

GEORGIA PUBLIC SERVICE COMMISSION

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Lauren "Bubba" McDonald, Jr.
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PSC: ATLANTA GAS LIGHT COMPANY MARKETER MUST CHANGE NAME

ATLANTA -- Saying the state has a substantial interest in promoting competition in the natural gas industry, the Georgia Public Service Commission (PSC) by unanimous vote today disallowed Atlanta Gas Light Company from operating an affiliate under a similar name when competition opens this Fall. Newly appointed Commissioner Lauren "Bubba" McDonald, Jr., author of the passing motion, said while competition is in its infancy, Atlanta Gas Light Services (AGLS) would gain an unfair advantage if customers confuse the name with that of the 140 year old gas supplier Atlanta Gas Light Company (AGL).

Under a new state law passed in 1997, the sale of natural gas in the AGL territory will be opened to competition as early as November 1, 1998. Once the market is fully deregulated, AGL will no longer sell gas directly to consumers, but will become a distribution company responsible for transporting gas to homes and businesses. Marketing companies will be responsible for selling gas, at competitive rates, directly to the 1.4 million customers currently served by AGL.

Today's decision followed an AGLS appeal of a June 23 ruling by a PSC Hearing Officer from which AGLS claimed that if the decision were upheld it "will reduce competition in direct violation of the statutory purposes of the Natural Gas Act." Hearing Officer Philip Smith ruled that Atlanta Gas Light Company's marketing affiliate could not use "Atlanta Gas Light" in its name as use of the name and logos would "accrue an advantage" unfair to other competitors and would "mislead the public" as to whom the customer was dealing. Smith said the name violates the standards of conduct set out in Georgia's Natural Gas Competition and Deregulation Act designed to promote the development of a competitive environment in the gas market.

Throughout the debate on gas competition during the 1997 legislative session, Atlanta Gas Light Company represented that its affiliated marketer would operate under the name "The Energy Spring." In April of 1998, The Energy Spring notified the PSC that it had changed its name to Atlanta Gas Light Services. Marketers cried foul saying the name was exactly the same as that of the gas company that had served consumers for more than 100 years.

Smith concluded that by changing its name, Atlanta Gas Light Services "intended to accrue for itself an advantage in the eyes of the consuming public by taking a recognizable portion of the name of its parent and sister companies."

In today's decision, the PSC adopted the findings of the Hearing Officer but allowed AGL's affiliated marketer to petition the Commission to use the name "AGLS" once adequate market conditions exist. Should AGLS revert back to the name "The Energy Spring," the marketer would be able to use a disclaimer that discloses that it is a subsidiary of AGL Resources, Inc. This disclaimer, however, must include language that no advantage will accrue to customers in the use of Atlanta Gas Light Company's services as a result of doing business with its affiliated marketer.

Consumers are already being contacted by some of the fifteen or more marketers who plan to sell them gas this November. The marketers must apply for PSC certification by July 16 in order to compete in the Fall. Eleven marketing companies have signed-up thus far including PG&E Energy Services, Enron Energy Services, Shell Energy Services, Williams Energy Services Company, PS Energy Group, NorAm Energy Management, Columbia Energy Services, PanCanadian, Optimum Energy Sources and SCANA Energy.

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COMMISSION AMENDMENT TO HEARING OFFICER INITIAL DECISION

Under Section 7. **Conclusions and Recommendations**, added the following subsections:

- A. The Commission also finds that the State of Georgia has a substantial interest in promoting competition in the natural gas industry, in promoting an orderly and expeditious transition of the natural gas industry towards fully developed competition, and in allowing gas companies the opportunity to compete effectively in a competitive marketplace. See O.C.G.A. section 46-5-151. If customers confuse Atlanta Gas Light Services, Inc., with Atlanta Gas Light Company during the initial stages of the transition to market based competition, or if Atlanta Gas Light Services, Inc., were allowed an unfair advantage over its competitors, this substantial state interest would be thwarted. The Commission finds that to the extent this action may interfere with the commercial free speech of Atlanta Gas Light Services, Inc., such interference is necessary to accomplish this substantial interest in promoting market based competition. While the Commission has considered whether the disclaimer proposed by Atlanta Gas Light Services, Inc., could serve as a less restrictive means to promote the State's interest, the Commission finds that, at least during the transitional stage, the disclaimer would not be adequate.
- B. The Commission further finds that although Atlanta Gas Light Services, Inc., is prohibited from using the name "Atlanta Gas Light Services, Inc.," it is not prohibited from using a disclaimer which discloses that it is a subsidiary of AGL Resources, Inc., provided that it also discloses at the same time and in an equally prominent manner that no advantage accrues to customers or others in the use of Atlanta Gas Light Company's services as a result of customers dealing with Atlanta Gas Light Services, Inc. For purposes of complying with this provision, Atlanta Gas Light Services, Inc., may use the following disclaimer:

[The company] is a subsidiary of AGL Resources, Inc. No advantage accrues to customers or others in the use of Atlanta Gas Light Company's services as a result of customers dealing with [the company].

- C. The Commission further finds that once competition has developed beyond its infancy the less restrictive means of a disclaimer should be adequate to address the State's interest in promoting market based competition. Therefore, Atlanta Gas Light Services, Inc., may be released from the prohibition on its use of the name "Atlanta Gas Light Services, Inc." in a particular delivery group after a finding by the Commission that adequate market conditions exist and upon Atlanta Gas Light Company ceasing to provide merchant functions in that delivery group as described in O.C.G.A. section 46-4-156.

[Note: Today's decision has not been reduced to writing and this is not the final wording]