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REHEARING 9/16/98

THE ARIZONA CORPORATION COMMISSION RECEIVED

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DOCUMENT CONTROL

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

DOCKET NO. RE-00000C-94-0165

**APPLICATION FOR REHEARING AND/OR RECONSIDERATION  
BY  
ARIZONA PUBLIC SERVICE COMPANY**

Arizona Public Service Company ("APS" or "Company") hereby submits its Application for Rehearing and/or Reconsideration ("Application") of Decision No. 61071 (August 10, 1998) (the "Decision"). In Decision No. 61071, the Arizona Corporation Commission ("Commission") adopted "emergency" amendments to existing administrative rules ("Amended Rules") dealing with the provision of competitive electric service in Arizona.

APS fully supports a transition to retail competition in electric power generation. It has participated in every Commission workshop, working group, or task force, as well as in more formalized proceedings. It has repeatedly submitted comments to the Commission, both written and oral. In each instance, APS has attempted to work toward the smooth and equitable implementation of retail electric generation competition by January 1, 1999. The Commission, however, also must nurture this transition in a lawful and well-reasoned manner. The Amended Rules do not satisfy this objective.

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1 Application for Rehearing are incorporated herein by reference.) The Legislature, in H.B. 2663,  
2 enacted provisions that “confirmed the Commission’s authority” to undertake various measures in  
3 the transition to competition in electric generation service. For the reasons argued in APS’s  
4 January 10, 1997 Application for Rehearing, however, the Commission had no authority that the  
5 Legislature could “confirm.” Accordingly, the language in H.B. 2663 “confirming” the authority  
6 of the Commission does not grant the Commission the authority necessary to adopt either Decision  
7 No. 59943, or the Amended Rules in Decision No. 61071. Alternatively, if the Legislature did  
8 intend to affirmatively delegate certain statutory authority to the Commission, such delegation was  
9 necessarily limited by the terms of the statute, and the Amended Rules exceed the authority, if any,  
10 that was lawfully delegated to the Commission.

11  
12 **III. THE AMENDED RULES VIOLATE THE DUE PROCESS  
RIGHTS OF “AFFECTED UTILITIES”**

13 The Amended Rules violate APS’s constitutional rights to due process of law. First,  
14 portions of the Amended Rules violate substantive due process because they are unreasonable,  
15 arbitrary and capricious, and lack a real and substantial relation to the goal of retail electric  
16 competition. These include, among others, the provisions on divestiture, affiliate restrictions and  
17 the solar portfolio standard. Second, the Amended Rules impose contradictory prohibitions and  
18 obligations that simply cannot be reconciled. For example, R14-2-1606(D) requires an Affected  
19 Utility to provide billing and collection services to “all eligible purchasers”; R14-2-1616(B),  
20 however, prohibits an Affected Utility from providing billing and collection services to “all  
21 eligible purchasers.” Such inconsistency, in addition to other vague, ambiguous and contradictory  
22 provisions of the Amended Rules, violates APS’s due process rights.

23 Finally, APS has still not been accorded notice and an evidentiary hearing regarding  
24 the revocation by the Amended Rules of its exclusive CC&N’s. The Amended Rules even  
25 accelerate the final step of that revocation from 2003 to 2001. Moreover, the Company’s right to  
26

1 continue providing certain electric services on a non-exclusive basis is revoked under the  
2 Amended Rules.

3  
4 **IV. THE AMENDED RULES REPRESENT AN UNCOMPENSATED “TAKING”**

5 Although the Amended Rules continue to recognize that an Affected Utility shall  
6 have “a reasonable opportunity for recovery of unmitigated Stranded Costs”, the Amended Rules  
7 fail to address the “taking” of the exclusive nature of a Certificate of Convenience and Necessity  
8 (“CC&N”). The Amended Rules do not provide for compensation for the taking of exclusive  
9 CC&Ns, create no mechanism to determine the appropriate compensation due an Affected Utility  
10 for such taking, nor include the value of an exclusive CC&N in the definition of “Stranded Costs”  
11 or the enumerated factors to be considered in connection with Stranded Costs.

12 Second, the Amended Rules make no provision for the recovery of Stranded Costs  
13 incurred after 1996 (including the significant cost of compliance with the Amended Rules), or in  
14 connection with non-generation services such as metering, meter reading, and billing and  
15 collection. The Amended Rules not only mandate that these services be competitive, but further  
16 mandate at least a partial divestiture of assets used to provide such services. Moreover, to the  
17 extent the Commission interprets the Amended Rules as authorizing less than a reasonable  
18 opportunity for full stranded cost recovery, even using the Commission’s definition of stranded  
19 costs, the Amended Rules are an uncompensated taking.

20  
21 **V. THE AMENDED RULES IMPAIR THE VESTED CONTRACT  
RIGHTS OF “AFFECTED UTILITIES”**

22 Rule R14-2-1606(B) provides that after January 1, 2001, a Utility Distribution  
23 Company may only purchase power through competitive bid (except for purchases made through  
24 spot markets). This restriction substantially impairs existing power supply contracts, and there is  
25 no public urgency or need alleged or shown for such impairment. This restriction violates Article  
26 1, § 10 of the United States Constitution and Article II, § 25 of the Arizona Constitution.

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**VI. THE AMENDED RULES DENY “AFFECTED UTILITIES”  
EQUAL PROTECTION OF THE LAW**

The Amended Rules unreasonably discriminate against Affected Utilities without rational basis. For example, Rule R14-2-1616 requires Affected Utilities to legally separate all generation assets and competitive services from the Affected Utility’s non-competitive electric distribution business. The Amended Rules, however, require no such legal separation of Electric Service Providers, even though these providers may provide monopoly electric services in Arizona and other states or jurisdictions. Further, Rule R14-2-1617 imposes extremely burdensome affiliate transaction standards on Affected Utilities (and Utility Distribution Companies), but does not impose similar restrictions on competing Electric Service Providers, some of which may be affiliates of entities providing monopoly service in other states or that are otherwise in a position to unfairly cross-subsidize. For example, Rule R14-2-1617(E) requires Affected Utilities and Utility Distribution Companies to conduct expensive outside audits annually from 1999 through 2002, even if there is no suspicion of affiliate abuses. These audit requirements, however, do not apply to Electric Service Providers, even if affiliated with a regulated entity such that affiliate abuses could occur. The Amended Rules provide no explanation or justification for such disparate treatment of Affected Utilities.

**VII. THE AMENDED RULES VIOLATE THE ARIZONA ADMINISTRATIVE  
PROCEDURE ACT**

In Decision No. 61071, the Commission concluded that “[a]doption of the proposed rules on an emergency basis is necessary for the immediate preservation of the public health, safety and welfare, and the notice and participation requirements are impracticable.” (Decision No. 61071 at 2.) The Commission, however, has failed to make sufficient findings as to why the Amended Rules (or parts thereof) are necessary as an emergency measure. *See* A.R.S. § 41-1026. Rather, the Commission makes a conclusory statement that “[d]ue to the need to adhere to the

1 originally approved deadline of January 1, 1999” the Amended Rules are necessary as an  
2 emergency measure. The Commission’s “emergency” determination is invalid absent more  
3 detailed and supportable findings (1) of which portions of the Amended Rules meet the criteria for  
4 emergency rulemaking, (2) that the emergency was not created by the Commission’s delay or  
5 inaction, and (3) why the need to adhere to the January 1, 1999 deadline should take precedence  
6 over a reasoned decision-making process on the rules governing electric competition. Also, the  
7 Commission has failed to submit the emergency rules to the Attorney General for his approval (as  
8 to the existence of an “emergency”), as is required by A.R.S. § 41-1026.

9           Because the Amended Rules are not properly considered emergency rules, the  
10 Commission has violated the requirements of the Arizona Administrative Procedure Act in failing  
11 to prepare a Concise Explanatory Statement, failing to prepare an Economic, Small Business and  
12 Consumer Impact Statement, and failing to seek Attorney General certification of the Amended  
13 Rules. The Commission’s attempt to end-run the rulemaking process in adopting Decision No.  
14 61071 and the Amended Rules is thus unlawful pursuant to A.R.S. § 41-1030.

15  
16           **VIII. THE AMENDED RULES VIOLATE THE RATE REDUCTION AGREEMENT**

17           The Rate Reduction Agreement (“Agreement”) between APS and Commission Staff,  
18 approved in Decision No. 59601 (April 24, 1996), prohibits any party from seeking to change  
19 rates, other than as permitted in the Agreement, before July 2, 1999. The Amended Rules,  
20 however, appear to contemplate such a change in rates. *See, e.g.,* R14-2-1604. Therefore, to the  
21 extent that the Amended Rules are construed as requiring or authorizing a reduction in APS rates  
22 that is effective prior to July 2, 1999, they would violate that Agreement.

23  
24           **IX. THE AMENDED RULES CREATE AN UNLAWFUL OBLIGATION TO SERVE**

25           In Arizona, the obligation of a public utility to serve is legally dependant on the  
26 utility having an exclusive right to serve. *See James P. Paul Water Co. v. Ariz. Corp. Comm’n,*

1 137 Ariz. 426, 671 P.2d 404 (1983). Despite this authority, the Amended Rules continue to  
2 require APS to shoulder the obligation to serve in areas in which APS has no exclusive rights and  
3 for which other Electric Service Providers have no similar obligation, and without adequate  
4 assurances that APS will be fairly compensated for its performance of this obligation.

5  
6 **X. RULE R14-2-1609 OF THE AMENDED RULES**  
7 **UNLAWFULLY INTERFERES WITH THE MANAGEMENT OF**  
8 **“AFFECTED UTILITIES”, IS OTHERWISE**  
9 **ARBITRARY AND UNREASONABLE, AND IS NOT A**  
10 **PROPER SUBJECT FOR EMERGENCY RULEMAKING**

11 In the original Competition Rules, the Commission set forth a “solar portfolio  
12 standard” that, among other things, required sellers of competitive retail energy to include a certain  
13 minimum amount of solar energy in these competitive sales. In the Amended Rules, the  
14 Commission adopted substantial revisions to the original rule. For the same reasons set forth in  
15 APS’s January 10, 1997 Application for Rehearing (which is incorporated by reference), the  
16 Amended Rules still unlawfully interfere with the investment decisions of management, and  
17 unlawfully and arbitrarily dictate specific renewable technologies. Further, the Amended Rules  
18 impose purely arbitrary and unreasonable renewable percentages.

19 The Commission has attempted to shield its significant changes (over five double-  
20 spaced pages) to the solar portfolio standard from the rulemaking process by applying the  
21 “emergency” rules procedures to this rule. APS is committed to advancing the development and  
22 use of renewable energy technologies, and continues to maintain a leadership position in the  
23 development of renewable energy supplies. Surely, however, the inclusion of solar renewable  
24 standards in the Amended Rules does not constitute an “emergency” such that the Commission  
25 may waive the reasoned, deliberative process of a formal rulemaking proceedings on this  
26 important (but not a life-, health- or safety-threatening) issue.



1 **XIII. THE AMENDED RULES CONSTITUTE AN**  
2 **UNCONSTITUTIONAL BILL OF ATTAINDER**

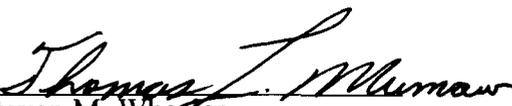
3 The Amended Rules impose punitive conditions on Affected Utilities, which are  
4 specifically-named public service corporations under the Amended Rules, without affording  
5 Affected Utilities a judicial trial for abuses that are presumed by the Commission. Accordingly,  
6 the Amended Rules violate the Bill of Attainder Clause in Article I, Section 10 of the United  
7 States Constitution and in Article II, Section 25 of the Arizona Constitution.

8 **XIV. CONCLUSION**

9 The Amended Rules continue to exceed the Commission's authority in many  
10 respects. They are also procedurally invalid and confiscate property vested in an Affected Utility.  
11 Finally, they impose arbitrary, unreasonable and discriminatory requirements on APS and other  
12 "Affected Utilities." The Commission should vacate Decision No. 61071 and amend the  
13 Competition Rules as recommended by the Company.

14 RESPECTFULLY SUBMITTED this 28th day of August, 1998.

15 SNELL & WILMER L.L.P.

16  
17 By 

18 Steven M. Wheeler  
19 Thomas L. Mumaw  
20 Jeffrey B. Guldner

21 Attorneys for Arizona Public  
22 Service Company  
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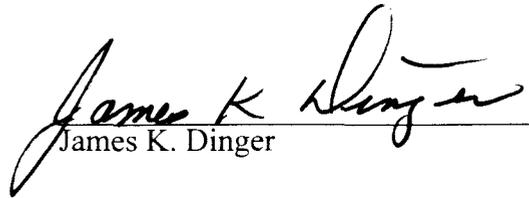
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CERTIFICATE OF SERVICE

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4 The original and ten (10) copies of the foregoing document were filed with the  
5 Arizona Corporation Commission on this 28th day of August, 1998, and service was completed by  
6 mailing or hand-delivering a copy of the foregoing document this 28th day of August, 1998 to all  
7 parties of record herein.  
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12 James K. Dinger  
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## EXHIBIT A



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July 6, 1998  
**HAND DELIVERED**

Ray T. Williamson  
Acting Director, Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington  
Phoenix, Arizona 85007

**Re: Proposed Revisions to Electric Competition Rules  
(Docket No. RE-00000C-94-0145)**

Dear Ray:

Enclosed please find Arizona Public Service Company's ("APS" or "Company") initial comments on Staff's proposed revisions to the Commission's electric competition rules ("Revised Rules"). Because of time constraints, I can not represent to you that this enclosure represents all of the Company's comments on the Revised Rules. Moreover, it is also possible that in the process of attempting to provide Staff with a "redlined" version of the Revised Rules, we may have made one or more errors in the specific language proposed by the Company. I apologize in advance for these deficiencies.

At your earliest convenience, I would like to meet with you and the other involved Staff members to discuss the Revised Rules in greater detail. I can assure you that there is no better way of producing a final product that, although perhaps not substantively to the Company's liking, will at least be devoid of obvious internal inconsistencies and unnecessary ambiguities.

The majority of the Company's comments can be summarized into five (5) principal categories:

- 1) Resolving Internal Inconsistencies: R14-2-1606, R14-2-1613, and R14-2-1616 are internally inconsistent. APS is required to provide services under one regulation that it is prohibited from providing under another. Aspects of metering that are declared to be competitive under one regulation are restricted to "Affected

Utilities" under another. APS and other "Affected Utilities" are required to provide a bundled Standard Offer and also prohibited from providing some of the very services that necessarily go into that bundled service (i.e., metering and billing). APS has attempted to identify and eliminate these inconsistencies while preserving the overall intent of the Revised Rules.

- 2) Ambiguities in the Use of Defined Terms: Defined terms are not used consistently in the text of the Revised Rules, or critical and oft-used terms are left undefined. At times, it is appropriate to modify the text to fit the definition of the term being used, while at other times the Company has modified the definition to match its use in the subsequent text.
- 3) Unrealistic and Counterproductive Reporting and Labeling Requirements: The information requirements in Revised Rules 1612, 1614, and 1618, although well intentioned, are so impractical as to prove counterproductive. Prospective competitors may either avoid Arizona because of these onerous provisions, or simply ignore them. The result - less competition and less useful information for consumers than would otherwise be the case.
- 4) Solar Portfolio Standard: APS has long maintained that the current standard is unrealistic and overly costly to consumers, especially in the earlier years when solar energy is likely to be particularly expensive relative to the competitive market. For example, the cost to APS during the first three years would exceed \$160 million. Although the Revised Rules are an improvement in some respects, they have not altered the fundamentally impractical nature of the initial SPS.
- 5) Affiliate Rules: APS does not oppose the long term objective of having structural and legal separation of competitive generation from regulated aspects of the electric business.<sup>1</sup> Similarly, the regulated entity should neither subsidize nor show undue favoritism to the competitive generation affiliate. However, unnecessary restrictions and duplicative reporting and recordkeeping further neither objective. They simply drive up the costs of incumbent providers, reduce legitimate economics of scale and scope and allow new entrants to charge higher prices to

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<sup>1</sup> APS would note that no other regulated industry in Arizona has been subject to these restrictions even though some have long records of anticompetitive behavior and subsidization of competitive services - factors absent in the electric utility industry in this state.

Ray T. Williamson

July 6, 1998

Page 3

Arizona consumers. Moreover, there is no reason why all competitive providers in Arizona should not be subject to the same rules. During the recent "stranded cost" hearing, representatives of PG&E and Enron did not, upon specific questioning on this point, object to having the same affiliate restrictions apply to both "Affected Utilities" and ESPs.

I again ask for a face-to-face meeting to resolve the issues raised by the Revised Rules. If, as I understand to be the case, the Commission intends to enact emergency rules, it is critical that we resolve as many issues as possible before a final recommendation is presented to the Commission.

Sincerely,

A handwritten signature in black ink, appearing to read "David R. Pollock". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

## 14-2-1601 Definitions

1. "Affected Utilities" means the following public service corporations providing electric service: Tucson Electric Power Company, Arizona Public Service Company, Citizens Utilities Company, Arizona Electric Power Cooperative, Trico Electric Cooperative, Duncan Valley Electric Cooperative, Graham County Electric Cooperative, Mohave Electric Cooperative, Sulphur Springs Valley Electric Cooperative, Navopache Electric Cooperative, Ajo Improvement Company, and Morenci Water and Electric Company.

~~2.~~ **2. "Aggregator" means an entity that combines electric customers into a purchasing group. ESP that combines individual electric customers or customer accounts into one or more purchasing groups.**

*[The proposed change avoids including "Self-aggregation" and "Schedule Coordinator" within the scope of this definition and emphasizes that third-party aggregators are themselves ESPs. It also recognizes that less than all of a customer's electric accounts may be eligible for aggregation under R14-2-1604(B).]*

~~3.~~ **"Billing and Collection Service Provider" (BCSP) means an ESP that provides billing and collection services to a UDC or another ESP. However, the billing and collection done by an Affected Utility or UDC does not result in the UDC or Affected Utility becoming a BCSP.**

*[Because competitive billing and collection are to be stand-alone competitive services and many Commission rules are related to billing and collection issues, it is appropriate to have a definition for those entities that provide such services. At the same time, it is necessary to modify the definition so as to allow "Affected Utilities" and, subsequently, UDCs to bill and collect for "Standard Offer" and other non-competitive services which the UDC is obligated to provide. These modifications will help resolve the current internal contradictions among various of the rules, including R14-2-1606, R14-2-1613 and R14-2-1616.]*

~~2.3.4~~ "Bundled Service" means electric service provided as a package to the consumer including all generation, transmission, distribution, ancillary and other services necessary to deliver and measure useful electric energy and power to consumers.

~~3.4.5.~~ "Buy-through" refers to a purchase of electricity by an Affected Utility at wholesale for a particular retail consumer or aggregate of consumers or at the direction of a particular retail consumer or aggregate of consumers.

~~5.6.~~ "Competition Transition Charge" (CTC) is a means of recovering Stranded Costs from the customers purchasing of competitive services.

~~6.7.~~ "Control Area Operator" is the operator of an electric system or systems, bounded by interconnection metering and telemetry, capable of controlling generation to maintain its interchange schedule with other Control Areas and contributing to frequency regulation of the Interconnection.

~~7.6.~~ "Current Transformer" (CT) is an electrical device used to provide a measurement of energy consumption for metering purposes.

8.9. "Delinquent Accounts" means customer accounts with outstanding overdue payment obligations.

[Outstanding obligations should not be considered "delinquent" until after they are due.]

9. ~~"Distribution Primary Voltage" is voltage at or above 600 volts (600V) through and including 25 kilovolts (25 kV). (Separating distribution primary voltage into distribution and transmission just for purposes of metering is confusing and conflicts with FERC's separation at 69 kV and above for transmission and below 69 kV as distribution. APS recommends that R14-2-1613(I),(10) and (11) be modified (as indicated in those sections) to state which distribution primary voltage PT's and CT's are to be owned by "Affected Utilities" or UDC's.)~~

~~4.10.~~ 4.10.—"Distribution Service" means the delivery of electricity to a retail consumer through wires, transformers, and other devices that are not classified as transmission services subject to the jurisdiction of the Federal Energy Regulatory Commission; Distribution Service excludes ~~meters and meter reading.~~ Metering Services, Meter Reading Services, and billing and collection Services, as those terms are used herein.

[This change incorporates prior and subsequently defined terms into the definition of "distribution service" and, as discussed above, is attempting to avoid internal inconsistency concerning the scope of competitive metering and meter reading, as well as competitive B&C services. For example, R14-2-1606 requires APS to provide metering and meter reading services. However, under proposed R14-2-1616, APS is prohibited from providing these same services!]

~~11.~~ 11.—"Electronic Data Interchange" (EDI) is a ~~computer program of national standards that establishes a specific format for electronically transmitted metering data. the computer-to-computer electronic exchange of business documents using standard formats which are widely recognized both nationally and internationally.~~

[This change conforms the definition of EDI with that used by the EDI Service Bureau in its technical manual, EDI Basics.]

~~5.12~~ 5.12—"Electric Service Provider" means a company supplying, marketing, or brokering at retail any of the competitive services described in R14-2-1605 of R14-2-1606. ESPs include Aggregators, MRSPs, MSPs, and BSPs, as those terms are defined herein.

[These changes: (1) identify the acronym "ESP", which is used extensively throughout the rules; (2) clarify the status under the rules of various providers of competitive services other than competitive electric generators; and (3) draw a clear distinction between ESPs and UDCs. As currently proposed, a UDC would also fall under the definition of an ESP because non-competitive services are included under R14-2-1606.]

6. ~~"Eligible Demand" means the total consumer kilowatts of demand which an Affected Utility must make available to competitive generation under the terms of this Article or the consumer kilowatts of demand provided competitively in an Affected Utility's distribution territory, whichever is greater.~~

13. 13. — "ESP Service Acquisition Agreement" means a contract between an ESP and an UDC to deliver power to retail end users or between an ESP and a Scheduling Coordinator to schedule transmission service.

[This change conforms the name of the term being defined and its scope with the term and scope used in the text of the new rules at 1602(F)(3).]

14. "Generation" means the production of electric power or contract rights to wholesale electric power.

15. "Installed Adequate Reserve" means the difference between the Electric Service Providers' expected annual peak capability and its expected annual peak demand as expressed as a percentage of the annual peak demand.

16. "Load-serving Entity" means an ESP Affected Utility or UDC, excluding a meter service or meter reading provider.

17. 17. — "Load Profiling" is a process of estimating customers' hourly energy consumption based on measurements of similar customers.

18. "Meter Service Provider" (MSP) means an entity providing Metering Service, as that term is defined herein.

[Because metering service is a distinct competitive service from meter reading service, there should be a separate definition for those entities that provide such service.]

18.19. "Meter Reading Service Provider" (MRSP) means an entity providing Meter Reading Service, as that term is defined herein and which that reads meters, performs validation, editing, and estimation on raw meter data to create validated meter data; translates validated data to an approved format; posts this data to a Sserver for retrieval by billing agents; manages the Sserver; exchanges data with market participants; and stores meter data for problem resolution.

[Incorporates defined terms into this definition to avoid confusion and ambiguity. Moreover, if "server" is intended to be a defined term, as this Paragraph implied, it is not defined anywhere in the rules.]

19. "Meter Reading Service" means all functions related to the collection and storage of consumption data for non-Standard Offer and other customers of non-competitive electric services. (Meter Reading for Standard Offer and other non-competitive electric service customers remain regulated.)

20. "Metering Service" means all functions related to measuring electricity consumption for non-Standard Offer customer, excepting those functions related to distribution primary voltage CT's and PT's above 25 kV. (PT's and CT's above 25 kV and Standard Offer metering remain regulated.)

21. Nuclear Fuel Decommissioning includes nuclear fuel disposal. (Conforms definition to that adopted in Decision No. 60977.)

~~22.~~22. "OASIS" is Open Access Same-Time Information System, which is an electronic bulletin board where transmission related information is posted for all interested parties to access via the Internet.

23. "Operating Reserve" means the generation capability above firm system demand used to provide for regulation, load forecasting error, equipment forced and scheduled outages, and local area protection.

24.24. "Potential Transformer" (PT) is an electrical device used to step down primary voltages to 120 volts for metering purposes.

25.25. "Scheduling Coordinator" means an entity designated by the Commission that provides schedules for power transactions over transmission or distribution systems to the party responsible for the operation and control of the transmission grid, such as a Control Area Operator, ISA or ISO.

(This change recognizes the fact that schedule coordination is solely a transmission function and puts the Commission in charge of determining both the number and qualifications of scheduling coordinators. Allowing either too many scheduling coordinators or unqualified scheduling coordinators will threaten system reliability and efficiency.)

26.26. "Self-Aggregation" is the action of a retail customer that combines its own-metered loads into a single purchase block.

~~27.~~27. "Standard Offer" means Bundled Service offered to all consumers in a designated area at regulated rates.

~~8.26.28.~~ "Stranded Cost" means includes:

- a. the verifiable net difference between:
  - a i The value of all the prudent jurisdictional assets and obligations necessary to furnish electricity (such as generating plants, purchased power contracts, fuel contracts, and regulatory assets), acquired or entered into prior to the adoption of this Article, under traditional regulation of Affected Utilities; and
  - b ii The market value of those assets and obligations directly attributable to the introduction of competition under this Article.
- b. **reasonable costs necessarily incurred by an Affected Utility to effectuate divestiture of its generation assets; and**
- c. **reasonable employee severance and retraining costs necessitated by electric competition, where not otherwise provided.**
- d. **other transition costs as approved by the Commission.**

*(Consistent with Decision No. 60977.)*

~~9.29.29.~~ "System Benefits" means Commission-approved utility low income, demand side management, environmental, renewables, customer education, and nuclear power plant decommissioning programs. *(Funding of customer education should be included in system benefits.)*

~~30.~~ "~~Transmission Primary Voltage~~" is ~~voltage above 25 kV.~~ *(See APS comment above on Distribution Primary Voltage.)*

~~10.31.31.~~ "Unbundled Service" means electric service elements provided and priced separately, including, but not limited to, such service elements as generation, transmission, distribution, metering, meter reading, billing and collection and ancillary services. Unbundled Service may be sold to consumers or to other Electric Service Providers.

~~32.32.~~ "Utility Distribution Company" (UDC) means the regulated electric utility entity that constructs operates and maintains the distribution wires system for the delivery of power from the generation market to the end-user to the end-user's point of delivery on the distribution system. For purposes of R14-2-1617, UDC also includes any affiliate of an ESP that would be deemed a UDC if it were operating in Arizona.

*[Who constructs or even owns the distribution system (which is far more than just "wires") is irrelevant to the use of this term in the rules - operational control is the key. This also provides for the equal application of R14-2-1617.]*

~~33.33.~~ "Utility Industry Group" (UIG) refers to a utility industry association that establishes national standards for data formats.

**34. "Universal Node Identifier" is a unique, permanent, identification number assigned to each service delivery point.**

**R14-2-1602. Filing of Tariff by Affected Utilities.**

A. Each Affected Utility shall file tariffs consistent with this Article by December 31, 1997.

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

A. A. Any Electric Service Provider intending to supply services described in R14-2-1605 or R-14-2-1606, other than services subject to federal jurisdiction, shall obtain a Certificate of Convenience and Necessity from the Commission pursuant to this Article, however; a Certificate is not required to offer information services or billing and collection services, **or self aggregation.** ~~An Affected Utility does not need to apply for a Certificate of Convenience and Necessity for any service provided as of the date of adoption of this Article within its distribution service territory.~~ An Affected Utility is deemed to already have a Certificate of Convenience and Necessity for any competitive service provided as of the date of adoption of this Article within its distribution service territory.

*[There is no reason to make "Affected Utilities" reapply for competitive services that they can already lawfully provide under their current CC&N. No party to these proceedings has ever suggested otherwise, and the purpose of this Staff change is unexplained and will almost certainly threaten the start of competition on 1/1/99. For the reasons explained by APS in prior comments, this language is superior to that in the original rule although the purpose is obviously the same.]*

B. Any company desiring such a Certificate of Convenience and Necessity shall file with the Docket Control Center the required number of copies of an application. Such Certificates shall be restricted to geographical areas served by the Affected Utilities as of the date this Article is adopted and to service areas added under the provisions of R14-2-1611 (B). In support of the request for a Certificate of Convenience and Necessity, the following information must be provided:

1. A description of the electric services which the applicant intends to offer;
2. The proper name and correct address of the applicant, and
  - a. The full name of the owner if a sole proprietorship,
  - b. The full name of each partner if a partnership,
  - c. A full list of officers and directors if a corporation, or
  - d. A full list of the members if a limited liability corporation;
3. A tariff for each service to be provided that states the maximum rate and terms and conditions that will apply to the provision of the service;

4. A description of the applicant's technical ability to obtain and deliver electricity and provide any other proposed services;
5. Documentation of the financial capability of the applicant to provide the proposed services, including the most recent income statement and balance sheet, the most recent projected income statement, and other pertinent financial information. Audited information shall be provided if available;
6. ~~6.~~—A description of the form of ownership (e.g., partnership, corporation);
7. A transaction privilege license from the state of Arizona and from each political subdivision thereof (having a privilege or franchise tax) in which the applicant seeks authority to act as a MSP or MRSP, or will act as a BCSP.

*[The Commission should insure that the certification of an ESP will not result in a loss of tax jurisdiction by the State or any subdivision thereof.]*

8. An explanation of how the applicant intends to comply with the requirements of R14--1617, or a request for waiver or modification thereof with an accompanying justification for any such requested waiver or modification;

*[This change is consistent with the Company's position that any affiliate restrictions should equally apply to all market competitors. During the course of the Stranded Cost hearing, those witnesses on behalf of PG&E and Enron agreed to such equality of treatment.]*

7.9. Such other information as the Commission or the Staff may request.

- C. **The Applicant shall report in a timely manner during the application process any change(s) in the information initially reported to the Commission in the application for a Certificate of Convenience and Necessity.**
- ~~C.~~D. **At the time of filing for a Certificate of Convenience and Necessity, each applicant shall notify the Affected Utilities in whose service territories it wishes to offer service of the application by serving a complete copy of the application on the Affected Utilities. Each applicant shall provide written notice to the Commission that it has provided notification to each of the respective Affected Utilities at the time of application.**
- E. **The Commission after reviewing the application, may provide approval of the Certificate of Convenience and Necessity for up to 12 months if the applicant has limited or no experience in providing the retail electric service that is being requested. An applicant receiving such interim approval shall have the responsibility to apply for appropriate extensions.**
- ~~D.~~F. **The Commission may deny certification to any applicant who:**
  1. Does not provide the information required by this Article;

2. Does not possess adequate technical or financial capabilities to provide the proposed services;

~~4.~~ 3. ~~Does not have service acquisition agreements with a utility distribution company and scheduling coordinator, if the applicant is not its own scheduling coordinator. Does not have an ESP Service Acquisition Agreement with a Utility Distribution Company and Scheduling Coordinator, if the applicant is not its own Scheduling Coordinator.~~

*[Conforms language in text with terms defined in definition section of the rules.]*

3.4. Fails to provide a performance bond, if required.

5. Fails to demonstrate that its certification will serve in the public interest.

~~E. G.~~ Every Electric Service Provider obtaining a Certificate of Convenience and Necessity under this Article shall obtain certification subject to the following conditions:

1. The Electric Service Provider shall comply with all Commission rules, orders, and other requirements relevant to the provision of electric service and relevant to resource planning;
  2. The Electric Service Provider shall maintain accounts and records as required by the Commission;
  3. The Electric Service Provider shall file with the Director of the Utilities Division all financial and other reports that the Commission may require and in a form and at such times as the Commission may designate;
  4. The Electric Service Provider shall maintain on file with the Commission all current tariffs and any service standards that the Commission shall require;
  5. The Electric Service Provider shall cooperate with any Commission investigation of customer complaints;
  6. The Electric Service Provider shall obtain all necessary permits and licenses;
- ~~8.7.~~ Failure to comply with any of the above conditions may result in recession of the Electric Service Provider's Certificate of Convenience and Necessity.

~~E. H.~~ In appropriate circumstances, the Commission may require, as a precondition to certification, the procurement of a performance bond sufficient to cover any advances or deposits the applicant may collect from its customers, or order that such advances or deposits be held in escrow or trust.

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

Each Affected Utility shall make available at least 20% of its 1995 system retail peak demand for competitive generation supply to all customer classes (including residential and small commercial consumers) not later than January 1, 1999. If data permit, coincident annual peak demand shall be used; otherwise noncoincident peak data may be used.

1. No more than 1/2 of the Eligible Demand may be procured by consumers, each of whose total competitive contract demand is greater than 3 MW.
2. At least 15% of the Eligible Demand shall be reserved for residential consumers.
3. Aggregation of loads of multiple consumers shall be permitted.

**A. A.** — All Affected Utility customers with peak demand load minimum demands of 1MW or greater through a single point of delivery, up to 20% to the Affected Utility's 1995 peak demand will be eligible for competitive electric services no later than January 1, 1999.

*[This change reflects the fact that individual load of less than 1 MW can not be effectively scheduled. Aggregated loads involving multiple points of delivery are covered in the next paragraph.]*

**B.** — Each Affected Utility shall make available at least 50% of its 1995 system retail peak demand for competitive generation supply to all customer classes (including residential and small commercial consumers) not later than January 1, 2001. If data permit, coincident peak annual demand shall be used; otherwise noncoincident peak data may be used.

1. No more than 1/2 of the Eligible Demand may be procured by consumers, each of whose total competitive contract demand is greater than 3 MW.
2. At least 30% of the Eligible Demand shall be reserved for residential consumers.
3. Aggregation of loads of multiple consumers shall be permitted.

**B. B.** — Groups of Affected Utility customers with individual single premise peak load demands of 40 100 kW or greater aggregated into a combined load of 1 MW or greater will be eligible for competitive electric services no later than January 1, 1999. If peak load data are not available, the 40 kW criterion can be determined to be met if the customer's usage exceeded 16,500 kWh in any month within the last twelve consecutive months. From January 1, 1999, through December 31, 2000, aggregation as defined above, of new competitive customers will be allowed until such time as 20% of the Affected Utility's 1995 system peak demand is served by competitors competitive generation providers. At that point all additional aggregated customers must wait until January 1, 2001, to obtain competitive service.

*[These changes: (i) reflect the minimum load requirements (on an aggregated basis) discussed above; (2) change the qualifier "individual" to one used in APS' and other utilities' tariffs, i.e., "single premise;" (3) raise the size of aggregatable loads to 100 kW in an effort to keep the first wave of such loads within a manageable level; (4) conform the kwh equivalent*

*Another alternative, if the 100*

of kW load with that used by Staff in R14-2-1613(1); (5) and clarify both that existing "Standard Offer" customers of an Affected Utility can, if eligible for competitive service, chose to be served under an Affected Utility's competitive rates and that the relevant competitive service for purposes of determining the 20% cap is competitive generation.]

~~C. Prior to 2001, no single consumer shall receive more than 20% of the Eligible Demand in a given year in an Affected Utility's service territory.~~

C. Each Affected Utility shall offer a residential phase-in program with the following components:

1. A minimum of 1/2 of 1% of residential customers will have access to competitive electric services on January 1, 1999. The number of customers eligible in the residential phase-in program shall increase by an additional 1/2 of 1% every quarter until January 1, 2001.
2. Access to the residential phase-in program will be on a first-come, first-served basis. The Affected Utility shall create and maintain a waiting list to manage the residential phase-in program.
3. Load profiling may be used; however, residential customers participating in the residential phase-in program may choose other metering options offered by their electric service provider consistent with the Commission's rules on metering.
4. Each Affected Utility shall file a Residential Phase-In Program Proposal to the Commission for approval by Director, Utilities Division by September 15, 1998. As a minimum, the Residential Phase-In Program Proposal will include specifics concerning the Affected Utility's proposal:
  - a. Process for customer notification of Residential Phase-In Program;
  - b. Selection and tracking mechanism for customers based on first-come, first-served method;
  - c. Customer notification process and other information services to be offered; and,
  - d. Load profiling methodology and actual load profiles, if available.
5. Each Affected Utility and/or ESP providing competitive generation, as applicable, shall file quarterly Residential Phase-In Program reports within 45 days of the end of each quarter, beginning January 1, 1999 and ending January 1, 2001. (Clarifies when reports are to begin and end.) As a minimum, these quarterly reports shall include:

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*kW criterion is unacceptable. would be to limit the total aggregated load that can choose competitive only to 200 MW.*

- a. Both ESP's and Affected Utilities - The number of customers and the load currently enrolled in Residential Phase-In Program by energy service provider;
- b. The Affected Utilities - The number of customers currently on the waiting list;
- c. Both the ESP's and the Affected Utilities - A description of all customer education programs and other information services including a discussion of the effectiveness of the programs; and,
- d. Both the ESP's and the Affected Utilities - An overview of any comments and survey results from participating residential customers.

[ "Affected Utilities will not have all the requested information, and thus it is necessary to require the ESPs to also report on most of these items. Subparagraph (d) clarifies that ESPs and "Affected Utilities" need only provide otherwise available information.]

~~D. Each Affected Utility shall file a report detailing possible mechanisms to provide benefits, such as rate reductions of 3% - 5%, 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).~~

[APS would strike this provision. The various requirements of these rules do nothing but increase the costs of "Affected Utilities." APS is aware of no "mechanisms" for decreasing rates other than a formal rate case or a voluntary rate agreement with a particular "Affected Utility."]

~~D. Each Affected Utility shall make available all of its retail demand for competitive generation supply not later than January 1, 2003.~~

~~E.D. All customers shall be eligible entitled to obtain competitive electric services no later than January 1, 2001.~~

~~E. By the date indicated in R14-2-1602, Affected Utilities shall propose for Commission review and approval how customers will be selected for participation in the competitive market prior to 2003.~~

- ~~1. Possible selection methods are first-come, first-served; random selection via a lottery among volunteering consumers; or designation of geographic areas.~~
- ~~2. The method for selecting customers to participate in the competitive market must fairly allow participation by a wide variety of customers of all sizes of loads.~~

~~F.E. 3. All customers who produce or purchase at least 10% of their annual electricity consumption from photovoltaic or solar thermal 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).

~~4. The Commission Staff shall commence a series of workshops on selection issues within 45 days of the adoption of this Article and Staff shall submit a report to the Commission discussing the activities and recommendations of participants in the workshops. The report shall be due not later than 90 days prior to the date indicated in R14-2-1602.~~

**F.G.E.** Retail consumers served under existing contracts are eligible to participate in the competitive market prior to expiration of the existing contract only if the Affected Utility and the consumer agree that the retail consumer may participate in the competitive market.

**G.H.G.** An Affected Utility may engage in buy-throughs with individual or aggregated consumers. Any contract for a buy-through effective prior to the date indicated in R14-2-1604(A) must be approved by the Commission.

**H.I.H.** Schedule Modifications for Cooperatives

1. An electric cooperative may request that the Commission modify the schedule described in R14-2-1604(A) through R14-2-1604(D) (E) so as to preserve the tax exempt status of the cooperative or to allow time to modify contractual arrangements pertaining to delivery of power supplies and associated loans.
2. As part of the request, the cooperative shall propose methods to enhance consumer choice among generation resources.
3. The Commission shall consider whether the benefits of modifying the schedule exceed the costs of modifying the schedule.

**R14-2-1605. Competitive Services.**

A properly certificated Electric Service Provider may offer any of the following services under bilateral or multilateral contracts with retail consumers:

A. Generation of electricity from generators at any location whether owned by the Electric Service Provider or purchased from another generator or wholesaler of electric generation.

~~B. Any service described in R14-2-1606, except: Distribution Service and except services required by the Federal Energy Regulatory Commission to be monopoly services. Billing and collection services, information services, and self-aggregation services do not require a Certificate of Convenience and Necessity.~~

1. Distribution Service

2. Standard Offer Service

3. Metering and meter reading for Standard Offer Services:

4. Billing and collection for Standard Offer Services and other non-competitive services.

Services required by the Federal Energy Regulatory Commission Article to be monopoly services.

Billing and Collection Services and Self- Aggregation services do not require a Certificate of Convenience and Necessity.

*["Standard Offer" Service is described in R14-2-2-1606, yet is clearly not a competitive service. Similarly, it is clearly contemplated by the rules that the UDC should continue to provide metering and billing services to "Standard Offer" customers (how else could "Standard Offer" service remain fully bundled as required by the rules). APS should also be permitted to bill customers for other non-competitive services. Finally, R14-2-1613 (I) limits certain functions to the UDC, namely Transmission Primary Voltage PTs and CTs. Without these changes, the rule is both confusing and contradictory to other rules within this same Article.]*

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

A. ~~A.~~—Until the Commission determines that competition has been substantially implemented for a particular class of consumers (residential, commercial, industrial) so that all consumers in that class have an opportunity to participate in the competitive market, ~~and until all Stranded Costs pertaining to that class of customers have been recovered,~~ each Affected Utility shall make available to all consumers in that class in its service area, as defined on the date indicated in R14-2-1602, Standard Offer bundled generation, transmission, ancillary, distribution, and other necessary services at regulated rates that provide for recovery of all reasonable costs.

*(Clarifies meaning of regulated rates since all services are regulated to one extent or another.)*

1. An Affected Utility may request that the Commission determine that competition has been substantially implemented to allow discontinuation of Standard Offer service and shall provide sufficient documentation to support its request.

2. ~~2.~~—The Commission may, on its own motion, investigate whether competition has been substantially implemented and whether Standard Offer service may be discontinued.

*[This concept of a "Standard Offer," which is left over from the original 1996 rules, does not seem to be consistent with following subsection and with subsection F.]*

**B. After January 1, 2001 Standard Offer service shall be provided by uUtility ~~d~~Distribution eCompanies. (UDC is a defined term.)**

E Standard Offer Tariffs

June 23, 1998 Draft

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July 6, 1998

1. By the date indicated in R14-2-1602, each Affected Utility may file proposed tariffs to provide Standard Offer Bundled Service and such rates shall not become effective until approved by the Commission. If no such tariffs are filed, rates and services in existence as of the date in R14-2-1602 shall constitute the Standard Offer.
2. Affected Utilities may file proposed revisions to such rates. It is the expectation of the Commission that the rates for Standard Offer service will not increase, relative to existing rates, as a result of allowing competition. Any rate increase proposed by an Affected Utility for Standard Offer service must be fully justified through a rate case proceeding.

5. 3. — Such rates shall recover ~~fleet~~ the costs of providing the service.

*(See comment to R14-2-1606(A).)*

4. Consumers receiving Standard Offer service are eligible for potential future rate reductions authorized by the Commission, such as reductions authorized in Decision No. 59601.

GD. By the date indicated in R14-2-1602, each Affected Utility shall file Unbundled Service tariffs to provide the services listed below to all eligible purchasers on a nondiscriminatory basis:

1. Distribution Service;
2. ~~Metering and m~~ Meter r Reading s Services;
3. Billing and ~~e~~ Collection s Services;
4. Open access transmission service and ancillary services (as approved by the Federal Energy Regulatory Commission, if applicable); in accordance with Federal Energy Regulatory Commission Order 888 (III FERC Stats. & Regs. — 31,036, 1996) incorporated herein by reference
5. ~~Ancillary services in accordance with Federal Energy Regulatory Commission Order 888 (III FERC Stats. & Regs. — 31,036, 1996) incorporated herein by reference;~~
7. ~~Information services such as provision of customer information to other Electric Service Providers;~~
8. 5. Other ancillary services necessary for safe and reliable system operation.

*[These changes conform the use of terms in this Subsection with their definition in R14-2-1601, consolidate various other provisions, and remove a confusing use of a FERC-defined term (“ancillary”) in the last paragraph of Subsection C.]*

D To manage its risks, an Affected Utility may include in its tariffs deposit requirements and advance payment requirements for Unbundled Services.

~~E. F. After January 1, 2001, all long-term (over one year) power purchased by a Utility Distribution Company to serve standard offer customers shall be acquired through competitive bid. Any resulting long-term contract shall be filed with and approved by the Commission contain provisions allowing the UDC to ratchet down its power purchases. If the cost of such a ratchet provision is unreasonable, the affected UDC may file for an exemption from this rule. All purchased power costs shall be recovered through a purchased power adjustment mechanism approved by the Commission.~~

[APS understands the intent of this provision but is somewhat leary of how it would work in actual practice simply because there is no precedent anywhere in the country for this type of provision. APS has modified the provision to make it flexible and practical. Moreover, the Commission must concurrently authorize UDCs to implement a Purchased Power Adjustment mechanism to reflect the cost of acquiring power for the "Standard Offer."]

F.G. Customer Data

1. Upon authorization by the customer, an Electric Service Provider shall release in a timely and useful manner that customer's demand and energy data for the most recent 12 month period to a customer-specified Electric Service Provider.
2. The Electric Service Provider requesting such customer data shall provide an accurate account number for the customer.
3. The form of data shall be mutually agreed upon by the parties and such data shall not be unreasonably withheld.

G.H. Rates for Unbundled Services

1. The Commission shall review and approve rates for services listed in R14-2-1606(C) and requirements listed in R14-2-1606(D), where it has jurisdiction, before such services can be offered.
2. Such rates shall reflect the costs of providing the services.
3. Such rates may be downwardly flexible if approved by the Commission.

H.I. Electric Service Providers offering services under this R14-2-1606 shall provide adequate supporting documentation for their proposed rates. Where rates are approved by another jurisdiction, such as the Federal Energy Regulatory Commission, those rates shall be provided to this Commission.

1 Within 90 days of the adoption of this Article, the Commission Staff shall commence a series of workshops to explore issues in the provision of Unbundled Service and Standard Offer service.

1. Parties to be invited to participate in the workshops shall include utilities, consumers, organizations promoting energy efficiency, and other Electric Service Providers.
2. Among the issues to be reviewed in the workshops are: metering requirements; metering protocols; designation of appropriate test years; the nature of adjustments to test year data; de-averaging of rates; service characteristics such as voltage levels; revenue uncertainty; line extension policies; and the need for performance bonds.
3. A report shall be submitted to the Commission by the Staff on the activities and recommendations of the participants in the workshops not later than 60 days prior to the date indicated in R14-2-1602. The Commission shall consider any recommendations regarding Unbundled Service and Standard Offer service tariffs.

**R14-2-1607. Recovery of Stranded Cost of Affected Utilities.**

- A. The Affected Utilities shall take every ~~feasible~~ **reasonable**, cost-effective measure to mitigate or offset Stranded Cost by means such as expanding wholesale or retail markets, or offering a wider scope of services for profit, among others.
- B. The Commission shall allow **a reasonable opportunity for** recovery of unmitigated Stranded Cost by Affected Utilities.
- ~~C. A working group to develop recommendations for the analysis and recovery of Stranded Cost shall be established.
  1. The working group shall commence activities within 15 days of the date of adoption of this Article.
  2. Members of the working group shall include representatives of Staff, the Residential Utility Consumer Office, consumers, utilities, and other Electric Service Providers. In addition, the Executive and Legislative Branches shall be invited to send representatives to be members of the working group.
  3. The working group shall be coordinated by the Director of the Utilities Division of the Commission or by his or her designee.~~
- ~~D. In developing its recommendations, the working group shall consider at least the following factors:
  1. The impact of Stranded Cost recovery on the effectiveness of competition;
  2. The impact of Stranded Cost recovery on customers of the Affected Utility who do not participate in the competitive market;
  3. The impact, if any, on the Affected Utility's ability to meet debt obligations;
  4. The impact of Stranded Cost recovery on prices paid by consumers who participate in the competitive market;
  5. The degree to which the Affected Utility has mitigated or offset Stranded Cost;
  6. The degree to which some assets have values in excess of their book values;~~

8. The-time period over which such Stranded Cost charges may be recovered. The Commission shall limit the application of such charges to a specified time period;
9. The ease of determining the amount of Stranded Cost;
10. The applicability of Stranded Cost to interruptible customers;
11. The amount of electricity generated by renewable generating resources owned by the Affected Utility.

**J.F.** A Competitive Transition Charge may be assessed only ~~Stranded Cost may only be recovered~~ from customer purchases made in the competitive market using the provisions of this Article. Any reduction in electricity purchases from an Affected Utility resulting from self-generation, demand side management, or other demand reduction attributable to any cause other than the retail access provisions of this Article shall not be used to calculate or recover any Stranded Cost from a consumer.

**K.G.** The Commission may order an Affected Utility to file estimates of Stranded Cost and mechanisms to recover or, if negative, to refund Stranded Cost.

**L.H.** The Commission may order regular revisions to estimates of the magnitude of Stranded Cost.

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

A. ~~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. ~~In addition, the Affected Utility may file for a change in the System Benefits charge at any time. 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' ~~present~~ Commission- approved low income, demand side management, environmental, renewables, customer education, and nuclear power plant decommissioning programs **in effect from time to time.** **Affected Utilities or UDCs shall file for review of the Systems Benefits Charge at least every three years. At such time, and only at such time, the Commission shall determine whether to eliminate, modify, expand, or add to such programs.**

*[APS's proposed changes to this Subsection accomplish several objectives. First, customer education is explicitly added to the list of eligible programs. Second, it is made clear that changes or additions to the social programs eligible for SBC recovery will only be done at the same time a change in the SBC is being considered. Finally, the sentences are rearranged into a more logical order.]*

- D. Each Affected Utility shall provide adequate supporting documentation for its proposed rates for System Benefits.
- C. An Affected Utility shall recover the costs of System Benefits only upon hearing and approval by the Commission of the recovery charge and mechanism. The Commission may combine its review of System Benefits charges with its review of filings pursuant to R14-2-1606.
- D. Methods of calculating System Benefits charges shall be included in the workshops described in R14-2-1606 (I).

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

- A. ~~A.~~—Starting on January 1, 1999, any Electric Service Provider selling electricity under the provisions of this Article must derive at least .1% ~~1/2~~ of 1% of the total retail energy sold competitively from new solar resources, whether that solar energy is purchased or generated by the seller. Such requirement will increase by .1% per year after 2004. Solar resources include photovoltaic resources and solar thermal resources that generate electricity. New solar resources are those installed on or after January 1, 1997.

*[The 1999 requirement has been and continues to be impossible to meet. APS alone would have to install 4MW (assuming access to the 2.5X credits) in new solar equipment. That amount of new capacity simply cannot be manufactured, delivered and installed by 1999. Thus, the SPS will be nothing more than a 30¢/Kwh tax for at least the first year. An additional amount of at least 21 MW will be required in 2001. The Company suggests starting with a more realistic target, .1%, and ramping it up to 0.25% in 2003, 0.75% in 2005 and 1% in 2007.]*

- B. Solar portfolio standard after December 31, 2007~~4~~:

1. Starting on January 1, 2007~~2~~, any Electric Service Provider selling electricity under the provisions of this Article must derive at least 1% of the total retail energy sold competitively from new solar resources, whether that solar energy is purchased or generated by the seller. Solar resources include photovoltaic resources and solar thermal resources that generate electricity. New solar resources are those installed on or after January 1, 1997.
2. **The Solar Portfolio Standard requirement shall be in effect for 10 years, from January 1, 1999 through December 31, 2008.** The Commission may ~~change~~ **increase** the solar portfolio percentage applicable after December 31, 200~~1~~– 2005, taking into account, among other factors, the costs of producing solar electricity and the costs of fossil fuel for conventional power plants. **Prior to any future possible increase in the solar portfolio standard percentage, the Commission shall establish a kWh cost impact cap to ensure that costs must decline in order for solar installation rates to increase.**

~~Any Electric Service Provider certificated under the provisions of this Article shall be able to credit 2 times the electric energy it generated, or caused to be generated under contract, before January 1, 1999 using photovoltaics or solar thermal resources installed on or after January 1, 1997 in Arizona to the electric energy requirements of R14-2-1609(A) or R14-2-1609(B).~~ Electric Service Providers shall be eligible for a number of extra credit multipliers that may be used to meet the Solar Portfolio Standard requirements:

1. **Early Installation Extra Credit Multiplier:** For new solar electric systems installed and operating prior to December 31, 2003, electric service providers would qualify for multiple extra credits for kWh produced for five years following operational start-up of the solar electric system. The five-year extra credit would vary depending upon the year in which the system started up, as follows:

<u>YEAR</u>	<u>EXTRA CREDIT MULTIPLIER</u>
1997	.5
1998	.5
1999	.5
2000	.4
2001	.3
2002	.2
2003	.1

The Early Installation Extra Credit Multiplier would end in 2005.

*(The credits should be extended to at least 2005 to incentivise the use of new technologies.)*

2. **Solar Economic Development Extra Credit Multipliers:** There are two equal parts to this multiplier, an in-state installation credit and an in-state content multiplier.
  - a. **In-State Power Plant Installation Extra Credit Multiplier:** Solar electric power plants installed in Arizona shall receive a .5 extra credit multiplier.
  - b. **In-State Manufacturing and Installation Content Extra Credit Multiplier:** Solar electric power plants shall receive up to a .5 extra credit multiplier related to the manufacturing and installation content that comes from Arizona. The percentage of Arizona content of the total installed plant cost shall be multiplied by .5 to determine the appropriate extra credit multiplier. So, for instance, if a solar installation included 80% Arizona content, the resulting extra credit multiplier would be .4 (which is .8 X .5).
  
3. **Distributed Solar Electric Generator and Solar Incentive Program Extra Credit Multiplier:** Solar electric generators that meet any of the following conditions shall receive a .5 extra credit multiplier: 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.

- a. Solar electric generators installed at or on the customer premises in Arizona. Eligible customer premises locations will include both grid-connected and remote, non-grid-connected locations. In order for Electric Service Providers to claim an extra credit multiplier, the Electric Service Provider must have contributed at least 10% of the total installed cost or have financed at least 80% of the total installed cost.
- b. Solar electric generators located in Arizona that are included in any Electric Service Provider's green pricing program.
- c. Solar electric generators located in Arizona that are included in any Electric Service Provider's net metering or net billing program.
- d. Solar electric generators located in Arizona that are included in any Electric Service Provider's solar leasing program.

~~4. 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.~~

~~5.4. All green pricing, a Net metering, and net billing, and solar leasing programs must have been reviewed and approved by the Commission Staff in order for the Electric Service Provider to accrue extra credit multipliers from this subsection.~~

*(Green pricing and leasing programs should not require ACC approval. The market should set the price for these programs, the SPS creates the demand.)*

~~6.5. All multipliers are additive, allowing a maximum combined extra credit multiplier of 2.0 in years 1997-2003, for equipment installed and manufactured in Arizona and either installed at customer premises or participating in approved solar incentive programs. So, if an ESP qualifies for a 2.0 extra credit multiplier and it produces 1 solar kWh, the ESP would get credit for 3 solar kWh (1 produced plus 2 extra credit).~~

D. Electric Service Providers selling electricity under the provisions of this Article shall provide reports on sales and solar power as required in this Article, clearly demonstrating the output of solar resources, the installation date of solar resources, and the transmission of energy from those solar resources to Arizona consumers. The Commission may conduct necessary monitoring to ensure the accuracy of these data.

~~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 may **shall** impose a penalty requirement on that Electric Service Provider **that the Electric Service Provider establish a Solar Electric Fund** equal up to 30 cents per kWh for deficiencies in the provision of solar electricity energy. **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.** Title to any equipment purchased by the Solar Electric Fund will be transferred to the public entity. 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.~~

*(APS recommends that this subsection be replaced with APS' proposal to establish a 30 cent wires charge for each lWh required for the SPS which can be offset by 30 cents for each solar kWh actually provided. The UDC will collect the charge and the dollars would be used for solar projects approved by the Commission. Any revenues generated from the solar installations would be used to offset system benefits charges required to be collected for low income and other social programs. A surcharge on distribution service would likely be easier to collect than a tax on ESPs and would allow the Commission greater flexibility concerning use of the proceeds than would a restriction limiting their use to projects for public entities. It is possible that the demand for solar equipment by public agencies may be less than anticipated by Staff even if that equipment is wholly or partially subsidized because the public entity would still be responsible for the on-going maintenance of the equipment and any necessary backup facilities.*

- F. Photovoltaic or solar thermal **electric** resources that are located on the consumer's premises shall count toward the solar portfolio standard applicable to the current Electric Service Provider serving that consumer.
- G. ~~The solar portfolio standard described in this section is in addition to renewable resource goals for Affected Utilities established in Decision No. 58643.~~

*[Delete this Subsection. The goals set in Decision No. 58643 are irrelevant to today's circumstances and put APS at a great competitive disadvantage compared to other ESPs not subject to Decision No. 58643.]*

- H. Any Electric Service Provider or independent solar electric generator that produces or purchases any solar kWh in excess of its annual portfolio requirements may save or bank those excess solar kWh for use or sale in future years. Any eligible solar kWh produced subject to this rule may be sold or traded to any Electric Service Provider that is subject to this Rule. Appropriate documentation, subject to Commission review, shall be given to the purchasing entity and shall be referenced in the reports of the Electric Service Provider that is using the purchased kWh to meet its portfolio requirements

Solar Portfolio Standard requirements shall be calculated on an annual basis, based upon competitive electricity sold during the calendar year.

~~J.~~ J. An Electric Service Provider shall be entitled to receive a partial credit against the Solar Portfolio requirement if the ESP owns or makes a significant investment in any solar electric manufacturing plant that is located in Arizona. The credit will be equal to the amount of the nameplate capacity of the solar electric generators produced in Arizona in a calendar year times ~~2,190~~ 1900 hours (approximating a ~~25~~ 22% capacity factor). The credit against the portfolio requirement shall be limited to the following percentages of the total portfolio requirement:

*(A 25% capacity factor for fixed plate PV's is too generous.)*

1999	Maximum of 50 % of the portfolio requirement
2000	Maximum of 50 % of the portfolio requirement
2001	Maximum of 25 % of the portfolio requirement
2002	Maximum of 25 % of the portfolio requirement
2003 and on	Maximum of 20 % of the portfolio requirement

No extra credit multipliers will be allowed for this credit. In order to avoid double-counting of the same equipment, solar electric generators that are sold to other Electric Service Providers to meet their Arizona solar portfolio requirements will not be allowable for credits under this section for the manufacturer/ESP to meet its portfolio requirements.

~~K.~~ K. Any solar electric generators used for the production of solar electricity to meet this portfolio requirement must have been certified to have met the appropriate industry safety, durability, reliability, and performance standards. The Commission Staff develop additional standards, as needed.

*(The word appropriate will need to be defined. Depending on the type of certification required this could take between 90 days and 2 years.)*

~~R14-2-1610. Spot Markets and Independent System Operation~~ Transmission and Distribution Access.

~~A.~~ The Commission shall conduct an inquiry into spot market development and independent system operation for the transmission system.

A. ~~A.~~ The Affected Utilities shall provide, in accordance with regulatory guidelines, non-discriminatory open access to transmission and distribution facilities to serve all customers. ~~No preference or priority shall be given to any distribution customer based on whether the customer is purchasing power under the Affected Utility's standard offer or in the competitive market. Rights to use the transmission transfer capability shall be allocated and assigned to the retail customer load on a pro rata basis.~~

*[FERC will decide transmission priorities. Draft rule's language would increase costs for "Standard Offer" customers.]*

~~B. The Commission may support development of a spot market or independent system operator(s) for the transmission system.~~

**B. The Commission supports the development of an Independent System Operator (ISO) or, absent an ISO, an Independent Scheduling Administrator.**

~~C. The Commission may work with other entities to help establish spot markets and independent system operators.~~

**B. C. The Commission believes that an Independent Scheduling Administrator (ISA) is necessary in order to provide non-discriminatory retail access and to facilitate a robust and efficient electricity market. Therefore, the Affected Utilities ISA, with the support of the Affected Utilities, shall file with FERC for approval of an ISA having the following characteristics:**

*[ISA must make FERC application - not individual utilities.]*

1. The ISA shall calculate the Available Transmission Capacity for Arizona transmission facilities that belong to the Affected Utilities or other ISA participants, and shall develop and operate an overarching statewide OASIS.
2. The ISA shall implement and oversee the non-discriminatory application of protocols to ensure statewide consistency for transmission access. These protocols shall include, but are not limited to, protocols for determining transmission system transfer capabilities, committed uses of the transmission system, and available transfer capabilities.
3. The ISA shall provide dispute resolution processes that enable market participants to expeditiously resolve claims of discriminatory treatment in the reservation, scheduling, use and curtailment of transmission services.
4. All requests (wholesale, Standard Offer retail, and competitive retail) for reservation and scheduling of the use of Arizona transmission facilities that belong to the Affected Utilities or other ISA participants shall be made to, or through, the ISA using a single, standardized procedure.

**D. The Affected Utilities shall file a proposed ISA implementation plan with the Commission by September 1, 1998. The implementation plan shall address ISA governance, incorporation, financing and staffing; the acquisition of physical facilities and staff by the**

ISA; the schedule for the phased development of ISA functionality; contingency plans to ensure that critical functionality is in place by January 1, 1999; and any other significant issues related to the timely and successful implementation of the ISA.

E. Each of the Affected Utilities shall make good faith efforts to develop a regional, multi-state Independent System Operator (ISO), to which the ISA should transfer its functions as the ISO becomes able to carry out those functions.

~~E.~~ 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.~~ In the event that FERC does not permit recovery of ISA costs, the Commission shall authorize Affected Utilities to recover such costs through a distribution surcharge.

[FERC decides what is or is not discriminatory. Thus, inclusion of the clause at the end of the first sentence implies an unnecessary jurisdictional conflict. The same is true of the second sentence. The Commission already receives all FERC filings per FERC rules and thus the deleted language in second sentence is unnecessary. Finally, FERC is not necessarily sold on ISAs and thus a back-up cost recovery mechanism is necessary.]

G. The Commission supports the use of "Scheduling Coordinators" to provide aggregation of customers' schedules to the ISA and the respective Control Area Operators simultaneously until the implementation of a regional ISO, at which time the schedules will be submitted to the ISO. The primary duties of Scheduling Coordinators are to:

1. Forecast their customers' load requirements
2. Submit balanced schedules (i.e., schedules for which total generation is equal to total load of the Scheduling Coordinator's customers plus appropriate transmission losses) and NERC/WSCC tags
3. Arrange for the acquisition of the necessary transmission and ancillary services
4. Respond to contingencies and curtailments as directed by the Control Area Operators, ISA or ISO
5. Actively participate in the schedule checkout process and the settlement processes of the Control Area Operators, ISA or ISO.

H The Commission may support the development of a regional spot market to ensure economic and operational efficiency for all customers.

~~The Commission shall determine which generation units are must-run units for distribution reliability and mitigation of market power, and will regulate the price of power from these units. The terms of the must-run contracts will be finalized prior to the divestiture of the must-run units. “Must run” generating units used for purposes of system reliability on an Affected Utility’s system shall be identified by the respective Affected Utility. Until such time as either an ISO is formed or an Affected Utility’s generation assets are divested pursuant to R14-2-1606, all costs of the Affected Utilities “must run” units must be recovered through distribution rates.~~

*[APS has rewritten this Subsection to recognize that “must run” units eventually will be recovered through a FERC contract between the ISO and the owner of the must run units. Moreover, the provision must necessarily be limited to “Affected Utilities” because even though Kyrene and Agua Fria are “must run” units, neither the Commission nor FERC exercises regulatory authority over SRP.]*

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

- A. The service territories of Arizona electric utilities which are not Affected Utilities shall not be open to competition under the provisions of this Article, nor shall Arizona electric utilities which are not Affected Utilities be able to compete for sales in the service territories of the Affected Utilities.
- B. An Arizona electric utility, subject to the jurisdiction of the Commission, which is not an Affected Utility may voluntarily participate under the provisions of this Article if it makes its service territory available for competing sellers, if it agrees to all of the requirements of this Article, and if it obtains an appropriate Certificate of Convenience and Necessity.
- C. An Arizona electric utility, not subject to the jurisdiction of the Commission, may submit a statement to the Commission that it voluntarily opens its service territory for competing sellers in a manner similar to the provisions of this Article. Such statement shall be accompanied by the electric utility’s nondiscriminatory Standard Offer Tariff, electric supply tariffs, Unbundled Services rates, Stranded Cost charges, System Benefits charges, Distribution Services charges and any other applicable tariffs and policies for services the electric utility offers, for which these rules otherwise require compliance by Affected Utilities or Electric Service Providers. Such filings shall serve as authorization for such electric utility to utilize the Commission’s Rules of Practice and Procedure and other applicable rules concerning any complaint that an Affected Utility or Electric Service Provider is violating any provision of this Article or is otherwise discriminating against the filing electric utility or failing to provide just and reasonable rates in tariffs filed under this Article.
- D. If an electric utility is an Arizona political subdivision or municipal corporation, then the existing service territory of such electric utility shall be deemed open to competition if the political

subdivision or municipality has entered into an intergovernmental agreement with the Commission that establishes nondiscriminatory terms and conditions for Distribution Services and other Unbundled Services, provides a procedure for complaints arising therefrom, and provides for reciprocity with Affected Utilities. The Commission shall conduct a hearing to consider any such intergovernmental agreement.

**R14-2-1612. Rates.**

- A. Market determined rates for competitively provided services as defined in R14-2-1605 shall be deemed to be just and reasonable.
- B. Each Electric Service Provider selling services under this Article shall have on file with the Commission tariffs describing such services and maximum rates for those services, but the services may not be provided until the Commission has approved the tariffs.
- C. ~~C.~~—Prior to the date indicated in R14-2-1604 ~~(D)~~, **(E)** competitively negotiated contracts governed by this Article customized to individual customers which comply with approved tariffs do not require further Commission approval. However, all such contracts whose term is 1 year or more and for service of 1 MW or more must be filed with the Director of the Utilities Division as soon as practicable. If a contract does not comply with the provisions of ~~this Article~~ the Affected Utilities or ESP's approved tariffs, it shall not become effective without a Commission order.

*[This change makes the third sentence of this Subsection consistent with the first. Moreover, it removes the considerable uncertainty that would otherwise attend the execution of any agreement. This previous "non-issue" has become a problem because under Article 16, as amended by these Staff proposals, there are now infinitely more "provisions of this Article" with which a contract may arguably not comply.]*

- D. Contracts entered into on or after the date indicated in R14-2-1604 ~~(D)~~ **(E)** which comply with approved tariffs need not be filed with the Director of the Utilities Division. If a contract does not comply with the provisions of ~~this Article~~ the Affected Utilities or the ESP's approved tariffs it shall not become effective without a Commission order.

*(See comment on Subsection C, above.)*

- E. An Electric Service Provider holding a Certificate pursuant to this Article may price its competitive services, as defined in R14-2-1605, at or below the maximum rates specified in its filed tariff, provided that the price is not less than the marginal cost of providing the service.
- F. Requests for changes in maximum rates or changes in terms and conditions of previously approved tariffs may be filed. Such changes become effective only upon Commission approval.

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

- A. Except as indicated elsewhere in this Article, R14-2-201 through R14-2-212, inclusive are adopted in this Article by reference. However, where the term "utility" is used in R14-2-201 through R14-2-212, the term "utility" shall pertain to Electric Service Providers providing the services described in each paragraph of R14-2-201 through R14-2-212. ~~R14-2-212 (G)(2) shall pertain only to Affected Utilities. R14-2-212 (G)(4) shall apply only to Affected Utilities.~~ R14-2-212 (H) shall pertain only to ~~Electric Service Providers who provide distribution service~~ **Utility Distribution Companies.**
- B. The following shall not apply to this Article:
1. R14-2-202 in its entirety,
  2. R14-2-212 (F)(1),
  3. R14-2-213.
- C. No consumer shall be deemed to have changed ~~suppliers~~ **providers** of any service authorized in this Article (including changes from supply by the Affected Utility to another ~~supplier~~ **provider** without written authorization by the consumer for service from the new ~~supplier~~ **provider**.) If a consumer is switched (**or slammed**) to a different ("new") ~~supplier~~ **provider** without such valid written authorization, the new ~~supplier~~ **provider** shall cause service by the previous ~~supplier~~ **provider** to be resumed and the new ~~supplier-provider~~ shall bear all costs associated with switching the consumer back to the previous ~~supplier~~ **provider**. **A written authorization that is obtained by deceit or deceptive practices shall not be deemed a valid written authorization. Providers shall submit quarterly reports to the Commission itemizing the direct complaints filed by customers who have had their electric service providers changed without their authorization. Violations of the Commission's rules concerning slamming may result in fines and penalties, including but not limited to suspension or revocation of the provider's certificate.**
- ~~C.~~ D.—Each Electric Service Provider providing service governed by this Article shall be responsible for meeting applicable reliability standards and shall work cooperatively with other companies with whom it has interconnections, directly or indirectly, to ensure safe, reliable electric service. **Electric Service Providers are required to make reasonable efforts to notify customers of scheduled outages, and provide notification to the Commission for interruptions affecting a large portion of their system.**

*[ If, as it appears, this entire Subsection is intended to apply to ESPs, the Company is confused because ESPs, by definition, do not have distribution and transmission systems to interconnect and are simply not in a position to notify either their customers or the Commission of outages on these systems. If this Subsection refers to generation outages, customer notification is unnecessary except in the unusual case of a unit-specific sale. If, instead, this is in reference to meter-related outages, the UDC is more in need of notice than the end-user.]*

- E. Each Electric Service Provider shall provide at least 30 days notice to all of its affected consumers if it is no longer obtaining generation, transmission, distribution, or ancillary services necessitating that the consumer obtain service from another supplier of generation, transmission, distribution, or ancillary services.
- F. All Electric Service Providers rendering service under this Article shall submit accident reports as required in R14-2-101.
- G. An Electric Service Provider providing firm electric service governed by this Article shall make reasonable efforts to reestablish service within the shortest possible time when service interruptions occur and shall work cooperatively with other companies to ensure timely restoration of service where facilities are not under the control of the Electric Service Provider.
- H. Each Electric Service Provider shall ensure that bills rendered on its behalf include ~~the its~~ **address and** toll free telephone numbers for billing, service, and safety inquiries. **The bill must include the address and toll free telephone numbers for the Phoenix and Tucson Consumer Service Sections of the Arizona Corporation Commission Utilities Division and** ~~the telephone number of the Consumer Services Section of the Arizona Corporation Commission Utilities Division.~~ Each Electric Service Provider shall ensure that billing and collection services rendered on its behalf comply with R14-2-1613 (A) and ~~R14-2-1613(B).~~
- I. Additional Provisions for Metering and Meter Reading Services
1. An Electric Service Provider who provides metering or meter reading services pertaining to a particular consumer shall provide access to meter readings to other Electric Service Providers serving that same consumer.
  2. A consumer or an Electric Service Provider relying on metering information provided by another Electric Service Provider may request a meter test according to the tariff on file and approved by the Commission. However, if the meter is found to be in error by more than 3%, no meter testing fee will be charged.
  3. Protocols for metering shall be developed subsequent to the workshops described in R14-2-1606(I).
- ~~6.~~ 4. Each competitive customer shall be assigned a Universal Node Identifier for each service delivery point by the Affected Utility whose distribution system serves the customer or by the UDC.

*[This change recognizes that the Affected Utility may not be in the distribution business after 2001 if the reorganization contemplated under R14-2-1616 results in distribution being provided by an affiliate of the present Affected Utility.]*

5.—All competitive metered and billing data shall be translated into a consistent, statewide Electronic Data Interchange (EDI) format based on standards approved by the Utility Industry Group (UIG) that can be used by the Affected Utility, the UDC and the Electric Service Provider.

(See comment on 4 above.)

5. 6.—Electronic Data Interchange (EDI) format shall be used for all data exchange transactions from ~~the meter to the billing company~~ MRSP to the ESP, LDC and Schedule Coordinator. This data will ~~may~~ be transferred via the Internet using a secure sockets layer.

[MRSP provider will be the entity transmitting the data not the meter. Use of the word "format" describes the structure of the data transmitted. The change also allows for flexibility in setting specific standards without being locked into "EDI" transmission protocols using proprietary networks..]

7. Minimum metering requirements for competitive customers ~~over 20 kW or more~~, or 100,000 kWh annually, should consist of hourly consumption measurement meters or meter systems. (APS believes that 20kW or more is appropriate rather than insisting that customer be over 20kW.)

8. Competitive customers with hourly loads ~~at least~~ of 20kW (or 100,000 kWh annually) or less, will be permitted to use load profiling to satisfy the requirements for hourly consumption data. (See comment in 7 above.)

9. Meter ownership will be limited to the Affected Utility, the Electric Service Provider or their representative, or the customer, who will obtain the meter from the Affected Utility or the Electric Service Provider.

10. Control of the metering equipment will be limited to the Affected Utility or the UDC and the Electric Service Provider or their representative. (See comment above on Paragraph 4.)

11. Distribution primary voltage CT's and PT's 1) in excess of 600 volts to 25kV, may be owned by the Affected Utility and the Electric Service Provider or their representative, and in excess of 25 kV may be owned by the Affected Utilities or the UDC. See comment on definition no. 10.)

~~12. Transmission primary voltage CT's and PT's may be owned by the Affected Utility only.~~ ( See comment on 11 above.)

~~13. North American Electric Reliability Council recognized holidays will be used for metering purposes.~~

*[Delete this paragraph. APS does not understand the purpose of this language. NERC holidays are irrelevant to metering. If the intent is to require uniform holidays for purposes of determining whether some special rate or surcharge might apply, e.g., off-peak rates or premium charges for holiday service calls, APS would suggest that legal holidays in Arizona would be a more relevant standard than NERC holidays.]*

14. The operating procedures approved by the Metering Committee will be used by the UDCs and the MSPs for performing work on primary metered customers.
15. The rules approved by the Metering Committee will be used by the MRSP for validating, editing, and estimating metering data.
16. The performance metering specifications and standards approved by the Metering Committee will be used by all entities performing metering.

J. Working Group on System Reliability and Safety

1. ~~If it has not already done so,~~ The Commission shall establish, by separate order, a working group to monitor and review system reliability and safety.
  - a. The working group may establish technical advisory panels to assist it.
  - ~~e. The working group shall commence activities within 15 days of the date of adoption of this Article.~~
  - e.b. Members of the working group shall include representatives of Staff, consumers, the Residential Utility Consumer Office, utilities, other Electric Service Providers and organizations promoting energy efficiency. In addition, the Executive and Legislative Branches shall be invited to send representatives to be members of the working group.
  - ~~d.c.~~ The working group shall be coordinated by the Director of the Utilities Division of the Commission or by his or her designee.
2. All Electric Service Providers governed by this Article shall cooperate and participate in any investigation conducted by the working group, including provision of data reasonably related to system reliability or safety.
3. The working group shall report to the Commission on system reliability and safety regularly, and shall make recommendations to the Commission regarding improvements to reliability or safety.

K. Electric Service Providers shall comply with applicable reliability standards and practices established by the Western Systems Coordinating Council and the North American Electric Reliability Council or successor organizations.

Electric Service Providers shall provide notification and informational materials to consumers about competition and consumer choices, such as a standardized description of services, as ordered by the Commission.

**M. Unbundled Billing Elements.**

All customer bills for competitive electric services ~~and Standard Offer services~~ after January 1, 1999 will list, at a minimum, the following billing cost elements:

**1. Electricity Costs**

- a. generation
- b. CTC
- c. fuel or purchased power adjustor, if applicable

**2. Delivery costs**

- a. distribution services
- b. transmission services
- c. ancillary services

(Although FERC-regulated, ancillary services are billed and generally treated separately from transmission services.)

**3. Other Costs**

- a. metering service
- b. meter reading service
- c. billing and collection
- d. System Benefits charge

[APS may not be able to provide billings in this detail for unbundled services by the beginning of 1999. It will require that its CIS program be modified to allow such billings. In addition, APS does not believe "Standard Offer" rates can be unbundled in the manner indicated and still produce billings equal to existing rates.]

**R14-2-1614. Reporting Requirements.**

- A. Reports covering the following items shall be submitted to the Director of the Utilities Division by Affected Utilities (prior to 2001) and all Electric Service Providers granted a Certificate of Convenience and Necessity pursuant to this Article. These reports shall include the following information pertaining to competitive service offerings, Unbundled Services, and Standard Offer services in Arizona:

[APS has added the limitation on the responsibility of "Affected Utilities" for these reports in recognition that they will divest their generation to either an affiliated or non-affiliated ESP by that date per R14-2-1616.]

1. Type of services offered:

2. kW and kWh sales to consumers, disaggregated by customer class (for example residential, commercial, industrial);
3. Solar energy sales (kWh) and sources for grid connected solar resources; kW capacity for off-grid solar resources;
4. Revenues from sales by customer class (for example residential, commercial, industrial);
5. Number of retail customers disaggregated as follows: aggregators, residential, commercial under 100 kW, commercial 100 kW to 2999 kW, commercial 3000 kW or more, industrial less than 3000 kW, industrial 3000 kW or more, agricultural (if not included in commercial), and other;
6. Retail kWh sales and revenues disaggregated by term of the contract (less than 1 year, 1 to 4 years, longer than 4 years), and by type of service (for example, firm, interruptible, other);
7. Amount of and revenues from each service provided under R14-2-1605, and, if applicable, R14-2-1606;
8. Value of all Arizona specific assets and accumulated depreciation;
9. Tabulation of Arizona electric generation plants owned by the Electric Service Provider broken down by generation technology, fuel type, and generation capacity;
10. **Calculate the fuel mix percentages and emissions for the resources used to meet that portion of the load-serving entity's electrical load associated with the kilowatt hours delivered to retail customers derived from the following fuel sources characteristics i.e., biomass, coal, hydro, municipal solid waste, natural gas, nuclear, oil, solar, wind, and other renewable resources; and separate emissions characteristics i.e., carbon dioxide, nitrogen oxides, and sulfur dioxide. This information is to be disclosed to customers as required by the Commission and upon public and customer request.**
- ~~10.11.~~ Other data requested by staff or the Commission;
- ~~11.12.~~ In addition, prior to the date indicated in R14-2-1604 ~~(D)~~, (E) Affected Utilities shall provide data demonstrating compliance with the requirements of R14-2-1604.

## B. Reporting Schedule

1. For the period through December 31, 2003, semi-annual reports shall be due on April 15 (covering the previous period of July through December) and October 15 (covering the

previous period of January through June). The first such report shall cover the period January 1 through June 30, 1999.

2. For the period after December 31, 2003, annual reports shall be due on April 15 31 (covering the previous period of January through December). The first such report shall cover the period January 1 through December 31, 2004.

- C. The information listed above may be provided on a confidential basis. However, Staff or the Commission may issue reports with aggregate statistics based on confidential information that do not disclose data pertaining to a particular seller or purchases by a particular buyer.
- D. Any Electric Service Provider governed by this Article which fails to file the above data in a timely manner may be subject to a penalty imposed by the Commission or may have its Certificate rescinded by the Commission.
- E. Any Electric Service Provider holding a Certificate pursuant to this Article shall report to the Director of the Utilities Division the discontinuation of any competitive tariff as soon as practicable after the decision to discontinue offering service is made.
- F. In addition to the above reporting requirements, Electric Service Providers governed by this Article shall participate in Commission workshops or other forums whose purpose is to evaluate competition or assess market issues.
- G. Reports filed under the provisions of this section shall be submitted in written format and in electronic format. Electric Service Providers shall coordinate with the Commission Staff on formats.

#### **R14-2-1615. Administrative Requirements.**

- A. Any Electric Service Provider certificated under this Article may ~~propose~~ **file proposed additional tariffs for electric services** at any time ~~by filing a proposed tariff with the Commission describing which include a description of the service, maximum rates, terms and conditions.~~ The proposed new ~~electrical~~ service may not be provided until the Commission has approved the tariff.
- B. Contracts filed pursuant to this Article shall not be open to public inspection or made public except on order of the Commission, or by the Commission or a Commissioner in the course of a hearing or proceeding.
- C. The Commission may consider variations or exemptions from the terms or requirements of any of the rules in this Article upon the application of an affected party. The application must set forth the reasons why the public interest will be served by the variation or exemption from the Commission rules and regulations. Any variation or exemption granted shall require an order of the Commission. Where a conflict exists between these rules and an approved tariff or order of the Commission, the provisions of the approved tariff or order of the Commission shall apply.

The Commission may develop procedures for resolving disputes regarding implementation of retail electric competition.

**R14-2-1616. Legal Issues.**

- ~~A. A working group to identify, analyze and provide recommendations to the Commission on legal issues relevant to this Article shall be established.~~
- ~~1. The working group shall commence activities within 15 days of the date of adoption of this Article.~~
  - ~~2. Members of the working group shall include representatives of Staff, the Residential Utility Consumer Office, consumers, utilities, and other Electric Service Providers. In addition, the Executive and Legislative Branches and the Attorney General shall be invited to send representatives to be members of the working group.~~
  - ~~3. The working group shall be coordinated by the Director of the Legal Division of the Commission or by his or her designee.~~
- ~~B. The working group shall submit to the Commission a report on the activities and recommendations of the working group no later than 90 days prior to the date indicated in R14-2-1602.~~
- ~~C. The Commission shall consider the recommendations and decide what actions, if any, to take based on the recommendations.~~

**R14-2-1616. Separation of Monopoly and Competitive Generation Assets**

- ~~A. A. An Affected Utility shall either divest itself of all generation assets and services prior to January 1, 2001, Such divestiture shall either be to an unaffiliated party or transfer competitive assets to a separate corporate affiliate or affiliates, at a value determined by the Commission to be fair and reasonable, subject to hearing, by January 1, 2001. In the latter instance, such transfer shall be at the assets' fair market value at the time of transfer calculated in a manner consistent with the method used by the Commission to quantify stranded costs. The Commission may extend such period for good cause. If an Affected Utility intends to seek such an extension prior to 1999, it shall include in its compliance plan under R14-2-1617(C) a description of those rules and procedures it will use to functionally separate its competitive generation business, from its UDC business and an estimate of the additional time sought to effectuate divestiture.~~
- ~~*[This change recognizes that in either instance, there is a divestiture of assets used to provide competitive electric generation services. If the divestiture is to an affiliate, it adopts Generally Accepted Accounting Principles in requiring that such divestiture be at the transferor's fair market value at the time of transfer. It also provides a procedure for seeking extensions of these dates and for putting interim protective provisions into place pending final divestiture. For example, APS does not believe that divestiture to an affiliate is feasible until at least 2002 and intends to seek such additional time from the Commission.]*~~

12. B. — After January 1, 2001, An Affected Utility a UDC shall not provide competitive generation services as defined herein except as authorized by the Commission. However, this rule does not preclude an Affected Utility's UDC's affiliate from providing competitive electric generation services.

[This change clarifies the scope of non-permitted competitive services and further allows the Commission to make exceptions on a case-by-case basis. Use of the defined term UDC reflects the fact that the "Affected Utility", as it existed prior to 2001, may no longer exist except as a UDC. It also attempts to harmonize this rule with R14-2-1606(C).]

#### R14-2-1617 Electric Affiliate Transaction Rules.

A. A. — Separation: An Affected Utility A UDC and its competitive electric affiliates shall operate as separate corporate entities. Books and records shall be kept separate, in accordance with the applicable Uniform System of Accounts (USOA), in the case of the UDC and Generally Accepted Accounting Procedures (GAAP) in the case of competitive generation electric affiliates. The books and records of any utility competitive generation electric affiliate shall be open for examination by the Commission and its staff consistent with the provisions set forth in A.A.C. R14-2-1614.

[This change makes it clear that it is the transaction of business between the regulated UDC and its competitive affiliates that triggers automatic Commission access to the affiliate's books and records. As such, this change is consistent with the scope of the Commission's jurisdiction under R14-2-804. APS has also substituted the term "UDC" for "Affected Utility" throughout because the former term has the requisite meaning both before and after the divestiture called for under R14-2-1616 while the latter does not.]

1. 1. — An Affected Utility A UDC shall not share office space, equipment, services, and systems with its competitive electric affiliates, nor shall an Affected Utility a UDC and its competitive electric affiliates access any computer or information systems of one another, unless expressly provided for in these rules or except as required to maintain system operation, reliability and safety.

[These changes allow the UDC to share office space, etc., with other non-electric affiliates. Why should the APS UDC be prohibited from sharing office space with, say, SunCor? The Company has generally qualified the term "affiliate" by the words "competitive electric" throughout this rule except where the context is clear that a prohibition or restriction would logically apply to even non-electric affiliates of the UDC.]

2. An Affected utility A UDC, its parent holding company, or a separate affiliate created solely for the purpose of corporate support functions, may share with its

affiliates joint corporate oversight, governance, support services and systems and personnel. *(Clarifies sentence.)* Any shared support shall be priced, reported and conducted in accordance with all applicable Commission pricing and reporting requirements. ~~An Affected Utility~~ A UDC shall not use shared corporate support functions as a means to transfer confidential information, allow preferential treatment, or create significant opportunities for cross-subsidization of its affiliates.

3. ~~An Affected Utility~~ A UDC shall not trade, promote, or advertise its competitive electric affiliate's affiliation with the utility UDC, nor allow its name or logo to be used by the competitive electric affiliate in any material circulated by the competitive electric affiliate, unless it discloses in plain legible or audible language, on the first page or at the first instance the ~~Affected Utility~~ UDC's name or logo appears, that:
  - a. The competitive electric affiliate is not the same company as the ~~Affected Utility~~ UDC; and
  - b. Customers do not have to buy the competitive electric affiliate product in order to continue to receive quality regulated services from the UDC.
4. ~~An Affected Utility~~ A UDC shall not offer or provide to its affiliates advertising space in any customer written communication unless it provides access to all other unaffiliated service providers on the same terms and conditions.
5. ~~An Affected Utility~~ A UDC shall not participate in joint advertising, marketing or sales with its affiliates, or cause any joint communication and correspondence with any existing or potential customer.
6. Except as provided in Section A.2, ~~an Affected Utility~~ a UDC and its competitive electric affiliate shall not jointly employ the same employees. This rule applies to Board of Directors and corporate officers. However, any board member or corporate officer of a holding company may also serve in the same capacity with the ~~Affected Utility~~ UDC or its affiliate, but not both. Where the ~~Affected Utility~~ UDC is a multi-state utility, is not a member of a holding company structure, and assumes the corporate governance functions for its affiliates, the prohibition outlined in this section shall only apply to affiliates that operate within Arizona.
7. Transfer of Goods and Services: to the extent that these rules do not prohibit transfer of goods and services between ~~an Affected Utility~~ a UDC and its affiliates, all such transfers shall be subject to the following price provisions, unless otherwise approved by the Commission:
  - a. ~~Transfers from an Affected Utility to an affiliate of goods or services for sale on the open market shall be priced at the lower of cost or fair market value. Transfers from an affiliate to its affiliated utility shall be priced at the higher of cost or fair market value. Goods or services provided by a UDC to an affiliate~~

shall be transferred at the price and under the terms and conditions specified in the UDC's tariff. If the good or service is not subject to any tariffed price, such transfer shall be at the market price for such goods and services or, if no market price can be readily established, at a price at least equal to the UDC's incremental cost of producing such good or service.

b. Goods and services produced, purchased or developed for sale on the open market by the ~~Affected Utility~~ UDC will be provided to its affiliates and unaffiliated companies on a nondiscriminatory basis, except as otherwise permitted by these rules or applicable law.

~~c. Good and services not produced, purchased or developed for sale by an Affected Utility to its affiliates shall be priced at fully loaded cost, plus 5% of direct labor costs. Transfers from an affiliate to an Affected Utility for such goods and services shall be priced at the lower of fully loaded cost or fair market value. A UDC shall not purchase goods and services from an affiliate at a price above market price or, if a market price can not be established for a particular good or service, at a price greater than the affiliate's incremental cost of producing such good or service.~~

[In addition to allowing the Commission to make special case-by-case exceptions to these pricing rules, APS has rewritten subparagraphs a and c to make transfer pricing consistent with existing tariffs, consistent with market principles, non-discriminatory and symmetrical.]

C.B. Compliance Plans: No later than December 31, 1998, each Affected Utility shall file a compliance plan with the Commission demonstrating to the procedures and mechanisms implemented to ensure that activity prohibited by these rules will not take place. The compliance plan shall be submitted to the Utility Division and shall be in effect until a determination is made regarding its adequacy under these rules. The compliance plan shall thereafter be submitted annually to reflect any material changes.

(Typo)

1. ~~New Affiliate Compliance Plan: For each newly created affiliate subject to these rules, an Affected Utility shall file a compliance plan to be submitted to the Utility Division for review. The compliance plan shall demonstrate how the utility will implement these rules with respect to the new affiliate.~~

[APS would delete this provision as being unnecessarily redundant with both the initial filing of a compliance plan and the subsequent auditing requirements.]

2. ~~No later than December 31, 1999, and every year thereafter, an Affected Utility shall have audits prepared by independent auditors which verify that the utility is in compliance with the rules set forth herein. Audits shall be prepared at shareholder expense. Each UDC will establish an internal audit function which which to ensure that the UDC and its affiliates are in compliance with this Rule. The Commission may review any transaction governed by this Rule to determine violations thereof and may order independent audits of such compliance.~~

*[APS has rewritten this paragraph to emphasize internal audit controls and Commission oversight rather than expensive mandatory outside audits. Moreover, there should be no a priori assignment to shareholders of these costs, especially in those cases where no violations of the Rule are reasonably suspected or found.]*

- DC.** ~~Disclosure: An Affected Utility~~ A UDC shall provide customer information to its competitive electric affiliates and non-affiliates on a non-discriminatory basis, provided prior affirmative customer written consent is obtained. Any non-customer specific non-public information shall be made contemporaneously available by an ~~Affected Utility~~ UDC to its competitive electric affiliates and all other service providers on the same terms and conditions.

1. ~~Any list provided by an Affected Utility to its customers which includes or identifies the utility's affiliates must include or identify non-affiliated entities as well. If a customer request is made, the Affected Utility shall provide the customer with a list of all providers of electricity or utility related goods and services operating in its service territory, including its affiliates. Any list of ESPs provided by an UDC to its customers which includes or identifies the UDC's competitive electric affiliates must include or identify non-affiliated entities included on the list of those ESPs authorized by the Commission to provide service within the UDC's certificated area. The Commission shall maintain an undated list of such ESPs and make that list available to UDCs at no cost. If a customer request is made, the UDC shall either provide the customer with the Commission list of all ESPs in its service territory, including its competitive electric affiliates, or refer the customer to the Commission to obtain such list.~~

*[APS has modified the lead-in to this Subsection both to use the terms "UDC" and "competitive electric affiliate" and to recognize that it will likely be impossible to offer 100% identical terms and conditions to all non-affiliates. Second, paragraph 1 is rewritten to limit the list to authorized ESPs and to impose a responsibility on the Commission to maintain an accurate list of such ESPs. Some of the more exotic ESPs, such as MRSPs, MSPs and BCSPs may well be completely unknown to APS, and in*

any event the Commission is in a better position to maintain an accurate list than is APS or any other UDC.]

- ~~2.~~ 2. — An Affected Utility may provide non-public supplier information and data which it has received from unaffiliated suppliers to its affiliates or nonaffiliated entities only if the utility receives prior authorization from the supplier.

[APS would delete this paragraph because suppliers of goods and services to UDCs can negotiate whatever protections of non-public proprietary information they believe are necessary without the need of a new regulation on the point.]

- ~~3.~~ 3. — Except as otherwise provided in these rules, an Affected Utility shall not offer or provide customers advice or assistance with regard to its affiliates or other service providers. Except as otherwise provided in these rules, a UDC shall not directly or indirectly promote, market or sell the services of an affiliated ESP.

[As presently drafted by Staff, the prohibition is so broad that it would prevent a UDC from even giving out the phone number of an affiliated ESP or answering simple inquiries about how a customer could contact such ESP.]

4. ~~An Affected Utility~~ A UDC shall maintain contemporaneous records documenting all tariffed and non-tariffed transactions with its affiliates, including but not limited to, all waivers of tariff or contract provisions and all discounts. These records shall be maintained for a period of three years, or longer if required by this Commission or another governmental agency.

- ~~4.~~ 5. — An Affected Utility shall maintain a record of all contracts and related bids for the provision of work, product or services to and from a utility to its affiliates for a period of three years, or longer if required by this Commission or another governmental agency.

(APS would delete this paragraph. It is redundant with paragraph 4.)

6. To the extent that reporting rules imposed by FERC require more detailed information or more expeditious reporting, nothing in these rules shall be construed to modify such FERC requirements.

**ED.** Nondiscrimination: ~~an Affected Utility~~ a UDC shall not represent that, as a result of the affiliation with the utility UDC, its affiliates or customers of affiliates will receive any

treatment different from that provided to other, non-affiliated entities or their customers. ~~An Affected Utility~~ A UDC shall not provide its affiliates, or customers of its affiliates, any preference over non-affiliated suppliers or their customers in the provision of services provided by the utility UDC.

1. ~~1.~~—Discounts: Except when made generally available by an ~~Affected Utility~~ a UDC through an open, competitive bidding process, if the Affected Utility offers a discount or waives all or any part of any charge or fee to its affiliates, or offers a discount or waiver for a transaction in which its affiliates are involved, the utility UDC shall contemporaneously make such discount or waiver available to all similarly situated market participants. All ~~competitors serving the same market as the Affected Utility's affiliates shall be offered the same discount as the discount received by the affiliate.~~

*[The last sentence of the paragraph was deleted as being redundant. The remainder of the proposed language clarifies that an equitable offer of price, terms, and conditions need only be made when there has been an unreasonable preference granted the affiliate. Differences attributable to non-affiliation such as the size of the purchase, the credit worthiness of the buyer, etc., are not unreasonable.]*

2. ~~2.~~—If a tariff provision allows for discretion in its application, an ~~Affected Utility~~ a UDC shall apply that provision equally among its affiliates and all other market participants and their respective customers. Consistent with the provisions above. If there is no discretion in the tariff provision, the Affected Utility UDC shall strictly enforce that tariff provision in accordance with the rules and orders of the Commission.

*[It is simply not possible to assure that all requests will be treated 100% identically. The proposed language clarifies the intent that there be no undue preference to an affiliate. However, the UDC must be given the flexibility to allocate its limited resources in a commercially reasonable fashion without triggering knee-jerk claims of discrimination.]*

3. ~~3.~~—Requests from affiliates and non-affiliated entities and their customers for similar services provided by the Affected Utility shall be processed equally and within the same time. Requests from affiliates and non-affiliated entities and their customers for similar regulated services provided by the UDC shall be processed without giving undue preference or priority to the UDC's affiliates or their customers. This provision does not prevent the UDC from prioritizing or processing requests for service on a "first come - first served" basis, or from giving priority to requests affecting

public health and safety or affecting the reliability of the electric system, or any other commercially reasonable manner within resource constraints.

[See comment to paragraph 2, above.]

4. ~~An Affected Utility~~ A UDC shall not condition or otherwise tie the provision of any service provided, nor the availability of discounts of rates or other charges or fees, rebates or waivers of terms and conditions of any services, to the taking of any goods or services from its affiliates.
5. ~~An Affected Utility~~ A UDC shall not assign customers to which it currently provides services to any affiliate by any means, unless that means is equally available to all competitors.
6. ~~In the course of business development and customer relations, except as otherwise provided for in these rules, an Affected Utility shall refrain from:~~
  - ~~a. providing leads to its affiliates;~~
  - ~~b. soliciting business on behalf of affiliates;~~
  - ~~c. acquiring information on behalf of, or provide to, its affiliates; and~~
  - ~~d. sharing market analysis reports or any non-publicly available reports, including but not limited to market, forecast, planning or strategic reports, with its affiliates.~~

[APS would delete this paragraph. There is no reason to establish an a priori ban on these activities so long as the UDC observes the requirements of the rule on non-discrimination, etc.]

7. ~~Any discounted rate, rebate, or other waiver of a charge or fee associated with services provided by an Affected Utility shall be recorded and maintained, for each billing period, with the following information:~~
  - ~~a. name of the entity being provided services;~~
  - ~~b. the affiliate's role in the transaction;~~
  - ~~c. the duration of the discount or waiver;~~
  - ~~d. the maximum rate;~~
  - ~~e. the rate or fee actually charged during the billing period; and~~

- ~~f. the quantity of products or services scheduled at the discounted rate during the billing period for each delivery point.~~

(This information is already covered by R14-2-1617(D)(4).)

R14-2-1618 Information Disclosure Label

[APS would delete the entirety of proposed Rule 1618. Although the Company supports disclosure of generation-related prices, and reasonably available resource, fuel and emission information in a manner that is uniform among all competitors, such disclosure must be clear, concise, informative, cost-effective and feasible. Proposed Rule R14-2-1618 requires substantial additional review and revision to meet these objectives. APS requests an opportunity to meet and confer with Commission Staff to explain in detail the practical difficulties with the proposed language and ways in which the language could be improved. In the interim, the Company suggests the following language be considered as a placeholder for this important concept until an improved version of this rule can be developed:

"Each Load-serving Entity shall disclose price, fuel mix, emission and resource portfolio information regarding its generation service in a uniform and consistent manner in accordance with a label format, disclosure policy and reporting requirements approved by the Commission."

- A. 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, with this rule. Such label shall be a condition of certification for ESPs.
- B. Price to be charged and price variability. The label shall present the price of generation service as an average unit price in cents per kilowatt-hour as measured at the customer meter over the course of an annualized period, regardless of actual price structure. This unit price shall be the price for generation services only, and shall not include charges associated with delivery, other Commission regulated services, or other non-generation products or services except as provided below. The label shall contain the following information on average price and price variability.
1. Average price information on the label. Average prices shall be shown for four levels of use. The average price for each usage level shall be the total charge for generation service for the specified usage level, divided by the kilowatt-hours for the particular usage level. Average prices shall be rounded to the nearest one tenth of a cent per kilowatt-hour.
    - a. Residential. Average prices for residential consumers shall be shown for usage levels of 250, 500, 1000 and 2000 kilowatt-hours per month.

- b. **Commercial.** Average prices for commercial consumers shall be shown for 1,000, 10,000, 20,000 and 40,000 kilowatt-hours per month.
- c. Average prices for service based on spot or other variable prices shall be shown based on the average prices that would have been charged in the last month of the prior quarter.

**2. Bundled Generation Service.** Load-serving Entities that offer Generation Service in which electricity is bundled with any other product or service may display the charge for Generation Service either as:

- a. The average price for which the Customer can purchase unbundled Generation Service from the Load-serving Entity, or
- b. The average generation price, assuming the entire price of the bundled service is attributable to electricity. If this option is selected the label may include a statement in the same font as subheadings that identifies what is included in the average price, or
- c. The average price of the electricity separated from the other bundled services.

**3. Inducements.** Average prices shall not reflect any adjustment for cash or non-cash sales inducements.

**4. Price variability information.** If prices vary by time of use or by volume, a subheading shall be printed below the average prices stating one or both of the following:

- a. If prices vary by time of use, including seasonal prices, the statement shall read "Your average electricity price will vary according to when you use electricity. See your Terms of Service for actual prices."
- b. If prices vary by volume of sales, including prices that have a fixed charge and a flat energy charge, the statement shall read "Your average generation price will vary according to how much electricity you use. See your Terms of Service for actual prices."

**C. Customer service information.** The label shall contain a toll-free number for customer service and complaints.

- 1. **Fuel and Emissions Characteristics.** The label shall contain information on the fuel mix and emissions characteristics associated with the Load-serving Entity's resource portfolio.

2. **Determining the Resource Portfolio.** The resource portfolio of a Load-serving Entity shall consist of the portfolio of generating resources used to meet that portion of the Load-serving Entity's Electrical Load associated with the kilowatt-hours delivered to retail customers, kilowatt hours of associated electrical losses, and kilowatt-hours of use by the Load-serving Entity on its own system.
3. **Label reporting period.** The label reporting period shall be stated on the label. The label reporting period shall be the most recent one-year period prior to the reporting month for which resource portfolio information has been updated with the following exceptions:
  - a. If a Load-serving Entity has operated in the state for less than twelve months, but more than three months, the Load-serving Entity shall report the information that is available for the portion of the year the Load-serving Entity has operated.
  - b. If a Load-serving Entity has operated in the state for less than three months, the Load-serving Entity shall report a reasonable estimate of its resource portfolio based on the Load-serving Entity's known generating unit ownership and contracts, and the average regional system mix.
4. **Fuel Source Characteristics** Each Load-serving Entity shall report on the label the fuel mix of its resource portfolio.
5. At least the following fuel sources shall be separately identified on the label and listed in alphabetical order: biomass; coal; hydro; municipal solid waste; natural gas; nuclear; oil; solar; wind; and other Renewable Resources (including fuel cells utilizing renewable fuel sources, landfill gas, and ocean thermal). Fuel mix percentages shall be rounded to the nearest full percentage point.
6. **Energy Storage Facilities.** The fuel mix associated with an energy storage facility shall be the fuel mix of the energy used as input to the storage device. The characteristics disclosed shall include any losses as a result of storage.
7. **Emissions Characteristics.** Each Load-serving Entity shall identify its resource portfolio and shall report on the label the emission characteristics of said resource portfolio.
  - a. For the purpose of emission characteristics disclosure, at least the following pollutants shall be separately identified on the label: carbon dioxide (CO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), and sulfur dioxide (SO<sub>2</sub>).
  - b. Emissions for each emission category shall be computed as an annual emission rate in pounds per kilowatt-hour.

- c. Emission characteristics of the resource portfolio shall be calculated using annual emission rates for each generating facility as identified by the Commission in consultation with the ADEQ and the United States Environmental Protection Agency.
- d. Until such annual emission rates are identified by the Commission, the annual emissions rates for a generating unit shall be calculated based on one of the following:
  - 1. Continuous Emissions Monitoring data for the most recent reporting year divided by net electric generation for the same period;
  - 2. Emission factors currently approved or provided by state environmental protection agencies, the United States Environmental Protection Agency, or other appropriate government environmental agency, if Continuous Emissions Monitoring data are not available; or
  - 3. If the generating unit has been in operation less than twelve (12) months: (a) for (NO<sub>x</sub>) and (SO<sub>2</sub>), permitted emissions levels; and (b) for (CO<sub>2</sub>), the carbon content of the fuel.
- e. The following types of generating units shall be assigned emissions characteristics as provided in this section:
  - 1. Energy storage facilities. The emissions associated with an energy storage facility shall be the emissions of the energy used as input to the storage device. The characteristics disclosed shall include any losses as a result of storage.
  - 2. Cogeneration facilities may make a reasonable allocation of emissions between electricity production and other useful output based on measured heat balances. The Load-serving Entity may use offsets associated with facilities that emit CO<sub>2</sub> if preapproved by Staff.

**D. Format of Information Disclosure Label.** The label shall be presented in a format pre-approved by Staff.

**E. Company Disclosure.** Each Load-serving Entity shall prepare an annual Company Disclosure report that aggregates the Resource Portfolios of all affiliated Load-serving Entities. The Company Disclosure report shall be provided to each customer of a Load-serving Entity prior to the initiation of service and on an annual basis thereafter.

**F. Terms of Service Requirement.** Each Load-serving Entity shall prepare a statement entitled "Terms of Service" as described in this rule. The Terms of Service shall be distributed in

accordance with the rule and shall conform to all applicable consumer protection statutes, rules and regulations.

**1. The Terms of Service shall present the following information:**

- a. Actual pricing structure or rate design according to which the Customer will be billed, including an explanation of price variability and price level adjustments that can cause the price to vary;**
- b. Length and kind of contract;**
- c. Due date of bills and consequences of late payment;**
- d. Conditions under which a credit agency is contacted;**
- e. Deposit requirements and interest on deposits;**
- f. Limits on warranty and damages;**
- g. Any and all charges, fees, and penalties;**
- h. Information on consumer rights pertaining to:**
  - i. estimated bills;**
  - ii. third-party billing;**
  - iii. deferred payments**
  - iv. recission of supplier switch within three days of receipt of confirmation;**
  - v. a toll-free number for service complaints;**
  - vi. low-income rate eligibility;**
  - vii. provisions for default service;**
  - viii. applicable provisions of state utility laws;**
  - ix. method whereby customer will be notified of changes to items in the terms of service.**

**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:**

- 1. Prior to initiation of service. Following a Customer's initial choice of an ESP or Standard Offer, the Load-serving Entity shall provide the Customer with the disclosure label prepared pursuant to this rule and with the statements of the Terms of Service prepared pursuant to this rule.**
- 2. Notice. Load-serving Entities shall provide the label to retail Customers on a semi-annual basis, at a minimum.**
- 3. Upon request. The label and the Terms of Service shall be available to any person upon request.**

H. Information disclosure in advertising. ESPs and UDCs providing Standard Offer services shall provide the disclosure label prepared pursuant to this rule in a prominent position in all written marketing materials describing generation service, including newspaper, magazine, and other written advertisements, and in all electronically-published advertising including Internet materials. For direct mail materials and similar marketing materials, the label shall be provided with the materials. Where Electricity Service is marketed in non-print media, the marketing materials shall indicate that the Customer may obtain the disclosure label upon request. Prior to the initiation of service, a Customer must have received the disclosure label.

I. Enforcement. Dissemination of inaccurate information, or failure to comply with the Commission's regulations on information disclosure, may result in certification suspension, revocation, or penalties.

#### R14-2-210. BILLING AND COLLECTION

##### A. Frequency and estimated bills

~~1. Each utility shall bill monthly for services rendered. Meter readings shall be scheduled for periods of not less than 25 days or more than 35 days. The utility~~ **UDC or ESP shall render a bill for each billing period to every customer in accordance with its applicable rate schedule and offer billing options for the services rendered. Meter readings shall be scheduled for periods of not less than 25 days or more than 35 days. If the utility** **UDC or ESP changes a meter reading route or schedule resulting in a significant alteration of billing cycles, notice shall be given to the affected customers.**

**[APS has replaced the undefined term "utility" with the defined terms "UDC" and "ESP." Since the term ESP also encompasses MRSPs, MSPs, and BCSPs, and UDCs also perform these tasks for "Standard Offer" customers, this substitution of terms picks up all relevant entities,**

~~2. If the utility is unable to read the meter on the scheduled meter read date, the utility will estimate the consumption for the billing period giving consideration to the following factors where applicable:~~

- ~~a. The customer's usage during the same month of the previous year.~~
- ~~b. The amount of usage during the preceding month.~~

2. Each billing statement rendered by the **utility** **UDC or ESP** shall be computed on the actual usage during the billing period. If the **utility** **UDC or ESP** is unable to obtain an actual reading, the **utility** **UDC or ESP** may estimate the consumption for the billing period giving consideration the following factors where applicable:

- a. The customer's usage during the same month of the previous year.

- b. The amount of usage during the preceding month.
- ~~3. After the second consecutive month of estimating the customer's bill for reasons other than severe weather, the utility will attempt to secure an accurate reading of the meter.~~
3. Each billing statement rendered by the utility shall be computed on the actual usage during the billing period. Estimated bills will be issued only under the following conditions unless otherwise approved by the Commission:
- a. When extreme weather conditions, emergencies, labor agreements or work stoppages prevent actual meter readings.
  - b. Failure of a customer who reads his own meter to deliver his meter reading to the UDC or ESP utility in accordance with the requirements of the utility UDC billing cycle.
  - c. When the utility UDC or ESP is unable to obtain access to the customer's premises for the purpose of reading the meter, or in situations where the customer makes it unnecessarily difficult to gain access to the meter, i.e., locked gates blocked meters, vicious or dangerous animals, etc. If the utility UDC or ESP is unable to obtain an actual reading for these reasons, it shall undertake reasonable alternatives to obtain a customer reading of the meter.
  - d. When the UDC or ESP MRSP is able to determine a customer-equipment failure.  
*[See comment on paragraph 1, above. The second reference to "utility" in subparagraph b is limited to the UDC because it is necessary for ESP billing cycles to conform to those of the UDC.]*
- ~~4. Failure on the part of the customer to comply with a reasonable request by the utility for access to its meter may lead to the discontinuance of service. Estimated bills will be issued only under the following conditions:~~
- ~~a. Failure of a customer who read his own meter to deliver his meter reading card to the utility in accordance with the requirements of the utility billing cycle.~~
  - ~~b. Severe weather conditions which prevent the utility from reading the meter.~~
  - ~~c. Circumstances that make it dangerous or impossible to read the meter, i.e., locked gates, blocked meters, vicious or dangerous animals, etc.~~
4. After the third consecutive month of estimating the customer's bill, due to meter access, the MRSPUDC or ESP will attempt to secure an accurate reading of the meter. Failure on the part of the customer to comply with a reasonable request for meter access may lead to discontinuance of service.
5. A UDC or ESP utility may not render a bill based on estimated usage if:

~~a. a.~~—The estimating procedures employed by the UDC or ESP utility have not been approved by the Commission.

(See comment on 1 above.)

b. The billing would be the customer's final bill for service.

~~6. Each bill based on estimated usage will indicate that it is an estimated bill.~~

6. When a UDC or ESP utility renders an estimated bill in accordance with these rules, it shall:

- a. Maintain accurate records of the reasons therefore and efforts made to secure an actual reading.
- b. Clearly and conspicuously indicate that it is an estimated bill and note the reason for its estimation.
- c. Use customer supplied meter readings, whenever possible, to determine usage.

(See comment on 1 above.)

Combining meters minimum bill information.

1. Each meter at a customer's premise will be considered separately for billing purposes, and the readings of two or more meters will not be combined unless otherwise provided for in the readings of two or more meters will not be combined unless otherwise provided for the utility's tariffs.
2. Each bill for service will contain the following minimum information:
  - ~~a. Date and meter reading at the start of billing period or number of days in the billing period~~
  - ~~b. Date and meter reading at the end of the billing period.~~
  - ~~c. Billed usage and demand~~
  - d. Rate schedule number
  - e. Utility telephone number
  - f. Customer's name
  - ~~g. Service account number~~
  - ~~h. Amount due and due date~~
  - ~~i. Past due amount~~
  - ~~j. Adjustment factor, where applicable~~
  - k. Taxes
  - ~~l. The Arizona Corporation Commission and address, thereof~~

- a. The beginning and ending meter readings of the billing period, the dates thereof, and the number of days in the billing period.
- b. The date when the bill will be considered due and the date when it will be delinquent, if not the same
- c. Billing usage, demand, basic monthly service charge and total amount due
- d. Rate schedule number.
- e. Customer's name and service account number
- f. Any previous balance
- g. Fuel adjustment cost, where applicable
- h. License, occupation, gross receipts, franchise and sales taxes.
- i. The address and telephone numbers of the Electric Service Provider, and/or the LUDC designating where the customer may initiate an inquiry or complaint concerning the bill or services rendered.
- j. The Arizona Corporation Commission address and toll free telephone numbers.

C. Billing terms.

- ~~1. All bills for utility services are due and payable no later than ten days from the date the bill is rendered. Any payment not received within this time frame shall be considered past due.~~
- 1. All bills for utility UDC and ESP services are due and payable no later than fifteen days from the date of the bill. Any payment not received within this time frame shall be considered delinquent and could incur a late payment charge.**
- 2. For purposes of this rule, the date a bill is rendered may be evidenced by:
  - a. The postmark date
  - b. The mailing date
  - c. The billing date shown on the bill (however, the billing date shall not differ from the postmark or mailing date by more than 2 days).
- ~~3. All past due bills for utility services are due and payable within 15 days. Any payment no received within this time frame shall be considered delinquent.~~

3. All delinquent bills shall be subject to the provisions of the utility's UDC or ESP's termination procedures.

~~4. All delinquent bills for which payment has not been received within five days shall be subject to the provisions of the utility's termination procedures.~~

4. All payments shall be made at or mailed to the office of the utility UDC or the ESP or to the utility's their authorized payment agency. The date on which the UDC or the ESP utility actually receives the customer's remittance is considered the payment date.

~~5. All payments shall be made at or mailed to the office of the utility or to the utility's duly authorized representative.~~

D. Applicable tariff, prepayment, failure to receive, commencement date, taxes

1. Each customer shall be billed under the applicable tariff indicated in the customer's application for service.

2. Each utility UDC or ESP shall make provisions for advance payment of utility services.

3. Failure to receive bills or notices which have been properly placed in the United States mail shall not prevent such bills from becoming delinquent nor relieve the customer of his obligations therein.

~~4. Charges for utility service commence when the service is actually installed and connection made, whether used or not.~~

4. Charges for electric service commence when the service is actually installed and connection made, whether used or not. A minimum one-month billing period is established on the date the service is installed (excluding landlord/utility UDC/ESP special agreements).

5. Charges for services disconnected after one month shall be prorated back to the customer of record.

E. Meter error corrections

~~1. If any meter after testing is found to be more than 3% in error, either fast or slow, proper correction between 3% and the amount of the error shall be made of previous readings and adjusted bills shall be rendered according to the following terms:~~

~~a. For the period of three months immediately preceding the removal of such meter from service for test or from the time the meter was in service since last tested, but not exceeding three months since the meter shall have been shown to be in error by such test.~~

~~b. From the date the error occurred, if the date of the cause can be definitely fixed.~~

1. ~~The utility~~ **UDC or ESP** may test a meter upon customer request or request of the non-metering party and each utility shall be authorized to charge the customer requesting party for such meter test according to the tariff on file approved by the Commission. However, if the meter is found to be in error by more than 3%, no meter testing fee may be charged to the customer. If the meter is found to be more than 3% in error, either fast or slow, the correction of previous bills will be made under the following terms allowing the utility to recover or refund the difference:

a. If the date of the meter error can be definitely fixed, the ~~utility~~ **UDC or ESP** shall adjust the customer's billings back to that date. If the customer has been underbilled, the Company will allow the customer to repay this difference over an equal length of time that the underbillings occurred. The customer may be allowed to pay the backbill without late payment penalties, unless there is evidence of meter tampering or energy diversion.

b. If it is determined that the customer has been overbilled and there is no evidence of meter tampering or energy diversion, the ~~Company~~ **UDC or ESP** will make prompt refunds in the difference between the original billing and the corrected billing within the next billing cycle. The customer may be allowed to pay the backbill without late payment penalties, unless there is evidence of meter tampering or energy diversion.

(The non-metering service provider (either the ESP or the UDC) may need to request a meter test.)

2. No adjustment shall be made by the utility except to the customer last serviced by the meter which that was tested.
3. Any underbilling resulting from a stopped or slow meter, utility meter reading error, or a billing calculation shall be limited to three months for residential customers and six months to non-residential customers. No such limitation will apply to overbillings.

[APS has not taken the time to make all the changes of the term "utility" to "UDC or ESP." Suffice it to say that the Company believes such change to be universally appropriate.]

#### F. Insufficient funds (NSF) or Returned Checks

- ~~1. A utility shall be allowed to recover a fee, as approved by the Commission in a tariff proceeding, for each instance where a customer tenders payment for utility service with an insufficient funds check.~~

1. A utility shall be allowed to recover a fee, as approved by the Commission in a tariff proceeding, for each instance where a customer tenders payment for utility service with a check which is returned by the customer's bank.
- ~~2. When the utility is notified by the customer's bank that there are insufficient funds to cover the check tendered for utility service, the utility may require the customer to make payment in cash, by money order, certified check, or other means which guarantee the customer's payment to the utility.~~
2. When the utility is notified by the customer's bank that the check tendered for utility service will not clear, the utility may require the customer to make payment in cash, by money order, certified check, or other means to guarantee the customer's payment to the utility.
- ~~3. A customer who tenders an insufficient check shall in no way be relieved of the obligation to render payment to the utility under the original terms of the bill nor defer the utility's provision for termination of service for nonpayment of bills.~~
3. A customer who tenders such a check shall in no way be relieved of the obligation to render payment to the utility under the original terms of the bill nor defer the utility's provision of termination of service for nonpayment of bills.

Levelized billing plan

1. Each utility may, at its option, offer its residential customers a levelized billing plan.
2. Each utility offering a levelized billing plan shall develop upon customer request, an estimate of the customer's levelized billing for a 12-month period based upon:
  - a. Customer's actual consumption history, which may be adjusted for abnormal conditions such as weather variations.
  - b. For new customers, the utility will estimate consumption based on the customer's anticipated load requirements.
  - c. The utility's tariff schedules approved by the Commission applicable to that customer's class of service.
3. The utility shall provide the customer a concise explanation of how the levelized billing estimate was developed, the impact of levelized billing on a customer's monthly utility bill, and the utility's right to adjust the customer's billing for any variation between the utility's estimated billing and actual billing.
4. For those customers being billed under a levelized billing plan, the utility shall show, at a minimum, the following information on ~~the customer's~~ **their** monthly bill:
  - a. Actual consumption

- b. **Dollar** amount due for actual consumption
- c. Levelized billing amount due
- d. Accumulated variation in actual versus levelized billing amount.

5. The utility may adjust the customer's levelized billing in the event the utility's estimate of the customer's usage and/or cost should vary significantly from the customer's actual usage and/or cost; such review to adjust the amount of the levelized billing may be initiated by the utility or upon customer request.

H. Deferred payment plan

1. Each utility may, prior to termination, offer to qualifying residential customers a deferred payment plan for the customer to retire unpaid bills for utility service.

~~2. Each deferred payment agreement entered into by the utility and the customer due to the customer's inability to pay an outstanding bill in full shall provide that service will not be discontinued if:~~

**2. Each deferred payment agreement entered into by the utility and the customer shall provide that service will not be discontinued if:**

- a. Customer agrees to pay a reasonable amount of the outstanding bill at the time the parties enter into the **agreement**.
- b. Customer agreed to pay all future bills for utility service in accordance with the billing and collection tariffs of the utility.
- c. Customer agrees to pay a reasonable portion of the remaining outstanding balance in installments over a period not to exceed six months.

3. For the purposes of determining a reasonable installment payment schedule under these rules, the utility and the customer shall give consideration to the following conditions:

- a. Size of the delinquent account
- b. Customer's ability to pay
- c. Customer's payment history
- d. Length of time that the debt has been outstanding
- e. Circumstances which resulted in the debt being outstanding
- f. Any other relevant factors related to the circumstances of the customer

~~4. Any customer who desires to enter into a deferred payment agreement shall establish such agreement prior to the utility's scheduled termination date for nonpayment of bills; customer~~

~~failure to execute a deferred payment agreement prior to the scheduled termination date shall not prevent the utility from discontinuing service for non-payment.~~

4. **Any customer who desires to enter into a deferred payment agreement shall establish such agreement prior to the utility's scheduled termination date for nonpayment of bills. The customer's failure to execute such an agreement prior to the termination date will not prevent the utility from disconnecting service for non-payment.**
5. Deferred payment agreements may be in writing and signed by the customer and an authorized utility representative.
6. A deferred payment agreement may include a finance charge as approved by the Commission in a tariff proceeding.
7. ~~If a customer has not fulfilled the terms of a deferred payment agreement, the utility shall have the right to disconnect service pursuant to the utility's termination of service rules and, under such circumstances, it shall not be required to offer subsequent negotiation of a deferred payment agreement prior to disconnection.~~
7. **If a customer has not fulfilled the terms of a deferred payment agreement, the utility shall have the right to disconnect service pursuant to the utility's termination of service rules. Under such circumstances, it shall not be required to offer subsequent negotiation of a deferred payment agreement prior to disconnection.**

I. Change of occupancy

- ~~1. Not less than three working days in advance notice must be given in person, in writing, or by telephone at the company's office to discontinue service or to change occupancy.~~
1. **To order service discontinued or to change occupancy, the customer must give the utility at least three working days advance notice in person, in writing, or by telephone.**
- ~~2. The outgoing party shall be responsible for all utility services provided and/or consumed up to the scheduled turnoff date.~~
2. **The outgoing customer shall be responsible for all utility services provided and/or consumed up to the scheduled turn-off date.**
3. **The outgoing customer is responsible for providing access to the meter so that the utility may obtain a final meter reading.**

*[APS would again urge the Commission to use defined terms such as ESP or UDC rather than the undefined term "utility" whenever possible. In addition, APS fully*

supports the recommendations of the Billing and Collections Working Group, which recommendations have been previous forwarded to Staff and which are attached hereto.

regaff:ECDRULE2.DOC

**EXHIBIT B**



THE POWER TO MAKE IT HAPPEN

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July 22, 1998  
**HAND DELIVERED**

Ray T. Williamson  
Acting Director, Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington  
Phoenix, Arizona 85007

*Re: Staff's Second Draft of Proposed Revisions to Electric  
Competition Rules (Docket No. RE-00000C-94-0145)*

Dear Ray:

Arizona Public Service Company ("APS" or "Company") is appreciative of this opportunity to supplement both its July 6th comments ("Original Comments") and Jack Davis' oral presentation at the Arizona Corporation Commission's ("Commission") July 15th Public Meeting. Although the Company has, in large part, heeded your admonition about rearguing old points, APS respectfully asks that you and your Staff again carefully review the Company's Original Comments. APS stands by the need for each of the changes and additions outlined therein. Avoiding ambiguities and internal inconsistencies in Staff's proposed electric competition rules ("Proposed Rules")<sup>1</sup> will never be easier than now, when all of us can presumably agree on what we mean by a specific regulation - not two years down the road in the middle of some heated dispute. Indeed, at our meeting of July 8th, it appeared that Staff had agreed to certain changes (and expressed no opposition to others), which nevertheless did not appear in the second draft of the Proposed Rules. Therefore, if it appears to you that APS is "beating a dead horse" on a particular issue, I apologize in advance, but I do not want Staff to overlook an otherwise useful amendment to the Proposed Rules because the Company was in any way lax in pressing its point of view.

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<sup>1</sup> Since the Proposed Rules are, in large part, amendments to Article 16 of the Commission's rules and regulations, these supplemental comments may also refer to the Proposed Rules as "Article 16" or "Article 16 Rules."

APS has organized its supplemental written comments into eight areas. The first seven were highlighted in Mr. Davis' July 15th oral comments. These include:

- 1) Inconsistencies in Proposed Rules 1601, 1605, 1606, 1613, 1616 (and also in portions of Staff's proposed changes to Article 2)<sup>2</sup> as to the scope of services both permitted and required of Affected Utilities (and later, of UDCs), and between the definitions of the terms "Competitive" and "Non-Competitive" services set out in Proposed Rule 1601 and the subsequent description of these services in the text of the Proposed Rules;
- 2) Affiliate Issues (Proposed Rule 1617);
- 3) The use of the ambiguous terms "utility" and "entity" in the aforementioned proposed changes to Article 2;
- 4) Labeling and reporting requirements [Proposed Rules 1604(B)(5) and 1618];
- 5) Standard Offer requirements (Proposed Rule 1606);
- 6) Solar Portfolio (Proposed Rule 1609); and,
- 7) ISA/ISO (Proposed Rule 1610).

The eighth category is a miscellaneous catchall generally ranging from minor inconsistencies and isolated ambiguities to mere typos. However, APS does have substantive comments on Proposed Rules 1608 and 1613 included in this section.

## **II. INCONSISTENCIES IN SCOPE OF PERMITTED/REQUIRED SERVICES AND IN TERMS "COMPETITIVE SERVICES" AND "NON-COMPETITIVE SERVICES"**

APS believes that the best way to start this discussion is to briefly review what APS understands to be the overall role for Affected Utilities (and eventually, UDCs) envisioned by the Proposed Rules, as well as the distinction between competitive and non-competitive electric services. To the extent Staff takes issue with these fundamental assumptions, it must modify some of the Company's specific suggestions. Nevertheless, the central thrust of APS' position,

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<sup>2</sup>A.A.C. R14-2-201, *et seq.*

i.e., to clearly and consistently define and use critical terms such as "Competitive" and "Non-Competitive," is still valid and should be reflected in Staff's final proposal to the Commission.

**Assumption No. 1** - Affected Utilities and UDCs are required to provide, on the basis of regulated monopoly, Standard Offer service (including metering, billing and collection for Standard Offer Service) and unbundled distribution service. See Proposed Rules 1601(24); 1605(B); 1606(A); and 1606(D)(1).

**Assumption No. 2** - Affected Utilities and UDCs are required to provide, again on a regulated monopoly basis, transmission and related "ancillary services." See Proposed Rules 1605(B) and 1606(D)(4) and (5).

**Assumption No. 3** - In addition to providing metering for Standard Offer customers, Affected Utilities and UDCs also retain a monopoly under the Proposed Rules over certain aspects of metering for all customers served at "Transmission Primary Voltage" ("TPV"), as that term is defined in Proposed Rule 1601(34). Specifically, Proposed Rule 1613(I)(12) restricts ownership of "Current Transformers" [Proposed Rule 1601(8)] and "Potential Transformers" [Proposed Rule 1601(27)], both of which would fall under the definition of "Metering Service" [Proposed Rule 1601(22)], to Affected Utilities (and presumed, UDCs) for these TPV customers. Consequently, it is simply incorrect to assert, without qualification, that "Metering Service" is competitive.

**Assumption No. 4** - Affected Utilities and UDCs are required to provide unbundled metering, billing, collection, information, and potentially other services "to all eligible purchasers" in competition with other providers of such services. See Proposed Rules 1605(B) and 1606(D)(2), (3), (6) and (7). As Mr. Davis noted in his oral comments, not only do the Commission's electric competition rules authorize, and indeed mandate a role by UDCs in providing metering and billing services for ESPs, there is no other practical way to provide metering for the 20kW and below, load-profiled customers. Moreover, many smaller ESPs will no doubt depend on the incumbent utility to provide these support services, just as has been universally the case in telecommunications. Prohibiting the UDC from providing metering and billing for competitive services will simply result in higher metering and billing costs to consumers and fewer competitors in the area it counts the most - electric energy,

**Assumption No. 5** - Affected Utilities are generally prohibited from providing "Competitive Services." See Proposed Rule 1616(B).

As is readily apparent, Assumptions 4 and 5 are in direct conflict. Moreover, each of these assumptions is at least in partial conflict with one provision of the Proposed Rules or another. For example, Proposed Rule 1605 (B) would appear to authorize competition in the

provision of Standard Offer service (including, but not limited to metering and billing for Standard Offer service) and in all Metering Service [(including those aspects of TPV metering restricted solely to Affected Utilities under Proposed Rule 1613(I)(12)]. To straighten this all out, APS makes the following recommendations:

- 1) Amend Proposed Rule 1601(24) - the definition of "Non-Competitive Services" - to include all of the services described in Assumptions 1-3 above, namely: Standard Offer Service (already in definition); distribution service (already in definition); transmission and FERC-required ancillary services (not presently in definition); and those aspects of Metering Service described in Proposed Rule 1613(I)(12) (not presently in definition).
- 2) Modify the first sentence in Proposed Rule 1605(B) to read: "Any service described in R14-2-1606, except those classified by this Article as Non-Competitive."<sup>3</sup>
- 3) Modify Proposed Rule 1616(B) by inclusion of the words: " as permitted or required by this Article or" after the word "except."<sup>4</sup>

These three simple amendments would not only conform and harmonize all parts of the Proposed Rules to the five basic assumptions described above, it will also make the requirements of Article 2 consistent with the scope of UDC and ESP activities under Article 16.

### III. AFFILIATE TRANSACTIONS

Proposed Rule 1617 suffers from both under-inclusion and over-inclusion. It is under-inclusive because the Proposed Rule fails to impose similar requirements on other ESPs that are affiliated with distribution utilities (e.g., PG&E) even though witnesses for these entities in the recent stranded cost proceeding did not oppose such requirements and even though the harm to

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<sup>3</sup> Proposed Rule 1605(B) could also list all of the designated non-competitive electric services included in the revised definition of "Non-Competitive Services", but this would be unnecessary if the definition is modified as proposed by APS and the defined term thereafter used in Proposed Rule 1605(B).

<sup>4</sup> If, on the other hand, it is Staff's recommendation that Affected Utilities (and UDCs) not be permitted to offer metering, billing and collection, etc., for competitive generation ESPs, even if pursuant to a Commission-regulated tariff, then it should delete these services from the scope of Proposed Rule 1606(D) and modify the definition of "Metering Service" [Proposed Rule 1601(22)] so as to exclude those parts of metering encompassed by Proposed Rule 1613(I)(12).

competition (i.e., cross-subsidies from monopoly services to competitive services) is the same whether the monopoly service is in Arizona or another state.<sup>5</sup> Proposed Rule 1617 is over-inclusive in that it goes beyond the stated objective of preventing the UDC from subsidizing or in any way favoring its competitive electric affiliates.

The under-inclusion problem can be solved by modifying the definition of UDC [Proposed Rule 1601(37)] in the manner suggested in the Company's Original Comments. Specifically, the following sentence should be added: "For purposes of R14-2-1617, UDC also means any affiliate of an Energy Service Provider that would be a UDC if it were otherwise subject to the Commission's jurisdiction as a public service corporation." (Staff could instead attempt to add the more generic term "ESP" to specific provisions of Proposed Rule 1617, but as noted below, this can lead to over-inclusion problems that are avoided by the more simple definitional change noted above.)

The over-inclusion problem is more complicated and requires several discrete changes to Proposed Rule 1617:

- 1) The words "utility affiliate" should be stricken from the second sentence of Proposed Rule 1617(A) and replaced with the words: "ESP affiliate of an Affected Utility or UDC." This is consistent with both Proposed Rule 1614, which is cited in the sentence, and with the stated intent of this regulation. Other (non-electric) affiliates of an Affected Utility or a UDC are covered by A.A.C. R14-2-804(A), and there is no need to create a new and possible conflicting provision for such affiliates.
- 2) Delete "ESP" from Proposed Rule 1617(B). There is no reason why a competitive ESP, whether or not affiliated with a UDC, should be required to share its competitive customer information with anyone except perhaps the Commission. Indeed, the exclusion of the term "ESP" from the last sentence of Proposed Rule 1617(B) is an indication that its inclusion in the previous two sentences was an unintentional oversight.
- 3) Delete Proposed Rule 1617(B)(2). As set forth in the Company's Original Comments, vendors of goods and services to UDCs are more than capable of protecting via contract their information and data from disclosure to third parties if they believe such protection is important. The UDC's

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<sup>5</sup> Some ESPs may even have distribution affiliates in Arizona and yet not be subject to these restrictions because they do not fall within the scope of "Affected Utilities" (e.g., an affiliate of SRP).

market power lies in its provision of distribution and transmission services, not in its purchase of goods and services from others.

- 4) Delete "ESP" from Proposed Rule 1617(C)(1). There is no purpose served by limiting the ability of competitive ESPs from granting selective discounts, even to its UDC affiliate. The Proposed Rule, as currently drafted, would effectively prevent all selective discounting by the UDC's competitive ESP affiliate, which in turn pretty much ends that entity's ability to compete with other ESPs. There is no rational reason for a competitive ESP to subsidize its non-competitive affiliate, thus it must be presumed that any selective discount given was in response to competition from other ESP's for the UDC's business [e.g., the competitive bids required under Proposed Rule 1606(B)]. Even if the ESP affiliate acts irrationally by giving its UDC affiliate an unnecessary discount, this harms only the competitive ESP and helps the UDC's customers. It does not adversely affect competition.
- 5) Delete "ESP" from Proposed Rule 1617(C)(5). The inclusion of competitive ESPs is even more inappropriate here. Why should an ESP be prohibited from engaging in the listed activities with another affiliated ESP? Indeed, the whole point of forming a competitive power marketing affiliate is quite often to market the competitive generation of the competitive generating affiliate or to package such generation with the competitive services (e.g., DSM) provided by yet a third competitive affiliate.

Proposed Rule 1617 also has its own share of ambiguities. APS' Original Comments noted the potential problem with Proposed Rule 1617(C)(3) and proposed including a few examples of what would not be considered an "undue preference or priority." APS strongly believes that these additions would go a long way towards avoiding future disputes over this provision. On the other hand, Proposed Rule 1617(A)(7)(a) reflects only part of the language suggested by the Company in its Original Comments and presumes that every service provided by an Affected Utility or UDC would necessarily be a tariffed utility service. Since this latter presumption is obviously false, the whole provision becomes confusing. APS urges Staff to adopt all of the language proposed by the Company in its Original Comments on this paragraph.

Finally, the Company again urges Staff to reconsider the mandatory annual outside audit requirement of Proposed Rule 1617(D). Although Staff has removed in this second draft the offensive language requiring utility shareholders to absorb this cost, the broader issue is why incur the cost at all if: (i) the Affected Utility or UDC has internal auditing procedures in place

that are acceptable to the Commission; (ii) the Commission as well as the FERC and SEC auditors have full access to all the information required to assure themselves that the UDC is not subsidizing or discriminating in favor of a competitive affiliate; and (iii) there is no evidence that the UDC is not in substantial compliance with this regulation. APS' proposed language in its Original Comments stressed the role of internal audit controls and yet would allow the Commission to order periodic outside audits of compliance on an "as needed" basis.<sup>6</sup> This would avoid burdening the UDC with unnecessary costs at precisely the time the Commission is looking for ways to decrease rates.

#### IV. ARTICLE 2 ISSUES

Although both A.A.C. R14-2-201(45) and Proposed Rule 1613(A) attempt to define the term "utility," these definitions are inadequate for three basic reasons:

- 1) A.A.C. R14-2-201(45) is so broad as to encompass every sort of ESP, UDC and non-certificated provider of service and is therefore useless outside the context of a vertically integrated monopoly provider;
- 2) Proposed Rule 1613(A) attempts to get around the first problem by stating that : "the term 'utility' shall pertain to Electric Service Providers providing the services described in each paragraph of R14-2-201 through R14-2-212." Unfortunately, it is not always clear precisely what "service" is being described in a specific paragraph. For example, is a meter deposit a metering service issue or a billing service issue? Is disconnection for non-payment a distribution service issue or a collections issue?
- 3) Even if problem 2 did not exist, a UDC (to which many of the Article 2 provisions obviously are intended to apply) is, by definition, not an ESP and thus falls outside the definition of "utility" provided by Proposed Rule 1613(A).

APS wishes there was an easy fix for this problem. Unfortunately, there is no substitute for going through each paragraph and deciding whether it applies to UDCs, ESPs, or both. This already difficult task will be further complicated by the fact that some service providers to which some of these provisions might readily apply (e.g., billing and collection entities) are no longer ESPs under this draft of the Proposed Rules and thus would not be encompassed by either term.

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<sup>6</sup> Another suggestion might be to require such an outside audit only if the UDC is seeking a rate increase.

Two new problems in Article 2 arise from: (i) the use of the undefined term "entity" in Proposed Rule 209(C) and (F); and (ii) the addition of a new sentence in Proposed Rule 210(B)(1). Both the source and purpose of these changes to Staff's first draft is a mystery to the Company.

APS suggests substituting for the term "entity" the words "Customer or the customer's ESP or UDC" to solve the first problem. This would clearly identify those entities that can obtain meter rereads or meter testing. APS would also note that the title of these subsections should probably be changed to simply say "Meter Rereads" [Proposed Rule 209(C)] and "Requests for Meter Test" [Proposed Rule 209(F)]. This would conform the title with the text of these provisions.

The second issue is far more serious. APS would delete the proposed additional sentence in its entirety. Competitive services are clearly aggregatable under Proposed Rule 1604, and this new language merely confuses the issue both by suggesting that loads less than 40 kW could be aggregated for billing purposes or worse yet, that non-competitive services such as Standard Offer or distribution could be aggregated for billing purposes. This is precisely the opposite of what the Commission determined barely a year ago in Decision No. 60292 (July 2, 1997)<sup>7</sup> and, if permitted, would cost APS and its other customers tens of millions of dollars a year. If total deletion of the sentence in question is unacceptable to Staff, an alternative would be to add the phrase "of Competitive Services" after the word "aggregation." This would solve at least part of the problem created by this language although the confusion about its applicability to loads smaller than 40 kW would remain until all loads were eligible for competitive services in 2001.

## V. LABELING AND REPORTING

At present, APS can offer little more than to reiterate Mr. Davis' suggestion that the labeling and reporting requirements of Proposed Rule 1618 are still burdensome, impractical, and likely to be counterproductive. The Commission should designate a special task force headed by Staff and including Affected Utilities, potential ESPs, and consumer representatives, to come up with labeling and reporting standards for ESPs that meet each of three basic objectives:

- 1) The information should be readily obtainable by the Affected Utility, ESP or UDC. Accurately tracing electrons through ten or fifteen previous transactions to determine their original source and then attributing to those

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<sup>7</sup> That decision resulted from a complaint by Maricopa County against APS involving precisely this provision of A.A.C. R14-2-210.

electrons certain emissions characteristics are impossible tasks. On the other hand, providing consumers with such information based on arbitrary assumptions or plain old guesses does little to promote informed consumer choice.

- 2) The information should be useful to the clear majority of customers. Some customers may find a supplier's labor practices or the political affiliation of its president an important factor in their purchasing decision, but there are obvious limits to how much information can and should be thrown at consumers at every turn. Labeling should concentrate on price and reliability - matters obviously of interest to virtually all consumers.
- 3) ESPs should not be required to divulge competitively sensitive information. Some of the price and terms data included in Proposed Rule 1618 may well be proprietary secrets in a competitive market.

This task force should be given roughly thirty days to come up with a recommendation to Staff and the Commission.

Proposed Rule 1604(B)(5) is still only applicable to Affected Utilities. As noted in the Original Comments, the competitive ESPs will often be in a far better position to provide this information. Also, the residential "phase-in" lasts only two years, while this reporting requirement appears to last indefinitely. APS again urges Staff to adopt the language proposed by the Company in its Original Comments.

## VI. STANDARD OFFER ISSUES

Proposed Rule 1606(B), although modified from Staff's first draft, is still a big problem. It is unreasonable to expect all Standard Offer power to come from competitive bidding. Short-term purchases will likely be made on a PX or similar commodities trading market. Emergency purchases will necessarily come from interconnected systems such as SRP. Yet other purchases will come from "must-run" units. The "ratchet down" requirement for long-term contracts will likely make Standard Offer power much more expensive than would otherwise be the case had more flexibility been permitted. The Company's Original Comments provided both flexibility to the contracting UDC and enhanced Commission oversight. If that is not acceptable language, then APS would suggest deleting the provision *en toto* and deferring resolution of this issue, as was suggested by AEPCO and others on July 15. Having no provision at this time is far preferable to having a bad one.

Proposed Rule 1606(A) also adds the term "provider of last resort." As first noted in the Company's response to Staff's earlier Position Paper, APS does not understand how this obligation is different from the Standard Offer and thus asks Staff to define the former term.

## VII. SOLAR PORTFOLIO

APS supports a solar portfolio standard ("SPS") that is reasonable (both from a cost and technology point of view), sustainable over the long run, and non-bypassable by out-of-state ESPs and self-aggregators. Proposed Rule 1609, although a modest improvement over the original regulation, still fails to meet any of these objectives. APS will work with Staff to further refine the SPS in the months preceding January 1999.

Proposed Rule 1609(G) is still confusing. In addition to some garbled language, it is not clear whether distributed solar equipment installed by the UDC (or installed by an Affected Utility prior to 2001 and thereafter retained by the UDC) will count toward meeting the SPS of the UDC's ESP affiliate. If not, this provides a powerful disincentive for either the ESP or the UDC to promote distributed solar electric applications in lieu of substation upgrades or new substation construction. It is time to face up to the fact that the "goals" of Decision No. 58643 have been rendered meaningless by the Proposed Rules, which in addition to creating the SPS, require Affected Utilities to divest much of the very solar generation originally contemplated by Decision No. 58643. Deletion of this provision is the appropriate solution.

APS would also add one more specific concern. Proposed Rule 1609(K) makes it impossible for an ESP to know whether solar facilities it is either constructing or purchasing, or any output from such facilities will qualify for the SPS until the Director establishes technical standards for such equipment. Since no such standards have been established at present nor is any date set for their establishment, this provision is a clear disincentive for the early installation of solar facilities otherwise encouraged by Proposed Rule 1609. This provision should either be removed or modified to apply only to facilities constructed or acquired after the referenced standards are publicly issued.

## VIII. ISA/ISO

As noted by Mr. Davis on July 15, APS expects to be able to provide Staff with consensus language to replace the last sentence of Proposed Rule 1610(A). Such language should be available in time to be included in any rule considered by the Commission at its August 5th Open Meeting. APS also notes that whatever the Commission and other interested parties come up with, it is FERC that will have the final say on transmission priority.

Proposed Rule 1610(H) assumes that FERC will regulate "must run" units. Although that is clearly true once these units have been divested or if they sell to an ISO, it is at least possible that these units will still be jurisdictional to the Commission on 1/1/99, and thus the language in the rule should add the phrase "if appropriate" after the word "filed" in the last sentence.

### IX. MISCELLANEOUS

APS has a number of comments that fall into this category. They defy being readily grouped, and so perhaps it is best just to start with Proposed Rule 1601 and work through the balance of the Proposed Rules.

1. Substitute the term "ESP" for "entity" in Proposed Rule 1601(2). As written, it is still unclear whether third-party aggregators are or are not considered ESPs or whether they have to seek certification under Proposed Rule 1603. This simple change would clarify both issues.
  2. The term "Control Areas" is capitalized in Proposed Rule 1601(7) but is not a defined term. APS would suggest adopting the definition of "Control Area" contained in the November 18, 1997 Final Report of the Commission's Electric Systems Reliability and Safety Working Group, Appendix A at 3.
  3. The word "terms" is misspelled in Proposed Rule 1601(11).
  4. Proposed Rule 1601(13) effectively takes billing and collection, as well as information service entities out of the definition of ESP because such entities do not require certification. Since many sections of the Proposed Rules are keyed to the term ESP, this language results in exemption for these entities from many provisions of the Proposed Rules that would otherwise apply. It is not clear to the Company that such an exemption was Staff's intended result.
  5. APS would add the following additional definition to Proposed Rule 1601:  

"Metering Committee" means the Commission-supported metering committee composed of representatives from Arizona Affected Utilities, ESPs doing business in Arizona, MRSPs doing business in Arizona and Commission Staff.
- The term Metering Committee appears in Proposed Rule 1613(I)(14), (15) and (16) but is nowhere defined or even described.
6. APS does not understand why its suggested language in Proposed Rule 1601(28) was not

adopted. The proliferation of unqualified schedule coordinators is clearly undesirable. Even if all Scheduling Operator "want-to-be's" were qualified, there is a limit (at least before the ISO is up and going) to how many entities can be effectively handled by the ISA or Control Area Operator. The Commission is the logical entity to determine how many Schedule Coordinators will be permitted and what will be their qualifications.

7. The definitions in Proposed Rule 1601(34) and (35) may still contradict each other. FERC defines transmission for APS as 69kV and above, which definition is therefore incorporated by reference into Proposed Rule 1601(35). Yet Proposed Rule 1601(34) defines TPV as over 25 kV. The qualifying language added to the former definition in Staff's second draft was helpful but may not fully resolve the problem. The Company's Original Comments address this issue at page 2.

8. The proposed deletion from Proposed Rule 1603(B) of the second sentence would place that provision in conflict with Proposed Rule 1611(A) and with the provisions of H.B. 2663, which prohibits competition in the service areas of certain entities without their permission.

9. Proposed Rule 1603(G)(6) requires that all "Service Acquisition Agreements" be approved by the Commission. Given the likely volume of such agreements, this requirement will prove unwieldy in practice unless the Commission can approve some standard form of agreement in advance. In addition, such agreements, to the extent they are with the Scheduling Coordinator rather than with the UDC, may well be under FERC's jurisdiction rather than the Commission's.

10. Add the modifier "single premise" after the word "individual" in Proposed Rule 1604(A)(2). In utility parlance, "customers" do not have demands - "premises" do. Also, this change would clarify which premise loads can be aggregated for customers having multiple premises. APS also asks that Staff reconsider aggregating non-residential loads less than 100 kV in this first phase. This higher threshold will eliminate the need for determining a kWh equivalent because these larger customers should all have measured demands. Keep in mind that customer aggregation at any level presents many difficult administrative issues and handling all 1 mW customers, in addition to aggregations of these larger 100 kW customers, and the residential phase-in (all of which would begin in less than five months from the time the Proposed Rules are to be considered by the Commission) is already more than enough to deal with in the first wave.

11. Add the following sentence after the end of Proposed Rule 1605(B): "However, self-aggregators are still required to obtain Service Acquisition Agreements and to comply with the provisions of R14-2-1609." This will ensure both that self-aggregators play by the same scheduling rules as ESPs and that self-aggregation does not become a means for bypassing the SPS.

12. Proposed Rule 1608(A) has the word "fuel" missing from the last sentence. Also, APS does not understand why Commission-ordered customer education programs continue to be missing from this provision. There appeared to be a broad consensus in support of this addition, and no alternative funding source is identified in the Proposed Rules. Finally, it is still unclear whether or not the SBC can be modified more frequently than triennially if the Commission orders additional or expanded social programs covered by the SBC (or if programs are eliminated or scaled down) within the three year period contemplated by this Proposed Rule. It was the consensus recommendation of the Low Income Subcommittee of the Metering and Unbundling Working Group that such a filing be required at least every three years - but that more frequent filings not be prohibited.

13. Proposed Rule 1612(C) and (D) adopted the new language from the Company's Original Comments but did not delete the original language from the first draft. As a result, it is even less clear when a contract will become effective or when a contract has to be submitted to the Director.

14. Proposed Rule 1613(H)(5) should have the words "usage and demand" inserted before the word "billing." Without this clarification, the rule literally requires all billing related data to be translated into EDI format, when the intent was only to translate data that needed to be shared between the UDC and ESP.

15. Proposed Rule 1613(H)(6) should be deleted. The previous paragraph dictates the format for both metering and billing data. This provision would require use of a VAN network, necessitating an expensive third-party vendor charging a fixed fee per transaction.

16. Add the words "direct access" before the word "customer" in Proposed Rule 1613(M) and also the words "where applicable" after the word "elements." These additions conform the text of the rule with its title and recognize that not all these elements will appear on a single bill in the situation of multiple billing entities. The former addition is a particularly important change and should not be lost simply because it is buried in the MISCELLANEOUS section of these comments. APS doubts that it is physically possible to modify its billing system by 1/1/99 to add this level of detail to Standard Offer bills - a task not required under the rules as they were passed in 1996. Moreover, unbundling the billing for Standard Offer customers will result in unbundled elements that do not add up to the bundled charge shown on the bill. This will greatly confuse customers and lead to misleading comparisons between the customer's bundled bill and that which he might receive as a direct access customer.

17. Proposed Rule 1613(I) requires a number of small, yet significant changes. APS lists them below:

- a) Delete the words "from the meter to the billing company" and substitute "from the MRSP to the ESP, Scheduling Coordinator and UDC" in Proposed Rule 1613(I)(6). As written, the provision requires a dedicated Internet connection for every meter, which was not the intent of this section.
  - b) Add a second sentence to Proposed Rule 1613(I)(8): "For new accounts with no prior history, the UDC's estimated kW load used for the service entry design will be used as the measure of such customer's demand for purposes of this provision." This will clarify how loads will be determined when a new customer is added to the UDC system.
  - c) Delete the words "for metering purposes" from Proposed Rule 1613(I)(13) and add the following in their place: "when monitoring response time performance requirements related to metering and billing." This reflects the intent of this provision as discussed in the Metering Committee.
  - d) Add the word "competitive" before the word "primary" in Proposed Rule 1613(I)(14) and the words "for competitive customers" at the end of both Proposed Rule 1613(I)(15) and (16). It was always the intent of the Metering Committee that these provisions only apply to non-Standard Offer metering services.
18. Proposed Rule 1618(A) and (H) uses the term "load serving entity," but that term is no longer defined. This appears to be an oversight because the first Staff draft did contain such a definition.
19. Lastly, Article 2 of the Proposed Rules requires the following non-substantive changes:
- a) Proposed Rule 209(E)(2)(b) - Typo in first line;
  - b) Proposed Rules 210 and 211 - Change "LDC" to "UDC;" and,
  - c) Proposed Rule 210(B)(1) - Typo (third line is repeat).

## X. CONCLUSION

I hope you have found these supplemental written comments helpful. I realize they have been extensive and detailed, but they are offered out of a sincere desire on the part of APS to see

Ray T. Williamson  
July 22, 1998  
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the implementation of electric competition go as smoothly as is possible. As before, I and my staff are at your disposal should you have any questions about either these comments or the Company's Original Comments.

Sincerely,

A handwritten signature in cursive script that reads "Donald G. Robinson" followed by a stylized flourish or initials.

Donald G. Robinson