

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

FILED

2002 SEP 17 P 2:27

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Public Service Commission TITLE NUMBER: 150

RULE TYPE: Legislative; CITE AUTHORITY W. Va. Code, 24-1-7; 24-2-1;  
24-2-2

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 4A

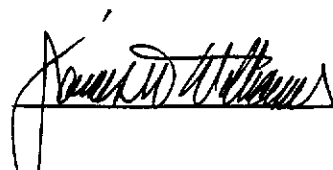
TITLE OF RULE BEING PROPOSED: Rules for the Licensing of Competitive  
Gas Service Providers

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON November 20, 2002 AT 4:00 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Sandra Squire  
Public Service Commission  
P. O. Box 812  
Charleston, WV 25323

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

SCANNED

\$6.60

**FISCAL NOTE**

**P.S.C.  
Series 4A**

GENERAL ORDER NO. 185.19  
IN THE MATTER OF a rulemaking to govern the licensing of competitive gas suppliers.

**I. OBJECTIVES OF THE RULE**

This rulemaking is for the purpose of developing a rules for the licensing of competitive gas suppliers to facilitate open access to the gas supply market.

**II. COST OF IMPLEMENTING THE PROPOSED RULES**

There will be no significant implementation cost relating to this rulemaking for the State of West Virginia. The Commission does not anticipate to incur significant additional costs as a result of this rulemaking.

**III. THE EFFECT THIS MEASURE WILL HAVE ON THE COSTS OR REVENUES OF STATE GOVERNMENT (Information required by fiscal notes for either house of the Legislature.)**

This rulemaking will have no significant effect on the costs or revenues of state government.

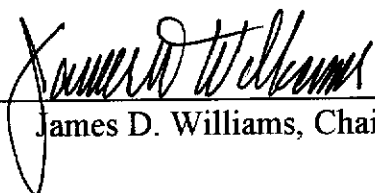
**IV. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS**

This rulemaking could result in an economic impacts on natural gas customers in the event competitive gas suppliers elect to become licensed by the Commission and begin marketing gas supply to residents of the State. The potential economic impact would be lower gas supply prices for customers. To the extent these rules encourage competitive gas suppliers to do business in the State, State and local governments would collect applicable taxes from those businesses.

DATE: 9-16-07

AGENCY: **Public Service Commission**

**SIGNATURE OF AUTHORIZED REPRESENTATIVE:**

  
James D. Williams, Chairman

## **SUMMARY OF PROPOSED RULE**

The Commission is proposing new rules designated as Series 4A, to govern the licensing of competitive gas suppliers to facilitate open access to the gas supply market for natural gas suppliers and customers. The new rules will be denominated *Rules for the Licensing of Competitive Gas Service Providers, 150 CSR 4A*.

**STATEMENT OF CIRCUMSTANCES WHICH  
REQUIRE THE PROPOSED RULE**

The Commission is aware that the natural gas supply market in West Virginia is developing at a slow, but deliberate pace. While competition for natural gas supply at the wholesale level has been in place for some time, the gas market has not yet developed to the point that individual residential and small commercial customers have access to competitive gas supply, nor do suppliers have access to those customer markets. In order to facilitate an orderly development of the gas supply market, the Commission finds it appropriate to issue rules governing the licensing of competitive gas suppliers.

# Public Service Commission

Richard E. Hitt, General Counsel



201 Brooks Street, P.O. Box 812  
Charleston, West Virginia 25323

Phone: (304) 340-0317  
FAX: (304) 340-0372

September 16, 2002

Judy Cooper, Director  
Administrative Law Division  
Secretary of State's Office  
Building 1, Suite 157K  
1900 Kanawha Blvd. E.  
Charleston, WV 25305-0771

FILED  
2002 SEP 17 P 2:26  
OFFICE OF THE SECRETARY OF STATE

Re: Series 4A

Dear Judy:

Enclosed for filing are proposed rules, a new Series 4A, of the Public Service Commission's Rules and Regulations. We have used the designation 4A because the rules are related to the Gas Rules, Series 4, but we want to keep it as a separate rule series. I have submitted a completed Form 2; a Fiscal Note; a Brief Summary of the Rule; and a Statement of Circumstances Requiring the Rule.

If there are any problems or questions, please bring them to my attention. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard E. Hitt".

Richard E. Hitt  
General Counsel

REH/cbd

Enclosures

rickmisc/cooper31proposedrules.wpd

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 17th day of September, 2002.

**GENERAL ORDER NO. 185.19**

In the matter of a rulemaking to govern open access to the gas supply market and gas utilities' conduct toward affiliates and competitive suppliers.

**COMMISSION ORDER**

By notice of proposed rulemaking entered May 18, 2001, the Commission instituted this proceeding for the purpose of developing rules governing the provision of open access to the gas supply market and gas utilities' conduct toward their affiliates and competitive suppliers. Prior to proposing rules, the Commission sought comments regarding the content, extent and nature of such proposed Rules. The Commission invited general comments on the scope of the rules, and recommended language for proposed rules.

Considering the recent aggregation rules and other developments in the natural gas supply market, the Commission requested that interested parties file comments addressing the following issues:

- (1) rules for licensing, certification or registration of gas suppliers;
- (2) a code of conduct for participants in a competitive market; and
- (3) any other consumer protection issues that should be addressed within the context of a developing competitive supply market for natural gas.

The Commission set forth a schedule for the filing of preliminary and reply comments in this proceeding and stated its intention to issue proposed rules in the Fall of 2001. The Commission stated that when the proposed rules were issued, a further procedural schedule would be established.

The Commission required its Executive Secretary to publish a copy of the Notice of Filing as a Class I legal advertisement in a newspaper of statewide circulation, on or before June 1, 2001.

Initial comments were filed by Commission Staff (Staff); the Consumer Advocate Division (CAD); Hope Gas, Inc., dba Dominion Hope (Dominion Hope); Mountaineer Gas; Monongahela Power Company, dba West Virginia Power Gas Service, all dba Allegheny Power (Allegheny); Bluefield Gas Company (Bluefield); and The West Virginia Building and Construction Trades Council (WVBCTC). Eastern American Energy Corporation (Eastern) filed a letter stating that it has no comments, but wishes to be included on the service list in this proceeding. Eastern may choose to participate in the future.

Reply comments were filed by Staff; Allegheny; Bluefield; Cabot Oil & Gas Corporation (Cabot), and the Independent Oil and Gas Association of West Virginia (IOGA).

By Order issued September 5, 2001, the Commission formed a task force for the purpose of deliberating upon and proposing consensus rules to the Commission. The Commission further required Commission Staff to file "strawman" rules in this proceeding on or before September 30, 2001. Commission Staff was assigned to chair the task force, which was ordered to file its final report recommending consensus rules on or before January 31, 2002. The Commission required its Executive Secretary to publish notice statewide of the formation of the task force, and inform the public of the opportunity to participate in the task force, on or before September 14, 2001.

On January 25, 2002, Staff filed a request for a sixty (60)-day extension of the January 31, 2002, filing deadline. In support of its request, Staff stated that all parties are in agreement that with additional time, complete or substantially complete consensus rules on licensing and consumer protection can be reached. Staff did not have such high hopes for consensus on a code of conduct, but noted that a significant number of the parties desire to continue to discuss the code of conduct as well. Staff indicated that CAD, Cabot Oil & Gas Corporation, Allegheny, West Virginia Energy Users Group, and Weirton Steel supported a sixty (60)-day extension, and that no party has objected to the extension.

On April 3, 2002, Staff filed a letter explaining that the parties had not reached a consensus on rules and that the parties were fractured between two principal groups. One group consists of CAD, Staff and the West Virginia Building and Construction Trades Council (collectively "Consumer Group"). The second group consists of actual or potential participants in the gas market, including local distribution companies and producers and suppliers of gas (collectively "Market Participants"). Staff attached two

packets to its letter: (1) Explanation of the Consumer Group's Code of Conduct, Licensing and Consumer Protection Rules; and (2) Explanation of the Gas Market Participants' Code of Conduct, Licensing and Consumer Protection Rules.

The Consumer Group submitted rules closely based on the consensus rules that developed in the Electric Restructuring Rulemaking proceeding, General Order No. 255.

The Market Participants stated that they believe the current state of development of the competitive gas market does not merit the imposition of a Code of Conduct. In support of this position, the Market Participants state that gas marketers have little or no interest in expanding business in West Virginia. In the tiny gas market that does exist for large industrial customers, marketers are not worried that utility affiliates enjoy an unfair advantage over other marketers. The Market Participants fear that the imposition of regulatory requirements will deter, if not preclude, development of a vigorous competitive market.

Also on April 3, 2002, Weirton Steel Corporation filed its "Position Regarding the Various Rules Proposed By Task Force Participants." Weirton acknowledged that the parties had failed to reach a consensus. Weirton indicated that it regards both the Consumer Group and the Market Participant Group proposals to be extreme and goes on to advocate its preferences in each category of rules.

On April 11, 2002, the West Virginia Energy Users Group filed a letter in support of the positions stated by Weirton Steel.

On April 12, 2002, CAD filed a response to various comments.

### **DISCUSSION**

Upon consideration of the filed comments and the current state of the gas market in West Virginia, the Commission finds that it is reasonable and appropriate at this time to issue as proposed rules at this time, only Series 4A *Rules for the Licensing of Competitive Gas Service Providers (Licensing Rules)*, in the form attached hereto as Attachment A. In view of the Commission's belief that end users of competitive gas supply will be limited to large industrial and commercial customers who are in a position to protect themselves in the marketplace, and that participation by individual residential and small commercial customers will be very limited, the Commission will not propose code of conduct or consumer protection rules relating to the competitive gas market at this time. The Commission will take up rules on those topics when the gas market matures to the point where the issuance of code of conduct and consumer protection rules are necessary.

Following a sixty-day comment period and the Commission's issuance of final rules, all competitive gas service providers currently doing business in the State shall be required to obtain a license within a specified period of time, or be considered to be in violation of the final rules.

**ORDER**

IT IS THEREFORE ORDERED that the rules attached hereto as Title 150 Code of State Regulations, Series 4A, are hereby promulgated as Commission proposed legislative rules.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall give notice of these proposed rules and forms to all natural gas utilities operating in the State, and upon all parties of record, by First Class United States Mail, and upon Commission Staff by hand delivery.

IT IS FURTHER ORDERED that the Executive Secretary shall cause a copy of the notice attached hereto as Appendix A to be published once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in each of the following cities: Beckley, Bluefield, Charleston, Clarksburg, Elkins, Fairmont, Grafton, Huntington, Keyser, Lewisburg, Logan, Martinsburg, Morgantown, Moundsville, Parkersburg, Point Pleasant, Weirton, Welch, Wheeling and Williamson.

IT IS FURTHER ORDERED that the Executive Secretary shall file a copy of these rules and forms, together with requisite filing forms, with the Office of the Secretary of State.

IT IS FURTHER ORDERED that a comment period is provided with respect to the proposed rules identified in this Order and comments shall be filed with the Commission's Executive Secretary by November 20, 2002, by 4:00 p.m. Reply comments shall be filed twenty days thereafter, by December 10, 2002. Any interested party who files comments shall set forth specific comments concerning the proposed rules. Any party seeking a hearing on the proposed rules shall make a specific written request before the close of the comment period and shall explicitly state the grounds upon which the request is made.

IT IS FURTHER ORDERED that the Executive Secretary shall provide copies of these proposed rules to interested parties who address inquiries to Executive Secretary, Public Service Commission of West Virginia, P.O. Box 812, Charleston, West Virginia 25323.

A True Copy, Teste:

JML/ljm  
go18519cc.wpd

  
Sandra Squire, Executive Secretary

TITLE 150  
LEGISLATIVE RULE  
PUBLIC SERVICE COMMISSION

FILED

2002 SEP 16 P 3:00

SERIES 4A  
RULES FOR THE LICENSING OF COMPETITIVE GAS SERVICE PROVIDERS

STATE OF WEST VIRGINIA  
SECRETARY OF STATE

§150-4A-1. General.

1.1 Scope. These Rules govern the licensing of competitive gas service (CGS) providers.

1.2 Authority. W.Va. Code § 24-1-7.

1.3 Filing Date. \_\_\_\_\_

1.4 Effective Date. \_\_\_\_\_

1.5 Purpose. These Rules establish procedures and requirements for licensing CGS providers that offer to sell or sell competitive gas services to any retail customers in the State in order to ensure adequate service to customers, to protect the public interest and to promote effective competition in the gas market in the State.

1.6. Application.

1.6.1. These Rules apply to applicants and CGS providers as defined herein.

1.7 Definitions.

1.7.1 Affiliate - Any entity, including a functionally separated division or operation, that controls, is controlled by, or is under common or partial control with a gas utility, intrastate pipeline or CGS provider.

1.7.2. Competitive Gas Service or CGS - Any retail gas service that has been declared competitive by the Commission, including, but not limited to, procurement and/or sale of gas to end use customers, gas marketing and gas brokering.

1.7.3. Competitive Gas Service Provider, CGS Provider, or Alternative Supplier - Any producer, broker, marketer, or other person or entity that supplies or offers to supply a competitive gas service to retail end users. This definition does not include: (a) a natural gas distribution utility; (b) an intrastate pipeline; (c) a person or entity that produces gas for its own consumption; or (d) a producer, broker or marketer providing gas for sale at wholesale to a CGS provider.

1.7.4. Distribution Operations - Functions performed by a gas utility or intrastate pipeline related to the retail sale and/or transportation of natural gas. These functions may be performed through the use of facilities that include production, gathering, transmission, storage and distribution facilities.

1.7.5. Gas Service - Gas sold for ultimate consumption to a retail customer, either directly or through an intermediary.

1.7.6. Gas Utility - As used in the following sections of this rule, unless clearly specified as otherwise, the use of the term "gas utility" shall mean either a natural gas distribution utility or an intrastate pipeline.

#### 150-4A-2. Licensing.

2.1. License required - As a condition of doing business in the State, each person or entity seeking to sell, offering to sell or selling Competitive Gas Services to retail end use customers in the State shall obtain a license from the Commission. To request a license, the applicant must file an original hard copy application and six copies, and an electronic diskette thereof with the Commission in the form indicated below in addition to any other information the Commission may require. The application must be verified by oath or affirmation and signed by an Applicant owner or partner, or an officer of the Applicant. For the purposes of this Rule, the term "seeking to sell" and "offering to sell" shall not apply to general marketing or brand name advertising, but shall apply to any advertising or marketing conduct which is designed to attract Retail End Use Customers to a specific product or service. Provided, however, that a person considering doing business in the State may, without first obtaining a license, have preliminary discussions regarding the potential sale of competitive gas services with any large commercial or industrial customer(s) or with a person(s) considering aggregation of loads of any classes of customers, upon the request of such large commercial or industrial customer(s) or person(s).

2.1.1. License application form - The license application form includes information that will be used in the evaluation of the financial and technical fitness of the

applicant to be a CGS provider in the State. This information shall include, as applicable, the following:

- a. The legal name of the applicant, as well as any trade name or fictitious name.
- b. Evidence that the applicant is duly authorized to do business in the State.
- c. Identification of the geographic area that the applicant proposes to serve.
- d. Identification of the local distribution utility(ies) through which the applicant proposes to provide service.
- e. Identification of the type of service that the applicant proposes to furnish.
- f. Identification of the class(es) of Retail End Use Customers to which the applicant proposes to provide these services.
- g. Identification of the applicant's affiliates and subsidiaries, and an indication of those authorized to do business in the State.
- h. A listing of any predecessor(s) of the applicant or other names under which the applicant has operated within the preceding five years. Identify whether any affiliates or predecessors conducted business in the State.
- i. Description of the applicant's business structure and ownership type.
- j. Names and contact information for the applicant's contact person(s) regarding the application and ongoing regulatory affairs, marketing, operations, the applicant's attorney (if any) and registered agent to accept service of process.
- k. Telephone number of the customer service department or the title and telephone number of the customer service contact person.
- l. Financial information sufficient to demonstrate financial fitness. This information may include credit ratings and history, audited financial statements, published financial information such as 10Ks and 10Qs, and evidence of insurance pertinent to the conduct of the applicant's business as a competitive gas service provider.

m. Affirmation that applicant is complying, or will comply prior to the issuance of a license, with Section 3 of these Rules.

n. Evidence of competency and experience in providing the scope and nature of the applicant's proposed services. This evidence may include narrative descriptions of the applicant's prior marketing and operations experiences, pipeline capacity contracting capabilities, and proposed staffing levels, with the presumption that more details will be required of applicants seeking to sell to small commercial and residential customers.

o. A listing of other jurisdictions where applicant or any of its affiliates is licensed to provide competitive gas service to retail customers.

p. Disclosure of any (i) civil, criminal, or regulatory sanctions or penalties imposed within the previous five years against the applicant, any of its affiliates, or any officer, director or partner of the applicant (or fellow member of an LLC if the applicant is an LLC), or any of its affiliates, pursuant to any state or federal consumer protection law or regulation; and (ii) felony convictions within the previous five years, which relate to the business of the applicant or to an affiliate thereof, of any officer, director or partner or fellow member of an LLC of the applicant or any affiliate. If applicant has engaged in the business of providing gas in any state, a report of all instances of violations of regulatory standards that were determined to be the fault of the applicant during the previous three years. The report shall include, for each instance, the following information: a description of the event, its duration, its cause, the number of customers affected, any reports, findings or issuances by regulators or courts of law relating to the instance, any penalties imposed, and whether and how the problem has been remedied.

q. Disclosure of whether any application for license, authority or bond to conduct the same type of business has ever been denied or whether any license, authority or bond issued to it or an affiliate has ever been suspended, revoked, sanctioned or forfeited.

r. Evidence of information demonstrating applicant's ability to comply with the Commission's applicable requirements concerning customer billing, customer education, billing and terms of service, and customer information. This evidence may include prior regulatory experience of the applicant; prior business experience in energy or other service-oriented industries; staffing and staff training commitments; agreements, arrangements and contracts for customer education and information service; customer satisfaction survey results; government agency reports; and

complaint statistics compiled by the Better Business Bureau or similar business organizations.

s. A statement by the applicant that the applicant agrees to be assessed and will pay all applicable taxes and fees imposed by the State or by any municipality or other political subdivision of the State, and agrees and commits that sufficient business contact will exist continuously pursuant to its operations as a competitive gas service provider to create taxable nexus.

t. A statement that the applicant will abide by all reporting requirements established by the Commission for CGS providers.

#### 2.1.2. Notice of license application filing.

a. The applicant shall file with the license application a completed Form No. 1 "Notice of Filing of Application to be Licensed as a Competitive Gas Service Provider," attached to these Rules.

b. After receipt of a complete license application, the Commission will enter an order directing the applicant to publish Form No. 1 as a Class I legal advertisement in such newspapers as designated in such order, and will further order the applicant to thereafter file with the Commission such verification of the publication as is required by the Commission's order.

#### 2.2. Protests to license applications.

2.2.1. A 15 day protest period commences on the date of the publication of the Class I legal advertisement of the notice of the application filing required pursuant to Section 2.1.2 of these Rules. An interested party may file a protest with the Commission and shall simultaneously mail the protest to the Applicant. The protest must be verified by oath or affirmation and signed by the protestant. The protest shall set out clearly and concisely the facts upon which challenge to the fitness of the applicant is based. An applicant may file an answer to the protest within 10 days of the date the protest is filed with the Commission.

2.2.2. Protests may challenge only the applicant's financial and technical fitness to provide the service for which a license is requested. Consistent with the requirements of due process, sanctions may be imposed on parties who misuse the protest process to impede or restrict the development of a fully workable competitive market by the filing of a protests that the Commission in its discretion finds to have been filed in

bad faith. For a protesting party that is a licensed CGS provider, sanctions may include revocation or suspension of such provider's CGS license.

2.2.3. A protest to the applicant's technical or financial fitness to provide service will be reviewed to determine if the protest is sufficiently documented. If a protest is not sufficiently documented, the Commission may grant the application without further proceedings. If further proceedings are determined to be necessary, the Commission may establish an expedited schedule for such proceedings.

2.3. License application processing - Completed applications, with all supporting documentation, will be processed within 60 days after the date of publication of the Class I legal advertisement of the notice of the application filing required pursuant to Section 2.1.2 of these Rules unless extended by the Commission for good cause.

2.4. Conditions on license - The Commission may place such conditions upon a license as it determines are reasonably necessary to carry out the intent of this Rule.

2.5. Licensing fee - All licensed CGS Providers shall pay to the Commission an annual licensing fee established by the Commission to defray the administrative costs of processing licenses and responding to any filed complaints related to CGS activities. Such fee shall be published by the Commission.

2.6 Waiver of Certain License Application Requirements - For good cause shown, the Commission may waive certain requirements of the licensing application process as it deems appropriate.

#### §150-4A-3. Security Requirements.

3.1. Requirement to furnish security - A license will not be issued or remain in force unless the CGS Provider complies with the provisions of this section.

3.2. Initial security amount - The initial security level required from each licensee is \$50,000. Modifications (either reductions or increases) of this amount commensurate with the nature and scope of business anticipated to be conducted in this State may be granted where substantial evidence is submitted in support of the modification. A request for modification of this initial security level may be made in conjunction with the filing of the application, and the license will be issued contingent on the submission of the proof that the applicant has obtained a bond, or other approved security in the amount directed by the Commission.

3.3. Review of security amount - The security level for each CGS provider shall be reviewed by the Commission after six months, 12 months and annually thereafter, and modified primarily based on the CGS provider's reported annual West Virginia gross receipts, customer deposits and prepayments. The security level will generally be the greater of \$50,000 or 3.5% of the CGS provider's reported annualized West Virginia gross receipts plus the total amount of any West Virginia customer deposits and/or prepayments held by the provider. Maintenance of a license will be contingent on the CGS provider providing proof to the Commission that a bond or other approved security in the amount directed by the Commission has been obtained. A licensee may seek approval from the Commission of a lower level of security commensurate with the nature and scope of its operations.

3.4. Payments against security - Payments pursuant to the security instrument may result from the CGS provider's failure to comply with its agreements or Commission rules regarding disposition of Customer deposits and/or prepayments, or failure to pay amounts ordered paid to customers by the Commission or Courts.

3.5. Bond requirements - If the required security is provided in the form of a bond, the bond instrument shall include the following provisions:

3.5.1. The Public Service Commission of West Virginia as the sole beneficiary and that the Commission shall receive payment of funds under the security without legal process beyond a final order of the Commission.

3.5.2. That the purpose of the bond is to assure compliance with the Commission's rules by the Principal as a licensed CGS provider; to ensure compliance with its agreements or Commission rules regarding disposition of customer deposits and/or prepayments, or payments of amounts ordered paid to customers by the Commission or Courts and payments of fines and/or penalties ordered by the Commission or Courts for violation of Rules.

3.5.3. A statement that the security shall be interpreted under the law of the State, or in the alternative, no choice of law is specified.

3.5.4. An obligation of the holder, issuer or maker of the security to notify the Commission in writing within 5 days of termination of the security.

3.5.6. Liability pursuant to other provisions of law, and Commission orders and rules - A CGS provider's liability for unreasonable service, or for violations of the West Virginia Code or Commission orders or rules is not limited by these security requirements.

§150-4A-4. Reporting Requirements.

4.1. A CGS provider shall report to the Commission on a quarterly basis, beginning within 60 days following the end of the first full quarter, and of each subsequent quarter that the license is in effect, the following information applicable to its operations in West Virginia:

4.1.1. Monthly gross receipts for each month of the quarterly reporting period, separated as between residential, commercial and industrial customers in West Virginia.

4.2. A CGS provider shall file an annual report on or before April 30 of each year, for the previous calendar year. The annual report shall contain such information as the Commission may request, including but not limited to the following information applicable to its West Virginia operations.

4.2.1. The number of customers and per class customer load for the year.

4.2.2. Gross receipts separated as between residential, commercial and industrial customers in West Virginia for the preceding calendar year.

4.2.3. The total amount of customer deposits and/or prepayments held by the CGS provider as of the end of each month of the quarterly reporting period.

4.2.4. The amount of gas sold, stated in MCFs and separated as between residential, commercial and industrial customers, during the preceding calendar year.

4.3. A CGS provider shall be required to meet other periodic reporting requirements as may be issued by the Commission.

4.4. A CGS provider has an ongoing duty to timely report to the Commission any material changes to the information or statements contained in the CGS provider's original license application.

§150-4A-5. License Suspension, Revocation, Transfers and Abandonment.

5.1. Suspension and revocation - Consistent with due process, a CGS provider's license may be suspended or revoked, and fines may be imposed against the CGS provider for failure to comply with applicable requirements of the West Virginia Code and/or Commission orders and rules.

5.1.1. A suspended or revoked license may be reinstated by the Commission upon application and for good cause shown.

5.2. Transfer - A CGS provider license may not be transferred without prior Commission approval. Approval for transfer shall be obtained by petition to the Commission. The Commission shall maintain discretion to require the transferee to complete and file with the Commission an application that demonstrates the transferee's financial and technical fitness to render service under the transferred license.

5.3. Abandonment - A CGS provider desiring to abandon its license and/or cease doing business must file an application to abandon with the Commission and may not abandon service until authorized to do so by subsequent Commission order. The abandonment application must be accompanied by: (1) a written verification to the Commission that the CGS provider is in compliance with all Commission rules, and (2) a verification that the CGS provider has provided written notice to its customers, the affected local distribution companies, and default service providers of its intent to abandon service. The individual notice to customers may have been provided with each billing or by a separate mailing, in each of the three billing cycles preceding the effective date of the abandonment. Within 75-days of the filing of the petition for abandonment period, the Commission will issue an order authorizing the abandonment. The CGS provider may abandon service only in accordance with the terms of the Commission's order. This provision does not affect or supersede any existing contractual obligations of the licensee.

Form No. 1

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

Entered by the Public Service Commission of West Virginia, in the City of Charleston on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

CASE NO. \_\_\_\_\_

[Name and address of applicant]

Application for a license to operate as a competitive gas service provider within the State of West Virginia.

NOTICE OF FILING  
OF APPLICATION TO BE LICENSED AS A  
COMPETITIVE GAS SERVICE PROVIDER

WHEREAS, on \_\_\_\_\_, 200\_\_, the [name and address of applicant] filed an application, duly verified, for a license to operate as a competitive gas service provider within the State of West Virginia [may specify certain areas of the State if not proposing to provide statewide service]; and

WHEREAS, [name of applicant] has proposed to provide [identify the type(s) of services to be provided] to retail customers [if only proposing to serve certain classes of customers, identify those classes].

Pursuant to the Commission's Rules for the Licensing of Competitive Gas Service Providers, IT IS ORDERED that the [name of applicant] give notice of the filing of said application, by publishing a copy of this order once in a newspaper duly qualified by the Secretary of State, published and of general circulation in each of the following [Cities of/Countries of] \_\_\_\_\_, making due return to this Commission of proper certification of publication immediately after publication [or on or before \_\_\_\_\_, 200\_\_]. Anyone desiring to make objection to said application must do so in writing, within fifteen (15) days after the publication of this notice, to the Public Service Commission of West Virginia, P.O. Box 812, Charleston, West Virginia, 25323.

IT IS FURTHER ORDERED that if no protests are received within said 15 day period, the Commission may waive formal hearing and grant the application of [name of applicant] based on the evidence submitted with said application and the Commission's review thereof.

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Executive Secretary

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

GENERAL ORDER NO. 185.19

In the matter of a rulemaking to govern open access to the gas supply market and gas utilities' conduct toward affiliates and competitive suppliers.

**NOTICE OF ISSUANCE OF PROPOSED RULES**

By notice of proposed rulemaking entered May 18, 2001, the Commission instituted this proceeding for the purpose of developing a rule governing the provision of open access to the gas supply market and gas utilities' conduct toward their affiliates and competitive suppliers. Prior to proposing rules, the Commission sought comments regarding the content, extent and nature of such proposed Rules.

The Commission requested that interested parties file comments and proposed language addressing the following issues:

- (1) rules for licensing, certification or registration of gas suppliers;
- (2) a code of conduct for participants in a competitive market; and
- (3) any other consumer protection issues that should be addressed within the context of a developing competitive supply market for natural gas.

In May, 2001, The Commission's Executive Secretary published a Notice of Filing regarding this proceeding as a Class I legal advertisement in a statewide newspaper.

Preliminary and reply comments filed by various interested parties were filed and reviewed by the Commission.

By Order issued September 5, 2001, the Commission formed a task force for the purpose of deliberating upon and proposing consensus rules to the Commission. Thereafter, the Commission's Executive Secretary published notice statewide of the formation of the task force, and informed the public of the opportunity to participate in the task force.

On April 3, 2002, Staff filed a letter explaining that the parties had not reached a consensus on rules and that the parties were fractured between two principal groups.

Weirton Steel and the West Virginia Energy Users Group notified the Commission that they disagreed with both principal groups, and advocated yet a third position.

By Order issued September 17, 2002, the Commission promulgated proposed Series 4A *Rules for the Licensing of Competitive Gas Service Providers (Licensing Rules)*. The Commission chose not to promulgate proposed rules on code of conduct or consumer protection at that time. This decision was based on the Commission's belief that end users of competitive gas supply will be limited to large industrial and commercial customers who are in a position to protect themselves in the marketplace, and that participation by individual residential and small commercial customers will be very limited. The Commission stated that it will take up rules on those topics when the gas market matures to the point where the issuance of code of conduct and consumer protection rules are necessary.

Beginning September 17, 2002, the Commission provides a sixty-day comment period with respect to the proposed rules identified in this Order. Comments may be filed with the Commission's Executive Secretary by November 20, 2002, by 4:00 p.m. Reply comments shall be filed twenty days thereafter, by December 10, 2002. Any interested party who files comments shall set forth specific comments concerning the proposed rules. Any party seeking a hearing on the proposed rules shall make a specific written request before the close of the comment period and shall explicitly state the grounds upon which the request is made.

Copies of the proposed rules are available to interested parties who address inquiries to Executive Secretary, Public Service Commission of West Virginia, P.O. Box 812, Charleston, West Virginia 25323.