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RECESSA-09-0249

Mark Wilson

ATTORNEY GENERAL APPROVAL OF FINAL RULES

ORIGINAL

Envelope

- 1. Agency name: Arizona Corporation Commission
- 2. Chapter heading: Corporation Commission – Fixed Utilities
- 3. Code citation for the Chapter: 14 A.A.C. 2
- 4. The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, listed in alphabetical and numerical order:

Subchapters, Articles, Parts, and Sections  
(in alphabetical and numerical order)

Action

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

- 5. The rules contained in this package are approved as final rules.

6.   
 Attorney General

6-9-10  
 Date of signing

RECEIVED

JUN 09 2010

ATTORNEY GENERAL'S OFFICE

Arizona Corporation Commission  
**DOCKETED**  
 JUN 11 2010

DOCKETED BY 

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 2010 JUN 11 P 3:13  
 ARIZONA CORPORATION COMMISSION  
 DOCKET CONTROL

Att: Mark Wilson ~~ALL~~

AGENCY RECEIPT

Notice of Final Rulemaking

Envelope

1. Agency name: Arizona Corporation Commission
2. The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, listed in alphabetical and numerical order:

<u>Subchapters, Articles, Parts, and Sections</u> (in alphabetical and numerical order)	<u>Action</u>
R14-2-701	Amend
R14-2-702	Amend
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R14-2-704	Amend
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R14-2-706	New Section

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JUN 09 2010

ATTORNEY GENERAL'S OFFICE

**COMMISSIONERS**  
KRISTIN K. MAYES - Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP



ERNEST G. JOHNSON  
Executive Director

**ARIZONA CORPORATION  
COMMISSION**

June 9, 2010

Attorney General Terry Goddard  
Office of the Attorney General  
1275 W. Washington Street  
Phoenix, Arizona 85007

ATTENTION: Mark Wilson

RE: Arizona Corporation Commission  
Resource Planning Rules, Docket No. RE-00000A-09-0249

Dear Attorney General Goddard:

Pursuant to A.R.S. § 41-1044<sup>1</sup>, the Arizona Corporation Commission ("Commission") is pleased to submit the enclosed rulemaking packet ("Rules Package"). The Rules Package consists of:

- Commission Decision No. 71722, authorizing filing of Notice of Final Rulemaking
- Agency Receipt
- Agency Certificate
- Attorney General's Approval Form
- Economic, Small Business, and Consumer Impact Statement
- Notice of Final Rulemaking (hard copy and CD)

The new and modified rules update the existing Resource Planning ("RP") rules to make them more effective and consistent with other related rules, regulations and requirements of the Commission. 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, considering reliability, deliverability, cost, environmental impacts, risk, other utilities' plans, and public policy. As the Commission's Decision notes, the RP rules "are

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<sup>1</sup> A.R.S. § 41-1044 requires the Attorney General to review rules that are exempt pursuant to A.R.S. § 41-1057 as to form and whether the rules are clear, concise, and understandable; within the power of the agency to make; within the enacted legislative standards; and made in compliance with appropriate procedures. Arizona Corporation Commission rules promulgated pursuant to the Commission's exclusive constitutional ratemaking authority need not be submitted to the Attorney General for certification. *Corbin v. Arizona Corp. Comm'n*, 174 Ariz. 216, 219 (App. 1992); *Phelps Dodge Corp. v. AEPSCO*, 207 Ariz. 95, 115 (App. 2004).

intended to minimize the costs of providing electric energy services by improving long range planning and by establishing Commission review of utilities' long range plans."<sup>2</sup>

The current RP rules require an electric utility with generating facilities to submit historical data every year and a 10-year resource plan every three years and provide for a Commission hearing to ensure consistency between the filings and analyses conducted by the Commission's Utilities Division and the information provided by other parties. The current RP rules provide that the Commission may consider its consistency determination in its review of financing applications, rate cases, and other matters in which the supply of or demand for energy services is a significant factor. Although the modified RP rules contain some important modifications and additions to the current RP rules, their underlying purpose remains the same. The modifications to the rules are set forth on pages 5 through 7 of the Commission's Decision.

In short, the modifications better define the entities covered by the rules; change the forecasting and planning horizon from 10 years to 15 years; require submission of forecasts, analyses, and plans every even year rather than every 3 years; require a 15 year resource plan; require the load-serving entities to submit data regarding the environmental impacts of their plans and the costs for compliance with current and projected environmental regulations; establish deadlines for the Staff report and the Commission's Order; require the Commission to consider additional factors when reviewing a resource plan; make a Commission hearing discretionary; require the Commission to consider a load-serving entity's historical data, analyses, and plans when evaluating the load-serving entity's performance in rate cases and other proceedings; allow a load-serving entity to file for approval of specific resource planning actions; allow a load-serving entity to file an amendment to an acknowledged resource plan if conditions or assumptions change materially; establish requirements for load-serving entity procurement methods for the wholesale acquisition of energy, capacity, and physical power hedge transactions; and require a load-serving entity to engage an independent monitor to oversee all requests for proposal processes for procurement of new resources.

After consideration of numerous rounds of written comments from interested parties, and public comments, the Commission issued Decision No. 71722, which approved a final version of R-14-2-701 through R14-2-706 and directed Staff to forward the rules to the Attorney General for review and approval, without waiver that such review is not required in this case.

We believe that because the rules are directly tied to the Commission's exclusive ratemaking authority, the Commission has the constitutional authority to enact the RP rules as a comprehensive rule package under its rate setting powers. If you agree with this, then Attorney General certification of the rules would not be required. To the extent you find Attorney General review to be necessary, we provide the various constitutional and statutory provisions supporting the Commission's adoption of these rules, which are discussed in the Commission's decision attached hereto.

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<sup>2</sup> See Decision No. 71722 (citing to Decision No. 56313).

**I. The Commission's Plenary And Exclusive Ratemaking Authority Is Directly Implicated In The Amended Existing Rules And The New Rules Concerning Resource Planning for Electric Utilities ("Rule Package").**

The Commission, unlike most state public service commissions, was created by the state's constitution, as opposed to legislative statutes. Accordingly, a significant degree of the Commission's authority stems from the Arizona Constitution. Article XV, Section 3 of the Arizona Constitution gives the Commission exclusive authority over ratemaking matters. See *Arizona Corp. Comm'n v. State ex rel. Woods*, 171 Ariz. 286, 294, 830 P.2d 807, 815 (1992). This exclusive jurisdiction is not limited to setting numeric rates, but extends to matters determined by the Commission to be necessary steps in ratemaking. *Id.* at 294, 830 P.2d at 815. The rules in the Rule Package are directly related to ratemaking, and as such, they fall under the Commission's exclusive ratemaking authority.

In setting rates, the Commission determines the value of a utility's plant (rate base) as a necessary component to determining rates. See *Scates v. Ariz. Corp. Comm'n*, 118 Ariz. 531, 534, 578 P.2d 612 (1978). In general, as a utility's rate base increases, utility rates will also increase, because the cost of the utility's prudent investments will eventually be reflected in rates. Measures that delay and/or reduce the amount of investment that a utility must make in order to provide service will generally delay and/or reduce additions to plant and, in turn, delay and/or reduce rate increases for utility service. The RP rules are a critical part of regulating electric utilities' resource portfolios (the collection of assets or obligations used to generate electricity or procure electricity in the wholesale market) to optimize the best mix of resources so that the Commission can meet its constitutional obligations to "prescribe just and reasonable rates and charges" and to ensure adequate and safe service to the public. The RP rules are directly tied to the Commission's constitutional ratemaking authority because the utility's resource portfolio largely dictates its physical assets and expenses.

The formula the Commission generally uses in setting rates is:  $(\text{Rate Base} \times \text{Rate of Return}) + \text{Expenses} = \text{Revenue Requirement}$ . "Rate Base" is the dollar value of the physical assets prudently acquired and used and useful in the provision of utility service. "Rate of Return" is the authorized return on the utility's rate base and is expressed as a percentage. "Expenses" are the reasonable and prudent costs of service that cannot be capitalized, such as purchased power costs, fuel costs, salaries, and taxes. The resulting "Revenue Requirement" is the amount that a utility is authorized to collect from its customers through its rates and that the rates adopted by the Commission are designed to produce. Thus, the rates that a utility is authorized to charge its customers are inextricably related to the amount of physical assets (such as generation plant facilities) used by the utility and the costs of service incurred by the utility (such as costs of purchasing power to meet peak load and the costs of the fuel sources used to generate electricity). The increased generation source diversity required in load-serving entities' long-term resource plans under the revised RP rules will impact the load-serving entities' rate base (as a result of decisions regarding whether to build additional plant, how much, and what type) and the load-serving entities' expenses (likely by lowering costs through decreased reliance on volatile and uncertain fossil-fuel based generation and increased use of more stable fuel sources) and should result in long-term cost savings to the load-serving entities and thus to their

customers because of decreased reliance on volatile fossil-fuel based generation and increased reliability and cost stability.<sup>3</sup>

Thus, at the most basic level, these rules are ratemaking rules because they govern the composition of the utility's resource portfolio, i.e., the portion of a utility's assets that are used either to generate electricity or to procure electricity in the wholesale market. Utility ratepayers pay for these assets (rate base) through rates, and the Commission has a substantial ratemaking interest in ensuring that the composition of the utility's resource portfolio is reasonable not only in the short-term but in the long-term as well. As the entity charged under the Arizona Constitution with ensuring just and reasonable rates, the Commission has the authority to adopt standards to govern a utility's resource portfolio, which has a substantial impact upon a utility's rate base and expenses and, thus, its revenue requirement. As the Commission noted in its Order, the "RP rules are designed to ensure that the costs and rates for electric service over the long-run are just and reasonable, that electric service to Arizona customers is adequate and reliable, and the adverse environmental impacts from fossil-fuel generation are minimized to the extent feasible."<sup>4</sup>

## II. The Permissive Language Of Article XV, Section 3 Also Supports The Enactment Of The Rule Package.

The Commission's constitutional authority is not limited to its exclusive ratemaking authority. The plain text of Article XV, Section 3 states:

The Corporation Commission shall have full power to, and shall, prescribe just and reasonable classifications to be used and just and reasonable rates and charges to be made and collected, by public service corporations within the State for service rendered therein, and make reasonable rules, regulations, and orders, by which such corporations shall be governed in the transaction of business within the State, and *may . . . 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. . . .*

(Emphasis added). Many cases address the first part of Section 3, the exclusive ratemaking clause; few cases, however, address the permissive language, which is highlighted above. On its face, this permissive language gives the Commission rulemaking and other authority in areas that are not related to ratemaking.

Arizona cases tend to downplay this portion of Section 3. Nonetheless, there are cases that acknowledge this language as a grant of authority in areas other than ratemaking. *See, e.g., Woods*, 171 Ariz. at 292, 830 P.2d at 813; *Arizona Corp. Comm'n v. Palm Springs Util. Co., Inc.*, 24 Ariz.App. 124, 127-28, 536 P.2d 245, 248-49 (1975). The *Woods* Court, in its summary

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<sup>3</sup> Decision No. 71722 at ¶ 39.

<sup>4</sup> Decision 71722 at ¶ 43.

of the holding of *Arizona Eastern Railroad v. State*, 19 Ariz. 409, 171 P. 906 (1918), made the following observation:

From the later, permissive language of section 3, the court [in *Arizona Eastern*] seemingly determined that the Commission and the legislature have *concurrent* jurisdiction to regulate public service corporations in areas other than ratemaking.

*Woods*, 171 Ariz. at 292, 830 P.2d at 813 (emphasis in original) (citing *Arizona Eastern*, 19 Ariz. at 415-16, 171 P. at 909). The *Woods* Court analyzed the rules before it under the Commission's exclusive ratemaking authority. The Court noted, however, that *Pacific Greyhound*<sup>5</sup> is ambiguous with respect to the permissive language of section 3:

We use the term "apparently established" because the language of *Pacific Greyhound* is less than clear. The court [in *Pacific Greyhound*] holds that the legislature has the "paramount power" to regulate in areas other than those concerned with ratemaking. It does not state whether "paramount power" means "exclusive power," or "concurrent power" with a "power to override" Commission regulations. Because of our view of the nature of the regulations in question, . . . we need not resolve this ambiguity at this time.

*Woods*, 171 Ariz. at 815 fn8, 830 P.2d at 294 fn8 (citations omitted).

In summary, Section 3 clearly contains two distinct provisions: a mandatory provision, which has repeatedly been construed as the source of the Commission's exclusive and plenary ratemaking authority, and a permissive provision. As the *Woods* court acknowledged, the scope of this permissive language remains an open question. Nonetheless, to conclude that Section 3 does not contain any authority beyond ratemaking ignores the plain language of the text.

Even if the Attorney General were to conclude that the RP Rules are not related to ratemaking, the permissive language of Section 3 supports the Commission's enactment of the Rules. Under that authority, the Commission may "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 public service corporations. See Ariz. Const. art. XV, § 3. In light of the purposes underlying the Rules Package, the permissive language of Section 3 serves as an express grant of constitutional authority for the Commission's enactment of the rules. The Commission found in Decision No. 71722 that "[t]he proposed RP rules are the progeny of a long line of rate-regulating rules and regulations; are reasonably necessary for effective ratemaking and for the convenience, comfort, safety, and preservation of health of the patrons of load-serving entities; and will result in the adoption of just, reasonable, safe, proper, adequate, and sufficient standards for load-serving entities' resource plans."<sup>6</sup>

<sup>5</sup> *Arizona Corporation Comm'n v. Pacific Greyhound Lines*, 45 Ariz. 159, 94 P.2d 443 (1939).

<sup>6</sup> Decision No. 71722 at ¶ 43.

Further, under the theory that the Commission's permissive constitutional authority is held concurrently with the legislature, the applicable inquiry for purposes of the Attorney General's review of rules enacted under this permissive authority is whether there are conflicting state statutes. A review of the state statutes does not indicate any such conflict. The Rules Package is modifying rules under, and in accordance with, direct statutory authority as well as the Commission's constitutional authority, there is no apparent conflict.

**III. Art. XV, Section 13 of the Arizona Constitution Also Supports the Commission's Rules.**

Article 15, § 13 of the Arizona Constitution entitled "Reports to commission" provides: "All public service corporations and corporations and corporations whose stock shall be offered for sale to the public shall make such reports to the Corporation Commission, under oath, and provide such information concerning their acts and operations as may be required by law, or by the Corporation Commission."

This provision grants the Commission authority to require a public service corporation to provide reports concerning both past business activities and future plans. *See Arizona Public Service Company v. Arizona Corp. Comm'n*, 155 Ariz. 263 (App. 1987), *approved in part, vacated in part*, 157 Ariz. 532 (1988).

**IV. The Commission's Statutory Authority Also Supports Enactment Of The Rules Package.**

In addition, as the Commission's Decision points out a number of statutes support the Commission's authority to enact the rules. Specifically, A.R.S. §§ 40-202, -203, -281, -282, -285, -321, and -322 all lend support to the Rules to varying degrees.

A.R.S. § 40-202(A) provides: "The commission may supervise and regulate every public service corporation in the state and do all things, whether specifically designated in this title or in addition thereto, necessary and convenient in the exercise of that power and jurisdiction." In *Southern Pacific Co.*, the Arizona Supreme Court acknowledged that this statute provides the Commission the authority to do those things necessary and convenient in the exercise of the powers so granted.<sup>7</sup> However, the Arizona Supreme Court has interpreted this statute as bestowing no additional powers on the Commission than those already granted by the Arizona Constitution or specifically granted elsewhere by the legislature. *Id.*

A.R.S. § 40-203 states: "When the commission finds that the rates, fares, tolls, rentals, charges or classifications, or any of them, demanded or collected by any public service corporation for any service, product or commodity, or in 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."

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<sup>7</sup> *Southern Pacific Co. v. Arizona Corp. Comm'n*, 98 Ariz. 339, 348 (1965).

A.R.S. § 40-321(A) states: “When the commission finds that the equipment, appliances, facilities or service of any public service corporation, or the methods of manufacture, distribution, transmission, storage or supply employed by it are unjust, unreasonable, unsafe, improper, inadequate or insufficient, the commission shall determine what is just, reasonable, safe, proper, adequate or reasonable, and shall enforce its determination by order or regulation.”

A.R.S. § 40-322(A)(1) provides that the Commission may require and establish specific standards, classifications, practices, or services to be furnished by public service corporations, while A.R.S. § 40-322(A)(2) allows the Commission to ascertain and fix adequate and serviceable standards for the measurement of quantity, quality, pressure, initial voltage or other condition pertaining to the supply of the product, commodity or service furnished by such public service corporation.

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

All of these statutory provisions also support the Commission’s modifications to the RP rules.

#### **V. The RP Rules Are Not Subject to the Rulemaking Moratorium.**

Laws 2009, Chapter 7, § 28 (3<sup>rd</sup> Special Session) (“Moratorium”) provides that for the fiscal year 2009-2010, an agency shall not conduct any rulemaking that would impose increased monetary or regulatory costs on other state agencies, political subdivisions, persons, or individuals or would not reduce the regulatory burden on persons or individuals so regulated. By its own terms, the Moratorium does not apply to rulemakings “[t]o fulfill an obligation related to fees, rates, fines or regulations that are expressly delineated in the constitution of this state” or “[t]o eliminate or replace archaic or illegal rules,” among others.<sup>8</sup>

As the Commission’s Decision found because the Commission is conducting this rulemaking to fulfill its constitutional ratemaking obligation under Art. 15, § 3, this rulemaking is not prohibited by the Moratorium. In addition, the Commission is not required, by the express terms of the Moratorium, to obtain Governor approval before proceeding with this rulemaking.<sup>9</sup>

#### **VI. Conclusion.**

Collectively, the Rules Package establishes a coherent process for receiving the information necessary for the Commission to oversee the utility resource planning process, and effective standards for the Commission to regulate load-serving entities’ resource plans, so that

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<sup>8</sup> (Moratorium subsections (B)(4), (7)).

<sup>9</sup> Decision No. 71722 at ¶ 50.

the Commission can ensure an appropriate mix of resources and hence just and reasonable utility rates. The Commission respectfully requests that the Attorney General's office either issue correspondence concluding that the Rules were enacted pursuant to the Commission's constitutional authority and are not subject to Attorney General review or, alternatively, certify the Rules pursuant to A.R.S. § 41-1044. Please feel free to contact me if you would like additional information on these matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Maureen Scott", written over a horizontal line.

Maureen A. Scott  
Attorney, Legal Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007  
(602) 542-3402

Enclosures

**AGENCY CERTIFICATE**

**Notice of Proposed Rulemaking**

1. **Agency name:** Arizona Corporation Commission
2. **Chapter heading:** Corporation Commission-Fixed Utilities
3. **Code citation for the Chapter:** 14 A.A.C. 2
4. **The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, listed in alphabetical and numerical order:**

<b>Subchapters, Articles, Parts, and Sections (in alphabetical and numerical order)</b>	<b>Action:</b>
R14-2-701	Amended
R14-2-702	Amended
R14-2-703	Amended
R14-2-704	Amended
R14-2-705	New Section
R-14-2-706	New Section

5. **The rules contained in this package are true and correct as proposed.**

6.  \_\_\_\_\_  
Signature of Agency Chief Executive Officer

 \_\_\_\_\_  
Date of signing

Ernest G. Johnson  
Printed or typed name of signer

Executive Director  
Title of signer



Telephone: (602) 542-7270  
Fax: (602) 542-2129  
E-mail: [bkeene@azcc.gov](mailto:bkeene@azcc.gov)

**6. 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.

**7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None.

**8. 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.

**9. The Summary of the economic, small business, and consumer impact:**

**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. The public service corporations that currently meet the definition of "load-serving entity" are Arizona Electric Power Cooperative, Arizona Public Service, UNS Electric, and Tucson Electric Power, all of whom are electric utilities subject to the current Resource Planning rules, and none of whom are small businesses.

**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.

Arizona currently has a monopoly market structure for electric utilities. The Commission generally sets rates for the electric utilities using the following formula:  $(\text{Rate Base} \times \text{Rate of Return}) + \text{Expenses} = \text{Revenue Requirement}$ . "Rate Base" is the dollar value of the physical assets prudently acquired and used and useful in the provision of utility service. "Rate of Return" is the authorized return on the utility's rate base and is expressed as a percentage. "Expenses" are the reasonable and prudent costs of service that cannot be capitalized, such as purchased power costs, fuel costs, salaries, and taxes. The resulting "Revenue Requirement" is the amount that a utility is authorized to collect from its customers through its rates and that the rates adopted by the Commission are designed to produce. Thus, the rates that a utility is authorized to charge its customers are inextricably related to the amount of physical assets (such as generation plant facilities) used by the utility and the costs of service incurred by the utility (such as costs of purchasing power to meet peak load and the costs of the fuel sources used to generate electricity).

If load-serving entities are permitted to recover the costs of compliance with the revised Resource Planning rules through ratemaking (because the costs of compliance are included as reasonable and prudent expenses) the load-serving entities' revenue requirements will be impacted. The increased generation source diversity required in load-serving entities' long-term resource plans under the revised IRP rules will impact the load-serving entities' rate base (as a result of decisions regarding whether to build additional plant, how much, and of what type) and the load-serving entities' expenses (likely by lowering costs through decreased reliance on volatile and uncertain fossil-fuel based generation and increased use of more stable fuel sources) and should result in long-term cost savings to the load-serving entities and thus to their customers because of decreased reliance on volatile fossil-fuel based generation and increased reliability and cost stability.

Because the procurement process set forth in the rules is generally consistent with the Best Practices for Procurement previously adopted by the Commission, the procurement process should not result in a significant change in costs to load-serving entities.

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.

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

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.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

11. A summary of the comments made regarding the rule and the agency response to them:

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 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.	The Commission acknowledges the supportive comments. No change is needed in response to these comments.
	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.	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.
Rule 701(33)	WRA requested that the phrase "(including fuel cost)," which was stricken in the proposed IRP rules' definition of "Production Cost" be	The Commission agrees that it is appropriate to include the language "including fuel cost" in the definition and has included it in the text

Comments on Notice of Proposed Rulemaking		
Section	Public Comment	Commission Response
	restored.	for the Notice of Final Rulemaking.
Rule 703(F)(6)	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.	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.
Rule 704(B)	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.	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.

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

None.

**13. Incorporations by reference and their location in the rules:**

None.

**14. Was this rule previously made as an emergency rule?**

No.

**15. 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~~ 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;~~
  - 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.

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 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;
  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, 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 ~~egeneration 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 cogeneration 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 cogeneration 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 cogeneration 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,
  - 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 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 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;
  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.