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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

2008 MAY 30 P 2:13

AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE NOTICE OF
PROPOSED RULEMAKING REGARDING
NET METERING.

DOCKET NO. RE-00000A-07-0608

NOTICE OF FILING

Arizona Corporation Commission Staff hereby files the attached Notice of Rulemaking Docket Opening and Notice of Proposed Rulemaking submitted by it to the Arizona Office of Secretary of State and published by that office in the April 28, 2008 issue of the Arizona Administrative Register.

RESPECTFULLY SUBMITTED this 30th day of May, 2008.

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

Original and thirteen (13) copies
of the foregoing were filed this
30th day of May, 2008 with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85008

Arizona Corporation Commission
DOCKETED

MAY 30 2008

DOCKETED
IB

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NOTICES OF RULEMAKING DOCKET OPENING

The Administrative Procedure Act (APA) requires the publication of Notices of Rulemaking Docket Opening when an agency opens a rulemaking docket to consider rulemaking. Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process.

NOTICE OF RULEMAKING DOCKET OPENING

BOARD OF PHARMACY

[R08-101]

- 1. Title and its heading:** 4, Professions and Occupations
Chapter and its heading: 23, Board of Pharmacy
Articles and their headings: 1, Definitions; 6, Permits and Distribution of Drugs
Section numbers: R4-23-110, R4-23-620 (As part of this rulemaking, the Board may add, delete, or modify additional Sections as necessary.)
- 2. Subject matter of the proposed rule:**
During the 48th Legislative Session in 2007, the Legislature passed HB 2255 adding A.R.S. § 32-1973 to the Pharmacy Act. A.R.S. § 32-1973 requires each pharmacy to implement or participate in a continuous quality assurance program to review pharmacy procedures in order to identify methods for addressing pharmacy medication errors. The Board is required to make rules to implement the statute.

The proposed rulemaking will include necessary new definitions added to R4-23-110 (Definitions) and a new Section R4-23-620 (Continuous Quality Assurance Program) to prescribe the program, policy and procedure, and record-keeping requirements. The rule will include format, style, and grammar necessary to comply with the current rules of the Secretary of State and the Governor's Regulatory Review Council.

The agency docket number, if applicable:
R0808
- 3. A citation to all published notices relating to the proceeding:**
None
- 4. Name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Dean Wright, Compliance Officer
Address: Board of Pharmacy
1700 W. Washington St., Suite 250
Phoenix, AZ 85007

Telephone: (602) 771-2744
Fax: (602) 771-2749
E-mail: dwright@azpharmacy.gov
- 5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**
The Board will accept written comments Monday through Friday, 8:00 a.m. to 5:00 p.m. Oral comments may be made at the Board office Monday through Friday, 8:00 a.m. to 4:30 p.m.

Location: Board of Pharmacy
1700 W. Washington St., Suite 250
Phoenix, AZ 85007

Written and oral comments will be accepted until the close of record on a date and time as yet undetermined.
- 6. A timetable for agency decisions or other action in the proceeding:**
None

NOTICE OF RULEMAKING DOCKET OPENING

CORPORATION COMMISSION FIXED UTILITIES

[R08-103]

- 1. Title and its heading:** 14, Public Service Corporations; Corporations and Associations;

Notices of Rulemaking Docket Opening

- Securities Regulation
2, Corporation Commission – Fixed Utilities
R14-2-2301 through R14-2-2308
- Chapter and its heading:**
Section numbers
- 2. The subject matter of the proposed rule:**
The proposed rules allow any retail customer of a Commission-jurisdictional electric utility to construct a renewable resource or Combined Heat and Power Facility and interconnect for the purpose of exchanging electric power and energy with the electric utility that normally serves them.
- The agency docket number, if applicable:**
RE-00000A-07-0608
- 3. A citation to all published notices relating to the proceeding:**
Notice of Proposed Rulemaking: 14 A.A.R. 1228, April 18, 2008 (*in this issue*)
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Jeffrey Pasquinelli, Public Utilities Analyst
Address: Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007
Telephone: (602) 542-4382
Fax: (602) 542-0766
E-mail: jpasquinelli@azcc.gov
- 5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**
Written comments will be accepted at the address listed in item 4 through June 5, 2008. The written comments should include a reference to Docket No. RE-00000A-07-0608 and should be submitted to the Commission's Docket Control.
Although written comments will be accepted through June 5, 2008, the Commission requests that interested persons file initial written comments on the proposed rules on or before May 19, 2008, and file any written comments in response to other interested persons' comments on or before May 27, 2008.
An oral proceeding to obtain public comments on the proposed rules shall be held on June 5, 2008 at 10:00 a.m. at the Commission's offices located at 1200 W. Washington St., Phoenix, AZ.
- 6. A timetable for agency decisions or other action on the proceeding, if known:**
Unknown

NOTICE OF RULEMAKING DOCKET OPENING

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR POLLUTION CONTROL

[R08-99]

- 1. Title and its heading:** 18, Environmental Quality
2. Chapter and its heading: 2, Department of Environmental Quality – Air Pollution Control
Article and its heading: 2, Ambient Air Quality Standards; Area Designations; Classifications; 7, Existing Stationary Source Performance Standards; Appendix 10, Evaluation of Air Quality Data; Appendix 11, Allowable Particulate Emissions Computations
- Section numbers:** R18-2-216, R18-2-703, R18-2-708, R18-2-711, R18-2-712, R18-2-713, R18-2-715, R18-2-716, R18-2-717, R18-2-719, R18-2-720, R18-2-721, R18-2-722, R18-2-724, R18-2-730, Appendix 10; Appendix 11. (As part of this rulemaking, the Department may add, delete, or modify additional Sections as necessary.)
- 2. The subject matter of the proposed rule:**
The Arizona Department of Environmental Quality is considering repealing Appendix 10, Evaluation of Air Quality Data, and Appendix 11, Allowable Particulate Emissions Computations in their entirety. The Agency has determined that the information contained in Appendix 10 is out of date and does not comply with current monitoring protocols as designated by the Environmental Protection Agency. The Agency has also determined that Appendix 11 is not useful because the actual values must be calculated using the equation included in the rules, not this graph. As part of this rulemaking, other rules from the *Arizona Administrative Code* must be amended in order to reflect these changes.

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3. A citation to all published notices relating to the proceeding:
None

4. The name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Danielle Dancho
Address: ADEQ
1110 W. Washington St.
Phoenix, AZ 85007
Telephone: (602) 771-4210
Fax: (602) 771-2366
E-mail: dmd@azdeq.gov

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

To be announced in the Notice of Proposed Rulemaking

6. A timetable for agency decisions or other action on the proceeding, if known:

To be announced in the Notice of Proposed Rulemaking

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2. If the Department determines that the ~~regional contractor's~~ CRS provider's intended decision does not comply with A.R.S. Title 36, Chapter 2, Article 3 or this Chapter, the Department shall reverse the intended decision and provide written notice of the Department's decision to the member and the ~~regional contractor~~ CRS provider.
 3. If the Department determines that the ~~regional contractor's~~ CRS provider's intended decision complies with A.R.S. Title 36, Chapter 2, Article 3 or this Chapter, the Department shall provide a written notice of the Department's decision to the:
 - a. Member that complies with A.R.S. § 41-1092, and
 - b. ~~Regional contractor of the Department's decision:~~ CRS provider.
- G. No change

NOTICE OF PROPOSED RULEMAKING

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
SECURITIES REGULATION**

**CHAPTER 2. CORPORATION COMMISSION
FIXED UTILITIES**

[R08-104]

PREAMBLE

1. Sections Affected

R14-2-2301
R14-2-2302
R14-2-2303
R14-2-2304
R14-2-2305
R14-2-2306
R14-2-2307
R14-2-2308

Rulemaking Action

New Section
New Section

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: Article XV of the Arizona Constitution and A.R.S. Title 40
Implementing statute: Not applicable

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 14 A.A.R. 1242, April 18, 2008 (*in this issue*)

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Jeffrey Pasquinelli, Public Utilities Analyst
Address: Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007
Telephone: (602) 542-4382
Fax: (602) 364-2270
E-mail: jpasquinelli@azcc.gov

5. An explanation of the rule, including the agency's reasons for initiating the rule:

The Arizona Corporation Commission ("Commission") issued Decision No. 69877 on August 28, 2007. In that decision the Commission ordered that the Public Utility Regulatory Act ("PURPA") standard on net metering would be adopted for all Commission-jurisdictional electric distribution utilities.

The PURPA standard is as follows:

Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible onsite generating facility and delivered to the local distribution facilities

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may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

The decision also ordered that Commission staff begin a rulemaking process to draft the rules on net metering.

The proposed rules allow any retail customer of a Commission-jurisdictional electric utility to construct a renewable resource or Combined Heat and Power ("CHP") facility and interconnect for the purpose of exchanging electric power and energy with the electric utility that normally serves them. Under the proposed rules, net metering shall be a Commission-approved, tariffed service of Arizona electric distribution utilities.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

Not applicable

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The public at large will benefit from net metering; it encourages a larger portion of electricity used in Arizona to be produced from renewable or high-efficiency resources. This will result in fewer adverse impacts on air, land, and water than producing electricity from conventional sources.

Customers of electric utilities who install net metering facilities will incur an initial cost for the equipment, and are then able to meet their own electricity needs rather than purchase from the local utility. Electric energy produced beyond customer needs by the net metering facility may be sold back to the utility. Any class of utility customer may install net metering facilities.

Manufacturers, distributors, and installers of eligible technologies benefit because net-metering customers will purchase and install these eligible technologies. Eligible technologies include solar, wind, and combined heat and power facilities. Employees of the manufacturers, distributors, and installers of eligible technologies will benefit through increased job opportunities.

Load-serving utilities may incur additional costs of complying with reporting requirements, and reviewing net metering customer's plans. These same entities and their customers may benefit from the reduced load on their local distribution systems and a reduced need for procurement of generation and transmission resources.

Probable costs to the Commission of the proposed net metering rules would include costs associated with reviewing filings and contracts, and participating in meetings and hearings.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Jeffrey Pasquinelli, Public Utilities Analyst

Address: Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

Telephone: (602) 542-4382

Fax: (602) 364-2270

E-mail: jpasquinelli@azcc.gov

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Not applicable

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
SECURITIES REGULATION**

**CHAPTER 2. CORPORATION COMMISSION
FIXED UTILITIES**

ARTICLE 23. NET METERING

Section

- R14-2-2301. Applicability
- R14-2-2302. Definitions
- R14-2-2303. Requirements and Eligibility
- R14-2-2304. Metering
- R14-2-2305. New or Additional Charges
- R14-2-2306. Billing for Net Metering
- R14-2-2307. Net Metering Tariff
- R14-2-2308. Filing and Reporting Requirements

ARTICLE 23. NET METERING

R14-2-2301. Applicability

These rules govern the treatment of Electric Utility Customers in Arizona who wish to interconnect with the Electric Utility which serves them and engage in Net Metering operation as defined below. These rules apply to all Electric Utilities, as defined in these rules.

R14-2-2302. Definitions

For purposes of this Article, the following definitions apply unless the context requires otherwise:

1. "Avoided Costs" means the incremental costs to an Electric Utility for electric energy or capacity or both which, but for the purchase from the Net Metering Facility, such utility would generate itself or purchase from another source.
2. "Biomass" means any raw or processed plant-derived organic matter available on a renewable basis, including:
 - a. Dedicated energy crops and trees;
 - b. Agricultural food and feed crops;
 - c. Agricultural crop wastes and residues;
 - d. wood wastes and residues, including:
 - i. Landscape waste,
 - ii. Right-of-way tree trimmings, or
 - iii. Small diameter forest thinnings that are 12 inch in diameter or less;
 - e. Dead and downed forest products;
 - f. Aquatic plants;
 - g. Animal wastes;
 - h. Other vegetative waste materials;
 - i. Non-hazardous plant matter waste material that is segregated from other waste;
 - j. Forest-related resources such as:
 - i. Harvesting and mill residue,
 - ii. Pre-commercial thinnings,
 - iii. Slash, and
 - iv. Brush;
 - k. Miscellaneous waste such as:
 - i. Waste pallets,
 - ii. Crates, and
 - iii. Dunnage; or
 - l. Recycled paper fibers that are no longer suitable for recycled paper production, but not including:
 - i. Painted, treated, or pressurized wood,
 - ii. Wood contaminated with plastics or metals,
 - iii. Tires, or
 - iv. Recyclable post-consumer waste paper.
3. "Biogas" means gases that are derived from:
 - a. Plant-derived organic matter,
 - b. Agricultural food and feed matter,

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- c. Wood wastes.
- d. Aquatic plants.
- e. Animal wastes.
- f. Vegetative wastes.
- g. Wastewater treatment facilities using anaerobic digestion, or
- h. Municipal solid waste through:
 - i. A digester process.
 - ii. An oxidation process, or
 - iii. Other gasification process.
- 4. "Combined Heat and Power" or "CHP" (also known as cogeneration) means a system that generates electricity and useful thermal energy in a single, integrated system.
- 5. "Commission" means the Arizona Corporation Commission.
- 6. "Electric Utility" or "Utility" means an electric distribution company that constructs, operates, and maintains the electrical distribution system for the receipt and delivery of power.
- 7. "Electric Utility Customer" or "Customer" means an end-use retail Customer served under a Utility's rate schedule.
- 8. "Fuel Cell" means a device that converts the chemical energy of a fuel directly into electricity without intermediate combustion or thermal cycles. For purposes of these Net Metering rules, the source of the chemical reaction must be derived from Renewable Resources.
- 9. "Geothermal" means heat from within the earth's surface.
- 10. "Hydroelectric" means the kinetic energy derived from moving water.
- 11. "Net Metering" means service to an Electric Utility Customer under which electric energy generated by or on behalf of that Electric Utility Customer from a Net Metering Facility and delivered to the Utility's local distribution facilities may be used to offset electric energy provided by the Electric Utility to the Electric Utility Customer during the applicable billing period.
- 12. "Net Metering Customer" means any Arizona Customer who chooses to take electric service in the manner described in the definition of Net Metering above, and under the Net Metering tariff, as described in Section R14-2-2307.
- 13. "Net Metering Facility" means a facility for the production of electricity that:
 - a. Is operated by or on behalf of a Net Metering Customer and is located on the Net Metering Customer's premises;
 - b. Is intended primarily to provide part or all of the Net Metering Customer's requirements for electricity;
 - c. Uses Renewable Resources, a Fuel Cell, or CHP to generate electricity;
 - d. Has a generating capacity less than or equal to 125% of the Net Metering Customer's total connected load, or in the absence of customer load data, capacity less than or equal to the Customer's electric service drop capacity; and
 - e. Is interconnected with and can operate in parallel and in phase with an Electric Utility's existing distribution system.
- 14. "Renewable Resources" means natural resources that can be replenished by natural processes, including:
 - a. Biogas.
 - b. Biomass.
 - c. Geothermal.
 - d. Hydroelectric.
 - e. Solar, or
 - f. Wind.
- 15. "Solar" means radiation or heat from the Earth's sun that produces electricity from a device or system designed for that purpose.
- 16. "Wind" means energy derived from wind movement across the earth's surface that produces electricity from a device or system designed for that purpose.

R14-2-2303. Requirements and Eligibility

- A. An Electric Utility shall interconnect with any retail customer with a Net Metering Facility in the Electric Utility's service territory.
- B. Facilities with a generating capability greater than the limit specified in Section R14-2-2302(13)(d) shall require a special contract between the Utility and the Customer.

R14-2-2304. Metering

The meter that is installed on Net Metering Facilities after the effective date of these rules shall be capable of registering and accumulating the kilowatt-hours ("kWh") of electricity flowing in both directions in each billing period.

R14-2-2305. New or Additional Charges

- A. Any proposed charge that would increase a Net Metering Customer's costs beyond those of other customers in the same rate class shall be filed by the Electric Utility with the Commission for consideration. The filings shall be supported with

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cost of service studies and benefit/cost analyses. The Electric Utility shall have the burden of proof on any new proposed charge.

- B.** Net Metering costs shall be assessed on a nondiscriminatory basis with respect to other customers with similar load characteristics.

R14-2-2306. Billing for Net Metering

- A.** On a monthly basis, the Net Metering Customer shall be billed or credited based upon the rates applicable under the Customer's currently effective standard rate schedule and any appropriate rider schedules.
- B.** The billing period for net metering will be the same as the billing period under the Customer's applicable standard rate schedule.
- C.** If the kWh supplied by the Electric Utility exceed the kWh that are generated by the Net Metering Facility and delivered back to the Electric Utility during the billing period, the Customer shall be billed for the net kWh supplied by the Electric Utility in accordance with the rates and charges under the Customer's standard rate schedule.
- D.** If the electricity generated by the Net Metering Customer exceeds the electricity supplied by the Electric Utility in the billing period, the Customer shall be credited during the next billing period for the excess kWh generated. That is, the excess kWh during the billing period will be used to reduce the kWh supplied (not kW or kVA demand or customer charges) and billed by the Electric Utility during the following billing period.
- E.** Customers taking service under time-of-use rates who are to receive credit in a subsequent billing period for excess kWh generated shall receive such credit during the next billing period during the on- or off-peak periods corresponding to the on- or off-peak periods in which the kWh were generated by the Customer.
- F.** Once each calendar year the Electric Utility shall issue a check or billing credit to the Net Metering Customer for the balance of any credit due in excess of amounts owed by the Customer to the Electric Utility. The payment for any remaining credits shall be at the Electric Utility's Avoided Cost. That Avoided Cost shall be clearly identified in the Electric Utility's Net Metering tariff.

R14-2-2307. Net Metering Tariff

- A.** Each Electric Utility shall file, for approval by the Commission, a Net Metering tariff within 120 days from the effective date of these rules, including financial information and supporting data sufficient to allow the Commission to determine the Electric Utility's fair value for the purposes of evaluating any specific proposed charges. The Commission shall issue a decision on these filings within 120 days.
- B.** The Net Metering tariff shall specify standard rates for annual purchases of remaining credits from Net Metering Facilities and may specify total utility capacity limits. If total utility capacity limits are included in the Tariff, such limits must be fully justified.
- C.** Electric utilities may include seasonally and time of day differentiated Avoided Cost rates for purchases from Net Metering Customers, to the extent that Avoided Costs vary by season and time of day.

R14-2-2308. Filing and Reporting Requirements

- A.** Prior to May 1 of each year, each Electric Utility shall file a report listing all existing Net Metering Facilities and the inverter power rating or generator rating as of the end of the previous calendar year.
- B.** Also included in this report shall be, for each existing Net Metering Facility, the monthly amount of energy delivered to and from the Electric Utility and, if available, the monthly peak demand delivered to and from the Electric Utility.