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Docket Control
Docket No. U-000-94-165
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Re: Docket No. U-000-94-165-Retail Electric Competition

Ladies/Gentlemen:

By letter dated August 28, 1996, the Arizona Corporation Commission requested written comments regarding the Commission's proposed rule regarding retail electric competition. In response to that request, enclosed are eleven copies of the comments submitted on behalf of Electrical District Number Seven (ED7) and Roosevelt Irrigation District (RID).

Very truly yours,

Sheryl A. Taylor

c: R. D. Justice
Stan Ashby
Ken Saline
Bob Lynch
(all w/encls.)

**COMMENTS REGARDING
ACC PROPOSED RULE -- RETAIL ELECTRIC COMPETITION
DOCKET NO. U-0000-94-165**

The following comments address the proposed rules regarding retail electric competition distributed by the Arizona Corporation Commission on August 28, 1996. These comments are submitted on behalf of Electrical District Number Seven (ED7) and Roosevelt Irrigation District (RID).

Arizona Corporation Commission
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A. GENERAL BACKGROUND

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1. **ED7**

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ED7 is a political subdivision of the State of Arizona and an ~~electrical district~~ formed pursuant to A.R.S. § 48-1701, et seq. ED7 purchases power at wholesale and provides retail electrical service to a variety of customers within its boundaries.

ED7's service territory is located west of Phoenix, in the vicinity of the City of Litchfield Park and the City of Surprise. It serves power to irrigation wells, gins, rose sheds, farm shops, farm labor housing and other farm related loads. It is located entirely within the boundaries of Arizona Public Service Company's (APS) CC&N and competes directly with APS for service to these retail loads. ED7 does not own any transmission, distribution or generation facilities. It wheels power to its customers over APS's distribution system. ED7 is not regulated by the Arizona Corporation Commission.

2. **RID**

RID is a municipal corporation and an irrigation district formed pursuant to A.R.S. § 48-2901, et seq. RID purchases power at wholesale and provides retail electrical service to a variety of customers within its boundaries. It also utilizes purchased power to serve district-owned irrigation wells.

RID's service territory is located west and south of Phoenix, in the vicinity of the Cities of Avondale, Goodyear and Buckeye. It serves power to irrigation wells, gins and other farm related loads. It is located in part within APS's CC&N and in part within Salt River Project's service territory. RID does not own any transmission or generation facilities. It owns some transformers, but otherwise wheels power over APS's and SPR's distribution systems. RID is not regulated by the Arizona Corporation Commission.

B. SPECIFIC COMMENTS TO PROPOSED RULES

1. Proposed Rule R14-2-XXX3. Certificates of Convenience and Necessity.

Proposed Rule R14-2-XXX3.A. and B. provides that any company intending to supply retail power service must obtain a certificate of convenience and necessity ("CC&N") for the area to be served within an Affected Utility's CC&N.

There are numerous irrigation and electrical districts, like RID and ED7, within the State of Arizona that have service territories that overlies the CC&Ns of Affected Utilities. These entities provide retail electric service within their boundaries, in direct, retail competition with the Affected Utility that holds the CC&N for the area. These entities are political subdivisions of the State and are not regulated as public service corporations.

As written, the rule suggests that the ACC has authority to assert jurisdiction over these non-public service corporation, governmental entities. While it is clear that the ACC does not have jurisdiction over these entities and we assume that the ACC is not attempting to use the proposed rules to assert such jurisdiction, this issue must be addressed before the rules can be finalized.

The issue regarding overlapping service territories arises again in other subsections of the rules. It may be most efficient to address the issue in a separate subsection and then reference it elsewhere in the rules, wherever necessary.

2. Proposed Rule R14-2-XXX4. Competitive Phases.

Proposed Rule R14-2-XXX4.G. provides for a practice referred to as "Buy-throughs." A "Buy-through" is a purchase of electricity by an Affected Utility at wholesale for use by a particular retail customer. In effect, the Affected Utility acts as a broker for the retail customer.

It is not clear how this provision fits with the other portions of Rule R14-2XXX4. The only difference seems to be that the Affected Utility acts as a broker and, in addition to the charges for other unbundled services, is allowed to charge a 15% 'brokerage' fee.

We would be interested in further discussion on this issue at the September 18, 1996 workshop.

3. Proposed Rule R14-2-XXX5. Competitive Services.

Proposed Rule R14-XXX5.A. refers to an "electric company" offering retail electric service. However, proposed Rules R14-2-XXX3.A. and R14-2-XXX5.B. refer only to a "company."

Is the reference to "electric company" intended to limit the types of entities that can sell power at retail pursuant to the rules?

4. **Proposed Rule R 14-2-XXX9. Solar Portfolio Standard.**

Proposed Rule R14-2-XXX9 appears to require that any power sold by company selling electricity at retail in an Affected Utility's CC&N must consist of at least 1-2% solar resources installed after 1996. This provision is the antithesis of what the proposed rules are trying to accomplish. It immediately narrows the range of suppliers from which consumers can purchase electricity, reducing competition. It artificially increases the cost of power from outside suppliers by requiring competing entities to invest in higher cost solar resources. It gives the Affected Utility a competitive advantage by not imposing a similar requirement on the Affected Utility within the Affected Utility's CC&N.

The proposed rule also singles out solar resources as being preferred to all other renewable resources. In addition, it ignores investments previously made in renewable resources (including solar) and only gives credit for new solar resources.

We believe the entire provision should be eliminated. Utilizing this rule-making process to implement someone's value judgment that new solar resources should be promoted, at the expense of other and existing renewables and the ultimate consumer, is entirely inappropriate in this forum.

5. **Proposed Rule R 14-2-XXX11. In-State Reciprocity.**

Proposed Rule R14-2-XXX11 provides that the service territories of Arizona electric utilities that are not Affected Utilities are not open to competition and that these utilities cannot compete for sales in an Affected Utility's CC&N unless the utility obtains a CC&N and subjects itself to the requirements of the rules. This rule ignores the reality of overlapping service territories and purports to regulate the activities of entities over which the ACC has no jurisdiction.

In its open access transmission rules, the Federal Energy Regulatory Commission ("FERC") requires reciprocity from non-jurisdictional utilities only if the utility seeks FERC assistance in ordering a jurisdictional utility to provide transmission access. "Reciprocity" does not mean that the non-jurisdictional utility must voluntarily allow FERC to regulate it in order to gain access to a jurisdictional utility's transmission system. It simply means that the non-jurisdictional utility must offer open access to others on a comparable basis.

Likewise, the only ACC requirement for allowing a non-jurisdictional entity to compete within an Affected Utility's CC&N ought to be that the non-jurisdictional utility offers comparable access within its own service territory. The ACC needs to recognize the limits of its jurisdiction and work within those limits.