

SENATE BILL 581

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2000 Regular Session
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CF 0lr2301

By: **Senator Frosh**
Introduced and read first time: February 4, 2000
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 21, 2000

CHAPTER_____

1 AN ACT concerning

2 **Natural Gas Suppliers - Licensing and Consumer Protection**

3 FOR the purpose of requiring the Public Service Commission to license gas suppliers,
4 with certain protections; providing that the Commission has certain authority to
5 take certain actions with respect to gas suppliers; requiring the Commission to
6 adopt certain consumer protection provisions; providing that this Act does not
7 affect the authority of the Office of Consumer Protection in the Office of the
8 Attorney General to enforce certain provisions; providing that this Act does not
9 prevent the application of certain federal and State laws to certain persons;
10 providing that the People's Counsel has certain authority in certain proceedings;
11 requiring a gas supplier to provide certain access to certain records as the
12 Commission considers necessary; requiring the Commission to adopt certain
13 licensing requirements and procedures; requiring the Commission to ensure
14 that certain requirements of this Act are met with respect to certain accepted or
15 approved restructuring plans or programs; making certain findings of the
16 General Assembly; providing that a gas supplier is a public service company for
17 certain purposes; defining certain terms; providing that certain contracts may
18 not be subject to this Act; and generally relating to natural gas supply,
19 regulation, and competition.

20 BY renumbering
21 Article - Public Utility Companies
22 Section 1-101(n) through (nn), respectively
23 to be Section 1-101(o) through (bb) and (dd) through (pp), respectively
24 Annotated Code of Maryland
25 (1998 Volume and 1999 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Public Utility Companies
3 Section 1-101(b) and (c) and 2-110(a)
4 Annotated Code of Maryland
5 (1998 Volume and 1999 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article - Public Utility Companies
8 Section 1-101(p)
9 Annotated Code of Maryland
10 (1998 Volume and 1999 Supplement)
11 (As enacted by Section 1 of this Act)

12 BY adding to
13 Article - Public Utility Companies
14 Section 1-101(n) and (cc)
15 Annotated Code of Maryland
16 (1998 Volume and 1999 Supplement)

17 BY adding to
18 Article - Public Utility Companies
19 Section 7-601 through 7-607 to be under the new subtitle "Subtitle 6. Natural
20 Gas Supplier Licensing and Consumer Protection"
21 Annotated Code of Maryland
22 (1998 Volume and 1999 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That Section(s) 1-101(n) through (nn), respectively, of Article - Public
25 Utility Companies of the Annotated Code of Maryland be renumbered to be Section(s)
26 1-101(o) through (bb) and (dd) through (pp), respectively.

27 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
28 read as follows:

29 **Article - Public Utility Companies**

30 1-101.

31 (b) (1) "Aggregator" means an entity or an individual that acts on behalf of a
32 customer to purchase electricity OR GAS.

33 (2) "Aggregator" does not include:

34 (i) an entity or individual that purchases electricity OR GAS for its
35 own use or for the use of its subsidiaries or affiliates;

1 (ii) a municipal electric utility OR A MUNICIPAL GAS UTILITY
2 serving only in its distribution territory; or

3 (iii) a combination of governmental units that purchases electricity
4 OR GAS for use by the governmental units.

5 (c) "Broker" means an entity or individual that acts as an agent or
6 intermediary in the sale and purchase of electricity OR GAS but does not take title to
7 electricity OR GAS.

8 (N) (1) "GAS SUPPLIER" MEANS A PERSON WHO:

9 (I) SELLS:

10 1. GAS;

11 2. GAS SUPPLY SERVICES; OR

12 3. COMPETITIVE BILLING SERVICES FOR GAS SUPPLY
13 SERVICES; OR

14 (II) PURCHASES, BROKERS, ARRANGES, OR MARKETS GAS OR GAS
15 SUPPLY SERVICES FOR SALE TO A RETAIL GAS CUSTOMER.

16 (2) "GAS SUPPLIER" INCLUDES AN AGGREGATOR, A BROKER, AND A
17 MARKETER OF GAS.

18 (3) "GAS SUPPLIER" DOES NOT INCLUDE:

19 (I) A GAS COMPANY TO THE EXTENT THAT THE GAS COMPANY
20 PROVIDES GAS SALES OR DELIVERY SERVICE AT RATES REGULATED BY THE
21 COMMISSION;

22 (II) THE FOLLOWING PERSONS WHO SUPPLY GAS SOLELY TO
23 OCCUPANTS OF A BUILDING FOR USE BY THE OCCUPANTS:

24 1. AN OWNER/OPERATOR WHO HOLDS OWNERSHIP IN AND
25 MANAGES THE INTERNAL DISTRIBUTION SYSTEM SERVING THE BUILDING; AND

26 2. A LESSEE/OPERATOR WHO HOLDS A LEASEHOLD
27 INTEREST IN AND MANAGES THE INTERNAL DISTRIBUTION SYSTEM SERVING THE
28 BUILDING; OR

29 (III) A PERSON WHO TRANSMITS OR DISTRIBUTES GAS WITHIN A
30 SITE OWNED BY THE PERSON OR THE PERSON'S AFFILIATE THAT IS INCIDENTAL TO A
31 PRIMARILY LANDLORD-TENANT RELATIONSHIP.

32 (p) "Marketer" means a person who purchases and takes title to electricity OR
33 GAS as an intermediary for sale to a customer.

1 (CC) (1) "RETAIL GAS CUSTOMER" MEANS A PURCHASER OF GAS FOR END
2 USE IN THE STATE.

3 (2) "RETAIL GAS CUSTOMER" EXCLUDES AN OCCUPANT OF A BUILDING
4 IN WHICH THE OWNER/OPERATOR OR LESSEE/OPERATOR MANAGES THE INTERNAL
5 DISTRIBUTION SYSTEM SERVING THE BUILDING AND SUPPLIES GAS AND GAS
6 SUPPLY SERVICES SOLELY TO OCCUPANTS OF THE BUILDING FOR USE BY THE
7 OCCUPANTS.

8 2-110.

9 (a) In this section, "public service company" includes an electricity supplier
10 AND A GAS SUPPLIER as THOSE TERMS ARE defined in § 1-101 of this article.

11 SUBTITLE 6. NATURAL GAS SUPPLIER LICENSING AND CONSUMER PROTECTION.

12 7-601.

13 IN THIS SUBTITLE, "CONSUMER" AND "CUSTOMER" EACH MEANS A RETAIL GAS
14 CUSTOMER.

15 7-602.

16 THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE PURPOSE OF THIS
17 SUBTITLE IS TO:

18 (1) CLARIFY EXISTING LAW REGARDING THE PROVISION OF
19 COMPETITIVE RETAIL GAS SUPPLY AND GAS SUPPLY SERVICES IN THE STATE;

20 (2) REQUIRE THE COMMISSION TO LICENSE GAS SUPPLIERS;

21 (3) AUTHORIZE THE COMMISSION TO ADOPT COMPLAINT PROCEDURES;

22 (4) ESTABLISH CERTAIN REQUIREMENTS RELATING TO THE
23 COMPETITIVENESS OF RETAIL GAS SUPPLY AND GAS SUPPLY SERVICES MARKETS;
24 AND

25 (5) ESTABLISH STANDARDS FOR THE PROTECTION OF CONSUMERS.

26 7-603.

27 (A) THE COMMISSION SHALL LICENSE GAS SUPPLIERS AND SHALL HAVE THE
28 SAME AUTHORITY AS THE COMMISSION HAS UNDER § 7-507 OF THIS TITLE FOR
29 ELECTRICITY SUPPLIERS, INCLUDING THE AUTHORITY TO:

30 (1) REVOKE OR SUSPEND A LICENSE;

31 (2) IMPOSE A MORATORIUM, CIVIL PENALTY, OR OTHER REMEDY; OR

32 (3) ORDER A REFUND FOR OR CREDIT TO A CUSTOMER.

1 (B) THE COMMISSION SHALL ADOPT LICENSING REQUIREMENTS AND
2 PROCEDURES FOR GAS SUPPLIERS THAT PROTECT CONSUMERS ~~AND~~ THE PUBLIC
3 INTEREST, AND THE COLLECTION OF ALL STATE AND LOCAL TAXES.

4 7-604.

5 (A) ON OR BEFORE JULY 1, 2001, THE COMMISSION SHALL ADOPT CONSUMER
6 PROTECTION ORDERS OR REGULATIONS FOR GAS SUPPLIERS THAT:

7 (1) PROTECT CONSUMERS FROM DISCRIMINATORY, UNFAIR, DECEPTIVE,
8 AND ANTICOMPETITIVE ACTS AND PRACTICES IN THE MARKETING, SELLING, OR
9 DISTRIBUTING OF NATURAL GAS;

10 (2) PROVIDE FOR CONTRACTING, ENROLLMENT, AND BILLING
11 PRACTICES AND PROCEDURES; AND

12 (3) THE COMMISSION CONSIDERS NECESSARY TO PROTECT THE
13 CONSUMER.

14 (B) IN ADOPTING ORDERS AND REGULATIONS UNDER THIS SECTION, UNLESS
15 THE COMMISSION DETERMINES THAT THE CIRCUMSTANCES DO NOT REQUIRE
16 CONSISTENCY, THE COMMISSION SHALL:

17 (1) PROVIDE CUSTOMERS WITH PROTECTIONS CONSISTENT WITH
18 APPLICABLE PROTECTIONS PROVIDED TO RETAIL ELECTRIC CUSTOMERS; AND

19 (2) IMPOSE APPROPRIATE REQUIREMENTS ON GAS SUPPLIERS
20 THAT ARE CONSISTENT WITH APPLICABLE REQUIREMENTS IMPOSED ON
21 ELECTRICITY SUPPLIERS.

22 7-605.

23 (A) THIS SUBTITLE MAY NOT BE CONSTRUED TO:

24 (1) AFFECT THE AUTHORITY OF THE DIVISION OF CONSUMER
25 PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL TO ENFORCE VIOLATIONS
26 OF TITLES 13 AND 14 OF THE COMMERCIAL LAW ARTICLE OR ANY OTHER APPLICABLE
27 STATE LAW OR REGULATION IN CONNECTION WITH THE ACTIVITIES OF GAS
28 SUPPLIERS; OR

29 (2) EXEMPT GAS COMPANIES AND GAS SUPPLIERS FROM OTHERWISE
30 APPLICABLE STATE OR FEDERAL CONSUMER PROTECTION AND ANTITRUST LAWS.

31 (B) THE COMMISSION SHALL CONSULT WITH THE CONSUMER PROTECTION
32 DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL BEFORE ADOPTING
33 REGULATIONS DESIGNED TO PROTECT CONSUMERS OF GAS SUPPLY AND GAS
34 SUPPLY SERVICES.

1 (C) THE PEOPLE'S COUNSEL HAS THE SAME AUTHORITY IN LICENSING,
2 COMPLAINT, AND DISPUTE RESOLUTION PROCEEDINGS AS THE PEOPLE'S COUNSEL
3 HAS UNDER SUBTITLE 5 OF THIS TITLE AND TITLE 2 OF THIS ARTICLE.

4 (D) IN CONNECTION WITH A CONSUMER COMPLAINT OR COMMISSION
5 INVESTIGATION UNDER THIS SUBTITLE, A GAS SUPPLIER SHALL PROVIDE TO THE
6 COMMISSION ACCESS TO ANY ACCOUNTS, BOOKS, PAPERS, AND DOCUMENTS THAT
7 THE COMMISSION CONSIDERS NECESSARY TO RESOLVE A MATTER IN DISPUTE.

8 7-606.

9 THE COMMISSION MAY ADOPT REGULATIONS OR ADOPT ORDERS TO
10 IMPLEMENT THIS SUBTITLE THAT IT CONSIDERS NECESSARY AND IN THE PUBLIC
11 INTEREST.

12 7-607.

13 THIS SUBTITLE MAY BE REFERRED TO AS THE "NATURAL GAS SUPPLIER
14 LICENSING AND CONSUMER PROTECTION ACT OF 2000".

15 SECTION 3. AND BE IT FURTHER ENACTED, That gas suppliers doing
16 business in the State before the effective date of this Act shall be required to obtain a
17 license from the Commission under Title 7, Subtitle 6 of the Public Utility Companies
18 Article, as enacted by this Act, on or before July 1, 2001.

19 SECTION 4. AND BE IT FURTHER ENACTED, That contracts between gas
20 suppliers and customers entered into before the effective date of this Act are not
21 subject to orders or regulations adopted by the Commission under § 7-604 of the
22 Public Utility Companies Article, as enacted by this Act.

23 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 July 1, 2000.