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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

JUN - 3 2010

DOCKETED BY NR

IN THE MATTER OF THE NOTICE OF
PROPOSED RULEMAKING REGARDING
RESOURCE PLANNING.

DOCKET NO. RE-00000A-09-0249

DECISION NO. 71722

OPINION AND ORDER

DATE OF HEARING:

March 4, 2010

PLACE OF HEARING:

Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE:

Sarah N. Harpring

IN ATTENDANCE:

Kristin K. Mayes, Chairman

APPEARANCES:

Charles Hains, Staff Attorney, Legal Division, on behalf
of the Utilities Division of the Arizona Corporation
Commission.

BY THE COMMISSION:

This matter is a rulemaking to amend Arizona Administrative Code ("A.A.C.") Title 14, Chapter 2, Article 7, "Resource Planning," by revising the title for the Article; revising the current rules for definitions, applicability, reporting requirements, and Arizona Corporation Commission ("Commission") review of resource plans; and adding new rules for procurement and independent monitor selection and responsibilities.

* * * * *

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT

Background and Process for this Rulemaking

1. In Decision No. 56180 (October 14, 1988), as amended by Decision No. 56313 (January 12, 1989), the Commission adopted rules for electric utility integrated resource planning

1 (“IRP”) in A.A.C. Title 14, Chapter 2, Article 7 (“current IRP rules”). In Exhibit B to Decision No.
 2 56313, the Commission explained that the current IRP rules “are intended to minimize the costs of
 3 providing electric energy services by improving long range planning and by establishing Commission
 4 review of utilities’ long range plans.”

5 2. The current IRP rules require an electric utility with generating facilities to submit
 6 historical data every year and a 10-year resource plan every three years and provide for a
 7 Commission hearing to determine the degree of consistency between the filings and analyses
 8 conducted by the Commission’s Utilities Division (“Staff”) and the information provided by other
 9 parties. The current IRP rules provide that the Commission may consider its consistency
 10 determination in its review of financing applications, rate cases, and other matters in which the
 11 supply of or demand for energy services is a significant factor.

12 3. In Decision No. 58643 (June 1, 1994), the Commission considered utilities’ 1992
 13 resource plans and made the following Findings of Fact regarding the purpose and goal of IRP:

14 The purpose of IRP is to minimize the total societal cost of meeting the
 15 demand for electric energy services giving due consideration to ratepayer
 16 impacts, utility financial health and economic growth within a utility’s
 17 service area.

18 The goal of resource planning can be achieved by finding the mix of
 19 supply and demand side resources that minimize society’s costs.¹

20 4. While the current IRP rules, by their language, apply to all Commission-regulated
 21 electric utilities that operate or own generating facilities, they have been implemented so as to apply
 22 only to Arizona Electric Power Cooperative (“AEPSCO”); Arizona Public Service Company (“APS”);
 23 UNS Electric, Inc. (“UNS”) (previously Citizens Utilities Company² (“CUC”)); and Tucson Electric
 24 Power Company (“TEP”). The Salt River Project Agricultural Improvement and Power District
 25 (“SRP”) has voluntarily submitted information under the current IRP rules.

26 5. In Decision No. 60385 (August 29, 1997), the Commission vacated the hearing for the
 27 Commission to consider utilities’ 1995 resource plans, which hearing had previously been continued.

28 ¹ Decision No. 58643 at 56.

² CUC’s gas and electric assets and Certificates of Convenience and Necessity were transferred to UniSource Energy Corporation, the ultimate parent of UNS Electric, Inc., in Decision No. 66028 (July 3, 2003).

1 In addition, the Commission suspended specific portions of the current IRP rules³ through the end of
 2 1998 and suspended until further order of the Commission the obligation for utilities to file 1998
 3 resource plans. The Commission further ordered an IRP Task Force, established pursuant to an
 4 earlier Procedural Order, to continue meeting to work on modifying the current IRP rules to better
 5 meet future needs in the competitive electricity marketplace.⁴ The suspension of the specific portions
 6 of the current IRP rules was extended until further order of the Commission pursuant to a Procedural
 7 Order issued on March 15, 1999, which left intact the requirement for utilities to file annual historical
 8 data.⁵

9 6. In Decision No. 67744 (April 7, 2005), pertaining to APS ratemaking, the
 10 Commission approved a settlement agreement that required Staff to hold workshops on resource
 11 planning issues and provided that the workshops could be followed by rulemaking, if necessary. The
 12 workshops were to be open to all stakeholders and the public; were to focus on developing needed
 13 infrastructure and a flexible, timely, and fair competitive procurement process; and were to consider
 14 whether and to what extent competitive procurement should include consideration of a diverse
 15 portfolio of purchased power, utility-owned generation, renewables, demand-side management
 16 (“DSM”), and distributed generation.

17 7. Workshops on resource planning were held on July 6, 2005, and August 24, 2005.

18 8. In April, May, and July 2007, Staff held resource planning workshops for competitive
 19 procurement issues. Written comments on competitive procurement issues were filed by eight
 20 entities. Staff issued a Draft Staff Report on Competitive Procurement Issues in October 2007, to
 21 which six entities filed comments. Staff then issued a Final Staff Report on Competitive
 22 Procurement Issues in November 2007, recommending that the Commission adopt Recommended
 23

24 ³ The portions of the current IRP rules suspended were A.A.C. R14-2-703(A)(2), R14-2-703(A)(4)-(9), R14-2-703(C)-
 (F), and R14-2-704.

25 ⁴ The hearing on the 1995 resource plans had been stayed pending proposed Staff modifications to the current IRP
 26 rules that were spurred by changes in the electric industry, including changes expected to result from the Commission’s
 27 adoption of retail electric competition rules in Decision No. 59943 (December 26, 1996). AEPCO, APS, CUC, TEP,
 SRP, and the Residential Utility Consumer Office (“RUCO”) had all indicated to the Commission that the current IRP
 rules needed to be either revised or repealed in light of impending electric industry competition, the passage of the retail
 electric competition rules, and other changes in the industry. Staff agreed that the 1995 resource plans had been prepared
 without full consideration of the retail electric competition rules or impending competition.

28 ⁵ The Procedural Order was issued in Docket No. E-00000A-95-0506.

1 Best Practices for Procurement rather than conducting rulemaking at that time. On December 4,
2 2007, the Commission adopted Recommended Best Practices for Procurement ("BPPs") in Decision
3 No. 70032.

4 9. On April 26, 2007, Staff issued a list of questions on non-procurement resource
5 planning issues along with a request for written responses from interested parties. Thirteen entities
6 filed responses. A workshop was held on June 22, 2007. Additional workshops on non-procurement
7 resource planning issues were held in January, August, and October 2008.

8 10. On August 29, 2008, Staff distributed to interested parties a first draft of revisions to
9 the current IRP rules, which included both the BPPs and provisions for the consideration of fuel
10 diversity and efficiency of generation resources.

11 11. On October 3, 2008, Staff distributed to interested parties a second draft of revisions
12 to the current IRP rules. Comments were received from APS, Grand Canyon State Electric
13 Cooperative Association ("GCSECA"), the Mesquite Group, TEP and UNS, and Western Resource
14 Advocates ("WRA").

15 12. On May 19, 2009, Staff filed a memorandum requesting to have a docket opened for a
16 proposed rulemaking regarding resource planning. As a result, this docket was opened.

17 13. On September 4, 2009, Staff distributed to interested persons and filed in this docket a
18 third draft of revisions to the current IRP rules. Comments were filed by AEPCO, APS, GCSECA on
19 behalf of the electric cooperatives, TEP and UNS, and WRA.

20 14. On November 2, 2009, Staff filed in this docket a Memorandum recommending the
21 filing of a Notice of Rulemaking Docket Opening ("NRDO") and a Notice of Proposed Rulemaking
22 ("NPRM") to revise the current IRP rules, along with additional procedural deadlines and
23 requirements. Along with the Memorandum, Staff included a Proposed Order and a fourth draft of
24 revisions to the current IRP rules ("fourth draft"), for Commission consideration at an Open Meeting.
25 Per Staff's Memorandum, the fourth draft incorporated some of the comments received regarding the
26 third draft of revisions to the current IRP rules.

27 15. The Proposed Order came up for discussion at the Commission's Open Meeting on
28 November 20, 2009, and was continued for discussion at the Commission's Open Meeting on

1 December 7, 2009, at which it passed, with amendments.

2 16. Decision No. 71435 (December 15, 2009) directed Staff to prepare and file with the
3 Office of the Secretary of State, for publication in the *Arizona Administrative Register* no later than
4 January 15, 2010, an NRDO and an NPRM that included the text of the draft rules included as
5 Exhibit A to the Decision.⁶ The Decision also ordered the Hearing Division to hold an oral
6 proceeding on the NPRM on March 4, 2010; established dates for the submission of comments; and
7 established other procedural deadlines and requirements.

8 17. On January 8, 2010, the NRDO and NPRM were published in the *Arizona*
9 *Administrative Register*. The NPRM is attached hereto and incorporated herein as Exhibit A.

10 18. The NPRM proposes to revise the current IRP rules by amending the title for Article 7
11 and Sections A.A.C. R14-2-701 through R14-2-704 ("Rules 701 through 704") and adopting new
12 Sections for procurement and independent monitor selection and responsibilities in Sections A.A.C.
13 R14-2-705 and R14-2-706 ("Rules 705 and 706"). The most significant differences between the
14 current IRP rules and the proposed IRP rules published in the NRPM ("proposed IRP rules") are that
15 the proposed IRP rules:

- 16 a. Apply only to load-serving entities, defined as those public service
17 corporations that provide electricity generation service and operate or own, in
18 whole or in part, a generating facility or facilities with capacity of at least 50
19 megawatts combined;
- 20 b. Delete numerous demand-side data fields from historical data filing
21 requirements;
- 22 c. Change the forecasting and planning horizon from 10 years to 15 years;
- 23 d. Require submission of forecasts, analyses, and plans (other than the work plan)
24 every even year rather than every 3 years;
- 25 e. Require load-serving entities to submit data regarding air emissions, water
26 consumption, and tons of coal ash produced;
- 27

28 ⁶ The fourth draft was revised during the Open Meeting through amendments.

- 1 f. Require load-serving entities to analyze and address in their plans
2 environmental impacts related to air emissions, solid waste, and other
3 environmental factors and reduction of water consumption and to address the
4 costs for compliance with current and projected environmental regulations;
- 5 g. Require that a 15-year resource plan:
- 6 i. Address energy efficiency so as to meet Commission requirements;
- 7 ii. Include renewable energy resources so as to meet the Annual
8 Renewable Energy Requirement in A.A.C. R14-2-1804 or a specified
9 annual percentage; and
- 10 iii. Include distributed generation energy resources so as to meet the
11 Distributed Renewable Energy Requirement in A.A.C. R14-2-1805 or a
12 specified annual percentage;
- 13 h. Require submission every odd year of a work plan that outlines the 15-year
14 resource plan (due the next year) and sets forth the load-serving entity's
15 method for assessing potential resources, the sources of its current
16 assumptions, and a general outline of the procedures it will follow for public
17 input;
- 18 i. Address the use of confidentiality agreements to protect confidential business
19 data or electricity infrastructure information required to be submitted under the
20 proposed IRP rules;
- 21 j. Establish a deadline for Staff to file a report including its analysis and
22 conclusions regarding the plans and analyses filed by load-serving entities;
- 23 k. Establish a deadline for the Commission to issue an order either
24 acknowledging a load-serving entity's resource plan or stating the reasons for
25 not acknowledging the resource plan;
- 26 l. Require the Commission, in considering a resource plan, to consider additional
27 factors;
- 28 m. Make a Commission hearing on a resource plan discretionary, allow for a

1 Commission workshop on a resource plan, and provide that the Commission
2 may extend its order deadline if a hearing or workshop is held;

- 3 n. Require the Commission to consider a load-serving entity's historical data,
4 analyses, and plans when evaluating the load-serving entity's performance in
5 rate cases and other proceedings;
- 6 o. Allow a load-serving entity to file for approval of specific resource planning
7 actions;
- 8 p. Allow a load-serving entity to file an amendment to an acknowledged resource
9 plan if conditions or assumptions change materially;
- 10 q. Establish requirements for load-serving entity procurement methods for the
11 wholesale acquisition of energy, capacity, and physical power hedge
12 transactions;
- 13 r. Require a load-serving entity to engage an independent monitor to oversee all
14 request for proposal ("RFP") processes for procurement of new resources; and
- 15 s. Establish a process for selecting an independent monitor, provisions for
16 payment of independent monitor costs and potential recovery of those costs,
17 and responsibilities of an independent monitor.

18 19. On January 15, 2010, Staff filed an Economic, Small Business, and Consumer Impact
19 Statement ("EIS"). The EIS is attached hereto and incorporated herein as Exhibit B.

20 20. On February 16, 2010, WRA filed comments on the proposed IRP rules.

21 21. On March 2, 2010, Staff filed Staff's Response to Written Comments in this matter,
22 which is attached hereto and incorporated herein as Exhibit C-1.

23 22. On March 4, 2010, an oral proceeding on the proposed IRP rules was held at the
24 Commission's offices in Phoenix, Arizona. Staff appeared through counsel, provided a statement
25 summarizing the purpose of the proposed IRP rules, and provided Staff's analysis of the applicability
26 to this rulemaking of Laws 2009, Chapter 7, § 28 (3rd Special Session) ("Moratorium"). Staff also
27 answered a number of questions from the presiding officer related to the language of the proposed
28 IRP rules. Interwest Energy Alliance provided public comment in support of the rulemaking, and

1 two individuals provided public comment urging the Commission to adopt energy efficiency
2 standards and goals.⁷

3 23. On April 1, 2010, Staff filed Staff's Response to Oral Comments in this matter, which
4 is attached hereto and incorporated herein as Exhibit C-2. Staff included several recommendations
5 for clarifying changes to the language of the proposed IRP rules. In addition, Staff asserted that it is
6 not necessary to make any revisions to the EIS filed on January 15, 2010.

7 **Authority for this Rulemaking**

8 24. The Commission possesses the authority to engage in rulemaking under both its
9 constitutional authority and its statutory authority endowed by the legislature. In the NPRM, Staff
10 cited both constitutional authority and statutory authority for this rulemaking.⁸

11 25. Article 15, § 3 of the Arizona Constitution ("Art. 15, § 3") provides, in pertinent part:

12 The Corporation Commission shall have full power to, and shall, prescribe
13 just and reasonable classifications to be used and just and reasonable rates
14 and charges to be made and collected, by public service corporations
15 within the State for service rendered therein, and make reasonable rules,
16 regulations, and orders, by which such corporations shall be governed in
17 the transaction of business within the State . . . and make and enforce
reasonable rules, regulations, and orders for the convenience, comfort, and
safety, and the preservation of the health, of the employees and patrons of
such corporations. . . .

18 The Arizona Supreme Court has declared that this constitutional provision gives the Commission
19 exclusive authority to establish rates and to enact rules that are reasonably necessary steps in
20 ratemaking and, further, that deference must be given to the Commission's determination of what
21 regulation is reasonably necessary for effective ratemaking.⁹

22 26. As is discussed further below, the Commission finds that the proposed IRP Rules are
23 reasonably necessary for effective ratemaking and thus that this rulemaking is wholly authorized

24 ⁷ The two individuals, a married couple who are SRP customers, were informed that the Commission also has a
25 pending rulemaking for electric energy efficiency rules and were provided with the NPRM for that rulemaking, for which
the oral proceeding was scheduled on March 5, 2010.

26 ⁸ Specifically, Staff cited the following: Arizona Const. Art. 15, § 3; A.R.S. §§ 40-202, 40-203, 40-321, 40-322, 40-
281, and 40-282.

27 ⁹ *Arizona Corporation Comm'n v. Woods*, 171 Ariz. 286, 294 (1992) ("*Woods*") (concluding that the Commission had
28 the authority under its constitutional ratemaking power to enact its Affiliated Interest rules, because they are reasonably
necessary for ratemaking, and giving deference to the Commission's determination of what regulation is reasonably
necessary for effective ratemaking).

1 under Art. 15, § 3. However, without waiving its position that this rulemaking is wholly authorized
 2 by Art. 15, § 3, the Commission also sets forth herein its statutory authority, and its additional
 3 constitutional authority, for this rulemaking.

4 27. A.R.S. § 40-202(A) provides: "The commission may supervise and regulate every
 5 public service corporation in the state and do all things, whether specifically designated in this title or
 6 in addition thereto, necessary and convenient in the exercise of that power and jurisdiction." This
 7 language, although very broad, has been interpreted by the Arizona Supreme Court as bestowing no
 8 additional powers on the Commission other than those already granted by the Arizona Constitution or
 9 specifically granted elsewhere by the legislature, although the Court acknowledged that it also
 10 provides the Commission the authority to do those things necessary and convenient in the exercise of
 11 the powers so granted.¹⁰

12 28. A.R.S. § 40-203 states:

13 When the commission finds that the rates, fares, tolls, rentals, charges or
 14 classifications, or any of them, demanded or collected by any public
 15 service corporation for any service, product or commodity, or in
 16 connection therewith, or that the rules, regulations, practices or contracts,
are unjust, discriminatory or preferential, illegal or insufficient, the
commission shall determine and prescribe them by order, as provided in
this title.¹¹

17 29. A.R.S. § 40-321(A) states:

18 When the commission finds that the equipment, appliances, facilities or
 19 service of any public service corporation, or the methods of manufacture,
 20 distribution, transmission, storage or supply employed by it, are unjust,
 21 unreasonable, unsafe, improper, inadequate or insufficient, the
 22 commission shall determine what is just, reasonable, safe, proper,
 adequate or sufficient, and shall enforce its determination by order or
 regulation.

23 30. A.R.S. § 40-322(A) states, in pertinent part:

24 The commission may:

- 25 1. Ascertain and set just and reasonable standards, classifications,
 26 regulations, practices, measurements or service to be furnished and
 followed by public service corporations other than a railroad.
- 27 2. Ascertain and fix adequate and serviceable standards for the

28 ¹⁰ *Southern Pacific Co. v. Arizona Corp. Comm'n*, 98 Ariz. 339, 348 (1965).

¹¹ A.R.S. § 40-203 (emphasis added).

1 measurement of quantity, quality, pressure, initial voltage or other
2 condition pertaining to the supply of the product, commodity or service
3 furnished by such public service corporation.

3. Prescribe reasonable regulations for the examination and testing of the
product, commodity or service and for the measurement thereof.

4 31. A.R.S. §§ 40-281 and 40-282 require a public service corporation to obtain a
5 Certificate of Convenience and Necessity ("CC&N") from the Commission before constructing any
6 plant or system, prohibit a public service corporation from exercising any right or privilege under a
7 franchise or permit without first obtaining a CC&N, and authorize the Commission to attach to the
8 exercise of rights under a CC&N such terms and conditions as the Commission deems that the public
9 convenience and necessity require. (See A.R.S. §§ 40-281(A), (C); 40-282(C).)

10 32. The Commission has authority for this rulemaking, both constitutional and statutory,
11 specifically with regard to requiring public service corporations to file information with the
12 Commission. Article 15, § 13 of the Arizona Constitution provides: "All public service corporations
13 . . . shall make such reports to the Corporation Commission, under oath, and provide such information
14 concerning their acts and operations as may be required by law, or by the Corporation Commission."

15 In addition, A.R.S. § 40-204(A) states:

16 Every public service corporation shall furnish to the commission, in the
17 form and detail the commission prescribes, tabulations, computations,
18 annual reports, monthly or periodical reports of earnings and expenses,
19 and all other information required by it to carry into effect the provisions
of this title and shall make specific answers to all questions submitted by
the commission. If a corporation is unable to answer any question, it shall
give a good and sufficient reason therefor.

20 These provisions grant the Commission authority to require a public service corporation to provide
21 reports concerning both past business activities and future plans.¹²

22 33. In addition, by its plain language, Art. 15, § 3 grants the Commission authority to
23 regulate public service corporations in areas other than ratemaking, specifically authorizing the
24 Commission to "make and enforce reasonable rules, regulations, and orders for the convenience,
25 comfort, and safety, and the preservation of the health, of the employees and patrons of [public
26

27
28 ¹² *Arizona Pub. Serv. Co. v. Arizona Corp. Comm'n*, 155 Ariz. 263 (App. 1987), approved in part, vacated in part, 157 Ariz. 532 (1988).

1 service] corporations.”¹³

2 **Rationale for the Rulemaking**

3 34. At the oral proceeding for this rulemaking, Staff explained:

4 The purpose of resource planning is for load-serving entities to meet the
5 electric needs of their customers by choosing the best mix of resources
6 with input from stakeholders in a transparent process, with consideration
7 of reliability, deliverability, cost, environmental impacts, risk, other
8 utilities’ plans, and public policy. The proposed rulemaking would update
9 the existing resource planning rules and add sections on procurement and
10 on independent monitor selection and responsibilities.¹⁴

11 35. Regulating electric utilities’ resource portfolios¹⁵ is an essential part of the
12 Commission’s efforts to meet its constitutional obligation to “prescribe just and reasonable rates and
13 charges to be made and collected . . . by public service corporations within the State for service
14 rendered therein”¹⁶ because a utility’s resource portfolio largely dictates its physical assets and
15 expenses.

16 36. The public service corporations that currently meet the definition of “load-serving
17 entity” are AEPCO, APS, UNS, and TEP, all of whom are electric utilities subject to the current IRP
18 rules, and none of whom are small businesses.

19 37. Arizona currently has a monopoly market structure for electric utilities. The
20 Commission generally sets rates for the electric utilities using the following formula: (Rate Base x
21 Rate of Return) + Expenses = Revenue Requirement. “Rate Base” is the dollar value of the physical
22 assets prudently acquired and used and useful in the provision of utility service. “Rate of Return” is
23 the authorized return on the utility’s rate base and is expressed as a percentage. “Expenses” are the
24 reasonable and prudent costs of service that cannot be capitalized, such as purchased power costs,
25 fuel costs, salaries, and taxes. The resulting “Revenue Requirement” is the amount that a utility is
26 authorized to collect from its customers through its rates and that the rates adopted by the
27 Commission are designed to produce. Thus, the rates that a utility is authorized to charge its

28 ¹³ Ariz. Const., Art. 15, § 3. The Commission is aware of *Arizona Corp. Comm’n v. Pacific Greyhound Lines*, 54 Ariz. 159 (1939) (“*Pacific Greyhound*”) and its progeny.

¹⁴ Tr. at 4.

¹⁵ A utility’s resource portfolio is the collection of assets or obligations used to generate electricity or procure electricity in the wholesale market.

¹⁶ See Ariz. Const., Art. 15, § 3; Decision No. 69127 (November 14, 2006).

1 customers are inextricably related to the amount of physical assets (such as generation plant facilities)
2 used by the utility and the costs of service incurred by the utility (such as costs of purchasing power
3 to meet peak load and the costs of the fuel sources used to generate electricity).

4 38. If load-serving entities are permitted to recover the costs of compliance with the
5 revised IRP rules through ratemaking (because the costs of compliance are included as reasonable and
6 prudent expenses), the load-serving entities' revenue requirements will be impacted.

7 39. The increased generation source diversity required in load-serving entities' long-term
8 resource plans under the revised IRP rules will impact the load-serving entities' rate base (as a result
9 of decisions regarding whether to build additional plant, how much, and of what type) and the load-
10 serving entities' expenses (likely by lowering costs through decreased reliance on volatile and
11 uncertain fossil-fuel based generation and increased use of more stable fuel sources) and should result
12 in long-term cost savings to the load-serving entities and thus to their customers because of decreased
13 reliance on volatile fossil-fuel based generation and increased reliability and cost stability.

14 40. The increased generation source diversity required in load-serving entities' long-term
15 resource plans, and the requirement for load-serving entities to consider and address environmental
16 impacts, such as air emissions, coal ash, and water consumption, should result in benefits to the
17 public at large that cannot be adequately quantified at this time.

18 41. Because the procurement process set forth in the rules is generally consistent with the
19 BPPs previously adopted by the Commission, the procurement process should not result in a
20 significant change in costs to load-serving entities.

21 42. In the Decision adopting the Renewable Energy Standard and Tariff Rules ("REST
22 Rules")¹⁷ (which require affected utilities¹⁸ to satisfy an annual renewable energy requirement by
23 obtaining renewable energy credits from eligible renewable energy resources and to satisfy a
24 distributed renewable energy requirement by obtaining renewable energy credits from distributed
25 renewable energy resources), the Commission made the following specific findings, which we affirm
26 herein:

27 ¹⁷ The REST Rules are codified at A.A.C. R14-2-1801 through R14-2-1815.

28 ¹⁸ An affected utility is a public service corporation serving retail electric load in Arizona that is not a utility
distribution company with more than half of its customers located outside of Arizona. (A.A.C. R14-2-1801.)

- 1 a. Electric utilities' generation portfolios consist primarily of fossil fuel
2 resources;
- 3 b. Electric utilities need to add new generation resources to their portfolios to
4 meet load growth and ensure adequate service to customers;
- 5 c. Electric utilities' generation portfolios lack adequate and sufficient diversity to
6 promote and safeguard the security, convenience, health, and safety of their
7 customers and the Arizona public;
- 8 d. Renewable energy sources rely on free energy or very low-cost energy, are less
9 polluting than conventional energy sources, and are not subject to the same
10 price fluctuations and transportation disruptions as are conventional fossil fuel
11 energy sources;
- 12 e. Continued reliance on fossil fuel generation resources without the addition of
13 renewable generation resources is inadequate and insufficient to promote and
14 safeguard the security, convenience, health, and safety of electric utilities'
15 customers and the Arizona public and is thus unjust, unreasonable, unsafe, and
16 improper;
- 17 f. It is just, reasonable, proper, and necessary to require a diverse fuel supply for
18 Arizona's electricity needs in order to reduce reliance on fossil fuel energy
19 sources in Arizona and promote and safeguard the security, convenience,
20 health, and safety of electric utilities' customers and the Arizona public;
- 21 g. Electric service provided from renewable resources is in the public interest;
22 and
- 23 h. It is just, reasonable, proper, and necessary for the Commission to require
24 electric utilities to include a minimum amount of renewable resources in their
25 energy portfolios in order to reduce air pollution emissions and their associated
26 external costs and to promote and safeguard the security, convenience, health,
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1 and safety of their customers and the Arizona public.¹⁹

2 43. The proposed IRP rules are designed to ensure that the costs and rates for electric
3 service over the long-run are just and reasonable, that electric service to Arizona customers is
4 adequate and reliable, and that adverse environmental impacts from fossil-fuel generation are
5 minimized to the extent feasible. The proposed IRP rules will accomplish this by requiring load-
6 serving entities to engage in long-term resource planning, to factor adverse environmental impacts
7 and energy efficiency into their planning processes, to consider using a wide range of resources
8 within their resource portfolios to promote fuel and technology diversity within their resource
9 portfolios, to diversify their energy resource portfolios by meeting established standards for
10 renewable energy resources and distributed generation energy resources, and to use procurement
11 processes based on the BPPs adopted in Decision No. 70032. To ensure that the Commission is kept
12 informed and is able to monitor load-serving entities' resource planning processes, the proposed IRP
13 rules also require the load-serving entities to continue submitting historical data to the Commission
14 and to submit projections, work plans, and action plans to the Commission. The proposed IRP rules
15 are the progeny of a long line of rate-regulating rules and regulations; are reasonably necessary for
16 effective ratemaking and for the convenience, comfort, safety, and preservation of health of the
17 patrons of load-serving entities; and will result in the adoption of just, reasonable, safe, proper,
18 adequate, and sufficient standards for load-serving entities' resource plans.

19 **Rulemaking Requirements**

20 44. A.R.S. § 41-1057(2) exempts Commission rules from A.R.S. Title 41, Chapter 6,
21 Article 5, pertaining to review and approval of rulemakings by the Governor's Regulatory Review
22 Council, but requires the Commission to "adopt substantially similar rule review procedures,
23 including the preparation of an economic impact statement and a statement of the effect of the rule on
24 small business."

25 45. A.R.S. § 41-1022(E) provides that if, as a result of public comment or internal review,
26 an agency determines that a proposed rule requires substantial change pursuant to A.R.S. § 41-1025,
27

28 ¹⁹ See Decision No. 69127 at 54-55.

1 the agency shall issue a supplemental notice containing the changes in the proposed rule and shall
 2 provide for additional public comment pursuant to A.R.S. § 41-1023.

3 46. A.R.S. § 41-1025 provides that an agency must consider all of the following in
 4 determining whether changes to a rule constitute a substantial change from the rule as proposed:

5 1. The extent to which all persons affected by the rule should
 6 have understood that the published proposed rule would affect their
 7 interests.

8 2. The extent to which the subject matter of the rule or the
 9 issues determined by that rule are different from the subject matter or
 10 issues involved in the published proposed rule.

11 3. The extent to which the effects of the rule differ from the
 12 effects of the published proposed rule if it had been made instead.²⁰

13 47. A.R.S. § 41-1044 requires the Attorney General to review rules that are exempt
 14 pursuant to A.R.S. § 41-1057 as to form and whether the rules are clear, concise, and understandable;
 15 within the power of the agency to make; within the enacted legislative standards; and made in
 16 compliance with appropriate procedures.

17 48. Although Commission rules generally are subject to review and certification by the
 18 Attorney General under A.R.S. § 41-1044 before they become effective, Commission rules
 19 promulgated pursuant to the Commission's exclusive constitutional ratemaking authority need not be
 20 submitted to the Attorney General for certification.²¹ However, a single rulemaking may contain both
 21 rules that require Attorney General certification and rules that do not because they are made under the
 22 Commission's constitutional ratemaking authority.²²

23 49. The Moratorium provides that for fiscal year 2009-2010, an agency shall not conduct
 24 any rulemaking that would impose increased monetary or regulatory costs on other state agencies,
 25 political subdivisions, persons, or individuals or would not reduce the regulatory burden on the
 26 persons or individuals so regulated. By its own terms, the Moratorium does not apply to rulemakings
 27 "[t]o fulfill an obligation related to fees, rates, fines or regulations that are expressly delineated in the
 28 constitution of this state" or "[t]o eliminate or replace archaic or illegal rules," among others.

²⁰ A.R.S. § 41-1025(B).

²¹ *Corbin v. Arizona Corp. Comm'n*, 174 Ariz. 216, 219 (App. 1992); *Phelps Dodge Corp. v. AEPCO*, 207 Ariz. 95, 115 (App. 2004) ("*Phelps Dodge*").

²² *See, e.g., Phelps Dodge*, 207 Ariz. at 129-30.

1 (Moratorium subsections (B)(4), (7).) The Moratorium further provides that an agency shall not
 2 conduct any rulemaking permitted by the Moratorium without the prior written approval of the
 3 Governor, but expressly exempts the Commission from that requirement. (Moratorium subsection
 4 (C).)

5 50. Because the Commission is conducting this rulemaking to fulfill its constitutional
 6 ratemaking obligation under Art. 15, § 3, this rulemaking is not prohibited by the Moratorium. In
 7 addition, the Commission is not required, by the express terms of the Moratorium, to obtain Governor
 8 approval before proceeding with this rulemaking.

9 51. Although the Commission finds that this rulemaking is being conducted to fulfill the
 10 Commission's constitutional obligation under Art. 15, § 3, and pursuant to its plenary and exclusive
 11 ratemaking authority under Art. 15, § 3, and thus that the Commission is not required to obtain
 12 Attorney General certification of this rulemaking under A.R.S. § 41-1044, the Commission finds that
 13 it is prudent, in an abundance of caution and without waiving its position as to its constitutional
 14 authority for the rulemaking, to submit this rulemaking to the Attorney General for certification.

15 Public Comments

16 52. The Commission received one set of written comments, from WRA, after the
 17 publication of the NPRM. WRA stated that the proposed IRP rules are in the public interest and
 18 should be adopted by the Commission, with a few clarifications, and that the proposed IRP rules have
 19 many strengths, including explicit reference to environmental impacts of power generation,
 20 recognition of the uncertainties encountered in planning, recognition of the multiple objectives of
 21 resource planning, the public input process to be used in creating resource plans, and Commission
 22 acknowledgment of resource plans. WRA further stated:

23 Arizona electric utilities will be making numerous resource decisions in
 24 the coming decades and their choices will affect electric rates, their own
 25 financial condition, and environmental quality. These decisions will be
 26 made in a fog of uncertainty and the resource planning process can help
 manage the risks posed by uncertain fuel prices, uncertain capital costs for
 new resources, risks to cost recovery, and potential costs of reducing
 environmental impacts.

27 WRA requested that the following clarifying changes be made to the proposed IRP rules:

28 a. In Rule 701(33), in the definition of "Production Cost," that the phrase

1 “(including fuel cost),” which was stricken in the proposed IRP rules, be
2 restored;

3 b. In Rule 704(B), that “Environmental impacts of resource choices and
4 alternatives” be listed as a factor to be considered by the Commission, to make
5 the rule consistent with the numerous provisions²³ in the proposed IRP rules
6 requiring environmental impacts to be addressed; and

7 c. In Rule 703(F)(6), at the end of the subsection, that “or in an order of the
8 Commission” be added to clarify that an energy efficiency requirement set by
9 the Commission by order rather than by rule would need to be met in a load-
10 serving entity’s resource plan.

11 53. The Commission did not receive any other written comments to the proposed IRP
12 rules during the formal comment period after the NPRM was published on January 8, 2010.

13 54. During the oral proceeding in this matter, on March 4, 2010, the Commission received
14 oral comments from Interwest Energy Alliance, a participant in the Commission’s public process to
15 develop the proposed IRP rules, and from two private individuals who are customers of SRP.
16 Interwest Energy Alliance asserted that the public process was a very good process, with broad
17 participation and much collaboration; that the procurement methodology and independent monitor
18 provisions in the proposed IRP rules are very important for independent developers and are important
19 for making sure that good resources are obtained in the future; and that the proposed IRP rules will be
20 “a very important tool for commissioners, for utilities, [and] for stakeholders moving forward to be
21 able to evaluate really complex issues that we’re starting to face in energy.”²⁴ One of the private
22 individuals urged the Commission to adopt aggressive energy efficiency standards and goals in rules,
23 and both of the private individuals expressed support for the direction the Commission is taking with
24 regard to energy efficiency.²⁵

25 55. A document summarizing the written and oral comments received on the proposed

26 ²³ WRA asserted that the proposed IRP rules include more than a dozen passages pertaining to analysis and
27 consideration of the environmental aspects of various generation resources and their alternatives, citing Rule 703(D)(17)
and Rule 703(F)(3) as two such examples.

28 ²⁴ Tr. at 12.

²⁵ See Tr. at 13-17.

1 IRP rules and providing the Commission's responses to those comments is attached hereto as Exhibit
 2 E and incorporated herein. The summary of comments and the Commission's responses to those
 3 comments, as set forth in Exhibit E, should be included in the Preamble for a Notice of Final
 4 Rulemaking in this matter.

5 **Probable Economic Impacts**

6 56. Staff's EIS asserts that load-serving entities may incur additional costs as a result of
 7 this rulemaking because they will be required to increase their analyses and reporting activities; that
 8 these additional costs may be recovered through load-serving entities' rates to customers; and that
 9 customers of load-serving entities (private entities or political subdivisions) will benefit from
 10 expanded resource planning that considers the total cost of electric energy services, reliability, and
 11 risk and may benefit from a fair and transparent procurement process that will encourage the lowest
 12 prices for the acquisition of resources. We find that these assertions are accurate and should be
 13 included in the EIS for this rulemaking.

14 57. We also find that the information set forth in Findings of Fact Nos. 36 through 41
 15 should be added to the EIS for this rulemaking to reflect more fully the rulemaking's impacts.

16 **Staff's Recommendations**

17 58. Staff recommends the following changes to the language of the proposed IRP rules as
 18 published in the NPRM:

- 19 a. The changes requested by WRA in its written comments, as set forth in
 20 Findings of Fact No. 52, which Staff asserts are clarifications;²⁶
- 21 b. In 703(D)(1)(h), that the language “, including the cost of compliance with
 22 existing and expected environmental regulations” be added at the end of the
 23 subsection to accommodate language currently included in 703(D)(17) but
 24 more appropriately included in 703(D)(1)(h);
- 25 c. In 703(D)(17), in the first sentence, that the language “a plan” be deleted

26 ²⁶ Staff asserted that not including “or in an order of the Commission” in Rule 703(F)(6) was an oversight, as it was
 27 always contemplated that any Commission energy efficiency standards set by order as opposed to rule would be
 28 addressed in resource plans. (Tr. at 10.) In addition, Staff asserted that adding the concept of environmental impact to the
 factors to be considered in Rule 704(B) is merely a clarification, as Staff considered environmental impacts to be
 encompassed within Rule 704(B)(7) and/or 704(B)(8). (Tr. at 11.)

1 before “for reducing water consumption” to clarify that reducing water
 2 consumption can be included in the plan for reducing environmental impacts;

3 d. In 703(D)(17), that the second sentence be deleted because it is more
 4 appropriate for the language to be included in 703(D)(1)(h) and because the
 5 language is redundant with 703(E)(1)(d);

6 e. In 703(D)(17), that the last two sentences be deleted and moved to a separate
 7 subsection 703(I), with conforming changes, because a separate subsection
 8 would be a more appropriate location;

9 f. In 703(F)(4), that the language preceding the list be revised to read “Will
 10 include renewable energy resources to meet or exceed the greater of the
 11 Annual Renewable Energy Requirement in R14-2-1804 or the following
 12 annual percentages of retail kWh sold by the load-serving entity” to improve
 13 clarity;

14 g. In 703(F)(5), that the language preceding the list be revised to read “Will
 15 include distributed generation energy resources to meet or exceed the greater
 16 of the Distributed Renewable Energy Requirement in R14-2-1805 or the
 17 following annual percentages as applied to the load-serving entity’s Annual
 18 Renewal Energy Requirement” to improve clarity; and

19 h. In 706(D), that the language “Staff considers to be qualified” be changed to
 20 read “Staff has determined to be qualified” to improve clarity.

21 **Resolution**

22 59. The changes recommended by Staff as set forth in Findings of Fact No. 58 would
 23 increase the clarity, conciseness, and understandability of the proposed IRP rules and should be
 24 adopted.

25 60. The changes recommended by Staff as set forth in Findings of Fact No. 58 would not
 26 result in a substantial change to the proposed IRP rules, as determined under A.R.S. § 41-1025, and
 27 would not necessitate a Notice of Supplemental Proposed Rulemaking because they will not change
 28 the persons affected by the rules, the subject matter of the rules, the issues determined by the rules, or

1 the effects of the rules.

2 61. As published in the NPRM, the proposed IRP rules included several minor errors that
3 should be corrected in the Notice of Final Rulemaking for this rulemaking,²⁷ specifically:

- 4 a. In subsection 703(D)(3)(c), the words "An explanation of" should be removed
5 as redundant and replaced with "~~the~~ The";
- 6 b. In subsection 703(B)(1)(i), a stricken comma should appear before the
7 underlined semicolon;
- 8 c. In subsection 703(D)(14)(d), commas should be included before "including"
9 and after "consumption";
- 10 d. In subsection 704(D), the misspelling of "acknowledgment" should be
11 corrected, and "the" should be underlined after "The";
- 12 e. The labels for subsections 703(B)(1)(l), (B)(1)(p), and (B)(4) should not be in
13 ~~strikeout~~; and
- 14 f. The labels for subsections 703(D) and (E) should not be in ~~strikeout~~.

15 62. The proposed IRP rules, with the changes recommended by Staff in Findings of Fact
16 No. 58 and the minor corrective changes described in Findings of Fact No. 61 ("revised IRP rules"),
17 are set forth in Exhibit D and incorporated herein and should be adopted by the Commission.

18 63. The revised IRP rules, as set forth in Exhibit D, should be submitted to the Attorney
19 General's Office for approval pursuant to A.R.S. § 41-1044, in the form of a Notice of Final
20 Rulemaking that includes a Preamble complying with A.R.S. § 41-1001(14)(d), along with a separate
21 Economic, Small Business, and Consumer Impact Statement that combines the information contained
22 in the EIS filed by Staff and the information set forth in Findings of Fact Nos. 36 through 41.

23 CONCLUSIONS OF LAW

24 1. Pursuant to Arizona Constitution, Art. 15, § 3, the Commission has authority and
25 jurisdiction to amend Article 7 and Rules 701 through 704 and to adopt Rules 705 and 706 as
26 reflected in Exhibit D.

27
28 ²⁷ Several of these errors appear to have resulted from changes made at the Office of the Secretary of State.

1 2. The revised IRP rules, as set forth in Exhibit D, are reasonably necessary steps for
2 effective rulemaking and are reasonably necessary for the convenience, comfort, safety, and
3 preservation of health of the patrons of load-serving entities and will result in the adoption of just,
4 reasonable, safe, proper, adequate, and sufficient standards for load-serving entities' resource plans.

5 3. Because the Commission is adopting the revised IRP rules to fulfill its constitutional
6 ratemaking obligation under Art. 15, § 3, this rulemaking is not prohibited by Laws 2009, Chapter 7,
7 § 28 (3rd Special Session).

8 4. Although the Commission is not required to submit rulemakings authorized by the
9 Commission's constitutional authority under Art. 15, § 3 to the Attorney General for certification
10 under A.R.S. § 41-1044, it is permissible for the Commission to do so, and the Commission's
11 decision to do so does not constitute a waiver of its position that this rulemaking is wholly authorized
12 by Art. 15, § 3.

13 5. Pursuant to Arizona Constitution, Art. 15, §§ 3 and 13 and A.R.S. §§ 40-202(A), 40-
14 203, 40-204(A), 40-281(A), 40-282(C), 40-321(A), and 40-322(A), the Commission has additional
15 authority and jurisdiction to amend Article 7 and Rules 701 through 704 and to adopt Rules 705 and
16 706 as reflected in Exhibit D.

17 6. Notice of the oral proceeding regarding the NPRM was provided in the manner
18 prescribed by law.

19 7. Article 7 and Rules 701 through 706, as set forth in Exhibit D, contain no substantial
20 changes from the proposed IRP rules as published in the NPRM.

21 8. Article 7 and Rules 701 through 706, as set forth in Exhibit D, are clear, concise, and
22 understandable; within the Commission's power to make; within enacted legislative standards; and
23 made in compliance with appropriate procedures.

24 9. Adoption of Article 7 and Rules 701 through 706, as set forth in Exhibit D, is in the
25 public interest.

26 10. A separate Economic, Small Business, and Consumer Impact Statement that combines
27 the information contained in the EIS filed by Staff and the information set forth in Findings of Fact
28 Nos. 36 through 41 will comply with A.R.S. § 41-1057(2) and should be adopted.

1 11. The summary of the written and oral comments received concerning the NPRM and
 2 the Commission's responses to those comments set forth in Exhibit E are accurate, will comply with
 3 A.R.S. § 41-1001(14)(d), and should be included in the Preamble for the Notice of Final Rulemaking
 4 for this matter.

5 **ORDER**

6 IT IS THEREFORE ORDERED that Arizona Administrative Code Title 14, Chapter 2,
 7 Article 7, and Rules R14-2-701 through R14-2-706, as set forth in Exhibit D, are hereby adopted.

8 IT IS FURTHER ORDERED that the Commission's Utilities Division Staff/Legal Division
 9 Staff shall create a separate Economic, Small Business, and Consumer Impact Statement that
 10 combines the information contained in the EIS filed by Staff and the information set forth in Findings
 11 of Fact Nos. 36 through 41 and that the Commission hereby adopts the separate Economic, Small
 12 Business, and Consumer Impact Statement so created.

13 IT IS FURTHER ORDERED that the Commission's Utilities Division Staff/Legal Division
 14 Staff shall prepare and file with the Office of the Attorney General, for approval pursuant to Arizona
 15 Revised Statutes § 41-1044, a Notice of Final Rulemaking that includes the text of Arizona
 16 Administrative Code Title 14, Chapter 2, Article 7, and Rules R14-2-701 through R14-2-706, as set
 17 forth in Exhibit D, and a Preamble that conforms to Arizona Revised Statutes § 41-1001(14)(d) and
 18 includes a summary of comments and Commission responses as set forth in Exhibit E. The
 19 Commission's Utilities Division Staff/Legal Division Staff shall also file with the Office of the
 20 Attorney General the separate Economic, Small Business, and Consumer Impact Statement required
 21 to be created by the second ordering paragraph herein and any additional documents required by the
 22 Office of the Attorney General for its approval process.

23 ...

24 ...

25 ...

26 ...

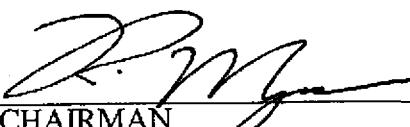




27 ...

28 ...

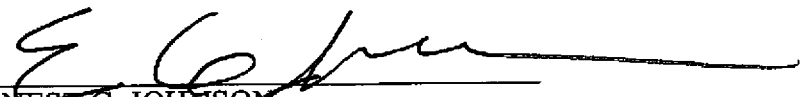
1 IT IS FURTHER ORDERED that the Commission's Utilities Division Staff/Legal Division
2 Staff is authorized to make non-substantive changes in the adopted Arizona Administrative Code
3 Title 14, Chapter 2, Article 7, and Rules R14-2-701 through R14-2-706, as set forth in Exhibit D; the
4 adopted Economic, Small Business, and Consumer Impact Statement; and any additional documents
5 required by the Office of the Attorney General in response to comments received from the Office of
6 the Attorney General during the approval process under Arizona Revised Statutes § 41-1044 unless,
7 after notification of those changes, the Commission requires otherwise.

8 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

9 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

10		
11		
12	CHAIRMAN	COMMISSIONER
13		
14	COMMISSIONER	COMMISSIONER
15		
16		COMMISSIONER

16 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
17 Executive Director of the Arizona Corporation Commission,
18 have hereunto set my hand and caused the official seal of the
19 Commission to be affixed at the Capitol, in the City of Phoenix,
20 this 3rd day of June, 2010.

21 
22 ERNEST G. JOHNSON
23 EXECUTIVE DIRECTOR

24 DISSENT _____

25 DISSENT _____

26 SNH:db

1 SERVICE LIST FOR:

RULEMAKING

2 DOCKET NO.:

RE-00000A-09-0249

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EXHIBIT "A"

Arizona Administrative Register / Secretary of State
Notices of Proposed Rulemaking

NOTICE OF PROPOSED RULEMAKING

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

**CHAPTER 2. CORPORATION COMMISSION
 FIXED UTILITIES**

Editor's Note: The following Notice of Proposed Rulemaking is exempt from Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 on page 74.)

[R09-140]

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|------------------------------------|---------------------------------|
| Article 7 | Amend |
| R14-2-701 | Amend |
| R14-2-702 | Amend |
| R14-2-703 | Amend |
| R14-2-704 | Amend |
| R14-2-705 | New Section |
| R14-2-706 | New Section |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
 Authorizing statute: Arizona Constitution Article XV § 3; A.R.S. §§ 40-202; 40-203; 40-321, 40-322, 40-281, 40-282
 Implementing statute: Arizona Constitution Article XV § 3; A.R.S. §§ 40-202; 40-203; 40-321, 40-322, 40-281, 40-282
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
 Notice of Rulemaking Docket Opening: 16 A.A.R. 72, January 8, 2010 (*in this issue*)
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|--|
| Name: | Maureen A. Scott, Esq.
Attorney, Legal Division, Corporation Commission |
| Address: | 1200 W. Washington St.
Phoenix, AZ 85007 |
| Telephone: | (602) 542-3402 |
| Fax: | (602) 542-4870 |
| E-mail: | msscott@azcc.gov |
| or | |
| Name: | Barbara Keene
Public Utilities Analyst, Corporation Commission |
| Address: | 1200 W. Washington St.
Phoenix, AZ 85007 |

Arizona Administrative Register / Secretary of State
Notices of Proposed Rulemaking

Telephone: (602) 542-0853
 Fax: (602) 364-2270
 E-mail: bkeene@azcc.gov

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

The purpose of Resource Planning is for load-serving entities to meet the electric needs of their customers by choosing the best mix of resources, with input from stakeholders in a transparent process, with consideration of reliability, deliverability, cost, environmental impacts, risk, other utilities' plans, and public policy. In its planning process and in meeting its load obligations, a load-serving entity shall consider all available options.

The Arizona Corporation Commission ("Commission") adopted the existing Resource Planning rules in 1989. In 2007, the Commission issued Decision No. 67744 which ordered Commission staff to schedule workshops on resource planning issues to focus on developing needed infrastructure and developing a flexible, timely, and fair competitive procurement process. If necessary, the workshops would be followed with rulemaking to amend existing rules.

The proposed rulemaking would update the existing Resource Planning rules and add Sections on Procurement and on Independent Monitor Selection and Responsibilities.

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:

None

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 expanded resource planning that considers the total cost of electric energy services, reliability, and risk. A fair and transparent procurement process will encourage the lowest prices for the acquisition of resources.

Load-serving entities will be required to increase their analyses and reporting activities. Although the load-serving entities are now engaging in some of the required activities, they may incur additional costs of complying with the rules.

Probable costs to the Commission of the proposed rulemaking would include costs associated with reviewing filings, 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: Maureen A. Scott, Esq.
 Attorney, Legal Division, Arizona Corporation Commission

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

Telephone: (602) 542-3402

Fax: (602) 542-4870

E-mail: mscott@azcc.gov

or

Name: Barbara Keene
 Public Utilities Analyst, Arizona Corporation Commission

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

Telephone: (602) 542-0853

Fax: (602) 364-2270

E-mail: bkeene@azcc.gov

Arizona Administrative Register / Secretary of State
Notices of Proposed Rulemaking

10. The time, place, and nature of the proceedings for the making, 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:

Public comment will be held on March 4, 2010, beginning at 10:00 a.m. or as soon as practicable thereafter, in Hearing Room 1 at the Commission's Phoenix offices of the Arizona Corporation Commission located at 1200 W. Washington St., Phoenix, AZ 85007. Hearing Division requests initial written comments be received on or before February 16, 2010, and responsive comments be received on or before February 23, 2010. Comments should be submitted to Docket Control at the above address. Please reference docket number RE-00000A-09-0249 on all documents.

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

None

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 7. RESOURCE PLANNING AND PROCUREMENT

Section

R14-2-701.	Definitions
R14-2-702.	Applicability
R14-2-703.	Utility reporting requirements <u>Load-serving Entity Reporting Requirements</u>
R14-2-704.	Commission review of utility plans <u>Review of Load-serving Entity Resource Plans</u>
<u>R14-2-705.</u>	<u>Procurement</u>
R14-2-706.	<u>Independent Monitor Selection and Responsibilities</u>

ARTICLE 7. RESOURCE PLANNING AND PROCUREMENT

R14-2-701. Definitions

The following definitions shall apply unless the context otherwise requires ~~In this Article, unless otherwise specified:~~

1. ~~"Appliance efficiency" - the energy usage per unit of output of a particular type of energy-using equipment.~~
2. ~~"Appliance saturation" - the proportion of customers in a given customer class who have a particular type of energy-using equipment.~~
3. ~~"Average price" - revenue from the customer class divided by the number of kilowatt hours sold to that customer class.~~
4. ~~"Baseload demand" - demand for energy that is insensitive to temperature.~~
1. ~~"Acknowledgment" means a Commission determination, under R14-2-704, that a plan meets the basic requirements of this Article.~~
2. ~~"Affiliated" means related through ownership of voting securities, through contract, or otherwise in such a manner that one entity directly or indirectly controls another, is directly or indirectly controlled by another, or is under direct or indirect common control with another entity.~~
- 5.3. ~~"Benchmark" - means to calibrate against a known set of values or standards.~~
- 6.4. ~~"Book life" - means the expected time period over which a power supply source will be available for use by the utility a load-serving entity.~~
5. ~~"Btu" means British thermal unit.~~
- 7.6. ~~"Capacity" - means the amount of electric power, measured in megawatts, which that a power source is rated to provide, either by the user, the supplier, or the manufacturer.~~
- 8.7. ~~"Capital costs" - means the construction and installation cost of facilities, including land, land rights, structures, and equipment.~~
9. ~~"Cogeneration" - the sequential production of electricity and heat, steam, or useful work from the same fuel source.~~
8. ~~"Coincident peak" means the maximum of the sum of two or more demands that occur in the same demand interval, which demand interval may be established on an annual, monthly, or hourly basis.~~
- 10.9. ~~"Customer class" - means a group subset of customers categorized according to with similar characteristics, such as amount of energy consumed; amount of demand placed on the energy supply system at the system peak; hourly,~~

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- daily, or seasonal load pattern; primary type of activity engaged in by the customer, including residential, commercial, industrial, agricultural, and governmental; and location. ~~Customer classes may include residential, commercial, industrial, agricultural, municipal, and other categories.~~
- ~~11-10.~~ "Decommissioning" - means the process of safely and economically removing a generating unit from service.
- ~~12.~~ "Degree day" - the difference in degrees Fahrenheit between the reference temperature and the average temperature for a particular day. The average temperature is the high temperature plus the low temperature divided by 2. If a day's average temperature exceeds the reference temperature, the day is a cooling degree day; if the day's average temperature is less than the reference temperature, the day is a heating degree day.
- ~~13-11.~~ "Demand management" - means beneficial reduction in the total cost of meeting electric energy service needs by reducing or shifting in time the demand for electricity usage.
- ~~14-12.~~ "Derating" - means a reduction in a generating unit's capacity.
- ~~15-13.~~ "Discount rate" - means the interest rate used to calculate the present value of a cost or other economic variable.
14. "Docket Control" means the office of the Commission that receives all official filings for entry into the Commission's public electronic docketing system.
15. "Emergency" means an unforeseen and unforeseeable condition that:
- a. Does not arise from the load-serving entity's failure to engage in good utility practices,
 - b. Is temporary in nature, and
 - c. Threatens reliability or poses another significant risk to the system.
16. "End use" - means the final application of electric energy, for activities such as, but not limited to, heating, cooling, running a particular an appliance, or motor, an industrial process, or lighting.
17. "Energy losses" - means the quantity of electric energy generated or purchased that is not available for sale to end users, for resale, or for use by the utility load-serving entity, attributable to transmission, conversion, distribution, and unaccounted for losses.
18. "Escalation" - means the change in costs due to inflation, changes in manufacturing processes, changes in availability of labor or materials, or other factors.
- ~~19.~~ "Forced outage rate" - the proportion of hours in a period, excluding those hours set aside for planned outages, in which a power source, such as a generating unit, suffers unplanned outages due to unplanned component failures or other conditions requiring that the source be removed from service immediately or before the next planned outage.
19. "Generating unit" means a specific device or set of devices that converts one form of energy (such as heat or solar energy) into electric energy, such as a turbine and generator or a set of photovoltaic cells.
20. "Heat rate" - means a measure of generating station thermal efficiency expressed in British thermal units (Btus) per net kilowatt-hour kilowatt-hour and computed by dividing the total Btu content of fuel used for electric generation by the kilowatt-hours kilowatt-hours of electricity generated.
- ~~21.~~ "Household income pattern" - the proportion of households falling in each of several income ranges.
- ~~22.~~ "Interchange" - electric energy received by the electric utility from another provider of electricity or supplied by the electric utility to another provider of electricity which is not purchased or sold under the terms of a long-term agreement.
21. "Independent monitor" means a company or consultant that is not affiliated with a load-serving entity and that is selected to oversee the conduct of a competitive procurement process under R14-2-706.
22. "Integration" means methods by which energy produced by intermittent resources can be incorporated into the electric grid.
23. "Intermittent resources" means electric power generation for which the energy production varies in response to naturally occurring processes like wind or solar intensity.
- ~~23-24.~~ "Interruptible power" - means power made available under agreements which an agreement that permit permits curtailment or cessation of delivery by the supplier.
- ~~24-25.~~ "In-service date" - means the date a power supply source becomes available for use by the utility a load-serving entity.
26. "Load-serving entity" means a public service corporation that provides electricity generation service and operates or owns, in whole or in part, a generating facility or facilities with capacity of at least 50 megawatts combined.
27. "Long term" means having a duration of three or more years.
- ~~25-28.~~ "Maintenance" - means the repair of generation, transmission, distribution, and administrative, and general facilities; replacement of minor items; and installation of materials to preserve the efficiency and working condition of the facilities.
- ~~26.~~ "Maintenance schedule" - the specific days during which a power production unit is removed from service for inspection or overhaul of one or more major components; such work is planned well in advance.
- ~~27-29.~~ "Mothballing" - means the temporary removal of a generating unit from active service and accompanying long-term storage activities.
- ~~28-30.~~ "Operate" - means to manage or otherwise be responsible for the production of electricity from by a generating facility, whether that facility is owned by the operator, in whole or in part, or whether that facility is owned by another

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entity.

29. "Operating costs" - ~~the power production costs that are directly related to producing electricity.~~
- 30-31. "Participation rate" - means the proportion of customers who take part in a specific program.
- 31-32. "Probabilistic analysis" - means a systematic evaluation of the effect, on costs, reliability, or other measures of performance, of the range of possible events affecting factors which that influence performance, considering the chances likelihood that the events will occur.
- 32-33. "Production cost" - means the variable operating costs and maintenance cost (including fuel cost) costs of producing electricity through generation and plus the cost of purchases of power sufficient to meet demand.
- 33-34. "Refurbish" - means to make major changes, more extensive than maintenance or repair, in the power production, transmission, or distribution characteristics of a component of the power supply system more extensive than maintenance or repair, such as by changing the fuels which that can be used in a generating unit or changing the capacity of a generating unit.
- 34-35. "Reliability" - means a measure of the ability of the utility's a load-serving entity's generation, transmission, and or distribution systems system to provide power without failures. Reliability should be, measured separately for generation, transmission, and distribution systems. Measures may to reflect the proportion portion of time that each a system is unable to meet demand or the kilowatt hours kilowatt-hours of demand that could not be supplied.
36. "Renewable energy resource" means an energy resource that is replaced rapidly by a natural, ongoing process and that is not nuclear or fossil fuel.
- 35-37. "Reserve requirements" - means the capacity which the utility that a load-serving entity must maintain in excess of its peak load to provide for scheduled maintenance, forced outages, unforeseen loads, emergencies, system operating requirements, and power pool requirements reserve sharing arrangements.
38. "Reserve sharing arrangement" means an agreement between two or more load-serving entities to provide backup capacity.
- 36-39. "Resource planning" - means integrated supply and demand analysis for the purpose of identifying the means of meeting electric energy service needs at the lowest total cost, taking into account uncertainty analyses completed as described in this Article.
40. "RFP" means request for proposals.
- 37-41. "Self generation" - means the production of electricity by an end user by any means including cogeneration.
- 38-42. "Sensitivity analysis" - means a systematic assessment of the degree of response of costs, reliability, or other measures of performance to changes in assumptions about factors which that influence performance.
43. "Short term" means having a duration of less than three years.
- 39-44. "Spinning reserve" - means the capacity which the utility a load-serving entity must maintain connected to the system and ready to deliver power promptly in the event of an unexpected loss of generation source. The capacity may be, expressed as a percentage of peak load, as a percentage of the largest generating unit, or as in fixed megawatts.
45. "Staff" means individuals working for the Commission's Utilities Division, whether as employees or through contract.
46. "Third-party independent energy broker" means an entity, such as Prebon Energy or Tradition Financial Services, that facilitates an energy transaction between separate parties without taking title to the transaction.
47. "Third-party online trading system" means a computer-based marketplace for commodity exchanges provided by an entity that is not affiliated with the load-serving entity, such as the Intercontinental Exchange, California Independent System Operator, or New York Mercantile Exchange.
- 40-48. "Total cost" - means all capital, operating, maintenance, fuel, and decommissioning costs, plus the costs associated with mitigating any adverse environmental effects, incurred, by end users, load-serving entities, or others, in the provision or conservation of electric energy services borne by end users, utilities, or others, and any adverse environmental effects.
41. "Unit" - a specific device or set of devices that converts one form of energy (such as heat or solar energy) into electric energy such as a turbine and generator or set of photovoltaic cells; a power plant may have multiple units.
42. "Utility" - the entity providing electric service to the public.

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 applies to each load-serving entity, whether the power generated is for sale to end users or is for resale.
- 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. An electricity public service corporation that becomes a load-serving entity by increasing its generating capacity to at least 50 megawatts combined shall provide written notice to the Commission within 30 days after the increase and shall comply with the filing requirements in this Article within two years after the notice is filed.

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- C. The Commission may, by Order, exempt a utility load-serving entity from these requirements complying with any provision in this Article, or the Article as a whole, upon a demonstration by the utility determining that:
1. ~~the The~~ burden of compliance with ~~this the~~ provision, or the Article as a whole, exceeds the potential for cost savings resulting benefits to customers in the form of cost savings, service reliability, risk reductions, or reduced environmental impacts that would result from its participation the load-serving entity's compliance with the provision or Article; and
 2. The public interest will be served by the exemption.
- D. A load-serving entity that desires an exemption shall submit to Docket Control an application that includes, at a minimum:
1. The reasons why the burden of complying with the Article, or the specific provision in the Article for which exemption is requested, exceeds the potential benefits to customers that would result from the load-serving entity's compliance with the provision or Article;
 2. Data supporting the load-serving entity's assertions as to the burden of compliance and the potential benefits to customers that would result from compliance; and
 3. The reasons why the public interest would be served by the requested exemption.
- E. A load-serving entity shall file with Docket Control, within 120 days after the effective date of these rules, the documents that would have been due on April 1, 2010, under R14-2-703(C), (D), (E), (F), and (H) had the revisions to those subsections been effective at that time.

R14-2-703. Utility reporting requirements Load-serving Entity Reporting Requirements

- A. Demand-side data. Each utility shall provide the Commission staff the demand data in subsections (A)(1) through (9) below, within 90 days of the effective date of these rules and shall provide staff with updated and revised data by April 1 of each year thereafter. If records are not maintained for any item, the utility shall provide its best estimates, such as sample survey data, application of factors from one year's data to another year, or other methods, and fully describe how such estimates were made. A load-serving entity shall, by April 1 of each year, file with Docket Control a compilation of the following items of demand-side data, including for each item for which no record is maintained the load-serving entity's best estimate and a full description of how the estimate was made:
1. Hourly demand for the previous calendar year, disaggregated by:
 - a. Sales to end users;
 - b. Sales for resale;
 - c. Energy losses; and
 - d. Other disposition of energy, such as energy furnished without charge and energy used by the utility load-serving entity;
 2. If available, hourly demand for the previous calendar year disaggregated by:
 - a. Residential customers;
 - b. Nonresidential customers by customer class and by type of business;
 - e. Entities purchasing power for resale.
 - 3-2. Coincident peak demand (megawatts) and energy demand consumption (megawatt-hours megawatt-hours) by month for the previous 10 years, disaggregated by customer class and, for nonresidential customers, if available, disaggregated by type of business;
 - 4-3. Number of customers by customer class by year for each of the previous 10 years; and
 5. Heating and cooling degree days by month for the previous 10 years. The utility may provide these data by climatic region at its option.
 6. Residential customer characteristics and end use data collected in the last 10 years which the utility has available, including:
 - a. Mix of dwelling unit types (single family, multi family, mobile homes);
 - b. Household income patterns;
 - e. Appliance saturation by types of appliance;
 - d. Appliance saturation by household income pattern and dwelling unit type;
 - e. End use metering data;
 - f. Appliance efficiency data;
 - g. Appliance connected load data; and
 - h. Data relating customer usage and heating and cooling degree days or temperature.
 7. Nonresidential customer characteristics and usage data collected in the last 10 years which the utility has available, including:
 - a. Number of customers by type of business;
 - b. Number of employees by type of business;
 - e. Electricity usage by major end use of power including space cooling, and
 - d. Hourly demand for major types of industrial and commercial customers for baseload, heating, and cooling uses.

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- ~~8-4. Reduction in load (kilowatt and kilowatt-hours) in the previous calendar year due to existing demand management measures, by type of demand management measure, in the previous calendar year.~~
- ~~9. Annual average prices of electricity charged to each nonresidential customer class, by type of business, and to residential customers, for the previous 10 years.~~
- B. ~~Supply side data. Each utility shall provide the Commission staff the supply data indicated in subsection (B)(1) through (4) within 90 days of the effective date of these rules and shall provide staff with updated and revised data by April 1 of each year thereafter. If records are not maintained for any item, the utility shall provide its best estimates and fully describe how those estimates were made. A load-serving entity shall, by April 1 of each year, file with Docket Control a compilation of the following items of supply-side data, including for each item for which no record is maintained the load-serving entity's best estimate and a full description of how the estimate was made:~~
- ~~1. For each generating unit and purchased power contract for the previous calendar year:

 - a. ~~In-service date and book life or contract period;~~
 - b. ~~Book life or contract period~~ Type of generating unit or contract;
 - c. ~~Capacity~~ The load-serving entity's share of the generating unit's capacity, or of capacity under the contract, in megawatts (utility share);
 - d. ~~Maximum generating unit or contract capacity, by hour, day, or month, if such capacity varies over during the year;~~
 - e. ~~Foreed-outage rate~~ Annual capacity factor (generating units only);
 - f. ~~Average heat rate of generating units and, if available, heat rates at selected output levels;~~
 - g. ~~Fuel~~ Average fuel cost for generating units, in dollars per million Btu for each type of fuel;
 - h. ~~Other variable operating and maintenance costs for generating units, in dollars per megawatt hour;~~
 - i. ~~Purchased power energy costs for contract purchases~~ long-term contracts, in dollars per megawatt-hour mega-watt-hour;
 - j. ~~Fixed operating and maintenance costs of generating units, in dollars per megawatt for the year;~~
 - k. ~~Demand charges for purchased power;~~
 - l. ~~Fuel types for generating units;~~ Fuel type for each generating unit;
 - m. ~~Minimum capacity at which the generating unit would be run or power must be purchased;~~
 - n. ~~Whether, under standard operating procedures, the generating unit must be run if it is available to run;~~
 - o. ~~Maintenance schedules for generating units;~~ Description of each generating unit as base load, intermediate, or peaking;
 - p. ~~Other data related to generation units and purchased power contracts which the utility uses in its production, planning, and supply models. Environmental impacts, including air emission quantities (in metric tons or pounds) and rates (in quantities per megawatt-hour) for carbon dioxide, nitrogen oxides, sulfur dioxide, mercury, particulates, and other air emissions subject to current or expected future environmental regulation;~~
 - q. Water consumption quantities and rates; and
 - r. Tons of coal ash produced per generating unit;~~
 - ~~2. For the power supply system for the previous calendar year:

 - a. ~~A description of generating unit commitment procedures;~~
 - b. ~~Production cost;~~
 - c. ~~Reserve requirements;~~
 - d. ~~Spinning reserve;~~
 - e. ~~Reliability of generating, transmission, and distribution systems;~~
 - f. ~~Interchange purchase~~ Purchase and sale prices, averaged by month, for the aggregate of all purchases and sales related to short-term contracts; and
 - g. ~~Energy losses;~~~~
 - ~~3. The level of cogeneration and other forms of self generation in the utility's load-serving entity's service area for the previous calendar year; and~~
 - ~~4. As available, a description and map of the utility's transmission system, including the capacity of each segment of the transmission system. An explanation of any resource procurement processes used by the load-serving entity during the previous calendar year that did not include use of an RFP, including the exception under which the process was used.~~
- C. ~~Demand forecasts. Each utility shall provide the following data and analyses to the Commission by December 31, 1989, and every three years thereafter. If no changes are forecast for any item, the utility may refer to previous filings for that item. A load-serving entity shall, by April 1 of each even year, file with Docket Control a compilation of the following items of load data and analyses, which may include a reference to the last filing made under this subsection for each item for which there has been no change in forecast since the last filing:~~
- ~~1. Ten-year Fifteen-year forecast of system coincident peak load (megawatts) and energy demanded consumption (megawatt-hours megawatt-hours) by month and year, expressed separately for residential, commercial, industrial, interruptible, and other customers; customer classes; for interruptible power; for resale; and for energy losses;~~

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2. Hourly demand forecasts for 10 years, if requested by staff.
 - 3-2. Disaggregation of the demand load forecast of subsection (C)(1) into a component in which no additional demand management measures are assumed, and a component indicating assuming the change in load due to additional forecasted demand management measures; and
 4. Descriptions of demand management programs and measures included in the demand forecast, including:
 - a. Plans for implementing the demand management measures;
 - b. The participation rate of customers by customer class with regard to each demand management measure;
 - c. The expected change in demand resulting from each of the measures; and
 - d. The life of each program.
 5. Description of each demand management program which was considered but rejected and the reasons for rejecting each program.
 6. The capital and operating and maintenance costs of each demand management measure considered, including practical measures which were rejected.
 - 7-3. Documentation of all sources of data, analyses, methods, and assumptions used in making the demand load forecasts, including:
 - a. A description of how the forecasts were benchmarked; and
 - b. Justifications justifications for selecting the methods and assumptions used; and
 - c. If requested by the staff, data used in the analyses.
- D.** Supply plans. Each utility shall provide the following data and analyses to the Commission by December 31, 1989, and every three years thereafter. If no changes are forecast for any item, the utility may refer to previous filings for that item. A load-serving entity shall, by April 1 of each even year, file with Docket Control the following prospective analyses and plans, which shall compare a wide range of resource options and take into consideration expected duty cycles, cost projections, other analyses required under this Section, environmental impacts, and water consumption and may include a reference to the last filing made under this subsection for each item for which there has been no change since the last filing:
1. ~~Ten-year~~ A 15-year resource plan, providing for each year:
 - a. ~~The data required in subsection (B)(1)(a) through (p) of this Section~~ Projected data for each of the items listed in subsection (B)(1), for each generating unit and purchased power source, including each generating unit that is expected to be new or refurbished during the period, which shall be designated as new or refurbished, as applicable, for the year of purchase or the period of refurbishment; and
 - b. ~~the data required in subsection (B)(2)(a) through (g) of this Section.~~ Projected data for each of the items listed in subsection (B)(2), for the power supply system;
 - b-c. ~~For~~ The capital cost, construction time, and construction spending schedule for each generating unit that is expected to be new or refurbished during the period;
 - i. ~~The data required in subsection (B)(1) of this Section for applicable years, and~~
 - ii. ~~The capital cost, construction time, and construction spending schedule.~~
 - e-d. ~~The escalation levels assumed for each component of cost, such as, but not limited to, operating and maintenance, environmental compliance, system integration, backup capacity, and transmission delivery, for each generating unit and purchased power source;~~
 - d-e. ~~For the~~ If discontinuation, decommissioning, or mothballing of any power source and or permanent deratings derating of any generating facility is expected:
 - i. ~~Identification of the each power sources source or units generating unit involved;~~
 - ii. ~~The costs and spending schedule of such for each~~ discontinuation, decommissioning, mothballing, or derating; and
 - iii. ~~The reasons for each~~ discontinuation, decommissioning, mothballing, or derating;
 - e-f. ~~The capital costs and operating and maintenance costs of all new or refurbished transmission and distribution facilities expected during the 15-year period; and;~~
 - g. ~~a description~~ An explanation of the need for and purpose of such all expected new or refurbished transmission and distribution facilities, which explanation shall incorporate the load-serving entity's most recent transmission plan filed under A.R.S. § 40-360.02(A) and any relevant provisions of the Commission's most recent Biennial Transmission Assessment decision regarding the adequacy of transmission facilities in Arizona; and
 - h. Cost analyses and cost projections;
 2. Documentation of the data, assumptions, and methods or models used to forecast production costs and power production in subsection (D)(1) of this Section for the 15-year resource plan, including the method by which the forecast was calibrated or benchmarked;
 3. Description A description of:
 - a. ~~each~~ Each potential power source which ~~that~~ was rejected;
 - b. ~~the~~ The capital costs, and operating costs, and maintenance costs of each rejected source; and
 - c. An explanation of the reasons for rejecting each source;
 4. ~~Ten-year~~ A 15-year forecast of cogeneration and other self generation by customers of the utility load-serving entity.

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- in terms of annual peak production (megawatts) and annual energy production (megawatt-hours megawatt-hours);
5. ~~Disaggregation of the forecast of subsection (D)(4) of this Section into a component in which two components, one reflecting the self generation projected if no additional efforts are made to encourage such generation self generation, and a component consisting of one reflecting the change in supply due to self generation projected to result from the load-serving entity's institution of additional forecasted eogeneration and self generation measures;~~
 6. ~~Ten-year A 15-year forecast of the annual capital costs and operating and maintenance costs by year of all the eogeneration and other self generation included in subsection (D)(5) of this Section: identified under subsections (D)(4) and (5);~~
 7. ~~Documentation of the analysis of the eogeneration and other self generation in subsection under subsections (D)(4) through (6) of this Section;~~
 8. A plan that considers using a wide range of resources and promotes fuel and technology diversity within its portfolio;
 9. A calculation of the benefits of generation using renewable energy resources;
 10. A plan that factors in the delivered cost of all resource options, including costs associated with environmental compliance, system integration, backup capacity, and transmission delivery;
 11. Analysis of integration costs for intermittent resources;
 12. A plan to increase the efficiency of the load-serving entity's generation using fossil fuel;
 13. Data to support technology choices for supply-side resources;
 14. A description of the demand management programs or measures included in the 15-year resource plan, including for each demand management program or measure:
 - a. How and when the program or measure will be implemented;
 - b. The projected participation level by customer class for the program or measure;
 - c. The expected change in peak demand and energy consumption resulting from the program or measure;
 - d. The expected reductions in environmental impacts including air emissions, solid waste, and water consumption attributable to the program or measure;
 - e. The expected societal benefits, societal costs, and cost-effectiveness of the program or measure;
 - f. The expected life of the measure; and
 - g. The capital costs, operating costs, and maintenance costs of the measure, and the program costs;
 15. ~~For each demand management measure that was considered but rejected:~~
 - a. A description of the measure;
 - b. The estimated change in peak demand and energy consumption from the measure;
 - c. The estimated cost-effectiveness of the measure;
 - d. The capital costs, operating costs, and maintenance costs of the measure, and the program costs; and
 - e. The reasons for rejecting the measure;
 16. Analysis of future fuel supplies that are part of the resource plan; and
 17. A plan for reducing environmental impacts related to air emissions, solid waste, and other environmental factors, and a plan for reducing water consumption. The costs for compliance with current and projected future environmental regulations shall be included in the analysis of resources required by R14-2-703(D) and (E). A load-serving entity or any interested parties may also provide, for the Commission's consideration, analyses and supporting data pertaining to environmental impacts associated with the generation or delivery of electricity, which may include monetized estimates of environmental impacts that are not included as costs for compliance. Values or factors for compliance costs, environmental impacts, or monetization of environmental impacts may be developed and reviewed by the Commission in other proceedings or stakeholder workshops.
- E. ~~Analyses of uncertainty. Each utility shall provide to the Commission the following information by December 31, 1989, and every three years thereafter: A load-serving entity shall, by April 1 of each even year, file with Docket Control a compilation of the following analyses and plan:~~
1. ~~Analyses to identify and assess errors, risks, and uncertainties in the following, completed using appropriate methods such as sensitivity analyses analysis and probabilistic analyses analysis; to assess errors and uncertainty in:~~
 - a. Demand forecasts;
 - b. The costs of demand management measures and power supply;
 - c. The availability of sources of power;
 - d. The costs of compliance with existing and expected environmental regulations;
 - e. Any analysis by the load-serving entity in anticipation of potential new or enhanced environmental regulations;
 - d-f. Changes in fuel prices; and availability;
 - g. Construction costs, capital costs, and operating costs; and
 - e-h. Other factors which the utility load-serving entity wishes to consider;
 2. ~~Identification of those options which enable the utility to best respond to significant changes in conditions whose future characteristics are uncertain, including:~~
 - a. Continual monitoring of critical variables and making commensurate changes in plans if those variables deviate significantly from the forecast;

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- b. ~~Building several smaller units instead of one large unit;~~
 e. ~~Sharing capacity with other utilities; and~~
 d. ~~Conducting well-monitored pilot programs.~~
2. A description and analysis of available means for managing the errors, risks, and uncertainties identified and analyzed in subsection (E)(1), such as obtaining additional information, limiting risk exposure, using incentives, creating additional options, incorporating flexibility, and participating in regional generation and transmission projects; and
3. A plan to manage the errors, risks, and uncertainties identified and analyzed in subsection (E)(1).
- F. Integrated resource plan. Each utility shall provide the Commission with an integrated resource plan by December 31, 1989, and every three years thereafter containing:
1. The 10-year plan or flexible set of plans which, on the basis of the analyses required in this Article, including the uncertainty analysis, will tend to minimize the present value of the total cost of meeting the demand for electric energy services.
 2. Complete description and documentation of the least cost plan, including supply and demand side conditions, costs, and discount rates utilized.
 3. An action plan indicating the supply and demand related actions to be undertaken by the utility over the next three years in furtherance of the ten-year plan.
- F. A load-serving entity shall, by April 1 of each even year, file with Docket Control a 15-year resource plan that:
1. Selects a portfolio of resources based upon comprehensive consideration of a wide range of supply- and demand-side options;
 2. Will result in the load-serving entity's reliably serving the demand for electric energy services;
 3. Will address the adverse environmental impacts of power production;
 4. Will include renewable energy resources so as to meet at least the greater of the Annual Renewable Energy Requirement in R14-2-1804 or the following annual percentages of retail kWh sold by the load-serving entity:

<u>Calendar Year</u>	<u>Percentage of Retail kWh Sold During Calendar Year</u>
<u>2010</u>	<u>2.5%</u>
<u>2011</u>	<u>3.0%</u>
<u>2012</u>	<u>3.5%</u>
<u>2013</u>	<u>4.0%</u>
<u>2014</u>	<u>4.5%</u>
<u>2015</u>	<u>5.0%</u>
<u>2016</u>	<u>6.0%</u>
<u>2017</u>	<u>7.0%</u>
<u>2018</u>	<u>8.0%</u>
<u>2019</u>	<u>9.0%</u>
<u>2020</u>	<u>10.0%</u>
<u>2021</u>	<u>11.0%</u>
<u>2022</u>	<u>12.0%</u>
<u>2023</u>	<u>13.0%</u>
<u>2024</u>	<u>14.0%</u>
<u>after 2024</u>	<u>15.0%</u>

5. Will include distributed generation energy resources so as to meet at least the greater of the Distributed Renewable Energy Requirement in R14-2-1805 or the following annual percentages as applied to the load-serving entity's Annual Renewable Energy Requirement:

<u>2007</u>	<u>5%</u>
<u>2008</u>	<u>10%</u>
<u>2009</u>	<u>15%</u>
<u>2010</u>	<u>20%</u>
<u>2011</u>	<u>25%</u>
<u>After 2011</u>	<u>30%</u>

6. Will address energy efficiency so as to meet any requirements set in rule by the Commission;
7. Will effectively manage the uncertainty and risks associated with costs, environmental impacts, load forecasts, and

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other factors:

8. Will achieve a reasonable long-term total cost, taking into consideration the objectives set forth in subsections (F)(2) through (7) and the uncertainty of future costs; and
9. Contains all of the following:
 - a. A complete description and documentation of the plan, including supply and demand conditions, availability of transmission, costs, and discount rates utilized;
 - b. A comprehensive, self-explanatory load and resources table summarizing the plan;
 - c. A brief executive summary;
 - d. An index to indicate where the responses to each filing requirement of these rules can be found; and
 - e. Definitions of the terms used in the plan.
- G. A load-serving entity shall, by April 1 of each odd year, file with Docket Control a work plan that includes:
 1. An outline of the contents of the resource plan the load-serving entity is developing to be filed the following year as required under subsection (F);
 2. The load-serving entity's method for assessing potential resources;
 3. The sources of the load-serving entity's current assumptions; and
 4. An outline of the timing and extent of public participation and advisory group meetings the load-serving entity intends to hold before completing and filing the resource plan.
- H. With its resource plan, a load-serving entity shall include an action plan, based on the results of the resource planning process, that:
 1. Includes a summary of actions to be taken on future resource acquisitions;
 2. Includes details on resource types, resources capacity, and resource timing; and
 3. Covers the three-year period following the Commission's acknowledgment of the resource plan.
- I. If a load-serving entity's submission does not contain sufficient information to allow Staff to analyze the submission fully for compliance with this Article, Staff shall request additional information from the load-serving entity, including the data used in the load-serving entity's analyses.
- J. Staff may request that a load-serving entity complete additional analyses to improve specified components of the load-serving entity's submissions.
- K. If a load-serving entity believes that a data-reporting requirement may result in disclosure of confidential business data or confidential electricity infrastructure information, the load-serving entity may submit to Staff a request that the data be submitted to Staff under a confidentiality agreement, which request shall include an explanation justifying the confidential treatment of the data.
- L. Data protected by a confidentiality agreement shall not be submitted to Docket Control and will not be open to public inspection or otherwise made public except upon an order of the Commission entered after written notice to the load-serving entity.

R14-2-704. Commission review of utility plans Review of Load-serving Entity Resource Plans

- A. Within 120 days of the submission of demand forecasts, supply plans, uncertainty analyses, and integrated resource plans by the utilities, the Commission shall schedule a hearing or hearings to review utility filings and to determine the degree of consistency between these filings and analyses conducted by the staff and information provided by other parties. By October 1 of each even year, Staff shall file a report that contains its analysis and conclusions regarding its statewide review and assessments of the load-serving entities' filings made under R14-2-703(C), (D), (E), (F), and (H).
- B. The Commission may request additional analyses to be conducted by the utilities to improve specified components of the utilities' analyses. By February 1 of each odd year, the Commission shall issue an order acknowledging a load-serving entity's resource plan or issue an order stating the reasons for not acknowledging the resource plan. The Commission shall order an acknowledgment of a load-serving entity's resource plan, with or without amendment, if the Commission determines that the resource plan, as amended if applicable, complies with the requirements of this Article and that the load-serving entity's resource plan is reasonable and in the public interest, based on the information available to the Commission at the time and considering the following factors:
- C. In making its consistency determination, the Commission shall consider the following factors:
 1. The total cost of electric energy services;
 2. The degree to which the factors which ~~that~~ affect demand, including demand management, have been taken into account;
 3. The degree to which non-utility supply alternatives, such as cogeneration and self generation, have been taken into account;
 4. Uncertainty in demand and supply analyses, forecasts, and plans, and the flexibility of plans enabling response whether plans are sufficiently flexible to enable the load-serving entity to respond to unforeseen changes in supply and demand factors;
 5. The reliability of power supplies, including fuel diversity and non-cost considerations;
 6. The reliability of the transmission grid;

*Arizona Administrative Register / Secretary of State***Notices of Proposed Rulemaking**

7. The degree to which the load-serving entity considered all relevant resources, risks, and uncertainties;
 8. The degree to which the load-serving entity's plan for future resources is in the best interest of its customers;
 9. The best combination of expected costs and associated risks for the load-serving entity and its customers; and
 10. The degree to which the load-serving entity's resource plan allows for coordinated efforts with other load-serving entities.
- C. The Commission may hold a hearing or workshop regarding a load-serving entity's resource plan. If the Commission holds such a hearing or workshop, the Commission may extend the February 1 deadline for the Commission to issue an order regarding acknowledgment under subsection (B).
- D. While no particular future ratemaking treatment is implied by or shall be inferred from the Commission's acknowledgment, the Commission may subsequently shall consider its consistency determination in its review of financing applications, in general rate cases, and in other matters in which the supply of or demand for energy services is a significant factor a load-serving entity's filings made under R14-2-703 when the Commission evaluates the performance of the load-serving entity in subsequent rate cases and other proceedings.
- E. A load-serving entity may seek Commission approval of specific resource planning actions.
- F. A load-serving entity may file an amendment to an acknowledged resource plan if changes in conditions or assumptions necessitate a material change in the load-serving entity's plan before the next resource plan is due to be filed.

R14-2-705. Procurement

- A. Except as provided in subsection (B), a load-serving entity may use the following procurement methods for the wholesale acquisition of energy, capacity, and physical power hedge transactions:
1. Purchase through a third-party online trading system;
 2. Purchase from a third-party independent energy broker;
 3. Purchase from a non-affiliated entity through auction or an RFP process;
 4. Bilateral contract with a non-affiliated entity;
 5. Bilateral contract with an affiliated entity, provided that non-affiliated entities were provided notice and an opportunity to compete against the affiliated entity's proposal before the transaction was executed; and
 6. Any other competitive procurement process approved by the Commission.
- B. A load-serving entity shall use an RFP process as its primary acquisition process for the wholesale acquisition of energy and capacity, unless one of the following exceptions applies:
1. The load-serving entity is experiencing an emergency;
 2. The load-serving entity needs to make a short-term acquisition to maintain system reliability;
 3. The load-serving entity needs to acquire other components of energy procurement, such as fuel, fuel transportation, and transmission projects;
 4. The load-serving entity's planning horizon is two years or less;
 5. The transaction presents the load-serving entity a genuine, unanticipated opportunity to acquire a power supply resource at a clear and significant discount, compared to the cost of acquiring new generating facilities, and will provide unique value to the load-serving entity's customers;
 6. The transaction is necessary for the load-serving entity to satisfy an obligation under the Renewable Energy Standard rules; or
 7. The transaction is necessary for the load-serving entity's demand-side management or demand response programs.
- C. A load-serving entity shall engage an independent monitor to oversee all RFP processes for procurement of new resources.

R14-2-706. Independent Monitor Selection and Responsibilities

- A. When a load-serving entity contemplates engaging in an RFP process, the load-serving entity shall consult with Staff regarding the identity of companies or consultants that could serve as independent monitor for the RFP process.
- B. After consulting with Staff, a load-serving entity shall create a vendor list of three to five candidates to serve as independent monitor and shall file the vendor list with Docket Control to allow interested persons time to review and file objections to the vendor list.
- C. An interested person shall file with Docket Control, within 30 days after a vendor list is filed with Docket Control, any objection that the interested person may have to a candidate's inclusion on a vendor list.
- D. Within 60 days after a vendor list is filed with Docket Control, Staff shall issue a notice identifying each candidate on the vendor list that Staff considers to be qualified to serve as independent monitor for the contemplated RFP process. In making its determination, Staff shall consider the experience of the candidates, the professional reputation of the candidates, and any objections filed by interested persons.
- E. A load-serving entity that has completed the actions required by subsections (A) and (B) to comply with a particular Commission Decision is deemed to have complied with subsections (A) and (B) and is not required to repeat those actions.
- F. A load-serving entity may retain as independent monitor for the contemplated RFP process and for its future RFP processes any of the candidates identified in Staff's notice.

*Arizona Administrative Register / Secretary of State***Notices of Proposed Rulemaking**

- G. A load-serving entity shall file with Docket Control a written notice of its retention of an independent monitor.
- H. A load-serving entity is responsible for paying the independent monitor for its services and may charge a reasonable bidder's fee to each bidder in the RFP process to help offset the cost of the independent monitor's services. A load-serving entity may request recovery of the cost of the independent monitor's services, to the extent that the cost is not offset by bidder's fees, in a subsequent rate case. The Commission shall use its discretion in determining whether to allow the cost to be recovered through customer rates.
- I. One week prior to the deadline for submitting bids, a load-serving entity shall provide the independent monitor a copy of any bid proposal prepared by the load-serving entity or entity affiliated with the load-serving entity and of any benchmark or reference cost the load-serving entity has developed for use in evaluating bids. The independent monitor shall take steps to secure the load-serving entity's bid proposal and any benchmark or reference cost so that they are inaccessible to any bidder, the load-serving entity, and any entity affiliated with the load-serving entity.
- J. Upon Staff's request, the independent monitor shall provide status reports to Staff throughout the RFP process.

EXHIBIT "B"



0000107582

ORIGINAL

MEMORANDUM RECEIVED

2010 JAN 15 P 3:51

TO: Docket Control Center

FROM: Steven M. Olea
Director
Utilities Division

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

DATE: January 15, 2010

RE: IN THE MATTER OF PROPOSED RULEMAKING REGARDING RESOURCE
PLANNING (DOCKET NO. RE-00000A-09-0249)

Attached is the Economic, Small Business, and Consumer Impact Statement that addresses the economic impacts of the recommended changes to the Resource Planning rules, filed in compliance with Decision No. 71435.

SMO:BEK:lh

Originator: Barbara Keene

Arizona Corporation Commission

DOCKETED

JAN 15 2010

DOCKETED BY	<i>mm</i>
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Service List for: PROPOSED RULEMAKING REGARDING RESOURCE PLANNING
 Docket No. RE-00000A-09-0249

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B. Economic, Small Business and Consumer Impact Statement

1. Identification of the proposed rule making.

The proposed rule making amends Article 7, Resource Planning and Procurement, Rules R14-2-701 through R14-2-704 and adopts new sections R14-2-705 and R14-2-706 under Title 14, Chapter 2 - Corporation Commission, Fixed Utilities.

The purpose of Resource Planning is for load-serving entities to meet the electric needs of their customers by choosing the best mix of resources, with input from stakeholders in a transparent process, with consideration of reliability, deliverability, cost, environmental impacts, risk, other utilities' plans, and public policy. In its planning process and in meeting its load obligations, a load-serving entity shall consider all available options.

The Rules apply to load-serving entities, as defined in the Rules.

2. Persons who will be directly affected by, bear the costs of, or directly benefit from the proposed rule making.

- a. the public at large;
- b. consumers of electric service in Arizona;
- c. electric public service corporations;
- d. Arizona Corporation Commission;
- e. wholesale providers of electricity; and
- f. independent monitors.

3. Cost-benefit analysis.

- a. Probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed rule making.

Probable costs to the Commission of the proposed rule making would include costs associated with reviewing filings, and participating in meetings and hearings.

- b. Probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the proposed rule making.

Arizona political subdivisions will be affected only insofar as they purchase electric services affected by the proposed rule making. Benefits include lower utility bills than without these rules because a fair and transparent procurement process will encourage the lowest prices for the acquisition of resources.

- c. Probable costs and benefits to businesses directly affected by the proposed rule making, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the proposed rule making.

Load-serving entities will be required to increase their analyses and reporting activities. Although the load-serving entities are now engaging in some of the required activities, they may incur additional costs of complying with the rules. These costs may be recovered through the load-serving entities' rates to customers.

4. Probable impact on private and public employment in businesses, agencies, and political subdivisions of this state directly affected by the proposed rule making.

The Commission and load-serving entities may need additional employees or contractors. No impact on employment in political subdivisions is expected.

5. Probable impact of the proposed rule making on small businesses.

a. Identification of the small businesses subject to the proposed rule making.

Small businesses will be affected only insofar as they purchase electric services affected by the proposed rule making. Benefits include lower utility bills than without these rules because a fair and transparent procurement process will encourage the lowest prices for the acquisition of resources.

Only public service corporations that provide electric generation service and operate or own, in whole or in part, a generating facility or facilities with capacity of at least 50 megawatts combined will be required to comply with the rules. These entities are unlikely to be small businesses.

b. Administrative and other costs required for compliance with the proposed rule making.

None.

c. A description of the methods that the agency may use to reduce the impact on small businesses.

Not applicable.

d. Probable cost and benefit to private persons and consumers who are directly affected by the proposed rule making.

The public at large will benefit from expanded resource planning that considers the total cost of electric energy services, reliability, and risk. A fair and transparent procurement process will encourage the lowest prices for the acquisition of resources.

6. Probable effect on state revenues.

No effect on state revenues by the proposed rule making is expected.

7. Less intrusive or less costly alternative methods of achieving the purpose of the proposed rule making.

The Commission is unaware of any alternative methods of achieving the purpose of the rule making that would be less intrusive or less costly.

8. If for any reason adequate data are not reasonably available to comply with the requirements of subsection B of this section, the agency shall explain the limitations of the data and the methods that were employed in the attempt to obtain the data and shall characterize the probable impacts in qualitative terms.

The data used to compile the information set forth in subsection B are reasonably adequate for these purposes.

EXHIBIT "C-1"



0000108180

ORIGINAL

MEMORANDUM

TO: Docket Control Center

FROM: Steven M. Olea
Director
Utilities Division

DATE: March 2, 2010

RE: STAFF'S RESPONSE TO WRITTEN COMMENTS IN THE MATTER OF
PROPOSED RULEMAKING REGARDING RESOURCE PLANNING (DOCKET
NO. RE-00000A-09-0249)

Attached is the Staff Report regarding written comments made by interested parties on Proposed Rulemaking Regarding Resource Planning, pursuant to Decision No. 71435. Decision No. 71435 ordered the Utilities Division to file with the Commission's Docket Control on or before March 2, 2010, a document including (1) a summary of any initial written comments filed by interested persons between the effective date of that Decision (December 15, 2009) and February 23, 2010, and (2) the Utilities Division's responses to those comments.

SMO:BEK:lhm\MAS

Originator: Barbara Keene

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2010 MAR - 2 P 2:38
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DOCKET CONTROL

Arizona Corporation Commission
DOCKETED

MAR - 2 2010

DOCKETED BY

DECISION NO. 71722

Service List for: PROPOSED RULEMAKING REGARDING RESOURCE PLANNING
Docket No. RE-00000A-09-0249

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**STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION**

PROPOSED RULEMAKING REGARDING RESOURCE PLANNING

DOCKET NO. RE-00000A-09-0249

STAFF RESPONSE TO WRITTEN COMMENTS

MARCH 2, 2010

DECISION NO. 71722

STAFF ACKNOWLEDGMENT

The Staff Response to Written Comments for Proposed Rulemaking Regarding Resource Planning, Docket No. RE-00000A-09-0249, was the responsibility of the Staff member listed below.

Barbara Keene

Barbara Keene
Public Utilities Analyst Manager

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Staff Response to Written Comments on Resource Planning
Docket No. RE-00000A-09-0249
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Introduction

The Arizona Corporation Commission ("Commission") issued Decision No. 71435 on December 15, 2009. In that Decision, the Commission ordered that a Notice of Proposed Rulemaking including proposed Resource Planning Rules be filed with the Office of the Secretary of State for publication. The Notice of Proposed Rulemaking was published in the *Arizona Administrative Register* on January 8, 2010.

Decision No. 71435 requested that interested parties provide initial comments concerning the Notice of Proposed Rulemaking by filing written comments with the Commission's Docket Control by February 16, 2010, and comments in response to other interested parties' comments by February 23, 2010.

Decision No. 71435 also ordered the Utilities Division to file with the Commission's Docket Control on or before March 2, 2010, a document including (1) a summary of any initial written comments filed by interested persons between the effective date of that Decision (December 15, 2009) and February 23, 2010, and (2) the Utilities Division's responses to those comments.

On February 16, 2010, written comments were received from Western Resource Advocates. No other comments were received.

Summary of Written Comments Regarding the Proposed Resource Planning Rules

Western Resource Advocates ("WRA") supports the proposed Resource Planning rule changes but requests the following clarifications:

R14-2-701(33)

The proposed rule changes strike the phrase "(including fuel cost)" from the definition of "Production cost." WRA believes that the phrase "(including fuel cost)" should be retained in the definition of "Production cost" because fuel costs are the most important component of production costs.

R14-2-703(F)(6)

The proposed rules provide for resource plans to address energy efficiency so as to meet any requirements set in rule by the Commission. WRA states that the Commission has already, and may in the future, set energy efficiency requirements in orders. Therefore, WRA suggests that the rule be rewritten to read: "6. Will address energy efficiency so as to meet any requirements set in rule by the Commission or in an order of the Commission."

R14-2-704(B)

Several passages in the proposed rules pertain to analysis and consideration of the environmental aspects of generation resources and their alternatives. However, environmental impacts are not included in the list of factors to be considered by the Commission in R14-2-

Staff Response to Written Comments on Resource Planning
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Page 2

704(B). Therefore, WRA recommends that the oversight be addressed by inserting: "7. Environmental impacts of resource choices and alternatives;" and renumbering the remainder of the list accordingly.

Staff's Response to the Written Comments

Staff agrees with WRA's comments as described above. Staff believes that WRA's suggested revisions would help to clarify the rules without making any substantive changes.

EXHIBIT "C-2"



0000109696

ORIGINAL

MEMORANDUM

RECEIVED

2010 APR -1 P 1:49

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

TO: Docket Control
FROM: Steven M. Olea
Director
Utilities Division

DATE: April 1, 2010

RE: STAFF'S RESPONSE TO ORAL COMMENTS IN THE MATTER OF PROPOSED
RULEMAKING REGARDING RESOURCE PLANNING
(DOCKET NO. RE-00000A-09-0249)

Attached is the Staff Report regarding oral comments made by interested parties on Proposed Rulemaking Regarding Resource Planning, pursuant to Decision No. 71435. Decision No. 71435 ordered the Utilities Division to file with the Commission's Docket Control by March 29, 2010, a document including (1) a summary of any oral comments received at the oral proceeding in this matter; (2) the Utilities Division's responses to those comments; and (3) a revised Economic, Small Business, and Consumer Impact Statement or a memorandum explaining why no revision of the prior Economic, Small Business, and Consumer Impact Statement is necessary.

SMO:BEK:tdp

Originator: Barbara Keene

Arizona Corporation Commission
DOCKETED

APR -1 2010

DOCKETED BY [Signature]

Service List for: PROPOSED RULEMAKING REGARDING RESOURCE PLANNING
Docket No. RE-00000A-09-0249

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**STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION**

PROPOSED RULEMAKING REGARDING RESOURCE PLANNING

DOCKET NO. RE-00000A-09-0249

STAFF RESPONSE TO ORAL COMMENTS

APRIL 1, 2010

DECISION NO. 71722

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Introduction

The Arizona Corporation Commission ("Commission") issued Decision No. 71435 on December 15, 2009. In that Decision, the Commission ordered that a Notice of Proposed Rulemaking including proposed Resource Planning Rules be filed with the Office of the Secretary of State for publication. The Notice of Proposed Rulemaking was published in the *Arizona Administrative Register* on January 8, 2010.

Pursuant to Decision No. 71435, Staff filed the Economic, Small Business, and Consumer Impact Statement that addressed the economic impacts of the recommended changes to the Resource Planning rules on January 15, 2010

Decision No. 71435 requested that interested parties provide initial comments concerning the Notice of Proposed Rulemaking by filing written comments with the Commission's Docket Control by February 16, 2010, and comments in response to other interested parties' comments by February 23, 2010. On March 2, 2010, Staff filed a summary of the written comments and the Utilities Division's responses to those comments.

Decision No. 71435 also provided for an opportunity for interested parties to provide oral comments at a proceeding to be held on March 4, 2010. The Utilities Division was to file with the Commission's Docket Control by March 29, 2010, a document including (1) a summary of any oral comments received at the oral proceeding in this matter; (2) the Utilities Division's responses to those comments; and (3) a revised Economic, Small Business, and Consumer Impact Statement or a memorandum explaining why no revision of the prior Economic, Small Business, and Consumer Impact Statement is necessary.

Summary of Oral Comments Regarding the Proposed Resource Planning Rules

Amanda Ormond, representing Interwest Energy Alliance, stated that that the rules were developed through a very good public process with a broad number of entities participating. The rules contain procurement methodology and an independent monitor section which are very important for independent developers and getting good resources in the future. The rules will be a very important tool for Commissioners, utilities, and stakeholders going forward in evaluating complex energy issues.

William Scown and Jeannie Scown, residents of Mesa, urged the adoption of energy efficiency standards and goals.

Administrative Law Judge Sarah Harpring asked Staff several questions that lead to Staff's recommended clarifications to the rules as discussed below.

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R14-2-703(F)(4)

Staff recommends that the language "Will include renewable energy resources so as to meet at least the greater of the Annual Renewable Energy Requirement in R14-2-1804 or the following annual percentages of retail kWh sold by the load-serving entity:" be changed to "Will include renewable energy resources to meet or exceed the greater of the Annual Renewable Energy Requirement in R14-2-1804 or the following annual percentages of retail kWh sold by the load-serving entity:" for clarity.

R14-2-703(F)(5)

Staff recommends that the language "Will include distributed generation energy resources so as to meet at least the greater of the Distributed Renewable Energy Requirement in R14-2-1805 or the following annual percentages as applied to the load-serving entity's Annual Renewable Energy Requirement:" be changed to "Will include distributed generation energy resources to meet or exceed the greater of the Distributed Renewable Energy Requirement in R14-2-1805 or the following annual percentages as applied to the load-serving entity's Annual Renewable Energy Requirement:" for clarity.

R14-2-706(D)

Staff recommends that the language "Staff shall issue a notice identifying each candidate on the vendor list that Staff considers to be qualified" be changed to "Staff shall issue a notice identifying each candidate on the vendor list that Staff has determined to be qualified" for clarity.

Discussion of the Economic, Small Business, and Consumer Impact Statement

Staff believes that it is not necessary to make any revisions to the Economic, Small Business, and Consumer Impact Statement that was filed on January 15, 2010.

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

CHAPTER 2. CORPORATION COMMISSION

FIXED UTILITIES

ARTICLE 7. RESOURCE PLANNING AND PROCUREMENT

Section

- R14-2-701. Definitions
- R14-2-702. Applicability
- R14-2-703. ~~Utility reporting requirements~~ Load-serving Entity Reporting Requirements
- R14-2-704. ~~Commission review of utility plans~~ Review of Load-serving Entity Resource Plans
- R14-2-705. Procurement
- R14-2-706. Independent Monitor Selection and Responsibilities

ARTICLE 7. RESOURCE PLANNING AND PROCUREMENT

R14-2-701. Definitions

The following definitions shall apply unless the context otherwise requires In this Article, unless otherwise specified:

1. ~~“Appliance efficiency”—the energy usage per unit of output of a particular type of energy using equipment.~~
2. ~~“Appliance saturation”—the proportion of customers in a given customer class who have a particular type of energy using equipment.~~
3. ~~“Average price”—revenue from the customer class divided by the number of kilowatt hours sold to that customer class.~~
4. ~~“Baseload demand”—demand for energy that is insensitive to temperature.~~
1. “Acknowledgment” means a Commission determination, under R14-2-704, that a plan meets the basic requirements of this Article.
2. “Affiliated” means related through ownership of voting securities, through contract, or otherwise in such a manner that one entity directly or indirectly controls another, is directly or indirectly controlled by another, or is under direct or indirect common control with another entity.
- 5-3. ~~“Benchmark”— means to calibrate against a known set of values or standards.~~
- 6-4. ~~“Book life”— means the expected time period over which a power supply source will be available for use by the utility a load-serving entity.~~
5. “Btu” means British thermal unit.
- 7-6. ~~“Capacity”— means the amount of electric power, measured in megawatts, which that a power source is rated to provide, either by the user, the supplier, or the manufacturer.~~
- 8-7. ~~“Capital costs”— means the construction and installation cost of facilities, including land, land rights, structures, and equipment.~~
9. ~~“Cogeneration”—the sequential production of electricity and heat, steam, or useful work from the same fuel source.~~
8. “Coincident peak” means the maximum of the sum of two or more demands that occur in the same demand interval, which demand interval may be established on an annual, monthly, or hourly basis.
- 10-9. ~~“Customer class”— means a group subset of customers categorized according to with similar characteristics, such as amount of energy consumed,; amount of demand placed on the energy supply system at the system peak,; hourly, daily, or seasonal load pattern,; primary type of~~

activity engaged in by the customer, including residential, commercial, industrial, agricultural, and governmental; and location. ~~Customer classes may include residential, commercial, industrial, agricultural, municipal, and other categories.~~

- 11.10. “Decommissioning”– means the process of safely and economically removing a generating unit from service.
12. “Degree day”– ~~the difference in degrees Fahrenheit between the reference temperature and the average temperature for a particular day. The average temperature is the high temperature plus the low temperature divided by 2. If a day’s average temperature exceeds the reference temperature, the day is a cooling degree day; if the day’s average temperature is less than the reference temperature, the day is a heating degree day.~~
- 13.11. “Demand management”– means beneficial reduction in the total cost of meeting electric energy service needs by reducing or shifting in time ~~the demand for electricity usage.~~
- 14.12. “Derating”– means a reduction in a generating unit’s capacity.
- 15.13. “Discount rate”– means the interest rate used to calculate the present value of a cost or other economic variable.
14. “Docket Control” means the office of the Commission that receives all official filings for entry into the Commission’s public electronic docketing system.
15. “Emergency” means an unforeseen and unforeseeable condition that:
- a. Does not arise from the load-serving entity’s failure to engage in good utility practices,
 - b. Is temporary in nature, and
 - c. Threatens reliability or poses another significant risk to the system.
16. “End use”– means the final application of electric energy, for activities such as, but not limited to, heating, cooling, running a particular an appliance, or motor, an industrial process, or lighting.
17. “Energy losses”– means the quantity of electric energy generated or purchased that is not available for sale to end users, for resale, or for use by the utility load-serving entity, attributable to transmission, conversion, distribution, and unaccounted for losses.
18. “Escalation”– means the change in costs due to inflation, changes in manufacturing processes, changes in availability of labor or materials, or other factors.
19. “Forced outage rate”– ~~the proportion of hours in a period, excluding those hours set aside for planned outages, in which a power source, such as a generating unit, suffers unplanned outages-~~

~~due to unplanned component failures or other conditions requiring that the source be removed from service immediately or before the next planned outage.~~

19. “Generating unit” means a specific device or set of devices that converts one form of energy (such as heat or solar energy) into electric energy, such as a turbine and generator or a set of photovoltaic cells.
20. “Heat rate”– means a measure of generating station thermal efficiency expressed in British thermal units (Btus) per net kilowatt-hour kilowatt-hour and computed by dividing the total Btu content of fuel used for electric generation by the kilowatt hours kilowatt-hours of electricity generated.
21. “Household income pattern”– the proportion of households falling in each of several income ranges.
22. “Interchange”– electric energy received by the electric utility from another provider of electricity or supplied by the electric utility to another provider of electricity which is not purchased or sold under the terms of a long-term agreement.
21. “Independent monitor” means a company or consultant that is not affiliated with a load-serving entity and that is selected to oversee the conduct of a competitive procurement process under R14-2-706.
22. “Integration” means methods by which energy produced by intermittent resources can be incorporated into the electric grid.
23. “Intermittent resources” means electric power generation for which the energy production varies in response to naturally occurring processes like wind or solar intensity.
- 23-24. “Interruptible power”– means power made available under agreements which an agreement that permit permits curtailment or cessation of delivery by the supplier.
- 24-25. “In-service date”– means the date a power supply source becomes available for use by the utility a load-serving entity.
26. “Load-serving entity” means a public service corporation that provides electricity generation service and operates or owns, in whole or in part, a generating facility or facilities with capacity of at least 50 megawatts combined.
27. “Long term” means having a duration of three or more years.
- 25-28. “Maintenance”– means the repair of generation, transmission, distribution, and administrative, and general facilities; replacement of minor items; and installation of materials to preserve the efficiency and working condition of the facilities.

26. ~~“Maintenance schedule”—the specific days during which a power production unit is removed from service for inspection or overhaul of one or more major components; such work is planned well in advance.~~
- 27.29. “Mothballing”— means the temporary removal of a generating unit from active service and accompanying ~~long-term~~ storage activities.
- 28.30. “Operate”— means to manage or otherwise be responsible for the production of electricity ~~from~~ by a generating facility, whether that facility is owned by the operator, in whole or in part, or ~~whether that facility is owned by another entity.~~
29. ~~“Operating costs”—the power production costs that are directly related to producing electricity.~~
- 30.31. “Participation rate”— means the proportion of customers who take part in a specific program.
- 31.32. “Probabilistic analysis”— means a systematic evaluation of the effect, on costs, reliability, or other measures of performance, ~~of the range of possible events affecting factors which that~~ influence performance, considering the ~~chances~~ likelihood that the events will occur.
- 32.33. “Production cost”— means the variable operating costs and maintenance cost ~~(including fuel cost)~~ costs of producing electricity through generation, including fuel cost, and plus the cost of purchases of power sufficient to meet demand.
- 33.34. “Refurbish”— means to make major changes, more extensive than maintenance or repair, in the power production, transmission, or distribution characteristics of a component of the power supply system ~~more extensive than maintenance or repair~~, such as by changing the fuels ~~which that~~ can be used in a generating unit or changing the capacity of a generating unit.
- 34.35. “Reliability”— means a measure of the ability of ~~the utility’s~~ a load-serving entity’s generation, transmission, and ~~or distribution systems~~ system to provide power without failures. ~~Reliability should be measured separately for generation, transmission, and distribution systems. Measures may to reflect the proportion portion of time that each a system is unable to meet demand or the kilowatt-hours kilowatt-hours of demand that could not be supplied.~~
36. “Renewable energy resource” means an energy resource that is replaced rapidly by a natural, ongoing process and that is not nuclear or fossil fuel.
- 35.37. “Reserve requirements”— means the capacity ~~which the utility~~ that a load-serving entity must maintain in excess of its peak load to provide for scheduled maintenance, forced outages, unforeseen loads, emergencies, system operating requirements, and ~~power pool requirements~~ reserve sharing arrangements.

38. “Reserve sharing arrangement” means an agreement between two or more load-serving entities to provide backup capacity.
- 36-39. “Resource planning”– means integrated supply and demand analysis for the purpose of identifying the means of meeting electric energy service needs at the lowest total cost, taking into account uncertainty analyses completed as described in this Article.
40. “RFP” means request for proposals.
- 37-41. “Self generation”– means the production of electricity by an end user by any means including cogeneration.
- 38-42. “Sensitivity analysis”– means a systematic assessment of the degree of response of costs, reliability, or other measures of performance to changes in assumptions about factors which that influence performance.
43. “Short term” means having a duration of less than three years.
- 39-44. “Spinning reserve”– means the capacity which the utility a load-serving entity must maintain connected to the system and ready to deliver power promptly in the event of an unexpected loss of generation source. The capacity may be, expressed as a percentage of peak load, as a percentage of the largest generating unit, or as in fixed megawatts.
45. “Staff” means individuals working for the Commission’s Utilities Division, whether as employees or through contract.
46. “Third-party independent energy broker” means an entity, such as Prebon Energy or Tradition Financial Services, that facilitates an energy transaction between separate parties without taking title to the transaction.
47. “Third-party on-line trading system” means a computer-based marketplace for commodity exchanges provided by an entity that is not affiliated with the load-serving entity, such as the Intercontinental Exchange, California Independent System Operator, or New York Mercantile Exchange.
- 40-48. “Total cost”– means all capital, operating, maintenance, fuel, and decommissioning costs, plus the costs associated with mitigating any adverse environmental effects, incurred, by end users, load-serving entities, or others, in the provision or conservation of electric energy services borne by end users, utilities, or others, and any adverse environmental effects.
41. “Unit”– a specific device or set of devices that converts one form of energy (such as heat or solar energy) into electric energy such as a turbine and generator or set of photovoltaic cells; a power plant may have multiple units.

42. ~~“Utility” the entity providing electric service to the public.~~

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 applies to each load-serving entity, whether the power generated is for sale to end users or is for resale.~~
- 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. An electricity public service corporation that becomes a load-serving entity by increasing its generating capacity to at least 50 megawatts combined shall provide written notice to the Commission within 30 days after the increase and shall comply with the filing requirements in this Article within two years after the notice is filed.~~
- C. The Commission may, by Order, exempt a utility load-serving entity from these requirements complying with any provision in this Article, or the Article as a whole, upon a demonstration by the utility determining that:
1. ~~the~~ The burden of compliance with this the provision, or the Article as a whole, exceeds the potential for cost savings resulting benefits to customers in the form of cost savings, service reliability, risk reductions, or reduced environmental impacts that would result from its participation the load-serving entity’s compliance with the provision or Article; and
 2. The public interest will be served by the exemption.
- D. A load-serving entity that desires an exemption shall submit to Docket Control an application that includes, at a minimum:
1. The reasons why the burden of complying with the Article, or the specific provision in the Article for which exemption is requested, exceeds the potential benefits to customers that would result from the load-serving entity’s compliance with the provision or Article;
 2. Data supporting the load-serving entity’s assertions as to the burden of compliance and the potential benefits to customers that would result from compliance; and
 3. The reasons why the public interest would be served by the requested exemption.

- E. A load-serving entity shall file with Docket Control, within 120 days after the effective date of these rules, the documents that would have been due on April 1, 2010, under R14-2-703(C), (D), (E), (F), and (H) had the revisions to those subsections been effective at that time.

R14-2-703. Utility reporting requirements Load-serving Entity Reporting Requirements

- A. Demand side data. Each utility shall provide the Commission staff the demand data in subsections (A)(1) through (9) below, within 90 days of the effective date of these rules and shall provide staff with updated and revised data by April 1 of each year thereafter. If records are not maintained for any item, the utility shall provide its best estimates, such as sample survey data, application of factors from one year's data to another year, or other methods, and fully describe how such estimates were made. A load-serving entity shall, by April 1 of each year, file with Docket Control a compilation of the following items of demand-side data, including for each item for which no record is maintained the load-serving entity's best estimate and a full description of how the estimate was made:

1. Hourly demand for the previous calendar year, disaggregated by:
 - a. Sales to end users;
 - b. Sales for resale;
 - c. Energy losses; and
 - d. Other disposition of energy, such as energy furnished without charge and energy used by the utility. load-serving entity;
- ~~2.~~ If available, hourly demand for the previous calendar year disaggregated by:
 - ~~a.~~ Residential customers;
 - ~~b.~~ Nonresidential customers by customer class and by type of business;
 - ~~c.~~ Entitles purchasing power for resale.
- ~~3.~~2. Coincident peak demand (megawatts) and energy demand consumption (megawatt hours megawatt-hours) by month for the previous 10 years, disaggregated by customer class and, for nonresidential customers, if available, ~~disaggregated by type of business;~~
- ~~4.~~3. Number of customers by customer class by year for each of the previous 10 years; and
- ~~5.~~ Heating and cooling degree days by month for the previous 10 years. The utility may provide these data by climatic region at its option.
- ~~6.~~ Residential customer characteristics and end use data collected in the last 10 years which the utility has available, including:
 - ~~a.~~ Mix of dwelling unit types (single family, multi-family, mobile homes);

- b. Household income patterns,
 - e. Appliance saturation by types of appliance,
 - d. Appliance saturation by household income pattern and dwelling unit type,
 - e. End use metering data,
 - f. Appliance efficiency data,
 - g. Appliance connected load data, and
 - h. Data relating customer usage and heating and cooling degree days or temperature.
7. ~~Nonresidential customer characteristics and usage data collected in the last 10 years which the utility has available, including:~~
- a. Number of customers by type of business,
 - b. Number of employees by type of business,
 - e. Electricity usage by major end use of power including space cooling, and
 - d. Hourly demand for major types of industrial and commercial customers for baseload, heating, and cooling uses.
- 8.4. ~~Reduction in load (kilowatt and kilowatt-hours) in the previous calendar year due to existing demand management measures, by type of demand management measure, in the previous calendar year.~~
9. ~~Annual average prices of electricity charged to each nonresidential customer class, by type of business, and to residential customers, for the previous 10 years.~~
- B. ~~Supply side data. Each utility shall provide the Commission staff the supply data indicated in subsection (B)(1) through (4) within 90 days of the effective date of these rules and shall provide staff with updated and revised data by April 1 of each year thereafter. If records are not maintained for any item, the utility shall provide its best estimates and fully describe how those estimates were made. A load-serving entity shall, by April 1 of each year, file with Docket Control a compilation of the following items of supply-side data, including for each item for which no record is maintained the load-serving entity's best estimate and a full description of how the estimate was made:~~
- 1. For each generating unit and purchased power contract for the previous calendar year:
 - a. In-service date and book life or contract period;
 - b. Book life or contract period Type of generating unit or contract;:
 - c. Capacity The load-serving entity's share of the generating unit's capacity, or of capacity under the contract, in megawatts (utility share);:

- d. Maximum generating unit or contract capacity, by hour, day, or month, if such capacity varies ~~over~~ during the year;
 - e. ~~Forced-outage rate~~ Annual capacity factor (generating units only);
 - f. Average heat rate of generating units and, if available, heat rates at selected output levels;
 - g. ~~Fuel~~ Average fuel cost for generating units, in dollars per million Btu for each type of fuel;
 - h. Other variable operating and maintenance costs for generating units, in dollars per megawatt hour;
 - i. Purchased power energy costs for ~~contract purchases~~ long-term contracts, in dollars per ~~megawatt-hour~~ megawatt-hour;
 - j. Fixed operating and maintenance costs of generating units, in dollars per megawatt ~~for the year~~;
 - k. Demand charges for purchased power;
 - l. ~~Fuel types for generating units~~, Fuel type for each generating unit;
 - m. Minimum capacity at which the generating unit would be run or power must be purchased;
 - n. Whether, under standard operating procedures, the generating unit must be run if it is available to run;
 - o. ~~Maintenance schedules for generating units~~, Description of each generating unit as base load, intermediate, or peaking;
 - p. ~~Other data related to generation units and purchased power contracts which the utility uses in its production, planning, and supply models~~. Environmental impacts, including air emission quantities (in metric tons or pounds) and rates (in quantities per megawatt-hour) for carbon dioxide, nitrogen oxides, sulfur dioxide, mercury, particulates, and other air emissions subject to current or expected future environmental regulation;
 - q. Water consumption quantities and rates; and
 - r. Tons of coal ash produced per generating unit;
2. For the power supply system for the previous calendar year:
- a. A description of generating unit commitment procedures;
 - b. Production cost;

- c. Reserve requirements;
 - d. Spinning reserve;
 - e. Reliability of generating, transmission, and distribution systems;
 - f. Interchange purchase and sale prices, averaged by month, for the aggregate of all purchases and sales related to short-term contracts; and
 - g. Energy losses;
3. The level of ~~co~~generation and other forms of self generation in the utility's load-serving entity's service area for the previous calendar year; and
 4. As available, a description and map of the utility's transmission system, including the capacity of each segment of the transmission system. An explanation of any resource procurement processes used by the load-serving entity during the previous calendar year that did not include use of an RFP, including the exception under which the process was used.
- C. Demand forecasts. Each utility shall provide the following data and analyses to the Commission by December 31, 1989, and every three years thereafter. If no changes are forecast for any item, the utility may refer to previous filings for that item. A load-serving entity shall, by April 1 of each even year, file with Docket Control a compilation of the following items of load data and analyses, which may include a reference to the last filing made under this subsection for each item for which there has been no change in forecast since the last filing:
1. Ten-year ~~Fifteen-year~~ forecast of system coincident peak load (megawatts) and energy demanded ~~consumption~~ (megawatt-hours megawatt-hours) by month and year, expressed separately for residential, commercial, industrial, ~~interruptible~~, and other customers, customer classes; for ~~interruptible power~~; for resale; and for energy losses;
 2. Hourly demand forecasts for 10 years, if requested by staff.
 3. 2. Disaggregation of the demand load forecast of subsection (C)(1) into a component in which no additional demand management measures are assumed, and a component indicating assuming the change in load due to additional forecasted demand management measures; and
 4. Descriptions of demand management programs and measures included in the demand forecast, including:
 - a. Plans for implementing the demand management measures;

- b. ~~The participation rate of customers by customer class with regard to each demand management measure;~~
 - e. ~~The expected change in demand resulting from each of the measures, and~~
 - d. ~~The life of each program.~~
5. ~~Description of each demand management program which was considered but rejected and the reasons for rejecting each program.~~
6. ~~The capital and operating and maintenance costs of each demand management measure considered, including practical measures which were rejected.~~
- 7.3. Documentation of all sources of data, analyses, methods, and assumptions used in making the demand load forecasts, including:
- a. ~~A a description of how the forecasts were benchmarked, and~~
 - b. ~~Justifications justifications for selecting the methods and assumptions used, and~~
 - e. ~~If requested by the staff, data used in the analyses.~~

D. ~~Supply plans. Each utility shall provide the following data and analyses to the Commission by December 31, 1989, and every three years thereafter. If no changes are forecast for any item, the utility may refer to previous filings for that item. A load-serving entity shall, by April 1 of each even year, file with Docket Control the following prospective analyses and plans, which shall compare a wide range of resource options and take into consideration expected duty cycles, cost projections, other analyses required under this Section, environmental impacts, and water consumption and may include a reference to the last filing made under this subsection for each item for which there has been no change since the last filing:~~

- 1. ~~Ten-year A 15-year resource plan, providing for each year:~~
 - a. ~~The data required in subsection (B)(1)(a) through (p) of this Section Projected data for each of the items listed in subsection (B)(1), for each generating unit and purchased power source, including each generating unit that is expected to be new or refurbished during the period, which shall be designated as new or refurbished, as applicable, for the year of purchase or the period of refurbishment; and~~
 - b. ~~the data required in subsection (B)(2)(a) through (g) of this Section. Projected data for each of the items listed in subsection (B)(2), for the power supply system;~~
 - b-c. ~~For The capital cost, construction time, and construction spending schedule for each generating unit that is expected to be new or refurbished during the period;~~

- i. ~~The data required in subsection (B)(1) of this Section for applicable years, and~~
 - ii. ~~The capital cost, construction time, and construction spending schedule.~~
 - e.d. The escalation levels assumed for each component of cost, such as, but not limited to, operating and maintenance, environmental compliance, system integration, backup capacity, and transmission delivery, for each generating unit and purchased power source;
 - e.e. ~~For the~~ If discontinuation, decommissioning, or mothballing of any power source and or permanent deratings derating of any generating facility is expected:
 - i. Identification of the each power sources source or units generating unit involved;
 - ii. The costs and spending schedule of such for each discontinuation, decommissioning, mothballing, or derating; and
 - iii. The reasons for each discontinuation, decommissioning, mothballing, or derating;
 - e.f. The capital costs and operating and maintenance costs of all new or refurbished transmission and distribution facilities expected during the 15-year period, and;
 - g. ~~a description~~ An explanation of the need for and purpose of such all expected new or refurbished transmission and distribution facilities, which explanation shall incorporate the load-serving entity's most recent transmission plan filed under A.R.S. § 40-360.02(A) and any relevant provisions of the Commission's most recent Biennial Transmission Assessment decision regarding the adequacy of transmission facilities in Arizona; and
 - h. Cost analyses and cost projections, including the cost of compliance with existing and expected environmental regulations;
2. Documentation of the data, assumptions, and methods or models used to forecast production costs and power production ~~in subsection (D)(1) of this Section~~ for the 15-year resource plan, including the method by which the forecast was calibrated or benchmarked;
 3. ~~Description~~ A description of:
 - a. ~~each~~ Each potential power source ~~which that~~ was rejected;

- b. ~~the~~ The capital costs, and operating costs, and maintenance costs of each rejected source; and
- c. ~~the~~ The reasons for rejecting each source;
4. ~~Ten-year~~ A 15-year forecast of ~~eogeneration and other~~ self generation by customers of the utility load-serving entity, in terms of annual peak production (megawatts) and annual energy production (~~megawatt hours~~ megawatt-hours);
5. Disaggregation of the forecast of subsection (D)(4) of this Section into a component in which two components, one reflecting the self generation projected if no additional efforts are made to encourage such generation self generation, and a component consisting of one reflecting the change in supply due to self generation projected to result from the load-serving entity's institution of additional forecasted eogeneration and self generation measures;
6. ~~Ten-year~~ A 15-year forecast of the annual capital costs and operating and maintenance costs by year of all ~~the eogeneration and other~~ self generation included in subsection ~~(D)(5) of this Section.~~ identified under subsections (D)(4) and (D)(5);
7. Documentation of the analysis of ~~the eogeneration and other~~ self generation in subsection under subsections (D)(4) through (6) of this Section;
8. A plan that considers using a wide range of resources and promotes fuel and technology diversity within its portfolio;
9. A calculation of the benefits of generation using renewable energy resources;
10. A plan that factors in the delivered cost of all resource options, including costs associated with environmental compliance, system integration, backup capacity, and transmission delivery;
11. Analysis of integration costs for intermittent resources;
12. A plan to increase the efficiency of the load-serving entity's generation using fossil fuel;
13. Data to support technology choices for supply-side resources;
14. A description of the demand management programs or measures included in the 15-year resource plan, including for each demand management program or measure:
- a. How and when the program or measure will be implemented;
- b. The projected participation level by customer class for the program or measure;
- c. The expected change in peak demand and energy consumption resulting from the program or measure;

- d. The expected reductions in environmental impacts, including air emissions, solid waste, and water consumption, attributable to the program or measure;
 - e. The expected societal benefits, societal costs, and cost-effectiveness of the program or measure;
 - f. The expected life of the measure; and
 - g. The capital costs, operating costs, and maintenance costs of the measure, and the program costs;
15. For each demand management measure that was considered but rejected:
- a. A description of the measure;
 - b. The estimated change in peak demand and energy consumption from the measure;
 - c. The estimated cost-effectiveness of the measure;
 - d. The capital costs, operating costs, and maintenance costs of the measure, and the program costs; and
 - e. The reasons for rejecting the measure;
16. Analysis of future fuel supplies that are part of the resource plan; and
17. A plan for reducing environmental impacts related to air emissions, solid waste, and other environmental factors, and for reducing water consumption.
- E. Analyses of uncertainty. Each utility shall provide to the Commission the following information by December 31, 1989, and every three years thereafter: A load-serving entity shall, by April 1 of each even year, file with Docket Control a compilation of the following analyses and plan:
- 1. Analyses to identify and assess errors, risks, and uncertainties in the following, completed using appropriate methods such as sensitivity analyses analysis and probabilistic analyses analysis, to assess errors and uncertainty in:
 - a. Demand forecasts;
 - b. The costs of demand management measures and power supply;
 - c. The availability of sources of power;
 - d. The costs of compliance with existing and expected environmental regulations;
 - e. Any analysis by the load-serving entity in anticipation of potential new or enhanced environmental regulations;
 - d-f. Changes in fuel prices, and availability;
 - g. Construction costs, capital costs, and operating costs; and
 - e-h. Other factors which the utility load-serving entity wishes to consider;

2. ~~Identification of those options which enable the utility to best respond to significant changes in conditions whose future characteristics are uncertain, including:~~
 - a. ~~Continual monitoring of critical variables and making commensurate changes in plans if those variables deviate significantly from the forecast,~~
 - b. ~~Building several smaller units instead of one large unit,~~
 - c. ~~Sharing capacity with other utilities, and~~
 - d. ~~Conducting well monitored pilot programs.~~
2. A description and analysis of available means for managing the errors, risks, and uncertainties identified and analyzed in subsection (E)(1), such as obtaining additional information, limiting risk exposure, using incentives, creating additional options, incorporating flexibility, and participating in regional generation and transmission projects; and
3. A plan to manage the errors, risks, and uncertainties identified and analyzed in subsection (E)(1).

- F.** ~~Integrated resource plan. Each utility shall provide the Commission with an integrated resource plan by December 31, 1989, and every three years thereafter containing:~~
1. ~~The 10 year plan or flexible set of plans which, on the basis of the analyses required in this Article, including the uncertainty analysis, will tend to minimize the present value of the total cost of meeting the demand for electric energy services.~~
 2. ~~Complete description and documentation of the least cost plan, including supply and demand side conditions, costs, and discount rates utilized.~~
 3. ~~An action plan indicating the supply and demand related actions to be undertaken by the utility over the next three years in furtherance of the ten year plan.~~

- F.** A load-serving entity shall, by April 1 of each even year, file with Docket Control a 15-year resource plan that:
1. Selects a portfolio of resources based upon comprehensive consideration of a wide range of supply- and demand-side options;
 2. Will result in the load-serving entity's reliably serving the demand for electric energy services;
 3. Will address the adverse environmental impacts of power production;

4. Will include renewable energy resources to meet or exceed the greater of the Annual Renewable Energy Requirement in R14-2-1804 or the following annual percentages of retail kWh sold by the load-serving entity:

<u>Calendar Year</u>	<u>Percentage of Retail kWh Sold During Calendar Year</u>
<u>2010</u>	<u>2.5%</u>
<u>2011</u>	<u>3.0%</u>
<u>2012</u>	<u>3.5%</u>
<u>2013</u>	<u>4.0%</u>
<u>2014</u>	<u>4.5%</u>
<u>2015</u>	<u>5.0%</u>
<u>2016</u>	<u>6.0%</u>
<u>2017</u>	<u>7.0%</u>
<u>2018</u>	<u>8.0%</u>
<u>2019</u>	<u>9.0%</u>
<u>2020</u>	<u>10.0%</u>
<u>2021</u>	<u>11.0%</u>
<u>2022</u>	<u>12.0%</u>
<u>2023</u>	<u>13.0%</u>
<u>2024</u>	<u>14.0%</u>
<u>after 2024</u>	<u>15.0%</u>

5. Will include distributed generation energy resources to meet or exceed the greater of the Distributed Renewable Energy Requirement in R14-2-1805 or the following annual percentages as applied to the load-serving entity's Annual Renewable Energy Requirement:

<u>2007</u>	<u>5%</u>
<u>2008</u>	<u>10%</u>
<u>2009</u>	<u>15%</u>
<u>2010</u>	<u>20%</u>
<u>2011</u>	<u>25%</u>
<u>After 2011</u>	<u>30%</u>

6. Will address energy efficiency so as to meet any requirements set in rule by the Commission or in an order of the Commission;
 7. Will effectively manage the uncertainty and risks associated with costs, environmental impacts, load forecasts, and other factors;
 8. Will achieve a reasonable long-term total cost, taking into consideration the objectives set forth in subsections (F)(2) through (7) and the uncertainty of future costs; and
 9. Contains all of the following:
 - a. A complete description and documentation of the plan, including supply and demand conditions, availability of transmission, costs, and discount rates utilized;
 - b. A comprehensive, self-explanatory load and resources table summarizing the plan;
 - c. A brief executive summary;
 - d. An index to indicate where the responses to each filing requirement of these rules can be found; and
 - e. Definitions of the terms used in the plan.
- G.** A load-serving entity shall, by April 1 of each odd year, file with Docket Control a work plan that includes:
1. An outline of the contents of the resource plan the load-serving entity is developing to be filed the following year as required under subsection (F);
 2. The load-serving entity's method for assessing potential resources;
 3. The sources of the load-serving entity's current assumptions; and
 4. An outline of the timing and extent of public participation and advisory group meetings the load-serving entity intends to hold before completing and filing the resource plan.
- H.** With its resource plan, a load-serving entity shall include an action plan, based on the results of the resource planning process, that:
1. Includes a summary of actions to be taken on future resource acquisitions;
 2. Includes details on resource types, resources capacity, and resource timing; and
 3. Covers the three-year period following the Commission's acknowledgment of the resource plan.
- I.** A load-serving entity or interested party may provide, for the Commission's consideration, analyses and supporting data pertaining to environmental impacts associated with the generation or delivery of electricity, which may include monetized estimates of environmental impacts that

are not included as costs for compliance. Values or factors for compliance costs, environmental impacts, or monetization of environmental impacts may be developed and reviewed by the Commission in other proceedings or stakeholder workshops.

- J.** If a load-serving entity's submission does not contain sufficient information to allow Staff to analyze the submission fully for compliance with this Article, Staff shall request additional information from the load-serving entity, including the data used in the load-serving entity's analyses.
- K.** Staff may request that a load-serving entity complete additional analyses to improve specified components of the load-serving entity's submissions.
- L.** If a load-serving entity believes that a data-reporting requirement may result in disclosure of confidential business data or confidential electricity infrastructure information, the load-serving entity may submit to Staff a request that the data be submitted to Staff under a confidentiality agreement, which request shall include an explanation justifying the confidential treatment of the data.
- M.** Data protected by a confidentiality agreement shall not be submitted to Docket Control and will not be open to public inspection or otherwise made public except upon an order of the Commission entered after written notice to the load-serving entity.

R14-2-704. Commission review of utility plans Review of Load-serving Entity Resource Plans

- A.** ~~Within 120 days of the submission of demand forecasts, supply plans, uncertainty analyses, and integrated resource plans by the utilities, the Commission shall schedule a hearing or hearings to review utility filings and to determine the degree of consistency between these filings and analyses conducted by the staff and information provided by other parties. By October 1 of each even year, Staff shall file a report that contains its analysis and conclusions regarding its statewide review and assessments of the load-serving entities' filings made under R14-2-703(C), (D), (E), (F), and (H).~~
- B.** ~~The Commission may request additional analyses to be conducted by the utilities to improve specified components of the utilities' analyses. By February 1 of each odd year, the Commission shall issue an order acknowledging a load-serving entity's resource plan or issue an order stating the reasons for not acknowledging the resource plan. The Commission shall order an acknowledgment of a load-serving entity's resource plan, with or without amendment, if the Commission determines that the resource plan, as amended if applicable, complies with the requirements of this Article and that the load-serving entity's resource plan is reasonable and in~~

the public interest, based on the information available to the Commission at the time and considering the following factors:

- ~~C. In making its consistency determination, the Commission shall consider the following factors:~~
1. The total cost of electric energy services;
 2. The degree to which the factors which ~~that~~ affect demand, including demand management, have been taken into account;
 3. The degree to which ~~non-utility~~ supply alternatives, such as ~~co~~generation and self generation, have been taken into account;
 4. Uncertainty in demand and supply analyses, forecasts, and plans, and ~~the flexibility of plans enabling response~~ whether plans are sufficiently flexible to enable the load-serving entity to respond to unforeseen changes in supply and demand factors;
 5. The reliability of power supplies, including fuel diversity and non-cost considerations;
 6. The reliability of the transmission grid;
 7. The environmental impacts of resource choices and alternatives;
 8. The degree to which the load-serving entity considered all relevant resources, risks, and uncertainties;
 9. The degree to which the load-serving entity's plan for future resources is in the best interest of its customers;
 10. The best combination of expected costs and associated risks for the load-serving entity and its customers; and
 11. The degree to which the load-serving entity's resource plan allows for coordinated efforts with other load-serving entities.
- ~~C. The Commission may hold a hearing or workshop regarding a load-serving entity's resource plan. If the Commission holds such a hearing or workshop, the Commission may extend the February 1 deadline for the Commission to issue an order regarding acknowledgment under subsection (B).~~
- ~~D. While no particular future ratemaking treatment is implied by or shall be inferred from the Commission's acknowledgment, The the Commission may subsequently shall consider its consistency determination in its review of financing applications, in general rate cases, and in other matters in which the supply of or demand for energy services is a significant factor a load-serving entity's filings made under R14-2-703 when the Commission evaluates the performance of the load-serving entity in subsequent rate cases and other proceedings.~~

- E. A load-serving entity may seek Commission approval of specific resource planning actions.
- F. A load-serving entity may file an amendment to an acknowledged resource plan if changes in conditions or assumptions necessitate a material change in the load-serving entity's plan before the next resource plan is due to be filed.

R14-2-705. Procurement

- A. Except as provided in subsection (B), a load-serving entity may use the following procurement methods for the wholesale acquisition of energy, capacity, and physical power hedge transactions:
1. Purchase through a third-party online trading system;
 2. Purchase from a third-party independent energy broker;
 3. Purchase from a non-affiliated entity through auction or an RFP process;
 4. Bilateral contract with a non-affiliated entity;
 5. Bilateral contract with an affiliated entity, provided that non-affiliated entities were provided notice and an opportunity to compete against the affiliated entity's proposal before the transaction was executed; and
 6. Any other competitive procurement process approved by the Commission.
- B. A load-serving entity shall use an RFP process as its primary acquisition process for the wholesale acquisition of energy and capacity, unless one of the following exceptions applies:
1. The load-serving entity is experiencing an emergency;
 2. The load-serving entity needs to make a short-term acquisition to maintain system reliability;
 3. The load-serving entity needs to acquire other components of energy procurement, such as fuel, fuel transportation, and transmission projects;
 4. The load-serving entity's planning horizon is two years or less;
 5. The transaction presents the load-serving entity a genuine, unanticipated opportunity to acquire a power supply resource at a clear and significant discount, compared to the cost of acquiring new generating facilities, and will provide unique value to the load-serving entity's customers;
 6. The transaction is necessary for the load-serving entity to satisfy an obligation under the Renewable Energy Standard rules; or
 7. The transaction is necessary for the load-serving entity's demand-side management or demand response programs.

C. A load-serving entity shall engage an independent monitor to oversee all RFP processes for procurement of new resources.

R14-2-706. Independent Monitor Selection and Responsibilities

- A. When a load-serving entity contemplates engaging in an RFP process, the load-serving entity shall consult with Staff regarding the identity of companies or consultants that could serve as independent monitor for the RFP process.
- B. After consulting with Staff, a load-serving entity shall create a vendor list of three to five candidates to serve as independent monitor and shall file the vendor list with Docket Control to allow interested persons time to review and file objections to the vendor list.
- C. An interested person shall file with Docket Control, within 30 days after a vendor list is filed with Docket Control, any objection that the interested person may have to a candidate's inclusion on a vendor list.
- D. Within 60 days after a vendor list is filed with Docket Control, Staff shall issue a notice identifying each candidate on the vendor list that Staff has determined to be qualified to serve as independent monitor for the contemplated RFP process. In making its determination, Staff shall consider the experience of the candidates, the professional reputation of the candidates, and any objections filed by interested persons.
- E. A load-serving entity that has completed the actions required by subsections (A) and (B) to comply with a particular Commission Decision is deemed to have complied with subsections (A) and (B) and is not required to repeat those actions.
- F. A load-serving entity may retain as independent monitor for the contemplated RFP process and for its future RFP processes any of the candidates identified in Staff's notice.
- G. A load-serving entity shall file with Docket Control a written notice of its retention of an independent monitor.
- H. A load-serving entity is responsible for paying the independent monitor for its services and may charge a reasonable bidder's fee to each bidder in the RFP process to help offset the cost of the independent monitor's services. A load-serving entity may request recovery of the cost of the independent monitor's services, to the extent that the cost is not offset by bidder's fees, in a subsequent rate case. The Commission shall use its discretion in determining whether to allow the cost to be recovered through customer rates.
- I. One week prior to the deadline for submitting bids, a load-serving entity shall provide the independent monitor a copy of any bid proposal prepared by the load-serving entity or entity

affiliated with the load-serving entity and of any benchmark or reference cost the load-serving entity has developed for use in evaluating bids. The independent monitor shall take steps to secure the load-serving entity's bid proposal and any benchmark or reference cost so that they are inaccessible to any bidder, the load-serving entity, and any entity affiliated with the load-serving entity.

J. Upon Staff's request, the independent monitor shall provide status reports to Staff throughout the RFP process.

Exhibit E

**Summary of the Comments Made on the Rulemaking and the Agency Response to Them,
Prepared Pursuant to A.R.S. § 41-1001(14)(d)(iii)**

The written and oral comments received by the Commission concerning the Notice of Proposed Rulemaking, after its publication date, are included in the following table, along with the Commission response to each.

Comments on Notice of Proposed Rulemaking		
Section	Public Comment	Commission Response
Proposed IRP Rules Generally	WRA expressed support for the proposed IRP rules, stating that they are in the public interest and should be adopted by the Commission, with a few clarifications; and that the proposed IRP rules have many strengths, including explicit reference to environmental impacts of power generation, recognition of the uncertainties encountered in planning, recognition of the multiple objectives of resource planning, the public input process to be used in creating resource plans, and Commission acknowledgment of resource plans. WRA stated that Arizona electric utilities' resource decisions in the coming decades will affect electric rates, their own financial condition, and environmental quality and that the resource planning process can help manage the risks posed by uncertain fuel prices, uncertain capital costs for new resources, risks to cost recovery, and potential costs of reducing environmental impacts.	The Commission acknowledges the supportive comments. No change is needed in response to these comments.
	Interwest Energy Alliance stated that the Commission's public process to develop the proposed IRP rules was a very good process, with broad participation and much collaboration; that the procurement methodology and independent monitor provisions in the proposed IRP rules are very important for independent developers and for	The Commission acknowledges the supportive comments. No change is needed in response to these comments.

	<p>making sure that good resources are obtained in the future; and that, going forward, the proposed IRP rules will be an important tool for Commissioners, utilities, and stakeholders in evaluating complex issues in energy.</p>	
	<p>Two private individuals, a married couple, expressed support for the direction the Commission is taking with regard to energy efficiency. One of them urged the Commission to adopt aggressive energy efficiency standards and goals in rules.</p>	<p>The Commission acknowledges the supportive comments and notes that the Commission has proposed Electric Energy Efficiency Standards rules in a separate docket. No change is needed in response to these comments.</p>
Rule 701(33)	<p>WRA requested that the phrase "(including fuel cost)," which was stricken in the proposed IRP rules' definition of "Production Cost" be restored.</p>	<p>The Commission agrees that it is appropriate to include the language "including fuel cost" in the definition and has included it in the text for the Notice of Final Rulemaking.</p>
Rule 703(F)(6)	<p>WRA requested that "or in an order of the Commission" be added at the end of the subsection to clarify that an energy efficiency requirement set by the Commission by order rather than by rule would need to be met in a load-serving entity's resource plan.</p>	<p>The Commission agrees that it is appropriate to include this language at the end of the subsection to clarify that a load-serving entity's resource plan is expected to address energy efficiency so as to meet requirements set in Commission orders as well as Commission rules. The Commission has included this language in the text for the Notice of Final Rulemaking.</p>
Rule 704(B)	<p>WRA requested that "Environmental impacts of resource choices and alternatives" be listed as a factor to be considered by the Commission, to make the rule consistent with the numerous provisions in the proposed IRP rules requiring environmental impacts to be addressed. WRA stated that the proposed IRP rules include more than a dozen passages pertaining to analysis and consideration of the environmental aspects of various generation resources and their alternatives.</p>	<p>The Commission agrees that it is appropriate to include environmental impacts of resource choices and alternatives as a factor to be considered by the Commission in reviewing a load-serving entity's resource plan and has included the language in Rule 704(B)(7) in the text for the Notice of Final Rulemaking.</p>