

Arkansas Gas Association

Antitrust Guidelines

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The purpose of federal and state antitrust statutes is to assure the preservation of a free and competitive economy. To achieve this end, these laws embody a prohibition against any agreement or combination among competitors which has the effect of unreasonably restraining trade.

Clearly, membership in a trade association such as the Arkansas Gas Association (AGA) does not, without more, constitute an antitrust violation. Competitors may legitimately meet or discuss matters concerning their industry, provided they do so without a specific and continuing purpose, understanding, or agreement to pursue actions tending to unreasonably restrict commerce or restrain trade. Activities which ordinarily are considered appropriate for discussion are, generally, as follows:

- ◆ Reports on general and industry economic trends.
- ◆ Research reports and demonstrations of technology relating to the solution of industry problems.
- ◆ Demonstrations of methods by which member companies can become more efficient and profitable.
- ◆ Reports on effective marketing or manufacturing techniques and methods.
- ◆ Discussion of energy supply and utilization.
- ◆ Reports on governmental developments and their impact on the industry.

AGA meetings, however, afford obvious opportunities for antitrust transgressions. By definition, members of any trade association engage in concerted activities related to mutual commercial concerns. Thus, otherwise lawful association activities may constitute forbidden conduct if these in any way result in explicit or tacit agreements which fix prices, limit production, allocate markets, establish discriminatory standards or otherwise unreasonably restrain free trade.

It is the policy of the AGA to conduct its activities in strict compliance with all applicable federal and state antitrust laws and to avoid any appearance of impropriety. These objectives can be obtained through the efforts and cooperation of AGA's Board, executives, membership, and counsel. Toward that end, the following brief set of guidelines was prepared to prevent the initiation of inappropriate discussion or actions.

Check List of Protective Actions to Avoid Antitrust Infractions

- **DO NOT** engage in discussions or activities which may tend to:
 - ◆ Fix or otherwise restrict the prices charged by AGA members
 - ◆ Allocate markets, sales territories, or customers between AGA members
 - ◆ Initiate or encourage boycotts of specific products or services, or refusals to deal with designated customers or suppliers
 - ◆ Limit production levels of AGA's members and otherwise restrict the availability of products or services
 - ◆ Purposely hinder or disparage the competitive efforts of non-members
 - ◆ Coerce or encourage AGA members to refrain from competing
 - ◆ Limit, impede or exclude anyone in the manufacture, production, or sale of goods or services
 - ◆ Promulgate or encourage unfair or misleading practices involving advertising, merchandising or products or services
 - ◆ Condition or tie the purchase of one product or service to the purchase of another product or service.
- **DO NOT** discuss your prices or competitors' prices with a competitor or anything which might affect prices such as costs, discounts, terms of sale, or profit margins.
- **DO NOT** agree with competitors to uniform terms of sale, warranties, or contract provisions.
- **DO NOT** agree with competitors to divide customers or territories.
- **DO NOT** act jointly with one or more competitors to put another competitor at a disadvantage.
- **DO NOT** try to prevent your supplier from selling to your competitor.
- **DO NOT** discuss your future pricing, marketing, or policy plans with competitors.
- **DO NOT** make any statements regarding prices or matters affecting prices at AGA meetings.

- **DO NOT** make statements about your future plans regarding pricing, expansion, or other policies with competitive overtones. Do not participate in discussions where other members do so.
- **DO NOT** propose or agree to any standardization which will injure your competitor.
- **DO NOT** do anything before or after AGA meetings, or at social events, which would be improper at a formal AGA meeting.
- **DO NOT** discriminate against competitors when (1) developing standards or specifications for products or services, (2) setting standards, or (3) dealing with customer credit information.
- **DO NOT** exchange data concerning prices, production levels and costs, or customer credit.
- **DO NOT** participate in informal group discussion outside of the formal AGA sessions which disregard these guidelines. Otherwise, the precautions developed in connection with AGA meetings would prove to be of no consequence.

DO alert AGA staff and legal counsel to anything improper.

DO consult your own legal counsel or the AGA's legal counsel before raising any matter which you feel might be sensitive.

DO alert every employee in your company who deals with the AGA to these guidelines.

DO be conservative. If you feel an activity might be improper, do not do it.