



0000071295

47

ARIZONA CORPORATION COMMISSION

RECEIVED
AZ CORP COMMISSION

NOV 27 4 44 PM '96

DOCUMENT CONTROL

Renz D. Jennings
Chairman
Marcia Weeks
Commissioner
Carl J. Kunasek
Commissioner

IN THE MATTER OF THE)
PROPOSED RULE-RETAIL)
ELECTRIC COMPETITION)

DOCKET NO. U-0000-94-165

Arizona Corporation Commission
DOCKETED

NOV 27 1996

DOCKETED BY 

**Reply Comments on the Proposed Rule on
Retail Electric Competition**

Filed on behalf of Arizona consumers organizations:

**Arizona Community Action Association
Arizona Consumers Council
Arizona Citizens Action**

Respectfully submitted this 27th day of November, 1996



Betty K. Pruitt

**Reply Comments on the Proposed Rule
on Retail Electric Competition
Docket No. U-0000-94-165**

**By Arizona Consumers Organizations, Including:
Arizona Community Action Association
Arizona Consumers Council
Arizona Citizen Action**

November 27, 1996

The Consumers Organizations, comprised of Arizona Community Action Association, the Arizona Consumers Council, and Arizona Citizen Action, appreciate the opportunity to provide the following reply comments on the Proposed Rule on Retail Electric Competition.

The Consumers Organizations support the Proposed Rule as a reasonable framework for moving forward with retail electric competition, and recommend that the Commission adopt the Proposed Rule as it is currently written.

The Consumers Organizations believe the Proposed Rule provides a reasonable framework for moving forward with retail electric competition. As a framework, the Proposed Rule provides opportunities for low income and residential consumers to benefit from retail electric competition. In addition, the Proposed Rule includes some important protections for residential and low income consumers that reduce their exposure to increases in costs and risks, and decreases in quality of service. As noted below, the Proposed Rule also sets forth a reasonable process and schedule for resolving the remaining issues and details.

Therefore, the Consumers Organizations recommend that the Commission adopt the Proposed Rule as it is currently written.

The Proposed Rule is not premature, and the Commission should not delay its adoption.

Some parties, including APS, TEP, and RUCO, have argued that the Proposed Rule is premature, and that its adoption should be delayed. The Consumers Organizations disagree. Further workshops, working groups, or technical sessions, without the framework and deadlines set forth in the Proposed Rule, would just result in delaying the process and wasting time rehashing some of the same issues that have been discussed in workshops over the last two years. A framework that includes clear, strict deadlines is needed to move forward, and the Proposed Rule provides such a framework. Therefore the Proposed Rule should be adopted as currently written.

At this time, evidentiary hearings on the Proposed Rule itself are not necessary, would delay the adoption of the Rule as a reasonable framework for moving forward with retail electric competition, would not necessarily improve the Proposed Rule in a timely manner, and would limit the opportunity for some parties (including the Consumers Organizations) to participate fully in the process.

APS and others have argued that evidentiary hearings should be held before the Proposed Rule is adopted. The Consumers Organizations disagree. We believe that evidentiary hearings will be needed in the future for several issues, including stranded costs and the Standard Offer and Unbundled Service tariffs, and the Proposed Rule sets forth these processes. However, we do not believe that evidentiary hearings on the Proposed Rule itself are necessary at this time. In fact, we believe that evidentiary hearings would delay the process of moving forward with retail electric competition, and would impede our ability to be involved in the process because of the large costs of evidentiary hearings and our limited resources. Instead, we recommend that the Proposed Rule be adopted as written, and that workshops, working groups, and technical sessions (as TEP proposed) be used to resolve many of the remaining issues, with evidentiary hearings being used only when necessary. Because of the interactive nature and complexity of many of the issues, we believe that these processes will be more effective than evidentiary hearings in resolving the issues in a manner that will best serve the public interest. In addition, these less-formal processes will allow us to provide timely, meaningful input while using our limited resources efficiently.

The Proposed Rule sets forth a reasonable process and schedule for resolving the remaining issues and details.

The Consumers Organizations recognize that some important details and issues remain unresolved, and we provide summaries of our November 8, 1996 comments regarding our list of specific issues below. As noted above, we believe that these issues are best resolved through the working group, workshop, technical session, and future hearing processes as described in the Proposed Rule, rather than through long, protracted evidentiary hearings that would delay the adoption of the Rule as a reasonable framework at this time. The Proposed Rule sets forth a strict timeline that will encourage the parties to resolve the remaining issues and details in an expeditious manner.

The process should continue to provide meaningful opportunities for public involvement and input, and should consider the widely varying resources of the stakeholders and interested parties. A robust process that encourages broad public participation will result in regulations that provide better opportunities for consumers to benefit from retail electric competition while at the same time minimizing the dangers, risks, and unintended negative consequences.

The interested parties have had sufficient opportunities for input on the Proposed Rule as a framework for moving forward.

Some parties have argued or implied that the Proposed Rule was developed without sufficient opportunities for input. The Consumers Organizations disagree. The Proposed Rule was developed over a period of more than two years with much opportunity for input from the interested parties. Public hearings will be held in early December. Together, this level of input is sufficient to move forward with the reasonable framework described in the Proposed Rule (unless the public hearings raise new issues, or change the importance of specific issues). In addition, the Proposed Rule sets forth processes for resolving the remaining issues, and these processes offer many additional opportunities for providing input in the future.

Competitive electrical suppliers should be subject to regulation by the Commission.

In its November 8, 1996 comments, RUCO argued that competitive electrical suppliers "should not be subjected to onerous regulation by the Commission." Contrary to provisions in the Proposed Rule, RUCO stated that competitive suppliers should not be required to (1) file tariffs with the Commission, (2) obtain Certificates of Convenience and Necessity, or (3) file summaries of existing and projected loads and resources with the Commission. The Consumers Organizations are perplexed by RUCO's comments, given that these sections of the Proposed Rule provide substantial consumer protections against fraud and abuse, and help to monitor system reliability. Therefore, the Consumers Organizations recommend that these sections of the Proposed Rule be adopted as currently written, and that RUCO's recommendations be rejected.

The Consumers Organizations would be willing to consider the requirement of Electricity Supply Licenses as an alternative to Certificates of Convenience and Necessity, as RUCO proposes. However, the Electricity Supply Licenses would need to include sufficient requirements to protect consumers, and the Commission would need to have meaningful enforcement authority (including the ability to withhold or cancel a license if the supplier does not meet the consumer protection requirements). RUCO's proposed requirements (i.e., financial soundness and technical capability) do not appear to offer adequate consumer protection.

The form of retail electric competition implemented in Arizona must "do no harm" by providing net benefits to residential and low income consumers.

The Consumers Organizations strongly recommend that the Commission design and implement a form of retail electric competition that will provide net benefits (benefits that exceed costs and risks) to all customer classes and segments. To achieve this, the Commission must ensure that residential and low income consumers receive a fair share of the promised benefits of competition, and must provide protections for residential and low income consumers against the potential

negative impacts of competition, which include increases in costs and risks, and decreases in quality of service.

Some important details and issues regarding retail electric competition remain to be resolved. These details and issues must be resolved with the interests of residential and low income consumers in mind in order for retail electric competition to provide net benefits to these consumers.

The Consumers Organizations recognize that, as a framework, the Proposed Rule left some important details and issues unresolved. These issues must be resolved as we recommended in our comments on November 8, 1996 in order for low income and residential consumers to (1) have the opportunity to secure the promised benefits of retail electric competition, and (2) avoid increases in costs and risks, and decreases in quality of service.

Before retail electric competition begins to be implemented in 1998, the workshop, working group, and evidentiary hearing processes must resolve the issues, and the final rules and regulations must:

- Provide protections for low income and residential consumers against increases in costs. We will continue to press the utilities to agree to voluntary rate caps for residential and low income consumers as part of the Standard Offer tariffs to be filed in December 1997.
- Provide opportunities for low income and residential consumers to receive their fair share of benefits from retail electric competition. We will continue to advocate for larger and more equitable portions of eligible demand being made available to low income and residential consumers in the early phases of implementation.
- Ensure that residential and low income utility customers do not pay for any stranded costs resulting from competition in which they do not participate. In addition, stranded costs associated with one customer class should not be recovered from or shifted to any other class.
- Close any potential loopholes in the buy-through provisions. Buy-throughs should not result in an inequitable shifting of costs to consumers not participating in the buy-through. The buy-throughs should be (and in our opinion, are) included in the eligible demand, and therefore should be restricted by the limitations on eligible demand for large customers during the first two phases. Buy-throughs should be (and in our opinion, are) included in the "competitive market," thereby subjecting them to all of the relevant provisions of the Proposed Rule, including those that allow stranded cost recovery and require system benefits charges only for those customer purchases made in the competitive market.
- Ensure continuation of and sufficient funding for important system benefits programs, including low income, demand-side management, renewables, environmental, and research and

development programs. A floor based upon present commitments to these important public programs is needed to ensure that they are continued at adequate levels.

- Provide adequate support for the modest goals of the solar portfolio standard. The standard of one half percent of retail energy sold competitively should serve as the floor, and any changes in the solar portfolio standard percentage applicable after December 31, 2001 should only be increases to this percentage requirement.
- Ensure reliability and safety during and following the transition to retail electric competition.
- Ensure that Salt River Project and other electric utilities not subject to Commission jurisdiction, and the consumers in their existing service territories, can participate fully in the first phase of implementation. The needed mechanisms could be legislative, regulatory, or both. Any mechanism that is developed should: (1) ensure reciprocity in terms of service territories being required to be opened to competition, (2) resolve any "level playing field" concerns that would give one utility unfair competitive advantages over another due to tax or legal issues, and (3) require that all utilities agree to all the requirements of the Proposed Rule, with the Commission having jurisdictional and enforcement authority.
- Provide consumer protections against fraud, scams, misleading marketing, exorbitant fees or deposit requirements, unfair disconnections, and other abuses.
- Ensure adequate information and full disclosure so that consumers have the information they need to make decisions about competitive electric services. All customer bills must display costs in consistent, well-defined categories. The customer bills for the Standard Offer service should be required to display the components of the bundled rate in an unbundled manner so that consumers would be educated regarding the costs of the components of electric service. In addition, all customer bills should include information on the resource mix and emissions in the supplier's portfolio.
- Provide meaningful opportunities for public involvement and input, considering the widely varying resources of the stakeholders and interested parties. Resolution of the remaining issues and details must be done with fairness and equity in an open, participatory process with adequate opportunities for public input, including input from stakeholders with limited resources.

**Original and ten copies of the foregoing filed
this 27th day of November, 1996:**

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

**Copies of the foregoing delivered this
27th day of November, 1996 to:**

Paul A. Bullis, Chief Council
Legal Division
Arizona Corporation Commission
1200 W. Washington
Phoenix, Arizona 85007

Jerry L. Rudibaugh
Chief Hearing Officer
Arizona Corporation Commission
1200 W. Washington
Phoenix, Arizona 85007

Gary Yaquinto
Utilities Division Director
Arizona Corporation Commission
1200 W. Washington
Phoenix, Arizona 85007

Renz Jennings
Chairman
Arizona Corporation Commission
1200 W. Washington
Phoenix, Arizona 85007

Marcia Weeks
Commissioner
Arizona Corporation Commission
1200 W. Washington
Phoenix, Arizona 85007

Carl Kunasek
Commissioner
Arizona Corporation Commission
1200 W. Washington
Phoenix, Arizona 85007

**Copies of the foregoing mailed
this 27th day of November, 1996 to:**

Greg Patterson
Residential Utility Consumer Office
2828 N. Central, #1200
Phoenix, Arizona 85004

Patricia E. Cooper
John Meredith
Arizona Electric Power Cooperative
P.O. Box 670
Benson, Arizona 85602

Eric Blank
Land & Water Fund of the Rockies
2260 Baseline, Suite 200
Boulder, Colorado 80302

Michael A. Curtis
Martinez & Curtis, P.C.
2712 North 7th Street
Phoenix, Arizona 85006
Attorney for AZ Municipal Power User's Assoc.

Walter M. Meek
President
AZ Utility Investors Association
3030 N. Central Ave., Suite 506
Phoenix, Arizona 85012

Charles R. Huggins
Arizona State AFL-CIO
110 North 5th Avenue
P.O. Box 13488
Phoenix, Arizona 85002

Louis A. Stahl, Esq.
Lisa D. Duran, Esq.
Streich Lang
Renaissance One
Two N. Central Avenue
Phoenix, Arizona 85004-2391

Wayne Retzlaff
Navopache Electric Coop.
P.O. Box 308
Lakeside, Arizona 85929

Dan Neidlinger
3030 N. 17th Drive
Phoenix, Arizona 85015

By: Betty K. Pruitt

Betty K. Pruitt
ACAA Energy Programs Coordinator