



0000121216

ARIZONA CORPORATION COMMISSION  
~~Arizona Corporation Commission~~

RECEIVED  
AZ CORP COMMISSION

DOCKETED

JUL 22 1998

JUL 22 3 48 PM '98

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

DOCKETED BY *[Signature]*

DOCUMENT CONTROL

IN THE MATTER OF COMPETITION IN ) DOCKET NO. RE 00000C-94-065  
THE PROVISION OF ELECTRIC SERVICES )  
THROUGHOUT THE STATE OF ARIZONA ) COMMENTS ON STAFF'S 2<sup>ND</sup> DRAFT OF  
 ) PROPOSED REVISIONS TO THE RETAIL  
 ) ELECTRIC COMPETITION RULES

**The Arizona Consumers Council offers the following comments on the 2nd draft of the proposed revisions to Electric Competition Rules by Barbara Sherman and Albert Sterman.**

First, it is important for the Arizona Corporation Commission to realize how difficult it is for ordinary consumers and customers to be informed and up to date on the fast moving electric deregulation process. Everyone involved is working very hard and not happy about the excessive hours that have to be spend on electric deregulation. Nevertheless, it is extremely difficult for ordinary customers, who will probably lose significantly in the process. That is why it is so important for the Arizona Corporation Commission to look out for small consumers.

There appears to be something of a backlash growing in several states that have already begun the process. The mandated reductions in electricity have not offset the increases in stranded cost recovery and other charges as a result of competition, at least for residential and other small consumers.. These residential and small business consumers are facing increased costs with little or no options to achieve lower electric utility bills. Rural consumer may face an even more daunting problem. A look at telephone service in many rural and other high cost areas could provide insight into what may happen to electric service in rural Arizona. Commission must place in the rules language providing for the protection and enforcement of all the rules in order to ensure dependable and affordable electricity to all.

**R14-2-101, Definition 1**

Should not "Affected Utilities" also include language any successor entities? The Office of the Attorney General, July 6, 1998, in their comments made an important point regarding the definition of "Stranded Costs": "The definition of Stranded Costs should state that no asset or obligation used or useful for producing a product other than the deregulated products should be considered as stranded." (Page 2 of AG transmittal)

**R14-2-1603 Certificates of Convenience and Necessity**

Since a certificate is not required for information services or billing and collection services, or self aggregation, what regulations, permits or licenses will there be to protect small consumers

from unscrupulous and deceptive practices of those selling these services and products? Please consider Office of the Attorney General, July 6, 1998 comments re CC&N licensure., pp. 2-4.

B. We appreciate the inclusion of a residential phase-in program and the provisions for residential consumers, but, without a comprehensive educational program this provision will not work.

C. The 3-5% discount is very small given all the hoopla about the benefits of deregulation. There should be public information about the kind of rate discounts that large consumers are receiving under contract or other arrangements. Since small consumers are scheduled to receive such small reductions, we are entitled to know where the reduction and discounts are going so that corrections can be made as necessary. Please refer to RUCO comments regarding rate reductions, July 6, 1998, p. 3.

E. Solar provisions, including Portfolio Standards. We support the continuation of solar energy standards. The objections to solar standards forget that a significant public purpose for deregulation has been better use of resources. We also support inducements that fit competition vs. Regulation.

G. Please see the Office of the Attorney General's comments Re: this article regarding the individual customer making the choice. (p. 4). In addition, please consider the RUCO comments, July 6, 1998, pp. 2-3, regarding the decrease of residential consumers from the original 3% within the current rules. We support the ability of residential consumers participation at a significant level (not a reduced) level from the beginning of competition.

Also, please consider the language offered by the Arizona Community Action Agency for Consumer Information Advisory Panel. See ACAA's recommendations, July 7, 1998, p. 1. This panel should include a member of the Arizona Consumers Council. Former Corporation Commissioner Marcia Weeks, for example, currently serves of the Commissions Education Committee.

#### **R 14-2-1604 Competitive Phases**

B. It appears that residential and other small customers will be unable to achieve the benefits, if any, of competition as the load of 20% will be taken very quickly by business organizations and large complexes who will have the ability to immediately aggregate their load, leaving nothing for residential and other small consumers who will need time to aggregate.

C-5-b. This statement appears to leave it up to the Energy Service Provider to provide educational materials relating to purchasing in a competitive market. Information provided by an ESP can not be construed as education; it is selling.

#### **R 14-2-1605 Competitive Services**

B. We believe that since services are competitive there will be a need for consumer protections with billings and collections services, information services and self-aggregation services. Under the proposed rule there is no real definition of competition. Is it more than one

company offering the service, or does it mean a percentage of customers taking the service from one or more providers. What happens if no provider wishes to serve a segment of consumers or an area. Are the new rules for competition going to be, "Let the buyer beware?" Please note the Office of the Attorney General's comments, p. 5: "Metering services should not require a CC&N, could be licensed so that consumer fraud does not result from false claims.

F-1. Please add "written" between Upon and authorization so that the first phrase reads: "Upon written authorization by the customer..." See comments of this in *Arizonans for Electric Choice and Competition et. Al., Requested Changes, etc., July 6, 1998, p. 4, lines 5-9.*

G. We appreciate the language "or, if negative, to refund Stranded Cost."

#### **R 14-2-1606 Services Required To Be Made Available By Affected Utilities.**

C-2. This section needs to be strengthened. Increases in standard offer bundled services should not be allowed unless the increases are reflected by the market price of generation and are in fact increases across the board to all classes of consumers.

#### **R 14-2-1613 Service Quality, Consumer Protection, Safety, and Billing Requirements**

C. This article needs to be strengthened to ensure that slamming, cramming and other deceptive and deceitful practices are outlawed. Providing reports to the Commission and telling violators that they may be fined will not stop the unscrupulous. There must be set in the rules definite fines for violators of this article. Punishment must be swift and decisive and fines must be of such a magnitude to deter wrongdoing.

#### **R 14-2-1614 Reporting Requirements.**

A-10. Will there be extra charges for the above information? Or, will it be free for the asking and/or part of the billing process.

#### **R 14-2-1617 Electric Affiliate Transaction Rules.**

D-1. If a customer has not read or is not familiar with these rules, how will the customer know s/he can request such information. This information should be given to the consumer at the beginning of the process.

E. If such discounts are given to the ESP, will these discounts be passed on to consumers serviced by the ESP or at least made available to the consumer.

#### **R 124-2-204 Minimum Customer Information Requirements.**

There is a 60 day time frame for which customers will receive information? The 60 day time frame appears to excessively long.

**The consumer protections under this article appear to give some real good language for residential, small business and other vulnerable consumers. However, we still have**

concerns about customers having their service discontinued, about protections for customers who have non-payment problems, and the connection between non-payment and the inability to get a provider of last resort service. We second the concerns of the Arizona Community Action Agency on these and other issues concerning residential, low income, rural and other vulnerable consumers.

These rules do not have adequate protections for small customers for provider of last resort. As you recall, the legislation that is currently in effect duns small consumers for this service. Enclosed is a copy of an article from the Los Angeles Times that shows what is happening in California. Note the potential for prices to be 500 to 1,000 times the usual.

Finally, in summary, everyone has worked hard on electric deregulation. We appreciate the difficult circumstances under which everyone, including the staff of the Commission has labored. Nevertheless, we resent the rush on this important issue. Of the many criticisms of the rushed draft process, the most far reaching is this comment by Michael Grant, July 6, 1998: "There is nothing critical to the public health, safety or welfare in implementing retail electric competition on January 1, 1999." It is more important that deregulation be done correctly than that we meet an artificial deadline.

Friday, July 10, 1998  
Home Edition - LA Times  
Section: Business  
Page: D-1

**Supplier Jolts Electric Market With Lofty Bid;**  
By: NANCY RIVERA BROOKS  
TIMES STAFF WRITER

California's new competitive market for electricity marked its 100th day of operation Thursday with a bit of a jolt: shockingly expensive energy. An unidentified electricity generator--officials won't say who--was able to bid \$5,000 a megawatt Wednesday to supply power if needed during demand surges on Thursday in Southern California.

That figure was 500 to 1,000 times the usual price for so-called replacement reserve power; it represented the price the supplier was paid to reserve some of its capacity to produce electricity within 60 minutes, rather than payment for the electricity itself.

The total cost, which came to \$7.5 million for 1,500 megawatts, will be born by utilities, not consumers, whose rates are capped for four years. The average price of electricity on the California Power Exchange for delivery Thursday was \$31.57 a megawatt-hour, the third-highest average since trading began March 31.

News of the bid came from the California Independent System Operator, the nonprofit agency that took over operation of the long-distance electricity transmission grid from investor-owned utilities on March 31 as part of the restructuring of the industry. The ISO also schedules delivery of the electricity that is traded on the California Power Exchange.

The restructuring of the retail and wholesale markets was designed to lower prices through competition. But the prices of some services had remained capped, including the price of replacement reserve power, which is a sort of reservations system for extra capacity to ensure reliability of the grid during demand surges.

But under a recent order by the Federal Energy Regulatory Commission, price caps were removed for some suppliers of replacement reserve power while the caps remained for others, chiefly the big investor-owned utilities: Southern California Edison, San Diego Gas & Electric and Pacific Gas & Electric.

That allowed a power generator to bid without significant competition for a three-hour, 1,500-megawatt period in Southern California, and the ISO was forced to accept the \$5,000-a-megawatt bid to reserve the extra electricity generating capacity.

Utilities will ultimately foot the bill, perhaps extending the time that rate caps will remain if the problem is not fixed, said Jeffrey Tranen, chief executive of the ISO. The state's investor-owned utilities have four years

to recover the costs of so-called stranded assets, such as investments in nuclear power plants, to help them become more competitive in the new retail market.

"We are very concerned about this," Tranen said. "We are making an emergency appeal to FERC for them to take action." The ISO is also changing its software so that out-of-state companies will be able to bid, thereby increasing price competition, he said.

Doug Kline, a spokesman for Sempra Energy, parent of San Diego Gas & Electric, said the utility expects to recover its costs within four years, but if electricity prices are too high to accomplish that, the utilities and their shareholders will absorb that cost.

"In a competitive market, you've got to figure you're going to get price spikes like this, and hopefully you'll also get spikes the other way," Kline said.

Other than this "blip," Tranen said, the transmission system and electricity trading market have operated well overall.