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Docket No. U-0000-94-165

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COMMENTS BY SAN DIEGO GAS &
ELECTRIC COMPANY ON THE
PROPOSED RULE --
RETAIL ELECTRIC COMPETITION

* BEFORE THE
* ARIZONA CORPORATION
* COMMISSION

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DOCUMENT CONTROL

GENERAL

San Diego Gas & Electric Company (San Diego) is concerned that the approach the ACC is considering in this Proposed Rule is inappropriate to protect the interests of the citizenry of Arizona. The Proposed Rule allows potential abuses due to not adequately addressing: (1) self-dealing by the incumbent utility that may favor its own power plants over lower-cost competitors, (2) vertical market power issues associated with superior market knowledge of customers being made available to non-regulated affiliates free of cost, while denying this same information to competitors at any cost, and (3) horizontal market power issues that may allow the incumbent utility to control the market clearing price to its own advantage. Unless these oversights are corrected, the Proposed Rule virtually ensures the ACC will subject Arizona citizenry to a fiasco similar to the one in the United Kingdom when it first attempted to introduce competition in this industry.

San Diego is a strong believer that a competitive market can be developed for the electric utility industry and that significant benefits can accrue to all classes of end-users. These benefits include lower prices, improved reliability of the bulk power delivery system, and new and innovative packages of power related services specifically designed to meet customer needs. This is all possible after a relatively short transition period in which the interests of all key players are carefully considered.

The short-comings of the Proposed Rule are significant and pervasive. We have attempted to divide our comments into two categories. This division is designed to highlight the major weaknesses of this Proposed Rule that might not be directly observed by a Section-by-Section review of the rule as proposed by staff for the September 18, 1996 meeting. The two categories express the need for: (1) structural, not regulatory solutions, and (2) a logical sequencing of events with specific dates.

STRUCTURAL SOLUTIONS ARE NEEDED

The Proposed Rule is replete with regulatory oversight solutions to the issues surrounding restructuring. Dependence on this form of discipline denies a fundamental postulate of the restructuring movement: A fully competitive market will lower prices and improve customer satisfaction better than regulation. This Proposed Rule apparently does not honor this belief. The Proposed Rule seeks regulation over market solutions in all of the following areas:

Arizona Corporation Commission

DOCKETED

SEP 16 1996

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MARKET SOLUTION

REGULATORY SOLUTION AS STATED IN PROPOSED RULE

Prices are determined by willing buyers and sellers negotiating mutually acceptable terms

“Affected Utilities shall file tariffs”
(reviewed and approved by the ACC)
R14-2-xxx2

Market participants have freedom of entry or exit with a minimum of restrictions

“Companies shall obtain a Certificate of Convenience and Necessary”
R14-2-xxx3

Suppliers to a market have the freedom to select their best package of goods and services of offer customers at competitive prices

“Any company selling electricity under the provisions of this article must derive at least 1%....from new solar resources”
R14-2-xxx9

Customers determine winners and losers over time based on their perceived value of the goods and services provided

“Service Quality, Consumer Protection, Safety, and Billing Requirements”...(are specified in the Proposed Rule)

Consumers rely on existing laws and regulations for dispute resolution

“The Commission may develop procedures for resolving disputes...”
R14-2-xxx15. I.

Suppliers are rewarded by efficient operations which minimize paperwork and unnecessary reporting activities

The Proposed Rule requires considerable reporting requirements and administrative requirements
R14-2-xxx14. and R14-2-xxx15

This deliberate attempt to seek regulatory solutions:

1. Denies the real benefits of competition currently enjoyed by every industry in the United States except for the electric utility industry.
2. Frustrates one of the clear cost-saving advantages of a free market: lack of time and expense associated with regulation, and
3. Sends an unwanted message to suppliers and investors that they must accept the cloud of regulatory uncertainty in Arizona if they wish to participate in the emerging power market.

What needs to replace these regulatory mechanisms are structural mandates. These mandates will reposition market players such that a marketplace can materialize with all the attributes that should make it successful: (1) ease of entry and exit for participants, (2) market clearing prices set by willing buyers and sellers, and (3) the inability of a few players to control market prices. The mandates would focus on: (1) market power, and

(2) potential self-dealing, for the incumbent utilities, and ease-of-market-entry for new power marketers.

LOGICAL SEQUENCING WITH SPECIFIC DATES IS NEEDED

Key framework issues must be carefully defined as a first step. These issues primarily revolve around what portions of the industry will remain regulated when the transition is complete and what portion will be subject to the disciplines of the marketplace.. This first step should attempt to remove any ambiguity as to where functions or assets will reside.

The next step is to identify strict transition milestones dates. These dates should be reasonable and properly recognize the transition of the industry in surrounding states and within the region. These transition milestones should not be subject to the subjective evaluation of the ACC. (e.g., "Until the Commission determines that competition has been substantially implemented" [R14-2-xxx6. A.]

The next step is to identify those key issues that are threshold to the commitment of all key parties to continue the restructuring dialogue. The current version of the Proposed Rule, for instance, contemplates the Affected Utilities to work on the details of this rule while the monstrous issue of transition costs is identified as an item that the Commission "may" consider. (apparently at some future time) This approach is non-productive and unrealistic. The ACC has clearly missed a key reason why restructuring efforts are proceeding successfully in other jurisdictions (California and New England primarily): The recovery of potential strandable costs was recognized as an appropriate transition expense early in the process (even without a quantitative value being specified) This fundamental issue must be firmly resolved in order to constructively devote effort to consider other issues. To attempt otherwise, will simply cause "heel dragging" by the incumbent utilities or, in the worst case, relegate the whole process to a legal battle. The pragmatic approach adopted in New England recognized that a legal battle over the right to recover transition costs could tie up restructuring progress in the courts for years and that the benefits of competition would be denied energy users in the interim. It was therefore preferable to allow utilities to reasonably recover those potentially strandable expenses over a moderate transition period. It is to be hoped that the ACC also sees the logic in this approach.

CONCLUDING REMARKS

San Diego believes that the two fundamental changes suggested above must be made to allow further meaningful progress in Arizona. We also believe that a more detailed evaluation of the current Proposed Rule would be counterproductive until after these changes have been made. San Diego looks forward to working with ACC staff and allowing Arizona utilities to remain viable regional energy partners in the upcoming restructured industry.

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