

REPORT CONCERNING
VOLUNTARY UNBUNDLING OF
NATURAL GAS SERVICE IN COLORADO
BY THE
COLORADO PUBLIC UTILITIES COMMISSION

I. INTRODUCTION

Background

SB99-153, codified as § 40-2-122, Colorado Revised Statutes (C.R.S.), allows natural gas utilities to file voluntary plans for unbundling the sale of natural gas to residential customers, subject to the approval of the Colorado Public Utilities Commission (PUC or Commission). Natural gas delivery by regulated utilities would continue to be regulated by the Commission.

Reporting Requirements

SB99-153 requires the PUC to report to the Colorado general assembly by December 1, 2000 as follows:

On or before December 1, 2000, the Commission shall report to the general assembly on voluntary plans filed and actions taken by natural gas public utilities pursuant to this section and may make recommendations for legislation to further the provision of natural gas to customers by competitive suppliers. Such recommendations may include, but are not limited to, Commission authority to mandate the filing of competitive supply plans. In addition, the Commission shall report on whether it will initiate a rule-making proceeding to provide for consistent consumer protection mechanisms for all natural gas customers for those issues addressed in subparagraph (IX) of paragraph (c) of subsection (3) of this section and requirements, terms, and conditions of gas supply service.

In addition, regarding a comprehensive solution for PUC and Colorado Office of Consumer Council (OCC) funding, § 40-2-122(10) states:

The general assembly determines that a new funding formula should be devised to adequately fund the commission's and office of consumer counsel's administrative expenses. On or before December 1, 2000, the commission and the office of consumer counsel shall recommend to the general assembly those legislative changes needed to develop appropriate funding mechanisms for the public utilities commission and the office of consumer counsel. This provision is intended to provide a comprehensive replacement for the funding method contained in the utility plan under subparagraph (XI) of paragraph (c) of subsection (3) of this section.

We have broken these reporting requirements into two general areas:

- ◆ **Implementation Issues:** Requires the Colorado PUC to report on the status of gas utility unbundling, actions taken by utilities in response to this legislation, and raises specific questions concerning the need for further legislative actions and Commission rulemaking concerning consumer protection issues [§ 40-2-122(9)]. This report, along with attached Appendices 1 through 3 constitute the PUC's response to the implementation issues raised by § 40-2-122(9).
- ◆ **Fixed Utility Fund Issues.** Requires the Colorado PUC and the OCC to provide recommendations for comprehensive changes to the fixed utility fund [§ 40-2-122(10)]. The PUC and the OCC have investigated the issues and have compiled a report that is attached as Appendix 4.

II. IMPLEMENTATION ISSUES

Commission Actions

In order to address the implementation issues raised in SB99-153, the Commission took the following actions:

1. During the summer and fall of 2000 the Commission researched gas unbundling activities in other states.
2. The Commission, in conjunction with the OCC, held a Commissioners' Information Meeting on July 20, 2000 with utilities and other interested parties concerning the implementation of natural gas unbundling in Colorado.
3. On September 7, 2000, the Commission sent letters to jurisdictional gas utilities and other industry stakeholders soliciting input on the implementation issues.

The Implementation Issues section of this report is organized as follows. The next section contains a brief summary of the status of natural gas unbundling programs in other states. This is followed by a summary of the July 20, 2000 Commission information meeting. The third section summarizes the stakeholder letters and responses. The final section of the report provides the Commission's recommendations concerning the implementation issues.

A. Natural Gas Unbundling in Other States

State Legislatures, State Commissions and utilities are implementing programs to allow residential natural gas users to select their gas suppliers. Four states (New Mexico, New Jersey, New York, and West Virginia) allow all customers to select their natural gas suppliers. Seven states have begun to implement statewide programs while eleven states have partial or pilot unbundling programs in place.

Consumer reaction to these choice programs has been mixed. In some states, such as Nebraska and Wyoming, programs are structured so that all eligible residential and commercial customers

choose their suppliers, while in New Mexico and West Virginia virtually no eligible customers have chosen alternative suppliers. The most far-reaching unbundling program exists in Georgia where all residential customers of Atlanta Gas Light Company (more than 80 percent of the residential gas customers in the state) have elected to purchase their gas from marketers, and the utility no longer provides traditional sales gas service.

As of March 2000, 2.6 million residential customers in the United States are participating in gas unbundling programs. The states with the most participating customers are Georgia, 1,370,000; Ohio, 572,000; and Michigan, 207,000.

Appendix 3 provides a more complete discussion of the different state competitive residential gas initiatives. This data is based on the latest information available from the Energy Information Administration of the U. S. Department of Energy.

B. Summary of Commissioners' Information Meeting

Staff of the Commission, in conjunction with the OCC, arranged for a Commissioners' Information Meeting to be held on July 20, 2000. In this meeting jurisdictional gas utilities first provided comments about retail gas service unbundling. Utilities generally presented information about the pros, cons, barriers, and timing requirements related to unbundling their distribution services under SB99-153. These discussions were consistent with the written utility responses outlined below, and attached as Appendix 2. Commissioners and other stakeholders were also provided an opportunity to ask questions about the information presented by each utility.

Barbara Alexander, a consultant retained by the OCC, then provided a discussion of consumer issues as related to competitive supply programs. Ms. Alexander has experience with many electric and gas competition initiatives throughout the nation, and provided a detailed discussion of consumer issues that will be impacted by competitive retail supply programs. Questions and answers were again entertained. A copy of Barbara Alexander's presentation hand-out and the meeting attendance list are provided as Appendix 1.

C. Written Responses From Industry Stakeholders

On September 7, 2000, the Commission sent letters to jurisdictional gas utilities requesting that they provide information about their intentions to file unbundling plans with the Commission. All eight jurisdictional gas utilities provided a response. The Commission also sent letters to stakeholders that had shown interest in gas unbundling in the past, and five stakeholders responded. Copies of the Commission's letters and the stakeholders' responses are attached as Appendix 2. A summary of the responses follows.

Status of Gas Unbundling

At the time that this report was compiled, no utilities have submitted natural gas unbundling plans to the Commission under this legislation. In our September 7, 2000 letter, the Commission first asked whether utilities intend to file a voluntary plan pursuant to this statute, and if so,

when. No utilities provided a specific date for the filing of unbundling plans. Public Service Company of Colorado indicated that it is not planning to file a plan in 2001, but stated that it intends to file after electricity unbundling is complete in Texas and New Mexico. Kinder Morgan, Inc. indicated that it is interested in filing a plan, but has not yet determined a date. All other utilities generally indicated that current circumstances do not warrant gas unbundling.

Finally, the Commission asked those utilities that do not intend to file a voluntary plan to indicate the reasons that they don't intend to file. Utilities cited several reasons for not filing voluntary unbundling plans. These impediments generally included the high cost to implement the program, concerns about competitive supplier participation, and lack of customer desire for gas unbundling.

Suggestions for Further Legislation

The second and third questions relate to Commission recommendations for legislation to further competition and Commission authority to mandate the filing of competitive supply plans. The Commission asked utilities and interested parties for any recommendations in this area.

No utility or other stakeholder indicated that further legislation is warranted at this time. Several respondents pointed out that SB99-153 represented a compromise in which all parties agreed to a voluntary plan framework with an opt-out provision for the utilities if the Commission made changes not acceptable to utilities. All utilities and other stakeholders generally indicated that the voluntary nature of the legislation would not allow or warrant mandatory Commission authority.

Consumer Protection Rulemaking

The final implementation issue concerns whether the Commission should initiate a consumer protection rulemaking proceeding. The Commission also asked utilities and interested parties for recommendations in this area.

The OCC and low-/fixed-income groups strongly support Commission rulemaking for these areas. These groups believe that the context of this rulemaking is independent of the plans being submitted by individual utilities. Consumer protection mechanisms should be the same for all suppliers; and a rulemaking proceeding is appropriate. In addition, the OCC points out that such an approach would result in the same licensing and consumer protection in all Colorado service territories, thus increasing the likelihood of suppliers entering the gas supply market. The low-income organizations point out that establishing such rules will reduce the uncertainty associated with unbundling, thus encouraging utilities to file plans.

Utility and remaining stakeholder responses vary from strong opposition to "not opposed." Public Service Company of Colorado states that it would not be administratively efficient to undertake rulemaking at this time, and such a rulemaking should be deferred until there is a real customer choice proposal on the table. One of the smaller gas utilities requested that the Commission not establish standards that would place a disproportionate cost and burden on

smaller utilities. Kinder Morgan suggested a “working committee” rather than a rulemaking to establish customer protection measures.

D. Implementation Issue Recommendations

The first implementation requirement in § 40-2-122(9) states: “the Commission shall report to the general assembly on voluntary plans filed and actions taken by natural gas utilities pursuant to this section...”

At the time that this report was compiled, no utilities have submitted natural gas unbundling plans to the Commission under this legislation. In answer to a Commission request, no utilities provided a specific date for the filing of unbundling plans. Two utilities, Public Service Company of Colorado and Kinder Morgan, Inc., stated that they intend to file plans in the future.

The second implementation issue provides that the Commission “may make recommendations for legislation to further the provision of natural gas to customers by competitive suppliers.” The third implementation issue raises a similar concern, “commission authority to mandate the filing of competitive supply plans.”

In response to our request, no utility or other stakeholder indicated that further legislation is warranted at this time. Further, all utilities and other stakeholders generally indicated that the voluntary nature of the legislation would not allow or warrant mandatory Commission authority. The Commission agrees that information from utilities and interested parties in Colorado or from other states does not support further legislation or the movement to mandatory natural gas unbundling at this time. It should be pointed out that under the configuration of SB99-153, gas unbundling will not occur until it is in the interests of the utilities. If the legislature believes that this voluntary framework is no longer appropriate, a substantial effort will likely be required to develop new legislation that is acceptable to all stakeholders.

The final implementation issue concerns whether the Commission should “initiate a rule-making proceeding to provide for consistent consumer protection mechanisms for all natural gas customers for those issues addressed in subparagraph (IX) of paragraph (c) of subsection (3) of this section and requirements, terms, and conditions of gas supply service.”

The Commission believes that it may be premature to engage in a rulemaking at this point, and would prefer to initiate rulemaking after the specific intentions of the utilities are established to a greater level of certainty. This would allow the Commission and parties to enter a rulemaking when the issues are better defined.

III. FIXED UTILITY FUND ISSUES

With respect to fixed utility funding issues, § 40-2-122(10) requires a joint report by the PUC and the OCC. For the convenience of the reader, we have included this joint report as Appendix 4.

REPORT CONCERNING
VOLUNTARY UNBUNDLING OF
NATURAL GAS SERVICE IN COLORADO
BY THE
COLORADO PUBLIC UTILITIES COMMISSION

Appendices

- Appendix 1: Copies of the agenda, handouts, and attendee list for the July 20, 2000 Commissioner Information Meeting.
- Appendix 2: Copies of the Commission letter asking for utility and stakeholder comment and the responses received by the Commission.
- Appendix 3: Copy of the research performed by Adam Peters, Intern with the CPUC for the summer of 2000.
- Appendix 4: Joint Report to the General Assembly by the Colorado Public Utilities Commission And the Office of Consumer Counsel Concerning Funding Under § 40-2-122, Natural Gas Unbundling.

Retail Unbundling in the United States

Table of Contents

I.	Introduction to Colorado Revised Statute § 40-2-122	2
II.	Retail Unbundling in the United States	2
III.	Statewide Unbundling – 100% Eligibility	4
	A. New Jersey	4
	B. New Mexico	6
	C. New York	7
	D. West Virginia	9
IV.	Statewide Unbundling – Implementation Phase	10
	A. California	10
	B. Georgia	11
	C. Maryland	14
	D. Massachusetts	16
	E. Ohio	18
	F. Pennsylvania	19
V.	Examples of Pilot Projects/Partial Unbundling	22
	A. Montana	22
	B. Nebraska	24
	C. Wyoming	26
Table A	“Tabular Summary of Authority” (mandatory, permissive, etc.)	37

I. Introduction to Colorado Revised Statute § 40-2-122

This Appendix first provides a brief overview of the status of natural gas unbundling on the national level. Then, more detailed overviews of states that have or are implementing unbundling programs is included. It should be noted that most of the data presented in Sections II through V has been reproduced from the Energy Information Administration's report, *Status of Natural Gas Residential Choice Programs*, available online at www.eia.doe.gov/oil_gas/natural_gas/restructure/restructure.html

II. Retail Unbundling in the United States

State programs to allow residential natural gas users to select their gas suppliers are advancing throughout the country. However, the availability, characteristics, and participation rates of these "customer choice" programs vary widely across states. Four states (New Mexico, New Jersey, New York, and West Virginia) allow all residential consumers to choose their own natural gas suppliers, while seven states have begun to implement statewide programs. Another 11 states and the District of Columbia have pilot or partial unbundling programs in place. An additional 10 states are considering action on customer choice, while 18 states have thus far taken no action.

Consumer reaction to these choice programs has been mixed. In some states, such as Nebraska and Wyoming, programs are structured so that all of the eligible residential and commercial customers are electing to choose their suppliers, while in other states, such as New Mexico and West Virginia, virtually no eligible customers have chosen to participate. The most far-reaching unbundling program exists in Georgia, where all residential customers in the Atlanta Gas Light Company ("AGL") service territory (more than 80 percent of the residential gas customers in the state) purchase their natural gas directly from marketers. AGL still delivers the gas but no longer provides any sales service. Large commercial and industrial consumers throughout the nation have had the option of purchasing the natural gas commodity separately from natural gas services for many years. State regulators and lawmakers, who are responsible for designing and implementing retail restructuring programs, have moved more slowly in implementing choice programs for residential and small-volume commercial customers until they could ensure reliable service.

Data:

In 1998, the United States had 57,321,746 residential and 5,044,497 commercial retail natural gas customers. They consumed 4,520 and 2,999 billion cubic feet of natural gas, respectively. The average prices paid for natural gas purchased from local distribution companies by residential and commercial customers were \$6.82 and \$5.48 per thousand cubic feet, respectively. The average city gate price in the United States was \$3.07 per thousand cubic feet.

The following table breaks the national data down into those states that have, at the least, begun to implement a pilot program. "Eligible" stands for the number of residential or small business customers within areas where unbundled service is available. "Participating" customers are those who have selected unbundled service.

Number of Residential Customers:

Category/State	Total 1998 Customers	Eligible for Unbundled Supply		Participating		
		Total	Percent of 1998 Total	Total	Percent of Eligible	Percent of 1998 Total
Statewide Unbundling: 100-Percent Eligibility						
New Jersey	2,252,248	2,252,248	100	67,635	3.0	3.0
New Mexico	454,065	454,065	100	0	0	0
New York	4,117,307	4,117,307	100	75,787	1.8	1.8
West Virginia	359,783	359,783	100	40	0.01	0.01
Subtotal	7,183,403	7,183,403	100	143,462	2.0	2.0
Statewide Unbundling: Implementation Phase						
Georgia	1,659,730	1,370,421	82.6	1,370,421	100	82.6
Maryland	901,455	742,493	82.4	161,129	21.7	17.9
Massachusetts	1,212,486	83,000	6.8	17,024	20.5	1.4
Ohio	3,050,960	1,716,873	56.3	572,099	33.3	18.8
Subtotal	6,824,631	3,912,787	57.3	2,120,673	54.2	31.1
Pilot Programs/Partial Unbundling						
D.C.	132,867	132,867	100	11,014	8.3	8.3
Delaware	112,507	15,000	13.3	6,076	40.5	5.4
Illinois	3,556,736	285,000	8.0	25,800	9.1	0.7
Indiana	1,531,914	610,000	39.8	14,120	2.3	0.9
Michigan	2,903,698	NA	--	207,863	--	7.2
Nebraska	523,790	74,194	14.2	74,194	100	14.2
Virginia	847,938	87,100	10.3	45,736	52.5	5.4
Wisconsin	1,390,068	25,000	1.8	1,869	7.5	0.1
Wyoming	127,324	9,169	7.2	9,169	100	7.2
Subtotal	11,126,842	*1,238,330	*11.1	395,841	*32.0	3.6
Totals	25,134,876	*12,334,520	*49.1	2,659,976	21.6	10.6
U.S. 1998 Total	57,321,746	--	--	--	--	--

NA= Not available. -- = Not applicable.

Note: Three other states (California, Colorado, and Pennsylvania) are in the implementation phase of statewide unbundling, but eligibility and participation data are not available.

III. Statewide Unbundling – 100% Eligibility

New Jersey, New Mexico, New York, and West Virginia allow *all* residential consumers to choose their own natural gas supplier.

A. New Jersey

In New Jersey, all residential customers in the state have access to unbundling programs. As of January 1, 2000, all residential gas customers in New Jersey are able to choose their own gas supplier. Commercial and industrial customers in the state have had unbundled service since early 1995. The strong customer response to some of the pilot programs that were initiated in 1997 led the state legislature to enact the "Electric Discount and Energy Competition Act" on February 9, 1999, which requires all residential customers to be able to choose a competitive natural gas supplier by December 31, 1999. In January 2000, the Board of Public Utilities approved rate unbundling filings for all four of the state's local distribution companies ("LDCs"). The billing structure for natural gas customers follows the electricity sales billing model.

Data:

In 1998, New Jersey had 2,252,248 residential and 234,459 commercial customers. They consumed 197 and 147 billion cubic feet of natural gas, respectively. In 1997, there were 16,397 commercial customers for whom the LDCs provided only transportation services, but they accounted for 79 percent of the commercial sales volume of natural gas. The average prices paid for natural gas purchased from LDCs by residential and commercial customers were \$7.33 and \$3.70 per thousand cubic feet, respectively. The average city gate price in the state was \$3.71 per thousand cubic feet.

Eligibility/Participation in Retail Choice Programs:

All residential gas customers may choose their own gas supplier. Three of the four LDCs serving New Jersey previously offered pilot programs for retail unbundling. Starting April 1, 1997, New Jersey Natural Gas offered a pilot program to 5,000 customers and South Jersey Gas to up to 10,000 customers. On May 1, 1997, Public Service Electric and Gas ("PSE&G") offered its pilot program in only a small portion of its service area. In 1997, those programs totaled less than 1 percent (17,656) of New Jersey's two million residential gas customers. PSE&G ultimately terminated its pilot program due to the small level of customer participation (less than 1,000 customers). However, both the New Jersey Natural Gas and South Jersey Gas pilot programs were oversubscribed and enlarged. As of the end of 1999, New Jersey Natural Gas and South Jersey Gas had 30,527 and 35,683 residential transportation customers, respectively, while PSE&G had 1,425.

New Jersey's Status as of January 1, 2000: Number of Residential Customers

Local Distribution Company	Total 1998	Eligible		Participating		
		Total	Percent of 1998 Total	Total	Percent of Eligible	Percent of 1998 Total
New Jersey Natural Gas	361,090	All	100	30,527	8.5	8.5
South Jersey Gas	255,872	All	100	35,683	13.9	13.9
PSE&G	1,406,891	All	100	1,425	0.1	0.1
NUI Corp.	228,395	All	100	0	0	0
Total	2,252,248	2,252,248	100	67,635	3.0	3.0

Summary of Regulatory and Legislative Actions on Retail Unbundling:

The New Jersey legislature passed the Electric Discount and Energy Competition Act on February 9, 1999, which calls for statewide restructuring of the natural gas industry by December 31, 1999. In March 1999, the Board of Public Utilities (the Board) ordered the four natural gas distribution companies (LDCs) in the state to submit rate unbundling filings by April 30, 1999, and set a tentative testimony and hearing schedule. In June 1999, the Board directed that a working group of gas utilities, third-party suppliers, and consumer advocates be formed in an effort to reach a consensus on some of the issues related to implementing retail competition, such as metering, billing, customer enrollment, and marketer agreements. The Board approved the rate unbundling filings of the LDCs in January 2000.

New Jersey Regulatory and Legislative Actions:

<p>Legislation</p>	<p>2/99</p>	<p>The Electric Discount and Energy Competition Act (1999). Opens up the state energy industry to competition, mandating restructuring of electric utilities by August 1999 and gas utilities by December 31, 1999. Utilities are to be given the opportunity to recover prudently incurred stranded costs. The Board of Public Utilities is to oversee the restructuring process and define standards for fair competition, gas affiliate relations, accounting and reporting, and third-party supplier licensing, safety, and service quality. Gas and electric power suppliers must be licensed before they can offer retail services. The act authorizes energy aggregation by private and government entities.</p>
<p>Regulatory Actions</p>	<p>1/00</p>	<p>Approval of LDC Unbundling Filings. The Board approved the rate unbundling filings of the state's four LDCs: New Jersey Natural Gas Co., NUI Elizabethtown Gas, South Jersey Gas Co., and PSE&G. The approved stipulations include incentives, effective through 12/31/02, for residential customers to switch to third-party suppliers.</p>
	<p>6/99</p>	<p>Formation of Natural Gas Implementation Working Group. The Board ordered gas utilities to form a working group with third-party suppliers and consumer advocates to resolve nonrevenue issues associated with retail gas competition, such as enrollment, billing, data interchange, customer information, third-party supplier agreements, nomination procedures, and reliability. The group is to consider data exchange issues first, specifically the relevance of a uniform electronic data interchange system. The group is to provide recommendations to the Board when consensus is reached and identify any unresolved issues by 10/15/99.</p>
	<p>5/99</p>	<p>Licensing and Registration Rule. Final 5/12/99. All third-party gas suppliers must be licensed by the Board of Public Utilities, including those currently providing service under pilot choice programs. Applications must include a list of planned services by customer class, a sample residential contract, evidence of creditworthiness, preceding 12-month historical data on NJ gas sales, revenues, and volumes, and a surety bond of \$250,000. When an application is approved, the supplier pays an \$800 licensing fee. The license is valid for 1 year and must be renewed at least 30 days before its expiration date. The licensee must comply with all mandated reliability and safety standards and supply pipeline quality gas. Licensees must have a NJ office, maintain records for 3 years of any customer complaints and remedial actions, and comply with specific standards of conduct approved by the Board. Within 6 months of receiving a license, the supplier must provide the Board with the number of residential customers it serves in NJ, by zip code. The rule also specifies the registration processes for energy agents and private aggregators.</p>
	<p>5/99</p>	<p>Consumer Protection Standards. Final 5/12/99. Gas suppliers' TV and radio advertising must provide a toll-free number where customers can get price information and the LDC delivery area of the service. Marketing materials must include the average price per therm for offered gas supply service, exclusive of optional services, the time period of the offer, the average price per therm for gas supply service for basic supply service by the LDC during the same period, and the estimated percentage savings. Service to retail customers cannot occur without a customer's written signature on a contract. The customer will receive notification of its supplier selection and has 14 days to rescind the decision. Bills must separately itemize charges for optional services and also identify separate charges of the gas supplier and LDC if the customer chooses to receive one bill. May not disclose any customer-specific information without customer's written consent. In complaints, customers must be informed of alternate dispute resolution procedures.</p>
	<p>5/99</p>	<p>Anti-Slamming Provisions. Final 5/12/99. Any change in a supplier must be authorized by the customer and then verified. Authorization records are to be kept by the supplier for at least 3 years. Unauthorized switching could result in revocation of a company's license and in financial penalties.</p>
	<p>3/99</p>	<p>Standards. Order Releasing Draft Interim Standards for Public Comment, Docket EX99030182. Proposed standards extend to both electric and gas utilities and cover affiliate relations, consumer protection measures, licensing of competitive energy suppliers, anti-slamming measures, service reliability, and aggregation programs. A utility may not give its</p>

	<p>affiliates (or affiliates' customers) any preference in providing regulated services; may not tie regulated service to any other product; and may not disclose any customer-specific information (unless requested by customer). Utilities and affiliates must be separate corporate entities with separate books and records and separate offices and computer systems. Joint promotions or proposals are prohibited and any use of a utility's logo by an affiliate in the state must be accompanied by a disclaimer stating that the companies are separate entities and that the affiliate is unregulated. Utilities cannot provide competitive products or services without Board approval; these services are limited to metering, billing, or administrative services and those services related to customer and public safety and reliability. Utilities can continue to provide previously-approved competitive services as long as a public tariff is filed within 60 days of final adoption of these standards.</p>
--	---

B. New Mexico

All residential customers in New Mexico may choose unbundled natural gas service. New Mexico has allowed unbundled gas service for all consumers since the late 1980s. However, virtually all residential customers still purchase their gas from local distribution companies ("LDCs"), in large part because marketers have been unable to compete with the LDCs' prices. A customer choice pilot program by the Public Service Company of New Mexico (PNM) was approved by the New Mexico Public Utility Commission in August 1997. The program, "EnergyWise Options" and "Gas Choice Program," offered PNM's 400,000 customers a choice of gas suppliers with deliveries starting in December 1997. Even after the Public Regulation Commission, formerly the Public Utility Commission, encouraged marketers to advertise, customers still did not switch suppliers. Enron did have several hundred customers sign up for service, but the numbers were so small that Enron discontinued the project by September 1998.

Data:

In 1998, New Mexico had 454,065 residential and 42,067 commercial customers. They consumed 36 and 27 billion cubic feet of natural gas, respectively. The average prices paid for natural gas purchased from LDCs by residential and commercial customers were \$5.22 and \$4.04 per thousand cubic feet, respectively. The average city gate price in the state was \$2.08 per thousand cubic feet.

New Mexico's Status as of July 1999: Number of Customers

Customer Type	Total 1998	Eligible		Participating		
		Total	Percent of 1998 Total	Total	Percent of Eligible	Percent of 1998 Total
Residential	454,065	454,065	100	0	0	0
Commercial	42,067	42,067	100	117	0.3	0.3
Total	496,132	496,132	100	117	0.02	0.02

C. New York

New York has comprehensive unbundling programs for its residential gas customers. Natural gas unbundling is available statewide, with the exception of a few small utility companies representing less than 1 percent of residential and small commercial customers. As of

December 1999, 1.8 percent of residential customers were participating in the state's customer choice program. The New York State Public Service Commission ("NYPSC") has issued regulations and on November 3, 1998, published its plan of comprehensive unbundling in the state. The customer choice process for small customers began with the approval of plans on March 14, 1996, to allow residential and small business customers the option to start buying their own natural gas supply from sources other than the traditional utility companies. Large commercial and industrial customers have been able to purchase and transport their own gas supplies since the mid 1980's.

Because of the modest participation by residential customers to date, the NYPSC expects that it will take three to seven years to get utilities completely out of the merchant function. The NYPSC plan includes looking at unbundling or outsourcing services such as meter reading and other customer service functions. Marketers must be certified by the NYPSC and use standard contracts. The state has 75 marketers registered to serve residential customers and 153 to serve nonresidential customers. As of May 25, 1999, 35 marketers were serving residential customers.

Data:

In 1998, New York had 4,117,307 residential and 348,694 commercial customers. They consumed 340 and 335 billion cubic feet of natural gas, respectively. The average prices paid for natural gas purchased from local distribution companies by residential and commercial customers were \$9.59 and \$6.08 per thousand cubic feet, respectively. The average city gate price in the state was \$2.65 per thousand cubic feet.

New York's Status as of December 1999: Number of Customers

Customer Type	Total 1998	Eligible		Participating		
		Total	Percent of 1998 Total	Total	Percent of Eligible	Percent of 1998 Total
Residential	4,117,307	All	100	75,787	1.8	1.8
Commercial	348,694	All	100	43,062	12.3	12.3
Total	4,466,001	All	100	118,849	2.7	2.7

Summary of Regulatory and Legislative Actions on Retail Unbundling:

The NYPSC published its plan for comprehensive unbundling of natural gas services on November 3, 1998, and ordered that local distribution companies ("LDCs") should exit the merchant function during a 3-to-7-year transition period. By April 1, 1999, all LDCs were to stop assigning upstream capacity to customers who had chosen to purchase gas from other sources. LDCs were directed to encourage competition and to cooperate with marketers so as to increase the number of customers choosing transportation service. LDCs were also directed to explore options to mitigate stranded costs. Issues regarding system operation and reliability and market power will be addressed through collaborative meetings with LDCs, marketers, consumer groups, government agencies, and the NYPSC. Issues such as metering and billing and last resort service that also relate to electric utilities will be decided in connection with electric utility restructuring.

New York Selected Regulatory Actions:

12/99	Order Concerning Reliability. Requires each LDC to submit a Gas Transportation Procedures Manual that describes the LDC's services, day-to-day and critical period operating procedures, and the rights and responsibilities of gas marketers and direct customers. Order also established procedures to reexamine gas curtailment issues, established a default position on capacity requirements that requires marketers to have firm primary delivery point capacity for the 5 winter months, and established a process to explore long-range capacity dedication issues. Comments on these issues were due March 31, 2000.
8/99	Order Concerning Issues Associated with Future of Natural Gas Industry and Role of LDCs, Case 97-G-1380. Continues requirement that marketers with firm service customers have "firm, non-recallable, primary delivery point capacity for November through March" or as an alternative provide firm, secondary capacity and pay "standby charges" to the LDC for backup service. LDCs are to establish their standby charges for the 1999-2000 heating season by October 1, 1999. Also by that date marketers are to indicate their interest in such service and then confirm that interest by October 15, 1999. An LDC who releases 7 months of capacity at maximum rates would be considered to have met the PSC's directive to minimize stranded costs.
3/99	Stranded Costs. Order Concerning Capacity Assignment, Case 97-G-1380 et al. LDCs are to establish mechanisms (to be called "transition surcharges") for recovery of stranded capacity costs. The unit rates for upstream capacity cost recovery should be applied on a volumetric basis using the gas cost adjustment clause and a surcharge on post-aggregation firm transportation customers. LDCs must continue to offer capacity to parties that desire it; the cost of that capacity will be based on the LDCs weighted average cost of capacity. Stranded capacity cost calculations shall include all capacity release credits associated with the nonassigned upstream capacity after April 1, 1999.
2/99	Order Concerning Recovery of Stranded Capacity Costs: Emergency Measure, Case 98-G-1785 et al. Requires LDCs to review tariffs to ensure that transportation customers are not receiving system reliability benefits without paying for them. States that LDCs may recover "prudent" stranded capacity costs from all firm sales and post-aggregation firm transportation customers (after 3-28-96 order).
2/99	Opinion and Order Concerning Uniform Business Practices, Case 98-M-1343. Establishes guidelines for standardized retail access business practices across the electric and natural gas utilities, such as standards for marketer creditworthiness, customer information, billing practices, switching, slamming prevention, and dispute resolution process. These practices are to become effective on May 1, 1999.
11/98	Policy Statement on Issues Associated with Future of Natural Gas Industry and Role of LDCs, Cases 93-G-0932 and 97-G-1380. The PSC ordered that LDCs would stop selling gas and be completely out of the merchant business at the end of a 3-to-7-year transition period. By April 1, 1999, all LDCs would "cease assigning capacity to migrating customers." LDCs would remain the suppliers of last resort, at least in the short term. Negotiations on new rate terms and revenue requirements for LDCs during the transition period will be on a utility-specific basis. LDCs are to quantify the potential for stranded costs and devise mitigation plans and long-term rate plans that unbundle distribution and upstream costs. LDCs will continue to have access to sufficient supply and storage for system operation and can impose some restrictions on marketers in order to maintain system reliability. LDCs will also be responsible for customer educational programs.
3/96	Order Concerning Compliance Filings, Case 93-G-0932. The PSC approved LDC aggregation programs and allowed LDCs to "assign upstream capacity to aggregation customers for 3 years." LDCs were to report on their efforts to reduce "excess" capacity and mitigate stranded costs in filings due on April 1, 1998.

D. West Virginia

West Virginia has a comprehensive unbundling program for its residential gas customers. Unbundled service has been available to all natural gas customers in West Virginia since 1986. Under Senate Bill 117, passed in 1983, intrastate pipeline companies and local distribution companies (LDCs) were required to be common carriers. The procedural laws were completed in 1986 and covered all customer classes. In order to receive unbundled service, customers must install metering equipment or pay standby charges. In 1998, three LDCs reported transporting

customer-owned residential gas, but the total represented deliveries to only 40 of the state's 359,783 residential customers. In 1996, the Public Utility Commission (PUC) of West Virginia initiated a general investigation into ways to make customer choice easier by pooling customers, and filed proposed rules in June 1998. It is likely that the PUC will issue rules to minimize balancing charges in the near future.

Data:

In 1998, West Virginia had 359,783 residential customers who consumed 30 billion cubic feet (Bcf) of natural gas at an average price of \$7.29 per thousand cubic feet. The commercial market was much smaller, at 25 Bcf and 35,362 consumers. The average price paid by commercial customers for natural gas purchased from LDCs was \$6.26 per thousand cubic feet. Mountaineer Gas Company with more than 50 percent of the state's residential and commercial natural gas business in 1998, provided nearly all of the residential transportation business.

West Virginia's Status as of 1998: Number of Customers

Customer Type	Total	Eligible		Participating		
		Total	Percent of Total	Total	Percent of Eligible	Percent of Total
Residential	359,783	359,783	100	40	0.01	0.01
Commercial	35,362	35,362	100	1,797	5.08	5.08
Total	395,145	395,145	100	1,837	0.46	0.46

IV. Statewide unbundling - implementation phase

The Energy Information Administration has placed Colorado within this group of seven states that have begun to implement statewide programs.

A. California

California has partially implemented comprehensive unbundling programs for its residential customers. The state has had a customer choice program for all residential and small commercial customers (referred to as core customers) since 1995. As of May 1, 1999, only 3 to 4 percent of the core customers were participating in the choice programs available in three local distribution company ("LDC") service areas. The current participation level represents a decline from the initial 5-percent participation. While specific numbers are not available, small commercial customers appear to represent the majority of participants. The Core Aggregation Transportation program is an optional service that allows core customers to purchase gas from the marketers who have met certain minimum aggregation levels. These levels are 250,000 therms per year (approximately 470 residential customers) in the San Diego Gas & Electric and Southern California Gas Company service areas or 120,000 therms per year in the Pacific Gas and Electric service area. Customers must sign a one-year agreement to purchase gas from a non-LDC supplier. Legislation was passed in October 1999 that mandates that LDCs provide bundled service and be the only providers of billing and metering services. However, it exempts existing

core aggregation programs and includes a provision that consumers can choose to purchase gas from another supplier.

Data:

In 1998, California had 9,181,928 residential and 588,224 commercial customers. They consumed 550 and 282 billion cubic feet of natural gas, respectively. The average prices paid for natural gas purchased from local distribution companies by residential and commercial customers were \$6.92 and \$6.37 per thousand cubic feet, respectively. The average city gate price in the state was \$2.38 per thousand cubic feet. More than 90 percent of the state's residential and commercial customers are served by three local distribution companies: San Diego Gas & Electric, Southern California Gas Company, and Pacific Gas and Electric.

Summary of Regulatory and Legislative Actions on Retail Unbundling:

The California Public Utilities Commission ("PUC") endorsed restructuring in a collaborative settlement by Pacific Gas and Electric ("PG&E") and 25 other companies on August 1, 1997, known as the Gas Accord, which gave all PG&E customers the option to purchase gas from other suppliers. In January 1998, the PUC opened a docket to investigate the possibility of restructuring gas markets statewide. After a series of hearings, the PUC identified the most promising options to consider for further study and ordered a cost/benefit analysis of these options with the intent of preparing a report of recommendations for consideration by the state legislature. Legislation was enacted in August 1998 that prohibited the PUC from taking any restructuring action before 2000. This legislation was superseded in October 1999 by Assembly Bill 1421 that mandates bundled service by utilities and requires them to be the sole providers of billing and metering services. The PUC is continuing its hearings as preparation for its intended report to the legislature.

California Selected Regulatory and Legislative Actions:

Legislation	10/99	Legislation Mandating Bundled Service by Utilities (Assembly Bill 1421). Supersedes prior law that prohibited PUC action on restructuring before 1/1/2000. Mandates that LDCs provide bundled service and be the only providers of billing and metering services. However, it exempts existing core aggregation programs and includes a provision that consumers can choose to purchase gas from another supplier.
	8/98	Legislation Allowing PUC To Investigate Restructuring But Limiting Action (Senate Bill 1602 enacted 8/28/98, creating Section 328 of Public Utility Code). Legislation allows PUC to investigate restructuring but prohibits any action until 1/1/2000 and disallows any restructuring decisions made after 7/1/98 affecting core customers.
Regulatory Action	7/99	New Docket for Considering Costs and Benefits of Various Promising Restructuring Options (99-07-003). The PUC opened a new docket to address the benefits and service costs of various "promising" restructuring options, including effects on labor, safety, consumers, and environment. The order sets a 60-day period for parties to reach consensus on a new market structure that would also allow LDCs to continue offering full service to its core customers. If no consensus is reached, testimony and hearings are scheduled for Sept – Dec 1999. At the end of hearings, the PUC intends to report its findings to the legislature.
	8/98	Goals of PUC Inquiry. Interim Order, D.98-08-30. The PUC set goals of inquiry and short-term steps to aid in assessing possible market reform. Stated goals are to: complement benefits of electric restructuring, eliminate unnecessary cross-subsidies,

		remove unnecessary market barriers, enhance competition by unbundling supply and distribution services, ensure service reliability and safety, provide sufficient consumer protection, and ensure rates reflect cost of service.
	1/98	Investigation into Restructuring Natural Gas Markets. The PUC opened Order Instituting Rulemaking (OIR) R.98-01-011 on 1/21/98 to assess existing regulatory and market structures and possible reforms that would lead to more competitive markets and energy convergence.

B. Georgia

Georgia has implemented a comprehensive unbundling program for the majority of its residential gas customers. As of October 1, 1999, all residential natural gas customers (approximately 1.4 million) in Atlanta Gas Light Company's ("AGL") service territory purchase their supply directly from marketers certified by the Georgia Public Service Commission ("PSC"). This represents more than 80 percent of the residential gas customers in the state. AGL no longer provides sales service but continues to provide distribution and transportation services. The state legislature passed the Natural Gas Competition and Deregulation Act in 1997, which allows the state's two investor-owned utilities (AGL and United Cities Gas Company) to unbundle services. Accordingly, AGL chose to offer supplier choice to its customers in November 1998. United Cities Gas, on the other hand, has not unbundled its supply.

By May 1999, enough consumers had chosen service from marketers that the PSC determined that sufficient competition existed in AGL's market area to allow the company to exit the merchant function. On July 28, 1999, the Federal Energy Regulatory Commission granted AGL a 17-month extension on a waiver of the "shipper must have title" rule, which allows AGL to continue purchasing storage from interstate pipeline companies even though marketers own the gas rather than AGL. Marketers must be certified by the state and satisfy strict financial and technical standards.

When AGL's natural gas market was deregulated, 21 marketers were certified to do business. What appears to be developing now is a market of five major competitors with several smaller operations serving "niche" customers.¹ Two marketers have filed for bankruptcy in the past year. Titan Energy fell into a dispute with its wholesale supplier and was forced to purchase gas from another wholesaler at nearly double the price - at the same time it was locked into multiyear contracts to serve customers at below-market prices. Titan sold its 50,000 customers to Energy America in a bankruptcy auction. The other marketer to go bankrupt, Peachtree Natural Gas, went out of business in October 1999 due to billing problems and sold its customers to Shell Energy. It is important to note that the flow of gas to customers was never jeopardized by the bankruptcies.² Furthermore, about 8 percent of customers have switched marketers since the start of deregulation.³

Data:

In 1998, Georgia had 1,659,730 residential and 126,050 commercial natural gas customers. They consumed 107 and 55 billion cubic feet of natural gas, respectively. The

¹ Matthew C. Quinn, *Gas Marketers Thin Out as Deregulation Advances*, The Atlanta Journal - Constitution (July 16, 2000).

² *Id.*

³ *Id.*

average prices paid for natural gas purchased from local distribution companies by residential and commercial customers were \$6.78 and \$6.00 per thousand cubic feet, respectively. The average city gate price in the state was \$3.51 per thousand cubic feet.

Georgia's Status as of February 2000: Number of Customers

Customer Type	Total 1998	Eligible		Participating		
		Total	Percent of 1998 Total	Total	Percent of Eligible	Percent of 1998 Total
Residential	1,659,730	1,370,421	82.6	1,370,421	100	82.6
Commercial	126,050	103,150	81.8	103,150	100	81.8
Total	1,785,780	1,473,571	82.5	1,473,571	100	82.5

Summary of Regulatory and Legislative Actions on Retail Unbundling:

The Georgia General Assembly enacted the Natural Gas Competition and Deregulation Act and Alternative Form of Regulation Act in April 1997, which allows companies other than utilities to sell natural gas to residential consumers and alters the regulatory framework of the state's natural gas industry. The PSC has set rules to protect consumers from unauthorized switching and selected Shell Energy Services to serve as the interim pooler in case a marketer should go out of business. The PSC also posts a monthly "scorecard" on its web site showing the number of complaints received about marketers as to billing, service, and deceptive marketing practices.

Georgia Regulatory and Legislative Actions:

Legislation	4/99	Legislative Amendment. HB 822. Amends the Natural Gas Competition and Deregulation Act. Allows the PSC to set more general criteria for determining that adequate market conditions exist in a particular delivery area. Removes requirement that alternative suppliers account for one-third of peak-day market before customers who have not chosen an alternative provider can be randomly assigned a service provider.
	4/97	The Natural Gas Competition and Deregulation Act, O.C.G.A. § 46-4-150 et seq and Alternative Form of Regulation Act (O.C.G.A. § 46-2-23.1 et seq). The legislation provides guidelines for the unbundling of Georgia's natural gas industry and directs the PSC to set rules accordingly. An LDC may be released from the obligation to provide merchant service when at least five marketers (unaffiliated with the LDC) are operating within a service area and account for at least one-third of the area's peak-day requirements (applies until 9/30/01). It gives the PSC authority to certify marketers and to specify how to deal with issues of stranded costs. The legislation establishes a sharing mechanism for profits from capacity release during the transition and a method for assigning capacity to marketers. It also directs the PSC to establish and administer a universal service fund to help assure natural gas availability and service. The legislation does not affect gas companies owned by municipalities or other governmental entities.
	2/00	Anti-Slamming Rules Approved (see 6/99).
	11/99	Interim Pooler. Shell Energy Services was selected to serve as the interim pooler. The PSC had asked for applications from marketers by 11/3/99 to serve as interim suppliers if a marketer should go out of business.
	6/99	Anti-Slamming Provisions. The PSC proposed rules to protect gas consumers from

		unauthorized switching of suppliers ("slamming") or from being charged for unauthorized services ("cramming"). Offenders can be fined up to \$15,000 and could lose certification. Marketers are to be required to keep documentation for 1 year that would verify a customer's request to switch.
	5/99	Competitive Market Determination. The PSC determined that market conditions in the Atlanta Gas Light service area are sufficiently competitive to deregulate sales service in the area, as 33 percent have chosen alternative suppliers. AGL customers will have to select a marketer by August 11, 1999, or the PSC will randomly assign them to one, based on the marketer's market share at that time. AGL will continue to sell gas until October 1, 1999, after which it will provide solely distribution services.
	1/99	AGL Customer Refund. Docket 10270-U. The PSC approved a settlement between Atlanta Gas Light, the Consumers Utility Counsel, and the PSC staff that revised the utility's rates and required a \$14.5 million refund to its customers. Rates will be based solely on the amount of gas actually consumed rather than including any charges for interstate pipeline capacity.
	11/98	Customer Assignment. Notice of Proposed Rules (NOPR) Concerning Random Customer Assignment, Docket 8053. New Rule (515-7-4). The PSC will randomly assign unassigned customers to marketers based on the total market share of the marketers on the 100 th day following determination that adequate competitive market conditions exist for the delivery group.
	10/98	Marketer Certification. The PSC issued certificates to 19 gas marketers, allowing them to provide natural gas service to retail customers in the AGL delivery area.
	9/98	Relationship Between AGL and Marketers. Partial Order on Motions to Reconsider Re AGL Filing of Election and Application for New Rates, Docket 8390-U. Requires that AGL, at its own expense, provide additional information to certified marketers, such as customers' names, service and billing addresses, SIC code (commercial customers) design day requirements, 12-month consumption data, billing cycle, and meter type. Increases the monthly discount a marketer receives for service bought on AGL on behalf of others. Directs AGL to unbundle its storage and peaking services. If a marketer uses third-party no-notice storage or peaking service, AGL can't impose balancing charges. Marketers must receive permission to own or install a meter.
	6/98	Restructuring Rules. PSC issued rules to implement the Natural Gas Competition and Deregulation Act and set the rates that AGL can charge during the transition period to deregulation. Marketers must apply for certification by July 16 to be eligible to sell gas in fall 1998. Customer choice in the AGL service area begins November 1, 1998, and customers will be allowed to change gas providers once during a year without incurring a switching fee. Marketers cannot receive customer information unless the customer has given authorization. Other rules pertain to ancillary services, daily balancing, and the requirement that AGL has an electronic bulletin board operating by November 1, 1998.
	2/98	Universal Service Provisions. NOPR Relating to Universal Service Fund, Docket 7604-U. Sets requirements for establishing and administering a universal service fund to help assure natural gas availability and service and to expand necessary facilities.
	12/97	Marketer Certification. Rule Concerning Marketers' Certificates of Authority, Docket 8044-U. Marketer applications must include company financial information and technical information that demonstrate capability to provide reliable service.
	12/97	Random Assignment. PSC issued proposed rules to implement the Natural Gas Competition and Deregulation Act. The rules include criteria for random assignment of customers to marketers once competitive conditions are determined to exist within a delivery area.

C. Maryland

Maryland has partially implemented comprehensive unbundling programs for its residential gas customers. As of February 2000, over 80 percent of Maryland's residential customers may select their gas supplier under comprehensive programs in place for the state's three largest local distribution companies ("LDCs"): Baltimore Gas & Electric ("BG&E"), Washington Gas Light ("WGL"), and Columbia Gas of Maryland. All of BG&E's and WGL's residential customers may choose their natural gas supplier, while the CGMD pilot program is capped at 10,000 customers (approximately 10 percent of its total number of residential customers). Until November 1, 1999, the BG&E program had been capped at 50,000. As of February 2000, more than 160,000 residential customers in the state buy gas from non-utility suppliers. Supplier requirements (reliability and customer protection) are regulated through utility tariffs and other Commission approved requirements. The Commission does not currently license suppliers (although it is likely legislation will require all suppliers to be licensed prior to July 1, 2001).⁴ Violations can disqualify a supplier from delivering gas to a residential customer through utility's distribution system.

Data:

In 1998, Maryland had 901,455 residential and 67,850 commercial natural gas customers. They consumed 68 and 57 billion cubic feet of natural gas, respectively. The average prices paid for natural gas purchased from local distribution companies by residential and commercial customers were \$8.29 and \$6.65 per thousand cubic feet, respectively. The average city gate price in the state was \$4.12 per thousand cubic feet.

Maryland's Status as of January 2000: Number of Customers

Customer Type	Total 1998	Eligible		Participating		
		Total	Percent of 1998 Total	Total	Percent of Eligible	Percent of 1998 Total
Residential	901,455	742,493	82	161,129	22	18
Commercial*	67,850	67,850	100	NA	NA	NA
Total	969,305	810,343	84	--	--	--

NA= not available.

Summary of Regulatory and Legislative Actions on Retail Unbundling:

In February 1995, the Maryland Public Service Commission ("PSC") began a "roundtable" collaborative process with the state's three largest LDCs to unbundle natural gas services. Since then, the PSC has approved several customer choice programs developed by the LDCs. The first programs extended choice only to commercial and industrial customers, but now all three LDCs have choice opportunities for residential customers. As of November 1, 1999, all BG&E and WGL residential customers can choose their own gas supplier, as can 40 percent (about 10,000) of CGMD's residential customers. The programs include customer protection requirements and require that participating marketers be financially sound and have

⁴ Maryland Public Service Commission, "Choice for Maryland Residential Gas Customers," available online at www.psc.state.md.us/psc/Choice/ResidentialGasChoice.htm.

sufficient upstream capacity to ensure reliable service. The LDCs determine which marketers can operate in their service areas.⁵ The LDC is the supplier of last resort.

Maryland Regulatory and Legislative Actions:

Regulatory Actions	10/99	<p>Status of Customer Choice Programs in MD. The PSC reported on the status of the state's three LDC customer choice programs: As of July 1999, about 81,500 residential customers were enrolled, accounting for 8.3 million decatherms (Dth) in annual volumes. Pilot phase of WGL's program ended Oct. 31, 1998, and pilot phase of BG&E's on Oct 31, 1999. Effective 11/1/99, all BG&E's residential customers can choose their own supplier. All customers in BG&E's and WGL's choice programs pay a stranded cost surcharge. All BG&E, WGL, and CGMD industrial and commercial customers can choose their own supplier. As of 7/99, 17,135 smaller volume commercial customers were participating with an annual throughput volume of 22.6 million Dth. Two other LDCs (Chesapeake Utilities and NUI/Elkton) are in the process of developing customer choice programs.</p>
	2/98	<p>Affiliate Transactions. Order 74038 Re Affiliate Transactions and Standards of Conduct, Case 8747. Establishes code of conduct governing relationships between a utility and its affiliates, differentiating between standards to be applied to all affiliate activities and those applicable only to energy-related ("core-service") affiliates. A utility may not give its affiliates (or affiliates' customers) any preference in providing regulated services; may not tie regulated service to any other product; and may not disclose any customer-specific information (unless requested by customer). Joint use of equipment and certain personnel by affiliates and utilities is allowed as long as costs are allocated on a fully distributed cost basis. In a sale or transfer, utility assets are the tangible property included in a utility's rate base. Utilities must offer billing services to nonaffiliated energy marketers (but not to other nonaffiliates) so that customers can have a one-bill option. Affiliates can borrow funds from the utility at market rates upon review and approval by the PSC. Promotional materials can identify associations between utilities and affiliates (including logos) but joint promotions are prohibited unless offered to other competitors. When an affiliate uses a utility's name or logo, it must include a disclaimer that the companies are separate entities.</p>
	4/95	<p>Cost Allocation Issues. Investigation into Allocation of Costs Between Regulated and Unregulated Business Activities of the Baltimore Gas and Electric Company, Case 8577. Adopts four cost allocation principles: •Costs must be allocated on a fully distributed basis. •In transactions in which BG&E provides benefits to its affiliate, the cost of services are to be based on the full cost, including direct and indirect. •For services that BG&E could market to the public, their fair market value is to allocated as the imputed cost to the affiliate for these services. •Asset transfers will be governed by asymmetric pricing principles (see 2/98 order).</p>
	2/95	<p>Roundtable Collaborative. Directed the formation of a collaborative LDC roundtable process to develop unbundled services for customers of the state's three largest LDCs (BG&E, WGL, and CGMD). Consensus on unbundling issues would allow the LDCs to file unopposed restructuring plans with the PSC.</p>

⁵ Supplier authorization is carried out through utilities. Although the Maryland PSC does not currently license gas suppliers, it is likely that legislation will require all suppliers to be licensed prior to July 1, 2001. See Maryland Public Service Commission status report, online at www.psc.state.md.us/psc/Choice/OverallGasChoiceStatus.htm

D. Massachusetts

Massachusetts has partially implemented comprehensive unbundling programs for its residential gas customers. The state is using a collaborative effort to develop a program of unbundled retail natural gas service for customers of the 10 investor-owned local distribution companies ("LDCs") in the state. Participants in the collaborative include the LDCs, marketers, consumer groups, government agencies, and the state regulatory agency, the Department of Telecommunications and Energy ("DTE"). The program was scheduled to begin on April 1, 2000, but it has been delayed. In July 1996, Bay State Gas Company began a pilot program for residential consumers that remains the only residential choice program in the state. On February 1, 1999, DTE issued Order DTE 98-32-B, which outlines many of the terms and conditions for the retail choice program. For the first 3 years of the 5-year transition period, LDCs will continue to be responsible for assuring upstream capacity on interstate pipelines. In the mean time, DTE and the collaborative participants will work out the details of capacity assignment and cost recovery for LDCs as interstate pipeline capacity is shifted to marketers. (The Bay State program remains in the pilot phase and is expected to be adapted to the statewide standards as they continue to evolve.)

Data:

In 1998, Massachusetts had 1,212,486 residential and 108,832 commercial customers who consumed 102 and 90 billion cubic feet of natural gas, respectively. The average prices paid for natural gas purchased from LDCs by residential and commercial customers were \$9.42 and \$7.32 per thousand cubic feet, respectively. The average city gate price in the state was \$4.01.

Eligibility/Participation in Retail Choice Programs:

The Bay State Gas Company reports the following number of customers involved in its Choice Advantage Pilot Program. The small business category includes commercial or industrial customers using less than 5,000 therms per year.

Massachusetts' Status as of February 2000: Number of Customers

Customer Type	Total 1998	Eligible		Participating		
		Total	Percent of 1998 Total	Total	Percent of Eligible	Percent of 1998 Total
Residential	1,212,486	83,000	7	17,024	21	1
Small Business	NA	16,000	--	2,712	17	--
Total	--	99,000	--	19,736	20	--

NA = Not available. -- = Not applicable.

Summary of Regulatory and Legislative Actions on Retail Unbundling:

Retail unbundling was scheduled to begin April 1, 2000, but it has been delayed. On February 1, 1999, the Massachusetts Department of Telecommunications and Energy ("DTE") issued Docket 98-32-B, outlining many of the terms and conditions for the retail choice program, including a 5-year transition period. Because DTE found that the upstream, interstate capacity market is not competitive, local distribution companies ("LDCs") will retain the responsibility for acquiring interstate pipeline capacity, but the situation will be reviewed after 3 years. The

order was the outcome of an industry-wide collaborative process that was initiated by DTE on 7/18/97. Participants in the collaborative include the state's 10 investor-owned LDCs, marketers, consumer groups, government agencies, and the DTE. During the transition period, the DTE and other collaborative participants will work out the details of capacity assignment and cost recovery for LDCs as interstate pipeline capacity is shifted to marketers. Since February 1, 1999, some agreements have been reached and new dockets opened to consider various aspects of the retail choice program.

Massachusetts Regulatory Actions:

12/99	Proposed Regulations for Unbundled Market. On 12/17/99, DTE opened docket DTE 98-32-E to consider regulations proposed by LDCs to govern unbundled service.
11/99	Proposed Model Terms and Conditions. On 11/15/99, DTE opened docket DTE 98-32-D to consider Supplemental Model Terms and Conditions submitted by LDCs. The proposal covers capacity assignment, default service, and peaking service.
10/99	Portfolio Auction Contracts. On 10/18/99, DTE approved the 3-year gas supply portfolio auction contract by Boston Gas, Colonial Gas, and Essex Gas. On 10/20/99, DTE approved the 1-year capacity auction of its gas supply resources by Berkshire Gas.
4/99	Agreement on Interim Capacity Assumptions. On 4/2/99, DTE approved a settlement agreement concerning interim capacity assumptions. The settlement was designed to facilitate the assignment of capacity costs during the transition to an unbundled market, pending the completion of model terms and conditions, regulations for the unbundled market, interruptible transportation, and an initial assignment of downstream capacity.
2/99	Retail Unbundling Order, DTE 98-32-B. The Massachusetts DTE ordered that unbundled gas services would begin Nov. 1, 1999, under a 5-year transition period. LDCs will remain responsible for acquiring upstream capacity with review after 3 years. Cost allocation issues will also be reviewed. Upstream Capacity Allocation - LDCs must provide "default service" to any customer that does not choose an alternative supplier or returns to the LDC for service. Capacity will be assigned to others through a mandatory assignment mechanism at maximum tariff rates (LDCs annual cost) with LDCs having recall rights. The "migrating" customer will be assigned its pro rata share of upstream pipeline and storage capacity based on its contribution to peak-day demand. Once the capacity is assigned to an alternative supplier, the supplier will have the ability to remarket the capacity and serve its customers with any combination of resources it has available. Downstream Assets. LDCs must unbundle downstream assets (storage facilities for propane or liquefied natural gas) and make them available to competitors to the extent that operations permit. DTE expects that eventually these assets will be available to marketers on a fully competitive basis.
11/98	LDC and Marketer Agreement on Model Terms and Conditions for Unbundled Service. DTE approved the settlement agreement concerning model terms and conditions for unbundled gas distribution services proposed on 7/10/98 by the LDCs and the marketer group (http://www.magnet.state.ma.us/dpu/gas/98-32-a/98-32-a.htm) The two groups agreed to most sections of the document. By entering into the agreement, both groups agreed that the settlement "shall serve as the basis for LDC compliance filings" and that individual LDCs may propose, and must fully support, any modifications to the settlement made in these filings.
3/98	Collaborative Report. The Massachusetts Gas Unbundling Collaborative reported its progress in developing a common set of principles for the comprehensive unbundling of natural gas services in the state http://www.magnet.state.ma.us/dpu/gasunb.htm . While consensus was reached on many points, there was no consensus on the disposition of capacity and any associated cost responsibility, and DTE's guidance was requested.
7/97	Massachusetts Gas Unbundling Collaborative. The Department of Public Utilities, now the Department of Telecommunications and Energy (DTE), issued "Comprehensive Unbundling of Natural Gas Local Distribution Companies' Services" (http://www.magnet).

state.ma.us/dpu/gasunb.htm>), which directed the state's 10 investor-owned LDCs to initiate an industry-wide collaborative process to develop a common set of principles for the comprehensive unbundling of natural gas services in the state. The Department referred to the principles in its electric restructuring docket (DPU 95-30) as a guide for unbundling in the natural gas industry. As a result of the directive, the LDCs formed the Massachusetts Gas Unbundling Collaborative. One of the LDCs, Bay State Gas Company, had already begun its own collaborative effort related to its company-specific unbundling filing. Other participants were marketers, customer groups, state government agencies, and DTE.

E. Ohio

Retail unbundling by the major gas utilities in Ohio is being implemented through Ohio Public Utilities Commission ("PUCO") orders and stipulations with each individual company. Unbundled service in the residential and small commercial sectors began with a pilot program for Columbia Gas of Ohio customers in April 1997. Pilot programs for Cincinnati Gas & Electric and East Ohio Gas began in late 1997. In June 1998, the Commission allowed the Columbia Gas and Cincinnati Gas & Electric programs to expand to include all customers in their service territories. The East Ohio Gas program is expected to be expanded systemwide by the third quarter of 2000. There are no current plans to establish a program for Dayton Power & Light pending the sale of its gas operations.

Data:

In 1998, Ohio had 3,050,960 residential and 258,076 commercial customers. They consumed 297 and 157 billion cubic feet of natural gas, respectively. The average prices paid for natural gas purchased from local distribution companies by residential and commercial customers were \$6.43 and \$5.83 per thousand cubic feet, respectively. The average city gate price in Ohio was \$4.70 per thousand cubic feet.

Ohio's Status as of February 2000: Number of Customers

Customer Type	Total 1998	Eligible		Participating		
		Total	Percent of 1998 Total	Total	Percent of Eligible	Percent of 1998 Total
Residential	3,050,960	1,716,873	56	572,099	33	19
Commercial*	258,076	141,523	56	53,736	38	21
Total	3,309,036	1,858,396	56	625,835	34	19

LDC Customer Data as of February 2000 from the Public Utilities Commission of Ohio

Local Distribution Company	Number of Customers			
	Residential		Small Commercial	
	Eligible	Participating	Eligible	Participating
Columbia Gas of Ohio	1,200,000	500,000	94,000	46,204
Cincinnati Gas & Electric	360,000	43,659	35,070	4,769
East Ohio Gas	156,873	28,440	12,453	2,763
Total	1,716,873	572,099	141,523	53,736

Summary of Regulatory and Legislative Actions on Retail Unbundling:

The Ohio General Assembly passed the Natural Gas Alternative Regulation law in June 1996, which sets customer choice as a state goal in the provision of natural gas services. In March 1997, the Public Utilities Commission of Ohio ("PUCO") adopted rules to implement this alternative regulation legislation. Currently, the PUCO is coordinating customer choice programs in the delivery areas of three local distribution companies with a total customer base of about 1.9 million. The PUCO has developed a series of price comparison charts known as "Apples to Apples" to provide customers with price information from the various marketers.

F. Pennsylvania

Pennsylvania has begun to implement comprehensive unbundling for its residential gas customers. The Pennsylvania General Assembly passed the Natural Gas Choice and Competition Act on June 17, 1999, which essentially provides for statewide unbundling for all residential and small commercial gas customers by July 1, 2000. The Act requires all local distribution companies ("LDCs") with annual gas operating revenues of \$6 million or greater to file restructuring plans with the Pennsylvania Public Utility Commission ("PUC") by November 1, 1999. It also provides for licensing requirements for all would-be gas suppliers, includes procedures for ensuring their financial fitness, and initially designates LDCs as "suppliers of last resort." The Act also subjects municipally-owned natural gas distribution systems to regulation by the PUC. This means that all municipal systems in the state, including Philadelphia Gas Works, the nation's largest municipal system, will be required to offer their customers a choice of suppliers. In a related action, legislation was signed on May 5, 1999 that eliminates the state gross receipts tax on the sale of natural gas, effective January 1, 2000.

Data:

In 1998, Pennsylvania had 2,493,639 residential and 216,519 commercial natural gas customers who consumed 218 and 131 billion cubic feet of natural gas, respectively. The average prices paid for natural gas supplied by LDCs to residential and commercial customers were \$8.45 and \$7.43 per thousand cubic feet, respectively. The average city gate price in Pennsylvania was \$4.12 per thousand cubic feet.

Eligibility/Participation in Retail Choice Programs:

Retail unbundling in Pennsylvania began in November 1996 with the implementation of pilot programs by Columbia Gas of PA (August 1996) and Equitable Gas Company (September 1996). Approximately 25,000 residential and small commercial customers were eligible to participate in these early programs. In 1997, three additional LDCs initiated customer choice programs (PG Energy, Inc., National Fuel Gas Distribution Corp., and People's Natural Gas Company). The PUC estimates that over 855,000 residential and small commercial customers currently have the opportunity to choose an alternative supplier and approximately 30 percent of those eligible, or almost 257,000 customers, are participating.

Pennsylvania's Status as of June 1999: Number of Customers

Customer Type	1998 Total	Eligible		Participating		
		Total	Percent of Total	Total	Percent of Eligible	Percent of 1998 Total
Residential	2,493,639	NA	--	NA	--	--
Commercial	216,519	NA	--	NA	--	--
Total	2,710,158	855,391	32	256,617	30	9

NA = Not available. -- = Not applicable.

Summary of Regulatory and Legislative Actions on Retail Unbundling:

The Pennsylvania General Assembly passed the Natural Gas Choice and Competition Act in June 1999, which calls for statewide unbundling of the natural gas industry to begin on November 1, 1999, and be completed by July 2000. It directs natural gas distribution companies to file restructuring plans with the Pennsylvania Public Utility Commission that include provisions for supplier of last resort, universal service for low-income customers, and energy conservation. The PUC is in the process of formulating regulations to implement the legislation and has formed working groups to deal with safety and reliability, customer information disclosure, standards of conduct, and consumer education. The PUC also is formulating regulations concerning the licensing of natural gas suppliers. According to the schedule set by the PUC in July 1999, four LDCs were to file their restructuring plans in August 1999, two in October, three in December, and one in February 2000. Columbia Gas of Pennsylvania's restructuring plan was approved in December 1999.

Pennsylvania Regulatory and Legislative Actions:

Legislation	6/99	Natural Gas Choice and Competition Act (HB 1331). Provides for restructuring of the natural gas industry so that consumers can choose their own gas supplier. The act also deletes a 5.1-percent gross receipts tax on gas utility sales, effective 1/1/2000. A 6-percent "sales" tax will remain applicable to certain nonresidential customers. LDCs must file restructuring plans that unbundle all natural gas supply services and that specify system reliability standards and capacity contract mitigation guidelines. LDCs must also specify provisions for billing, dispute resolution, customer information, slamming prevention, etc. LDCs can continue merchant services and their affiliates can participate as marketers, abiding by code of conduct rules (interim rules adopted 11/18/99). Until 7/1/2002, an LDC can assign, release, or transfer capacity to licensed gas suppliers who in turn must accept the existing contract terms if they serve customers on the LDC's system. After 7/1/2002, the PUC can prevent assignments if it considers it warranted. Rates charged by LDCs are frozen until 2001, but LDCs can request permission to capitalize and defer costs over an "appropriate" period. LDCs can recover all costs incurred under transportation pilot programs approved before 2/1/99. Costs incurred under these pilots through 10/31/04 may be recovered if the volumetric charge does not exceed 1% of the LDC's approved volumetric charge for residential sales service. In 5 years (2004), the PUC is to evaluate the competitiveness of natural gas supply services in the state and report its findings to the General Assembly. If the market is not sufficiently competitive, further actions will be considered.
Regulatory Action	12/99	Approval of Columbia Gas Restructuring Settlement. The PUC approved customer choice for all Columbia Gas customers, as of November 1999. Customers can enroll over the Internet, by mail, or by telephone. The company will conduct a consumer education program and redesign its bill to allow easier price comparisons. The company also continues its obligation as the supplier of last resort.
	11/99	Standards of Conduct. Order Re Binding Interim Standards, Docket M-00991249 F0004. A utility may not give its affiliates any preference in providing regulated services; may not tie regulated service to any other product; and may not disclose any customer-specific information (unless requested by customer). Utilities and affiliates must maintain separate books and records and any use of a utility's logo by an affiliate in the state must be accompanied by a disclaimer stating that the companies are separate entities and that the affiliate is unregulated.
	11/99	Slamming Prevention. Proposed Rulemaking Re Procedures To Ensure Customer Consent to Change of Natural Gas Suppliers, Docket M-00991249F0006. Customers need to contact NGSs directly to initiate a provider change. If an intended switch has been verified (oral or written confirmation), the NGS is to notify the LDC by the end of the next business day. By

		the end of the next business day after receipt of the notification, the LDC is to send a written confirmation to the customer that includes notice of a 10-day waiting period in which the switch can be canceled. If a customer alleges that a switch occurred without consent, the matter is considered to be a customer registered dispute. The utility company must investigate and respond consistent with the PUC's regulations applicable to utility company dispute procedures. Unauthorized switching could result in fines being assessed and/or licenses being revoked. Companies are to keep records related to a switching dispute for 3 years.
	10/99	Customer Information. Order Re Customer Information Disclosure Requirements, Docket M-009991249 F0005. Provides interim guidelines on customer information so that prices and services can be compared. Defines terminology to be used and gives guidelines for bill format, marketing materials, and disclosure statements. Companies sending customer bills must first have their sample bills reviewed by the PUC. Bills must separate the gas distribution company (LDC) charges from the gas supplier (marketer) charges and list basic charges (for services required for physical delivery of the gas to the customer) before nonbasic (for optional recurring services) ones. Customers are entitled to receive historical billing information at no charge at least once a year. Information about a customer cannot be provided to a third party unless the customer has been notified and given the opportunity to restrict the release of information. Customers must also be notified about the process for settling disputes.
	8/99	Service Quality. Order Re Guidelines for Maintaining Service Quality, Docket M-00991249F0003. Provides guidelines for maintaining service quality under retail competition at the same level as at enactment date of the Natural Gas Choice and Competition Act and in compliance with mandated standards and billing practices. LDCs are to handle all applications for new service and develop procedures for giving customers a choice of an alternative gas supplier, giving all NGSs equal treatment. LDCs are to provide service in the interim. LDCs and NGSs are to coordinate procedures related to customer requests for the discontinuation of service and account transfers, as per existing legislation.
	7/99	Restructuring Filings. Order: Natural Gas Choice and Competition Act Filing Requirements, Docket M-00991249. Provides framework for LDCs restructuring filings. Requires LDCs to address how supply services will be unbundled and the methodology proposed to identify and separate costs. LDCs must specify provisions for: (1) billing, including formats for customers who wish a single bill for supply and distribution services and for those who wish separate bills; (2) compliance with supplier of last resort requirements; (3) resolving customer complaints about billing and about NGSs; (4) compliance with safety and reliability standards, including how system's balancing services operate; (5) addressing any limitations associated with receiving supplies at a receipt point; (6) assessing non-performance penalties, (7) proposed standards of conduct for LDC marketing activities; (8) universal service and energy conservation programs; (9) establishing working groups; (10) consumer education programs, including expected costs and proposed cost recovery mechanism; and (11) recovery of deferred costs.
	7/99	Licensing of Natural Gas Suppliers. Order: Requirements for Natural Gas Suppliers, Docket M-00991248F0002. All NGSs must have a license issued by the PUC, including those companies operating in pilot programs in the state. Applicants must meet bonding requirements of the LDC in whose delivery area they are providing services and show that they are financially and technically fit to meet system reliability standards "consistent with the public interest" and the LDC's supplier-of-last-resort obligation. The PUC may limit its oversight of NGSs to bonding, reliability, and consumer services and protections (which include compliance with legislated standards and billing practices for residential utility service).

V. Examples of Pilot Projects/Partial Unbundling

There are currently fourteen states that have initiated pilot programs or partial unbundling. Because the Colorado statute envisions a greater degree of participation once

utilities submit their voluntary plans, these states are given limited treatment here. Montana, Nebraska, and Wyoming are provided to serve as a regional examples of pilot programs that are being used as part of a greater plan to possibly move towards full competition.

A. Montana

Montana has two pilot unbundling programs for residential gas customers. Two local distribution companies (LDCs) in Montana, serving nearly 90 percent of the state's residential customers, have initiated customer choice pilot programs. Montana Power Company began its program in November 1998 and offered natural gas supplier choice to approximately 11,000 of its residential and small commercial customers. Energy West Resources began its program in October 1999, which is open to all of its residential and small commercial customers. Although the Montana Public Service Commission does not collect specific information on participation levels, it estimates that 0.05 percent (about 1,200) of residential and small commercial customers have signed up for alternative suppliers. The Natural Gas Restructuring and Customers Choice Act was passed in 1997. Under this act, gas utilities may voluntarily offer their customers a choice of supplier. Customers served by LDCs that have implemented customer choice programs are required to choose a non-utility gas supplier by 2002.

Data:

In 1998, Montana had 218,851 residential and 28,065 commercial customers who consumed 19 and 13 billion cubic feet of natural gas, respectively. The average prices paid for natural gas purchased from LDCs by residential and commercial customers were \$5.25 and \$5.13 per thousand cubic feet, respectively. The average city gate price in Montana was \$2.43 per thousand cubic feet.

Summary of Regulatory and Legislative Actions on Retail Unbundling:

The Natural Gas Restructuring and Customers Choice Act was passed in 1997, which allows gas utilities voluntarily to offer their customers a choice of supplier and provide open access to their transmission, storage, or distribution facilities. All utilities providing customer choice must unbundle services and remove natural gas production and gathering from the rate base. Customers served by LDCs that have implemented customer choice programs are to choose a non-utility gas supplier by July 1, 2002. The Montana Public Service Commission has adopted several rules to implement the new legislation and guide the transition to a competitive retail natural gas market.

Montana Regulatory and Legislative Actions:

Legislation	5/97	Natural Gas Utility Restructuring and Customer Choice Act, SB396. The 1997 Montana Legislature enacted the "Natural Gas Utility Restructuring and Customer Choice Act," which became effective 5/22/97 (Ch. 506, L. 1997). The law allows competition for the supply of natural gas and electric service and permits regulated utilities to file restructuring plans. The Montana Public Service Commission (PSC) is to adopt rules to implement the new laws.
Regulatory Action	6/99	Rules Adopted re Customer Information and Protection. Suppliers must obtain written authorization from consumers and provide a contract specifying service terms before switching suppliers. All contracts must have a "uniform information label" to

		allow consumers to compare price and contract terms. Other rules cover service disconnections, complaint procedures, billing, and supplier of last resort provisions.
	12/98	Approval of Great Falls Gas Co. (now doing business as Energy West Montana) Restructuring , Docket D98.3.68, Order 6064b, Final Order. The PSC approved open access and customer choice on Great Falls' system. Full choice for residential and small commercial customers is set to begin on 10/1/99, with open season starting 5/1/99. By the end of the second year of choice, Great Falls is to file a plan for assigning customers who have not chosen a supplier.
	9/98	Hearing on Great Falls Gas Co. Proposed Choice Program . In March 1998, Great Falls Gas Co. filed a restructuring plan that would unbundle services for its residential and small commercial customers. Customers would have until October 1999 to choose a new gas supplier or continue traditional service with the supplier selected by Great Falls Gas. Great Falls would stop selling gas in October 1999 and offer only distribution and transportation services. Stranded costs would be assigned to its affiliate Energy West, which would provide management services for 5 years.
	8/98	Approval of Montana Power Company's (MPC) Pilot Program Application , Docket D98.2.28, Order 6061a. The PSC approved MPC's plans for a pilot choice program as specified in PSC's final order on 10/97. The program will begin November 1998 and offer natural gas supplier choice to approximately 11,000 residential and small commercial customers (up to 0.5 billion cubic feet of MPC's annual load). All MPC customers are to choose gas suppliers by July 1, 2002.
	6/98	Natural Gas Restructuring Rules . The PSC adopted rules to implement the Natural Gas Utility Restructuring and Customer Choice Act. The rules cover utility restructuring, provider conduct, supplier licensing, and universal system benefits programs. Gas suppliers must be licensed by the PSC, maintain an electronic registration with the PSC, and submit annual reports on services provided, quality and reliability of service, and company organizational structure (affiliates, etc).
	10/97	Approval of Montana Power Company's (MPC) Restructuring , Docket D96.2.22, Order 5898d, Final Order. The PSC approved a settlement agreement between MPC, the Consumer Counsel, and other parties, which phases in customer choice for MPC customers. The minimum threshold for transportation service is reduced from 60,000 to 5,000 dekatherms/year. Residential rates will be frozen for 2 years and MPC can recover about \$60 million of stranded costs in the next 15 years. The company is to submit plans (within 90 days) for a pilot choice program for residential and small commercial customers for PSC approval. Six months prior to the end of the 5-year transition period ending 7-1-02, MPC is to file a plan with the PSC proposing a method of assigning customers who have not chosen gas suppliers. The PSC will then determine whether MPC's distribution entity should continue its merchant function of providing supply for small commercial and residential customers based on the development of competition for these customers.
	12/96	Proceedings Suspended on MPC Restructuring . The PSC suspended proceedings on MPC's comprehensive case until action is completed on proposed restructuring legislation and to allow settlement negotiations to continue. Several stipulations were subsequently presented to the PSC as a result of settlement conferences.
	7/96	MPC Restructuring Plan . MPC filed a restructuring plan that would reduce the threshold to qualify for gas transportation service, include pilot choice programs for residential and commercial customers, remove the company's production assets from the rate base, and provide a mechanism for recovering stranded costs. Several parties intervened, including the Montana Consumer Counsel, the Montana Large Customer Group, certain Montana marketers, the Montana Department of Environmental Quality, the Northern Montana Oil and Gas Association, and others. The MPC filing also included a revenue increase request and a gas tracker update.

	2/96	"Order Initiating Proceeding." (Order No. 5898) directed Montana Power Company to file a comprehensive case to resolve cost of service and rate design issues and further unbundle its system.
--	------	---

B. Nebraska

Nebraska has one pilot unbundling program for residential gas customers. Almost all of the residential and commercial customers in KN Energy's Nebraska service areas are participating in the state's only customer choice pilot program. KN Energy, which serves about one-fifth of the state's residential and commercial customers, initiated its Nebraska Choice Gas Program in April 1998 as a proactive step to unbundling natural gas services in the state. Nebraska has a somewhat unique situation in which individual communities and municipalities, rather than a statewide regulatory body, regulate retail natural gas service. In the second year of KN's program, residential and small commercial customers in 176 of the 180 communities served by KN were eligible to choose among five suppliers for their natural gas. The participating suppliers were: Kansas Gas Marketing, KN Gas Services, KN Energy, Midwest United Energy, and Public Alliance for Community Energy (PACE), a municipally owned, not-for-profit organization. Customers were required to make their natural gas supplier selection by May 1, 1999, for service from June 1, 1999, through May 31, 2000. Most customers in the program chose to purchase gas from KN Energy or its affiliate, KN Gas Services. About 44 percent of the eligible customers chose KN Gas Services, while 36 percent chose KN Energy and 20 percent chose PACE as their gas supplier. Only 1 percent of the eligible customers chose Midwest United Energy to supply their gas and less than 1 percent chose Kansas Gas Marketing.

Data:

In 1998, Nebraska had 523,790 residential and 63,819 commercial customers. They consumed 41 and 29 billion cubic feet of natural gas, respectively. The average prices paid for natural gas purchased from local distribution companies by residential and commercial customers were \$5.13 and \$4.25 per thousand cubic feet, respectively. The average city gate price in Nebraska was \$3.02 per thousand cubic feet.

Nebraska's Status as of November 1999: Number of Customers

Customer Type	Total 1998	Eligible		Participating		
		Total	Percent of 1998 Total	Total	Percent of Eligible	Percent of 1998 Total
Residential	523,790	74,194	14.2	74,194	100	14.2
Commercial	63,819	12,724	19.9	12,724	100	19.9
Total	587,609	86,918	14.8	86,918	100	14.8

Summary of Regulatory Actions on Retail Unbundling:

Individual communities and municipalities, rather than a statewide regulatory body, regulate retail natural gas service in Nebraska. In setting up its Nebraska Choice Gas Program, KN Energy reached an agreement with each municipality. The company agreed to fund formation of a Municipal Oversight Committee, which would recommend any changes needed in

the program and serve as a mediator in any disputes. Nearly all the communities in KN Energy's service territory have voted to participate in the choice program.

Nebraska Regulatory Actions:

Regulatory Action	5/99	Customers Select Suppliers for 1999-2000 Choice Program. Balloting to select a supplier for the 1999-00 choice program occurred in April 1999, with KN Energy announcing that about 71 percent chose their current supplier. Nearly all communities (176 of 180) are participating in the program.
	5/98	Customers Select Suppliers. Balloting to select a supplier for the 1998-99 choice program occurred between 4/17/98 and 5/1/98, with most (82 percent) choosing KN Services, a wholly owned subsidiary of KN Energy. By the end of March 1998, 165 towns had passed ordinances approving participation in the choice program.
	2/98	Towns Approve Choice Program. More than half (109 of 181) the Nebraska towns in KN' service territory passed ordinances that allow customer choice in their communities. KN customers can purchase gas from one of four suppliers. The company will continue to provide bundled service to those customers who do not choose a supplier. The utility also offers additional services through a program called "Simple Choice" that allows customers to purchase entertainment, communication, and energy services with "one call" and one bill.
	12/97	Agreement Reached on KN Energy's Proposed Choice Program. KN Energy and several Nebraska municipalities reached an agreement on KN's proposed PGA rate increase and planned Choice program. KN Energy agreed to fund formation of a municipal oversight committee, which would recommend program changes and mediate disputes. Municipalities will be able to participate as a supplier in the choice program without having to open their own systems to competition. Towns in KN's service territory will vote on whether or not to participate.

C. Wyoming

Wyoming has one active customer choice pilot program. Wyoming's residential choice program ("Choice Gas"), which was set up and approved by the Wyoming Public Service Commission, is starting its fifth year of operation. The program allows residential and small commercial customers in 10 eastern Wyoming communities to choose their natural gas suppliers. Of the 10,506 eligible customers, 2,355 selected a non-utility natural gas supplier in the fourth year of the program. The suppliers and their relative share of the market are: KN Energy with 77 percent, Wyoming Community Gas with 20 percent, and Wyrulec/Midwest United Energy with 2 percent of the customers. Customers chose alternative natural gas suppliers between April 12 and May 1, 1999. If a customer did not select an alternative supplier for the 1999-2000 heating season, the customer would continue to be served by the current supplier. Service under the current pilot program cycle began on July 1, 1999, and runs through May 31, 2000.

Data:

In 1998, Wyoming had 127,324 residential and 16,171 commercial customers. They consumed 13 and 10 billion cubic feet of natural gas, respectively. The average prices paid for natural gas purchased from local distribution companies by residential and commercial customers were \$5.19 and \$4.45 per thousand cubic feet, respectively. The average city gate price in the state was \$2.73 per thousand cubic feet.

Wyoming's Status as of March 2000: Number of Customers

Customer Type	Total 1998	Eligible		Participating		
		Total	Percent of 1998 Total	Total	Percent of Eligible	Percent of 1998 Total
Residential	127,324	9,169	7.2	9,169	100	7.2
Commercial	16,171	1,337	8.3	1,337	100	8.3
Total	143,495	10,406	7.3	10,406	100	7.3

JOINT REPORT TO THE GENERAL ASSEMBLY BY THE
COLORADO PUBLIC UTILITIES COMMISSION AND THE OFFICE OF CONSUMER
COUNSEL CONCERNING FUNDING UNDER § 40-2-122,
NATURAL GAS UNBUNDLING

SB99-153, codified as § 40-2-122, Colorado Revised Statutes (C.R.S.), permits gas utilities to voluntarily submit unbundling plans for review by the PUC that would separate the provision of natural gas supply and distribution and allow for competition in the natural gas supply market. The bill includes several provisions concerning the effect of the transition to competitive supply on the funding of the commission's and the office of consumer counsel's administrative expenses. On a case-by-case basis, § 40-2-122(3)(c)XI requires that each unbundling plan include the following provision:

Provides for funding of the commission and the office of consumer counsel based upon a charge to end-use customers, as determined by the commission, as a part of the natural gas delivery function, regardless of the identity of the natural gas supplier. Such new funding method shall be competitively neutral and shall be designed to generate annual revenues equivalent to the average annual revenues generated under sections 40-2-109 to 40-2-114 during calendar years 1994 to 1998 associated with the sale of natural gas service from the geographic area or group of customers affected by the plan. Whenever such new funding method is instituted for any specific geographic area or group of customers, the natural gas public utilities serving such area or group shall no longer pay the fees that would otherwise have been required under said sections.

In addition, regarding a comprehensive solution for PUC and OCC funding, § 40-2-122(10) states:

The general assembly determines that a new funding formula should be devised to adequately fund the commission's and office of consumer counsel's administrative expenses. On or before December 1, 2000, the commission and the office of consumer counsel shall recommend to the general assembly those legislative changes needed to develop appropriate funding mechanisms for the public utilities commission and the office of consumer counsel. **This provision is intended to provide a comprehensive replacement for the funding method contained in the utility plan under subparagraph (XI) of paragraph (c) of subsection (3) of this section.** (emphasis supplied.)

As explained in further detail in the main portion of this report, no utility has filed a natural gas unbundling plan with the commission pursuant to § 40-2-122. The provision for a replacement funding mechanism for the PUC and the OCC is linked to gas unbundling plans being filed.

With no gas unbundling plans filed, there is no funding mechanism to replace. As a result, the PUC and the OCC do not have recommendations for a replacement funding mechanism at this time.

At such time as unbundling plans are filed by the utilities with the PUC and experience is gained with the provisions of § 40-2-122(3)(c)XI, the PUC and OCC will advise the general assembly of such experience and any recommendations.