0000065563

47

BEFORE THE ARIZONA CORPORATION COMMISSION

AZ CORP COMMISSION
JUL 18 11 40 AM '96
DOCUMENT CONTROL

RENZ D. JENNINGS
CHAIRMAN
MARCIA WEEKS
COMMISSIONER
CARL J. KUNASEK
COMMISSIONER

IN THE MATTER OF THE COMPETITION IN THE PROVISION OF ELECTRIC SERVICES THROUGHOUT THE STATE OF ARIZONA.

DOCKET NO. U-0000-94-165

NOTICE OF FILING

Staff hereby gives notice of filing its Summary of Comments on electric industry restructuring.

RESPECTFULLY SUBMITTED this 18th day of July, 1996.

Janet Wagner

Janet Wagner
Attorney, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007
(602) 542-3402

Original and ten (10) copies
of the foregoing filed this
18th day of July, 1996,
with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Arizona Corporation Commission
DOCKETED
JUL 18 1996
DOCKETED BY

Copy of the foregoing was mailed
by the Utilities Division this
17th day of July, 1996 to:

DAVID C KENNEDY
LAW OFFICES OF DAVID C KENNEDY
100 WEST CLARENDON AVENUE, SUITE 200
PHOENIX AZ 85012-3525

NORMAN J FURUTA
DEPARTMENT OF THE NAVY
900 COMMODORE DR, BLDG 107
P O BOX 272 (ATTN CODE 90C)
SAN BRUNO CA 94066-0720

THOMAS C HORNE
MICHAEL S DULBERG
HORNE KAPLAN & BISTROW P C
40 NORTH CENTRAL AVENUE, SUITE 2800
PHOENIX AZ 85004

BARBARA S BUSH
COALITION FOR RESPONSIBLE ENERGY EDUCATION
315 WEST RIVIERA DRIVE
TEMPE AZ 85252

SAM DEFRAW (ATTN CODE 16R)
RATE INTERVENTION DIVISION
NAVAL FACILITIES ENGINEERING COMMAND
200 STOVALL STREET, ROOM 10S12
ALEXANDRIA VA 22332-2300

RICK LAVIS
ARIZONA COTTON GROWERS ASSOCIATION
4139 EAST BROADWAY ROAD
PHOENIX AZ 85040

LOTHAR M SCHMIDT
P O BOX 10963
YUMA AZ 85366-8963

AJO IMPROVEMENT COMPANY
P O DRAWER 9
AJO AZ 85321

COLUMBUS ELECTRIC COOPERATIVE INC
P O BOX 631
DEMING NM 88031

CONTINENTAL DIVIDE ELECTRIC COOPERATIVE
P O BOX 1087
GRANTS NM 87020

DIXIE ESCALANTE RURAL ELECTRIC ASSOCIATION
CR BOX 95
BERYL UT 84714

GARKANE POWER ASSOCIATION INC
P O BOX 790
RICHFIELD UT 84701

MOHAVE ELECTRIC COOPERATIVE INC
P O BOX 1045
BULLHEAD CITY AZ 86430

MORENCI WATER AND ELECTRIC COMPANY
P O BOX 68
MORENCI AZ 85540

CHARLES R HIGGINS
ARIZONA STATE AFL-CIO
110 NORTH 5TH AVENUE
P O BOX 13488
PHOENIX AZ 85002

Mary Ippolito
Assistant to Janet Wagner

MEMORANDUM

TO: Parties to Electric Industry Restructuring
Docket No. U-0000-94-165

FROM: David Berry
Arizona Corporation Commission
(602) 542-0742

DATE: July 1996

RE: SUMMARY OF COMMENTS ON ELECTRIC INDUSTRY RESTRUCTURING

Enclosed are two items:

1) A summary of the comments received in response to Staff's request for comments on electric industry restructuring.

2) A summary of activities in some other jurisdictions regarding electric industry restructuring.

If you have any clarifications or corrections on the summary of comments please let me know.

The summary of activities in other jurisdictions is current as of late Spring 1996. However, changes may occur rapidly in some jurisdictions.

c:\compete\comment\trans.mem

SUMMARY OF ELECTRIC RESTRUCTURING ACTIONS IN SELECTED JURISDICTIONS

Prepared by

Utilities Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Docket No. U-0000-94-165

July 1996

c:\compete\states.tbl

c:\compete\states.tbl

SUMMARY OF ELECTRIC RESTRUCTURING ACTIONS IN SELECTED JURISDICTIONS

State	References	Approach	Stranded Costs	Market	Other
Illinois - CILCO	CILCO filing 8/28/95 before ICC; Edison Times, April 1996. Value Line, 1996: p. 707; PowerQuest Newsletter, March 1996	two parts: a) 2 year pilot proposal for customers over 10 MW -- 50 MW limit; plus b) open access sites (geographic areas) for 5 year pilot for all customers in those areas; at end of pilot customers return to CILCO; geographic areas are 3 small towns + a large shopping mall + an undeveloped industrial area	none to be recovered	unbundled services: transmission, distribution, load following, system protection, voltage control & reactive power, administration; customers may use aggregators; marketers have agreed not to deluge consumers	residential customers must purchase all capacity off-system due to small usage and lack of tou demand meters. Value Line (4/12/96, p. 707) stated that CILCO is preparing for competition; implementation of either pilot would not materially affect co.
Illinois - Illinois Power Co.	Edison Times, April 1996; Value Line, 1996, p. 715.	Direct Energy Access Service (DEAS): largest customers may participate in competitive market (about 20 customers, at least 2 MW & 34.5 kV); 50 MW total offered under DEAS. Experiment begun.	none to be recovered	unbundled firm, short term non-firm, and hourly non-firm transmission services; ancillary services (loss compensation, load following, system protection, energy imbalance, reactive power/voltage control, scheduling & dispatch	Value Line states experiment will enable co. to gain experience in competitive environment

SUMMARY OF ELECTRIC RESTRUCTURING ACTIONS IN SELECTED JURISDICTIONS (continued)

State	References	Approach	Stranded Costs	Market	Other
New Hampshire Pilot	NHPUC DR 95-250 Order of Notice; NHPUC News Release 11/20/95; Union Leader 2/2/96; NARUC Bulletin Feb 5, 95; Edison Times, April 1996; NHPUC Order No. 22,033	proposal: statewide pilot of 51 MW (3%) 5/28/96-1998; customers selected randomly, competitive load distributed among classes in proportion to peak of class; geographic areas nominated by government authority must account for 1/2 of participation; in addition to 3% of existing load, large new loads eligible for pilot; state legislature considering deregulation; sophisticated metering not required	split 50-50; no exit fee no re-entry fee; stranded costs recovered via usage based surcharge on wheeling rates (only investors and competitive customers pay stranded costs); utilities should mitigate stranded costs	unbundled T&D services, meter costs, billing costs, admin costs; comparable wheeling services; customers responsible for procuring back-up service; "imbalance" service; all contracts terminate in 2 years; ancillary services supplied via NEPOOL; suppliers must be members of NEPOOL;	renewables, DSM to be considered in larger debate, not pilot; utilities will read meters & transfer data to competitive suppliers for a fee; meters can be read monthly; customers automatically release usage data when participating in pilot unless they notify utility otherwise; only names & addresses of residents of geographic areas are automatically released; aggregated utility data on geographical areas & load shapes available on request; existing rules on winter termination of residential customers apply to competitors
Michigan	John Strand, "Retail Wheeling: A View from Michigan," PUF, Sep 15, 94: 29-33. ELCON Report nd; Edison Times, July 95, 7-9; also PUF 6/15/94, p. 8	experiment @ 1% of load for 2 largest utilities; customers can wheel 2 to 10 MW per location; experiment begins when utility needs new capacity (2001); 5 year term	some stranded cost recovery including nuclear decommissioning costs; other stranded costs will be mitigated by delay in start of experiment, no recovery for DSM	unbundled services: retail delivery, voltage generation, voltage control, system control & dispatch, capacity losses, energy losses, spinning reserve, supplemental reserve, standby reservation	PSC found reciprocity not necessary for experiment; reciprocity issue argued in court;

SUMMARY OF ELECTRIC RESTRUCTURING ACTIONS IN SELECTED JURISDICTIONS (continued)

State	References	Approach	Stranded Costs	Market	Other
Rhode Island bill: proposed, not adopted	Providence Journal Bulletin 2/8/96 & 6/27/96; Energy Services & Telecom Report, Feb 15, 96, pp. 9-10. Utility Restructuring Act of 1996	utilities form separate affiliates for generation, transmission, & distribution. phase-in: if customers do not choose a supplier there would be a standard offer through 2009; competition starts in 1997 for large customers (1500 kW or new customers > 200 kW), but not more than 10% of sales; existing customers > 200 kW in 1998 but not more than 20% of all sales; in July 98: all customers. Last resort power supply by electric distribution co. purchasing energy via bids.	transition charge recoverable through 2009, starting at a rate of $0.028/kwh but subsequently changed to amount sufficient to recover costs; utilities encouraged to mitigate stranded investments; industrial consumers complain about high stranded investment charge.	unbundled services: T&D; purchasing cooperatives may be formed but cannot resell electricity.	DSM/renewables charge of $0.0022 per kWh for 5 years. Use of PBR for distribution cos. Low income programs continue paid for via distribution charges to all customers
Massachu-setts: see next page for Mass. Electric proposal	Edison Times Sep 95, pp 2-3; Mass DPU News Release Aug 16, 95; Mass DPU Order 95-30; Mass DPU News Release May 1, 1996 regarding proposed rules.	competitive generation by 1/1/98: ISO for transmission, power exchange for competitive bidding pool for short term power sales, functional separation of utilities into generation, transmission, & distribution; phased incentives for divestiture; unbundled rates by 1/1/97;	reasonable opportunity to recover net, nonmitigable stranded costs as of 8/16/95; non-bypassable stranded cost access charge over 10 year transition period; period.. reconciliation of stranded cost recovery;	distribution company required to provide Basic Service to those who do not contract with another suppler, who cannot obtain power in open market, or whose supplier fails -- available to all customers at all times;	preserve discounts on T&D + stranded cost charges for low income customers; registration for generators, marketers & aggregators; promotion of environmental goals; support DSM & renewables (thru direct purchases or nonbypassable renewables fund); price caps;

SUMMARY OF ELECTRIC RESTRUCTURING ACTIONS IN SELECTED JURISDICTIONS (continued)

State	References	Approach	Stranded Costs	Market	Other
Mass. Mass Electric proposal	NEES-Mass Electric Proposal: *Choice: New England*	competition starts 1998; all utilities in region must adopt similar plan for plan to work; utility affiliate will provide T&D at comparable rates; billing either by distribution company or by power supplier; distribution company provides supplier with metering data; T&D rates are regulated;	fully recovered through nonbypassable charge (access charge of $0.03/kWh for 3 years, then decreasing);	market develops at own pace; customers shop around but can take standard offer service from utility over 10 year period; suppliers responsible for each customer's full load; all suppliers must meet NEPOOL standards; NEPOOL or T&D company provide for outage service, back up, supplementary & other ancillary services; customers with existing contracts can buy them down to shop around prior to termination;	DSM costs recovered in distribution company rates
Mass. Mass. Electric Pilots	Edison Times May 96, p. 27	two pilots approved by DPU: 1) residential, commercial, & industrial customers in Lawrence, Lynn, Northampton, and Worcester from Sep 1 96 to Dec 1, 97. 2) up to 200 million kWh of sales available for Mass High Tech Council members in 2 RFPs (Mass Elec affiliate can win at most one bid), beginning July 1, 96 thru time when direct access generally available	not discussed	not discussed	

SUMMARY OF ELECTRIC RESTRUCTURING ACTIONS IN SELECTED JURISDICTIONS (continued)

State	References	Approach	Stranded Costs	Market	Other
California	Decision No. 95-12-063, 166 PUR 4th 1; Edison Times June 1996, pp. 6-9.	direct access by consumers & aggregators starting Jan 98; phase in -- all customers have direct access by 2003; PBR to be used for non-competitive services.	stranded cost recovery through CTC paid by all customers; utility asset values can be established by appraisal or sale	ISO to operate transmission & schedule deliveries; Power Exchange to establish spot market; IOUs must bid all non-divested generation into Power Exchange and purchase all requirements for full service customers from Power Exchange; participation in Power Exchange is voluntary for others; bilateral contracts expected; bundled utility service possible; voluntary divestiture	nonresidential consumers must use TOU or real time meters; financial hedges allowed; minimum renewables purchase requirements to be set; legislature to adopt nonbypassable charge to fund r&d, and non-market DSM
Electric Genera-tion Ass'n	EGA, *Electric Generation Association's Visions of a Fully Competitive Electric Industry*, March 1996	transition period ended by 1/1/2003; comprehensive federal legislation with mandatory framework; FERC certifies competitive market in which utility mitigates its market power through unbundling or divestiture for competition prior to 2003; if market certified as competitive, market based rates can be used and PURPA mandatory purchases no longer required; unbundled bills supplied by local distribution companies	market based valuation of stranded costs (e.g. bidding for assets); full recovery of eligible, non-mitigatable stranded cost (incurred before EPACT) via broad based access fees since all consumers will eventually benefit from competition; stranded costs recovered only over predetermined time period;	generators, marketers, brokers, energy service companies, local distribution companies supply generation; market priced generation; long term bilateral contracts and short term spot market transactions; nondiscriminatory transmission access & pricing; ISO operates transmission; regulated nondiscriminatory distribution access & pricing;	environmental laws applied consistently to all sellers; non-bypassable charge for social programs

SUMMARY OF ELECTRIC RESTRUCTURING ACTIONS IN SELECTED JURISDICTIONS (continued)

State	References	Approach	Stranded Costs	Market	Other
Texas - Texas New Mexico Power Co.	TNP Enterprises, Texas-New Mexico Power Co. Texas Community Choice filed w PUCT May 2, 1996; TNP testimony filed with PUCT	5 year transition period starting Jan 1, 1997: customers will be able to shop for generation in 5 years. apparently coupled with a 4% rate reduction. acceleration charge for customers who leave TNP system early	TNP has one generating unit. Book value in 1995 will be decreased during transition period by shifting depreciation from transmission system to generation plant and thru normal depreciation, purchased power savings, fuel savings	smaller customers will have to aggregate at the community level; customers can purchase bundled service from TNP at any time but bulk power component will be market cost of power at that time.	depreciation rate on distribution assets will be decreased and all remaining depreciation on T&D assets will be deferred into a regulatory asset. benchmark earnings cap (3% above avg yield of utility bonds) with excess earnings shared by ratepayers (via reduced depreciation shifting) and shareholders
New York	NY PSC Press release May 16, 1996	utilities (except NIMO & LILCO) file restructuring proposals and unbundled rates by October 1, 1996; ISO to operate system;	calculated on case by case basis; utilities must mitigate stranded investments before stranded costs considered for recovery; may be recovered thru non-by-passable distribution charge; recovery balanced against goal of lowering rates	divestiture encouraged; continue to examine load pocket problem;	non-by-passable charge for environmental and public policy programs; continue to examine how to license new entrants and retain consumer safeguards, universal service type funding, billing & metering functions

SUMMARY OF ELECTRIC RESTRUCTURING ACTIONS IN SELECTED JURISDICTIONS (continued)

State	References	Approach	Stranded Costs	Market	Other
Alberta Power Pool	W. James Beckett, "The First North American PoolCo in Practice: The Alberta Province Model"	**NOT RETAIL WHEELING**: Poolco implementation: Retail purchases are thru distribution company. Pool is mandatory, no provision for bilateral contracts although such contracts could occur outside the pool. Also set up transmission administrator responsible for design of system access services. Had to meter or estimate wholesale transactions	None to date.	All electric energy sold in Alberta is sold thru pool and all electric energy purchased at wholesale is bought from the pool. Had to create systems to accept bids & offers, construct merit curve, publish forecasted dispatch, dispatch units, provide ancillary services, declare and record hourly pool prices, bill & collect.	Pool accepts hourly offers from generators & importers and hourly bids from distribution companies and exporters. Pool constructs merit order for operation and forecasts loads. Difficult to coordinate transmission administrator and pool. Gaming by outside suppliers who restricted access to Alberta and appropriated rents.
Green Mount-ain Power, VT proposal	The GMP Plan, http://www.gmpvt.com/restruct.htm	Proposal: RetailCos would supply consumers via bilateral contracts or off spot market; utilities separated into franchise and competitive components (not divestiture); DisCos responsible for distribution and generation or controllable load to maintain local system reliability; all region should be opened to competition at the same time;	stranded costs estimated via auction; fully recovered thru access cost as fixed monthly charge; DisCos could hedge against higher energy costs than contemplated in the auction; RetailCo could match highest bid in auction	ISO operates power flow (based on NEPOOL); ISO also coordinates generation	DisCos responsible for DSM & metering; DSM, renewables, low income costs recovered thru fixed monthly access charge

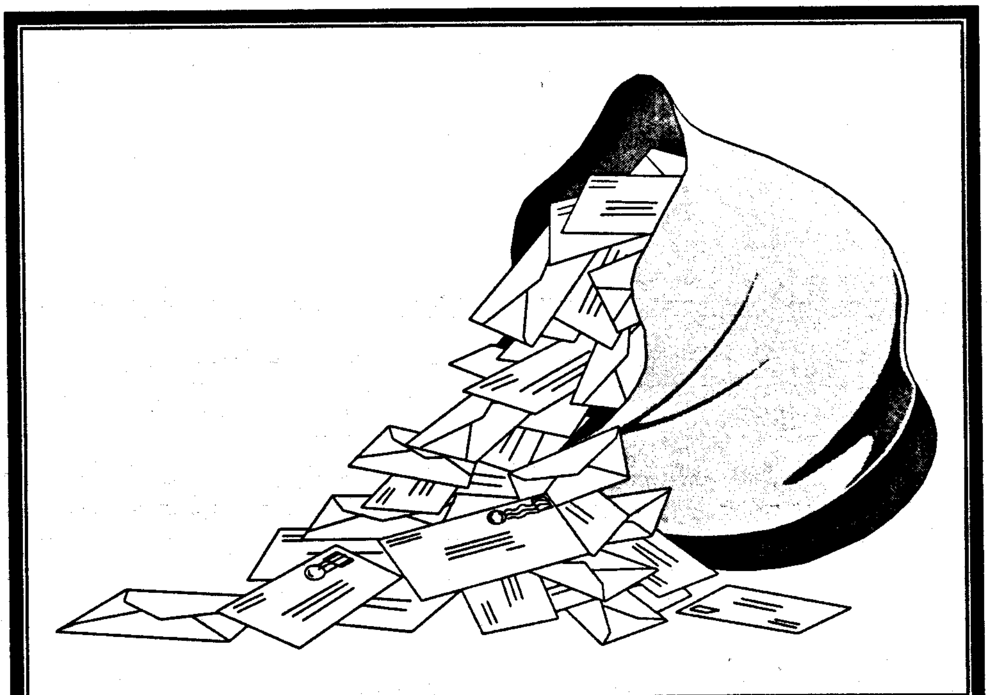
SUMMARY OF COMMENTS ON

ELECTRIC INDUSTRY RESTRUCTURING

DOCKET NO. U-0000-94-165

Utilities Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

July 1996



SUMMARY OF COMMENTS ON ELECTRIC INDUSTRY RESTRUCTURING

On February 22, 1996, the staff of the Arizona Corporation Commission, Utilities Division, issued a Request for Comments on Electric Industry Restructuring. We asked questions about major objectives and about how restructuring should be implemented. Approximately 160 sets of questions were sent to interested parties. Comments were due in Docket Control on June 28, 1996. This report reviews the ***highlights*** of the comments received. This review does not cover all points raised by all parties.

This report should be considered a **draft**. Clarifications or corrections should be forwarded to the following Staff members at the Commission:

David Berry (602) 542-0742
Kim Clark (602) 542-0824
Ray Williamson (602) 542-0828

July 1996

c:\compete\comment\comment.sum

Table of Contents

Summary of Comments

Affected Utilities: Commenters suggest that either all investor owned utilities or that all utilities open their service territories to competition.

Scope of Competition:

- **Option:** Most commenters prefer a phase-in of competition, some would find a pilot acceptable, and some want full competition with no phase-in or pilot. A pilot, if structured properly, could serve as phase 1 of a phase-in.

- **Pace of Competition**: Consumers and non-utility suppliers generally support rapid implementation of competition -- typically full competition by 2000. Utilities generally support a much slower pace of implementation.

- **Types of Consumers:** Consumers generally favor allowing all consumer groups to participate in a phase-in from the beginning. Utilities often propose opening up the market first to large industrial consumers, with smaller commercial and industrial consumers and residential consumers participating later.

- **Amount of Sales Open to Competition:** During the first phase of a phase-in or during a pilot, commenters propose fractions as small as 2 to 3 percent of load and fractions as large as about 20 percent or more of load.

Stranded Investment: Most parties accept the view that some stranded investment ought to be recovered. Utilities and utility investors propose that 100 percent of stranded investment be recovered. Proposals for recovery include exit fees and kwh charges. Some parties propose determining the magnitude of stranded investment by means of an auction of utility assets. Some utilities advocate establishing a stranded cost recovery policy before embarking on restructuring, but other parties propose Commission resolution of stranded cost issues during the phase-in or pilot. Several parties propose a long period of mitigation of stranded investment before allowing any significant amount of retail competition so that stranded investment would not have to be recovered.

Reciprocity: Most parties support the idea that if a utility is allowed to compete for customers outside its service territory it must allow others to compete for its traditional customers inside its service territory.

Renewables: Most parties support market determination of the level of renewables or state agency activity concerning renewables. During the beginning of a phase-in or during a pilot, utility renewables programs could be continued.

Comments by Consumers

Residential Utility Consumer Office

The Residential Utility Consumer Office (RUCO) believes that competitive electricity generation and supply is in the consumer's interest. A pilot could be an effective way to move the retail competition debate forward now without raising the stakes too high. RUCO supports a pilot program, which would serve as the first phase of a phase-in of competition.

The pilot would begin about July 1, 1997 and last about 18 months. Unbundled service tariffs would be filed by the end of 1996. The pilot should apply to APS, TEP, and Citizens Utilities, for up to 2 to 4 percent of each utility's load. The pilot should be open to all classes of customers and should not require special metering. One or more mid-size cities could be asked to volunteer or the pilot could simply be open to all classes of customers on a proportional basis. Large industrial consumers could be invited to volunteer and then be selected on a random basis from the pool of volunteers. If geographic areas are chosen, areas representing up to 1 to 2 percent of residential and commercial loads could be selected on a random basis. RUCO proposes that residential customers should not be allowed to enter into contracts that extend beyond the period of the pilot. All customers should have the right to return to utility service at the end of the pilot. Non-participating customers should not be affected by the pilot and should be held harmless.

The pilot would enable the Commission to obtain additional information before proceeding to subsequent phases. A pilot could help address: unbundling of services; coordination with the FERC; stranded costs; consumer education; formation of marketers, aggregators, and brokers; registration procedures; new metering and billing arrangements; power pooling; and real time pricing.

After the pilot, consideration should be given to opening the service territories of cooperatives and municipalities. A second phase, from January 1999 through December 1999 could open up the market to 25 percent of load. Then in 2000, full competition would begin.

With respect to stranded costs, RUCO warns that only after the value of utility assets has been fully recognized should the Commission make a determination with regard to the amount of truly stranded costs. In setting recovery of stranded costs, the Commission should take into account: the potential harm to utilities and investors; the desirability of removing impediments to competition; the infeasibility of maintaining above-market prices for prolonged periods; fairness to investors and consumers; risk to investors and risk premiums earned on utility investments; financial impact of non-recovery on utilities; and mitigation of stranded costs (possibly through sale of assets).

RUCO emphasizes the desirability of negotiated settlements regarding stranded investments. No current or future shortfall in cost recovery from any customer class should be recoverable from other classes.

Stranded costs should be recovered through non-bypassable distribution charges.[1] During the pilot, stranded costs could be based on the difference between current tariffed rates and corresponding estimated market price (based on contracted supplies, not spot market prices), by customer class. A true-up would be needed. During the pilot, stranded cost recovery should be limited to a percentage of stranded costs in order to encourage competition. After the pilot, it would be desirable to estimate the total dollar value of stranded costs for each utility based on the difference between market value and regulated book value of assets. However, stranded costs could be recovered for no more than five years.

Residential consumers should be able to participate in the competitive market. For consumers who are unable or unwilling to participate in the competitive market, RUCO recommends a default option in the form of a standard offer. The right to provide standard offer service in an area should be awarded by the Commission for a five year period for a given area. Ultimately, the local electric distribution company would no longer provide electric supply to all its customers, but would continue to provide most other services including distribution, billing, and load balancing.

With regard to market power, RUCO states that, to the extent utilities continue to participate in the generation market, the Commission would have to impose rules regarding affiliate relationships and supply by the generation affiliate to customers of the distribution utility. RUCO expects that limits must be placed on the size of suppliers, proposed mergers and acquisitions by the Commission and the FERC. Further, RUCO suggests that all data provided by the distribution utility should be made available equally to all suppliers. RUCO has not reached a conclusion regarding divestiture. Finally, RUCO recommends that the Commission Staff conduct a study to determine the minimum conditions for effective competition.

An independent system operator (ISO) should control the dispatch of the transmission grid and generating units after the pilot phase.[2] However, RUCO states that the ISO should not

---

[1] RUCO notes that an exit fee probably could not be imposed if a customers leaves the distribution area or cuts off from the utility grid. Reductions in consumption via DSM or self generation should enable the consumer to reduce its exposure to stranded cost charges.

[2] During the pilot, the distribution utility should remain responsible for distribution, supplemental generation, imbalance service, standby service, voltage control and other ancillary services for reliability, and for repairs unless provided by the independent power producers. Rates for these services would be regulated.

determine generator dispatching priorities except to ensure system reliability. The ISO would be responsible for purchasing spinning reserve and reactive power needed for system reliability and provide ancillary services. The ISO would be regulated by the FERC. However, until the ISO is fully operational, reliability remains the responsibility of the utilities.

RUCO envisions a regional hourly spot market operated by an independent Power Mart.[3] Coordination between the ISO and the Power Mart would be necessary. Participation in the Power Mart would be voluntary. Buyers and sellers should be free to enter into bilateral contracts, but could use the spot market to set a reference price and to provide energy when it is economical to do so.

RUCO suggests that suppliers should demonstrate their capability from a financial, business and technical perspective and should identify sources of supply. However, criteria should not be onerous. RUCO also states that it does not believe that Certificates of Convenience and Necessity should be required in a competitive market.

RUCO believes that a bilateral contract market should give suppliers incentives to offer differentiated services including DSM, load management, and green power. A competitive market can unleash more innovation and economy in design and operation of renewables than a regulated market. Renewables could be encouraged through tax credits or regional or national emission limits. No special costs or quotas for renewables are desirable.

RUCO states that low income DSM programs or a universal service fund be paid for through a non-discriminatory, non-bypassable distribution charge. Consumers in remote areas, small towns, suburbs and cities should have equal rates under competition. Nuclear plant decommissioning costs may also have to be recovered through distribution charges.

Arizona Community Action Association

The Arizona Community Action Association (ACAA) represents low income consumers. ACAA's objectives include: lower bills for low income consumers; increasing the market power of low income consumers through aggregation, portfolio standards, and early participation in the competitive market; avoidance of discriminatory cost shifting; continuation of weatherization and

[3] RUCO indicates concern that a spot market may not result in prices high enough to induce investment in new power plants and proposes that the ISO set a premium on the spot market price during peak periods and by location if it forecasts capacity shortfalls. Staff notes that the bilateral contracts supported by RUCO may overcome the problem that spot markets do not cover fixed costs. Bilateral contracts could be for long terms and ensure that suppliers have adequate revenues to enable them to invest in new capacity.

energy efficiency programs for low income consumers; fair billing, collection, and consumer protection procedures; and the use of energy efficiency and renewables.

ACAA supports a phase in of competition; they believe that a pilot program would not add to the lessons learned from other pilots and may not be a real test of competition. If a pilot were large enough it could be equivalent to the first phase of a phase in. All investor owned utilities should open their markets to competition at the same time.

There would be three phases over a **five year period**:

- In the first phase, no more than 30 percent of total kWh sales would be open to competition. Phase I should begin between January 1998 and January 2000. Some time will be needed to resolve issues before implementation begins.
- In the second phase at least 60 percent of kWh sales would be open to competition.
- In the third phase all load is competitive. This phase would begin five years after the start of Phase I.

Low income customers should have the largest proportion of customer load within their class opened to retail competition, followed by decreasing proportions for residential, small commercial, large commercial, and industrial customers. As an example for phase I, ACAA suggests that 20 percent of low income load, 15 percent of residential load, 12 percent of small commercial load, 10 percent of large commercial load, and 5 percent of industrial load be able to purchase electricity competitively.

ACAA recommends consolidating residential and low income consumers in geographic areas for the first two phases. Some of the consolidation should be in rural areas. Low income consumers could increase their market power by aggregating their demand.

Distribution services would remain regulated. Access charges should be designed so that distribution company earnings are not affected by changes in energy demand or throughput.

Ideally, vertically integrated utilities should be divested into distribution, transmission, and generation companies. However, ACAA is willing to accept functional separation with strong regulatory oversight.

Reciprocity is desirable: if Arizona utilities that are not investor owned want to offer energy services and compete in the existing service territories of Arizona investor owned utilities, the markets in their service territories should be open to the investor owned utilities.

Licensing requirements may encourage such reciprocity.

Consumers in a competitive market will be inundated with marketing solicitations. Clear, objective, understandable information will be needed and consumer protection regulation will be required.

The costs of net stranded investment should be borne by utilities, new market entrants, and retail and wholesale customers. Recovery of stranded investment should be made by using non-bypassable distribution access charges (on a kWh basis) and exit fees. The Commission should consider only *net* stranded investment by subtracting the increment of market value above book value from total stranded investment. Assets such as information resources and fully amortized generation plants should be considered when estimating the level of net stranded investment. Utilities must demonstrate that they have taken all reasonable actions to mitigate stranded investment as a prerequisite to recovering any stranded investment.

Low income consumers should not be left responsible for any of the costs of stranded investment associated with generating facilities built to serve the loads of other customers.

Low income customer assistance programs such as rate discounts, weatherization, and education are essential and should be funded using a non-bypassable system benefits charge (on a per kWh basis) on all distribution. Initially, historical funding levels for low income programs should be used as a floor.

Renewables would be encouraged through a minimum portfolio requirement for all energy providers, green energy options, and a renewables fund collected through a non-bypassable charge. Further, distribution companies would be required to purchase power generated by small renewable resources located on customers' sites.

Customers who choose not to participate in the competitive market should not assume the costs and risks of customers who do participate.

Johnson Controls, Inc. [4]

Johnson Controls sees successful competition as resulting in a variety of energy services companies offering packages of services or unbundled services to consumers. Among these services are electricity, risk management, gas, renewables, on-site generation, DSM,

[4] Submitted as a White Paper: "The Retail Energy Services Company Model for Restructuring the Energy Services Industry: A Customer Focused Approach to Restructuring," dated July 1995.

environmental management services, and facility management services. Transmission and distribution services would be made available on a nondiscriminatory basis by common carriers.

Johnson Controls makes nine recommendations:

1) All customers should have the right to choose their retail energy services providers at the same time. If only some customers can shop around, there will be an incentive by utilities to shift costs to captive customers.

2) For consumers who do not shop around, regulators should develop several packages of bundled retail energy services offered by approved vendors. Vendors would be selected through a periodic bidding process.

3) Consumers must be provided with direct, unbundled price information on the costs of energy and reliability services so that they can make efficient choices.

4) Common carrier transmission, distribution, system reliability and coordination services should be operated by an independent system operator using regional transmission and distribution tariffs.

5) Bilateral electricity trading with reporting only of physical transactions to the system operator should be allowed. Purchases would also be allowed from a central pool or from the system operator, and bilateral contracts for differences relative to the pool or spot price would be allowed.

6) Customer billing, customer metering, and customer energy use information should not be monopoly services. If utilities retain these services as monopolies, their market power will be increased. Until a bidding process is established to select independent providers of last resort for these services, the services should be provided on a nondiscriminatory basis by the independent system operator.

7) DSM, environmental, and renewables programs should be provided by winning bidders in an independent open bidding process.

8) The costs of DSM, environmental, low income, and renewables programs should be recovered from all consumers.

9) The market power of utilities should be countered by requiring the regulated portion of utilities to spin off or sell non-regulated portions of their business.

Arizona Association of Industries et al.

A coalition of the Arizona Association of Industries, the Arizona Multihousing Association, the National Federation of Independent Businesses, the Arizona Retailers Association, the Arizona Food Marketing Alliance, and the Arizona Hotel and Motel Association, Inc. jointly filed responses to Staff's questions. They are referred to as the **Coalition** in this summary.

The Coalition emphasizes that the marginal costs of electric generation are currently at a very low level and that delays in implementing retail electric competition impose a significant opportunity cost on consumers who cannot avail themselves of low cost electricity.

The Coalition proposes a phased in approach:

Preliminary Matters. Prior to or overlapping with Phase I, the following activities are proposed: rulemaking, development of DSM and low income programs, review of stranded cost issues, development of unbundled services and tariffs, review of the need for an Independent System Operator, review of market power issues, analysis of universal service issues, review of reliability issues and standards, analysis of metering issues, analysis of consumer protection issues, analysis of integrated resource planning issues, and coordination with the Legislature.

Phase I. Beginning **March 1, 1997**, 5 percent of residential and small commercial customers would be eligible to participate in the competitive market. These customers would be selected by lottery. Large commercial and industrial customers (over 3 MW) would be permitted to purchase in the competitive market for all loads in excess of 95 percent of base period (1995) load. All incremental large commercial and industrial load should be open to competition in Phase I. This first phase will provide real information on the competitive market. In addition, the Commission should consider, during Phase I, service to customers who chose not to participate in the competitive market. Issues associated with functional separation and the need for an Independent System Operator would continue to be considered during Phase I.

Phase II. Beginning no later than **March 1, 1998**, residential and small commercial customers would gradually be allowed to participate in the competitive market. Customers with over 3 MW of demand would have unrestricted open access. Aggregation of customers with multiple sites having loads over 3 MW are eligible to participate in Phase II.

Phase III. Full competition, beginning no later than **March 1, 2000**.

The Coalition supports functional separation of generation, transmission, and distribution (but not forced divestiture). Access to the transmission system must be available to all parties on a nondiscriminatory basis as required by the FERC.

The Coalition notes that transmission service and ancillary services are to be unbundled according to FERC Order 888. Treatment of imbalances between schedule supply and demand will be determined as part of the unbundled tariffs approved by the Commission. Voltage control can be provided by the distribution company or independent generators.

Stranded investment would be equitably shared by ratepayers and shareholders as determined in a separate Commission proceeding. Stranded investment should be reduced by increased wholesale and retail sales, development of new services or business opportunities created for the utility by competitive markets, and generation assets which appreciate in value in a competitive market. The Coalition envisions a competitive access charge on the transmission or distribution system to recover stranded costs from customers participating in the competitive market. Recovery of stranded investment should be over a short period to minimize market distortions.

Utility DSM programs may be provided in the competitive market. Nuclear power plant decommissioning costs should be addressed in the stranded cost context.

The Coalition proposes that renewables be encouraged through green tariffs, giving consumers the option to buy green power.

Pooling of generation should not be mandated, but centralized dispatch of the system may be necessary through an independent system operator.

The Commission and the Legislature should seek to design a system based on reciprocity among utilities within Arizona.

Customers not participating in the competitive market should be assured of service under rate regulation. The details of this universal service plan should be developed during Phase I.

The Coalition recommends that no certificates of convenience and necessity should be required by generation sellers, aggregators, or retail service companies.

Finally, the Coalition developed a model tariff for distribution service, reflecting its suggestions. The model tariff deals with practical issues of metering, imbalances, service commitments, capacity shortages, capacity release, load following service, and other issues.

Asarco Inc., BHP Copper Inc., and Cyprus Bagdad Cooper Corporation

Asarco Inc., BHP Copper Inc., and Cyprus Bagdad Copper Corporation ("Copper Companies") jointly filed comments. The Copper Companies' comments are similar to those of the Coalition, described above.

The Copper Companies propose a phased in approach:

Preliminary Matters. Prior to or overlapping with Phase I, the following activities are proposed: rulemaking, development of DSM and low income programs, review of stranded cost issues, development of unbundled services and tariffs, review of the need for an Independent System Operator, review of market power issues, analysis of universal service issues, review of reliability issues and standards, analysis of metering issues, analysis of consumer protection issues, analysis of integrated resource planning issues, and coordination with the Legislature.

Phase I. Beginning **March 1, 1997**, 3 percent of residential and small commercial customers would be eligible to participate in the competitive market. These customers would be selected by lottery. Large commercial and industrial customers (aggregate peak demand over 3 MW) would be permitted to purchase in the competitive market for all loads in excess of 95 percent of base period (1994-96) load. This first phase will provide real information on the competitive market. Issues associated with functional separation and the need for and Independent System Operator would continue to be considered during Phase I.

Phase II. Beginning no later than **March 1, 1998**, residential and small commercial customers would gradually be allowed to participate in the competitive market. Customers with over 3 MW of demand (in the aggregate) would have unrestricted open access. During this phase, metering requirements and service unbundling for small customers should be developed and refined.

Phase III. Full competition, beginning no later than **March 1, 2000**.

The Copper Companies support functional separation of generation, transmission, and distribution. Access to the transmission system must be available to all parties on a nondiscriminatory basis as required by the FERC. Buyers of firm transmission service should be able to release or reassign capacity.

The Copper Companies emphasize the provision of transmission and ancillary services and provide proposed tariffs for these services: Rate T-1 is for consumers taking service at transmission level voltage and Rate D-1 is for consumers taking service at distribution level voltage. The tariffs address firm delivery of competitively procured energy at available receipt points and the customer's delivery point. The utility would provide scheduling, system control and dispatch service, reactive supply and voltage control from generation sources, and, if not supplied by others, regulation and frequency response (load following) service, energy imbalance service, and reserves (spinning reserve and supplemental reserve). The term of service is a minimum of 90 days.

With regard to stranded investment, the Copper Companies do not have sufficient information to recommend what fraction, if any, of stranded investment should be recovered; this issue should be studied during Phase I. Stranded investment charges should not recover any costs relating to assets that can be employed or redeployed to take advantage of competitive opportunities (e.g., by selling to consumers located outside a utility's traditional service area). If stranded investment is to be recovered, it should be collected from wholesale and retail customers for whom generation capacity was constructed under a requirements contract or obligation to serve, but only if the prudent cost of the generation is otherwise unrecoverable. Charges to recover stranded investment should emphasize demand charges rather than energy charges. The Copper Companies oppose exit fees. Captive and special contracts customers should not be subject to a retail access charge until they are given the opportunity to participate in the competitive market. Recovery of stranded investment should be over a short period.

The Commission should identify which low income, DSM, environmental, and nuclear decommissioning programs can survive in a market environment. Low income programs should be established by the Legislature. The costs of these kinds of programs should be capped at current levels. Green tariffs would be used to encourage renewables. No percentage of total electricity generation should be required to come from renewables.

Pooling of generation should not be mandated, but centralized dispatch of the system will be necessary through an independent system operator. Existing WSCC reliability criteria should be continued.

The Commission and the Legislature should seek to design a system based on reciprocity among utilities within Arizona.

Customers not participating in the competitive market should be assured of service under a provider of last resort program.

The Copper Companies recommend that no certificates of convenience and necessity be required by generation sellers, aggregators, or retail service companies.

Phelps Dodge Morenci, Inc.

Phelps Dodge Morenci, Inc.'s (Phelps Dodge's) comments address who should open their markets to competition and when, treatment of bilateral contracts, and stranded investment. First, Phelps Dodge recommends that all public service corporations open their markets to competition as soon as practicably possible. In addition, non-public service corporations such as power marketers, brokers, and merchant wholesalers, must be allowed and encouraged to participate in the competitive market.

Second, restructuring should not interfere with existing contracts or prevent bilateral arrangements from being established for the sale and purchase of power and energy. For example, restructuring should not provide a procedure to revisit the terms of such contracts, such as providing exit fees or other surcharges claimed necessary for recovery of stranded costs. Also, the existence of a power contract should not necessarily prohibit a customer from participating in competition.

With respect to stranded costs, Phelps Dodge makes the following recommendations:

- The determination of who should bear, in whole or in part, any stranded costs associated with the transition to competition should await the analysis on a utility-by-utility basis of the existence of such claimed stranded costs. Also, the amount of stranded costs that should be imposed on customers must not exceed a level that would prevent them from enjoying the benefits of competition.

- Stranded costs, to the extent they are determinable and recoverable, should be imposed only on customers who have not paid for the investment incurred by the utility to serve that customer.

- Using self-generation should not result in the imposition of stranded costs on a customer leaving a utility's system. The utility should not be entitled to a stranded cost claim because the risk of customer-installed generation was always inherent in service to customers.

Neidlinger & Associates, Ltd.

Neidlinger & Associates, Ltd., representing Fort Huachuca, urges movement toward a competitive market "as quickly as possible." As part of this effort, a state-wide or regional independent transmission system operator should be established. Neidlinger recommends that all vertically integrated electric utilities should be required to begin unbundling their production, transmission and distribution services. Finally, Neidlinger requests that Fort Huachuca, due to its national leadership among military facilities in DSM and renewables, be considered as a candidate for any future pilot program.

Comments by Arizona Utilities

Tucson Electric Power Company

Tucson Electric Power Company (TEP)'s responses emphasize a "level playing field" for all competitors, recognizing that some potential competitors have tax advantages or preferences for federal hydropower that are not available to investor owned utilities, for example. TEP also recommends that the Commission conduct further workshops or hearings to clarify some issues.

TEP states that all customers must have reasonable and efficient access to competing power supply options. TEP recommends that if a company wants to compete outside its traditional territory for customers, other suppliers should be allowed to compete for its customers, that is, the Commission should require reciprocity if non-jurisdictional entities participate in the energy marketplace.

Competition could be introduced through a phase-in or pilot program for small segments of each customer class. Doing so would allow the Commission and utilities to develop the appropriate methods needed to obtain the benefits of competition while maintaining a safe, reliable electric supply. A phase-in or pilot could provide a laboratory for development of solutions to key issues. A three to five year program would be long enough to examine issues such as reliability, power supply coordination, metering, customer services, etc.

A phase-in is a stronger commitment since it implies no return to regulation. A pilot program will not necessarily test true market conditions because the majority of the marketplace will remain regulated, limiting true competition during the pilot.

Functional unbundling is a reasonable alternative to divestiture. TEP favors a holding company approach.

Distribution and transmission services will be unbundled. Some of these services will be competitive, but others are likely to remain monopoly services. The FERC has dealt with transmission services in Order 888. TEP recommends workshops to develop a clear definition of potential competitive and monopoly services and develop unbundled rates.

System reliability may be accomplished through an independent system operator (ISO). However, the distribution company could also be responsible for system reliability as a monopoly service, or customers and generation suppliers could be required to meet reliability standards. Distribution companies would be responsible for assuring reliable distribution of power to consumers.

The ISO could be responsible for long range demand and energy forecasting. The ISO should have the authority to enforce reliable operation of generation and delivery. A power exchange would control financial components of pooling arrangements. The power exchange should allow participants the flexibility to sell or purchase power from the pool or through bilateral contracts reflecting risk preferences. The ISO and power exchange could be one entity or two; TEP prefers one combined entity. The ISO must be responsible for, and have the authority to declare and enforce, unavoidable rules for all participants regarding reliability such as operating and spinning reserves, load following, dispatch of generation, scheduling of transmission, metering, and procedures for scheduling load and generation.

TEP takes the position that a utility no longer has an obligation to serve in a competitive market. However the distribution company has an obligation to connect. TEP feels that a returning customer should be required to reimburse the host utility for any costs associated with the re-establishment of electric service, such as metering and equipment costs, and billing and customer costs. In addition, a returning customer would need to give the host utility adequate notice to secure needed resources.

Competitive sellers who supply electricity to end users should obtain a Certificate of Convenience and Necessity. This will allow the Commission to review each seller, provide regulatory oversight to ensure reliable service and provide a forum for complaints, help regulators level the playing field, and help regulators address adverse impacts of competition. The Commission could require reciprocity if a company wants to sell in what was another utility's service exclusive territory.

With regard to stranded investment, TEP believes that utilities should be permitted full recovery of prudent investments made under traditional regulation. TEP identifies three types of stranded investment: generating facilities for which revenue requirements exceed the annual levels of revenue likely to be collected in a competitive market; above market purchased power obligations; and regulatory assets. A stranded cost mechanism should be established before the transition to competition is started. The most significant variables in computing stranded costs are the market price for power, cost and mix of fuel, interest rates, inflation, technological changes, new generation, market structure and capacity, customer demand, and new laws and regulations. TEP advocates a periodic recalculation, refinement, and updating of stranded costs. A periodic true-up is also proposed.

Stranded costs would best be recovered through an across-the-board wires charge, developed in an open regulatory process. The method for recovery should be decided before a move to competition starts. The time period for recovery should be tailored to each situation.

TEP states that low income and environmental programs should be paid for via a statewide customer or wires charge approved by the Commission. DSM should be a self sustaining, for-profit and value added service. Until that happens, programs could be funded using a wires charge as described above. Renewable energy should be funded through a general wires charge to all customers until it is economically self sustaining.

Adverse impacts on rates or service quality for utility customers not participating in the competitive market can be minimized by an effective, efficient, and equitable transition to competition. There must be clearly defined goals, timetables, and procedures to ensure an orderly process, a level playing field, fair treatment of stranded costs, and ensuring that all customer groups (including residential customers) receive the benefits of competition.

Citizens Utilities Company

Citizens proposes that all consumers participate in a competitive market and that a competitive market be established without a pilot or phase-in. A pilot or phase in will delay the process and distort the conversion to a competitive market without any benefits. All electric utilities should open their markets to competition, including investor owned, municipal, and public power utilities. Competition should begin as soon as possible, December 1999 being achievable.

Citizens proposes that the electric industry be restructured into several components:

- TRANSCOs which own regional or statewide transmission facilities. TRANSCOs are regulated.
- DISTCOs which connect all consumers to the grid. DISTCOS must provide lists of all connected customers to all RETAILCOs and GENCOs. DISTCOs are regulated.
- GENCOs which own generation and sell packages of power services at wholesale. Consumers could purchase directly from a GENCO.
- RETAILCOs which packages power service for sale at retail; some companies could be both RETAILCOs and GENCOs. A RETAILCO could purchase power from the spot market or through bilateral contracts with GENCOs or other RETAILCOs. RETAILCOs would package power, transmission, and ancillary services and sell the packages to end users. There would be two types of retail power sales:
  - posted prices, available on a nondiscriminatory basis to all small and medium customers, and
  - negotiated contracts for larger customers, with individualized, confidential contract terms and prices.

  RETAILCOs could offer spot market pricing, pricing tied to electric futures prices, bilateral contracts, interruptible service, high power quality service, green power, time of use service, and traditional demand/energy services. Neither

GENCOs nor RETAILCOs would need Certificates of Convenience and Necessity.

- ♦ Independent System Operators (ISOs) and power exchanges. Dispatch of generation facilities would be subject to ISO operations and restrictions.

If a GENCO or RETAILCO also owns a DISTCO or RETAILCO, there must be functional separation to preclude exercise of market power. The ownership of ISOs must be completely separate from the ownership of TRANSCOS.

In Citizens' view, TRANSCOs should charge postage stamp rates.

DISTCOs would serve certificated areas and could not be bypassed. DISTCOs would be responsible for meter reading, billing, collection and payment of funds to RETAILCOs. RETAILCOs would be responsible for payments to TRANSCOs, GENCOs, and the ISO.

DISTCOs would provide publicly posted prices and eligibility criteria from RETAILCOs on a nondiscriminatory basis. Consumers could switch RETAILCOs at any time, perhaps with a notification period for administrative purposes. Consumers not having preference of a RETAILCO would be assigned to a RETAILCO on a lottery basis.

DISTCO charges would be a flat monthly fee for small users and a flat charge plus a demand charge for larger users. RETAILCOs would reimburse DISTCOs for meter reading, billing, and collection. DISTCOs may own generation for voltage support, line loading, and stability; any excess generation would be sold on the spot market.

RETAILCOs would have to post a performance bond; maintain membership in the ISO and agree to DISTCO, TRANSCO, and ISO requirements; give notice for discontinuing service offers with posted prices; and, for an initial period, provide a standard offer with no service conditions. RETAILCOs providing posted price services would have to provide a standard service offer for a period of 3 to 5 years. The standard service offer could be priced at spot market prices or on a 30 day firm basis.

Both spot market purchases and bilateral contracts would be permitted. Citizens anticipates that an active, efficient power market will develop to handle spinning reserve, next hour and next day power sales.

Any entity desiring to solicit for and sell power services (at wholesale or retail) would be required to pay an annual power sales permit fee, consisting of:

- ♦ a registration fee that would entitle a power services company to solicit for customers, and

- a load service fee for kW of actual load served.

This power sales permit fee would be paid into the Investment Recovery Fund to offset stranded costs, as described below.

To deal with stranded costs, Citizens proposes the following:

- Use a state-administered auction of generation and purchased power contracts. The state administrator is the Investment Recovery Fund Department. Utilities and others would assign their generation and purchased power agreements to the state for auction. (If the generators are needed for system stability or voltage support, they could be transferred to the affiliated TRANSCO or DISTCO.) No one is required to place its assets in the auction, but participants must place all their relevant assets in the auction. The auction may be conducted once or at multiple times, using open or sealed bids, or single or active bidding.[5] The difference between the proceeds from the auction and the total net book value constitutes stranded costs.
- Pay existing utilities and all independent power producers 100 percent of original costs less depreciation for generation assets.
- Refinance stranded costs through obligation bonds. The stranded costs would be placed in an Investment Recovery Fund that would be financed by tax-exempt site revenue bonds. Revenues would be collected via a non-bypassable surcharge on all DISTCO deliveries.
- Credit all funds received from the power sales permit fees to stranded cost recovery. (Citizens' discussion of this point is not clear).

Citizens expects that this approach will require Legislative approval. In addition, Citizens states that utilities need to take all reasonable actions to mitigate the level of potentially stranded costs.

Citizens also proposes that social programs be carried out by various state agencies, using funds collected by the DISTCOs. Low income programs would be carried out by the Department of Economic Security, and DSM and renewables projects would be carried out by an energy agency.

---

[5] Entities interested in acquiring nuclear power plants will be responsible for decommissioning obligations. Further, they will have to be an existing operator of a nuclear facility or pre-approved by the Nuclear Regulatory Commission to operate the plant.

Arizona Public Service Company

Arizona Public Service Company (APS) recommends that competition be implemented through deliberate steps. The first step would entail full evidentiary hearings by the Commission beginning as soon as possible. APS recommends that issues be resolved regarding exclusive service territory rights, obligation to serve, reciprocity and the recovery of potentially stranded costs. However, APS stated that "APS believes that ACC hearings will conclude that there are yet additional incremental economic efficiencies to be gained from direct retail competition and that such gains would exceed the likely incremental costs."

The second step would be to implement APS' phased retail access plan called the "Arizona Customer Choice Plan." The Arizona Customer Choice Plan proposes generation market access to transmission level customers beginning in the year 2000, to be followed by individual customers over 3 MW and then individual customers over 1 MW.

The final step would begin by 2004. Direct access would be extended to all customers as soon as feasible. Also, exit fees and delivery surcharges (discussed below) should be phased out by this time.

The transition to a phased-in approach is recommended to: (1) allow the Commission to conduct full evidentiary hearings; (2) incorporate the results of the special legislative study committee on retail electric competition; (3) achieve structural reforms through state and federal legislative action; and (4) to allow a sufficient period of time for stranded cost mitigation to occur.

APS modified Staff's summary of the objectives of restructuring and identified additional objectives, including the achievement of reciprocity and jurisdictional consistency, and the need for political acceptance. The best measures of success of retail access are the net level of participant and non-participant savings, the scope of participation, customer satisfaction, the number and variety of new pricing and service options made available to customers, and the preservation of system reliability.

APS asserts that a pilot will not produce meaningful or useful results regarding restructuring issues, and concludes that the actual phase-in of permanent direct access is preferable. Thus APS' responses to Staff's questions regarding restructuring are related to the proposed Arizona Customer Choice Plan.

APS recommends that all Arizona energy utilities should open their markets to competition equally and simultaneously once threshold issues have been addressed. According to APS, they lack market power and divestiture would be prohibitively expensive, so divestiture is not necessary or desirable. Services that should be provided on a competitive basis are generation services and all measurable and controllable ancillary transmission services.

APS defines stranded investment as "investments, costs or future obligations prudently incurred in the past, by an Arizona public service corporation for the benefit of the customers in its service territory which become non-recoverable because of changes in the regulatory compact, or because of accounting or other regulatory changes occurring in the transition from a regulated monopoly environment to a competitive market." Examples of potentially stranded costs include:

- excess of net book value of existing generating plant assets over the market value of the assets;
- decommissioning, reclamation and other funding obligations associated with existing generating plants; and
- portions of existing fuel supply and fuel transportation contracts.

The primary source of stranded cost recovery should be through cost savings and expanded sales of electricity and related services. But if customers leave the system prior to the time that generation costs are in line with market prices, then they should pay a one time exit fee to recoup any unamortized regulatory assets plus an annual delivery surcharge to reflect the difference between APS' average generation costs and average market prices. The exit fee would be discontinued after regulatory assets have been fully amortized (about 2004 for APS). The delivery surcharge would continue until generating costs are aligned with market prices.

Support for ratepayer-funded DSM and renewables programs should be continued during the transition period but replaced by market forces deciding which programs should be adopted when the market becomes fully competitive. APS believes that steps should be taken to provide for the long term goals of affordable energy and self sufficiency for low income customers. Nuclear power plant decommission costs should be recovered in the same manner as stranded investment costs.

Renewables could be encouraged during the transition period by leveraging and promoting those applications where cost effectiveness can be achieved or has a reasonable expectation of being achieved. APS supports renewables as a viable portion of its portfolio in a competitive market, but questions whether government promotion of renewables generation resources, or any other form of technology through regulated utilities, is a practical objective in a fully competitive electric generation industry.

APS strongly believes that pooling or centralized dispatch of generation or transmission should be completely voluntary. The generation market can be organized principally around voluntary institutions and contracts.

Because including public power entities in restructuring raises legal and policy issues which could delay competition beyond 2000, APS proposes excluding public power from at least the first phases of direct competition. However, competitive suppliers should be supervised by the Commission through the issuance of CC&Ns. Suppliers should show proof of financial strength, proof that it is a corporation in good standing, and a commitment that it will abide by all the same Commission requirements and industry reliability standards as are imposed on incumbent sellers such as APS.

Arizona Electric Power Cooperative, Inc.

Arizona Electric Power Cooperative (AEPCO) starts its comments saying that the Commission has two path options: first, act like an innovative, risk-taking entrepreneur to shape the industry, or, second, act in a studied, deliberate manner. AEPCO concludes that the Commission has chosen the second path and AEPCO applauds that decision. AEPCO supports "voluntary pilot project experimentation" because it avoids the risks of full-scale competition.

AEPCO next reminds the Commission of its unique relationship with its member distribution cooperatives and their member-owner-customers. AEPCO reminds the reader that its federal financing is predicated upon this unique relationship and the "G&T/distribution system contractual relationship which underpins it."

"AEPCO supports the Commission's deliberate, measured approach to assessing whether retail competition is in the public interest in Arizona . . . ." AEPCO next asks if there is a real problem that needs a quick fix. AEPCO suggests that the Commission "should not act precipitously at the urging" of a few large industrial customers which will benefit the most from full competition.

The effects of wholesale bulk power competition as ordered under FERC Order No. 888 should be allowed to take hold before deregulation or relaxed regulation are implemented. AEPCO contends that many of the benefits of retail competition can be achieved by other means: flexible contracts, performance-based ratemaking, voluntary single utility pilot programs, and other measures. Metering and communications technology may not be ready for competition. Finally, Arizona can benefit from watching pilots in other states and California's venture into full competition.

AEPCO believes the regulatory compact requires recovery of prudently incurred stranded costs. Cooperatives have no shareholders to absorb losses, only member-customer owners. Cooperatives are at a competitive disadvantage in that they serve the electric industry's less desirable areas.

AEPCO suggests use of a set of principles to guide the restructuring effort. The principles include:

- Contractual relationships must be maintained
- Recognition and full recovery of verifiable stranded costs
- Avoidance of duplicate distribution systems
- Rejection of sham transactions designed to circumvent regulation
- Costs of renewables, DSM and other mandated programs to be borne by *all* customers
- All societal costs of transition to competition to be borne by *all* customers
- Any incremental costs required by alternative power supply to be borne by beneficiaries
- A universal service fund for rural consumers

"What the Commission faces is a determination as to whether competition at the end-use level will be in the public interest more so than the regulated-industry environment." AEPCO contends that gas deregulation has not benefited the "bulk of the end-users of gas." The beneficiaries have been the largest commercial and industrial customers. AEPCO suggests that the same thing will happen with electricity deregulation.

AEPCO believes that DSM programs should continue and that methods need to be found to eliminate the initial cost disadvantage of renewables.

AEPCO discusses the variety of state efforts concerning deregulation and federal-state jurisdictional issues. AEPCO suggests that it would be "illogical" for Arizona to proceed with full-scale competition until the jurisdictional issues are clarified.

AEPCO says that the Phase I Report of the Working Group on Retail Electric Competition presented an over-simplified list of fundamental legal issues by the attorney task force subgroup. AEPCO suggests a thorough, in-depth legal analysis of each issue prior to implementation of any pilot program or full-scale retail competition.

In particular, AEPCO stresses the legal concerns about the wholesale power contracts and the Rural Utilities Service (RUS) financing that the cooperatives rely on for continued support. AEPCO warns that in cooperative areas, competition would encourage "cherry picking" by competitors, with the possible loss of big customers. This would reduce diversity, raise small customer rates, and possibly encourage a "downward spiral" threatening the "whole fabric which holds cooperatives together."

AEPCO contends that it and its member cooperatives have actively assisted large customers in getting access to low-cost blocks of power. Those customers included North Star

Steel and Phelps Dodge.

Sulphur Springs Valley Electric Cooperative, Inc.

Sulphur Springs Valley Electric Cooperative (SSVEC) argues that opening up any markets to competition should be voluntary (apparently at the utility's initiative). SSVEC maintains that if a voluntary pilot program is implemented it should be limited to *new* industrial customers with loads of 5000 kva or larger *located at one site*. Competition would be phased in, involving: a wholesale wheeling study from 1997 to 2000; recovery of transition costs, rule-making, and a pilot for new customers with loads of 5000 kva or larger during the period 2001 to 2010; and then competition starting in 2010.

Power should be pooled on a voluntary basis only. Generators would be responsible for scheduling consistent with the FERC's Order 888.

Competition must be reciprocal so that if a utility chooses to compete, it must open up its customers to outside competition. If a municipality or cooperative chose not to compete, its territory would not be open to competition.

With regard to market power, SSVEC favors development of separate business units as opposed to divestiture. Transmission services and ancillary services would be unbundled and provided as required by FERC Order 888. Distribution service would remain a regulated monopoly. Supplemental generation and back-up service would be contracted for.

Native load customers would have priority in scheduling of supply and demand.

Stranded investment should be fully recovered through a kWh surcharge or monthly fee imposed on the competitive customer and the new power supplier. Stranded investment charges would be levied as surcharges on wheeling. SSVEC argues that stranded investment should be recovered during a transition period prior to competition (i.e., until 2010).

SSVEC suggests that every energy supplier in Arizona could be required to have a percentage of their sales come from renewables. SSVEC further suggests that a universal fund, funded by all electric consumers, should be set up to insure competitive energy costs in rural areas. The host utility in the rural areas would receive a subsidy from a universal fund to reduce prices paid by rural consumers.

Mohave Electric Cooperative, Inc.

Mohave "encourages a graduated transition to fair and equitable competition." Mohave supports comments by other Arizona Cooperatives, with the exception of comments made about

All-Requirements Contracts. Mohave states: "The history of the 'All-Requirements Contract' clearly demonstrates it was a unique cooperative lender's prerequisite to financing of specific projects and was executed as such."

Navopache Electric Co-Operative, Inc.

Navopache indicates that it agrees with comments made by other Arizona Cooperatives on industry restructuring, with one exception. That exception relates to All-Requirements Contracts. Navopache contends that "There is no history indicating the 'All-Requirements Contract' was created except as a lender's requirement to collateralize its loan and to assure repayment of the loan."

Trico Electric Cooperative, Inc.

Trico believes that a majority of its members may suffer from restructuring. There is a potential for significant stranded investment and a potential that larger users of electricity will be better able to take advantage of restructuring. The burden of stranded investment would then fall on smaller users and investors.

Trico is opposed to any changes in the electric industry which shift embedded costs from those who required the industry to create such costs to innocent parties that abided by traditional rules. Trico states that: future changes must have significant lead times to allow for honoring past commitments; existing contractual relationships must be maintained; stranded costs must be recovered from users who created the cost; duplication of distribution facilities must be avoided; and programs that encourage efficient energy use must be continued.

Trico concludes that it would be unwise to enact changes without careful analysis. Change should be accomplished at a very slow pace.

Garkane Power Association, Inc.

Garkane starts with a warning that retail wheeling could cause problems for consumers. Garkane believes that full competition and retail wheeling "could turn back the clock on the regulatory system" and may not protect customers of all classes. Garkane cites the regulatory compact, which not only placed obligations on utilities, but also provided privileges for utilities. If full retail competition were approved, Garkane warns that suppliers will choose to serve those customers who provide the best profit and competitors will "cherry pick" the biggest, most profitable loads.

Garkane warns that if defined service territories are removed, utilities may not be able to recover costs. Unprofitable suppliers may defer expenses in an attempt to remain profitable.

"This may lead to deteriorated or inadequate capacity because of premature plant closing, deferred maintenance resulting in unreliable service, or bankruptcy." Retail wheeling, according to Garkane, will result in greater leverage for industrial customers, shifting costs to residential and small commercial customers. Garkane contends that, if competition comes and the obligation to serve stays with the existing utility, while the customer can choose its supplier, the result over time will be that the utility will cease to exist.

Garkane is concerned that safety and reliability will suffer under competition. Garkane asks: "How will reliability even be measured if the 'utility of last resort' becomes dependent on a variety of suppliers wheeling power to the ultimate consumer?"

Garkane compares and contrasts wholesale wheeling to retail wheeling. To Garkane, wholesale wheeling is good and retail wheeling is potentially problematic. Garkane says that retail wheeling "frustrates the load forecasting and long range planning processes" of utilities. Garkane warns that the "unprecedented rate at which large utilities are merging," as a result of competition, will create larger monopolies, thereby eliminating customer choice.

Garkane suggests that the Commission, before going ahead with a pilot program, should conduct a study of the impact on utility investment, the increased transaction costs, the impact on financing for future transmission and distribution lines, costs of reimbursement for "takings" of franchise rights, the effects on reliability, quality of service, and safety, and the impact of shifting costs to smaller customers. Finally, Garkane suggests that the Commission should return to its original mission: protecting all classes of customers.

K. R. Saline & Associates

K. R. Saline filed comments on behalf of several non-jurisdictional municipal corporations including irrigation, water conservation, and electrical districts. Saline noted that, to the extent that the Commission authorizes competition, the repayment obligations of the corporations for irrigation works and federal hydropower projects may be affected. Saline is also concerned about exercise of market power by large utilities toward its clients.

Ultimately, all utilities should open their markets to competition. However, a prerequisite is nondiscriminatory unbundling of services. A pilot program should focus on this unbundling. If utilities exercise market power through discriminatory pricing or other means, mandatory divestiture should be undertaken.

Computer programs and pricing of wire services should begin now. For large consumers, dynamic metering and scheduling (i.e., real time pricing) should be pursued. However, for other consumers, electricity should be sold and purchased on a monthly basis. A pilot should allow monthly metering and billing and allow time for technology to evolve so that time differentiated pricing could be used.

Arizona Municipal Power Users' Association

The Arizona Municipal Power Users' Association (AMPUA) is an association of consumer-owned and operated electrical systems. AMPUA recommends that retail competition in electric generation be implemented in a deliberate manner with elements in place that would insure fair competition and protect public interests. Initially, an open transmission system and a robust wholesale competitive market must be achieved.

AMPUA listed several principles that should be applied to restructuring. A primary goal would be to provide universal service at reasonable rates, supported through a non-bypassable charge. Benefits should be realized by all customer classes. Mechanisms would be established that would allow all consumers, including residential consumers, to participate in a competitive market fairly and without discrimination.

Electric rates and services should be unbundled equitably and efficiently (generation would be at least functionally unbundled from other utility operations). The distribution system would remain regulated and would be obligated to provide distribution service. Performance standards also would be required.

Transition costs would receive fair and immediate treatment, with stranded investment shared by investors and consumers. Environmental accomplishments should be maintained, and AMPUA suggests that some effort should be made to have the market provide a diverse portfolio of energy resources to all utilities.

The Arizona Municipal Power Users' Association also included comments prepared by the American Public Power Association's (APPA's) Retail Wheeling Legislation Task Force in June 1996, titled "Customer Choice in a Re-regulated Electricity Industry." In the report, APPA endorses competition that benefits all consumers. However, they are committed to the proposition that public power systems have the right to determine policies which best serve their constituents and communities. APPA recommends that states allow local jurisdictions the right to continue to form new municipal electric utilities. This would ensure the benefits of a diversity of electricity suppliers.

To protect consumers, APPA would preclude predatory pricing and unauthorized release of customer account information. Measures would be considered to prevent anticompetitive behavior and the abuse of market power, including merger approval policies, prevention of affiliate cross subsidization, denial of price discrimination, and prevention of a "state action" exemption from scrutiny under federal antitrust laws. Other matters to be considered are whether to allow a utility to choose to participate in retail access and whether to allow construction of duplicate facilities.

Robert S. Lynch, Counsel for the Irrigation and Electrical Districts Association of Arizona

The Irrigation and Electrical Districts Association of Arizona is a non-profit association which represents the interests of small districts and others engaged in the delivery of electric power and water resources, primarily in rural areas. Robert Lynch submitted comments which have not been formally approved by the Association and do not represent the official position of the Association or any of its members. However, they reflect what he believes would be the position of the Association and its members.

Mr. Lynch believes the best option to implement competition is through phased-in competition. It should start with existing arrangements being improved and other customer classes being added as quickly as possible. Due to FERC's Open Access Order 888, he believes retaining regulated monopoly service is not an option. In addition, a pilot program would be difficult to implement and even more difficult to assess. Plus it would not provide a clear picture of how true retail competition will ultimately work in Arizona. Full competition also would not be an option because it could cause market confusion and probably drive retail costs up.

A measurement of the success of competition could be the number of complaints filed at FERC and the Commission, followed by an observation of whether electric utility rates go up or down. The ultimate measurement of whether the program is successful is if captive customers or "native load" customers who do not have the economic incentive to participate in a retail competitive market do not see their rates go up.

Mr. Lynch recommends that all jurisdictional utilities open their markets to competition. Non-jurisdictional utilities will have to follow if not parallel that opening because of consumer demand. All retail markets should be opened and all ancillary services related to generation should likewise be opened. All consumers should be allowed to access a competitive market for capacity and energy without restriction, unless it can be demonstrated that retail competition for a particular geographic area or consumer class will not be beneficial.

Competition has already started in Arizona. Mr. Lynch recommends that Commission staff explore areas of competition already at work and seek to expand the principles and methodologies associated with them to other consumer classes. Also, we should be sensitive to developments in sister states with which we compete economically and not put Arizona utilities at a disadvantage because we lag behind. The phase in can begin immediately and should last no longer than that of the sister state moving most quickly toward that end. If a pilot program goes forward, it could be conducted on a one-year renewable basis.

Recovery of stranded investment would require utility-by-utility analysis. My Lynch defines stranded investment as generation investment rendered unusable by competition and not necessary for reasonably-projected load growth. Temporary reductions in the use of generation sources should not be considered stranded investment. Stranded investment should be recovered from exiting native load customers only, probably through an exit fee but subject to refund. Exiting customers should have an opportunity to challenge the payment of them.

Mr. Lynch does not believe Arizona utilities should be required to support mandated programs, such as low-income, DSM, environmental, and renewables. If there is to be any encouragement at all for renewables, it should be in the form of incentives to the utilities to continue research and development activities so that non-competitive renewable resources in the future might become competitive.

Salt River Project

Salt River Project's (SRP) Board of Directors supports customer choice. "Choice of generation supplier should begin by the year 2000," and should be part of a phased-in approach.

SRP believes that distribution monopolies will remain and that existing territorial agreements and Commission CC&N's will remain in effect for distribution services. SRP's customers will have choice "assuming appropriate statutory and regulatory requirements provide for reciprocal service among electric utilities."

SRP will form an affiliated power marketing company to compete outside of its service territory. As customers choose other suppliers, SRP will contract with its new affiliate to market surplus power, including output from stranded assets. SRP believes that all market participants should comply with North American Electric Reliability Counsel (NERC) and Western Systems Coordinating Counsel (WSCC) reliability criteria.

SRP management suggests establishing a Working Group on a Pilot Retail Wheeling Program in Arizona. The group should review issues and <u>simulate</u> the elements of this pilot program. The group should review and study pilot programs in other states. The group should be formed by December 31, 1996, and provide the results to the Commission by January 1, 1998.

The simulated pilot program would lead to a "more orderly introduction of customer choice." The simulated pilot avoids the constitutional, statutory and regulatory issues that would result from a physical pilot.

If the Commission decides to proceed with a physical pilot, SRP recommends that the

Working Group still be formed, with the same start and end dates, but with a target start date of a retail wheeling pilot program set as June 1, 1998. The pilot should be phased-in, starting with industrial customers. The pilot should be limited to a specific number of customers: ten industrial, 25 commercial and 100 residential customers. The total participation would be 25 MW in the first year and 50 MW in the second year.

The pilot would start June 1, 1998, and last two years. A lottery would be used for customer selection. The Working Group would consider various metering options: standard kWh meters, time of use meters, and new telemetering systems. SRP suggests that customers pay for special metering through a lease. Customer bills would be charged to reflect unbundled services.

SRP believes every utility should have the opportunity to compete. "Reciprocity must apply." SRP believes that new rules to limit the number of providers would reduce competition.

"SRP does not support mandatory divestiture." SRP described the services offered by the SRP Market Center and the services offered by the Transmission Information Services Network (TISN) that is being developed by SRP and others.

In relation to stranded cost recovery, SRP recommends an eight to ten year period to eliminate such costs. "Costs stranded by self-generation or relocation are not consider stranded investment." Also, since transmission and distribution systems will continue to be regulated, SRP believes that "some transmission costs and most distribution costs" should not be deemed stranded.

Power Marketing Administration (PMA) output should be considered a stranded benefit to its customers and those customers should be allowed to buy the assets at book value.

SRP raises the issue of possible adverse IRS private use regulations that could jeopardize the tax-exempt status of bonds used to finance stranded investment. SRP warns that exit fees or "wire charges" may prove to be bad public policy. Instead, SRP suggests allowing flexibility in recovering stranded costs over time. It is critical that utilities are allowed to re-market stranded investment in the competitive market.

On the question of pooling of generation or centralized dispatch, SRP comments that the development of centralized operation for generation and transmission would be complex. SRP suggests the study of similar ideas, such as the PJM Power Pool and the California effort, before such an approach is implemented in Arizona.

SRP commented on conditions for returning to utility service. SRP believes that a 1 MW level defines a separation point. Below that level, the traditional utility would have an obligation to serve covering delivery of power, generation and reserves. Those who return from service from other providers could be subject to different pricing.

Comments by Other Potential Suppliers

Power Resource Managers

Power Resource Managers (PRM) is marketer/broker, currently active in California. PRM recommends that retail competition be introduced quickly via unbundled electric rates and a power pool. Other difficult issues such as stranded investment recovery can be deferred.

All purchases and sales would go through a Poolco with or without bilateral contracts. PRM believes that the Poolco has lower transaction costs than bilateral contracts because reliability, load following and other ancillary services are supplied by the pool at a lower cost than could be provided on a customer by customer basis. The pool focuses on meeting load regardless of cost and imbalances are left for consumer and supplier to settle via contract. PRM envisions that buyers and sellers will use financial arrangements, such as contracts for differences, tied to the pool price to set their own prices.

To implement a pool, PRM suggests that utilities be required to unbundle rates and post hourly incremental price in a manner that all participants can observe. No pilot or phase in is necessary. An independent system operator would have authority over the physical operation of the transmission system, including system reliability, provision of access, and operation and maintenance of the transmission system.

Utilities should not be permitted to recover the entirety of stranded investment. PRM is concerned that the utility will still own a depreciated generation facility that has a market value in excess of its book value that is not counted against the uneconomic value of the uneconomic generation facilities. A bidding process could be used to establish market values of assets. Stranded investment should be recovered for a limited period, namely 3 to 5 years.

Calpine Power Services

Calpine Power Services builds and operates independent power plants and is a power marketer. Calpine's comments focus on two issues: stranded investment and initiating competition.

Calpine accepts the argument that there is some stranded investment. It proposes that stranded investment recovery by utilities be accomplished through unbundled rates. The amount of stranded investment to be recovered should consider market opportunities created by open access. Utilities will have the opportunity to serve new load in other areas and will be able to offset stranded investment through general regional economic and population growth. However, Calpine believes that some stranded investment is the result of management errors (e.g., nuclear power plant investments).

Calpine proposes full competition with no phase in. A phase in will result in cost shifting to small commercial and residential consumers. Technological advancements, encouraged by competition, will enable small consumers, including residential consumers, to have access to generation markets.

San Diego Gas and Electric Company

San Diego Gas and Electric Company (SDG&E) emphasizes customer choice as a motivating force behind restructuring. It identified three areas of interest: ensuring an open interstate power market, promoting an unencumbered transmission network, and supporting an implementation schedule similar to the one in California.

SDG&E is governed by California's approach to restructuring and expects that in 1998 Arizona utilities and independent power producers will be allowed to seek customers in California. A reciprocal opportunity for California utilities to sell in Arizona should be allowed. Cooperation between California and Arizona regulators and legislatures will be necessary.

SDG&E believes that continued wholesale power sales between California and Arizona should be unencumbered. There is a regional market for firm power, short term, and spot transactions and for emergency support that should continue. The scheduling and operation of the transmission network need to remain responsive to regional economics and system security. The detailed procedures of operating protocols that define how transactions are prioritized in a constrained transmission situation are likely to be specified later in the restructuring process.

Nordic Power of Southpoint I, Limited Partnership

Nordic Power of Southpoint I (Nordic Power) states several basic principles that should guide restructuring in Arizona:

- The goal of open competition is to advance efficient quality services to all customers.
- Monopolistic barriers should be removed.
- Open competition should occur as rapidly as reasonably possible.
- Restructuring should occur on a comprehensive basis, to the extent reasonably feasible, so that as many customers as possible may benefit as soon as possible.

- A "Buy/Sell" program should begin immediately with the more price-sensitive customers of electricity and any others who wish to participate.

- Small customers should be able to aggregate their loads so they will be able to purchase low-cost energy.

- Utilities should unbundle their costs and publish reasonable generation, transmission, distribution and other service rates to facilitate the open access program.

- The issue of potential stranded investments should be transferred to a separate docket, for evaluation as this restructuring occurs.

Nordic Power proposes a "Buy/Sell" direct access program while the Commission implements its competitive program for restructuring the entire electrical industry in Arizona. This "Buy/Sell" or bundled service program allows third-party providers to supply desirable sources of power and arrange for the utility to deliver that power to the customer. This nonjurisdictional power source would be purchased by the utility and resold to the direct access participant at cost, plus charges for redelivery service. Participants in the "Buy/Sell" program should be entitled to negotiate rates for redelivery services. This approach requires no franchise, certificate of convenience and necessity, or sales contract approval by the Commission.

Nordic Power recommends the Commission immediately create an unbundled direct access program which would be available to nonutility providers and utility affiliates on comparable terms. Unbundled service options structured along the lines of wholesale power agreements would be provided as a means for all service providers to deliver services to all customers. Undue exercise of market power by utility affiliates would be prevented by requiring that all direct access transactions be charged the same tariff rates for the same transmission and distribution services.

Mandated utility programs such as low-income, DSM, and renewables, may not be uneconomical to the utility. These costs to the utility may be of greater benefit than other public relations programs and practices of "good corporate citizenship." Merely because the Commission approved or suggested that these programs would be desirable for a monopoly utility does not mean that there should be cost recovery because the industry is moving towards competition. Utilities and third-party providers could offer a voluntary program where ratepayers could contribute additional sums with their monthly power bills, as a means of funding low-income, environmental and renewables programs. DSM services can be marketed the same way as electricity, with the decision left to the seller and buyer.

By creating a competitive market, cost-effective renewable resources will have an opportunity to be used at the appropriate time and in the appropriate amount. Use of renewable resources should not be regulated; instead, these public policies should be left to the State Legislation where tax-credits and other incentives may be addressed.

Texas-New Mexico Power Company

Texas-New Mexico Power Company (TNMP) suggested some principles for the transition to competition:

1) Customer prices should not increase during a transition to competition.
2) Utilities should be given reasonable opportunity to recover prudent costs.
3) Barriers to competition must be addressed.
4) Deregulate the bulk electric energy market.
5) After the transition period, sellers should have direct access to all consumers.
6) If transmission and distribution remain regulated, performance-based regulation should be used to encourage efficiency and reward above average performance.

TNMP claims that "customer choice is only practical in certain market segments." TNMP's Community Choice concept allows all customer classes to aggregate their loads at the community level in order to shop for bulk power.

TNMP describes the electric industry as having four market segments: Bulk Electric Energy, Transmission Service (including ancillary services), Distribution Service, and Energy Related Services. The Commission should use performance based regulation in the Transmission Services and Distribution Services segments.

TNMP states that if divestiture is needed, it should be accomplished by considering unique industry proposals. Competition should start after a transition period that allows for opportunity to cover stranded costs. Gradual elimination of cross-subsidies would be accomplished. At the end of the transition period, competition should be available to all. Customer services should be offered at two levels: 1) to single customers and 2) to the community or aggregated loads.

"TNMP advocates a regional transmission approach to pricing and access coupled with an Independent System Operator to manage the transmission system of the region."

Stranded investment should be recovered during the transition period through depreciation shifting, savings in purchased power and fuel costs and reductions in operating costs. Rates would be held constant during the transition period. "An earnings cap restriction will make a portion of earnings, in excess of the cap, available to management to further reduce fixed costs in excess of market." A recovery period of three to seven years is recommended.

TNMP suggests that renewables can be encouraged by the use of regional postage stamp transmission prices paid by end users.

"TNMP advocates a regional solution for transmission pricing and access." The Southwest Regional Transmission Association could establish a regional transmission rate. An Independent System Operator could be established.

TNMP suggested that the Commission "issue a blanket Certificate of Convenience and Necessity allowing all suppliers who have a certification of reliability (as to financial and operational reliability) to provide service to any end-user."

TNMP provided, as an attachment, a copy of comments presented to the New Mexico Public Utility Commission in that state's investigation of restructuring.

Enron Capital and Trade Resources

Enron Capital and Trade Resources (ECT) is the merchant arm of Enron Corporation and a leading marketer of gas and electric power in North America.

ECT recommends full competition as soon as possible with full divestitures by vertically integrated utilities. There must be a separation of transmission and distribution from merchant activities. The divestiture should be accomplished by an auction-off of generation assets or a spinning-off of generation assets through a stock offering. The market will establish a fair price for comparison to the net book value, thereby resolving the stranded cost issue.

Rather than functional separation of generation from transmission and distribution, ECT recommends corporate separation. This will, ECT advises, ensure that utilities do not use their market power to prevent customer choice.

ECT points to deregulation in other industries to show the benefits that deregulation will bring. ECT cites an article by Dr. Jerry Ellig entitled "Regulatory Reform in Electricity: Precedents from Other Industries" as an example of the benefits of competition. A copy of the article was attached as a part of ECT's submission.

"ECT recommends immediate direct access for all Arizona consumers rather than a pilot program." A pilot is unnecessary and will result in delay. It will only give a few customers benefits. A pilot does not realize the efficiency of true competition.

If the Commission does implement a pilot, ECT suggests that all Arizona jurisdictional utilities be included. At least twenty percent of all customers classes should be eligible for the pilot. The larger the pilot, the easier will be the eventual transition to full competition. All geographic areas and customer classes should be open.

ECT claims that customers should not be bound to honor contracts that "they were in essence, coerced to sign with their monopoly supplier."

Any pilot should be short, perhaps six months. A number of items need to be clarified prior to the start of a pilot. ECT does not recommend a phase-in of competition.

ECT believes that the market will define which services are offered and how they will be priced. ECT believes that there is no need for government mandated power pools. Power pools limit risk management by limiting sales to the spot or hourly markets, denying the customers benefits of forward and fixed price contracts.

ECT recommends that stranded cost recovery be set at some percentage less than 100 percent. This gives utilities incentives to mitigate the level of stranded costs. The calculation of stranded costs must net economic investments against the uneconomic resources. Exit or entry fees should be rejected because they will inhibit competition. Recovery of stranded costs should be done through a broad-based access charge on all customers. Or each system user could be charged an access or connection fee indexed to usage levels.

Concerning environmental programs, ECT said "if the Commission wanted to limit air pollution, tradable permits could be used to let each firm decide" how to meet the requirement. Or an access charge on all bills could be collected to fund mandated programs.

"ECT would discourage the use of a fixed percentage renewable resource requirement because it is inefficient." ECT discourages the use of a pool or centralized dispatch because it limits the products that customers can choose. "The Commission should encourage non-public service corporations to be involved in a competitive market."

Comments by Other Parties

Arizona Utility Investors Association

The Arizona Utility Investors Association (AUIA) prefers a phased-in approach to competition. AUIA believes that a pilot, because it is impermanent, creates uncertainty and cannot provide the political, financial and structural foundations for a transition to competition. Competition ought to be available to every electric consumer at the conclusion of the phase-in.

The initial phase of competition would involve customers of at least 3 MW starting about 2000. Each phase would be about two years long and the phase-in would be completed in four years. This schedule would allow completion of the study required by the Legislature, allow

Congressional action to commence, and allow time for experience with FERC Order 888. If a pilot program were adopted, the term would have to be long enough to allow large customers to participate and allow for existing contracts to expire. The pilot might run from 8 to 10 years.

Utilities would not be required to divest themselves into separate companies. Further, mandatory pooling and centralized dispatch of power should not be required. Any such activity would be voluntary.

AUIA opposes allowing distributed energy services in a competitive market because generation impacts in urban areas could be adverse.

System reliability in a competitive market would be promoted by making transmission operators responsible for system reliability.

AUIA recommends that 100 percent of stranded investment be recovered. Stranded investment should be recovered from those who cause it using an exit fee or other non-bypassable revenue replacement mechanism. Stranded investment would be recovered over a 6 to 10 year period, which would be the same for every utility.

With regard to Commission-mandated DSM, low income, environmental, renewables, and nuclear power plant decommissioning program, AUIA generally does not believe that such programs are appropriate in a competitive market; further, they should be in the jurisdiction of the Nuclear Regulatory Commission or the Legislature.

AUIA believes that encouraging renewables should be accomplished through tax incentives and not through a percentage sales requirement.

With respect to reciprocity, AUIA indicates that the Commission and the Legislature must work in concert so that both public service corporations and other entities can be addressed. Utilities outside Commission jurisdiction (such as SRP) must also open their service territories open to competition. AUIA is concerned that native utilities would have to compete at home with producers from states that do not provide reciprocal opportunities to compete. In addition, Arizona utilities that pay property taxes or in-lieu contributions will find it difficult to compete against out-of-state utilities that pay little in property taxes.

All energy providers should be required to report the same information such as company ownership, financial information, energy resources, tariffs, load data, customer data, and contract forms. All sellers of electricity to end users should be required to obtain a Certificate of Convenience and Necessity from the Commission.

Land and Water Fund of the Rockies

The Land and Water Fund's (LAW Fund's) principal interest is in promoting renewable resources, energy efficiency, equity for low income consumers, and environmental protection. The Law Fund can support either regulated monopoly service or enhanced competition.

If the Commission wishes to pursue competition, the LAW Fund cautiously recommends a limited 2 or 3 year pilot program similar to the pilot in New Hampshire. A wires surcharge would be used to fund energy efficiency, renewable resources and low income weatherization programs. In addition, the pilot should provide suppliers with an opportunity to sell environmentally superior energy.

The LAW Fund believes that a pilot could be confined to a small enough group of customers that the overall impact on any utility's demand, revenues, and costs is small. In the pilot, all classes of customers could participate (instead of just large customers).

Stranded costs could be recovered through a wires charge, if deemed appropriate by the Commission.

Potential problems with a pilot are: 1) legal issues associated with monopoly franchises; 2) the possibility that the pilot would be so small that it would not create a real market capable of generating price information and significant retail competition; and 3) potential metering and monitoring difficulties.

Arizona State Association of Electrical Workers

The Arizona State Association of Electrical Workers represents Arizona members of the International Brotherhood of Electrical Workers (IBEW). Their response outlines IBEW positions on restructuring and electric service quality standards. Because the IBEW is committed to high-quality, safe, and reliable electric services, their comments focus on four related topics: system reliability, preventive maintenance, customer service, and public and worker safety.

System Reliability: The IBEW recommends the use of three indexes to measure system reliability: the Average Interruption Duration Index, the Average Interruption Frequency Index, and the Momentary Average Interruption Frequency Index. Each utility would file a report using the three indexes for the prior 12 months. In addition, each utility would file a report with the Corporation Commission any time a distribution circuit has an interruption of one, two or more hours depending upon rural versus urban service area. If a distribution circuit is 20 percent below average for any of the three indexes for three consecutive months, then the utility must enclose a bill stuffer to all affected customers reporting that reliability is substandard.

Preventative Maintenance Plan: The IBEW recommends that all utilities which own distribution, transmission, and generating facilities be required to file with the Corporation Commission a Preventive Maintenance Plan (by October 1, 1996). The Plan should include overhead and underground distribution facilities as well as substations, generation and transmission facilities. Features of the Plan include schedules for preventive maintenance, replacements, and inspections, a guide for inspectors, training requirements, condition rating criteria, corrective actions, and record keeping procedures.

Customer Service: To be able to determine the level of customer service, IBEW recommends that the Corporation Commission require each utility with distribution, transmission and generation facilities establish and promote an easy to remember telephone number for the sole purpose of answering complaints about bills, service and safety concerns. In addition, the Commission should undertake a national study to determine which Commission is doing the best job in operating and publicizing such a hot line.

Performance Indicators: The IBEW would establish performance guidelines for requests for the establishment or termination of service, handling of trouble reports, accessibility of the phone center operator, billing accuracy, and proper service cut-offs.

Public and Worker Safety: Minimal safety requirements and appropriate reporting of accidents and injuries would be required. Utility employees, vendors and contractors working on or around customers' equipment or property should complete training to minimize hazards and implement procedures that adhere to Federal and State safety regulations. Utilities would be responsible for damage caused by the failure of such utilities to deliver service to their customers. Each utility would report to the Commission incidents of fatality, hospitalization, or property damage of $20,000 or more, with a detailed written report within 30 days of each incident.

Lothar Schmidt and Jack Nixon

Lothar Schmidt from Yuma submitted comments and included comments from Jack Nixon of the Yuma Proving Grounds. Mr. Schmidt pointed out some conflicts among the objectives. He suggested that Staff use an in-house software simulation to evaluate any pilot program. Mr. Schmidt suggested that if the responses are self-serving and fail to meet the objectives, a two-day workshop should be scheduled. He suggested that invited guests at the workshop include individuals from California, Massachusetts, and Georgia.

Jack Nixon suggested a five-year phased-in process toward full competition. He suggested a "five year grace period for amortization of investment" to coincide with the competition phase-in. He suggested that local utility industry wheeling rates and wheeling terms remain regulated after the five-year transition period.

Center for Energy and Economic Development

The Center for Energy and Economic Development (CEED) is a non-profit organization formed by the nation's railroads, coal producing companies, a number of electric utilities and related organizations.

CEED takes no position on whether the Arizona electric industry should be restructured or not. If restructuring occurs, it should be fuel and resource neutral.

CEED contends that there is "no reason environmental quality should or will suffer in a restructured industry" and suggests that environmental quality may improve. CEED described the National Ambient Air Quality Standards and the Clean Air Act. CEED suggests that the Commission rely on existing national environmental regulation.

CEED says that lower electric rates will encourage increased electricity use and a substitution of electricity for fossil fuels at the end-use site. CEED claims that this will increase the emissions at the point of generation but, at the same time, reduce emissions at the electricity point of use. CEED believes the net effect will be a <u>lowering</u> of emissions. CEED cites a 1992 report entitled "Sustainable Development and Cheap Electricity" as proof of its assertion.

CEED claims that renewables will only play "a minor role in the nation's energy portfolio for the foreseeable future." CEED cites a study by Resource Data International entitled "Energy Choices in a Competitive Era."

CEED attached copies of both references that were cited as well as another report entitled "Does Price Matter? The Importance of Cheap Electricity for the Economy."