Survey on the Features and Regulatory Oversight of Gas Choice Programs

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SURVEY ON THE FEATURES AND REGULATORY OVERSIGHT OF GAS CHOICE PROGRAMS

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EXECUTIVE SUMMARY

Gas choice programs serving small commercial and residential customers initiated around the mid-1990s. These programs had the expectation of benefiting small retail customers by the entry of new suppliers that would compete with each other and the local gas utility. By almost any measure, these programs have met with mixed success. Studies have indicated that consumers as a whole have probably benefited. Greater benefits to consumers from retail competition may take time to develop – as an illustration, today's benefits derive largely from nominal price savings in the purchasing of commodity gas while longer-term, more significant benefits may be realized only after the packaging of new value-added services.

The purpose of this survey report is to provide information on the features of gas choice programs in addition to the perceptions and post-operation activities of state public utility commissions (PUCs) relating to these programs. This report attempts to identify the major impediments, as articulated by PUCs, adversely affecting the performance of gas choice programs. A major question underlying this report centers on how state commissions have overseen these programs in terms of assessing whether they have worked in the interest of retail consumers. This information should be of value to those states that have not yet initiated gas choice programs as well as to those that have existing programs but are considering modifying them. One salient response from state commissions is that gas choice programs have changed over time because of specific problems and other post-implementation information giving support to program modification. Another general response from the survey is that commissions perform varying kinds of after-the-fact oversight of their gas choice programs.

The basic approach used in this study is the design of nine survey questions targeted at PUCs that have had gas choice programs in place for a minimum of two years. The questions are grouped into two broad categories. The first pertains to program characteristics, such as billing methods, customer enrollment and "switching" requirements, and pipeline capacity assignment. The second category of questions focuses on *ex post* or after-the-fact reviews that PUCs have conducted for the purpose of identifying problems and evaluating the performance of their gas choice programs.

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BACKGROUND

Since 1995 several states have enacted legislation or rules that allow residential customers and small commercial customers to purchase their gas supplies from someone other than the local gas utility. Gas choice programs are currently operating in nineteen states and the District of Columbia. According to a May 2002 report from the American Gas Association, 3.9 million residential customers are participating in choice programs or an 18 percent participation rate. These programs vary widely in terms of size, the specific regulatory rules in place, level of cooperation by the local gas utility in promoting choice, and actual participation by residential customers and third-party marketers. For example, participation rates vary dramatically across programs, with some programs attracting very few residential customers[1] while others having participation rates in the 30-50 percent range.[2] Some states, such as Ohio, Michigan, Virginia, Wyoming and Illinois, have expanded their programs to include more eligible customers. Programs in other states, such as Delaware, Wisconsin and Iowa, have terminated. (See Appendix C for a discussion of the Wisconsin gas choice program.) Categorically, some programs were dead before arrival while others are either dying, striving or, typically the case, have reached a plateau.

Individual gas choice programs have evolved over time in terms of size, scope, design, and implementation. These programs have been a learning process for gas utilities, marketers, and regulators. For the country as a whole, we have seen a decline in the number of marketers over the past few years. The reasons for this include the surge of natural gas prices in the winter of 2000-2001, the financial problems of energy

[1] These states include California, Montana, New Mexico, South Dakota, and West Virginia.
[2] For example, almost one half of Dominion East Ohio's 1.2 million customers have chosen to buy gas from alternative suppliers, one of which is an affiliate of the gas utility.

trading companies, and the increased difficulty of marketers making profits in serving the mass market.[3] Finally, we have seen stagnant growth in participation rates for many gas choice programs.

The rationale for gas choice programs, and similarly for electricity retail wheeling, is the potential for small customers to benefit from expanding competition to the retail gas market. New opportunities for consumers, at least in theory, would predict improved economic efficiency, lower prices, the offering of new value-added services, and even enhanced quality of consumer service. After all, this is what generally happened when competition was initiated in other industries that were formerly monopolistic.

The primary purpose of this survey is to compile information on the actual (*ex-post*) performance of gas choice programs for the purpose of assessing such programs in terms of benefiting small retail customers. One objective is to identify impediments to the smooth operation of unbundled retail gas markets for small customers. Another objective is to gather information on how state public utility commissions (PUCs) have monitored retail gas markets open to small-customer choice.[4]

As mentioned above, in several states marketers and other third parties are allowed to sell specific gas services to small retail customers. The effectiveness of those activities in terms of benefiting customers depends on their ability to replicate competitive-like conditions. Individual "choice" states could benefit from knowing about

[3] Concerning the last point, marketers have struggled over making profits selling essentially commodity gas at retail to a mass market. As of today, this business is a low profit-margin one where marketers must incur non-trivial costs in advertising and other marketing activities, customer service, and back-office operations to acquire and maintain customers. Marketers must also purchase gas and upstream transportation in essentially the same markets that gas utilities do. Some marketers have found out the hard way that customer service and marketing costs cut deeply into their profits.

[4] One state that did not respond to the survey, Wyoming, is in the process of reviewing Kinder Morgan's gas choice program in response to criticisms of the program from various stakeholders.

the experiences of their counterparts, including state PUC market oversight activities.[5] Similarly, states not yet adopting gas choice programs, and contemplating whether to do so in the future, can gain useful information from the market-performance experiences of gas choice states. It is largely for these two reasons that this survey was conducted.

[5] Market oversight can be viewed as a pro-active regulatory approach for overseeing the performance of markets. It requires the compilation and interpretation of information on a periodic basis. That is, market oversight, or what is frequently referred to as market monitoring, is a systematic analysis of market performance and problems. Overall, market oversight can assist in (1) ensuring that rules and regulations in place are being satisfied, (2) overseeing and evaluating the performance of a restructured market, (3) identifying problems with potential harm to consumers, and (4) justifying remedial action in the form of mitigation procedures. Alternatives to market monitoring or other more formalized oversight approaches include what can be called a reactive approach and a l*aissez faire* approach. Under the reactive approach, nothing is done and no information is compiled unless market participants come forth with specific complaints. Under a *laissez faire* approach, a gas choice program would be allowed to proceed as initially planned unless a serious problem or problems emerge.

TASKS FOR THE STUDY

This study has four major tasks. The first identifies those states where gas choice programs have been in place for at least two years. Appendix A identifies those states and the individual utility programs that have been in force for at least two years. Some of these programs have had very little participation – for example, California, Montana, New Mexico, South Dakota and West Virginia. It can be said that these programs never got off the ground for lack of interest by marketers, small retail customers, or both. The second task involves drafting questions for the survey. NRRI originally drafted the questions, which were then forwarded to the NARUC Staff Subcommittee on Gas for its input. One major outcome of the Subcommittee's review was to include questions on the features of gas choice programs. (The next section lists the survey questions.) The third task is to tabulate the individual responses, which are contained in Appendix B. Lastly, a review of the responses was conducted to summarize the major findings.

The survey questions were originally sent out to approximately twenty state PUCs and the District of Columbia Public Service Commission in August 2002. Reponses were received for nine jurisdictions during the months of September 2002 and January 2003. Several states that have gas choice programs did not respond to the survey. Notwithstanding this fact, the study hopes to provide useful information on how gas choice programs have performed to date in eight states and the District of Columbia. These states include Illinois, Kentucky, Maryland, Massachusetts, Michigan, New York, Ohio and Pennsylvania.

SURVEY APPROACH

The basic methodology applied for this study is the design of survey questions targeted at state PUCs and pertaining to gas choice programs that have been in place for at least two years. The questions are grouped into two categories. The first category attempts to acquire information on the major features of gas choice programs. The second category focuses on *ex post* or after-the-fact reviews that PUCs may have conducted with the purpose of identifying problems and assessing the performance of gas choice programs.

The performance of gas choice programs has several dimensions. These include: (1) the market position of gas utility affiliates relative to other third-party providers, (2) consumer complaints, (3) third-party complaints, (4) the prices charged by third-party providers relative to the price of the local gas utility, plus the services (e.g., risk management) offered by third-party providers, (5) the effectiveness of codes of conduct and other rules preventing utility-affiliate abuses, (6) the number and percentage of consumers choosing a third-party provider, (7) identified barriers to entry by third-party providers, and (8) overall program outcome relative to expectations. Some of these indicators of program performance were addressed in the individual responses by PUCs to the survey.

SURVEY QUESTIONS

1. Please briefly identify the major features of the gas choice programs in your state; these features include (a) the size and the geographical scope of programs, (b) pipeline capacity and storage assignment, (c) marketer qualification or certification requirements, (d) billing procedures, (e) balancing requirements of marketers, (f) presence of a local utility's marketing affiliate, (g) codes of conduct or affiliate rules in place, (h) customer enrollment and switching requirements (e.g., how often can customers switch marketers), (i) obligation of local gas utility as the supplier of default supplier, (j) number of current marketers, and if available, individual market shares, (k) the number and percentage of eligible customers choosing a third-party marketer, (l) rate methodology for unbundled regulated services, and (m) the degree of price transparency (e.g., public information, confidential).
2. Has your commission conducted any after-the-fact analysis that assesses the performance of customer choice programs? If so, please summarize the findings, highlighting any market problems that may have occurred. Also, please indicate how your commission defines performance.
3. Has your commission conducted, or plan to conduct, a review of customer choice programs?
4. Does your commission currently have in place a market monitoring or market analysis procedure in place to periodically assess customer choice programs? If so, was the procedure required by legislation or initiated by your commission? If not, does your commission plan to conduct a review (periodic or otherwise) of customer choice programs?
5. Has your commission identified problems associated with customer choice programs? If so, please list the problems and discuss how your commission has responded to them. For example, have there occurred documented utility-affiliate abuses, or an unusually large number of consumer complaints against marketers?
6. Does your commission feel that customer choice programs have benefited consumers and have performed adequately? If so, please provide the basis or sources for this assessment.

7. Has your commission made structural or other changes to customer choice programs since their inception in response to specific problems? If so, please specify.
8. How would market or other problems associated with customer choice programs be brought to the public=s, or the commission=s, attention in your state? Would marketers or consumers have to file a complaint with your commission? Or would problems be identified from market monitoring or other analysis performed by your commission? For example, have marketers who participate in customer choice programs identified problems in their interactions with the local gas utility? Specifically, have they complained about discriminatory treatment by the utility or other utility actions that have made their operation more costly? Similarly, have consumers complained of marketer abuses or marketer non-responsiveness to service or other problems?
9. Please provide, if publicly available, the most recent price and service offerings of gas marketers as well as the local gas utility in your state's customer choice programs?

SUMMARY OF RESPONSES

The survey responses provide several pieces of information about current gas choice programs, at least in the eight states and the District of Columbia that submitted answers to the questions. Specifically, the responses identify several features of gas choice programs and how commissions have overseen their implementation. In our opinion, the response rate to the survey might not be sufficient to generalize the results of the survey to all gas choice programs because of only eight states and the District of Columbia responding to the survey.[6] We summarize below the responses from those PUCs answering the questions to the survey.

Features of Gas Choice Programs

With regard to the responses to the first question, the features of customer gas choice programs differ, sometimes in significant ways, across states. In some states, such as Illinois and Kentucky, not all the major gas utilities have choice programs; all major utilities in other states, such as Maryland, Michigan, New York, Ohio and Pennsylvania (except for the gas utility serving Philadelphia), however, do have choice programs.

Assignment of storage and pipeline capacity is mandatory in some states, while in others marketers are free to purchase their own capacity. Marketer certification for the sampled states ranges widely in term of requirements for marketers. For example, in Michigan the commission does not have authority to license gas marketers, while in Ohio marketers must show that they posses the technical, financial and managerial capability to conduct business. In Pennsylvania, a license may not be issued by the commission "unless the applicant is found to be fit, willing and able to perform properly the proposed service...". The most common form of billing is the utility collecting from customers for both service it renders and marketer service.

[6] Six states with programs that have more than non-trivial participation rates did not respond. These states do not include California, Montana, New Mexico, South Dakota and West Virginia. In Nebraska, which has an active gas choice program, the state PUC does not regulate retail gas markets.

Most states and the District of Columbia have daily balancing requirements. All of the sampled states allow the local utility's marketing affiliate to participate in the program. These affiliates are active in many of the programs, including those in the District of Columbia, Illinois, Maryland, New York, Ohio and Pennsylvania. Almost all of the states have codes of conduct that govern the interaction of the local gas utility and its marketing affiliate. Maryland commented that its codes of conduct have served as a model for other states' codes.

Concerning switching requirements, customers in Maryland are allowed to switch between a utility and a marketer (without being penalized) as often as once a month. Other states commented that the contract between a marketer and customer dictates how often switching can occur. For example, in Ohio customers may switch marketers at their discretion, but are subject to contractual requirements. In Michigan, a customer can switch marketers at any time, but the customer must pay a $10 switching fee for more than one switch in a twelve-month period. In Pennsylvania, the commission has specific switching procedures.

In all of the sampled jurisdictions, the local gas utility is the supplier of last resort. In Pennsylvania, starting in July 2004 any party may petition to act as the supplier of last resort for some customers.

The number of marketers varies widely across programs. By far, New York and Pennsylvania have the largest number of marketers, followed by Ohio, Michigan and Maryland. Also, participation rates by customers differ radically across programs. The highest participation rates for residential customers are in Ohio, followed by Kentucky, Maryland, the District of Columbia, Michigan and Pennsylvania. Regarding unbundled regulated service (e.g., distribution, billing), pricing is generally based on cost of service principles.

Finally, programs vary as to the transparency of prices to the general public. In the District of Columbia, Kentucky, Michigan and Ohio, prices charged by marketers are made public on the commissions' websites. In Pennsylvania, the Office of Consumer Advocate posts the rates of both gas utilities and marketers who serve residential customers. In contrast, prices are not required to be publicly disclosed in Illinois, Maryland, Massachusetts and New York.

Market Oversight and Other Information

First, in several cases gas choice programs have undergone transformation over time. These changes include expanding the size of a program (i.e., changing the status from a pilot to a permanent program, such as in the District of Columbia and Illinois).[7] providing choice customers with more protections, and modifying program features that would attract more marketers, customers, or both. For example, over the past two years Illinois and Ohio have added new certification requirements to protect customers against abuses by marketers.[8] As another example, New York will likely "achieve greater consistency among different utilities' embedded costs regarding method and assignment of costs" to marketers and their customers. New York also reported that changes to its programs are "continuously being made on both an individual and generic case basis." In Maryland, the commission recently modified daily balancing and virtual-storage procedures. Maryland describes its gas-choice programs as evolutionary in that it has "continually refined and modified [its] programs since firm service choice began in 1995." In Ohio, programs across gas utilities have become more similar over time because "what worked in one program was translated to other programs, while those items that didn't work were removed from the applicable programs."

Second, commissions generally perform some kind of periodical after-the- fact review of their gas choice programs. (The exceptions are Michigan and Massachusetts.) The District of Columbia, for example, collects information on the customer participation rate, price offers, and the market share of the different marketers.

[7] For example, MichCon expanded its choice program starting on Apr. 1, 2002. Prior to then enrollment was capped at 225,000; after Apr. 1, 2002 the cap was increased to 440,000, with eligible customers increasing to 600,000 effective on Apr. 1, 2003, and with no cap after Apr. 1, 2004. In Illinois, NICOR Gas initiated a system-wide gas choice program on Mar. 1, 2002; prior to that time its program operated as a pilot with a time span of four years.

[8] Legislation passed in Illinois last year requires all gas suppliers to be certified by the Illinois Commerce Commission. Commission-approved rules expanded reporting requirements and financial qualifications for gas suppliers; marketers have to post a bond of $150,000 and maintain a line of credit or provide similar proof of credibility; marketers will also have to provide itemized billing statements that clearly describe prices, and terms and conditions of services being offered. New rules in Ohio stem from a law passed in 2001, prompted by bankruptcies during the winter of 2000-2001, that mandates governmental aggregators and retail gas suppliers to be certified by the PUC. The law also gave the commission clear authority to regulate marketers and aggregators. Commission-approved rules require suppliers to provide proof of financial backing to prevent defaults.

The Kentucky gas utility with a choice program files an annual report with the commission on the number of marketers and customers participating, stranded costs, and so forth. In Illinois, recent legislation requires staff to file an annual report on gas choice programs beginning this year. Maryland makes the observation that "performance is monitored and assessed on a continuing basis through (the commission's) ongoing LDC specific Roundtable process, an annual Gas Supply conference/hearing, periodic generic policy dockets and hearings, the log of complaints process by (the commission's) consumer assistance division, and (the commission's) quarterly gas choice enrollment reports." In Pennsylvania, the commission monitors the number of participating customers by reviewing the quarterly statistics provided by the Office of Consumer Advocate. Finally, both New York and Ohio perform after-the-fact reviews. For example, in Ohio the commission has assessed the performance of individual programs, with the findings available on its website. New York reviews its programs on a monthly and annual basis.

Third, most programs have identified problems since the inception of their programs. These problems, however, have mostly been resolved and, the vast majority were not considered major. One common problem centers on the lack of interest by customers and marketers. Gas choice has been plagued in Massachusetts by the lack of interest by marketers in serving small retail customers such as households. The response by commission staff indicates that the commission is able to do little to address this problem. Other problems include marketers failing to deliver natural gas (Kentucky and Ohio), especially during the winter of 2000-2001 when prices spiked, customer complaints against the certification of one marketer in Illinois, and customer complaints against marketers for various reasons. New York have encountered several problems, including "customer and marketer miscommunications on switching, delays in processing switching requests by utilities, and miscommunication between marketers and utilities regarding supply and demand imbalances on quantity and pricing." In Ohio the most common problem has been customer complaints against marketers conducting door-to-door canvassing. Finally, in Pennsylvania the most common problems relate to the terms and conditions of supplier contracts, slamming allegations, and billing disputes.

Fourth, most commissions feel that their gas choice programs have benefited small retail customers. Little empirical evidence of these alleged benefits exists, however.[9] Some respondents expressed the view that since a greater number of customers over time have participated in programs this logically infers that there have been benefits. Some commissions remarked that customers may pay higher prices during certain times when purchasing natural gas from a marketer. For example, Michigan reported that "[s]ome choice customers may currently be paying more than the LDC's sales tariff, but that is the result of market conditions at the time the prices were established." Kentucky mentioned that a report from a utility showed that its gas choice program has resulted in a net cost to customers. Illinois commented that the commission probably believes that the programs have benefited customers since it has authorized some pilot programs to become permanent. New York commented that "[t]he real benefit to consumers probably derives from the right to choose and the value of eliminating or reducing price risk, and/or to avail themselves of additional services provided by marketers – but this is a judgment call best made by customers." Maryland contended that "[t]here is no question that gas choice provided sizable benefits to customers on fixed price marketer contracts during the 2000-2001 winter." In Pennsylvania, it is felt that gas choice programs have "provided some benefits to consumers. Consumers can now choose who supplies their natural gas, which may result in savings, if customers choose to participate."

Lastly, participant and stakeholder problems associated with a gas choice program get addressed in various ways. In the District of Columbia, for example, consumers as well as marketers can file complaints with the commission. In some of the other states staff can identify problems and bring it to the attention of the commission or work with the parties to resolve them. For example, in Illinois the staff works informally with utilities, marketers, and customers to resolve problems and

[9] Somewhat contrary to the states' responses, a recent survey conducted by BIGresearch for the NRRI indicated that the vast majority of households believe gas choice has had either no effect on price or an upward effect. (The survey has a sample of 18,793 households, with about 20 percent or slightly over 3,700 households, responding that they are able to choose their natural gas supplier.) Specifically, over 50 percent of the households with gas choice answered that prices were about the same, with 39 percent indicating that prices have increased. Only ten percent of the households sampled felt that choice has lowered gas prices. The same survey also indicated that 84 percent of the households believe that gas choice has had no effect on service quality.

address any concerns that may arise. In Kentucky, a complaint against a marketer is first brought to the attention of the utility and, then, only reaches the commission if a customer files a formal complaint. Concerns by an individual party in Maryland are largely resolved directly by the Roundtable and never reach the status of a formal hearing. The Consumer Division of the Massachusetts commission handles complaints against utilities as well as marketers. In New York, consumer complaints against marketers are handled by the commission, with staff involved with resolving conflicts and mediating complaints. In Pennsylvania, the staff of the commission receives complaints directly from marketers and consumers. Only when matters cannot be informally resolved by staff are complaints brought to the commission’s attention. Overall, most of the states surveyed try to avoid opening a formal investigation to handle complaints, although the option exists for such a procedure.

APPENDIX A: STATES WITH GAS CHOICE PROGRAMS IN PLACE FOR AT LEAST TWO YEARS

California* (PG&E, SDG&E, SCG)
District of Columbia (Washington Gas)
Georgia (Atlanta Gas Light)
Illinois (NICOR Gas)
Indiana (NIPSCO)
Kentucky (Columbia Gas of KY)
Maryland (BG&E, Columbia Gas, Washington Gas)
Massachusetts (Bay State)
Michigan (Consumers Energy, Michigan Consolidated Gas, SEMCO)
Montana* (ENERGY WEST, Montana Power)
Nebraska (KN Energy) (no state regulation)
New Jersey (statewide)
New Mexico* (PNM)
New York (statewide)
Ohio (Cincinnati G&E, Columbia Gas, East Ohio)
Pennsylvania (statewide)
South Dakota* (MidAmerican Energy, North Western Public Service)
Virginia (Columbia Gas, Washington Gas)
West Virginia* (statewide)
Wyoming (KN Energy, Questar Gas)
* States where consumer participation rates have been extremely low.

APPENDIX B: INDIVIDUAL STATE RESPONSES

1(a). The size and the geographical scope of programs

State	Response
District of Columbia	The District of Columbia Gas Customer Choice Program is based solely within the confines of the Washington Gas Light Company (WGL) District of Columbia service territory and the geographical borders herein.
Illinois	There are currently two gas choice programs in the State of Illinois that have been in operation for more than one year– NICOR Gas Company's ("NICOR's) Customer Select program, and Peoples Gas Light and Coke Company's ("Peoples") Choices For You Program. Both programs were initially available on a temporary basis to a limited number of commercial customers. NICOR phased in service to residential customers over a four-year period based on the geographic location of the customers. Peoples offered gas choice to residential customers for the first time in May 2002. As of Mar. 1, 2002, NICOR's Customer Select program has been available to all residential, commercial and industrial customers in NICOR's service territory (although most large volume customers have continued service under long-standing, large-volume transportation tariffs). There are approximately 1,950,000 customers in NICOR's service territory, which basically encompasses all of Northern Illinois outside of the city of Chicago. NICOR's program is a permanent program. As of May 1, 2002, Peoples' Choices For You program has been available to all commercial customers with annual consumption of less than 50,000 therms and all residential customers with a participation cap that will be increased each year for the next three years. Peoples commercial program is a permanent program that was approved by the commission in June 2000 and amended by the commission in early 2002. Since it has not been in place for a heating season, the survey responses will not address Peoples residential program.
Kentucky	Columbia Gas of Kentucky is operating the only customer choice program in Kentucky as a pilot program. The pilot was established in Case No. 99-165 with educational outreach beginning in August 2000. The pilot is scheduled to terminate Oct. 31, 2004. The program is open to all residential and commercial customers with usage not exceeding 25,000 Mcf annually. There are about 140,000 eligible customers.
Maryland	All customers throughout the service territories of our largest LDCs (Baltimore Gas and Electric "BGE", Columbia Gas of Maryland "CG", and Washington Gas "WG") are eligible without restriction for gas choice. Only larger C&I customers are eligible for choice in two of our small LDCs (Chesapeake Utilities "CU" and NUI/Elkton "NUI").
Massachusetts	The whole state has been officially "unbundled" and is open to competition for all classes down to the residential group.
Michigan	At this time, approximately 3.1 million customers of the four largest LDCs in Michigan are eligible to participate in the choice programs. Geographically, these four LDCs serve a major part of the state.
New York	All the state's gas utilities provide unbundled supply, capacity and storage services, as appropriate.
Ohio	Beginning Dec. 1, 2002, more than 90 percent of the gas consumers in the state will be served by LDCs with customer choice programs. This represents a little more than two million customers eligible to choose their supplier (unless they do not qualify due to existing past due balances).
Pennsylvania	Retail choice is available statewide, except for about 500,000 customers residing in the City of Philadelphia, who will be eligible to choose their natural gas supplier in September 2003. Over two million residential customers served by ten natural gas distribution companies currently have the opportunity to choose their supplier. Customers of small gas companies and some municipalities do not have the ability to participate in the choice program.

1(b). Pipeline capacity and storage assignment

State	Response
District of Columbia	Currently, alternative suppliers (marketers) can use third party capacity, except for the ten percent of which (pipeline capacity for storage) is assigned as part of the daily balancing program. Marketers apply a virtual storage approach to using WGL storage capacity.
Illinois	Both NICOR and Peoples have significant amounts of on-system storage capacity. The costs associated with on-system storage are recovered directly from all customers (sales and transport) through base rate distribution charges. Peoples and NICOR also contract for no-notice service on interstate pipelines and Peoples contracts for some off-system storage and a commensurate amount of pipeline capacity. A portion of the costs associated with off-system storage and no-notice services is recovered from gas choice customers through a gas cost recovery mechanism that is referred to as an aggregation balancing gas charge. There is no pipeline capacity recovered from suppliers or gas choice customers except for the pipeline capacity necessary to transport gas from Peoples' off-system storage assets to Peoples' distribution system. Suppliers are assigned storage capacity that is commensurate with the costs recovered from suppliers through the aggregation balancing charge and the costs recovered from their customers through base rates. In Peoples service territory, this capacity amounts to approximately 20 days of peak demand for the group of customers served by the supplier. NICOR's storage amounts to approximately 29 days of peak demand for the customers group. Suppliers are required to fill the storage during an injection season and draw down the storage during a withdrawal season. In both NICOR's and Peoples' service territories, the utility sets the injection and withdrawal schedules. NICOR's withdrawal schedule varies with heating degree-days and is adjusted as operational constraints change. The adjustments are generally at the utility's discretion. Peoples' withdrawal schedule is based on planned withdrawals before the withdrawal season begins. The suppliers total storage capacity is allocated in different percentages for each month across the withdrawal season. The capacity in each month is withdrawn ratably for each day during the month. Thus, Peoples provides no variation to minimize the effects of demand swings on required deliveries. A workshop process is currently underway to come up with a new method for varying withdrawals with heating degree-days.
Kentucky	There are two phases in the pilot program, based on the level of stranded costs. During Phase One, there is no mandatory capacity assignment. However, marketers are required to demonstrate to Columbia Gas that they have contracted for the appropriate level of firm capacity. In Phase Two of the pilot, capacity assignment becomes mandatory. Columbia began assigning capacity earlier this spring.
Maryland	Pipeline capacity is available to marketers in all of our choice programs. For BGE and WG, pipeline capacity is available in two ways: voluntary full price assignment and through the secondary auction market. CG requires a marketer to verify that they have the necessary firm service pipeline capacity to serve their full anticipated load. CG allows requirement to be fulfilled through a marketer's own resources or voluntary full price capacity assignment. Because of the highly constrained capacity situation on the only pipeline serving CU and NUI, capacity is provided on a mandatory full price assignment basis. Only BGE and WG make storage available through a "virtual storage" program that replicates daily storage operations as if storage had been directly assigned. CG, CU and NUI provide full balancing services and retain all use of their storage.

1(b). Pipeline capacity and storage assignment – *continued*

State	Response
Massachusetts	98-32B, February 1999, required a transition period of mandatory capacity-release program whereby migrating customers are assigned their pro-rata share of the LDC's upstream pipeline and storage capacity used to provide that customer with firm sales service. When such capacity is assigned, it is priced at maximum FERC rates (i.e., the LDC's cost). This means that all migrating customers retain existing responsibility for the cost associated with the capacity to provide them with firm sales service. In 98-32D, section 13, mandatory assignment of upstream and downstream capacity resources is consistent with the D.T.E. 98-32B determination.
Michigan	DTE/MichCon and Consumers Energy are the two largest companies with a significant amount of gas storage facilities. Their programs do not provide for the assignment of pipeline capacity or storage capacity. However, they are the supplier of last resort. Aquila-MGU and SEMCO Energy have different versions of capacity assignment.
New York	All gas utilities make available capacity and storage assets to marketers consistent with their ability to do so. Marketers generally are free to obtain their own capacity, if they so choose though in limited cases, under the terms of the restructuring agreements, marketers may commit to certain capacity for reliability purposes. Where the marketer obtains its own capacity, it is required to demonstrate by affidavit that it has primary point delivery capacity for the five-month winter period. Where the marketer purchases capacity and/or storage services from the utility, generally it is at the utility's cost. However, the terms and conditions have evolved over time and may vary due to various differences among service territories, as reflected in each utility's tariffs.
Ohio	All programs feature voluntary pipeline capacity and storage assignments, with the exception of the Dominion East Ohio program. In that program, marketers have their customers' pro-rata portion of storage capacity rights for on-system and pipeline storage, as well as their customers' pro-rata portion of locally-produced gas that is favorably priced relative to delivered interstate gas purchases. All programs feature comparable capacity requirements for the marketers that are subject to audit by the LDC to ensure that the marketer has sufficient winter-season primary firm pipeline capacity delivery capability.
Pennsylvania	Generally, contracts for firm storage or transportation capacity that were in place when the Gas Choice Act went into effect in July 1999 or had to be renewed within 150 days thereafter, may be assigned, released, or transferred by the natural gas distribution company to licensed natural gas suppliers or large commercial or industrial customers on their system. However, as of Jul. 1, 2002, the commission is authorized, upon petition by the distribution company or supplier, to prevent such assignments, releases or transfers under limited and specified circumstances. 66 Pa.C.S. §2204(d).

1(c). Marketer qualification or certification requirements

State	Response
District of Columbia	Marketers must file appropriate financial information with WGL. They have discretion in assigning a bond to newer marketers or those without adequate financial history or backing.
Illinois	Suppliers are required to post a performance assurance with the utility under the gas choice tariffs that is equivalent to $2/therm of customer group peak demand. This obligation can be met through a cash deposit, letter of credit, or parental guarantee. In addition, suppliers serving residential and, most recently, commercial customers with an annual usage of less than 5000 therms are required to be certified by the commission. In order to serve residential and small commercial customers suppliers must meet certain financial, managerial, and technical requirements. The certification requirements are a result of two separate pieces of legislation. The first piece of legislation laid out requirements for suppliers serving residential customers. The second piece added some consumer protections and expanded the certification requirements to suppliers serving small commercial customers. The certification requirements in the law are detailed in Ill. Adm. Code Part 551. The commission is currently in the process of amending Code Part 551 to account for the second piece of legislation.
Kentucky	Columbia Gas of Kentucky is responsible for certifying marketers as it retains its obligation to serve. Certification includes establishing credit worthiness with Columbia Gas, executing a contract, and other requirements included in the Small Volume Gas Aggregation Service Tariff.
Maryland	Marketers must be licensed by the commission and pass the now common technical, financial and business practice (any state or federal actions taken against the marketer) standards.
Massachusetts	The Commonwealth's Marketer licensing program is divided into Gas Suppliers and Gas Retail Agents. A completed application and fee are required for licensing. A listing of approved gas suppliers and agents may be found on the Gas Division website, www.state.ma.us/dpu.
Michigan	The commission does not have the authority to license gas marketers. Marketers must complete a registration on which they list name, address and other contact information. All marketers must have an agent in the state and a toll free number. The marketer must also agree to abide by all rules of the programs.
New York	Marketers are required to apply to the commission for eligibility by submitting their standard sales contract, sample bills for residential and small commercial customers, certificate of incorporation, and a description of corporate ownership and affiliate relationships. Marketers are also required to maintain creditworthiness standards and/or post security requirements. Finally marketers are required to provide complaint handling, provide bills in clear and plain language and to provide advance notification of termination of gas supply services, providing customers at least 15 days notice.
Ohio	Pursuant to Ohio law, the commission certifies all choice program marketers (essentially, those serving residential and small commercial customers). Marketers must demonstrate that they posses the technical, financial, and managerial capability to supply customers. The commission's certification rules and application requirements are available at: http://www.puc.state.oh.us/consumer/gaschoice/gaschoice.html.

1(c). Marketer qualification or certification requirements – *continued*

State	Response
Pennsylvania	The Gas Choice Act requires natural gas suppliers to obtain a license issued by the commission. A license may not be issued by the commission unless the applicant is found to be fit, willing and able to perform properly the proposed service and to conform to the statute and the commission's regulations, and that issuance of the license is consistent with the public interest. The focus of the statutory requirements is on the applicant's financial fitness as necessary to ensure the safety and reliability of natural gas supply service. Specifically, the Gas Choice Act requires the natural gas supplier to furnish a bond or other security in a form and amount that ensures its financial responsibility. 66 Pa.C.S. §2208(a)-(c). The criteria for determining the amount and form of such bond were established by the commission's licensing regulations at 52 Pa. Code §62.111. Under those regulations, the amount of security should be reasonably related to financial exposure imposed upon the distribution company resulting from default or bankruptcy of a licensee. The amounts and form of bonds or other security are set forth in each distribution company's tariff. For further details regarding requirements imposed upon natural gas suppliers, please see the Natural Gas Supplier licensing package at www.puc.paonlinecom/gas/gas_comp.asp.

1(d). Billing procedures

State	Response
District of Columbia	Two approaches are available in the District of Columbia. The marketer can use WGL to bill their clients for a small fee. The other approach is where the marketer will do composite billing for both the utility's delivery service rates as well as the commodity that it supplies.
Illinois	Both NICOR and Peoples are required to offer three forms of billing; billing information is exchanged electronically between the supplier and the utility under each type of billing arrangement: (1) Single billing through the utility – the service is a "bill ready service"; (2) Single billing through the supplier – the supplier collects payment for both supplier and utility charges and remits payment to the utility on behalf of the supplier's customer; (3) Two bills – one bill from the supplier for commodity service and one bill from the utility for distribution service.
Kentucky	Columbia Gas is responsible for rendering all bills and retains the responsibility for collections and bad debts. In exchange for retaining billing and risks of collection, Columbia Gas of Kentucky retains 2.5 percent of the amount owed to the marketer.
Maryland	"Competitive billing" is not required statewide. WG has marketer consolidated billing protocols so that a marketer can render a combined marketer and utility bill. Few marketers have done this. For most "mass market" choice customers the utility renders a combined bill for utility distribution and marketer gas commodity. Payment posting of partial payments goes in the following order: utility past due, then marketer past due, then utility current, then marketer current. In practice, most larger C&I customers get separate bills from the utility and the marketer. This market is sufficiently specialized that combined billing has seldom been used.
Massachusetts	For distribution company see 220 CMR 14.03(6) For supplier and retail agent see 220 CMR 14.04(3)
Michigan	The LDCs do all of the billing. Supplier billing was tried during the choice pilot period, but only one supplier chose to offer its own billing. During the collaborative period when permanent program details were discussed by LDCs, suppliers and other interested parties *(see more discussion of collaborative in answer to three)*, there was very limited interest from the suppliers in doing their own billing. The MPSC is still open to supplier billing and may consider this option in the future.
New York	Billing procedures vary depending upon whether the utility is operating under a "single retailer" or "multi-retailer model. Most New York service areas apply the "multi-retailer" model. The commission's EDI (Electronic Data Interchange) Order provides requirements for standardization and upon full implementation, customers will be able to determine whether they prefer to receive a single bill or multiple bills. Currently, where the marketer has the ability, customers may authorize the marketer to consolidate marketer and utility bills into one, collect the payment from the customer and remit the utility's share of the payment to the utility, on behalf of the customer. Marketers are subject to certain billing requirements. Bills must be clear and use plain language, and marketers must provide advance notification of at least 15 days prior to discontinuance of supply service to allow customers to arrange payment or service from another supplier. Also, marketers must have in place a system to handle customer billing or other complaints.
Ohio	All programs feature LDC billing for LDC services and for marketer services; some programs have additional alternatives, including billing by the LDC and the marketer, individually and separately, each for their own services.

1(d). Billing procedures – *continued*

State	Response
Pennsylvania	Under the Gas Choice Act, the natural gas distribution company is responsible for billing all retail gas customers on its system, regardless of the identity of the provider of natural gas supply services. The statute requires that bills to customers must contain sufficient information about unbundled charges to enable the customer to determine the basis for those charges. Bills rendered by the natural gas distribution company on behalf of a natural gas supplier must contain information about the natural gas supplier's rates and how to contact them. 66 Pa.C.S. §2205(c). Details about bill formats and necessary items for inclusion in bills are in the commission's regulations at 52 Pa. Code §§62.71-62.80. They can be accessed at http://www.pacode.com/secure/data/052/chapter62/subchapCtoc.html. The statute also obligates natural gas suppliers to furnish billing data in an appropriate format that is sufficient to enable the natural gas distribution company to timely bill customers. Specific billing procedures and obligations are set forth in the supplier coordination tariff provisions maintained by each distribution company.

1(e). Balancing requirements of marketers

State	Response
District of Columbia	The WGL Choice program has used daily balancing for over one year.
Illinois	Both Peoples' and NICOR's service territories are served by multiple pipelines. There are no requirements for suppliers to source gas on any particular pipeline. Suppliers are free to source supply from any location and deliver that supply to any utility city-gate on any pipeline. Both utilities have tariff provisions in place that would allow them to require suppliers to deliver to alternative city-gates in the event system integrity is jeopardized. In theory, the flexibility to deliver gas on any pipeline is derived from the utilities' cost recovery of balancing assets such as no-notice service, on-system storage and off-system storage. Thus, the utility provides balancing through the use of system resources that are funded by suppliers and their customers. With respect to daily volumes, suppliers are required to deliver the utility's estimate of the customer group's consumption plus or minus any storage activity. A supplier's daily delivery may vary by as much as plus or minus ten percent of the utility's required daily delivery without penalty. Any volumes outside of the plus or minus ten percent range are cashed out at a reduced or increased index price, respectively. In addition to the daily volumes, deliveries for the month (excluding volumes that were cashed out) are required to fall within plus or minus two percent of the sum of the required daily deliveries. Any deliveries outside of this band are assessed a $1/therm penalty. Both utilities provide for a carry-over of the imbalances between deliveries and actual consumption at the end of each month. That is, instead of cashing out the entire month-end difference between deliveries and consumption, the utilities allow positive and negative month-end imbalances (plus or minus two days of peak demand in Peoples and plus or minus three days off peak demand in NICOR) to be carried over to the second month following the month of imbalance.
Kentucky	Columbia charges marketers who do not take direct assignment of capacity from Columbia $0.35 per Mcf for all volumes delivered during the billing month. This amount is backed out of the GCR to sales customers.
Maryland	Daily nominations and balancing are now required or soon to be implemented for BGE and WG gas choice customer segments. It is facilitated through their "virtual storage" services and web based electronic transactions (for all information including enrollments, daily operations, etc – but it isn't actually "EDI"). The three smaller programs continue some variation of comprehensive balancing that, in practice, is based on a time period of a few days to monthly.
Massachusetts	In "Terms and Conditions" for all LDCs
Michigan	Marketers are required to deliver the amount the utilities determine based on guidelines in the "Gas Supplier Agreement" and the tariffs. There are balancing requirements.

1(e). Balancing requirements of marketers – *continued*

State	Response
New York	For citygate balancing, the commission requires a minimum tolerance band of two percent for daily deliveries, with differences subject to cashout, roll-over and/or penalties. Underdeliveries in excess of two percent may be subject to daily cashout and a penalty charge not to exceed $10/dt, except for critical periods when higher penalties are allowed. Imbalance trading between customers of a single aggregator or multiple aggregators or customers on the same pipeline, if pre-arranged by customers or marketers, is also allowed, subject to the tolerance conditions previously noted. For on-system balancing, the commission requires a minimum tolerance of ten percent for daily balancing, with customers eligible to form groups to trade imbalances. With regard to cashout, the commission allows either monthly cashout or rollover, at the utility's option.
Ohio	All programs feature balancing requirements for the marketer to match the directed delivery quantities; some optional balancing services exist for marketer subscription.
Pennsylvania	The Gas Choice Act imposes the obligation on natural gas distribution companies to implement procedures that require all natural gas suppliers to supply natural gas to the distribution company at locations, volumes, quantities and pressures that are adequate to meet the supply and reliability obligations to all retail customers on the system. The procedures that the distribution company must implement include: a communication protocol with suppliers, an ability to issue system maintenance orders, and the right to issue and enforce penalties. 66 Pa.C.S. §2205(a). Those procedures and penalties for imbalances have been set forth in the distribution companies supplier coordination tariff provisions.

1(f). Presence of local utility's marketing affiliate

State	Response
District of Columbia	WGL's affiliate, Washington Gas Energy Services, is an active participant and has a dominant share of the residential market in this Customer Choice program.
Illinois	Both Peoples and NICOR have a marketing affiliate that uses the Parent company's name and logo. They are both active players in their sister companies' service territories.
Kentucky	Marketers affiliated with Columbia Gas are not precluded from participating in the choice pilot but to date none have (Columbia Gas does not have a marketing affiliate at this time.) There is a standard of conduct applicable to affiliates included in the Small Volume Gas Transportation tariff.
Maryland	Affiliates are allowed to operate in the LDC service territory. BGE, WG and CU have active marketing affiliates. BGE and WG affiliates are active statewide – in fact, the affiliate of Potomac Electric Power (Pepco Energy Services) is also an active gas marketing affiliate statewide. All affiliates except CU are also electric marketers and the WG and Pepco affiliates are very strong "dual fuel" marketers.
Massachusetts	None
Michigan	There is only one LDC affiliate participating in the programs at this time.
New York	The commission permits utilities to have marketing affiliates that are competing within the home service area under certain safeguards, described in the following section (g). (Most major utilities have their affiliate operating in their territory.).
Ohio	Two of the four programs feature the presence of an LDC marketing affiliate.
Pennsylvania	Under the Gas Choice Act, marketing affiliates of natural gas distribution companies, including the marketing department or division of the companies, must be licensed before providing natural gas supply services to retail gas customers. 66 Pa.C.S. §2202 (definition of "natural gas supplier."); 66 Pa.C.S. §2209(i). A review of the licensed natural gas suppliers, which may be found on the commission's website at www.puc.paonline.com, shows that most, if not all, major distribution companies have marketing affiliates who are licensed as natural gas suppliers. Codes of conduct apply to the relationship between natural gas distribution companies and their affiliated natural gas suppliers.

1(g). Codes of conduct or affiliate rules in place

State	Response
District of Columbia	District of Columbia currently is using the adopted Standards of Conduct from Maryland. Case No. 8747 until an Energy Code of Conduct is approved in F.C. 1009 (D.C.) later this year.
Illinois	Illinois has in place 83 Illinois Administrative Code Part 550, Non-discrimination in Affiliate Transactions for Natural Gas Utilities. The affiliate rules can be accessed at the following section of the commission's website: http://www.icc.state.il.us/rl/rules/83iac550.doc.
Kentucky	There are codes of conduct included in the Small Volume Gas Transportation Tariff for both affiliated and non-affiliated marketers. In addition Kentucky statutes require a code of conduct applicable to utilities and their affiliates.
Maryland	Strong code of conduct and affiliate rules were in place prior to the operation of the first affiliate. Our code of conduct in particular has served as a model in many state programs.
Massachusetts	220 CMR 12
Michigan	The commission has a code of conduct for LDCs and for suppliers.
New York	Affiliate rules or safeguards include a requirement of fully separated operations. Information and services, however, may be provided by an LDC to an affiliate if offered on an equal basis to all interested parties. Affiliate rules and requirements have been negotiated by the parties and approved by the commission in their individual restructuring and rate cases.
Ohio	Each program has marketer codes of conduct (as to how the marketers must conduct their behavior in order to participate in the choice programs) as well as affiliate codes of conduct. In addition, the commission has administrative rules that establish marketer certification requirements and standards for marketer interactions with customers.
Pennsylvania	The Gas Choice Act required the commission to adopt interim standards of conduct within 120 days after the effective date of the Act governing the activities of and relationships between natural gas distribution companies and their affiliated natural gas suppliers. The statute also directed that the standards contain certain content aimed at ensuring that natural gas distribution companies do not discriminate against non-affiliated suppliers or show preferential treatment to affiliated suppliers. 66 Pa.C.S. §2209. Consistent with these directives, the commission adopted an Order on Nov. 18, 1999 at Docket No. M-00991249F004 establishing the interim standards. The standards contain detailed provisions to ensure that the following statutory requirements are fulfilled: (1) No discrimination against or preferential treatment of any natural gas supplier, including an affiliated natural gas supplier. (2) No disclosure or preferential sharing of any confidential information to or with any individual natural gas supplier. (3) Adequate rules prohibiting cross-subsidization of an affiliated natural gas distribution supplier by a natural gas distribution company. (4) Maintenance of separate books and records by the natural gas distribution company and its affiliated natural gas suppliers. (5) Sufficient physical and operational separation, but not including legal divestiture, to accomplish paragraphs (1), (2), (3) and (4). (6) An informal dispute resolution procedure. (7) A system of penalties for noncompliance with the final set of standards of conduct consistent with existing commission regulations. The commission is also required by the Gas Choice Act to promulgate regulations setting forth permanent standards of conduct.

1(h). Customer enrollment and switching requirements (e.g., how often can customers switch marketers)

State	Response
District of Columbia	Customers sign up for a minimum one year contract. Customers who break that contract face potential legal issues from the marketer.
Illinois	Customers are allowed to switch suppliers or switch back to sales service once every billing period. Customers that switch to sales service are required to remain on sales service for at least one year if they do not switch back to service within approximately 45 days from the day that they switched back to sales service.
Kentucky	Customers can enroll in the program on a monthly basis and can switch marketers also on a monthly basis, subject to the limitations of their existing contracts with marketers.
Maryland	Customers can switch from or to utility commodity service monthly without penalty or any stay in or stay our provisions. Customers technically can switch marketers monthly subject to the terms of the customers contract with their marketer – although generally the switching rules can not be used by a marketer to force a customers to stay with a particular marketer.
Massachusetts	220 CMR 14.04 (4) A customer's choice of supplier may be evidenced by a) a letter of authorization signed by the retail customer, b) a third party verification, and c) the completion of a toll-free call made by the retail customer to an independent third party (14.04(4)(d)). Additionally, the customer with an annual thermal usage of <7,000/yr shall have a 72 hour right of rescission. No more than one supplier may be designated to provide Supplier Service.
Michigan	A customer can switch suppliers at any time, but must pay a $10 switching fee for each switch after one free switch in a 12-month period. If a customer switches to choice, she must remain a choice customer for 12 months; customers who return to the LDC must stay with the LDC for 12 months.
New York	Customers may enroll with marketers as they choose, though utilities do have the right to require customers returning to the utility to remain for 12 months, if the utility is unable to recover its costs through its gas adjustment clause. This requirement is to prevent inappropriate cost shifting and only applies to voluntary returns to the utility. Regarding fees, the first switch is free and utilities may charge no more than $10 for subsequent switches between marketers. No charge is incurred when a customer switches from the utility to a marketer. Utilities are required to send a verification letter to each customer with a pending enrollment prior to a switch date provided in the letter. The customer is given a five-day calendar period to change or nullify the enrollment by contacting the utility directly. Marketers are required to maintain verification that demonstrates a customer's authorization to switch the account. These verifications must be maintained under the Uniform Business Practices for a six-year period in one of the following formats: written agreements signed by the customer, written statements or taped recordings administered by an independent third party verification house or taped recordings taken by the ESCO or electronic transmittals which demonstrate origin from the customer. The utilities are required to submit monthly reports of enrollment requests that were cancelled due to non-compliance with customer enrollment and slamming procedures.

1(h). Customer enrollment and switching requirements (e.g., how often can customers switch marketers) – *continued*

State	Response
Ohio	Customers are eligible to enroll if they are current on their bills. Customers may switch suppliers at their discretion, but subject to their contract requirements. However, most LDCs leave it to the marketplace to police that issue, rather than to be the enforcer of third party contract provisions.
Pennsylvania	Generally, pursuant to the tariff provisions of the natural gas distribution companies, customers are switched to natural gas suppliers at the next meter read date that falls at least 16 days after the customer's selection is received by the distribution company. Under the Gas Choice Act, the commission was required to establish procedures to ensure that the customer's natural gas supplier is not changed without the customer's consent, which may be oral or written. 66 Pa.C.S. §2206(b). The switching procedures, established by commission regulations, can be summarized as follows: 1. The customer contacts the natural gas supplier and agrees to service. 2. The supplier contacts the distribution company by end of the next business day. 3. The distribution company sends a confirmation letter to customer by the end of the next business day. 4. The customer has 10 days to cancel the switch to the natural gas supplier 5. If the customer does not request cancellation, then the distribution company changes the customer's supplier at the beginning of the first feasible billing period following the ten-day waiting period. 52 Pa. Code §59.91 Œ §59.99. The regulations may be accessed at http://www.pacode.com/secure/data/052/chapter59/chap59toc.html. The commission imposes no restrictions upon the number of times a customer may switch suppliers. The customer's ability to switch would be governed by any contracts or agreements with the supplier.

1(i). Obligation of local gas utility as the supplier of default supplier

State	Response
District of Columbia	WGL retains the supplier of last resort responsibility (SOLR).
Illinois	Both Peoples and NICOR are required to provide bundled service as they had before gas choice was implemented.
Kentucky	Columbia Gas retains all responsibilities as supplier of last resort. If Columbia Gas is required to step in and buy gas due to a marketer failure to provide the required gas, Columbia Gas must recover the additional cost from the marketer.
Maryland	The commission recently had the opportunity to clarify this obligation and declined to do so. The commission did, however, say that the LDC should assume that it should enter into the necessary arrangements to continue to fulfill a standard offer service/provider of last resort role.
Massachusetts	220 CMR 14.03(4) Local Distribution Requirements (14.03(4)): the DTE ordered that the LDCs must plan for and procure the capacity resources needed to meet a firm customer's requirements for at least three to five year transition period.
Michigan	The LDC is the supplier of last resort.
New York	Under retail choice as implemented in New York, utilities retain the obligation to serve. If a marketer discontinues to supply service for any reason, customers may return to standard service provided by their local utility. A Provider of Last Resort (POLR) pilot is being explored.
Ohio	All LDCs in Ohio currently retain the obligation to supply.
Pennsylvania	Under the Gas Choice Act, the natural gas distribution company retains the obligation to serve as the Supplier of Last Resort (SOLR) for residential, small commercial, small industrial and essential human needs customers until such time as the commission approves an alternative supplier. The SOLR is required to provide natural gas supply service to customers who have not chosen an alternative supplier, those who have been refused supply service by an alternative supplier and those whose alternative supplier has failed to deliver its requirements. 66 Pa.C.S. §2207(a). If a natural gas distribution company wishes to discontinue providing some or all of its SOLR services, it may request approval from the commission. Such approval must be accompanied by a designation of another party as the alternative SOLR for each customer or customer group for which the distribution company will no longer serve as the SOLR. 66 Pa.C.S. §2207(e). Starting on Jul. 1, 2004, any party may petition to become the SOLR for some groups of customers. The commission is required by the Gas Choice Act to promulgate regulations setting forth standards for approving an alternative SOLR. 66 Pa.C.S. §2207(h).

1(j). Number of current marketers, and if available, individual market shares

State	Response
District of Columbia	The residential program has five marketers, while the commercial program has twelve marketers.
Illinois	There are currently six participating suppliers marketing to residential customers and ten suppliers marketing to commercial customers in NICOR's Customer Select program. The total number of participating suppliers in NICOR's Customer Select program is ten. There are currently six suppliers participating in Peoples' Choices For You program. Market share data is not available to the public.
Kentucky	There are currently two marketers active in the choice program, MX Energy and Community Action Council's Buyers Club. Interstate Gas Supply ("IGS"), although not currently enrolling new customers, has by far the largest number of customers. Energy.com and Stand Energy are also approved marketers but are not currently active in the program. The percentage of customers each marketer has of the total is not known.
Maryland	As of the end of June 2002, ten marketers were serving residential customers in BGE's service area, two marketers in Columbia Gas service area, and eight marketers in WG's service area. (The number of marketers serving residential customers of other gas utilities were not available.)
Massachusetts	See website address www.state.ma.us/dpu.
Michigan	There are approximately 12 suppliers operating in MichCon's service territory. Suppliers register by LDC service territory. The other LDCs have fewer suppliers operating in their territories.
New York	As of Sept. 3, 2002, there were 82 ESCOs in compliance with the Commission's eligibility criteria. Sixty-seven ESCOs were eligible to sell natural gas supply to residential and small commercial customers, with 53 actively providing supply. Some marketers serve both electric and gas markets and others serve gas only. Market share information by marketer is confidential.
Ohio	As of Dec. 5, 2002, the following numbers of marketers participating in the various gas choice programs (residential and small commercial customers): Columbia Gas of Ohio (CGO) - 11; Cincinnati Gas & Electric (CG&E) - nine; Dominion East Ohio Gas (DEO) - 17; Vectren Energy Delivery of Ohio (VEDO) - two. Market share data for individual marketers are not available.
Pennsylvania	There are approximately 80 entities licensed as natural gas suppliers, about five of which are currently making new offers to residential customers. A list of the licensed suppliers is available on the Commission's website (puc.paonline.com). This information is regularly updated by Pennsylvania's Office of Consumer Advocate and is available at http://www.oca.state.pa.us/gascomp/GasShoppingGuide.pdf. The Commission does not make individual suppliers market share information available.

1(k). The number and percentage of eligible customers choosing a third-party marketer

State	Response
District of Columbia	For the residential class as of October 2002, 17% or 23,701 choose an alternative supplier. For the commercial class, as of October 2002, 34% or 4,474 choose an alternative supplier.
Illinois	**NICOR Gas** — **Enrolled** / **Eligible** / **Participation** Residential 129,996 / 1,824,600 / 7% Commercial 53,849 / 182,500 / 29% Total 183,849 / 2,007,100 / 9% **Peoples** Commercial 9,536 / 85,101 / 11%
Kentucky	There are approximately 50,000 customers currently enrolled in the program or about 35% including customers served by IGS.
Maryland	As of the end of June 2002, 13.8% of BGE's residential customers chose a third-party marketer, 5.5% of Columbia Gas' residential customers, and 24.5% of WG's residential customers.(Information is unavailable for the other gas utilities.)
Massachusetts	Not answered
Michigan	Almost 361,000 customers are using an alternative gas supplier, which represents about 13% of the eligible customers.
New York	At this time, approximately 6.7% of residential customers are transporting gas, which represents 13.3% of the annualized residential load.
Ohio	Residential and small customer ("choice" customers) participation rates are as follows: CGO residential = 422,795 or 34%, CGO small commercial = 40,059 or 37%; CG&E residential = 31,560 or 8%, CG&E small commercial = 4,457 or 9%; DEO residential = 627,718 or 58%, DEO small commercial = 42,939 or 53%. VEDO is a new program and switching numbers are not yet available.
Pennsylvania	According to statistics compiled by Pennsylvania's Office of Consumer Advocate, 215,614 residential customers are being served by alternative suppliers, as of Jan. 1, 2003. This constitutes 10.5% of the total residential customers eligible for choice in Pennsylvania. This information is regularly updated and is available at http://www. oca.state.pa.us/cinfo/gtats0103.pdf.

1(l). Rate methodology for unbundled regulated services

State	Response
District of Columbia	Distribution was unbundled from the commodity and transportation components of the pre-choice bundled service. The balancing costs were further unbundled from commodity and transportation charges to make that a separate charge as well.
Illinois	The rate methodology for off-system storage and no-notice services that are utilized for balancing and seasonal hedging is discussed above in the response to 1(b). Gas Choice customers are assessed the same base rate charges (customer charge and volumetric distribution charges) as sales customers. In addition, suppliers are charged an application charge, a group or pool charge, a customer charge, a utility single bill charge (if applicable), and a customer switching charge. The application fee is a one-time fee of $2000 that covers the costs of educating suppliers, getting suppliers set up to participate in the programs, and keeping suppliers updated on program operations. The group or pool charge is $200 per month per group or pool of customers. All suppliers lump their customers into a single group. The group or pool charge recovers the costs of managing the group of customers and forecasting for the group. The customer charge ($0.49/customer/per month for Peoples and $0.59/customer/per month for NICOR) is a fee that covers program administrative costs associated with electronic exchange of information, supplier communications, and other program costs that are incremental to the costs associated with providing sales service. The customer switching fee is a $10.00 charge that is assessed to a supplier each time they sign up a new customer. The $10.00 covers the administrative costs associated with customer switching, such as the cost of removing a customer from a pool and adding the customer to another pool and sending out notification letters to the customer. (NICOR waives the charge for customers that leave sales service to participate in the program for the first time). The single billing fee is a per customer monthly fee ($0.50/customer/month in Peoples and $0.25/customer/month in NICOR) that reflects the costs associated with billing the suppliers services, collecting payments for the suppliers services, and remitting the payments to the supplier In the course of the investigation of Peoples' and NICOR’s programs, the Commission identified a cost reduction associated with reduced obligation to maintain storage inventory for customers that switch to service with an alternative supplier. The credit is an estimate of the reduction in the carrying cost of gas in storage, which is traditionally a base rate item in Illinois. The credit was used to offset a portion of the utilities’ proposed customer charge.
Kentucky	No other elements of the regulated service have been unbundled at this time. Therefore, base rates remain unaffected.
Maryland	Distribution rates are developed along the traditional way and all customers pay the same distribution rates, whether they are choice or sales service customers. All direct gas commodity, capacity and storage related costs are in the utility purchased gas rate. Indirect costs such as uncollectables, the gas management functions, etc. are still in distribution base rates. All customers pay a “stranded cost” charge for the difference in price between the contract price for capacity that the utility pays (and is in the utility's gas commodity charge) and the amount the utility recovers through the gray or secondary market for capacity that is not needed because of choice.

1(l). Rate methodology for unbundled regulated services – *continued*

State	Response
Massachusetts	Costs are unbundled based on embedded cost of service studies.
Michigan	Unbundled, regulated service rates are based on cost of service and must be approved by the Michigan Public Service Commission.
New York	The unbundled rates currently in effect have been developed in individual rate and restructuring proceedings rather than based upon on a uniform rate methodology. The Commission does have a case (# 00-M-0504, "Unbundling Track") underway intended to achieve greater consistency among different utilities' embedded costs regarding method and assignment of costs. Testimony will be filed later this fall.
Ohio	As Ohio LDCs operate under a gas cost recovery mechanism (GCR, aka PGA or AGA clause), virtually all LDCs already had base rates reflecting the cost of LDC services (i.e., transportation and delivery charges, meters & other equipment, and other base rate costs), only minor adjustments to LDC base rates were necessary to adjust for tax changes (e.g., removing the excise tax rate in the base rates and applying appropriate sales tax rates to gas supplies, etc.)
Pennsylvania	The rates for natural gas supply service provided by natural gas distribution companies continue to be established through annual proceedings required by provisions of the Public Utility Code that focus on least cost procurement policies, consistent with the company's obligation to provide safe, adequate and reliable service to its customers. 66 Pa.C.S §§1307(f) and 1318(a).

1(m). The degree of price transparency (e.g., public information, confidential).

State	Response
District of Columbia	Consumers can find all of the price offers on the District of Columbia Public Service Commission website at www.dcpsc.org, so there is price transparency.
Illinois	Recent prices charged by the utility are available upon request from the utility and are also available through the utilities' websites. Suppliers are free to charge whatever price they see fit as long as the price is adequately disclosed. Suppliers often post prices on their web sites for small customers. Suppliers may negotiate prices with larger commercial customers. Contracts between customers and suppliers are not publicly available but suppliers often make drafts of similar contracts available.
Kentucky	The rates charged by the marketers are available on the internet (commission website, Columbia Gas of Kentucky's website or the marketer's website if maintained) or can be obtained by calling the company directly.
Maryland	Utility commodity rates are continually updated on the commission and utility websites. There is no requirement or mechanism for price comparison of marketer rates (e.g., public information, confidential).
Massachusetts	Rates for the regulated distribution companies are publicly posted. Information Disclosure Requirements 220 CMR 14.05: Each supplier must prepare a statement entitled "Terms of Service" which includes information on pricing, length of contract, consequences of late payment, low-income eligibility, provisions for default service and the method whereby the retail customer will be notified of changes to items in the Terms of Service.
Michigan	Supplier residential rates and all rates of the LDCs are accessible through the MPSC's web site.
New York	The commission does not require the filing of prices by marketers and maintains no such price information. The commission's website, www.dps.state.ny.us, provides customers a list of registered marketers, by service territory, with phone numbers and direct links to their websites, where available, so they may request current prices and contract terms directly.
Ohio	The commission of Ohio is proud to be leading the way in price transparency through the establishment of its "Apples To Apples" marketer offering comparisons.
Pennsylvania	The public utilities' tariff rates are available on the commission's website (puc.paonline.com). The Office of Consumer Advocate also posts the supply rates (or prices to compare) of each distribution company, along with the price offerings of natural gas suppliers who offer service to residential customers. The comparison prices are available at http://www.oca.state.pa.us/gascomp/GasShoppingGuide.pdf.

2). Has your commission conducted any after-the-fact analysis that assesses the performance of customer choice programs? If so, please summarize the findings, highlighting any market problems that may have occurred. Also, please indicate how your commission defines performance.

State	Response
District of Columbia	The Commission Staff, through market monitoring, follows participation, market share and price offers. Staff compiles a monthly WGL Market Monitoring report. The Commission has not defined performance per se, but Staff looks for participation rates, number of marketers and relative market shares, and savings. Staff notes that in any transition from regulated to unregulated/restructured markets, where a utility's affiliate is involved, the market share of the affiliate may be onerous by traditional industrial organization standards. Also, the number of marketers may not be as abundant as an economist would prefer. These are problems which must be tolerated during the early years of the transition (how long is the question, of course), but watched in these nascent programs especially for the residential sector, which is comprised of poor load factor potential consumers.
Illinois	The Commission has not conducted any after-the-fact analysis, but recent legislation requires Staff to file an annual report on gas transportation beginning in 2003.
Kentucky	No, the Commission has not undertaken a review of the pilot at this time. As indicated in the Order approving the pilot, the Commission will retain an external consultant to review the pilot with the consultant's review to coincide with the Oct. 31, 2004 termination date. The utility does file an annual status report concerning the number of marketers, customers participating, stranded costs, revenues from activities used to offset stranded costs, and so on.
Maryland	We have never done a single statewide study of performance. Performance is monitored and assessed on a continuing basis through our ongoing LDC specific Roundtable process, an annual Gas Supply conference/hearing, periodic generic policy dockets and hearings (for example a new Case No. 8933 that is just starting to review how to advance competition), the log of complaints processed by our consumer assistance division, and our quarterly gas choice enrollment reports. Maryland now has six years of experience with mass market choice and is generally regarded as one of the more successful gas choice programs in the country. Our experience has generally been good; however our programs appear to have reached a plateau for the moment. Probably this is largely due to the failure of a few marketers during the last two years (New Power for example was the most active supplier in the CG program) and the generally uncertain business climate for most marketers. This has limited their resources for marketing and generally made most marketers more conservative in entering new markets. The new CN 8933 will also provide a forum to examine marketer's concerns that certain consumer protection requirements put in place two years ago (as compared to our rules prior to 2000) might be overly protective (for example, the payment posting priority and telemarketing rules). Maryland is somewhat unique in that it has highly active gas and electric choice available in the WG service territory. That may be one reason why mass-market gas choice participation is higher for WG and for BGE. Although electric choice is available statewide, the current frozen electric transition period rates have prevented electric choice from progressing beyond the WG/Pepco service area. As the electric frozen rates begin to expire (and are replaced by market based standard offer rates) in 2004 it is expected that dual fuel marketing opportunities will expand significantly.

2). Has your commission conducted any after-the-fact analysis that assesses the performance of customer choice programs? If so, please summarize the findings, highlighting any market problems that may have occurred. Also, please indicate how your commission defines performance – *continued.*

State	Response
Massachusetts	The commission has not conducted any after-the-fact analysis of its customer choice programs. A commission review and assessment of customer choice programs statewide will be done in November 2003.
Michigan	No.
New York	The commission monitors market development by service territory on a monthly basis and assesses trends in market shares. Market share information is confidential. The commission does not have a specific definition of " performance" per se. The commission monitors customer satisfaction with marketers, customer complaints against marketers, and marketer complaints against utilities. Each restructuring case establishes the various monitoring requirements that will be in effect for the term of the agreement. Agreements typically have annual reporting requirements for the parties in the proceeding and require utilities to identify problems and to propose corrective action. (See question five below for a sampling of problems found.)
Ohio	Yes, for the first three years of the choice programs, the commission conducted after-the-fact analyses to assess the performance of the Cincinnati Gas & Electric, Columbia Gas of Ohio, and Dominion East Ohio choice programs. The findings are available from the reports on the commission's website. What has happened over time is the first three programs were designed independently, and, along with the new Vectren Energy Delivery of Ohio choice program, have become more similar. With the first three programs, what worked in one program was translated to other programs, while those items that didn't work were removed from the applicable programs.
Pennsylvania	The commission will review the success of the gas choice program by contracting with an independent consulting firm for a statewide survey. Additionally, on an ongoing basis, the commission monitors the number of customers participating in the natural gas choice program by reviewing quarterly statistics provided by the Office of Consumer Advocate. To date, this has served as a good measurement of gauging customer participation in the choice program. In addition, the Commission's Consumer Advisory Council and the Council for Utility Choice often serve as the eyes and ears for gauging the success of this program. The commission also relies on the toll-free Competition Hotline to highlight issues or see “trends” in the gas choice market. In addition to using these means to monitor activity by customers and suppliers in the choice program, the commission also reviews various reports filed by the natural gas distribution companies to ensure that the quality of service to consumers has not been adversely affected by the introduction of competition.

3). Has your commission conducted, or plan to conduct, a review of customer choice programs?

State	Response
District of Columbia	Not at this time.
Illinois	See the answer to question two.
Kentucky	Such review will occur coincident to the termination of the program, Oct. 31, 2004.
Maryland	See the answer to question two.
Massachusetts	The Commission has not conducted any review of customer choice programs in Massachusetts. The Commission plans a review and assessment of customer choice programs statewide in November 2003.
Michigan	The MPSC staff conducted a collaborative process during the last years of the pilot programs. The collaborative process consisted of several meetings and many opportunities for written comments. All of the materials generated from the collaborative effort were posted to the MPSC's web site. At the end of the collaborative process, the staff issued an outline for a permanent choice program for large LDCs and one for mid-sized LDCs. LDCs could voluntarily file an application to conduct a choice program, but the filing had to be substantially in compliance with the staff's outlines. This was done in order to make the programs as consistent across the state as possible. The two large LDCs and the two mid-sized LDCs in Michigan all filed applications for permanent choice programs. The Commission has approved these applications. There is currently an effort to solicit comments on possible changes to the programs.
New York	Customer choice programs are reviewed on both monthly and annual bases as described in question two above.
Ohio	See the answer to question two.
Pennsylvania	Please refer to the answer to question two. Additionally, the Commission is required by the Gas Choice Act to initiate a proceeding in July 2004 to receive input from interested parties for the purpose of determining whether effective competition for natural gas supply services exists in Pennsylvania. The Commission must report its findings to the General Assembly. To the extent that effective competition does not exist, the Commission is obligated to convene the stakeholders in the natural gas industry to explore avenues, including legislative, for encouraging increased competition. 66 Pa.C.S. 2204(g).

4). Does your commission currently have in place a market monitoring or market analysis procedure in place to periodically assess customer choice programs? If so, was the plan to conduct a review (periodic or otherwise) of customer choice programs?

State	Response
District of Columbia	Yes. The commission initiated Market Monitoring in 2001.
Illinois	See the answer to question two.
Kentucky	Columbia Gas is required, under the terms of the Order approving the pilot, to file a status report annually on its pilot program. As indicated above, an in-depth analysis of the program by an external consultant is to be undertaken in 2004.
Maryland	See the answer to question two.
Massachusetts	No, the commission does not currently have a formal market monitoring or market analysis procedure in place to periodically assess customer choice programs. The commission plans to have such a procedure in place following the statewide review of customer choice programs in November 2003 to periodically monitor the competitive market in Massachusetts. In the meantime, pending the institution of a formal monitoring procedure, the commission, through the normal discovery process when cases are filed with it, and through interactions between the commission staff, gas utilities and marketers, collects pertinent market information regarding the state of customer choice programs in Massachusetts. There is no legislative requirement for the commission to monitor customer choice programs.
Michigan	No.
New York	New York State's customer choice programs were initiated by the commission and they are not required by legislation. See questions two and three above for the nature and frequency of reviews. Also, in certain cases, the restructuring agreements contain a market power provision, developed by the parties and approved by the commission, establishing a self-monitoring mechanism and a cooperative process to resolve any future market power concerns.
Ohio	Yes. The commission initiated, and continues to conduct, ongoing reviews of the customer choice programs, including review of the monthly enrollment figures.
Pennsylvania	In addition to the information provided in response to questions two and three above, the commission also engages in an internal process that monitors developments in the wholesale and retail natural gas markets. This includes a review of existing and futures price data, supply and demand information, customer participation statistics, market share data, and the number of licensed marketers.

5). Has your commission identified problems associated with customer choice programs? If so, please list the problems and discuss how your commission has responded to them. For example, have there occurred documented utility-affiliate abuses, or an unusually large number of consumer complaints against marketers?

State	Response
District of Columbia	Issues that have emerged include: -Customer/marketer participation -Marketers leaving the system -Aberrant marketing practices (e.g., alleged slamming) The commission, in response to the D.C. government's passage of the D.C. Act 14-48, A Prevention of Unauthorized Switching of Customer Natural Gas Accounts Temporary Act of 2001, initiated a process in tariff rulemaking GT96-3 to establish business rules, customer education programs, licensing procedures, and incentives which could stimulate the Customer Choice program. While changes are not yet in place, an order is expected momentarily to institute the proffered changes.
Illinois	The commission’s investigations of Peoples' and NICOR’s programs in Docket Nos. 01-0470 and Docket Nos. 00-0620/00-0621 (consolidated) resulted in significant changes to the utilities’ programs. (Documents associated with these proceedings can be found through “E-Docket” on the commission’s web site.) It could be argued that many problems were identified, within the course of the above referenced proceedings, which the commission attempted to correct in its final orders. In addition, there were a number of complaints regarding the lack of clarity of an affiliated supplier’s offer during the pilot phase of one of the programs. Commission staff made the affiliate aware of the confusion that its offer created. The affiliated supplier has since restructured its offer and eliminated any potentially misleading attributes. Most recently, there has been controversy surrounding the certification of one marketer. A relatively large number of complaints had been filed concerning the supplier’s offer. The issues surrounding these complaints are currently being litigated in Docket No. 02-0441. Documents associated with this proceeding can be found through “E-Docket” on the commission’s web site.
Kentucky	Two marketers failed to deliver the required gas during the price spikes in the winter of 2000 and were terminated from participation in the program.
Maryland	The commission has not confirmed any allegations from marketers of program problems, but has initiated a process (CN 8933) to address allegations. Most of these issues were initially addressed – and will continue to be addressed – in our continuing LDC specific Roundtable process. Reasonable customer participation rates and the number of active marketers demonstrate that these are generally issues of how our programs can be improved rather than absolute barriers to marketers. During the course of our experience, complaints against marketers as a percentage of the total number of customers served by marketers has been about the same percentage as complaints against the gas LDCs. The only difference in the nature of LDC vs. marketer complaints is that a good percentage of complaints against marketers involves telemarketing (interestingly, mostly by people who were neither slammed nor enrolled with the marketer in question). We have always had enrollment and consumer protection rules intended to prevent slamming, and we have never had more than a few slamming allegations in any year.

5). Has your commission identified problems associated with customer choice programs? If so, please list the problems and discuss how your commission has responded to them. For example, have there occurred documented utility-affiliate abuses, or an unusually large number of consumer complaints against marketers? – *continued*

State	Response
Massachusetts	The commission has identified one major problem with customer choice programs in Massachusetts, which is the unwillingness of third-party suppliers to market to small C&I and residential customers. There is very little that the commission can do to address this problem.
Michigan	The commission did receive a large number of complaints against one particular marketer. That marketer was also investigated by the State Attorney General's office and was able to reach an agreement with that office, with input from the commission, on future conduct in the state.
New York	Various challenges and problems have been identified and have been addressed either on a generic or case specific basis, as appropriate. Examples include customer and marketer miscommunications on switching, delays in processing switching requests by utilities, and miscommunication between marketers and utilities regarding supply and demand imbalances on quantity and pricing. Remedies have been implemented such as allowing the marketer to document customer switching requests using telephonic records and, in the case of delays, in processing switch requests; company specific remedies were introduced to improve responsiveness. Sometimes the challenges were human error and sometimes equipment or software problems. Also, the commission requires each utility to have written operating procedures, referred to as a GTOP Manual (Gas Transportation Operating Procedures), which were jointly developed among staff, utility and marketer parties. These manuals fully detail operating procedures and provide for a complaint resolution process to resolve differences, as they arise. Utility-affiliate abuses have not been significant and have been resolved informally by mutual agreement. The commission does accept and track customer calls or complaints against marketers. As customer choice has evolved, utility-marketer communications and cooperation have significantly improved in most service areas of the state.
Ohio	[See the answer to question two. The issues identified for commission attention are available from the fairly voluminous prior reports issued by the commission staff.] The commission has not documented specific utility affiliate abuses; if any concerns were brought to the commission's attention by the marketers, they were addressed immediately before they could become problems; real or perceived LDC/affiliate problems were appropriately and timely addressed. Also, from time to time, there have been a fairly large number of consumer complaints against specific marketers, particularly in instances of those marketers conducting door-to-door canvassing. The commission has responded swiftly to stem the problems as they became apparent. Marketers were brought into compliance or risked immediate removal from the choice programs.

5). Has your commission identified problems associated with customer choice programs? If so, please list the problems and discuss how your commission has responded to them. For example, have there occurred documented utility-affiliate abuses, or an unusually large number of consumer complaints against marketers? – *continued*

State	Response
Pennsylvania	The commission built upon its experience with implementing electric choice, beginning in November 1997 with pilot programs, to establish rules for gas choice that minimized the occurrence of problems. We have not been faced with utility-affiliate abuse allegations or an unusually large number of consumer complaints against marketers. In 2000, the most common informal complaints the commission received concerning gas competition concerned the terms and conditions of natural gas supplier contracts and slamming allegations. Some of these complaints led to informal investigations that resulted in settlements with various natural gas suppliers. In 2001, the most common informal complaints the commission received concerning gas competition concerned billing disputes (lack of timely billing, inaccurate billing, make-up billing, etc.) and disputes over the terms and conditions of NGS contracts. In 2002, the most common informal complaints the commission received concerning gas competition again concerned billing disputes (lack of timely billing, inaccurate billing, make-up billing, etc.). There were also disputes over the terms and conditions of NGS contracts and slamming allegations, but less frequent than previous years. The commission has received some inquiries and complaints from natural gas suppliers concerning individual utilities bonding and security requirements and the utilities restrictions on pipeline capacity. As with other issues that are raised, Staff continues to consider whether commission intervention in these matters would be helpful and is warranted.

6). Does your commission feel that customer choice programs have benefited consumers and have performed adequately? If so, please provide the basis or sources for this assessment.

State	Response
District of Columbia	The commission believes that customer choice has benefited customers over time. The basis for this is the steady stream of information on market monitoring which follows the prices offered by WGL's competing suppliers. On balance, there have been small savings over time. Thus the program has benefited consumers. Also, based on the revealed preference notion from economic theory and as applied here, consumers obviously like the program as it has stood the test of time and a stressful recent winter and is still growing, albeit slowly.
Illinois	The commission have made no statements as to the efficacy of gas choice in Illinois that Staff is aware of. However, the commission did recommend changes to the gas choice programs and allow them to go into effect on a permanent basis rather than a pilot basis.
Kentucky	This has not been definitively determined at this time. However, information provided by the company in its annual status report on the customer choice pilot shows an $800,000 net costs to customers. This issue is subject to current investigation.
Maryland	Our process has always differed from most gas choice processes because it is centered on our evolutionary Roundtable process rather than formal generic proceedings. Unfortunately, this leaves less of a paper trail than the formal proceeding approach (although the track record of states with those formal proceedings is not particularly good). CN 8933 order can be read as a continued endorsement of gas choice. There is no question that gas choice provided sizable benefits to customers on fixed price marketer contracts during the 2000-2001 winter. The vast majority of choice customers had such contracts and few suppliers dishonored their contracts (only four percent of customers were returned to the LDC due to supplier default).
Massachusetts	In the absence of data on the performance of customer choice programs in Massachusetts, it is difficult to determine whether choice has benefited customers. However, the commission feels that a well designed customer choice program will provide both price and non-price benefits to consumers.
Michigan	Yes, the commission has acknowledged the success of gas choice in the state through numerous press releases, focusing primarily on the number of customers who have switched to gas choice tariff. Some choice customers may currently be paying more than the LDC's sales tariff, but that is the result of market conditions at the time the prices were established

6). Does your commission feel that customer choice programs have benefited consumers and have performed adequately? If so, please provide the basis or sources for this assessment. - *continued*

State	Response
New York	The commission's objective is to increase customer choice and allow interested customers to select competitive providers for their gas supply or other services available, while preserving essential customer protections. With regard to price, considering that customers now have the right to choose among fixed and/or variable price options, certainly some customers experience bill savings and others do not as compared to utility service, at any given time, due to many factors including market price fluctuations. The real benefit to consumers probably derives from the right to choose and the value of eliminating or reducing price risk, and/or to avail themselves of additional services provided by marketers -- but this is a judgement call best made by customers. Overall, however, the commission believes that New York's customers are now better off with unbundled rates and the right to choose among various competitive providers, as compared to the alternative of fully regulated and bundled monopoly service.
Ohio	Some programs have identified and quantified consumer savings over LDC procurement. The commission Staff believes that many consumer benefits of choice exist in addition to any quantifiable savings. There exist some programs with relatively low participation rates and/or little to no savings over existing LDC rates; yet successful marketers in these programs are able to offer something not currently available from the LDC: namely, price certainty. To some consumers, that factor may be as important as, or more important than, a percentage-off savings from the prevailing GCR rate.
Pennsylvania	The gas choice program has provided some benefits to consumers. Consumers can now choose who supplies their natural gas, which may result in savings, if customers choose to participate. Also, as a result of gas choice and consumer education efforts, consumers have generally become more aware of how much they pay for natural gas supply service. Opportunities for suppliers to participate in Pennsylvania's market may increase substantially when the 500,000 residents living in the City of Philadelphia become eligible for the choice program in September 2003. The commission recognizes that the wholesale natural gas prices, as well as economic conditions generally, influence the success of gas choice programs.

7). Has your commission made structural or other changes to customer choice programs since their inception in response to specific problems? If so, please specify.

State	Response
District of Columbia	See response to question five. Also, both Customer Choice programs in District of Columbia are not pilot programs anymore but considered fully operational.
Illinois	Changes to the programs do not really reflect responses to specific problems. Most of the changes were based on theoretical arguments regarding the manner in which the gas choice programs could be improved.
Kentucky	No.
Maryland	Our programs can best be viewed as evolutionary rather than revolutionary. This means that we have continually refined and modified our programs since firm service choice began in 1995. As discussed earlier, daily balancing and virtual storage assignment are the latest operational modifications.
Massachusetts	No, There have not been any structural or other changes to customer choice programs in Massachusetts. The planned statewide review of customer choice programs in November 2003 will determine whether any changes are necessary.
Michigan	During the MichCon pilot, customer protection procedures were incorporated into MichCon's pilot program. These protections have now been included in all of the LDCs' permanent programs.
New York	Changes are continuously being made on both an individual and generic case basis, as described in questions five and eight.
Ohio	Yes. [See the response to question two.]
Pennsylvania	The commission has not experienced specific problems that require structural changes to the gas choice program. A workable framework is in place that should enable more customers to choose their supplier when natural gas prices and other economic conditions allow suppliers to make competitive offers. In the interim, residential and small business customers continue to receive natural gas supply service at regulated rates established through annual proceedings focused upon least cost procurement policies.

8). How would market or other problems associated with customer choice programs be brought to the public's or the commission's attention in your state? Would marketers or consumers have to file a complaint with your commission? Or would problems be identified from market monitoring or other analysis performed by your commission? For example, have marketers who participate in customer choice programs identified problems in their interactions with the local gas utility? Specifically, have they complained about discriminatory treatment by the utility or other utility actions that have made their operation more costly? Similarly, have consumers complained of marketer abuses or marketer non-responsiveness to service or other problems?

State	Response
District of Columbia	Consumers as well as marketers can file complaints with the commission. Staff may see a problem and bring it to the commission's attention.
Illinois	Problems associated with gas choice programs could be brought to the commission's attention in a number of different ways. First, when NICOR and Peoples filed to put in place permanent customer choice programs, the commission suspended the filings and opened an investigation of the programs. These proceedings uncovered many perceived problems that were dealt with in the commission's final orders. Second, Staff works informally with utilities, suppliers, and customers to resolve any problems and address any concerns that may arise. If Staff were to discover fundamental flaws with a gas choice program, either through its own informal investigations or through contact with suppliers, customers or the utility, Staff could recommend that the commission open an investigation of the gas choice program in order to resolve the problems that were identified. Third, suppliers or customers could file a formal complaint with the commission that may eventually lead to a docketed proceeding to resolve the complaint.
Kentucky	Under the terms of the pilot, complaints regarding marketers are referred to Columbia Gas. If the customer cannot get satisfaction, she can then file a complaint with the commission. Marketer complaints would be handled by the commission; however, to date we have had no filed complaints from marketers.
Maryland	Generally much of what has been described above applies here. It is important to differentiate a complaint from a concern.A complaint can be regarded as an allegation that the LDC or someone in the process is violating the tariff, or some commission order, requirement or regulation (including issues related to affiliate codes of conduct). Only one such complaint has come forth (later found to be unsubstantiated). Concerns have arisen regarding such things as changes in operational procedures, program improvements and interest in reconsideration of commission orders. The benefit of our less formal process is that it is far easier for concerns to be brought quickly to the attention of all stakeholders and addressed in a collaborative environment. In the majority of cases such concerns have been resolved directly by the Roundtable and never reached the status of a formal filing. When concerns are more generic and in particular when a marketer seeks a change in an existing commission ordered policy, it is necessary to go to a more formal process such as the new CN 8933.

8). How would market or other problems associated with customer choice programs be brought to the public's or the commission's attention in your state? Would marketers or consumers have to file a complaint with your commission? Or would problems be identified from market monitoring or other analysis performed by your commission? For example, have marketers who participate in customer choice programs identified problems in their interactions with the local gas utility? Specifically, have they complained about discriminatory treatment by the utility or other utility actions that have made their operation more costly? Similarly, have consumers complained of marketer abuses or marketer non-responsiveness to service or other problems? – *continued*

State	Response
Massachusetts	The commission has a Consumer Division which receives complaints from customers regarding their utility services, including any problems they may have had with third-party marketers. The commission has provided for the resolution of problems between marketers and utilities *(see Section 14.06 of the Terms and Conditions attached).*
Michigan	Marketers have informally come to the commission staff to express concerns with an LDC's procedures. All of these, except one, have been resolved and did not go to the hearing process. Energy America did file an application stating that competition was being inhibited; that application was dismissed without prejudice and Energy America was advised to seek relief in another case (Case No. U-13200). Customers have made informal complaints to the staff, which have been resolved without the formal complaint process being invoked. The formal complaint process,however, is an option for either suppliers or customers.
New York	The commission accepts and monitors consumer complaints against marketers. Also the individual case settlements typically require an annual survey of marketers with their satisfaction with the utility. Marketers have identified problems by survey or in periodic marketer meetings. While there have been complaints by marketers of unfair treatment or non-cooperation by utilities, with the introduction of improved procedures and the specification of operating procedures in the GTOP manuals (see question five above), such problems have largely subsided with improved utility-marketer relationships. Consumers do complain periodically about dissatisfaction with marketers and where warranted, they are addressed directly with marketers. The commission provides complaint handling and involves its staff in resolving conflicts and mediate customer complaints with marketers.
Ohio	Problems with choice programs are brought to the commission's attention in a variety of ways: from the LDCs themselves, from individual marketers or marketer groups/coalitions, from consumer complaints (both informal and formal).

8). How would market or other problems associated with customer choice programs be brought to the public's or the commission's attention in your state? Would marketers or consumers have to file a complaint with your commission? Or would problems be identified from market monitoring or other analysis performed by your commission? For example, have marketers who participate in customer choice programs identified problems in their interactions with the local gas utility? Specifically, have they complained about discriminatory treatment by the utility or other utility actions that have made their operation more costly? Similarly, have consumers complained of marketer abuses or marketer non-responsiveness to service or other problems? – *continued*

State	Response
Pennsylvania	Market issues or problems associated with customer choice programs are brought to the commission's attention by many means. Consumers and marketers are not required to file informal or formal complaints to allege problems in the gas choice program, but may do so at any time if they believe the problems are not being adequately addressed by the commission. Frequently, the commission's staff receives information from marketers and consumers identifying problems that should be addressed. Particularly when this information suggests a systemic or widespread problem, the commission's staff works informally with the affected parties in an effort to resolve the dispute or remedy the problem. When matters cannot be informally resolved by staff, the issues are normally brought to the commission's attention through a staff report and recommendation, after which the commission can act to correct the problem. Generally, the issues raised consumers have not involved marketer abuses or non-responsiveness. Rather, consumers' concerns have focused on billing, terms and conditions of contracts, and slamming allegations. Suppliers are required by the commission's regulations to respond to informal complaints made by consumers, and the commission's staff either resolves the dispute or issues a binding informal decision that may be appealed to the commission by either party. As to marketers' issues, they have typically addressed areas involving the standards that are imposed on them during the licensing process and the requirements they must adhere to as licensed suppliers. Complaints of discriminatory treatment have not been significant. Most distribution companies have alternative dispute resolution procedures in place under the tariffs as a result of the restructuring proceedings. Also, the commission required the distribution companies to implement an informal dispute resolution procedure to address code of conduct issues raised by non-affiliated suppliers.

9). Please provide, if publicly available, the most recent prices and service offerings of gas marketers as well as the local gas utility in your state's customer choice programs?

State	Response
District of Columbia	Generally, fixed price contracts of one-year duration are the mainstay of the marketer's offering.
Illinois	Staff does not formally record prices and services offered by gas marketers. Some offers are available through supplier web sites while other offers can be obtained via telephone or from a utility's bill inserts. The following are links to supplier web sites in NICOR's and Peoples gas choice programs: http://www.nicorinc.com/gas/customerselect/cselps.htm, http://www.pecorp.com/main/frameset_res_gas_choice.html.
Kentucky	Columbia Gas: $4.8502/Mcf MX Energy: $6.49/Mcf for either a one or two year period CAC Buyers Club: #3.62/Mcf varies monthly IGS: not currently accepting new customers Stand Energy: not currently accepting new customers Energy.com: not currently accepting new customers
Maryland	The commission does not maintain specific publicly available information on marketer offers. The fixed price offers that currently appear on marketer websites are somewhat above the current gas commodity rates charged by the LDCs. However, Maryland LDC commodity rates change at least quarterly for all utilities except BGE rates change monthly. So the current customer choice is to lock in a marketer price that may be lower than the LDC winter rates, but higher than current LDC summer or fall rates. At certain times in the past most suppliers were offering fixed discounts on the LDC rates (often five percent). A variety of market factors appear to go into whether fixed price or fixed discount is the popular offering at any particular time.
Massachusetts	Price information for the LDCs can be found at the commission website at: http://www.state.ma.us/dpu/gas/CGACs/ The commission has no idea on the prices and other services offered by the marketers participating in customer choice programs in Massachusetts. Marketer price information is usually confidential.
Michigan	This information is on our web site, it may be viewed at http://www.cis.state.mi.us/mpsc/gas/choicesupmg.htm. Note that there is a tab for each participating LDC.
New York	As described in question 1(m) above, the commission does not maintain such comparative information.
Ohio	This information is posted on the commission website at: http://www.puc.state.oh.us/consumer/gaschoice/gaschoice.html.
Pennsylvania	This information is publicly available at http://www.oca.state.pa.us/gascomp/GasShoppingGuide.pdf.

APPENDIX C: RESPONSE FROM THE WISCONSIN PUBLIC SERVICE COMMISSION

Wisconsin has had open access transportation service available since the mid-1980s, with most of the large customers having successfully moved to transportation service. Wisconsin has had limited experience with retail unbundling for the smaller sized markets. We regret that we are unable to specifically answer your questions at this time because much of the information is not readily available and would take a considerable amount of time to gather. However, we will summarize below what experience we have had with respect to unbundling for smaller customers.

Wisconsin Gas Company (WGC), the largest natural gas provider in Wisconsin, began a pilot in the late 1990s to offer non-telemetered transportation service to a limited number of its customers. An algorithm was used to determine daily usage for balancing purposes. The program was offered for four years, with modifications each year in an attempt to move closer to replicating a true market. Customers received one bill which came from their gas marketer (and included the utility charges as well). The size of the program was limited to about 3,000 customers. Residential customers (about 1,500) were required to live within a specific area (a small city at first, with some limited later expansion). The commercial customers participating were required to be in an area served by a specific pipeline. After four years the pilot was suspended. The interest had waned on the part of the marketers, especially with respect to serving residential customers. There was also considerably less interest from customers as time went on; however, this lack of interest could be the result of less aggressive marketing activities by marketers. There were no major problems in the four year period. There was no affiliate abuse (The commission has standards of conduct) nor were there excessive customer complaints.

Madison Gas and Electric (MGE) offered a program to its mid-sized commercial customers (about 500 customers were eligible). MGE assigned capacity that it held for these customers to the marketers. MGE told the marketers how much gas it should bring to the city gate for these customers. As long as the marketer brought in the required amount of gas, it was considered to be "in balance." Usage variances from the estimates were trued up in the subsequent month. This program ran for two years. It ended up being a transition tool for marketers to move customers to standard transportation service. For standard transportation service a notice period is required.

There is no advance notice needed for this service. Thus, what typically happened is that customers stayed on this service for the notice period (up to a year) and then moved to standard transportation service. This program is no longer available to customers. It was terminated because of lack of participation. There were no major problems or complaints.

Miscellaneous comments

- The commission does not certify, register or in any way regulate the marketers in Wisconsin.
- Several utilities are in the process of (or contemplating) the installation of advanced metering reading (AMR) equipment. That may make natural gas transportation more economical for smaller customers.
- As opposed to focusing on open access for smaller customers, instead the commission is working with the utilities on customer choice service offerings. Last year one utility offered a fixed rate option to a limited number of customers. The utility is again offering this service for the upcoming gas year. Another utility is contemplating the offering of a fixed bill option to customers of any size, as long as they fit a certain weather-usage curve. It may be offered for the upcoming gas year.