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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

Arizona Corporation Commission

DOCKETED

SEP 22 2008

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IN THE MATTER OF THE GENERIC) DOCKET NO. E-00000E-05-0431
 INVESTIGATION INTO ELECTRIC RESOURCE)
 PLANNING) **ELECTRIC COOPERATIVES'**
) **COMMENTS ON STAFF FIRST**
) **DRAFT OF AMENDED RESOURCE**
) **PLANNING RULES**

The following comments on the Arizona Corporation Commission Staff's first draft of Amended Resource Planning Rules (Proposed Rulemaking Regarding Net Metering ("Draft Rules") dated August 28, 2008 are being submitted by Duncan Valley Electric Cooperative, Inc. ("Duncan"), Graham County Electric Cooperative, Inc. ("Graham"), Mohave Electric Cooperative, Inc. ("Mohave"), Navopache Electric Cooperative, Inc. ("Navopache"), Trico Electric Cooperative, Inc. ("Trico") and Sulphur Springs Valley Electric Cooperative, Inc. ("Sulphur") (collectively the "Electric Cooperatives").

I. INTRODUCTION

In summary, the Cooperatives support the Arizona Electric Power Cooperative, Inc. ("AEPSCO") comments on resource planning filed on September 22, 2008. The Cooperatives have only one goal and that is to provide the highest quality service to its members at the least cost. Cooperatives do not have a financial or any other motivation to self-build versus purchase power

1 from an independent party but only seeks the most reliable, least cost alternative for its members.
2 Because the customers of the cooperative are also its owners and there is no profit incentive, conflict
3 of interest concerns associated with the Cooperatives' competitive procurement are greatly reduced.
4 The Cooperatives' boards of directors are elected by their members and will make resource planning
5 decisions that are in the best interest of its members.
6

7 The Cooperatives also believe that if an approval of a utility's resources for ratemaking
8 purposes is not included as a part of this lengthy and costly Resource Planning ("RP") Draft Rule
9 process, then this resource planning process will be very time consuming and costly to the
10 Cooperatives' customers with little or no corresponding benefit.
11

12 Regarding the Draft Rules section on R14-2-702 A. Applicability, a possible alternate
13 approach for Arizona Electric Power Cooperative, Inc. ("AEPCO") would be to include a separate
14 paragraph that requires the filing periodically—perhaps on a three- to four-year cycle—of
15 information concerning utility supply-side plans, together with supporting detail as necessary. Those
16 individual products could then be collectively reviewed in a process and format similar to the
17 Commission's Biennial Transmission Assessment ("BTA"). Given the Renewable Energy Standard
18 and Tariff ("REST") Rule requirements and the fact that some of the Cooperatives are Partial
19 Requirements Members (PRMs) of AEPCO, the Cooperatives believe it is important to state that
20 distribution cooperatives that directly own generation resources of less than 100 MW will not be
21 subject to these Draft Rules for the reasons stated above.
22

23 Finally, concerning section R14-2-705 Procurement, this requirement unnecessarily increases
24 the costs of competitive procurement to their members for the reasons stated below. This language
25 should be modified so that this requirement does not apply to cooperatives that are subject to Rural
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1 Utilities Service (RUS) regulations under 7 CFR Section 1710 or cooperatives that will have the
2 National Rural Utilities Cooperative Finance Corporation, Inc., (“CFC”) provide the independent
3 monitor functions.
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6 **R-14-2-702 A. Applicability**

7 The Cooperatives believe that if an approval of a utility’s resources for ratemaking purposes
8 is not included as a part of this lengthy and costly Resource Planning (“RP”) Draft Rule process, then
9 this resource planning process will be very time consuming and costly to the Cooperatives’
10 customers with little or no corresponding benefit. The Cooperatives have estimated that the major
11 parts of the process, stakeholder meetings, reporting and filing, independent monitor, hearing and
12 open meeting requirements could cost their members in excess of \$500,000 depending on the hours
13 of Cooperatives’ staff time, consultants required, number of intervenors, data requests, number of
14 hearing days, etc necessary to meet the Draft Rule requirements. While there will be a high cost
15 associated with this RP process, there will be no significant mitigation of the risks that the
16 Cooperatives face in securing reliable resources at the least cost. The RP process will also increase
17 in the length of time it will take the Cooperatives to secure resources.
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20 A possible alternate approach for Arizona Electric Power Cooperative, Inc. (“AEPCO”)
21 would be a separate paragraph that requires the filing periodically, perhaps on a three- to four-year
22 cycle, of information concerning utility supply-side plans, together with supporting detail as
23 necessary. Those individual products could then be collectively reviewed in a process and format
24 similar to the Commission’s Biennial Transmission Assessment (“BTA”). This would eliminate the
25 majority of the time and expense for the Cooperatives in complying with the Draft Rules while still
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1 providing the Commission with the RP planning information in a timely manner. In addition, it is
2 clearly not the intent of the current or Draft Rules to subject distribution cooperatives to these Draft
3 Rules. Given the Renewable Energy Standard and Tariff (“REST”) Rule requirements and the fact
4 that some of the Cooperatives are Partial Requirements Members (PRMs) of AEPCO, the
5 Cooperatives believe it is important to state that distribution cooperatives that directly own
6 generation resources of less than 100 MW will not be subject to these Draft Rules for the reasons
7 stated above. To clarify the applicability, this section should also state the following at the end of
8 paragraph A., “This Article shall not apply to electric utilities that do not own or operate generation
9 and that enter into purchased power agreements whereby such electric utilities purchase the output of
10 a generation unit without having an ownership interest in a unit.”
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13 14 **R-14-2-705 Procurement**

15 The Cooperatives agree with the Draft Rule that an RFP solicitation process should be the
16 primary resource acquisition tool. However, Arizona’s electric utilities have very different
17 characteristics and a “one size fits all” set of procurement rules might not allow for flexibility that
18 each of the utilities needs to fulfill its individual growth requirements.
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20 In that spirit, one of the things which is different about Cooperatives is that, as an RUS
21 borrower, the Cooperatives are already subject to extensive federal RFP requirements as to how the
22 process is conducted. RUS oversees the entire RFP process, and no loan approval or loan funds are
23 provided to the Cooperatives until the RUS Requirements are met. For Cooperatives that are not
24 RUS borrowers, their primary lender CFC has agreed to provide the independent monitor functions.
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26 The principal criterion under 7 C.F.R. § 1710, *et seq.* requires that any self-build generation
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1 plan has to be justified through a competitive solicitation for purchased power which is RUS-
2 monitored and a highly transparent procedure. RUS is involved in a cooperative's process to self-
3 build or purchase power from the beginning to the end of the process. For example, the
4 investigations of alternative sources of power must be coordinated in advance with RUS. AEPCO
5 must submit in advance studies including the comprehensive economic present-value analyses of the
6 costs and revenues of the available self-generation, load management, energy conservation and
7 purchased power options to the RUS. AEPCO is required to keep RUS fully informed on
8 evaluations of RFP responses and provide supporting information as requested by RUS. Such
9 evaluations of all the purchase power alternatives to generating unit construction must demonstrate
10 that any decision results in the most economical and effective way to meet the power requirement.
11

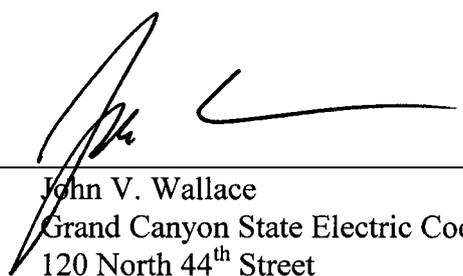
12 RUS will determine, based on this information provided by the borrower or based on its own
13 assessment whether RUS will require further information or other methods of determining how to
14 supply needed generation capacity.
15

16 Finally, the RUS requires borrowers to solicit proposals from all potential sources of power,
17 including municipals, investor-owned utilities, independent power producers and co-generators. To
18 assure the broadest possible range of RFP participation, AEPCO must also publish the solicitations
19 for proposals in at least three national publications. The RUS requires copies of these publications.
20 RUS regulations under 7 CFR Section 1710.253 and 254 have been attached as Exhibit A.
21

22 In conclusion, an additional monitor should not be required for AEPCO or other cooperatives
23 for their procurements. An additional monitor would be duplicative of safeguards already in place,
24 increase the required lead-time for project approval and increase costs without providing additional
25 benefit for such cooperatives, their members or the entities likely to participate in the process.
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1 The Cooperatives request that the Commission modify the Draft Rules such that the
2 independent monitor requirement does not apply to cooperatives. Suggested language is attached as
3 Exhibit A.
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8 RESPECTFULLY SUBMITTED this 22nd day of September, 2008.

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11 By: 

John V. Wallace
Grand Canyon State Electric Cooperative Assn.
120 North 44th Street
Suite 100
Phoenix, Arizona 85034

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16 Original and thirteen copies of the foregoing
filed this 22nd day of September, 2008, with:

17 Docket Control
18 Arizona Corporation Commission
1200 West Washington Street
19 Phoenix, Arizona 85007
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WORKING DOCUMENT

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ARTICLE 7. RESOURCE PLANNING

R14-2-702. Applicability

- A. All electric utilities under the jurisdiction of the Commission pursuant to Arizona Constitution Art. XV and Arizona Revised Statutes Title 40 which operate or own (in part or in whole) generating facilities, whether the power generated is for sale to end users or is for resale, are subject to the provisions of this Article. This Article shall not apply to electric utilities that do not own or operate generation and that enter into purchased power agreements whereby such electric utilities purchase the output of a generation unit without having an ownership interest in a unit.
- B. Any other electric utility under the jurisdiction of the Commission pursuant to Arizona Constitution Art. XV and Arizona Revised Statutes Title 40 is subject to the provisions of this Article upon two years' notice by the Commission.
- C. The Commission may exempt a utility from these requirements upon a demonstration by the utility that the burden of compliance with this Article exceeds the potential for cost savings resulting from its participation.
- D. Electric distribution cooperatives that directly own generation facilities of less than 100 MW will not be subject to this Article. Electric Cooperatives that own or operate generation facilities shall not be subject to the requirements of this Article and shall file every three years the supply-side plans, together with supporting detail and the reporting requirements listed in R14-2-703 that are available.

R14-2-705. Procurement

- A. The following procurement methods are considered to be acceptable for the wholesale acquisition of energy, capacity, and physical power hedge transactions:
 1. Purchases through third party, on-line trading systems, including but not limited to the Intercontinental Exchange, Bloomberg, California Independent System Operator, New York Mercantile Exchange, or similar on-line third party systems.
 2. Purchases from qualified, third party, independent energy brokers.
 3. Purchases from non-affiliated entities through auctions or a request for proposals (RFP) process.
 4. Bilateral contracts with non-affiliated entities.
 5. Bilateral contracts with affiliated entities, provided that non-affiliated entities are provided notice of and an opportunity to beat any proposed contract before executing the transaction.
 6. Any other competitive procurement process approved by the Commission.
- B. Utilities shall use an RFP as the primary acquisition process unless an exception is granted by the Commission. Exceptions may include the following:
 1. For emergencies.
 2. For short-term acquisitions to maintain system reliability.
 3. For other components of energy procurement, such as transmission projects, fuels, and

fuel transportation.

4. When the planning horizon is two years or less.
 5. When a utility encounters a genuine, unanticipated opportunity to acquire a power supply resource at a clear and significant discount, when compared with the cost of acquiring new generating facilities, that will provide unique value to customers.
 6. For transactions that satisfy obligations under the Renewable Energy Standard rules and for demand-side management/demand response programs.
- C. An independent monitor shall be used in all RFP processes for procurement of new resources. Electric Cooperatives shall not be required to use an independent monitor since their lenders perform similar functions as an independent monitor.

EXHIBIT A

RUS Regulations Under 7 CFR Section 1710.253 & 1710.254

§ 1710.253 Engineering and cost studies—addition of generation capacity.

(a) The construction or purchase of additional generation capacity and associated transmission facilities by a power supply or distribution borrower, including the replacement of existing capacity, shall be supported by comprehensive project-specific engineering and cost studies as specified by RUS. The studies shall cover a period from the beginning of the project to at least 10 years after the start of commercial operation of the facilities.

(b) The studies must include comprehensive economic present-value analyses of the costs and revenues of the available self-generation, load management, energy conservation, and purchased-power options, including assessments of service reliability and financing requirements and risks. Requirements for analyzing purchased-power options are set forth in § 1710.254.

(c) Generally, studies of self-generation, load management, and energy conservation options shall include, as appropriate, analyses of:

- (1) Capital and operating costs;
- (2) Financing requirements and risks;
- (3) System reliability;
- (4) Alternative unit sizes;
- (5) Alternative types of generation;
- (6) Fuel alternatives;
- (7) System stability;
- (8) Load flows; and
- (9) System dispatching.

(d) At the request of a borrower, RUS, in its sole discretion, may waive specific requirements of this section if such requirements imposed a substantial burden on the borrower and if such waiver will not significantly affect the accomplishment of the objectives of this subpart.

§ 1710.254 Alternative sources of power.

(a) *General.* (1) RUS will make loans to finance the construction of generation facilities by distribution or power supply borrowers and transmission facilities by power supply borrowers only under the following conditions if said borrowers do not already own and operate such types of facilities:

(i) Where no adequate and dependable source of power is available to meet the consumers' needs; or

(ii) Where the rates offered by other power sources would result in a higher cost of power to the consumers than the cost from facilities financed by RUS, and the amount of the power cost savings that would result from the RUS-financed facilities bears a significant relationship to the amount of the proposed loan.

(2) If a borrower already owns and operates the types of facilities included in a loan request, then a loan for the purposes contained in paragraph (a)(1) of this section, as well as for the construction of transmission facilities by a distribution borrower, will be considered and evaluated by RUS in terms of whether the proposed facilities constitute an effective and economical means of meeting the power requirements of the consumers. A borrower shall contact RUS as soon as practicable in order for RUS to review information submitted by the borrower and advise the borrower, in writing, whether there is a need for the borrower to investigate and seek alternative sources of power. RUS will determine, based on information provided by the borrower or otherwise available, whether there is a need to investigate alternative sources of power or whether RUS will require information or other methods of determining the need for the generation capacity. RUS will base its determination on whether RUS is able to conclude that the project is needed, the borrower would incur delays and costs in pursuing an RFP, or that an RFP is not likely to produce new alternatives to the project.

(b) Loan requests for the addition of generation capacity, including replacement of existing capacity, will be accepted by RUS when the applicant has completed the requirements established by RUS, in a manner satisfactory to RUS. The investigations of alternative sources of power must be coordinated in advance with RUS. This section applies to RUS financed generation capacity whether owned solely by the borrower, owned on an undivided ownership basis with other utilities or substantially controlled by the borrower.

(c) The applicant may be required to seek and utilize capacity available from RUS borrowers and other organizations before developing plans for additional generation capacity. RUS may require, on a case by case basis, that the applicant, among other things:

(1) Solicit power and energy purchase proposals from all reasonable potential sources of power, such as other electric cooperatives, investor-owned utilities, municipal utility organizations, and Federal and state power authorities.

(2) Solicit proposals from independent power producers, including cogenerators, to determine the terms and conditions under which these producers can supply the additional power and energy needs of the applicant, without RUS financial assistance. Such solicitations should be placed in at least three national newspapers or trade publications, and they meet all planning, coordination or other requirements imposed by state authorities, as well as the environmental requirements of RUS.

(d) When solicitations are received in accordance with paragraph (c) of this section, the applicant will evaluate all alternative proposals on an economic, present-value basis, giving consideration to cost-effectiveness, reliability of service, the short-term and long-term financial viability of the supplier, and the financial risk to the borrower and its creditors. The applicant will keep RUS fully informed on these evaluations and provide supporting information and analysis as requested by RUS.

(e) After evaluation of all proposals received in accordance with paragraph (c) of this section, and having informed RUS of the results, the applicant may be required to negotiate final proposals with the entities submitting the best acceptable offers. Contracts requiring RUS approval will either be approved in advance by the Administrator or contain a provision that the contract is not valid until approved, in writing, by the Administrator. The Administrator will approve the contracts in a timely manner provided that the borrower has met all applicable requirements, including, among other matters, evidence that the alternative source of power se-

lected is an economical and effective alternative.

(f) RUS may make independent inquiries with potential power suppliers as to the availability of power to meet borrowers' needs. Information developed by RUS will be shared with borrowers at their request.

(g) Further details of RUS requirements for financing of generation and bulk transmission facilities are set forth in 7 CFR part 1712.

(h) At the request of a borrower, RUS, in its sole discretion, may waive specific requirements of paragraphs (b) through (e) of this section if such waiver is required to prevent unreasonable delays in obtaining generation capacity that could result in system reliability problems.

(Approved by the Office of Management and Budget under control number 0572-0032)

[57 FR 1053, Jan. 9, 1992, as amended at 65 FR 31247, May 17, 2000]

§§ 1710.255-1710.299 [Reserved]

Subpart G—Long-Range Financial Forecasts

§ 1710.300 General.

(a) RUS encourages borrowers to maintain a current long-range financial forecast. The forecast should be used by the board of directors and the manager to guide the system towards its financial goals.

(b) A borrower must prepare, for RUS review and approval, a long-range financial forecast, approved by its board of directors, in support of its loan application. The forecast must demonstrate that the borrower's system is economically viable and that the proposed loan is financially feasible. Loan feasibility will be assessed based on the criteria set forth in §1710.112.

(c) The financial forecast and related projections submitted in support of a loan application shall include:

(1) The projected results of future actions planned by the borrower's board of directors;

(2) The financial goals established for margins, TIER, DSC, equity, and levels of general funds to be invested in plant;

(3) A pro forma balance sheet, statement of operations, and general funds