# Exhibit A

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**DOCKET NO. 15296-U**

**IN RE: GEORGIA PUBLIC SERVICE COMMISSION RULES 515-7-8: SERVICE QUALITY STANDARDS FOR CERTIFICATED MARKETERS AND THE REGULATED PROVIDER.**

## FINAL ORDER

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Record Submitted: January 30, 2003
Decided: March 27, 2003

**APPEARANCES:**

**On behalf of the Commission Staff:**

Brandon F. Marzo, ESQ.
Jeffrey Stair, ESQ.

**On behalf of the Consumers' Utility Counsel:**

Kristy Holley, ESQ.
Tressa Deandrade, ESQ.

**On behalf of Atlanta Gas Light Company:**

L. Craig Dowdy, ESQ.

**On behalf of Energy Service Providers Association**

Charles B. Jones, ESQ.

**On behalf of SCANA Energy Marketing, Inc.:**

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**On behalf of Southern Company Gas LLC:**

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**On behalf of SouthStar Energy Services LLC d/b/a/ Georgia Natural Gas:**

Robert B. Remar, ESQ.

## ORDER

## I. STATEMENT OF PROCEEDINGS

### A. Jurisdiction

In 2002, the Georgia General Assembly enacted the House Bill 1568, also known as the Natural Gas Consumers' Relief Act ("Act"). As part of the Act, the General Assembly placed upon the Georgia Public Service Commission ("Commission") the obligation to develop service quality measures for natural gas marketers and the regulated provider (collectively referred to herein as "marketers" or "service providers"). Specifically, O.C.G.A. § 46-4-158.1(a)(2), states that:

> Not later then September 1, 2002, the Commission shall promulgate rules and regulations to establish service quality standards for each certificated marketer and regulated provider, which may include minimum performance standards for call center response times, billing, meter reading, and any other service quality standards deemed necessary by the Commission. Each service quality standard adopted by the Commission applicable to an electing distribution company shall also apply to each certificated marketer and each regulated provider to the extent that a certificated marketer or regulated provider provides the same customer services.

Pursuant to O.C.G.A. § 46-4-158.1 (c), the Commission has the authority to fine marketers for failing to comply with the service quality standards and benchmarks established by the Commission. O.C.G.A. § 46-4-158.1 (c) states that:

> Failure to comply with service quality standards established in accordance with this code section shall subject an electing distribution company, certificated marketer; or regulated provider to fines as determined by the Commission.

## B. Proceedings

On August 27, 2002, at its regularly scheduled Administrative Session, the Commission adopted Commission Utility Rule Chapter 515-7-8. Commission Rule 515-7-8, titled "Service Quality Standards For Certificated Marketers and Regulated Provider," identifies the areas where service quality standards are to be developed as well as a process for creating benchmarks in those areas. Commission Rule 515-7-8-.03 provides that service quality standards shall be established in the areas of the call center; Requests for information from the EDC as authorized by Tariff or Commission Order and certain requests as determined necessary by the Commission; Billing Accuracy and Timeliness; Responsiveness to Consumer Inquires and Complaints; Meter reading accuracy; Meter reading Timeliness; Transmittal of meter reading data to the EDC; and the Transmittal of accurate and timely electronic transactions of consumer data to the EDC. Additionally, the Commission has the authority under Rule 515-7-8.05 and O.C.G.A. § 46-4-158.1(a)(2) to prescribe any additional service quality standards it deems necessary.

Commission Rule 515-7-8-.06 provides that marketers, Staff, and any other interested party shall file benchmarks and penalties for the Commission's consideration. Thereafter, the Commission shall conduct a hearing to establish the appropriate benchmarks and penalties.

On August 6, 2002, the Commission issued a Procedural and Scheduling Order in Docket No. 15296-U. That Order provided that on October 10, 2002, marketers and intervenors would file proposed benchmarks and penalties for Commission consideration. Hearings on direct testimony were to be held on November 7 and 8 of 2002, and hearings on rebuttal testimony were to be held on December 4, 2002. On October 10, 2002 marketers and intervenors filed benchmarks and penalties with the Commission.

At a Special Administrative Session on October 30, 2002, the Commission amended the original Procedural and Scheduling Order. The purpose of amending the Procedural and Scheduling Order was to conduct a workshop to discuss the party's direct testimony and their proposed penalties and benchmarks. On November 7, 2002, the Staff conducted a workshop with marketers. On November 20, 2002, by directive of the Commission Chairman, the hearing scheduled for December 4, 2002, was rescheduled for January 28-31, 2003.

On January 28, 2003, the hearing in Docket 15296-U began. It concluded on January 30, 2003. Briefs, proposed Orders, and recommendations were filed with the Executive Secretary on February 28, 2003. A final Order in this Docket was made at the Commission's regularly scheduled Administrative Session on April 1, 2003.

## FINDINGS AND CONCLUSIONS

Based upon the testimony of all witnesses, the documentary evidence at the hearing, and an assessment of the credibility of the witnesses and evidence at this proceeding, the Commission hereby makes the following findings of fact and conclusions of law with respect to the issues involved in this case

## I. STANDARDS AND BENCHMARKS

### 1. Call Center Service Level

The purpose of this standard is to measure the percentage of calls answered within a specified timeframe. Marketers proposed call center service levels between 70% and 80% of calls answered within time intervals ranging from 120 to 240 seconds. (T 19). The Commission Staff proposed a benchmark of 80% of calls answered within 180 seconds. (T 19). The Atlanta Gas Light Company ("AGLC") proposed a call center service level of 80% of calls answered within 120 seconds. (T 110). Marketers and the Staff called for this standard to be measured monthly, while AGLC recommended that this standard be measured annually.

The Commission adopts a benchmark that would require marketers to answer 80% of all calls to the call center within 180 seconds of a request to speak with an agent, measured over one calendar month. The Commission finds that this level of service recognizes the minimum expectations that consumers have for call center services, while still allowing marketers the flexibility they desire to serve their customers above and beyond the benchmark.

The Commission finds that "calls" shall include calls in queue terminated by the calling party prior to speaking with an agent. The formula for measuring this benchmark shall be as follows:

a/b*100, where
a = Total number of calls answered by an agent in 180 seconds or less
b = Total number of offered calls

A marketer will begin the remediation process if it fails to meet the benchmark twice during any 12-month period.

2. **Requests for Information from the EDC As Authorized by Commission Order or AGLC Tariff or other requests as determined necessary by the Commission**

This standard will provide that marketers timely respond to requests made by the EDC in accordance with Commission Orders, AGLC Tariff, or those requests deemed to be necessary by the Commission. SouthStar Energy Services ("GNG") proposed a benchmark that data shall be accurate and transmitted to the EDC within three (3) business days with 99% accuracy and timeliness on a monthly basis. (T 247). SCANA Energy ("SCANA") proposed that information be transmitted to the EDC within five (5) business days. (T 217). Southern Company ("Southern") proposed the benchmark to be set at two (2) business days for information on current practices or activities and on a case-by-case basis for information concerning changes in practices. (T 20). Energy Service Providers Association ("ESPA") did not propose a benchmark in their direct testimony, but instead argued that existing rules were sufficient to govern this area of concern. (T 150). AGLC recommended that information requested be provided within five (5) business days. (T 21). Commission Staff ("Staff") proposed that requests for information by the EDC be responded to within the time specified in an applicable Order or Tariff and that other requests be responded to within five (5) days or the time period agreed upon by the service provider and the EDC. (T 21).

The Commission finds that marketers should respond to requests for information by the EDC within the time specified in an applicable Order or Tariff and that other requests be responded to within five (5) days or the time period agreed upon by the service provider and the EDC. The Commission concludes that this standard requires 100% compliance. There will be no reporting requirement on the part of the marketer for this standard.

Some marketers expressed concern regarding the procedure for determining what requests made by the EDC would be "deemed necessary by the Commission." Specifically, ESPA and other marketers wanted to ensure that the implementation of this standard would not unfairly impede upon their legal rights. (T 162). The Commission acknowledges the need to set forth the process to be followed for considering requests to the Commission by the EDC for marketer information. Therefore, the Commission finds that the following process should be followed for any requests other than those specifically prescribed by Order or Tariff:

> A request shall be made via electronic mail to the Commission Staff member designated to receive requests and objections as well as to the marketer(s) subject to the request. Any objections to a request made by the EDC shall be made in good faith and delivered to the designated Staff member via electronic mail. However, in the event that e-mail is unavailable, the requesting party shall be permitted to make a request, and the receiving party shall be permitted to object to a request in good faith, via another verifiable form of communication. Any

written form of communication shall be deemed verifiable for purposes of this standard.

The designated Staff member must receive all objections to requests for information within five (5) days of the requests being made by the EDC. To be considered as a proper objection, an objection must clearly state the objection and set out the grounds therefore, providing all documentation and support at the time of the objection. Upon receiving the objection, the period for responding is immediately paused. Staff shall rule upon the objection in a timely manner, and report its decision to the marketer and the EDC via electronic mail. If a party objects to Staff's ruling, they may immediately apply for relief to the Commission by filing for immediate relief and petition the Commission for an emergency hearing on the matter. After such hearing, the Commission shall rule for or against the party asserting the objection, and, if the Commission determines that the objection was frivolous or not made in good faith, impose penalties for the party's non-compliance with Commission approved service quality measures as well as any other fines or penalties deemed appropriate.

A marketer or EDC determined by the Commission to have made a frivolous objection within a recording period will be deemed to be in violation of this standard. Prior to the implementation of this standard, the Commission Staff shall designate a Commission employee to receive requests and objections, and that information shall be provided to marketers and the EDC.

3. **Billing Accuracy**

This standard will measure the accuracy of a bill sent by the service provider to its customer with regard to the marketer information on the bill. Several marketers testified that current Commission billing rules effectively governed marketers' billing practices, and, therefore, creating a billing accuracy standard was unnecessary. (T 22). SCANA initially proposed a billing accuracy standard of 99.5% that all bills sent by a marketer each month should contain accurate billing information. (T 212). SCANA's rebuttal testimony, brought to light a concern about the meaning of the term "accurate" as it pertains to this measure. (T 217). Specifically, SCANA expressed a concern about whether the term accurate would require strict adherence by marketers to the data provided by the EDC for customers bills or if marketers would be allowed to edit EDC information when discrepancies existed. (T 217).

The Commission finds that the billing accuracy standards is needed and shall be set at 98.5% accuracy. Billing accuracy will be averaged over two-consecutive months. The inaccurate bill will count the month that the marketer cancels and rebills or corrects the customer's bill, not the month the marketer sent the bill. This will prevent the marketer

from having to revise the reporting requirement to include the billing errors that had been reported to them from consumers.

The Commission defines inaccurate bills as those bills sent to consumers that have to be cancelled and re-billed or if the bill has to be corrected due to marketer error such as incorrect rate or pricing plan, incorrect DDDC factor or pass through charges or any other marketer related component of the bill. Any cancels or corrections due to meter reading errors will not count against the marketer.

4. **Responsiveness to Consumer Inquiries and Complaints sent from the Commission**

This standard will measure the responsiveness of marketers to complaints forwarded by the Commission. Complaints are categorized as urgent and non-urgent. Marketers and AGLC proposed standards ranging from 95% to 100% of consumer inquiries and complaints responded to within five (5) business days. Staff proposed that non-urgent complaints be responded to within five (5) business days and that urgent complaints be responded to within one (1) business day. (T 25). No marketer expressed significant objection to Staff's proposal.

Although this standard only measures the time necessary for the marketer to take possession of a complaint and not the time needed for resolution, it is important to note that SCANA proposed that 95% of all complaints that are sent by the Commission should be resolved within ten days. (T 213).

The Commission finds that a marketer shall 99% of the time acknowledge receipt of an "urgent" complaint within one (1) business day, and acknowledge receipt of non-urgent complaints within five (5) business days measured over a two consecutive month period. The Commission will designate the two-month measuring periods. A marketer shall be deemed to have met this benchmark if its number of untimely responses does not exceed four (4) over the two-month measuring period.

The Commission adopts the following definition for urgent complaints recommended by Staff:

> A complaint may be marked "urgent" if it involves a request for reconnection of service resulting from an erroneous disconnection; is a situation where the consumer has indicated that an appointment for reconnection of service had been missed or states that the bill was paid prior to disconnection; is failure to respond to a complaint after two referrals; or if it appears that the complaint is a result of a marketer's failure to act in accordance with any Commission rules. In all cases that a

complaint is made with the Commission, the Commission retains the discretion to mark that complaint as urgent.

A marketer may challenge the urgent status of any particular complaint when it is apparent from the face of the complaint that the marketer is not the proper party to handle the complaint or the marketer believes in good faith that a complaint should not have been marked as urgent. There is no reporting requirement for this standard.

5. **Meter Reading Accuracy**

This standard will measure the accuracy of meter reading data obtained by the service provider or its third party agent that it has chosen to read meters.

The Commission finds that the meter reading accuracy benchmark should be set at 98.5% averaged over two consecutive months commencing at the inception of this program. This recommendation is consistent with Docket No. 15295-U as required by O.C.G.A. § 46-4-158.1 (a)(2).

"Meter Reading Accuracy" shall be defined as "the total of all firm cycle meter reads issued during the cycle month minus the cancelled cycle readings minus NCONS divided by the total of all firm cycle meter readings issued during the cycle month."

"Cancelled cycle readings" shall mean "all actual and estimated meter reads that the service provider cancels during the cycle month."

6. **Meter Reading Timeliness**

This standard will measure the timeliness of a meter read by a service provider or third party agent within the meter reading cycle compared to the number of meters that were read.

The Commission finds that meter reading timeliness benchmark should be set at 98.5% averaged over two consecutive months commencing at the inception of this program. This recommendation is consistent with Docket No. 15295-U as required by O.C.G.A. § 46-4-158.1 (a)(2).

"Meter Reading Timeliness" shall be defined as "the number of meter reads in a given one-month period issued by the EDC within the three-day cycle meter-reading window that applies to each respective meter divided by the total number of active meters that the service provider is responsible to read."

7. **Transmittal of Meter Reading Data to the EDC**

The Commission finds that a benchmark for the transmittal of meter reading data to the EDC should be set at 98.5 % of data transmitted within 48 hours of the actual meter read. This benchmark will be averaged over two consecutive months.

One marketer indicated reservations on moving forward with this standard without more information on the process that AGLC proposes to implement for receiving inbound meter reading data. (T 217). In response to that concern, the Commission adopts Staff's recommendation to suspend penalties for this standard until such time as AGLC develops a process for the transmittal of meter reading data, and Staff can review that process.

8. **Transmittal of accurate and timely electronic transactions of consumer data to the EDC**

The Commission finds that it is not necessary at this time to develop a benchmark for the transmittal of accurate and timely electronic transactions of consumer data to the EDC. Staff should monitor that process for possible action in the future.

9. **Revision to Rules**

The Staff recommended that the Commission issue a Notice of Proposed Rulemaking for the purpose of amending Commission Rules 515-7-8 by deleting all of section 515-7-8-.04. (T 38).

The Commission finds that a Notice of Proposed Rulemaking for the purpose of amending Commission Rules 515-7-8 by deleting all of section 515-7-8-.04 should be issued.

## II. PENALTY STRUCTURE

Pursuant to O.C.G.A. § 46-4-158.1(c), the Commission has the authority to fine marketers for failing to comply with the service quality measures established by the Commission. AGLC recommends that the penalty structure be the same for marketers and the EDC. (T 131). ESPA recommended that penalties should not take effect until

July 1, 2003, and that the Commission should retain maximum discretion over penalties. (T 167). SCANA recommended that the Commission not set definitive penalties, but instead, consider each marketer failure on a case-by-case basis. (T 214). GNG recommended a tiered penalty system that would increase penalty amounts in relationship to the level of variance from the benchmark that a marketer reports. (T 252). Southern recommended that performance be measured and monitored for six (6) months prior to the implementation of penalties and then a proceeding held to determine appropriate penalties based on under performance. (T 271). Additionally, Southern recommended that penalties be aligned with the effects of the failure to meet a benchmark. (T 272).

The Commission finds that as provided by O.C.G.A. § 46-4-158.1 (c), the Commission has the authority to determine the fine amount for a marketer's failure to comply with a service quality standard. The Commission finds that there is no requirement that the fine levied against the EDC be the same as the fine levied against the marketer for failure to comply with a service quality measure. The Commission also finds that a penalty structure that allows for remediation prior to the implementation of penalties is in the best interest of Georgia natural gas consumers.

The Commission therefore finds and concludes that the following penalty structure recommended by Staff to be in the best interest of the service quality measure program:

1) Within thirty days of the end of each recording period the service provider shall file with the Commission the data for each service measure. As part of that filing, the service provider shall highlight any performance that did not meet the established benchmarks. This filing will be known as the Notification Filing.

2) If one or more of the service benchmarks have not been met, the service provider will have thirty days from the Notification Filing to file with the Commission a Remedial Action Plan ("RAP"). The RAP should explain the deficiency, specify how the deficiency will be remedied, and provide a timetable for remedial activities; provided that all remedial activities must be completed within ninety days.

3) At the conclusion of the 90-day remediation period, the service provider will have fifteen days to file a Remediation Report with the Commission that demonstrates its compliance with the benchmarks that were the subject of the RAP. If the deficiencies were not eliminated and the established benchmarks met then the service provider would be considered to be in violation of the service quality standards. Penalties would commence at that time and continue for each recording period thereafter or until such time as the service provider meets the approved benchmark.

4) For a period of one (1) year after filing of a remediation report, the service provider will remain subject to penalties for each recording period if the deficiency remains or reoccurs. The service provider will not be given remediation opportunities again until such time as the service provider has demonstrated compliance with the benchmark for twelve consecutive months.

The Commission finds and concludes that a presumptive penalty is in the best interest of the service quality measures program. The presumptive penalty for non-compliance with any standard for a recording period shall be $25,000 due thirty five (35) days after the filing of the Remediation Report indicating a failure to meet the benchmark or after a notification filing that demonstrates that the service provider failed to meet the benchmark during the twelve consecutive month period following the remediation period; however, all penalties will be subject to Commission discretion and a party may petition to have penalties increased or decreased.

The marketer shall have thirty days from the filing of the Remediation Report or after a notification filing that demonstrates that the service provider failed to meet the benchmark during the twelve consecutive month period following the remediation period, to petition the Commission for waiver or reduction of any penalty pursuant to Commission Rule 515-7-8-.08. In addition, within thirty days of the filing of the Remediation Report or notification filing made within twelve months of a remediation period, Staff or any interested party may petition the Commission to increase or decrease penalties. The burden of proof shall be upon the moving party.

**Reporting Requirements**

The Commission finds and concludes that sixty days from the date of this order, all marketers will be required to file with the Commission their proposed methodology for reporting each standard. After reviewing each proposal the Staff shall adopt for each standard a methodology which best reflects the most efficient and cost effective method of reporting.

## ORDERING PARAGRAPHS

The Commission decides, based upon its evaluation and determinations as set forth in the preceding Findings of Fact and Conclusions of Law, and upon the evidence of record and the credibility attached thereto, that it is appropriate to order the following with respect to the Service Quality Measures for service providers.

**WHEREFORE IT IS ORDERED,**

A. That the Commission adopts Service Quality Measures for Service Providers as set forth below and in the body of this Order.

B. The benchmark for Call Center Service Level shall be set at 80% of all calls to the call center answered within 180 seconds of a request to speak with an agent, measured over one calendar month. For purposes of this service quality benchmark, "calls" shall include calls in queue terminated by the calling party prior to speaking with an agent. A marketer will begin the remediation process if the marketer fails to meet the benchmark twice during any 12-month period.

C. The formula for measuring the Call Center Service Level benchmark shall be as follows:
a/b*100, where
a = Total number of calls answered by an agent in 180 seconds or less
b = Total number of offered calls

D. The benchmark for the standard "Requests for Information from the EDC As Authorized by Commission Order or AGLC Tariff or other requests as determined necessary by the Commission", shall be within the time specified in an Order or Tariff and other requests within five (5) days or the time period agreed upon by the service provider and the EDC. A marketer must comply with this standard 100% of the time. There is no reporting requirement for this standard.

E. The following process must be followed for the standard in paragraph D for "Requests determined necessary by the Commission":

1. Any request other than those specifically prescribed by Order or Tariff shall be made via electronic mail to the Commission Staff member designated to receive requests and objections as well as to the marketer(s) subject to the request. Any objections to a request made by the EDC shall be made in good faith and delivered to the designated Staff member via electronic mail. In the event that e-mail is unavailable, the requesting party shall be permitted to make a request, and the receiving party shall be permitted to object to a request in good faith, via another verifiable form of communication. Any written form of communication shall be deemed verifiable for purposes of this standard.

2. The designated Staff member must receive all objections to requests for information within five (5) days of the requests

being made by the EDC. To be considered as a proper objection, an objection must clearly state the objection and set out the grounds therefore, providing all documentation and support at the time of the objection. Upon receiving the objection, the period for responding is immediately paused. Staff shall rule upon the objection in a timely manner, and report its decision to the marketer and the EDC via electronic mail.

3. If a party objects to Staff's ruling, they may immediately apply for relief to the Commission by filing for immediate relief and petition the Commission for an emergency hearing on the matter. After such hearing, the Commission shall rule for or against the party asserting the objection, and, if the Commission determines that the objection was frivolous or not made in good faith, impose penalties for the party's non-compliance with Commission approved service quality measures as well as any other fines or penalties deemed appropriate.

4. A marketer or EDC determined by the Commission to have made a frivolous objection within a recording period will be deemed to be in violation of this standard. Prior to the implementation of this standard, the Commission Staff shall designate a Commission employee to receive requests and objections, and that information shall be provided to marketers and the EDC.

F. The Commission defines the standard for billing accuracy as follows: Any bill sent to a customer is inaccurate if the bill has to be cancelled and re-billed or if the bill has to be corrected due to marketer error such as incorrect rate or pricing plan, incorrect DDDC factor or pass through charges or any other marketer related component of the bill. Any cancels or corrections due to meter reading errors will not count against the marketer.

G. The billing accuracy benchmark shall be set at 98.5% averaged over a two-consecutive month period. An inaccurate bill will count the month that the marketer cancels and rebills or corrects the customer's bill, not the month the marketer sent the bill.

H. The benchmark for the standard "Responsiveness to Consumer Inquiries and Complaints sent from the Commission" will be set at a level requiring the service provider 99% of the time to acknowledge receipt of an "urgent" complaint within one (1) business day, and acknowledge receipt of non-urgent complaints within five (5) business days measured over a two (2) consecutive month period. A

marketer shall be deemed to have met this benchmark if its number of untimely responses does not exceed four (4) over the two-month measuring period. There is no reporting requirement for this standard.

I. The Commission adopts the definition of "urgent" recommended by Staff and set forth in the body of this Order.

J. A marketer may challenge the urgent status of any particular complaint when it is apparent from the face of the complaint that the marketer is not the proper party to handle the complaint or the marketer believes in good faith that a complaint should not have been marked as urgent.

K. The meter reading accuracy benchmark shall be set at the level of 98.5% averaged over two consecutive months.

L. Meter Reading Accuracy shall be defined as follows: The total of all firm cycle meter reads issued during the cycle month minus the cancelled cycle readings minus NCONS divided by the total of all firm cycle meter readings issued during the cycle month.

M. Cancelled cycle readings means shall mean all actual and estimated meter reads that the Service Provider cancels during the cycle month.

N. The benchmark for the standard Meter Reading Timelines shall be set at 98.5% averaged over two consecutive months commencing at the inception of this program.

O. Meter Reading Timeliness shall be defined as follows: The number of meter reads in a given one-month period issued by the service provider within the three-day cycle meter-reading window that applies to each respective meter divided by the total number of active meters that the service provider is responsible to read.

P. The benchmark for the standard "Transmittal of meter reading data to the EDC" shall be set at 98.5% of data transmitted within 48 hours of the actual meter read averaged over two consecutive months. Implementation of this standard shall be suspended until such time as AGLC develops a process for the transmittal of meter reading data, and that Commission Staff can review the process.

Q. AGLC must report back to the Commission within six (6) months of the filing of this Order the status of being able to accept inbound meter reading data from marketers.

R. The Commission adopts the penalty structure as recommended by the Staff in this proceeding and in its brief. That structure is outlined below and shall take effect upon the inception of this program.

1) Within thirty days of the end of each recording period the service provider shall file with the Commission the data for each service measure. As part of that filing, the service provider shall highlight any performance that did not meet the established benchmarks. This filing will be known as the Notification Filing. The Commission shall notify the marketer of its noncompliance with standards, for which the Commission is responsible for tracking within thirty days of the end of each recording period.

2) If one or more of the service benchmarks have not been met, the service provider will have thirty days from the Notification Filing to file with the Commission a Remedial Action Plan ("RAP"). The RAP should explain the deficiency, specify how the deficiency will be remedied, and provide a timetable for remedial activities but all remedial activities must be completed within ninety days.

3) At the conclusion of the 90-day remediation period, the service provider will have fifteen days to file a Remediation Report with the Commission that demonstrates its compliance with the benchmarks that were the subject of the RAP. If the deficiencies were not eliminated and the established benchmarks met then the service provider would be considered to be in violation of the service quality standards. Penalties would commence at that time and continue for each recording period thereafter or until such time as the service provider meets the approved benchmark.

4) For a period of one year after filing of a remediation report, the service provider will remain subject to penalties for each recording period if the deficiency remains or reoccurs. The service provider will not be given remediation opportunities again until such time as the service provider has demonstrated compliance with the benchmark for twelve consecutive months.

S. The presumptive penalty for non-compliance with any standard and approved benchmark for a recording period shall be $25,000 due thirty five days after the filing of the Remediation Report indicating a failure to meet the benchmark or after a notification filing that demonstrates that the service provider failed to meet the benchmark during the twelve consecutive month period following the remediation period.

T. The marketer shall have thirty days from the filing of the Remediation Report or after a notification filing that demonstrates that the service provider failed to meet the benchmark during the twelve consecutive month period following the remediation period, to petition the Commission for waiver or reduction of any penalty pursuant to Commission Rule 515-7-8-.08. In addition, within thirty days of the filing of the Remediation Report or notification filing made within twelve months of a remediation period, Staff or any interested party may petition the Commission to increase or decrease penalties. The burden of proof shall be upon the moving party.

U. The remediation process outlined in section 1-4 of Ordering Paragraph R shall apply to all standards and benchmarks provided for in this Order except for "Requests for Information from the EDC As Authorized by Commission Order or AGLC Tariff or other requests as determined necessary by the Commission." For that standard a marketer determined by the Commission to have made a frivolous objection within a recording period will be deemed to be in violation of that standard and automatically subject to penalties as described in Ordering Paragraph S.

V. Within sixty days from the date of this order, all marketers are required to file with the Commission their proposed methodology for reporting each standard that they are obligated to report on.

W. No reporting on behalf of the marketer will be necessary in the areas of Responsiveness to consumer Complaints forwarded by the Commission and Request from the EDC as authorized by Commission Order or AGLC Tariff or other requests as determined necessary by the Commission.

X. No benchmark will be set for the standard "Transmittal of accurate and timely electronic transactions of consumer data to the EDC".

Y. The effective date in this program is July 1, 2003. This will allow sufficient time for the service provider to work with Staff to develop reporting requirements and allow time for service providers to make any necessary system changes for data collection.

Z. That all finding, conclusions and decisions contained within the preceding sections of this Order are hereby adopted as finding of fact, conclusions of law, and decisions of regulatory policy of this Commission.

AA. That a motion for reconsideration, rehearing, or oral argument or any other motion shall not stay the effective date of this Order, unless otherwise ordered by the Commission; and

BB. That jurisdiction over this matter is expressly retained for the purpose on entering such further Order or Orders as to this Commission may deem just and proper.

The above by action of the Commission in Administrative Session on the 1st day of April 2003.

Reece McAlister
Executive Secretary

4-11-03
Date

Robert B. Baker, Jr.
Chairman

April 11, 2003
Date