



0000121182

# LAND AND WATER FUND

Legal Aid For The Environment

RECEIVED  
AZ CORP COMMISSION

JUL 6 1 19 PM '98

DOCUMENT CONTROL

## BOARD OF DIRECTORS

July 3, 1998

David H. Getches, Chair

Larry Echohawk

Karan English

Frances M. Green  
Founder

Gloria Leyba

Timothy McFlynn

Wayne G. Petty

Scott W. Reed

Virginia G. Rice

Farwell Smith

Stewart L. Udall  
Honorary Director

Hearing Division  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, Arizona 85007

Re: Docket No. RE-00000C-94-0165

Dear Sir or Madam:

Enclosed for filing are an original and ten copies of the Comments of the Land and Water Fund of the Rockies on the First Draft of Proposed Revisions of the Retail Electric Competition Rules, in the above referenced docket.

Sincerely,

Eric Blank  
Director  
LAW Fund Energy Project

Claudine Schneider  
Executive Director

## Idaho Office

Laird J. Lucas  
Director

408 W. Idaho Street  
P.O. Box 1612  
Boise, ID 83701  
(208) 342-7024  
FAX: (208) 342-8286

Encl.

Arizona Corporation Commission  
**DOCKETED**

JUL 06 1998

DOCKETED BY

**Serving the  
Rocky Mountains  
and Desert Southwest**

**BEFORE THE ARIZONA CORPORATION COMMISSION**

JIM IRVIN  
COMMISSIONER-CHAIRMAN  
RENZ D. JENNINGS  
COMMISSIONER  
CARL J. KUNASEK  
COMMISSIONER

RECEIVED  
AZ CORP COMMISSION

JUL 6 1 19 PM '98

DOCUMENT CONTROL

IN THE MATTER OF THE COMPETITION IN )  
THE PROVISION OF ELECTRIC SERVICES )  
THROUGHOUT THE STATE OF ARIZONA. )  
\_\_\_\_\_ )

DOCKET NO. U-0000-94-165

Arizona Corporation Commission  
**DOCKETED**

**COMMENTS OF THE LAND AND WATER FUND OF THE ROCKIES  
ON THE FIRST DRAFT OF PROPOSED REVISIONS OF  
THE RETAIL ELECTRIC COMPETITION RULES**

JUL 06 1998

DOCKETED BY *hck*

The Land and Water Fund of the Rockies (LAW Fund) hereby submits its comments on the first draft of the revised Retail Electric Competition Rules. The LAW Fund is a regional non-profit environmental law and policy center serving the Rocky Mountain and Desert Southwest region. The LAW Fund's Energy Project advocates for sustainable energy policy and practices in a variety of state and national forums.

Clearly, a great deal of time and effort went into the revisions proposed by the staff, and reflect a great deal of foresight and leadership. For brevity, these comments will not identify typographical corrections required. To a large extent, we support the revised rules and our comments are generally intended to clarify and amplify what we believe is the intent, rather than modify the underlying premise, of individual sections. A very brief discussion of each item follows, and the actual suggested wording changes are attached.

**R14-2-1601 Definitions**

As noted in the cover letter from Mr. Williamson, the details of aggregation may require some innovative suggestions in order to satisfy a number of divergent interests. The draft Rule provides little guidance on requirements for independent, i.e. non-Affected Utility, aggregators. As such, the definition should make clear that aggregation services are not restricted and may be

performed by a variety of entities such as for-profit enterprises, non-profit organizations (e.g. churches), municipalities other than municipal utilities, and so forth.

Second, while ISOs and ISAs are discussed in section 1610, it would be helpful to provide a definition in this section.

#### **R14-2-1604 Competitive Phases**

We think it unlikely that any residential customer of any Affected Utility will meet the 10% solar electricity requirements of paragraph (F). While this opportunity should remain for all customers, any residential electric customer that is meeting a portion of its electric needs with solar electricity should be given preference in the residential phase-in program. Paragraph C.2. should be modified accordingly.

Paragraph D. suggests that Affected Utilities provide benefits, such as rate reductions, to customers not eligible for competitive services. We suggest that in addition to traditional economic benefits, other benefits such as applying the equivalent dollar benefit to a green pricing program for the implementation of solar electric resources should be offered to these customers.

Finally, in paragraph F. the word *electric* should be added after *solar thermal* on the second line, consistent with section 1609.

#### **R14-2-1606. Services Required To Be Made Available by Affected Utilities.**

It appears that paragraph J (regarding the Unbundled Service and Standard Offer service tariffs working group) is no longer needed and may be stricken in its entirety.

#### **R14-2-1608. System Benefits Charges.**

The System Benefits Charge generated numerous controversial issues in the work performed by the Unbundled Service and Standard Offer service tariffs working group. The group carefully crafted wording to balance the diversity of viewpoints<sup>1</sup>, and recommended that such wording be incorporated into paragraph A of the revised Rule. The draft revised Rule however, adds two words (i.e. "at least") that change the meaning and the balancing of interests represented by the working group's recommendation. These two words should be stricken from the sixth line of paragraph A.

---

<sup>1</sup> See Report to the Arizona Corporation Commission, Submitted by the Unbundled Services and Standard Offer Working Group, dated November 3, 1997, at page 9.

**R14-2-1609. Solar Portfolio Standard.**

In paragraph C describing the several extra credit multipliers available to Affected Utilities and other ESPs, paragraphs 4 and 6 conflict. It appears that paragraph 4 is intended to apply to the four conditions identified in paragraph 3, and thus should be labeled as item *e* under paragraph 3.

Paragraph E describes the disposition of the funds collected as a result in deficiencies in achievement of the portfolio standard. We think the concept outlined in this paragraph is an excellent idea, however the details of this process are unclear. We believe a few sentences are needed to describe the procedures including allocation of funds, bidding and contracting. Finally, the LAW Fund would argue, and the Rule should explicitly state, that the electricity produced by facilities installed under this provision shall not diminish the portfolio standard of the ESP serving the public entity.

**R14-2-1610. Transmission and Distribution Access.**

Paragraph F provides for recovery of prudently-incurred costs of ISA/ISO establishment from customers using the transmission system. We suggest a further clarification of this provision to require a demonstration by the applicant utility that the proposed structure of the ISA or ISO is the most cost-effective available.

**R14-2-1611. In-State Reciprocity.**

As a result of passage of HB2663 into law, utilities not under Corporation Commission jurisdiction may believe that this section of the Restructuring Rule does not apply, provided the requirements of HB2663 are met. The Commission should either specifically strengthen this section, or clarify in its Order adopting these revised Rules that this provision is indeed applicable to Arizona electric utilities, which are not Affected Utilities, but voluntarily participate under the provisions of this Rule.

**R14-2-1613. Service Quality, Consumer Protection, Safety, and Billing Requirements.**

It appears that paragraph J (regarding the System Reliability and Safety working group) may no longer be needed and may be stricken in its entirety.

## **R14-2-1618 Information Disclosure Label**

For consistency and clarity, the requirement for an information disclosure label described in paragraph A should also be included in Section 1603.

Paragraph G describes the distribution of the disclosure label and terms of service, while paragraph H describes information disclosure in advertising. To be certain that distribution of the disclosure label reaches the widest audience, paragraph G should have a new item 4 which requires the label to be posted on the internet web page (aka home page or URL) of load-serving entities.

## ATTACHMENT

### R14-2-1601 Definitions

2. "Aggregator" means an entity, **such as for-profit enterprises, non-profit organizations (e.g. churches), municipalities other than municipal utilities, and so forth**, that combines electric customers into a purchasing group.
15. **"Independent System Administrator" (ISA):**
16. **"Independent System Operator" (ISO):**

### R14-2-1603. Certificates of Convenience and Necessity.

- G. Every Electric Service Provider obtaining a Certificate of Convenience and Necessity under this Article shall obtain certification subject to the following conditions:
  7. **Each Load-serving Entity shall prepare information on a label for each price offering in a form that is consistent for all Load-serving Entities, consistent with rule section 1618.**

### R14-2-1604 Competitive Phases

- C. Each Affected Utility shall offer a residential phase-in program with the following components:
  2. Access to the residential phase-in program will be on a first-come, first-served basis, **except that customers meeting a portion of their electrical needs from solar resources shall be given preference based upon the solar energy received (the more solar energy received, the higher the preference)**. The Affected Utility shall create and maintain a waiting list to manage the residential phase-in program.
- D. Each Affected Utility shall file a report detailing possible mechanisms to provide benefits, such as rate reductions of 3% - 5% **or access to economically-equivalent solar resource service options**, to all customers determined not to be eligible for competitive electric services directly or through aggregation in a manner consistent with R14-2-1604 (B).
- F. All customers who produce or purchase at least 10% of their annual electricity consumption from photovoltaic or solar thermal **electric** resources installed in Arizona after January 1, 1997 shall be selected for participation in the competitive market if those customers apply for participation in the competitive market. Such participants count toward the minimum requirements in R14-2-1604 (A) and R14-2-1604 (B).

R14-2-1606. Services Required To Be Made Available by Affected Utilities.

Strike paragraph J.

R14-2-1608. System Benefits Charges.

- A. By the date indicated in R14-2-1602, each Affected Utility shall file for Commission review non-bypassable rates or related mechanisms to recover the applicable pro-rata costs of System Benefits from all consumers located in the Affected Utility's service area who participate in the competitive market. Affected Utilities shall file for review of the Systems Benefits Charge ~~at least~~ every three years. The amount collected annually through the System Benefits charge shall be sufficient to fund the Affected Utilities' Commission-approved low income, demand side management, environmental, renewables, and nuclear power plant decommissioning programs in effect from time to time.

R14-2-1609. Solar Portfolio Standard.

- C. Electric Service Providers shall be eligible for a number of extra credit multipliers that may be used to meet the Solar Portfolio Standard requirements:

4. e. Any solar electric generator that meets more than one of the eligibility conditions will be limited to only one .5 extra credit multiplier from this subsection. Appropriate meters will be attached to each solar electric generator and read at least once annually to verify solar performance.

- E. If an Electric Service Provider selling electricity under the provisions of this Article fails to meet the requirement in R14-2-1609(A) or R14-2-1609(B) in any year, the Commission shall impose a penalty requirement on that Electric Service Provider that the Electric Service Provider establish a Solar Electric Fund equal to 30 cents per kWh for deficiencies in the provision of solar electricity. This Solar Electric Fund will be utilized to purchase solar electric generators or solar electricity in the following calendar year for the use by public entities in Arizona such as schools, cities, counties, or state agencies. **Such funds shall be distributed ...**

Title to any equipment purchased by the Solar Electric Fund will be transferred to the public entity. **Electricity generated by said solar electric equipment shall not diminish the portfolio requirements of the public entity's electric service provider.** In addition, if the provision of solar energy is consistently deficient, the Commission may void an Electric Service Provider's contracts negotiated under this Article.

R14-2-1610. Transmission and Distribution Access.

- F. It is the intent of the Commission that the prudently-incurred costs of the Affected Utilities in the establishment and operation of the ISA, and subsequently the ISO, should be recovered from customers using the transmission system, including the Affected Utilities' wholesale customers, Standard Offer retail customers, and competitive retail customers, through FERC-regulated prices which shall be set on a non-discriminatory

basis. Proposed rates for the recovery of such costs shall be filed with the FERC and the Commission. **Such filing shall include a demonstration that the proposed structure of the ISA or ISO is the most cost-effective available.**

R14-2-1611. In-State Reciprocity.

No wording suggestions.

R14-2-1613. Service Quality, Consumer Protection, Safety, and Billing Requirements.

Strike paragraph J.

R14-2-1618 Information Disclosure Label

G. Distribution of disclosure label and terms of service. The label and the Terms of Service shall be distributed in accordance with this section as follows:

4. **The information described in this section shall be posted on any internet web page, home page, or URL of load-serving entities.**