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**BEFORE THE ARIZONA CORPORATION COMMISSION**

JIM IRVIN  
Commissioner - Chairman  
TONY WEST  
Commissioner  
CARL J. KUNASEK  
Commissioner

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

DOCKET No. RE-00000-C-94-165

Arizona Corporation Commission

**DOCKETED**

**JAN 29 1999**

DOCKETED BY	<i>chw</i>
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**PROPOSED CHANGES TO ELECTRIC COMPETITION RULES  
SUBMITTED BY ASARCO INCORPORATED,  
CYPRUS CLIMAX METALS COMPANY, ENRON CORP. AND  
ARIZONANS FOR ELECTRIC CHOICE AND COMPETITION**

**January 29, 1999**

Submitted by:  
FENNEMORE CRAIG  
Attorneys for ASARCO Incorporated, Cyprus  
Climax Metals Company, Enron Corp., and  
Arizonans for Electric Choice and  
Competition

1 Pursuant to the Chief Hearing Officer's Procedural Order dated January 26, 1999,  
2 ASARCO, Incorporated, Cyprus Climax Metals Company, Enron Corp., and Arizonans for Electric  
3 Choice and Competition<sup>1</sup> (collectively referred to herein as "AECC") hereby submit proposed  
4 additions, deletions and other changes to the Electric Competition Rules (A.A.C. R14-2-201, et seq.  
5 and R-14-2-1601, et seq.) (the "Rules"). As further directed by the Chief Hearing Officer, these  
6 proposed changes are set forth in a ~~strikeout~~/underline format followed by explanations (where  
7 necessary) in italics.

8 AECC has **not** proposed additions, deletions or other changes to the majority of the Rules'  
9 provisions. However, by not addressing those provision of the Rules to which AECC does not  
10 believe changes are necessary, AECC does not intend to waive its right to challenge proposed  
11 modifications submitted by any other stakeholder and to make additional proposed changes in  
12 connection therewith.

13 **TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS**  
14 **AND ASSOCIATIONS; SECURITIES REGULATION**  
15 **CHAPTER 2. CORPORATION COMMISSION – FIXED UTILITIES**

16  
17 **ARTICLE 2. ELECTRIC UTILITIES**

18 **R14-2-201. Definitions**

19 In this Article, unless the context otherwise requires, the following definitions shall  
20 apply. In addition, the definitions contained in Article 16. Retail Electric Competition shall  
21 apply in this Article unless the context otherwise requires.

22  
23 <sup>1</sup> Arizonans for Electric Choice and Competition is a coalition of companies and associations in support  
24 of competition and includes Cable Systems International, BHP Copper, Motorola, Chemical Lime, Intel,  
25 Hughes, Honeywell, Allied Signal, Cyprus Climax Metals, Asarco, Phelps Dodge, Enron, Homebuilder's  
26 of Central Arizona, Arizona Mining Industry Gets Our Support, Arizona Food Marketing Alliance,  
Arizona Association of Industries, Arizona Multi-housing Association, Arizona Rock Products  
Association, Arizona Restaurant Association, Arizona Association of General Contractors, and Arizona  
Retailers Association.



1 forth in R14-2-1613.K. All components of Standard Offer service shall be deemed  
2 noncompetitive as long as those components are provided in a bundled transaction pursuant to  
3 R14-2-1606(A).

4 *Some FERC required ancillary services may be competitive. To the extent FERC rules*  
5 *do not preclude competition for these services, they should be subject to competitive bidding.*

6 ~~37. "Solar Electric Fund" is the funding mechanism established by this~~  
7 ~~Article through which deficiency payments are collected and solar energy projects are funded in~~  
8 ~~accordance with this Article.~~

9 39. "Stranded Cost" includes:

10 b. Reasonable costs necessarily incurred by an Affected Utility to  
11 effectuate divestiture of its generation assets at a sales price at or above the minimum bid price  
12 for each asset approved by the Commission as necessary to effect divestiture without incurring  
13 transition costs that would cause the delivered price of power to customers to be greater under  
14 competition than under regulation.

15 *Affected Utilities must not be allowed to use divestiture as a means to dispose of*  
16 *uneconomic investments at the expense of consumers. Divestiture must result in sales that meet*  
17 *or exceed minimum bids before allowing recovery of reasonable costs of divestiture.*  
18 *Unreasonable costs should never be recovered.*

19 40. "System Benefits" means Commission-approved utility low income,  
20 demand side management, market transformation, environmental, renewables, long-term public  
21 benefit research and development and nuclear fuel disposal and nuclear power plant  
22 decommissioning programs; provided, however, that systems benefits charges associated with  
23 nuclear power should be applied only to customers of utilities receiving power from nuclear  
24 power plants.

25

26

1 **R14-2-1602. Filing of Tariffs by Affected Utilities**

2 Each Affected Utility shall file tariffs consistent with this Article by ~~December 31,~~  
3 1997 March 19, 1999. Such tariffs shall be unbundled to the highest kV service level of the  
4 historic retail customer base.

5 *Customers should only be required to pay those costs that are required for the service*  
6 *they receive. Affected Utilities should not be allowed to shift costs by arbitrarily combining or*  
7 *collapsing customer classes.*

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

9 A. Any Electric Service Provider intending to supply services described in R14-2-  
10 1605 or R-14-2-1606, other than services subject to federal jurisdiction, shall obtain a Certificate  
11 of Convenience and Necessity from the Commission pursuant to this Article. A Certificate is not  
12 required to offer information services, billing and collection services, or self-aggregation.  
13 ~~However, aggregators as defined in R14-2-1601 are required to obtain a Certificate of~~  
14 ~~Convenience and Necessity and Self-Aggregators are required to negotiate a Service Acquisition~~  
15 ~~Agreement consistent with subsection G(6).~~ An Affected Utility need not apply for a Certificate  
16 of Convenience and Necessity to continue to provide electric service in its service area during the  
17 transition period set forth in R14-2-1604. An Affected Utility providing distribution and  
18 Standard Offer service after January 1, 2001 need not apply for a Certificate of Convenience and  
19 Necessity. All other Affected Utility affiliates created in compliance with R14-2-1616(A) shall  
20 be required to apply for appropriate Certificates of Convenience and Necessity.

21 *The deleted language is unnecessary and confusing for a number of reasons. By*  
22 *definition, "aggregators" must be Energy Service Providers (R14-2-1601(2)). According to the*  
23 *first sentence of 1603(A), any ESP must obtain a CC&N. Therefore, the phrase is redundant.*  
24 *Also, the act of "combining electric customers into a purchasing group", the Rules' definition of*  
25 *"aggregator", is a natural market function of any load-serving entity. It is unclear why the*  
26 *Rules imply a need for a separate market function. "Aggregation" is only relevant through the*

1 transition period, and only in terms of achieving combined loads of 1 MW or more, in order to  
2 obtain transitional eligibility. Any uncertified entities offering "brokering" services to represent  
3 a group of aggregated customers would, by further definition within these Rules, be required to  
4 utilize one or more certificated entities to meet the requirements of Direct Access provision, and  
5 should not themselves be subject to the CC&N process.

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

7 A. Each Affected Utility shall make available at least 230% of its 19985 system retail  
8 peak demand for competitive generation supply ~~on a first come, first served basis as further~~  
9 ~~described in this rule. First come, first served for the purpose of this rule, shall be determined~~  
10 ~~for non-residential customers by the date and time of an Electric Service Provider's filing of a~~  
11 ~~Direct Access Service Request with the Affected Utility or Utility Distribution Company. The~~  
12 ~~effective date of the Direct Access Service Request must be within 180 days of the filing date of~~  
13 ~~the Direct Access Service Request. Residential customer selection will be determined under~~  
14 ~~approved residential phase in programs as specified in R14-2-1604.B.4.~~

15 *The lower percentage and earlier date are carryovers from earlier versions of the Rules*  
16 *which have lost their significance. In light of the delays experienced, it is now appropriate to*  
17 *use a date and percentage which result in higher levels of competition during the transition*  
18 *phase. This is particularly necessary because the Commission, in the final stages last year,*  
19 *increased the percentage of residential customers eligible for competition. This increase will*  
20 *harm industrial and other commercial customers if the 20% level is retained.*

21 1. All Affected Utility customers with non-coincident peak demand load of 1  
22 MW or greater will be eligible for competitive electric services no later than January 1, 1999.  
23 Customers meeting this requirement shall be eligible for competitive services on a first come  
24 first served basis until at least 230% of the Affected Utility's 19985 system peak demand is  
25 served by competition.

26

1                   2.     ~~During 1999 and 2000, an Affected Utility's~~ Affected Utility customers  
2 with single premise non-coincident peak load demands of 40 kW or greater aggregated into a  
3 combined load of 1 MW or greater ~~within the Affected Utility's service territory~~ will be eligible  
4 for competitive electric services on a first come first served basis no later than January 1, 1999.  
5 Self-aggregation is also allowed pursuant to the minimum and combined load demands set forth  
6 in this rule. If peak load data are not available, the 40 kW criterion shall be determined to be met  
7 if the customer's usage exceeded 16,500 kWh in any month within the last 12 consecutive  
8 months. From January 1, 1999, through December 31, 2000, aggregation of new competitive  
9 customers will be allowed until such time as at least ~~230%~~ 30% of the Affected Utility's 1998  
10 system peak demand is served by competitors. At that point all additional aggregated customers  
11 must wait until January 1, 2001 to obtain competitive service.

12                   3.     Notwithstanding the limitation to at least 30% of the Affected Utility's  
13 1998 system peak demand provided in paragraphs 1 and 2 of this section, effective January 1,  
14 1999, all loads served by Load Serving Entities under special contracts will be eligible for  
15 competitive services upon the expiration of the special contract.

16                   *Currently, the Rules discriminate against customers presently receiving energy and*  
17 *power under special contracts with Affected Utilities. If these customers have to pay standard*  
18 *offer rates, those standard offer payments will result in huge profits for Affected Utilities.*  
19 *Perhaps more importantly, forcing these large electric consumers to standard offer tariffs, even*  
20 *for one to two years, will have devastating economic impacts on these customers, their*  
21 *employees and the communities in which they reside. In certain industries, such as Arizona's*  
22 *already depressed copper industry, such substantial increases in operating expenses could result*  
23 *in the termination of operations and loss of jobs for Arizona citizens as well as reduced revenue*  
24 *to local governments.*

25                   *The discrimination against these customers is also inequitable. The rates for special*  
26 *contract customers have kept these customers on the Affected Utility's system rather than having*

1 *these customers self-generate. By remaining on the system and purchasing enormous quantities*  
2 *of electric power, these special contract customers have paid significant portions of the utility's*  
3 *fixed costs lowering the rates paid by the rest of the utility's customers. Adopting rules*  
4 *governing competition that fail to recognize the unique service characteristics of special contract*  
5 *customers is also inequitable. For example, some special contract customers take service at*  
6 *high voltage and own their own substations and distribution systems. These factors reduce the*  
7 *costs of service and must be recognized in the Rules. In addition, many of these special contracts*  
8 *have "interruptible" provisions that enable Affected Utilities to meet peak demand of customers*  
9 *without constructing additional capacity.*

10           3-4 Affected Utilities shall notify customers eligible under this subsection of  
11 the terms of the subsection no later than October 31, 1998.

12           B. As part of the minimum 30% ~~20%~~ of 1998~~5~~ system peak demand set forth in R14-  
13 2-1604(A), each Affected Utility shall reserve a residential phase-in program with the following  
14 components:

15           G. ~~A Load Serving Entity may, beginning January 1, 1999, engage in buy-throughs~~  
16 ~~with individual or aggregated consumers~~ Load Serving entities shall provide for buy-through  
17 service to any electric consumer on request at no additional charge other than charges for  
18 required transmission, distribution, or ancillary services and any non-bypassable charges that  
19 would otherwise apply, from and after April 1, 1999. Any buy-through contract shall ensure that  
20 ~~the consumer pays all non-bypassable charges that would otherwise apply.~~ Any contract for a  
21 buy-through effective prior to ~~January~~ April 1, 1999 must be approved by the Commission.

22           *Requiring Affected Utilities (or Load-Serving Entities) to allow for buy-through services*  
23 *provides an important safety net for customers who have acted in reliance on the timely*  
24 *introduction of full and open retail access to electric generation. The introduction of competition*  
25 *has already been delayed and further delays are possible. Buy-through services are necessary to*  
26

1 *protect consumers from these delays. These services are not an effort to avoid payment of the CTC*  
2 *or other charges for transmission, distribution and related services.*

3 *Moreover, the Rules, are directly contrary to Arizona law regarding public power entities.*  
4 *The Arizona Legislature, in enacting HB 2663, mandated that buy-through service be provided by*  
5 *public power entities. See A.R.S. § 30-803.D. Moreover, in not requiring that Affected Utilities,*  
6 *Utility Distribution Companies and Load-Serving Entities be required to offer buy-through service,*  
7 *the Rules also ignore the Arizona Constitution. By the express terms of the Arizona Constitution,*  
8 *the Affected Utilities are common carriers. Ariz. Const. Art. XV § 10. When the Affected*  
9 *Utilities accepted CC&Ns from the Commission, as common carriers they agreed to make their*  
10 *facilities, including their transmission and distribution lines, available to other public service*  
11 *corporations (this would include certificated ESPs). See A.R.S. § 40-332.*

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

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

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

18 B. Any service described in R14-2-1606, except Noncompetitive services as defined  
19 by R14-2-1601.29 or Noncompetitive services as defined by the Federal Energy Regulatory  
20 Commission. Billing and collection services, information services, and self-aggregation services  
21 do not require a Certificate of Convenience and Necessity. ~~Aggregation of retail electric~~  
22 ~~customers into a purchasing group is considered to be a competitive service.~~

23 *As noted in AECC's comments on R14-2-1603(A), herein "Aggregation" only has*  
24 *meaning within these Rules in terms of transitional eligibility. An entity involved in forming*  
25 *energy purchasing groups would, by these Rules, be required to obtain services through one or*  
26 *more certificated competitive service providers, thus rendering certification unnecessary.*

1 **R14-2-1606. Services Required To Be Made Available**

2 D. By the date indicated in R14-2-1602, each Affected Utility shall file Unbundled  
3 Service tariffs to provide the services listed below to the extent allowed by these rules to all  
4 eligible purchasers on a nondiscriminatory basis. These tariffs shall be based on electric service  
5 type and capacity, rather than on energy consumption. As an alternative, Affected Utilities may  
6 file tariffs based on simple energy consumption (kwh). Other entities seeking to provide any of  
7 these services must also file tariffs consistent with these Rules:

8 *The ultimate goal of these Rules is to move regulated utilities out of the provision of all*  
9 *competitive services. The Utility Distribution Companies should be transformed, at the earliest*  
10 *possible date, into regulated energy transportation entities rather than energy sales companies.*  
11 *To that end, the Commission should specifically aim for unbundled tariffs that are based on*  
12 *electric service type and size, rather than on energy consumed by the customer. In a pure*  
13 *"wires" business the Wires Company costs are based almost entirely on the capacity of the*  
14 *electric system they must provide. As such, unbundled rates based on consumption or non-*  
15 *coincident demand have little relationship to their actual service provision costs. A move to this*  
16 *type of service-based rate structure for the regulated company would remove the need for*  
17 *competitive energy consumption information. As a logical first step, it would be appropriate to*  
18 *require utilities to submit unbundled tariffs that are either based on service requirement charges*  
19 *or contain a simple energy (kwh) component.*

20 2. Metering and Meter Reading Services; Metering Support Services:

21 *In conformance with suggested changes in R14-2-1616(B). These services would only*  
22 *include those utility operational services necessary to facilitate competitive primary metering.*

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

24 D. An Affected Utility shall request Commission approval, on or before March 19,  
25 1999, of distribution charges or other means of recovering unmitigated Stranded Cost from  
26 customers who reduce or terminate service from the Affected Utility as a direct result of

1 competition governed by this Article. ~~Article, or who obtain lower rates from the Affected Utility~~  
2 ~~as a direct result of the competition governed by this~~

3 *This provision is unnecessary and anti-competitive.*

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

5 A. By the date indicated in R14-2-1602, each Affected Utility or Utility Distribution  
6 Company shall file for Commission review non-bypassable rates or related mechanisms to  
7 recover the applicable pro-rata costs of System Benefits from all consumers located in the  
8 Affected Utility's or Utility Distribution Companies' service area who participate in the  
9 competitive market. Affected Utilities or Utility Distribution Companies shall file for review of  
10 the Systems Benefits Charge every 3 years. The amount collected annually through the System  
11 Benefits charge shall be sufficient to fund the Affected Utilities' or Utility Distribution  
12 Companies' Commission-approved low income, demand side management, market  
13 transformation, environmental, renewables, long-term public benefit research and development,  
14 and nuclear fuel disposal and nuclear power plant decommissioning programs in effect from time  
15 to time; provided, however, that only customers benefiting from nuclear power plants shall be  
16 required to pay such charges to fund nuclear power plant decommissioning and nuclear fuel  
17 disposal programs. ~~Now, the Commission will approve a solar water heater rebate program:~~  
18 ~~\$200,000 to be allocated proportionally among the state's Utility Distribution Companies in~~  
19 ~~1999, \$400,000 in 2000, \$600,000 in 2001, \$800,000 in 2002, and \$1 million in 2003; the rebate~~  
20 ~~will not be more than \$500 per system for Commission staff approved solar water heaters. After~~  
21 ~~2003, future Commissions may review this program for efficacy.~~

22 *Construction and operation of nuclear power plants is a decision made by a utility to*  
23 *serve its customers. Costs associated with nuclear power should be recovered only from*  
24 *customers benefiting from nuclear power. In addition, as earlier stated, the Rule's provisions*  
25 *for solar power are impractical in light of current available technology as well as anti-*  
26 *competitive.*

1 ~~R14-2-1609. Solar Portfolio Standard~~

2 ~~A. Starting on January 1, 1999, any Electric Service Provider selling electricity or~~  
3 ~~aggregating customers for the purpose of selling electricity under the provisions of this Article~~  
4 ~~must derive at least .2% of the total retail energy sold competitively from new solar energy~~  
5 ~~resources, whether that solar energy is purchased or generated by the seller. Solar resources~~  
6 ~~include photovoltaic resources and solar thermal resources that generate electricity. New solar~~  
7 ~~resources are those installed on or after January 1, 1997.~~

8 ~~B. Starting January 1 of each year from 2000 through 2003, the solar resource~~  
9 ~~requirement shall increase by .2% with the result that starting January 1, 2003, any Electric~~  
10 ~~Service Provider selling electricity or aggregating customers for the purpose of selling electricity~~  
11 ~~under the provisions of this Article must derive at least 1.0% of the total retail energy sold~~  
12 ~~competitively from new solar energy resources. The 1.0% requirement shall be in effect from~~  
13 ~~January 1, 2003 through December 31, 2012.~~

14 ~~C. The solar portfolio requirement shall only apply to competitive retail electricity in~~  
15 ~~the years 1999 and 2000 and shall apply to all retail electricity in the years 2001 and thereafter.~~

16 ~~D. Electric Service Providers shall be eligible for a number of extra credit multipliers~~  
17 ~~that may be used to meet the solar portfolio standard requirements:~~

18 ~~1. Early Installation Extra Credit Multiplier: For new solar electric systems~~  
19 ~~installed and operating prior to December 31, 2003, Electric Service Providers would qualify for~~  
20 ~~multiple extra credits for kWh produced for 5 years following operational start-up of the solar~~  
21 ~~electric system. The 5-year extra credit would vary depending upon the year in which the system~~  
22 ~~started up, as follows:~~

<del>YEAR</del>	<del>EXTRA CREDIT MULTIPLIER</del>
<del>1997</del>	<del>.5</del>
<del>1998</del>	<del>.5</del>
<del>1999</del>	<del>.5</del>

1	<del>_____ 2000 _____</del>	<del>.4</del>
2	<del>_____ 2001 _____</del>	<del>.3</del>
3	<del>_____ 2002 _____</del>	<del>.2</del>
4	<del>_____ 2003 _____</del>	<del>.1</del>

5           ~~The Early Installation Extra Credit Multiplier would end in 2003.~~

6           ~~2. Solar Economic Development Extra Credit Multipliers: There are 2 equal~~  
7 ~~parts to this multiplier, an in-state installation credit and an in-state content multiplier.~~

8                   ~~a. In State Power Plant Installation Extra Credit Multiplier: Solar~~  
9 ~~electric power plants installed in Arizona shall receive a .5 extra credit multiplier.~~

10                   ~~b. In State Manufacturing and Installation Content Extra Credit~~  
11 ~~Multiplier: Solar electric power plants shall receive up to a .5 extra credit multiplier related to the~~  
12 ~~manufacturing and installation content that comes from Arizona. The percentage of Arizona~~  
13 ~~content of the total installed plant cost shall be multiplied by .5 to determine the appropriate extra~~  
14 ~~credit multiplier. So, for instance, if a solar installation included 80% Arizona content, the~~  
15 ~~resulting extra credit multiplier would be .4 (which is .8 X .5).~~

16                   ~~3. Distributed Solar Electric Generator and Solar Incentive Program~~  
17 ~~Extra Credit Multiplier: Any distributed solar electric generator that meets more than 1 of the~~  
18 ~~eligibility conditions will be limited to only one .5 extra credit multiplier from this subsection.~~  
19 ~~Appropriate meters will be attached to each solar electric generator and read at least once~~  
20 ~~annually to verify solar performance.~~

21                   ~~a. Solar electric generators installed at or on the customer premises in~~  
22 ~~Arizona. Eligible customer premises locations will include both grid connected and remote, non-~~  
23 ~~grid connected locations. In order for Electric Service Providers to claim an extra credit~~  
24 ~~multiplier, the Electric Service Provider must have contributed at least 10% of the total installed~~  
25 ~~cost or have financed at least 80% of the total installed cost.~~

26                   ~~b. Solar electric generators located in Arizona that are included in any~~

1 ~~Electric Service Provider's Green Pricing program.~~

2 e. ~~Solar electric generators located in Arizona that are included in any~~

3 ~~Electric Service Provider's Net Metering or Net Billing program.~~

4 d. ~~Solar electric generators located in Arizona that are included in any~~

5 ~~Electric Service Provider's solar leasing program.~~

6 e. ~~All Green Pricing, Net Metering, Net Billing, and Solar Leasing~~

7 ~~programs must have been reviewed and approved by the Director, Utilities Division in order for~~

8 ~~the Electric Service Provider to accrue extra credit multipliers from this subsection.~~

9 4. ~~All multipliers are additive, allowing a maximum combined extra credit~~

10 ~~multiplier of 2.0 in years 1997-2003, for equipment installed and manufactured in Arizona and~~

11 ~~either installed at customer premises or participating in approved solar incentive programs. So, if~~

12 ~~an Electric Service Provider qualifies for a 2.0 extra credit multiplier and it produces 1 solar~~

13 ~~kWh, the Electric Service Provider would get credit for 3 solar kWh (1 produced plus 2 extra~~

14 ~~credit).~~

15 E. ~~Electric Service Providers selling electricity under the provisions of this Article~~

16 ~~shall provide reports on sales and solar power as required in this Article, clearly demonstrating~~

17 ~~the output of solar resources, the installation date of solar resources, and the transmission of~~

18 ~~energy from those solar resources to Arizona consumers. The Commission may conduct~~

19 ~~necessary monitoring to ensure the accuracy of these data.~~

20 F. ~~If an Electric Service Provider selling electricity under the provisions of this~~

21 ~~Article fails to meet the requirement in R14-2-1609(A) or (B) in any year, the Commission shall~~

22 ~~impose a penalty on that Electric Service Provider that the Electric Service Provider pay an~~

23 ~~amount equal to 30¢ per kWh to the Solar Electric Fund for deficiencies in the provision of solar~~

24 ~~electricity. This Solar Electric Fund will be established and utilized to purchase solar electric~~

25 ~~generators or solar electricity in the following calendar year for the use by public entities in~~

26 ~~Arizona such as schools, cities, counties, or state agencies. Title to any equipment purchased by~~

1 the Solar Electric Fund will be transferred to the public entity. In addition, if the provision of  
2 solar energy is consistently deficient, the Commission may void an Electric Service Provider's  
3 contracts negotiated under this Article.

4 1. The Director, Utilities Division shall establish a Solar Electric Fund in  
5 1999 to receive deficiency payments and finance solar electricity projects.

6 2. The Director, Utilities Division shall select an independent administrator  
7 for the selection of projects to be financed by the Solar Electric Fund. A portion of the Solar  
8 Electric Fund shall be used for administration of the Fund and a designated portion of the Fund  
9 will be set aside for ongoing operation and maintenance of projects financed by the Fund.

10 G. Photovoltaic or solar thermal electric resources that are located on the consumer's  
11 premises shall count toward the solar portfolio standard applicable to the current Electric Service  
12 Provider serving that consumer.

13 H. Any solar electric generators installed by an Affected Utility to meet the solar  
14 portfolio standard shall be counted toward meeting renewable resource goals for Affected  
15 Utilities established in Decision No. 58643.

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

23 J. Solar portfolio standard requirements shall be calculated on an annual basis, based  
24 upon electricity sold during the calendar year.

25 K. An Electric Service Provider shall be entitled to receive a partial credit against the  
26 solar portfolio requirement if the Electric Service Provider or its affiliate owns or makes a

1 ~~significant investment in any solar electric manufacturing plant that is located in Arizona. The~~  
2 ~~credit will be equal to the amount of the nameplate capacity of the solar electric generators~~  
3 ~~produced in Arizona and sold in a calendar year times 2,190 hours (approximating a 25%~~  
4 ~~capacity factor).~~

5 ~~1. The credit against the portfolio requirement shall be limited to the~~  
6 ~~following percentages of the total portfolio requirement:~~

- 7 ~~\_\_\_\_\_ 1999 \_\_\_\_\_ Maximum of 50 % of the portfolio requirement~~
- 8 ~~\_\_\_\_\_ 2000 \_\_\_\_\_ Maximum of 50 % of the portfolio requirement~~
- 9 ~~\_\_\_\_\_ 2001 \_\_\_\_\_ Maximum of 25 % of the portfolio requirement~~
- 10 ~~\_\_\_\_\_ 2002 \_\_\_\_\_ Maximum of 25 % of the portfolio requirement~~
- 11 ~~\_\_\_\_\_ 2003 and on \_\_\_\_\_ Maximum of 20 % of the portfolio requirement~~

12 ~~2. No extra credit multipliers will be allowed for this credit. In order to~~  
13 ~~avoid double counting of the same equipment, solar electric generators that are used by other~~  
14 ~~Electric Service Providers to meet their Arizona solar portfolio requirements will not be~~  
15 ~~allowable for credits under this Section for the manufacturer/Electric Service Provider to meet its~~  
16 ~~portfolio requirements.~~

17 ~~L. The Director, Utilities Division shall develop appropriate safety, durability,~~  
18 ~~reliability, and performance standards necessary for solar generating equipment to qualify for the~~  
19 ~~solar portfolio standard. Standards requirements will apply only to facilities constructed or~~  
20 ~~acquired after the standards are publicly issued.~~

21 *Consumers desiring to purchase solar generated power should be allowed to do so*  
22 *through special "green" tariffs. Competition should not be hamstrung by forcing unnecessary*  
23 *and impractical solar requirements on Affected Utilities, ESPs and consumers who do not wish*  
24 *to incur greater costs to purchase solar power.*

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

26 **H. The Affected Utilities shall provide services from the Must-Run Generating Units**

1 to Standard Offer retail customers and competitive retail customers in the geographical areas  
2 where must-run units are necessary on a comparable, non-discriminatory basis at regulated  
3 prices. The Affected Utilities shall specify the obligations of the Must-Run Generating Units in  
4 appropriate sales contracts prior to any divestiture. Under auspices of the Electric System  
5 Reliability and Safety Working Group, the Affected Utilities shall develop statewide protocols  
6 for pricing and availability of services from Must-Run Generating Units with input from other  
7 stakeholders. These protocols shall be presented to the Commission for review and filed with the  
8 Federal Energy Regulatory Commission, if necessary, by October 31, 1998.

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

10 **K. Additional Provisions for Metering and Meter Reading Services**

11 1. An Electric Service Provider who provides ~~metering or~~ meter reading  
12 services pertaining to a particular consumer shall provide access using EDI formats to meter  
13 reading data to other Electric Service Providers serving that same consumer when authorized by  
14 the consumer.

15 *This paragraph only applies to Meter Reading Service Providers.*

16 8. Metering equipment ownership will be limited to the Affected Utility,  
17 Utility Distribution Company, and the Electric Service Provider or their representative, or the  
18 customer, who ~~obtains the meter from~~ must obtain the metering equipment through the Affected  
19 Utility, or Utility Distribution Company or an Electric Service Provider.

20 ~~10. Distribution primary voltage Current Transformers and Potential~~  
21 ~~Transformers may be owned by the Affected Utility, Utility Distribution Company or the~~  
22 ~~Electric Service Provider or their representative.~~

23 ~~11. Transmission primary voltage Current Transformers and Potential~~  
24 ~~Transformers may be owned by the Affected Utility or Utility Distribution Company only.~~

25 *Paragraphs 10 & 11 create unnecessary confusion regarding ownership of metering*  
26 *instrument transformers. There is no legitimate reason to preclude "ownership" of this*

1 *equipment from any market participant. Metering instrument transformer ownership issues are*  
2 *inseparable from meter ownership issues outlined in Paragraph 8 and should be included*  
3 *therein. Safety and reliability issues regarding the control of this equipment are adequately*  
4 *addressed in Paragraph 9.*

5 **O. Unbundled Billing Elements.** All customer bills after January 1, 1999 will list, at  
6 a minimum, the following billing cost elements:

7 d. Fixed must-run generation costs.

8 **R14-2-1616. Separation of Monopoly and Competitive Services**

9 **B. ~~Beginning January 1, 1999.~~ Beginning (Insert Start Date),** an Affected Utility or  
10 Utility Distribution Company shall not provide competitive services as defined herein, except as  
11 otherwise authorized by these rules or by the Commission. However, this rule does not preclude  
12 an Affected Utility's or Utility Distribution Company's affiliate from providing competitive  
13 services. Nor does this rule preclude an Affected Utility or Utility Distribution Company ~~from~~  
14 ~~billing its own customers for distribution service, or~~ *[in keeping with Staff's position that the ESP*  
15 *shall determine which of the available billing options are utilized]* from providing billing  
16 services to Electric Service Providers in conjunction with its own billing or from providing  
17 ~~meters for~~ ing and/or meter reading services for Electric Service Providers' *[these changes*  
18 *clarify which services are provided by the Affected Utility and at whose discretion.]* Load Profiled  
19 residential customers. Nor does this rule require an Affected Utility or Utility Distribution  
20 Company to separate such assets or services utilized in these circumstances. ~~Affected Utilities~~  
21 ~~and Utility Distribution Companies shall provide, if requested by an Electric Service Provider or~~  
22 ~~customer, metering, meter reading, billing, and collection services within their service territories~~  
23 ~~at tariffed rates to customers that do not have access to these services during the years 1999 and~~  
24 ~~2000, subject to the following limitations. The Affected Utilities and Utility Distribution~~  
25 ~~Companies shall be allowed to continue to provide metering and meter reading services to~~  
26 ~~competitive customers within their service territories at tariffed rates until such time as 2 or more~~

1 ~~competitive Electric Service Providers are offering such services to a particular customer class.~~  
2 ~~When 2 competitive Electric Service Providers are providing such services to a particular~~  
3 ~~customer class, the Affected Utilities and Utility Distribution Companies will no longer be~~  
4 ~~allowed to offer the service to new competitive customers in that customer class, but may~~  
5 ~~continue to offer the service through December 31, 2000, to the existing competitive customers~~  
6 ~~signed up prior to the commencement of service by the 2 competitive Electric Service Providers..~~

7 *Deleting the remainder of the section eliminates the Affected Utilities' concerns of further*  
8 *"stranded" investment and the cumbersome requirement to monitor the "2 or more competitive*  
9 *ESP's offering services" provision. The current language adds to the confusion surrounding the*  
10 *separation of competitive and monopoly services and is the unfortunate result of a series of*  
11 *compromises based on multiple parties' input. The end result of this language is to*  
12 *unnecessarily burden utilities with potential costs and uncertainties regarding their role as*  
13 *interim "quasi-competitive" suppliers of services. These costs and uncertainties naturally give*  
14 *rise to pleadings for assurances of cost recovery. This language also further clouds the business*  
15 *decision that each Affected Utility faces, namely the decision to form competitive affiliates. The*  
16 *Rules DO NOT preclude Affected Utilities from "a non-exclusive right to provide such services",*  
17 *provided this is done through its competitive affiliate. The fundamental principal behind this*  
18 *Rule is, and should remain, to prohibit Affected Utilities from supplying competitive services in*  
19 *competition with non-regulated competitive providers. To allow Affected Utilities to do so would*  
20 *circumvent the natural forces of competition for these services and would retard market*  
21 *development.*

22 *To further clarify, it should be noted that these Rules identify not 2 (as inferred from R14-*  
23 *2-1605) but 3 types of Direct Access services. Fully Competitive Services which Affected*  
24 *Utilities and UDC's may not perform; Discretionary Competitive Services, those that may be*  
25 *performed by Affected Utilities and UDC's as well as competitive suppliers; and Non-*  
26 *Competitive Services, those that may only be provided by Affected Utilities or UDC's.*

1 *Specifically, Discretionary Competitive Services include Residential Load Profiled customers*  
2 *metering and/or meter reading services, and Direct Access billing services for all classes of*  
3 *customers. In all cases Discretionary Competitive Service providers are selected at the*  
4 *discretion of the Energy Service Provider directly, and by the Customer indirectly through her*  
5 *selection of an ESP. ]*

6 **R14-2-1618 Disclosure of Information**

7 ~~B. Each Load Serving Entity shall prepare a consumer information label that sets~~  
8 ~~forth the following information for customers with a demand of less than 1 MW:~~

- 9 ~~1. Price to be charged for generation services;~~
- 10 ~~2. Price variability information;~~
- 11 ~~3. Customer service information;~~
- 12 ~~4. Composition of resource portfolio;~~
- 13 ~~5. Fuel mix characteristics of the resource portfolio;~~
- 14 ~~6. Emissions characteristics of the resource portfolio;~~
- 15 ~~7. Time period to which the reported information applies.~~

16 ~~C. The Director, Utilities Division shall develop the format and reporting~~  
17 ~~requirements for the consumer information label to ensure that the information required by~~  
18 ~~subsection (A) is appropriately and accurately reported and to ensure that customers can use the~~  
19 ~~labels for comparisons among Load Serving Entities. The format developed by the Director,~~  
20 ~~Utilities Division shall be used by each Load Serving Entity.~~

21 ~~D. Each Load Serving Entity shall include the information disclosure label in a~~  
22 ~~prominent position in all written marketing materials, specifically target to Arizona. When a~~  
23 ~~Load Serving Entity advertises in non print media, or in written materials not specifically target~~  
24 ~~to Arizona, the marketing materials shall indicate that the Load Serving Entity shall provide the~~  
25 ~~consumer information label to the public upon request.~~

26 ~~G. The consumer information label, the disclosure report, and the terms of service~~

1 shall be distributed in accordance with the following requirements:

2           *The product labeling requirements are onerous and anti-competitive. Electricity is a*  
3 *fungible commodity irrespective of any labeling. In a competitive market, labeling is merely*  
4 *another competitive tool.*

5                               RESPECTFULLY SUBMITTED this 29th day of January, 1999.

6  
7   FENNEMORE CRAIG, P.C.

8  
9   By   
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17    Arizonans for Electric Choice and Competition

13 ORIGINAL AND TEN COPIES  
14 of the foregoing hand-delivered  
15 this 29th day of January, 1999, to:

16 Arizona Corporation Commission  
17 Docket Control  
18 1200 West Washington Street  
19 Phoenix, Arizona 85007

20 COPY OF THE FOREGOING  
21 hand-delivered this 29th day  
22 of January, 1999 to:

23 Jim Irvin  
24 Commissioner - Chairman  
25 Arizona Corporation Commission  
26 1200 West Washington  
Phoenix, Arizona 85007

23 Tony West  
24 Commissioner  
25 Arizona Corporation Commission  
26 1200 West Washington  
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- 1 Carl J. Kunasek  
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- 4 Jerry Rudibaugh, Chief Hearing Officer  
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mailed this 29th day of January, 1999 to:

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