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BEFORE 1

COMMISSION RECEIVED AZ CORP COMMISSION

JIM IRVIN COMMISSIONER-CHAIRMAN
TONY WEST COMMISSIONER
CARL J. KUNASEK COMMISSIONER

Arizona Corporation Commission

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DOCKET NO. E-01032C-97-0774

IN THE MATTER OF THE FILING BY
CITIZENS UTILITIES COMPANY OF
UNBUNDLED AND STANDARD OFFER
SERVICE TARIFFS PURSUANT TO
A.A.C. R14-2-1606

**CITIZENS UTILITIES COMPANY'S
COMMENTS IN RESPONSE TO
JANUARY 6, 1999, PROCEDURAL
ORDER**

On January 6, 1999, the Hearing Officer in this docket issued a procedural order for comments and actions needed to resolve the remaining issues in electric industry restructuring. Citizens Utilities Company ("Citizens") submits the following in response this procedural order. Citizens believes the remaining issues fall within the areas of the Electric Competition Rules ("Rules") or Stranded Costs. Citizens' filing addresses each of these areas followed by its proposed order, method, and schedule to resolve outstanding issues.

I. Electric Competition Rules

During the late Spring and Summer 1998, Citizens made several filings that provided extensive comments on the Rules. Most of the issues raised by Citizens are still not reflected in the permanent Rules approved by the Commission. In its September 18, 1998, comments on the Electric Rules, Citizens set forth several policy positions it believed, and continues to believe, should be adopted by the Commission to allow for effective competition. These fall in the areas of Stranded Costs, Affiliate Transactions, Transmission and Distribution Access, and Commission/RUCO Assessment and are summarized below.

1 **Stranded Cost** – The Rules should be modified to reflect the following:

- 2 • The definition of Stranded Cost should be modified to recognize
- 3 that Utility Distribution Company (“UDC”) transition costs to
- 4 enable electric competition are real and should be recoverable.
- 5 • The Rules should unambiguously define and allow retention by
- 6 UDCs of Must-Run Generation.
- 7 • All customers eligible to choose competitive electric supply
- 8 should pay a competitive transition charge (“CTC”).
- 9 • The definition of stranded costs should be modified to
- 10 unambiguously allow recovery of stranded costs associated with
- opening metering, meter reading, billing and collections, and
- information services to competition.

11 **Affiliate Transaction Rules** – The Commission should adopt the following
12 regarding Affiliate Transactions:

- 13 • In this docket, or a parallel generic docket, the Commission
- 14 should address affiliate interest issues as they apply to all
- 15 competitive utility services (whether gas, electric, telephone, or
- 16 water) to ensure a consistent, non-discriminatory, and
- reasonable set of affiliate rules is put in place.
- 17 • The Commission should remove any restrictions on a UDC to
- 18 offer metering, meter reading, and billing and collection services
- at tariffed rates within its service area.
- 19 • The audit requirements and filing date of the performance audit
- 20 required under R14-2-1617(E) should be more fully defined.

21 **Transmission and Distribution Access**

- 22 • The Commission should reconsider the Rules in this area and
- 23 provide priority access to firm transmission resources for
- 24 Standard Offer customers as long as the same entity retains the
- duty to serve these customers.

25 **Commission/RUCO Assessment**

- 26 • The Commission should examine whether further legislation is
- 27 necessary under electric restructuring to allow annual
- 28 assessment on UDCs or other entities (based on gross operating
- 29 revenues) to support the Commission and RUCO. The continuing
- ability of the Commission to do so is questionable because, in a
- competitive market, UDCs will be delivering power to which they

1 may never take title, and some of this power will be delivered
2 from out-of-state sources (raising interstate commerce issues).

3 Beyond the above issues raised in past filings, Citizens offers the following
4 additional comments on the Rules based on its experiences with and further
5 reflections on electric competition.

6 **Deposits**

- 7 • Clarifying language should be added to R14-2-203(B), especially
8 as it relates to handling deposits for customers leaving and
9 returning to Standard Offer service.

10 **Definitions**

- 11 • A definition for "Market Transformation" should be added to the
12 Rules to remove the ambiguity surrounding this term.

13 **Competitive Phases**

- 14 • The expansion of the Residential Phase-In process to one and
15 one-quarter percent of customers per quarter (versus the former
16 one-half of one percent) should not be adopted in the updated
17 Rules. The former value is adequate to develop and refine UDC
18 administrative systems, while not potentially subjecting
19 customers to the effects of inefficient processes or mistakes that
20 will likely occur during the transition to competition.

21 **Transmission Capacity**

- 22 • The Rules must carefully consider the issue of planning for future
23 transmission capacity. Through the establishment of the Arizona
24 Independent System Administrator ("AISA"), the Rules address
25 the allocation of existing transmission capacity, but do not
26 contain the provisions needed to assure adequate capacity will be
27 available to meet future needs. Under regulation, the obligation
28 to serve all customer loads meant that Affected Utilities were
29 responsible for ensuring adequate transmission capacity. It is
not clear how the planning for transmission system requirements
will take place under electric competition.

30 **Solar Portfolio Standard**

- 31 • To allow for true open competition and the lowest reasonable
32 costs for Arizona electric consumers, the Solar Portfolio Standard
33 should not be adopted in the updated Rules. The market, not

1 government rules, should determine the extent to which
2 customers are willing to pay for solar electric resources.

3 **Solar Water Heater Rebate Program**

- 4 • The Commission should remove the Solar Water Heater Rebate
5 Program from the Rules, because it is unrelated to the opening of
6 electric markets to competition.

6 **Metering, Meter Reading, Billing and Collections**

- 7 • The updated Rules should allow flexibility in implementing
8 Electronic Data Interchange ("EDI") where it may not be
9 economically feasible (e.g. with smaller utilities). Further, the
10 updated Rules should either thoroughly specify how EDI will be
11 implemented or remain silent on the issue and allow the market
12 to adopt its own standards and protocols.
- 13 • Rather than rely on approval by the Director, Utilities Division, on
14 key matters at some indefinite time in the future, the updated
15 Rules should provide for:
 - 16 1. thorough operating procedures and rules for Meter
17 Service Providers (MSPs);
 - 18 2. complete procedures for Meter Reading Service Providers
19 (MRSPs);
 - 20 3. thorough procedures for Direct Access Service Requests
21 (DASRs) transactions; and
 - 22 4. complete performance metering specifications and
23 standards.

21 **II. Stranded Costs**

22 In addition to the stranded cost policy issues discussed above, Citizens has
23 two further comments about stranded cost recovery dealing with: 1) an Interim
24 CTC, and 2) CTC calculation methods.

25 1) **Interim CTC** - Citizens no longer supports the implementation of an
26 interim CTC.

27 2) **CTC Calculation** - Consistency in the calculation of the CTC for all
28 Arizona Affected Utilities is crucial for an effective competitive market. Several
29 proposals have been offered for calculating CTCs, some based on the notion of a

1 "shopping credit," that is, a discount against Affected Utility generation charges
2 that consumers could use to evaluate competitive offers. Bases for calculating
3 the shopping credit included decremental generation costs, an adjusted market
4 price, or fully embedded generation costs (Citizens' proposal). Typically, applying
5 these different approaches to any given utility will produce a wide disparity in
6 actual credits, and therefore, CTC values. In the interest of fairness and to avoid
7 a patchwork of economic incentives for competitive electric sales across the
8 State, it is critical that a uniform approach be used to calculate Affect Utilities'
9 CTCs.

10 **III. Order of Issue Resolution**

11 The two key elements to be resolved in this docket are amending the Rules
12 and finalizing the Affected Utilities' stranded cost and unbundled tariff cases:

13 1) **Amending the Rules** - Citizens has reviewed the joint proposal of
14 the Residential Utility Consumers Office ("RUCO") and the Attorney General's
15 Office ("AG") and supports many of its aspects. In particular, Citizens believes
16 that the proposal to quickly resolve amending the Rules in parallel with the other
17 matters is key. Citizens departs from the RUCO/AG proposal in the timing of the
18 final order on the amended Rules. Instead of waiting to have the final order
19 coincide with the final order on stranded costs and unbundled tariffs, the
20 Commission should issue its final Rule order as soon as possible. The orderly,
21 understandable, and efficient implementation of electric competition for
22 customers is clearly an important goal of this process. Accomplishing that goal
23 requires that Affected Utilities be given adequate lead-time to educate consumers
24 about the new industry and to set up administrative systems to efficiently handle
25 customer transactions. These tasks can not be effectively done until the Rules
26 are finalized. Allowing the maximum possible amount of time after the Rules are
27 finalized until the initiation of competition for customers is needed to effectively
28
29

1 implement open access. Accordingly, the amendments to the Rules should be
2 settled as early as possible and the Commission should then quickly issue its Final
3 Order on the amended Rules.

4 2) **Stranded Costs and Unbundled Tariffs** – Citizens has reviewed
5 the RUCO/AG proposal to consolidate hearings on each Affected Utility’s stranded
6 cost and unbundled tariff filings and concurs with the order of the proposed
7 proceedings.

8 **IV. Method and Timing of Issue Resolution**

9 **Stranded Costs and Unbundled Tariffs** - Citizens agrees with the
10 RUCO/AG proposed method of handling each Affected Utility’s stranded cost and
11 unbundled tariffs on a consolidated basis and agrees also with the proposed
12 timing for the proceedings.

13 **Rule Amendments** - As to the amendments to the Rules, Citizens believes
14 that a combination of informal discussions and hearings should be employed.
15 Informal discussions should be directed toward achieving consensus on issues
16 identified through this Procedural Order. However, for issues where consensus is
17 not achievable, parties should be allowed to present their arguments before the
18 Commission for a final ruling. As addressed above in the Order of Issue
19 Resolution, Citizens firmly believes that priority should be given to resolving the
20 Rules at the earliest possible time. Citizens supports the timeframe suggested by
21 the RUCO/AG proposal that these matters be settled by the end of the first
22 quarter of 1999. While this may present a challenging goal, Citizens believes it is
23 both achievable and advisable.

24 Citizens believes it is particularly important in the Rule amendment process
25 that no party be given “literary license” to draft proposed updates to the Rules.
26 Instead, Rule changes should be presented to the Commission as either: 1)
27 consensus language, or 2) dissenting opinion(s) with proposed language from the
28 dissenting party(ies). To accomplish this, Citizens proposes the following:
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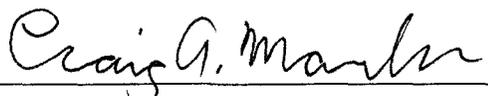
1. The Rules as they exist today should be parsed into logical groups/subject areas and informal working groups established to handle each defined area.
2. Membership to each group will be offered to each party and established with finality up-front.
3. The only amendments to be considered by the working groups will be those raised in the context of this Procedural Order;
4. Each working group will be given instructions to seek consensus on the issues and to report on all dissenting opinions;
5. Working group members will be expected to dedicate whatever time is needed to deal with the issues within deadlines established by the Commission;
6. The Commission should schedule proceedings to hear arguments on dissenting views and make a final ruling on non-consensus issues.

Considering the Rule amendments in this way will ensure that no party will have undue influence on the outcome and that dissenting views will be aired. The possibility for frivolous dissension exists, but this could be curtailed by firm direction from the Commission at the outset that this will not be tolerated and that the parties should carefully "pick their fights."

V. RUCO/AG Joint Proposal

As addressed in the sections above, Citizens generally supports the proposed schedule set forth by RUCO and the Attorney General. Citizens' only modifications to the proposal would be to make provisions for hearings on Rule amendments in late March 1999 and request a Final Order from the Commission at the earliest possible time after the Rule hearings.

RESPECTFULLY SUBMITTED January 20, 1999.



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