

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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*Codification  
District of  
Columbia  
Official Code*

2001 Edition

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To require, on a temporary basis, written consent from natural gas customers to market participants to switch natural gas accounts and service providers; to institute consumer protections for natural gas customers; to require that natural gas suppliers obtain a license from the Public Service Commission of the District of Columbia before selling natural gas service to customers; to authorize the Public Service Commission to investigate and adjudicate violations of this act; and to make conforming amendments to existing law.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Prevention of Unauthorized Switching of Customer Natural Gas Accounts Temporary Act of 2001".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Affiliate" means a person who directly or indirectly, or through one or more intermediaries, controls, is controlled by, or is under common control with, or has directly or indirectly, any economic interest in, another person.

(2) "Applicant" means a natural gas supplier or market participant who is applying for a license to sell or supply natural gas to customers in the District of Columbia.

(3) "Commission" means the Public Service Commission of the District of Columbia.

(4) "Customer" means a consumer or purchaser of natural gas for end use in the District of Columbia. The term "customer" shall not include an occupant of a building where the owner, lessee, or manager manages the internal distribution system serving the building and supplies natural gas solely to occupants of the building for use by those occupants.

(5) "Marketer" means a person who purchases and takes title to natural gas as an intermediary for sale to customers.

(6) "Market participant" means a natural gas supplier (including an affiliate of the natural gas company) or a person providing billing services or services declared by the

Commission to be potentially competitive services, notwithstanding whether or not the supplier or person has been licensed by the Commission under section 3.

(7) "Natural gas supplier" means a person, broker, or marketer who generates natural gas; sells natural gas; or purchases, brokers, arranges or markets natural gas for sale to customers.

Sec. 3. Role, duties, and powers of the Commission.

(a) The Commission shall adopt regulations and issue appropriate orders to:

(1) Govern the licensing of natural gas suppliers and other market participants under section 4;

(2) Implement the customer protections in section 5; and

(3) Establish procedural rules for complaints, investigations, and dispositional hearings under section 6;

(b) The Commission may adopt any other regulations, or issue any other orders, consistent with the policies enunciated in this act and necessary to ensure the prevention of unauthorized switching of natural gas accounts.

Sec. 4. Licensing requirements.

(a) All natural gas suppliers shall obtain a license issued by the Commission to sell or distribute natural gas in the District of Columbia.

(b) An application for a license shall:

(1) Be made in writing on a form adopted by the Commission;

(2) Be verified by oath or affirmation;

(3) Be accompanied by a licensing fee determined by the Commission; and

(4) Contain the following:

(A) The name and street address of the natural gas supplier;

(B) The name and street address of an agent for service of process on the company, which agent shall be a domestic corporation duly authorized to do business in the District of Columbia;

(C) Proof of technical and managerial competence;

(D) Proof of financial integrity;

(E) Proof of compliance with all applicable requirements of the Federal Energy Regulatory Commission and any independent system operator or regional or system transmission operator to be used by the applicant;

(F) Proof of compliance with all applicable federal and District of Columbia laws;

(G) Proof that the applicant has registered with the Department of Consumer and Regulatory Affairs and any other applicable District of Columbia agency to do business in the District of Columbia;

(H) Proof of compliance with the District of Columbia's tax laws and an agreement or promise to be subject to all applicable District of Columbia taxes;

(I) An agreement or promise to comply with all of the requirements of this act and all orders and regulations of the Commission issued under this act; and

(J) Any other information required by the Commission.

(c) The Commission shall:

(1) Require an applicant to post bond or other similar instrument if, in the Commission's judgment, the bond or similar instrument is necessary to insure the applicant's financial integrity;

(2) Establish the duration of the license of an applicant under this section, procedures and requirements for license renewal, and provisions regarding the surrender and lapse of a license; and

(3) Establish any other requirements for an applicant that the Commission determines to be in the public interest.

(d) A license shall not be transferred without the prior approval of the Commission.

(e) All monies collected by the Commission under this section shall be used exclusively for the daily operations of the Commission under section 8 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes and the Office of People's Counsel under section 8 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes.

#### Sec. 5. Consumer protections.

(a)(1) Unless the customer consents in writing, a market participant shall not disclose information that:

(A) Is about the customer; and

(B) Was supplied to the market participant by the customer.

(2) This restriction shall not apply to lawful disclosures for bill collection or credit rating reporting purposes.

(b)(1) Unless the customer consents in writing, a market participant shall not use information of the type specified in subsection (a)(1) of this section for any purpose other than the purpose for which the information was originally acquired.

(2) This restriction shall not apply to lawful disclosures for bill collection or credit rating reporting purposes.

(c) Unless a customer consents in writing, a market participant shall not change a customer's natural gas supplier.

(d) Unless a customer consents in writing, a market participant shall not add services or new charges to a customer's existing retail natural gas service options.

(e)(1) A market participant shall not engage in false, misleading, or deceptive marketing or advertising, or unfair trade practices.

(2) A market participant shall provide adequate and accurate information to each customer about the market participant's available services and charges.

(f) A market participant shall post on the Internet information that is readily understandable about its services and rates for all types of customers, including commercial and residential natural gas customers.

(g) A market participant shall not discriminate against any retail natural gas customer based wholly or partly on the race, color, creed, age, national origin, sex, or sexual orientation of the retail gas customer, or for any arbitrary, capricious, or unfairly discriminatory reason.

Sec. 6. Investigation of violations and penalties for violations.

(a) For a violation of any provision of this act or a violation of any regulation or order issued under this act, after notice and a hearing, the Commission may:

(1) Suspend or revoke a license of a market participant;

(2) Impose a civil penalty on a market participant;

(3) Order a refund or credit to a customer;

(4) Cancel a contract or part of a contract between a customer and a market participant; and

(5) Issue a cease and desist order to a market participant.

(b)(1) A civil penalty imposed by the Commission under this section shall not exceed \$10,000 per violation.

(2) The Commission shall determine the amount of the civil penalty after considering:

(A) The number of previous violations by the market participant;

(B) The gravity and duration of the current violation; and

(C) The good faith of the market participant in attempting to achieve compliance after notification of the violation.

(c) The Commission may temporarily suspend the license, issue a temporary cease and desist order, or take any other appropriate temporary remedial action, pending a final determination after notice and hearing, if the Commission determines that there is reasonable cause to believe that customers or the reliability of natural gas supply in the District of Columbia will be harmed by the actions of a market participant.

(d) A proceeding under this section may be initiated by the Commission, the Office of People's Counsel, the Office of the Corporation Counsel, or any aggrieved party.

(e) In connection with a proceeding under this section, a market participant shall provide to the Commission access to any accounts, books, papers, and documents which the Commission considers necessary to resolve the matter.

(f) Notwithstanding any other provision of this act, an aggrieved party shall not be prohibited from seeking resolution of any dispute in court.

Sec. 7. Section 8 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes is amended as follows:

(a) The third unnumbered paragraph, beginning "the term "public utility"" is amended by striking the phrase "gas corporation" and inserting the phrase "gas company" in its place.

(b) The eighth unnumbered paragraph, beginning "the term "extension or extensions"" is amended by striking the phrase "gas corporation" and inserting the phrase "gas company" in its place.

(c) The thirteenth unnumbered paragraph, beginning "The term "gas corporation"" is amended as to read as follows:

"The term "gas company" when used in this section includes every corporation, company, association, joint-stock company or association, partnership, or person doing business in the District of Columbia, their lessees, trustees, or receivers, appointed by any court whatsoever, physically transmitting or distributing natural gas in the District of Columbia to retail natural gas customers. The term "gas company" shall exclude: (1) any building owner, lessee, or manager who, respectively, owns, leases, or manages, the internal distribution system serving the building and who supplies natural gas and other related services solely to occupants of the building for use by the occupants; and (2) any such entity or person if the natural gas is made or produced and distributed by the maker on or through private property solely for its own use or the use of its tenants and not for sale to or for the use of others."

(d) Paragraph 81 is amended by striking the phrase "gas corporation" and inserting the phrase "gas company" in its place.

(e) Paragraph 54 is amended by striking the phrase "gas corporation" and inserting the phrase "gas company" in its place.

Sec. 8. The Prohibition of Electric and Gas Utility Service Terminations to Master Metered Apartment Buildings Act of 1980 is amended as follows:

(a) The first sentence of section 3(a) is amended by striking the phrase "company, electricity supplier, or gas company" and inserting the phrase "electric company, electricity supplier, gas company, or natural gas supplier" in its place.

(b) Section 4 is amended as follows:

(1) Subsection (a)(1) is amended by striking the phrase "or gas company" and inserting the phrase "electric company, electricity supplier, gas company, or natural gas supplier" in its place.

(2) The second sentence of subsection (a)(3) is amended by striking the phrase "or gas company" and inserting the phrase "gas company, or natural gas supplier" in its place.

(3) The second and third sentences of subsection (a)(4) are amended to read as follows:

"The receiver shall pay the electric company, electricity supplier, gas company, or natural gas supplier from the rents and payments for services provided the company on and after the date of the receiver's appointment. The owner, agent, lessor or manager shall be liable for the reasonable fees and costs determined by the Court to be due the receiver, which fees and costs may be recovered from the rents or payments for use and occupancy under the control of the receiver; provided, that no fees or costs shall be turned over until after payment of current electric company, electricity supplier, gas company, or natural gas supplier bills on the apartment house has been made."

(4) Subsection (b) is amended by striking the phrase "electric company, electricity supplier, or gas company" and inserting the phrase "electric company, electricity supplier, gas company, or natural gas supplier" in its place.

(5) Subsection (c) is amended by striking the phrase "electric company, electricity supplier, or gas company" and inserting the phrase "electric company, electricity supplier, gas company, or natural gas supplier" in its place.

(c) Section 5 is amended by striking the phrase "electric company, electricity supplier, or gas company" and inserting the phrase "electric company, electricity supplier, gas company, or natural gas supplier" in its place.

(d) Section 7 is amended as follows:

(1) Subsection (a) is amended by striking the phrase "electric company, electricity supplier, or gas company" and inserting the phrase "electric company, electricity supplier, gas company, or natural gas supplier" in its place.

(2) Subsection (b) is amended by striking the phrase "electric company, electricity supplier, or gas company" and inserting the phrase "an electric company, electricity supplier, gas company, or natural gas supplier" in its place.

Sec. 9. The third sentence of section 1804(a)(1) of the District of Columbia Public Works Act of 1954 is amended by striking the phrase "supplier or gas company" wherever it appears and inserting the phrase "supplier, gas company, or natural gas supplier" in its place.

Sec. 10. Section 5(d)(1) of The District of Columbia Redevelopment Act of 1945 is amended by striking the phrase "gas corporation" and inserting the phrase "gas company, natural gas supplier" in its place.

Sec. 11. Section 4(b)(1) of the District of Columbia Public Utilities Reimbursement Act of 1972 is amended by striking the phrase "gas corporation" and inserting the phrase "gas company, natural gas supplier" in its place.

Sec. 12. Fiscal impact statement.

The Council adopts the fiscal impact statements of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Sec. 13. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia