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Arizona Retailers Association



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AZ CORP COMMISSION
Comments of the Arizona Retailers Association
Regarding the Issues Raised by the Commission Staff
Subsequent to the Public Comment Session Held November 14, 2008

These Comments are provided on behalf of the Arizona Retailers Association (and in particular on behalf of the members of said Association) pursuant to the request of staff at the conclusion of the Commission's work session held on November 14, 2008 and devoted to the issue of retail competition for retail electric services.

On January 9, 2009, the staff of the Arizona Corporation Commission expressed interest by e-mail to the participants in that work session in the following topics:

- 1) potential risks and benefits of retail electric competition,
- 2) whether or not retail electric competition is in the public interest,
- 3) provider of last resort,
- 4) whether the Commission's current electric competition rules are adequate,
- 5) costs of competition, and
- 6) other issues related to retail electric competition.

Arizona Corporation Commission

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Introduction.

The Arizona Retailers Association is a non-profit association of retail merchants formed to represent their collective interests in issues of mutual concern. There are currently over 100 members of the Association. Certain members of the association are corporations doing business in other states where they enjoy the benefits of retail competition for their electric service. Others are local, regional or statewide businesses doing business on a local or regional basis. The Commission is well aware of the economic conditions prevailing in the world generally and in the State of Arizona in particular. These conditions have affected retailers as hard, or perhaps harder, than other sectors of the economy and the future for many of these members is challenging. One of the largest operating expenses for these members is the cost of energy. The Arizona Retailers Association (hereafter ARA or Association) believes that the Commission should give serious consideration of the plight of this group of businesses in rendering their decision regarding the initiation of competitive energy services in Arizona. ARA unequivocally supports retail electric competition and believes the Commission should convene a working group to work through any significant issues that require resolution prior to initiation of competitive electric service. The Arizona Retailers Association also believes the Commission should grant certificates of convenience to qualified applicants who wish to provide electricity on a competitive basis in the State of Arizona.

Staff Issue 1: Potential risks and benefits of retail electric competition

Given the political and public interest obligations of the Commission, it is assumed by the Association that the definition of "risks" implicit in the issue presented is higher cost to the consuming public. If this assumption is correct, the Association would argue that the real "risk" might more likely lie in not

introducing competition or in further delay of competition. The Commission is well aware that the philosophical underpinnings of the move toward competition lies in the economic assumption that production of electricity is not, by its nature, a monopolistic service that should be regulated. To offer energy from production assets that are planned by utilities for the service of their native load has built-in inefficiencies that could be eliminated in a competitive environment. To argue this point would suggest that there is not value in the least cost initiatives and prudency audits that have been conducted as part of the regulatory process for decades. It is important, from a cost standpoint and from a public interest standpoint, to introduce competition into the very costly, and somewhat irreversible decision making process regarding what resources to utilize to produce energy. The association does not believe that the total cost of service to the consuming public in Arizona is likely to go up under competition. On the contrary, the Association is of the belief that competition provides the traditional economic controls of supply and demand that are time tested means of insuring the most efficient uses of societies resources (in this instance power production). The Association is also of the belief that the real risk lies on the side of delay or refusal to permit competition. This is not to say that the Commission faces an easy road or that deregulation cannot be mishandled. The transition to competition includes a certain amount of risk that the process will not result in short term public benefits. Therefore, the ARA urges the Commission to consider a measured approach that can allow for a manageable introduction of retail choice. The ARA believes that a working group to decide how, not if, retail choice will be offered.

The ARA believes that the issue of retail choice is particularly important now, not only because of the difficult financial circumstances of our members who require every cost saving advantage they can find in this difficult economic environment; but the Association also believes that delay or denial of the opportunity to participate in a competitive energy environment could lead utility resource acquisition decision making into uneconomic decisions since the native energy load in Arizona continues to grow. As utility load management planning processes continues to estimate the load it will serve it must assume that large users will either be included in the load, or, as a result of competition, be excluded from the load for which resources are being acquired. The load factors of these large users can have a dramatic affect on the nature of the resources being acquired to serve those loads. The longer the Commission delays its decision, the more likely the potential for uneconomic resource allocation becomes. As we have stated above, the Association believes that the competitive market place will serve the public interest if it is implemented. The Association believes that over the long term, the public will pay less total costs for energy under retail choice.

A second benefit to retail choice is the unleashing of creativity and innovation in the development of energy production alternatives. The premise of a competitive market place is that competition will result in the most efficient utilization of societal resources. The example of telecommunications since the divestiture of the AT&T monopoly in telecommunications is, perhaps impossible to measure, but a consensus view undoubtedly exists that innovation and numerous societal benefits have resulted. As Arizona continues to face growth in electricity demand the time for introduction of competition is most appropriate now. The Association also believes that examples of cost saving innovations are also present in the natural gas industry which has largely been deregulated for the production function.

In summary, the Association is convinced that its members would benefit from retail choice. If the retail community is permitted to benefit from retail choice more competitive pricing of its products will be passed on to society at large. Furthermore, a healthy retail community serves to strengthen the economy in Arizona generally by creating more job opportunities for Arizona residents.

Staff Issue 2: Is retail electric competition in the public interest

From what has been said pertaining to the first Staff Issue, the Association believes that significant societal benefits would result from electric competition and, therefore, the public interest is served.

The only contrary views put forward at the work session in November were, in the view of the Association, issues related to the transition and timing of retail competition. The Association is aware that transition and timing issues can affect the benefits of competition in the short run. However, ARA believes that these transition issues have been largely addressed and those that remain are capable of management. For example, comments were provided regarding the issue of "cherry picking". The Association understands this concern to relate to the loss of large customers who are contributing to the utility cost of service that will now be covered by the remaining customers. This concern appears to be legitimate in the context of long term power contracts for energy supply that may be in excess of the current load that would remain on the system. The association believes that this concern is one that has been managed through a variety of ways across the nation while keeping the serving utility whole and resulting in a successful transition to competition. This matter is just one of many that a working group of participants committed to a successful market transition would be assigned to resolve.

Another example of a timing issue that was raised at the hearing related to the concern about the disarray existing in the capital markets. The commenter suggested that the Commission should not make a change at the present time because it could endanger the ability of utilities to raise capital. Of course if retail competition is permitted, the need for additional capital will be reduced (at least with respect to the financing of new generation). The introduction of retail competition could actually benefit utilities with regard to need for capital at a time when raising capital could be a very real concern.

In summary, retail competition is in the public interest, for the reasons stated under the preceding issue. The concerns raised in the work session are primarily timing and transition issues that should be managed by the parties in interest through a group of interested parties who could make recommendations of their findings to the Commission.

Staff Issue 3- Provider of last resort

The obligation of providing for essential electric service is an obligation that the Commission and the regulated utilities cannot avoid. However, a party seeking retail choice may assume the risk of this obligation if it is clear that it is part of the terms under which that party receives service and if some assurance is provided that that party has made sufficient provision for interruption or has provided an alternative fuel back up and that that public health and safety is not put at risk. This is one of the areas of retail choice that could result in the greatest innovation and societal benefit.

The Association believes that this issue is also one that is ripe for a working group to fully consider and which the Commission could consider under its existing rules or revision of those rules, as necessary.

In summary, the Association believes there are terms under which competitive electric service can be provided without relieving the utility of the obligation to serve those who do not have meaningful alternatives and by which those choosing competitive alternatives can assume the responsibility for their own back up systems. These can be assured by Commission rule.

Staff Issue 4 whether – Are the Commission's current electric competition rules adequate

The Association responds to this question by suggesting that a review by a working group of interested parties should be charged with the task of reviewing such rules and making a recommendation to the Commission and staff of their findings.

Staff Issue 5 Costs of Competition

The Association believes that given the recovery of transition costs that has already occurred, the likelihood now is that the Costs of competition are negligible and to the extent that they exist will be considerably outweighed by the cost benefits to the consuming public.

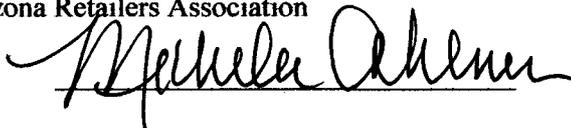
Summary of Association Comments

Under the current regulatory scheme retailers are captive to the energy production choices and the regulatory pricing scheme developed by the utility and the Corporation Commission within the various franchised service territories where they operate. It is the experience of many of the Association's members that these choices made on behalf of the customer along with the resulting prices may not be the best choice for all customers when considering their risk profile and associated energy and business objectives. Through customer choice customers can make the energy decisions that work best for their objectives. That same experience has shown that the potential availability of lower energy prices is only one of the benefits of a competitive energy market. These members have experienced innovative risk management programs, energy conservation programs, demand response curtailment programs, energy efficient building design services and other ancillary competitive services that generally have not been available in captive markets where competition does not exist.

Respectfully submitted this 30th day of January 2009.

Arizona Retailers Association

By:



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