENDATIONS DO YOU HAVE WITH RESPECT TO THE NEED
4 TO DEVELOP A SPECIFIC CUSTOMER EDUCATION PROGRAM FOR NATURAL
5 GAS CUSTOMERS?

6 A. Competition for natural gas supply will require customers to understand the unbundled
7 rates for gas supply service that appears on their monthly utility bill, their winter and
8 summer usage pattern, and use a method of comparing gas supply offers among
9 competitive suppliers and between suppliers and the gas supply rate that appears on their
10 unbundled utility bill. In order for a customer to shop, the Basic Gas Supply Service
11 (“BGSS”) charges must be presented in an average cents per therm format. This will then
12 allow customers to compare their current rate with that offered by suppliers, who are
13 required by the Board’s Consumer Protection Standards to provide a cents per therm rate
14 for their natural gas service. The consumer education messages, while similar to the
15 overall approach used for electric competition, will require customers to learn a different
16 vocabulary and pricing method for natural gas. The need to develop a program to
17 enhance the shopping skills of residential and small commercial natural gas customers
18 should be the focus of the education plan for natural gas competition. The Board has
19 established two advisory groups to assist in developing and implementing a neutral
20 statewide education program -- including mass media and grassroots components -- to
21 provide consumers with information they need to make informed decisions in the new,

1 deregulated energy marketplace. *Order, In the Matter of the Consumer Education*
2 *Program on Electric Rate Discounts and Energy Competition*, BPU Dkt. No.
3 EX99040242 (May 20, 1999). Furthermore, the Board has ordered that electric or gas
4 public utilities that have incurred or will incur expenses related to the statewide consumer
5 education program presumptively shall recover those costs, provided that they meet
6 standards for measures of success that the Board anticipates developing in September
7 1999. Only expenses that are “prudently incurred” can be recovered. *Order, In the*
8 *Matter of the Consumer Education Program on Electric Rate Discounts and Energy*
9 *Competition*, BPU Dkt. No. EX99040242 (June 25, 1999). One of the two advisory
10 groups, the Utility Education Counsel, has determined that each of New Jersey’s GDCs
11 will be responsible for implementing the grassroots component of the statewide Consumer
12 Education Program. Given that each GDC is responsible for the grassroots portion of the
13 statewide Consumer Education Program, the GDC should be required to file a specific
14 budget and implementation plan for this portion of the education plan as part of this filing.
15 The Board should not approve recovery of any GDC expenditures that fall outside the
16 scope of, or that are not specified within, the GDC’s filed grassroots implementation plan.

17 c. HOW SHOULD FULL SCALE RETAIL COMPETITION BE IMPLEMENTED IN
18 LIGHT OF THE ONGOING PILOT PROGRAMS IN EFFECT AT THE LOCAL
19 DISTRIBUTION UTILITIES?

20 A. First, the Board must make it clear that all natural gas utilities must implement a full scale

1 natural gas competition program for all customers. The Competition Act does not
2 contemplate a phase-in or limitations on the ability of any customer to shop for natural gas
3 supply or change natural gas suppliers throughout the year. Second, the GDCs should
4 migrate their current customers from the pilot programs (which may include program
5 terms and conditions that differ from full scale competition that is ordered as a result of
6 these proceedings) in a reasonable manner. None of the GDCs have proposed any
7 customer information or methods of migration to accommodate these customers in their
8 filings. The Board should order the utilities to evaluate the implications of their proposals
9 for customers currently shopping for natural gas supply under pilot programs and to
10 propose a separate method of communication and implementation of natural gas
11 competition that responds to the particular needs of these customers.

12 d. WHAT POLICIES SHOULD BE ADOPTED BY THE BOARD TO RESPOND TO
13 THE CONVERGENCE OF ENERGY PRODUCTS, THAT IS, THE SALE OF BOTH
14 ELECTRICITY AND NATURAL GAS SERVICES AND PRODUCTS BY THE SAME
15 SUPPLIER?

16 A. The Board's policies and programs should respond to the obvious potential for the sale of
17 both electricity and natural gas products and services by the same supplier, perhaps in a
18 bundled price. The Competition Act allows government aggregation of both electricity
19 and natural gas services, but not until the gas market is opened for competition for
20 residential customers. Section 40(c). Therefore, there is every reason for the Board to
21 move rapidly to synchronize its policies and programs to accommodate this option. Of

1 course, the convergence of the sale of these products and services should not come at the
2 expense of customer disclosures and customer protections. Suppliers should be required,
3 as set forth in the Interim Consumer Protection Standards, to itemize their services and
4 provide a separate price disclosure for electricity and natural gas. While suppliers should
5 be able to advertise a bundled price, they should also be required to itemize these services
6 and give separate price disclosures in a cents per kWh and cents per therm format.

7 e. ARE THERE OTHER ISSUES RELATING TO BILLING AND METERING THAT
8 SHOULD BE TAKEN INTO ACCOUNT FOR CONVERGENCE?

9 A. Yes. It may be economical for suppliers to offer meter reading and billing services for a
10 customer that selects both electricity and natural gas services from a single supplier. This
11 may be the key to the development of a mass market for residential customers where the
12 costs associated with marketing and account administration are often cited as barriers for
13 new market entrants. The Board should move rapidly to examine this potential
14 development and seek changes in GDC billing and metering policies, procedures and
15 unbundling features to accommodate this option. Of course, this will also require the
16 Board to examine the consumer protection policies and programs associated with the
17 current utility billing and metering programs to assure that service quality and consumer
18 protections will not degrade or deteriorate as a result of the development of competition in
19 these areas.

1 **PART II: SUPPLIER SELECTION PROCEDURES AND BASIC SUPPLY SERVICE**

2 f. PLEASE DISCUSS THE ENROLLMENT PROCESS FOR NATURAL GAS
3 CUSTOMER CHOICE.

4 A. The Board should order gas utilities to mail the necessary enrollment and customer
5 selection materials to every customer and should not require customers to call the utility to
6 request this information separately. To require customers to “order” materials from their
7 gas utility prior to selecting a supplier and participating in the competitive market creates
8 an unnecessary barrier. In Pennsylvania the electric utilities have been required to notify
9 all customers of their “price to compare” and provide the necessary instructions for
10 selecting a supplier. The same type of mailing should be required for gas utilities. The
11 mailing should educate customers on the Basic Gas Supply Service, the format and
12 presentation of the new unbundled bill, how to compare prices, and who is licensed to
13 provide services to residential customers. The utility tariffs should not include any
14 limitations on a customer’s ability to shop, either based on the customer’s location, usage
15 factor, or frequency of shopping. Furthermore, the tariffs should recite the enrollment
16 method and customer letters required by the Board’s Anti-Slamming and Customer
17 Protection Standards. Finally, the utility’s tariffs must reflect the directive of the
18 Competition Act that residential customers must not be charged a fee to switch between
19 suppliers or to select Basic Gas Supply Service. Section 36(a)(5).

1 g. SHOULD THE BOARD CONTINUE TO REQUIRE THAT CUSTOMERS SIGN A
2 WRITTEN CONTRACT PRIOR TO OBTAINING COMPETITIVE SUPPLY
3 SERVICES?

4 A. While recognizing concerns in New Jersey for slamming, the Ratepayer Advocate
5 supports the development of alternatives to a “wet signature” requirement and urges the
6 Board to encourage the development of alternative programs that provide equal or better
7 consumer protection against slamming. Very few jurisdictions that have implemented
8 either natural gas or electric customer choice have required wet signatures. In
9 Pennsylvania many thousands of customers have selected a TPS without the requirement
10 of a signature. The Board should explore the use of the Internet and telephone enrollment
11 procedures, such as those approved by the Ohio Commission for natural gas competition.

12 h. WHAT POLICIES SHOULD BE REFLECTED IN THE UTILITY’S TARIFFS WITH
13 RESPECT TO BASIC GAS SUPPLY SERVICE AND THE CUSTOMER’S ABILITY
14 TO OBTAIN SUCH SERVICE?

15 A. The gas utility’s tariffs should set forth a Basic Gas Supply Service for residential and
16 other commercial customers. This service should be labeled as set forth in the Act and
17 should appear on customer bills in a uniform format. Pursuant to the Competition Act,
18 this service must be available by the gas utility for a minimum period of three years to any
19 customer who is unable or who does not choose to obtain competitive gas supply service
20 for any reason. Section 10(r). There should be no limitations on the frequency with
21 which customers obtain such service. For example, customers should not be required to

1 agree to a one-year minimum contract term for BGSS. No fees may be charged by the
2 utility to obtain such service, nor should this service be priced differently based on the
3 reason why a customer obtains this service, such as whether the customer's supplier fails
4 to deliver sufficient quantities of natural gas into the transportation system.

1 **PART III: METERING**

2 i. SHOULD THE GAS UTILITY’S TARIFFS REFLECT ANY CHANGES FOR
3 METERING AS A RESULT OF THE MOVE TO FULL SCALE RETAIL
4 COMPETITION?

5 A. The Competition Act does allow the gas utility to continue to provide billing, metering
6 and customer account services, but requires the Board to examine whether and how
7 competition should be allowed for these services by at least December 31, 2000. As the
8 Board is aware, pursuant to the Stipulation filed in the Public Service Electric & Gas
9 Electric Unbundling and Stranded Cost Proceeding, the parties agreed to “work
10 cooperatively to conclude the billing and metering proceeding in an expedited fashion,
11 which proceeding the parties request that the Board conclude by May 1, 2000.”⁵ The
12 Ratepayer Advocate supports the earlier, May 1, 2000 date for competition in such
13 services. Unquestionably, the gas utility should be the default provider for these services
14 until this decision is made. However, there are interim policies which the Board should
15 require the gas utilities to implement to prepare for the eventual development of a
16 competitive market for some or all of these services:

17 j. If metering of natural gas will be a competitive service in the future, gas utilities
18 should be informed by the Board in this proceeding that investments in new gas

⁵See, Stipulation filed March 17, 1999, BPU Docket Nos. AEO97070461, E097070462, E097070463 (Summary Order, dated April 21, 1999 did not address this provision of the Stipulation).

1 metering technology and automated gas consumption monitoring should be
2 undertaken at the risk of stockholders and not ratepayers. Gas utilities should be
3 obligated to take no steps which would impede the development of a competitive
4 market.

- 5 k. Gas utilities should be required in this proceeding to provide gas usage information
6 to suppliers for those customers who have selected a TPS in an efficient manner,
7 i.e., electronic data transfer, so that suppliers can bill customers (if customers so
8 request) for competitive services. This will allow competitive gas suppliers that
9 also sell electric generation services to directly bill customers for these combined
10 services.

1 **PART IV: BILLING AND COLLECTION**

2 a. HAVE THE GAS UTILITIES SUBMITTED THE NECESSARY CHANGES TO
3 THEIR TARIFFS TO IMPLEMENT THE BILLING AND COLLECTION POLICIES
4 ASSOCIATED WITH RETAIL GAS COMPETITION? WHAT CHANGES SHOULD
5 THE BOARD REQUIRE IN GAS UTILITY TARIFFS?

6 A. The gas utilities did not submit the necessary changes in their tariffs to accommodate
7 changes in billing practices, procedures, and billing formats necessary for the
8 implementation of retail gas competition. I acknowledge that gas utilities are not required
9 to offer suppliers a “supplier-only” bill option at this time, but gas utilities must offer
10 suppliers the option of either a gas utility bill which includes supplier charges or a two bill
11 option in which the supplier bills the customer directly for supply and other competitive
12 charges. The Competition Act requires the Board to ensure that gas utilities do not take
13 actions which would unreasonably impede a transition to a competition customer account
14 service market. Furthermore, a gas supplier, if the customer has given written consent,
15 may bill the customer directly for gas supply and other competitive services. Section 6(b).
16 Utilities should be required to accommodate both options at the onset of retail
17 competition. It is requested that each of the gas utilities attach a proposed bill format for
18 retail competition to the rebuttal testimony in this proceeding.

19 b. PLEASE DESCRIBE THE NECESSARY FORMAT AND DISCLOSURES FOR A
20 GAS UTILITY BILL THAT INCLUDES TPS CHARGES.

21 A. A gas utility bill that includes competitive gas supply charges should graphically separate

1 regulated from competitive or unregulated charges. The supplier's name, address and
2 phone number must be provided. The customer's total for the TPS charges must be
3 shown separately from the total owed for regulated charges and the utility must track
4 customer payments separately to comply with the partial payment rules. If the gas utility
5 does not already provide the customer with historical usage information for the prior 12
6 months, it should be required to do so as soon as possible. This information will allow
7 customers to evaluate the impact of various supplier rate offerings on their own usage
8 pattern. The gas utility's charges and terms for describing the services provided to
9 customers should reflect a statewide use of common terms and definitions. In other
10 words, gas utilities should use a common set of statewide terms so that customers can
11 understand "Basic Gas Supply Service" and competitive gas supply service. Presently, gas
12 utilities use different terms to describe their regulated distribution and commodity services
13 in ways that do not correlate with the terms being used in the customer education
14 program. The educational materials must provide consumer friendly information so that
15 consumers will understand this new marketplace. Understanding bills is important to the
16 development of a competitive market.

17 c. PLEASE DESCRIBE BILLING FORMAT AND DISCLOSURE RULES THAT
18 SHOULD APPLY TO COMPETITIVE SUPPLIERS.

19 A. The Board's Interim Consumer Protection Standards already describe certain marketing
20 and terms of service disclosures that suppliers must provide to their customers. Section 7
21 contains the minimum billing requirements for TPS bills. These minimum requirements are

1 reasonable, and the Board should ensure in this proceeding that gas utilities also comply
2 with these minimum standards in the gas utility single bill option.

3 d. SHOULD UTILITIES BE REQUIRED TO OFFER BUDGET BILLING OPTIONS TO
4 CUSTOMERS WHO SHOP FOR COMPETITIVE SUPPLY?

5 A. Yes, gas utilities uniformly offer budget billing plans to their residential customers.

6 Customers should not be removed from these payment plans if they enter the competitive
7 market and choose a TPS. Customers should be eligible to retain their annualized
8 payment plans and utilities should offer that billing option to any TPS.

9 e. HOW SHOULD PARTIAL PAYMENTS BE ALLOCATED, PARTICULARLY WHEN
10 THE BILLING ENTITY BILLS FOR BOTH ELECTRICITY AND NATURAL GAS
11 SUPPLY?

12 A. Partial payments by customers to natural gas utilities should be allocated first to regulated
13 services, using the same methodology required by the Board for electric utilities. If a gas
14 utility or a TPS bills for both natural gas and electricity, partial payments should be
15 allocated first to electricity services for two reasons. First, a household must have
16 electricity services to operate natural gas heating and cooling appliances. Second, there
17 are emergency sources of funding for heating bills that may not be available for electricity
18 customers, such as the emergency benefit provisions of LIHEAP and the use of TANF
19 (formerly welfare) federal funds by states. Therefore, it makes sense to focus on first
20 retaining the essential electric service for which emergency funding may not be available.

1 f. WHAT ABOUT APPLICATION FOR SERVICE, DEPOSIT AND COLLECTION
2 RULES IN A COMPETITIVE MARKET?

3 A. None of the gas utilities submitted tariff revisions that reflect a competitive market with
4 respect to the application for service, deposit, and credit and collection practices. For
5 example, utilities still reflect the use of the term “bill” when referring to the calculation or
6 need for a deposit, application of late payment charges, initiation of disconnection of
7 service, and other collection activities. In fact, utility tariffs should reflect such actions
8 based on the regulated portion of the bill, such as transportation charges or Basic Gas
9 Supply Service. The tariffs should clearly distinguish between regulated charges billed by
10 the gas utility and competitive service charges that may be billed by the utility, but which
11 are not subject to certain credit or collection activities. Most importantly, gas utility tariffs
12 must reflect the policy that utilities may not threaten disconnection for nonpayment of
13 competitive supplier charges, even if the Board permits a utility to buy the supplier’s
14 receivables as several gas utilities propose to do.⁶ See Section 10, Interim Consumer
15 Protection Standards which, as currently drafted, does not apply to utilities, but only to
16 third party suppliers. Gas utilities should track the balance owed for regulated charges
17 separately from those owed by the customer for TPS charges and eliminate the latter
18 category from the amount overdue that appears on any disconnection notice issued to the
19 customer.

⁶ As discussed in the testimony of Ratepayer Advocate witness Richard LeLash, the Board should prohibit utilities from buying TPS receivables. This is a competitive service that should be offered only through a separate competitive affiliate.

1 g. HOW SHOULD THE GAS UTILITY PRESENT BASIC GAS SUPPLY SERVICE ON
2 A CUSTOMER'S BILL?

3 A. Gas utilities should be required to present Basic Gas Supply Service in a cents per therm
4 format which will allow customers to compare this rate with offers available in the
5 competitive market. Furthermore, gas utilities should use a uniform term for this service
6 that correlates with its description and definition in customer education materials. It too
7 should be graphically separated from the transportation service portion of the bill and
8 obviously it should be unbundled in this proceeding so as to prevent any increase in the
9 customer's total bill prior to the onset of retail competition. Further, each bill should
10 include a statement to the effect "Your price to compare when shopping for an alternative
11 supplier is \$-- per therm".

1 **PART V: THIRD PARTY SUPPLIER AGREEMENTS**

2 h. WHAT SHOULD THE TARIFFS CONTAIN WITH RESPECT TO THE
3 RELATIONSHIP BETWEEN THE GAS UTILITY AND THIRD PARTY SUPPLIERS?

4 A. Most gas utilities proposed a specific service for third party suppliers in this proceeding.
5 The Board should require the utilities, suppliers, the Ratepayer Advocate and other
6 interested parties to develop a Third Party Supplier Agreement that will be uniform among
7 the gas utilities. Suppliers should not have to be subject to differing credit evaluations and
8 standards at each gas utility. Furthermore, these agreements, which should then be
9 approved by the Board and adopted as a tariff provision, should contain a uniform
10 approach to the utility's billing and administrative fees and the electronic data exchange
11 protocols that will be applicable to the transactions between the utility and the supplier.
12 Finally, this agreement can provide a uniform method of assuring compliance by both
13 utilities and suppliers with the Board's customer information privacy and anti-slamming
14 rules.

15 i. SHOULD THE THIRD PARTY SUPPLIER AGREEMENTS ADDRESS
16 COMMUNICATION PROTOCOLS BETWEEN GAS UTILITIES AND SUPPLIERS?

17 A. Yes. The Board should move promptly to require that gas utilities develop Electronic
18 Data Information protocols similar to those under development for the electric industry.
19 The methods of communicating billing and customer data between gas utilities and
20 suppliers that were developed for the pilot programs are likely to be inadequate for a full
21 scale competition retail market. These data exchange protocols must be developed in a

1 uniform manner so that suppliers can operate in more than on gas utility service territory
2 without incurring additional costs.

1 **PART VI: AFFILIATE CODE OF CONDUCT**

2 j. PLEASE DISCUSS THE AFFILIATE CODE OF CONDUCT ISSUE AND HOW THIS
3 RELATES TO THESE UNBUNDLING PROCEEDINGS.

4 A. While the Competition Act requires the Board to adopt affiliate relations standards
5 applicable to both electric and gas utilities within 90 days of the passage of the Act, the
6 Board has yet to do so. Proposed Standards were issued in March, but have not yet been
7 finalized. This poses significant problems and dangers for the short term creation of a
8 competitive market. First, suppliers do not know the “rules of the road” and cannot make
9 business decisions based on the Board’s determination to monitor the developing market
10 and prevent discriminatory conduct or cross subsidization by utilities. Second, utilities are
11 free to act in their own self interest without fear of violating specific rules that carry
12 significant sanctions or potential for fines. Third, the public can only wonder what utilities
13 are doing with respect to the sharing of customer information, employees, facilities and
14 expertise with the marketing or retail sales operations within their corporate structure.

15 k. ARE THE EXISTING INTERIM CODE OF CONDUCT STANDARDS SUFFICIENT
16 UNTIL THE BOARD ADOPTS FINAL STANDARDS?

17 A. The Interim Standards applicable to gas utilities were not adopted pursuant to the policy
18 dictates of the Competition Act and were not adopted at a time when full scale retail
19 competition was contemplated. They are insufficient as pointed out in the Ratepayer
20 Advocate’s testimony (and those of most suppliers) at the Board’s hearing on the draft
21 rules in May, 1999.

1 I. WHAT IS YOUR VIEW WITH RESPECT TO THE ABILITY OF AN AFFILIATE TO
2 USE A SIMILAR NAME AND LOGO WHICH LINKS THE AFFILIATE WITH THE
3 PUBLIC UTILITY?

4 A. A retail sales affiliate should not be able to use the public utility's name (or similar name)
5 or logo in marketing competitive products to the captive customers of the distribution
6 utility. This is unfair to consumers because of the potential for deception and confusion.
7 It is also unfair to the competitive suppliers who must acquire new customers by luring
8 them away from the utility. In other words, the competitive market does not begin with a
9 level playing field. The incumbent utility starts out with 100% of the customers and is
10 closely associated with the customer's understanding of how electric or gas service is
11 obtained due to its 100+ years of monopoly service. Therefore, the Board should prohibit
12 the use of similar names and logos by affiliates within the utility's service territory.

13 m. HAVE OTHER STATES ADOPTED STRICT POLICIES TO ADDRESS THE USE OF
14 SIMILAR NAMES AND LOGOS BY AFFILIATES?

15 A. Yes. Most States seem to be moving into a disclosure approach, similar to that adopted in
16 California. Such states include Massachusetts, Connecticut, Pennsylvania, and Texas.
17 This approach, while not preferable, would be better than the current lack of any
18 regulatory policy in New Jersey. We urge the Board to address the need for a strict Code
19 of Conduct applicable to both the gas and electric utilities promptly.

20 The Board may be interested in the strict Code of Conduct policies that are
21 reflected in the recent Ohio and Texas retail electric competition legislation, as well as the

1 Code of Conduct issued in Connecticut. I have attached to my testimony an excerpt from
2 the recently adopted Code of Conduct in Connecticut concerning joint marketing and the
3 use of utility names and logos. The Texas legislation requires that electric utilities must
4 structurally separate their business functions "...in a manner that provides for separation of
5 personnel, information flow, functions and operations..." In addition, the Texas
6 Commission must adopt a Code of Conduct that ensures that a utility does not "allow a
7 competitive affiliate, before September 1, 2005, to use the utility's corporate name,
8 trademark, brand or logo unless the competitive affiliate includes on employee business
9 cards and in its advertisements of specific services to existing or potential residential or
10 small commercial customers located within the utility's certificated service area a
11 disclaimer that states, '(Name of competitive affiliate) is not the same company as (name
12 of utility) and is not regulated by the Public Utility Commission of Texas, and you do not
13 have to buy (name of competitive affiliate)'s products to continue to receive quality
14 regulated services from (name of utility).' [Sec. 39.051, 39.157, SB 7] This is the
15 disclosure approach in effect in California, which, while better than no regulation of this
16 form of joint marketing at all, requires a significant amount of regulatory oversight and
17 vigilance to be effective. One of the largest utilities in that state has already been ordered
18 to pay a fine of \$1.68 million for the failure to properly disclose this information in
19 advertisements by its affiliate.

20 Like Texas, Ohio's electric restructuring legislation requires utilities to conduct a
21 competitive business through a structurally separate affiliate. Any facilities or services

1 provided to the affiliate must be based on fully loaded embedded costs. The investigation
2 and enforcement options provided to the Ohio Commission are particularly noteworthy.
3 The Commission may investigate the relationship, books and records of affiliates as well as
4 utilities, require the utility or affiliate to pay restitution to any person injured by a violation
5 of failure to comply with the code of conduct, impose a forfeiture on the utility or affiliate
6 of up to \$25,000 per day per violation, or suspend or abrogate all or part of an
7 outstanding order authorizing recovery of transition (stranded) costs. [Sec. 4928.17 and
8 4928.18, S.B. 3]

9 n. HAS ANY STATE ADOPTED A CODE OF CONDUCT FOR NATURAL GAS
10 SUPPLIERS?

11 A. The Board should consider the approach adopted in Georgia, which has implemented
12 natural gas competition for Atlanta Gas Light Company, the state's largest natural gas
13 utility. The Georgia Public Service Commission disallowed Atlanta Gas Light Company
14 from operating an affiliate under a similar name, finding that the utility would gain an
15 unfair advantage if customers confuse the name with that of the 140-year old gas supplier.
16 The utility finally settled the case by agreeing to use a different name for its marketing
17 affiliate ("Georgia Natural Gas Service"), but retain the use of the utility's blue flame
18 logo.⁷

⁷ Press Release, Georgia PSC, "Atlanta Gas Light Co. to Change Name of Affiliated Marketer", August 20, 1998.

1 **PART VII: CONSUMER PROTECTION ISSUES**

2 o. ARE THERE ADDITIONAL CONSUMER PROTECTION ISSUES THAT SHOULD
3 BE ADDRESSED BY THE BOARD PRIOR TO THE ONSET OF RETAIL GAS
4 COMPETITION?

5 A. Yes, the Board should adopt additional consumer protection rules applicable to natural
6 gas suppliers. The concerns and practices that I have highlighted here reflect natural gas
7 marketing practices that have been documented in other states and that are, at least so far,
8 not reflected in regulations applicable to marketing practices in the electric industry. In
9 any case, the Board should adopt regulations or standards that respond to these practices
10 promptly.

11 a. Length of contract: Natural gas suppliers often offer residential customers multi-
12 year contracts with variable rate pricing. I have seen supplier contracts which
13 purport to bind the consumer for five successive year renewals unless the customer
14 cancels with a written 30-day notice. Furthermore, natural gas contracts often also
15 contain significant prepayment penalties. While electric contracts have mostly
16 appeared to be month to month contracts, natural gas is often sold on an annual
17 basis to reflect the difference between summer and winter usage and rates. This
18 poses consumer education issues at the very least and suggests that the Board may
19 want to prohibit unreasonable early termination penalties and specify certain
20 conspicuous disclosures associated with multi-year contracts .

21 b. Natural gas contracts often require the customer to notify the supplier in writing to

1 prevent an automatic renewal. Negative option renewals should be prohibited.

2 c. Door to door sales: Several natural gas marketers in other states have specialized
3 in door to door sales to residential customers.⁸ Unfortunately, the history of the
4 door to door sales technique is replete with consumer fraud and unfair sales
5 techniques.⁹ Some of the more common potential abuses include:

- 6 1. High pressure sales techniques designed to get the buyer to “make a deal”
7 on a “sale” price so that the deal is closed before the buyer can reflect and
8 review written documents, if any because the door to door seller is usually
9 an independent agent of the supplier and can only make money when a sale
10 is completed;
- 11 2. Sales are made in the customer’s native language and the customer is then
12 presented with a contract in “legalese” or a different language;
- 13 3. Sales techniques that deliberately take advantage of the elderly, mentally ill,
14 or others who may not be sophisticated;
- 15 4. Even though a customer signature is usually obtained, it may not be from
16 the “customer”, i.e., from a minor, an unrelated adult, or an adult who is
17 not authorized to enter into the contract (e.g., not authorized on a gas or
18 electric account), etc;

⁸The Georgia Commission and Public Advocate have received hundreds of complaints about one particular gas supplier that relies on door-to-door marketing from customers alleging fraud and “slamming.”

⁹See, International Society for Krishna Consciousness v. Lee, 505 U.S. 672, 112 S.Ct.2701, 2722, 120 L.Ed.2d 541 (1992) (Kennedy, J., concurring)

1 In response to these abuses, the Federal Trade Commission promulgated the Trade
2 Regulation Rule Concerning a Cooling Off Period for Door-to-Door Sales.¹⁰ Basically,
3 this rule gives the consumer the right to cancel a home solicitation transaction for goods
4 or services which cost more than \$25 within three business days, requires that the seller
5 provide the consumer with a copy of the written contract and two copies of the Right to
6 Cancel, as well as orally inform the consumer of the right to cancel. Both the contract and
7 the notice of cancellation must be in the same language as the sales presentation. Under
8 this Rule, a seller cannot assign or sell the consumer 's note for five business days and
9 must make a full refund of all payments and cancel all contractual obligations within ten
10 business days of receipt of the buyer's cancellation notice. Compliance with the FTC Rule
11 does not exempt a seller from complying with state law and if there is no conflict, the
12 seller must comply with both. A state law that is weaker than the FTC Rule is preempted.

13 There are other potential concerns with door-to-door sales that are not addressed
14 by existing consumer protection laws and that should be the subject of the forthcoming
15 consumer protection and licensing rules required by the natural gas restructuring
16 legislation. Door to door sales become very problematic if there are no uniform price
17 disclosures, if dispute resolution procedures are not well known, or sellers can use
18 multiple year contracts and negative option contract renewal terms, early termination
19 penalties, and the customer authorization rules are not clear about the proper means to
20 identify the adult household member who signs the contract as the proper party on the

¹⁰16 C.F.R. 429.

1 natural gas account.

2 The Board should adopt specific consumer protection rules that reflect the use of
3 door to door sales techniques and require any marketer that intends to use such a sales
4 method to notify the Board and provide a copy of its sales contracts, sales literature, and
5 agent training materials to the Board and the Division of Ratepayer Advocate prior to the
6 use of door-to-door sales.

7 a. DOES THIS CONCLUDE YOUR TESTIMONY?

8 A. This concludes the generic portion of my testimony. I have attached specific comments on
9 each of the gas utility filings in this proceeding.

1 Excerpts from Connecticut Department of Public Utility Control, Code of Conduct:

2 Section 1. The Regulations of Connecticut State Agencies are amended by adding
3 section 16-244h-1 as follows:

4 *****

5 (f) **Corporate Support:**

6 (1) An electric distribution company, its parent holding company, or a
7 separate affiliate created solely to perform corporate support services
8 may share with its generation entities or affiliates joint corporate
9 oversight, governance, support systems and personnel. Any shared
10 corporate support shall be priced, reported and conducted in accordance
11 with the separation and information standards set forth in sections 16-
12 244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State
13 Agencies, as well as other applicable department pricing and reporting
14 requirements.

15 (2) Such shared corporate support shall not allow or provide a means
16 for the transfer of confidential information such as customer information or
17 non-customer specific non-public information from the electric distribution
18 company to the affiliate, create the opportunity for preferential treatment
19 or unfair competitive advantage, lead to customer confusion, or create
20 opportunities for cross-subsidization of generation entities or affiliates. In
21 the compliance plan submitted pursuant to section 16-244h-7 of the
22 Regulations of Connecticut State Agencies, a corporate officer from the
23 electric distribution company and holding company shall verify the
24 adequacy of the specific mechanisms and procedures in place to ensure
25 the electric distribution company follows the mandates of this subsection,
26 and to ensure the electric distribution company is not utilizing shared
27 corporate support services as a means to circumvent sections 16-244h-1
28 to 16-244h-7, inclusive of the Regulations of Connecticut State Agencies.

29 (3) Examples of services that may be shared include, but are not
30 limited to: payroll, taxes, shareholder services, insurance, financial
31 reporting, corporate financial planning and analysis, corporate
32 accounting, corporate security, human resources (compensation, benefits,
33 employment policies), employee records, regulatory affairs, lobbying,
34 legal, and pension management. Examples of services that may not be
35 shared include: employee recruiting, engineering, hedging and financial
36 derivatives and arbitrage services, electric purchasing for resale,
37 purchasing of electric transmission, system operations and marketing.

38 (g) **Corporate Identification and Advertising:**

1 (1) An electric distribution company shall not trade upon, promote, or
2 advertise its generation entity or affiliate's affiliation with the electric
3 distribution company, nor allow the electric distribution company name or
4 logo to be used by the generation entity or affiliate in any advertisement
5 or in any material circulated by the generation entity or affiliate, unless it
6 discloses in plain legible or audible language, on the first page or at the
7 first point where the electric distribution company's name or logo appears
8 that:

9 (A) The generation entity or affiliate "is not the same company
10 as [i.e. The Connecticut Light and Power Company, The United
11 Illuminating Company], the electric distribution company,"; and

12 (B) "You do not have to buy [the generation entity or affiliate's]
13 products in order to continue to receive quality regulated services
14 from the electric distribution company."

15 The application of the name/logo disclaimer is limited to the use of the
16 name or logo in Connecticut. Any written disclaimer shall be in bold print,
17 and shall not utilize a typeface of less than eight points in size.

18 Compensation for ratemaking purposes for the use of the electric
19 distribution company's logo by a generation entity or affiliate shall be
20 determined by the department in any rate case held pursuant to section
21 16-19 of the Connecticut General Statutes. The electric distribution
22 company shall record any such use of its logo by its generation entity or
23 affiliate.

24 (2) An electric distribution company, through action or words, shall not
25 represent that, as a result of the generation entity or affiliate's relationship
26 with the electric distribution company, its generation entity or affiliates will
27 receive any different treatment than other service providers.

28 (3) An electric distribution company shall not offer or provide to any
29 generation entity or affiliate advertising space in electric distribution
30 company billing envelopes or any other form of written electric distribution
31 company customer communication. The appearance of a generation
32 entity or affiliate's name or logo on a customer bill to indicate the
33 customer's choice of electric supplier shall not be considered trading
34 upon or promoting the generation entity or affiliate's affiliation with the
35 electric distribution company under subdivision (1) of this subsection, and
36 shall not be considered joint advertising or joint marketing prohibited in
37 subdivision (4) of this section. An electric distribution company shall offer
38 each electric supplier the ability to display its name or logo or both on the
39 customer bill, to indicate the customer's choice of electric supplier, under
40 the same terms and conditions as those offered to the electric distribution
41 company's generation entities or affiliates. The appearance of an electric

1 distribution company's logo on a customer bill to indicate the provider of
2 electric distribution services shall not require the disclaimers listed in
3 subdivision (1) of this section.

4 (4) An electric distribution company shall not participate in joint advertising or
5 joint marketing with its generation entities or affiliates. This prohibition
6 against joint advertising or joint marketing includes, but is not limited to
7 the following:

8 (A) An electric distribution company shall not participate with its
9 generation entities or affiliates through joint sales calls, through
10 joint call centers or otherwise, or through joint proposals (including
11 responses to requests for proposals) to existing or potential
12 customers. This subparagraph does not prohibit an electric
13 distribution company from participating, on a nondiscriminatory
14 basis, in non-sales meetings with its generation entities or affiliates
15 or any other electric supplier to discuss technical or operational
16 subjects regarding the electric distribution company's provision of
17 transportation service to the customer. An electric distribution
18 company shall maintain a record of all such meetings that shall
19 include, but is not limited to, the customer's name and customer
20 class, the customer's electric supplier at the time of the meeting,
21 the date of the meeting and a general description of the subject
22 matter discussed. The record of meetings shall be open to
23 inspection by the department and its staff consistent with the
24 provisions of section 16-244h-5(b) of the Regulations of
25 Connecticut State Agencies;

26 (B) Except as otherwise provided for by sections 16-244h-1 to
27 16-244h-7, inclusive, of the Regulations of Connecticut State
28 Agencies, an electric distribution company shall not participate in
29 any joint activity with its generation entities or affiliates. The term
30 "joint activity" includes, but is not limited to, advertising, sales,
31 marketing, communications and correspondence with any existing
32 or potential customer;

33 (C) An electric distribution company shall not participate with its
34 generation entities or affiliates in trade shows, conferences, or
35 other information or marketing events.

36 (5) An electric distribution company shall not share or subsidize costs, fees,
37 or payments with its affiliates associated with research and development
38 activities or investment in advanced technology research.

1 ELIZABETHTOWN GAS COMPANY

2 COMMENTS ON THE TARIFFS AND BILL FORMAT

3 BARBARA R. ALEXANDER
4 ON BEHALF OF THE DIVISION OF RATEPAYER ADVOCATE

- 5 1. Elizabethtown proposes several policies and procedures that are either prohibited
6 by the Competition Act or not in keeping with the development of a workable
7 retail gas competition program. The Company proposes to allow enrollment only
8 twice per year, require customers to remain with a TPS for a full year, and charge
9 a \$15 fee to residential customers who change suppliers more than once. See
10 Direct Testimony of Rayment DeMoine, pages 6-7. The Board should reject these
11 policies.
- 12 2. Under the Company's proposal (Rate RTS), residential customers will be
13 penalized if they return to the utility prior to the expiration of the annual contracts
14 with suppliers. Such customers will be charged a higher Basic Supply rate for the
15 remainder of the annual term. This also should be rejected by the Board.
16 Customers should be able to obtain Basic Supply Service at any time and at the
17 same rates available to customers who do not select a TPS.
- 18 3. Elizabethtown does not bill on behalf of any TPS (See Testimony of DeMoine,
19 page 36), but the Competition Act requires the gas utility to continue to provide
20 billing and other customer account functions. Section 6 mandates that the Board

1 require gas utilities, "...in the continued regulated provision of customer account
2 services, not take actions which would unreasonably impede a transition to a
3 competitive customer account service market." It is only after the Board's
4 proceeding which is scheduled to occur in 2000 that customer account services,
5 including billing, can be offered in the competitive market. Until that occurs,
6 utilities must provide billing services for suppliers or, if the customer agrees, offer
7 the two bill option. This is an option that the customer has and not the utility.
8 Therefore, Elizabethtown should be required to develop the means to offer billing
9 services to suppliers promptly.

- 10 4. The tariff includes a Third Party Suppliers Service. This agreement includes bill
11 payment provisions and fees that should be reviewed by the Board and coordinated
12 with a statewide model TPS Agreement for natural gas competition.
- 13 5. The Company's tariffs should be completely revised so that its Standard Terms and
14 Conditions reflect unbundled rates and the appearance of competitive or
15 unregulated charges on the customer's bill. This will require changes to the
16 Company's credit, collection, bill payment and deposit regulations. The current
17 tariff references "a bill", "bills" and does not reflect the implementation of a full
18 scale competitive market for natural gas. The tariff should clarify that the
19 Company can only threaten discontinuance of service for the failure to pay for
20 regulated services, such as Distribution Service and Basic Gas Supply Service.
21 The same is true for the calculation of a deposit and application of late payment

1 charges.

- 2 6. The Company's residential bill format must be revised to present unbundled
3 charges for Basic Supply customers and to graphically separate supplier charges to
4 accommodate separate billing subtotals for each type of charge. The current bill
5 does provide a section entitled, "How to Calculate Your Current Gas Charges,"
6 which could be modified to present unbundled rates in an easily understood
7 format. In addition, the bill should provide the customer with the average cents
8 per therm paid for the gas supply portion of the bill for each billing period.
9 Finally, the bill does not present the customer with a 12-month usage history, a
10 vital piece of information for customers who intend to shop in the competitive
11 market. The usage comparison to the prior year's billing month shows the
12 customer's usage in a CCF format while the bill presents the gas delivery and
13 supply charges as a cents per therm charge. A revised tariff and bill format that
14 complies with the minimum procedures I have set forth in my testimony should be
15 filed in Rebuttal Testimony.

1 NEW JERSEY NATURAL GAS

2 COMMENTS ON TARIFFS AND BILL FORMAT

3 BARBARA R. ALEXANDER

4 ON BEHALF OF THE DIVISION OF RATEPAYER ADVOCATE

- 5 1. New Jersey Natural Gas (New Jersey Natural) has had the most experience with
6 customer choice programs and proposes to implement full scale natural gas
7 competition on August 1, 1999. This timing may be confusing for consumers
8 because it would in fact precede electric competition even though the Competition
9 Act intended to delay gas competition by at least five months. Moreover, this
10 implementation date is probably not possible because it precedes implementation
11 by the Board of adoption of uniform terminology, coordinated customer education
12 programs, some semblance of statewide electronic data transfer protocols, and
13 coordinated third party supplier agreements. All of these should be in place prior
14 to full competition, including these proceedings.
- 15 2. New Jersey Natural proposes to offer three billing options, including a supplier-

1 only bill. This would require the development of billing and account collection
2 protocols in advance of the legislative intent (December 31, 2000, which may be
3 moved up because of the Public Service stipulation discussed in the generic
4 testimony, *supra*). Again, however, the Board should not allow supplier-only
5 billing without the development of these consumer protection procedures and
6 policies, at least similar to those adopted in Pennsylvania (for some utilities) and
7 California where billing and metering competition has been implemented.

8 3. The development of a Code of Conduct that will be applicable to New Jersey
9 Natural’s competitive or merchant service endeavors will be particularly important
10 due to this utility’s avowed intent to focus on the development of merchant
11 services to retain its customers. New Jersey Natural has already announced its
12 intent to offer sales and transportation services to its customers after a three-year
13 transition period, during which it will presumably position itself to offer these
14 services to customers who are receiving Basic Service. This concern should be
15 heightened by the Company’s development of a “competitive fixed-price service
16 option...” Testimony of Kevin Moss, page 15; 22.¹¹

17 4. The Tariff Rate RS (Residential Service) proposed by the Company does provide a
18 “Basic Gas Service”, but there are so many Riders and additional charges that it

¹¹ As discussed in the generic testimony of Ratepayer Advocate witness Richard LeLash, the fixed-price and other competitive supply options should be offered through a separate unregulated affiliate.

1 will be difficult for customers to determine the per therm charge and compare it to
2 offers in the competitive market. The Board should require the utility to calculate
3 an average per therm charge on each monthly bill for customers billed under this
4 option, including all riders and additional charges. The tariff must be clear and
5 understandable for all classes of customers.

6 5. The Rate RT (Residential Transportation) tariff limits its availability based on the
7 Company's "monthly administrative capability to enroll customers." This suggests
8 that the Company is not capable of handling a large volume of electronic switch
9 orders from suppliers. While there is no evidence that a large volume of residential
10 customers will switch with the onset of retail gas competition, this type of tariff
11 restriction should not be allowed. Instead, the Company must be held to its
12 obligation to implement a properly submitted customer selection within the time
13 frames set forth in Board orders.

14 6. The customer enrollment procedure requires the customer to communicate with
15 the utility in writing. Rate RT, "Conditions Precedent", Six Revised Sheet No.
16 107. This should be eliminated. The customer will communicate with the supplier
17 in writing (the so-called "wet signature" requirement) and the supplier will
18 communicate with the utility on the customer's behalf.

19 7. The Company's proposed Rate RT contains an improper "transfer charge" or

1 switching fee for customers who seek to change to another service classification
2 or who select certain billing options. Such fees are prohibited by the Competition
3 Act with respect to residential customers.

4 8. This Rate also contains a provision that requires the customer to pay for any pro
5 rata share of any charges which the customer's designated marketer or broker fails
6 to pay, including charges for Unauthorized Use or for Monthly Imbalances.
7 Special Provision 5, Fourth Revised Shee No. 108. This is totally improper.
8 Customers should not be held liable for the failure of their supplier. The utility
9 should be obligated to pursue any losses directly to suppliers by means of the TPS
10 Agreement and credit instruments.

11 9. Finally, this service also contains a minimum one-year term. Service Period, First
12 Revised Tariff Sheet No. 110. Customers must be allowed to enter and leave
13 Basic Service on a monthly basis.

14 10. New Jersey Natural's tariff should be completely revised so that its Standard
15 Terms and Conditions reflect unbundled rates and the inclusion of competitive or
16 unregulated charges on the customer's bill. This will require changes to the
17 Company's credit, collection, bill payment and deposit regulations. The current
18 tariff references "a bill", "bills" and does not reflect the implementation of a full
19 scale competitive market for natural gas. See, e.g., the provision in Section 9.2

1 which allows the company to discontinue service for “nonpayment of any bill due
2 for service...” The tariff should clarify that the Company can only threaten
3 discontinuance of service for the failure to pay for regulated services, such as
4 Transportation Service and Basic Supply Service. The same is true for the
5 calculation of a deposit and application of late payment charges. A proposal for
6 review should be filed in Rebuttal Testimony.

7 11. The New Jersey Natural Rate MBR (Marketer/Broker Requirements) provides
8 that the utility will purchase the supplier’s receivables for Billing Option 1 (a single
9 bill from New Jersey Natural that includes the supplier’s charges). This option, if
10 permitted by the Board, must not allow the utility to include the unpaid supplier
11 charges in any discontinuance notice issued to the customer that includes regulated
12 charges or that allows the utility to threaten disconnection to collect this unpaid
13 bill for competitive services. The utility must stand in the shoes of the supplier and
14 rely upon the debt collection methods allowed by the competitive market to collect
15 these charges (i.e., debt collection agencies, Small Claims Court, credit reporting
16 agencies).

17 12. The MBR rate also repeats the transfer of risk and responsibility to customers if
18 the supplier fails to pay for certain charges owed to the utility. Special Provision 7,
19 First Revised Sheet No. 100. This should be stricken.

1 13. New Jersey's residential bill format must be revised to present supplier charges
2 separately and to accommodate separate billing subtotals for each type of charge.
3 The Company's current bills for customers who have selected a TPS do not
4 graphically separate these competitive charges from regulated charges or present
5 the TPS rate structure separately from the regulated utility rates. Finally, the bill
6 does not present the customer with a 12-month usage history, a vital piece of
7 information for customers who intend to shop in the competitive market. The
8 usage comparison to the prior year's billing month shows the customer's usage in
9 a CCF format while the bill presents the gas delivery and supply charges as a cents
10 per therm charge. This is confusing. A revised bill format that complies with the
11 minimum procedures I have set forth in my testimony should be filed for review in
12 Rebuttal Testimony. (A copy of the New Jersey Natural residential bill that was
13 analyzed is attached hereto.)

1 PUBLIC SERVICE ELECTRIC AND GAS COMPANY

2 COMMENTS ON THE TARIFFS AND BILL FORMAT

3 BARBARA R. ALEXANDER

4 ON BEHALF OF THE DIVISION OF RATEPAYER ADVOCATE

5 1. Because Public Service bills for both electricity and natural gas, its consumer
6 education program should be carefully crafted to provide competitive neutral
7 information concerning both electricity and natural gas competition. However, the
8 program should phase in natural gas competition messages and shopping
9 information to lag after electric competition if in fact the customer's electric bill
10 will change first and provide unbundled electric service rates prior to those on a
11 customer's natural gas account.

12 2. Public Service's tariff should be completely revised so that its Standard Terms and
13 Conditions reflect unbundled rates and the appearance of competitive or
14 unregulated charges on the customer's bill. This will require changes to the
15 Company's credit, collection, bill payment and deposit regulations. The current
16 tariff references "a bill", "bills" and does not reflect the implementation of a full
17 scale competitive market for either electricity or natural gas. See, e.g., the

1 provision in Section 11.1, “Public Service may not discontinue service for non-
2 payment of bills unless it gives the customer at least 7 days written notice of its
3 intentions to discontinue.” The tariff should clarify that the Company can only
4 threaten discontinuance of service for the failure to pay for regulated services, such
5 as Distribution Service and Basic Gas Supply Service.

6 3. The Company fails to provide a service labeled, “Basic Gas Supply Service”. The
7 Rate Schedule CS-RSG (Commodity Service) limits a customer’s ability to obtain
8 this service after a limited one-time right to return to CS-RSG after leaving to
9 obtain service from a third party supplier. Customers who do not qualify for CS-
10 RSG and want to return to Basic Gas Service must do so pursuant to Rate
11 Schedule MPGS (Market Price). There is no basis in the Competition Act for such
12 a distinction and residential customers who shop should not be penalized in any
13 way in the manner in which they are provided Basic Service or its pricing. Such a
14 distinction will only allow the utility to “market” their Basic Supply Service to
15 customers as a means to retain their “safe and secure” service with the incumbent
16 utility. (The recommendation of the Ratepayer Advocate is that all residential and
17 small commercial customers who leave the system and thereafter return to the
18 same service should not incur switching fees.)

19 4. Rate Schedule FT-RSG (Firm Transportation) contains customer enrollment and
20 supplier selection procedures which do not conform to the Board’s Interim Anti-

1 Slamming Standards in that it requires the customer to notify the utility of a
2 selection of a supplier. In fact, the Board's procedures contemplate that a supplier
3 and customer will enter into a contract and the supplier will notify the utility by
4 means of electronic data transfer protocols about the customer's selection.

5 5. There is no tariff proposal with respect to the billing options that will be offered to
6 third party suppliers, particularly the option of two bills.

7 6. Public Service's customer bill does not reflect a format designed for a competitive
8 market for either electricity or natural gas. For example, there is no separation of
9 competitive and regulated charges with a separation of balances due for each
10 portion of the total bill. Furthermore, the Company uses a step rate structure so
11 that customers will not be able to compare cents per therm offers from suppliers
12 unless the utility calculates the customer's average price per therm on the monthly
13 bill. (A copy of the residential bill that was analyzed for this testimony is attached
14 hereto)

15 7. It is requested that Public Service provide a draft of a revised tariff and bill format
16 that reflects the competitive marketplace as part of its rebuttal testimony.

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SOUTH JERSEY GAS COMPANY

COMMENTS ON THE TARIFFS AND BILL FORMAT

BARBARA R. ALEXANDER

ON BEHALF OF THE DIVISION OF RATEPAYER ADVOCATE

1. South Jersey’s Transportation Service must be elected for one full year. This will prevent customers from moving in and out of the competitive market and obtaining Basic Service when needed. This term limit should be eliminated.
2. Residential Service (RSG) is the Basic Gas Supply Service. However, it is not identified in the tariff as the Basic Service. The Board should require the utility to calculate an average per therm charge on each monthly bill for customers billed under this option, including all riders and additional charges.
3. The Residential Service Firm Transportation tariff requires the customer to “hold clear and marketable title to gas that is made available for delivery to the customer’s residence on the Company’s system.” Original Sheet No. 8. The intent of this provision is unclear. It is unlikely that residential customers will hold title to any natural gas delivered through South Jersey’s system.
4. South Jersey’s tariff should be completely revised so that its General Terms and Conditions reflect unbundled rates and the appearance of competitive or

1 unregulated charges on the customer's bill. This will require changes to the
2 Company's credit, collection, bill payment and deposit regulations. The current
3 tariff references "a bill", "bills" and does not reflect the implementation of a full
4 scale competitive market for natural gas. See, e.g., the provision in Section 9
5 which allows the company to discontinue service for "nonpayment of any bill for
6 service..." The tariff should clarify that the Company can only threaten
7 discontinuance of service for the failure to pay for regulated services, such as
8 Transportation Service and Basic Supply Service. The same is true for the
9 calculation of a deposit and application of late payment charges.

- 10 5. Section 10.8 of the Company's General Terms and Conditions contains a
11 Transportation Initiation Fee which charges customers \$50.00 for initiate
12 transportation of gas, with the exception of Rider H. It is not clear whether this
13 exempts all residential customers as required by the Competition Act.
- 14 6. The tariff includes an Aggregator's/Marketer's Agreement (A/M). This agreement
15 includes bill payment provisions and fees that should be reviewed by the Board and
16 coordinated with a statewide model TPS Agreement for natural gas competition.
- 17 7. The South Jersey filing does not describe the two billing options that should be
18 available to suppliers.
- 19 8. South Jersey's residential bill format must be revised to present supplier charges
20 separately and to accommodate separate billing subtotals for each type of charge.
21 The Company's current bills for customers who have selected a TPS do not

1 graphically separate these competitive charges from regulated charges or present
2 the TPS rate structure separately from the regulated utility rates. The
3 presentation of the South Jersey regulated gas costs and the supplier charges is
4 confusing and does not present an easily understood average cents per therm cost
5 for either category of service. A customer who has selected the South Jersey
6 affiliate, South Jersey Energy Co., as a TPS sees a presentation of the bill as
7 follows:

8 Your current gas bill includes
9 Monthly Service Charge
10 Gas Actual \$. per therm
11 LGAC \$. per therm
12 Current Gas Bill
13

14 South Jersey Energy Company Savings
15 Base Gas Costs \$. per therm
16 10% savings \$. per therm

17 Pay this amount to South Jersey Gas Co.

18 At a minimum, the Board should require the utility to calculate an average cents
19 per therm cost for gas supply, whether provided by the utility or a TPS. Finally,
20 the bill does not present the customer with a 12-month usage history, a vital piece
21 of information for customers who intend to shop in the competitive market. (A
22 copy of the residential bill analyzed in this testimony is attached.) A revised tariff
23 and bill format that complies with the minimum procedures I have set forth in my

1 testimony should be filed in Rebuttal Testimony.

- 2 9. The use of the name “South Jersey Energy Co.” by the utility’s affiliate is
3 particularly confusing to customers, particularly when South Jersey Gas
4 Company’s tag line, as printed on its bills, is “Always providing your best energy
5 value.” There is no clear distinction between the competitive affiliate and the gas
6 utility. The name was obviously chosen to emphasize the similarity and connection
7 between the two companies. This is the sort of issue that should be addressed and
8 halted or, at a minimum, accompanied by disclosures that clearly separate the two
9 entities, as discussed in my generic testimony.

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