



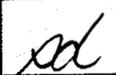
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Arizona Corporation Commission  
**BEFORE THE ARIZONA CORPORATION COMMISSION**  
**DOCKETED**

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

APR 23 1999

DOCKETED BY 

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

DOCKET NO. RE-00000C-94-0165

DECISION NO. 61634

**ORDER**

Special Open Meeting  
April 14, 1999  
Phoenix, Arizona

**BY THE COMMISSION:**

On December 26, 1996, in Decision No. 59943, the Arizona Corporation Commission ("Commission") adopted rules which provided the framework for the introduction of retail electric competition in Arizona. These rules are codified at A.A.C. R14-2-1601 et seq. ("Rules" or "Electric Competition Rules"). Under the Rules adopted in December 1996, competition in the retail electric industry was to be phased-in beginning in January 1999.

The Commission adopted certain modifications to the Electric Competition Rules on an emergency basis on August 10, 1998, in Decision No. 61071. Interested parties were given an opportunity to file additional written comments to the Electric Competition Rules, and public comment meetings were held in Phoenix and Tucson. On December 11, 1998, in Decision No. 61272, the Commission adopted the Emergency Rules with the Commission Utilities Division Staff's ("Staff's") proposed amendments in their entirety. The Commission held an Open Meeting on December 31, 1998, after the close of normal business hours, in order to issue Decision No. 61309, which denied the numerous Applications for Rehearing of Decision No. 61272.

On January 11, 1999, the Commission issued Decision No. 61311 which stayed the effectiveness of the Rules and related Decisions, and ordered the Hearing Division to issue a

1 Procedural Order to begin consideration of further comment and actions in the docket. By  
2 Procedural Order dated January 6, 1999, all interested parties and Affected Utilities were given the  
3 opportunity to file comments on procedural issues by January 20, 1999. Following receipt of those  
4 comments, a procedural conference was held on January 22, 1999, at which interested parties and  
5 Affected Utilities appeared and provided further comments. As a result of the procedural  
6 conference, the Hearing Division issued a Procedural Order dated January 26, 1999 which required  
7 interested parties and Affected Utilities to file additional proposed changes to the Rules by January  
8 29, 1999. On February 5, 1999, the Hearing Division issued a recommended rulemaking order. As  
9 part of the February 5, 1999 recommendation and the Procedural Order dated February 12, 1999, the  
10 parties were given until February 17, 1999, to file written exceptions to the recommended changes  
11 to the Rules. After reviewing the written exceptions, by Procedural Order dated March 12, 1999,  
12 the Hearing Division recommended additional changes to the Rules.

13 The Rules attached hereto as Appendix A are in conformance with Decision No. 61311 and  
14 the January 26, 1999 and March 12, 1999 Procedural Orders. Adoption of the proposed Rule  
15 amendments will allow the Commission to more effectively implement the restructuring of the retail  
16 electric market by providing stakeholders with details of the structure and process of the introduction  
17 of competition into Arizona's electric industry.

18 The proposed Rules contain the following major provisions:

19 R14-2-201 et seq. contain various conforming changes to the existing Rules necessitated by  
20 the revisions to Article 16.

21 R14-2-1601 sets forth definitions necessitated under the Rules. The definitions were revised  
22 based on the comments of the parties and based on changes made to other Rules.

23 R14-2-1602 is a complete replacement of the prior section and establishes the mechanism  
24 and timing for opening an Affected Utility's service territory to competition. To bring the benefits  
25 of electric competition to the citizens of Arizona as quickly as possible, R14-2-1602 provides that  
26 the Commission will set the date for competition to begin in an Affected Utility's service territory  
27 upon the resolution of its Stranded Cost and Unbundled Tariffs by final Commission Order. In the  
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1 event an Affected Utility's service territory is opened for competition prior to January 1, 2001, its  
2 customers will be eligible to receive competitive generation in accordance with the phase-in  
3 provisions set forth in R14-2-1604. R14-2-1602 further provides that a competitive electric affiliate  
4 of an Affected Utility will not be permitted to compete in the service territory of another Affected  
5 Utility until its own affiliated Affected Utility's service territory is opened to competition.

6 R14-2-1603 establishes which entities are required to apply to the Commission for a  
7 Certificate of Convenience and Necessity and what information must accompany the application.  
8 The revisions to this rule are not substantial, except that a new requirement is added that applicants  
9 must demonstrate how they will comply with the provisions of re-numbered section 1617.

10 R14-2-1604 establishes the timetable for implementation of retail electric competition for  
11 the various classes of customers. This Rule provides that upon the opening of its service territory  
12 to competition, an Affected Utility shall make 20 percent of its 1995 system retail peak demand  
13 available for competitive generation supply on a first-come-first-served basis. As part of the 20  
14 percent, each Affected Utility is required to reserve an increasing percentage for residential  
15 customers according to a set schedule. All customers shall be eligible for competitive services after  
16 January 1, 2001. The Rule requires Affected Utilities to report to the Commission on possible  
17 mechanisms, including rate reduction, to provide benefits to those customers not eligible for  
18 competitive electric services during the transition period.

19 R14-2-1605 establishes that all providers of Competitive Services require a Certificate of  
20 Convenience and Necessity. Although this section has been substantially revised for clarity by  
21 moving its definitions into the definition section of the Rules, R14-2-1601, the changes have not  
22 substantially changed the effect of this section. The revisions to the Rules have eliminated reference  
23 to the concept of self-aggregation as all Aggregators must be ESPs. Competitive Services are all  
24 aspects of retail electric service except Distribution Service, Standard Offer Service, transmission  
25 and FERC-required ancillary services, Must-Run Generating Units Service, provision of customer  
26 demand and energy data by Affected Utilities and Utility Distribution Companies ("UDCs") to  
27 Electric Service Providers ("ESPs"), and those aspects of metering service set forth in re-numbered  
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1 section 1612(K).

2 R14-2-1606 requires UDCs to offer Standard Offer Service after all retail customers are  
3 eligible for competitive services in 2001, and establishes those companies as Providers of Last  
4 Resort. The definition in R14-2-1601 of Provider of Last Resort was modified to conform with the  
5 requirements in HB 2663. To add clarity, the Rule was modified to refer to defined terms rather than  
6 redefining those terms. The Rule is revised to require investor-owned UDCs providing Standard  
7 Offer Service to purchase power through the open market as opposed to competitive bid. The  
8 revisions eliminate the requirement that UDCs' power contracts in excess of 12 months contain  
9 ratchet down provisions. This section also establishes the requirements for Standard Offer Service  
10 tariffs and access to distribution systems, and provides for Commission review and approval of  
11 Competitive and Noncompetitive Service rates.

12 R14-2-1607 establishes the criteria the Commission will consider in determining Stranded  
13 Cost recovery. This Rule would allow, but not guarantee, Affected Utilities a reasonable opportunity  
14 to recover unmitigated Stranded Cost. The revisions to this rule permit the possibility of recovering  
15 market transformation costs incurred after December 1996 and the customer option of an exit fee.

16 R14-2-1608, as revised, requires that a System Benefits Charge be paid by all customers.  
17 The Affected Utilities or UDCs must file for review of the System Benefits Charge at least every  
18 three years. The revisions to the definition of System Benefits add Consumer Education to those  
19 charges that may be included in the System Benefits Charge and delete reference to market  
20 transformation costs, which are more properly considered as Stranded Cost.

21 Former R14-2-1609, which had established a solar portfolio, has been eliminated, as such  
22 a program as contemplated in the Rules is prohibitively expensive and would hinder competition in  
23 Arizona. All subsequent Rules have been re-numbered accordingly.

24 Re-numbered R14-2-1609 requires that Affected Utilities provide nondiscriminatory access  
25 to transmission and distribution facilities. It contains a policy statement that the Commission  
26 supports the development of an Independent System Operator or, at a minimum, an Independent  
27 System Administrator. The revisions include a new subsection that clarifies that UDCs will retain  
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their obligation to assure adequate transmission import capability to meet the load requirements of all their distribution customers. Another new subsection directs the Arizona Independent Scheduling Administrator to identify statewide services to be settled on and to develop fair and reasonable pricing and settlement mechanisms for services from Must-Run Generating Units.

Re-numbered R14-2-1610 provides that the service territories of Arizona electric utilities that are not Affected Utilities or Public Power Entities are not open to competition and that those non-Affected Utilities are not eligible to compete for customers in the service territories of Affected Utilities or Public Power Entities. However, a non-Affected Utility may compete in the service territories of Affected Utilities or Public Power Entities if the non-Affected Utility allows reciprocity and opens its service territory to competition.

Re-numbered R14-2-1611 sets forth the parameters of allowable rates for Competitive Services and requires that tariffs containing the rates be filed with and approved by the Commission. The rates may be set at a maximum level, subject to discount. Rates cannot be discounted below cost. Increases in maximum rates must be approved by the Commission. This Rule was not substantially changed.

Re-numbered R14-2-1612 provides consumer protections against the unauthorized changing of providers and establishes billing requirements. All providers of electric service are required to meet all applicable reliability standards, and any Electric Service Provider is required to provide at least 45 days notice of its intent to cease providing service to a given customer. This Rule also sets forth the various metering protocols and requires the Director, Utilities Division to issue operating procedures and standards by May 1, 1999. Revisions to this rule eliminated reference to the Working Group on System Reliability and Safety, as its functions are now part of the ISA Working Group, and clarifies that all bills, including those for Standard Offer Service, shall contain certain cost elements.

Re-numbered R14-2-1613 lists the reports Affected Utilities, UDCs and ESPs must file with the Commission. The revisions to this Rule are minor, and except for eliminating the report on a solar portfolio, nonsubstantive.

1 Re-numbered R14-2-1614 contains a new subsection requiring the Director, Utilities  
2 Division to implement a Consumer Education program as approved by the Commission, but  
3 otherwise was not changed substantially.

4 Re-numbered R14-2-1615 requires competitive generation assets to be separated from an  
5 Affected Utility by January 1, 2001. An Affected Utility may transfer its competitive generation  
6 assets or services either to an affiliate or to an unaffiliated third party. This section was revised  
7 substantially to clarify that an Affected Utility or UDC may not provide Competitive Services  
8 beginning January 1, 2001. Language was added to make generation cooperatives subject to the  
9 same limitations as their member cooperatives, and language was added to clarify services that an  
10 Affected Utility or UDC may continue to provide.

11 Re-numbered R14-2-1616 was substantially revised and now requires that Affected Utilities  
12 that provide Noncompetitive Services and Competitive Services through a competitive electric  
13 affiliate file a Code of Conduct to prevent cross-subsidization of services and other anticompetitive  
14 practices. The Code of Conduct is subject to Commission approval.

15 Re-numbered R14-2-1617 requires that Load-Serving Entities provide customers with certain  
16 information so that they can make comparisons among competing suppliers and decide which  
17 supplier's product best meets their needs. This Rule also requires that each entity prepare a statement  
18 of its terms and conditions of service and requires that certain basic information be included.  
19 Revisions to the Rule require information concerning the resource portfolio to be provided upon  
20 request, if reasonably known.

21 \* \* \* \* \*

22 Having considered the entire record herein and being fully advised in the premises, the  
23 Commission finds, concludes, and orders that:

24 **FINDINGS OF FACT**

- 25 1. Decision No. 59943 enacted R14-2-1601 through -1616, the Retail Electric  
26 Competition Rules.  
27 2. Decision No. 61071 adopted certain modifications to the Retail Electric Competition  
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Rules and conforming changes to R14-2-203, R14-2-204 and R14-2-208 through R14-2-211 (collectively the "Emergency Rules") on an emergency basis.

3. Decision No. 61071 adopted the Emergency Rules on a permanent basis, including Staff's additional changes proposed on November 24, 1998.

4. Decision No. 61311 stayed the effectiveness of the Emergency Rules and related Decisions.

5. Decision No. 61311 ordered the Hearing Division to issue a Procedural Order to begin consideration of further comment and actions in this docket.

6. By Procedural Order dated January 26, 1999, all interested parties and Affected Utilities were ordered to file by January 29, 1999 additional proposed changes to the Rules.<sup>1</sup>

7. On February 5, 1999, after consideration of the comments filed on January 29, 1999, the Hearing Division issued its recommended changes to the Rules.

8. By cover letter accompanying the February 5, 1999 proposed rulemaking order and by Procedural Order dated February 12, 1999, the parties were given until February 17, 1999 to file written exceptions to the February 5, 1999 Recommended Order.

9. At a Special Open Meeting on April 14, 1999, the Commission adopted the proposed Rules and revisions attached hereto as Appendix A, and incorporated herein by reference.

10. The Economic, Small Business and Consumer Impact Statement is set forth in Appendix B, attached hereto and incorporated by reference.

11. The Concise Explanatory Statement is set forth in Appendix C, attached hereto and incorporated herein by reference.

**CONCLUSIONS OF LAW**

1. The Commission has the authority for the proposed revised Rules pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-202 , 40-203, 40-250, 40-321, 40-322, 40-331, 40-332, 40-336, 40-361, 40-365, 40-367 and A.R.S. Title 40, generally.

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<sup>1</sup> The parties were directed to make this filing during a pre-hearing conference held on January 22, 1999. The January 26, 1999 Procedural Order summarized the oral Orders made at that pre-hearing conference.

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2. The proposed revisions to the Rules are substantive in nature.

3. The proposed revised Rules as set forth in Appendix A, and the Economic, Small Business, and Consumer Impact Statement set forth in Appendix B should be forwarded as soon as possible to the Secretary of State for Notice of Proposed Rulemaking.

4. The date for public comment hearings on the proposed revised Rules and a schedule for taking comments and responses from all interested parties prior to public comment hearings should allow sufficient time for interested parties to evaluate the proposed revised Rules and prepare comments, and to respond to the comments of other parties.

**ORDER**

IT IS THEREFORE ORDERED that the proposed Rules R14-2-201 through -207, -210 and -212, and R14-2-1601 through -1618, as set forth in Appendix A, and the Economic, Small Business, and Consumer Impact Statement set forth in Appendix B shall be forwarded as soon as possible by the Director of the Commission's Utilities Division to the Office of the Secretary of State for Notice of Proposed Rulemaking.

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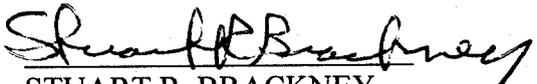
IT IS FURTHER ORDERED that the Hearing Division issue a Procedural Order scheduling oral proceedings on this matter as soon as the proposed revised Rules as set forth in Appendix A, and the Economic, Small Business, and Consumer Impact Statement set forth in Appendix B have been forwarded to the Secretary of State for Notice of Proposed Rulemaking.

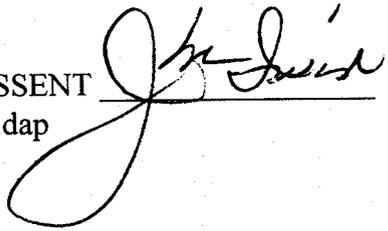
IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

	
COMMISSIONER-CHAIRMAN	COMMISSIONER
	COMMISSIONER

IN WITNESS WHEREOF, I, STUART R. BRACKNEY, Acting Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 23 day of April, 1999.

  
STUART R. BRACKNEY  
ACTING EXECUTIVE SECRETARY

DISSENT   
JR:dap

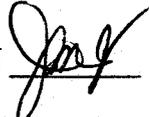
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SERVICE LIST FOR: ELECTRIC COMPETITION

DOCKET NO. RE-00000C-94-0165

Copies mailed to the Service List of RE-00000C-94-0165

**ARIZONA CORPORATION COMMISSION**

COMMISSIONER JIM IRVIN 

Decision No. 61634

**Dissenting Opinion**

It has been just over three months since the Retail Electric Competition Rules were stayed in the name of consumer protection. During this time, we have seen several changes to the Rules adopted in 1998 – proposed and adopted behind closed doors – without any opportunity for members of the public to voice their concerns and opinions regarding electric restructuring in Arizona. Granted, the law requires that the Commission hold at least one public comment session after forwarding the changes to the Secretary of State. But the law also requires that nothing substantive can be changed at this juncture without starting the process from the beginning – once again. Although my position on this closed process is well documented, my approach has always been to listen to proposed changes in a public forum, and decide whether they are in the public interest prior to adoption. In my opinion, while most of the cosmetic changes today were needed for clarity, the majority of substantive changes favors utilities and large industrial consumers, leaving residential, small business and many commercial consumers in the same position, at best and if not worse, than before the changes were adopted.

One glaring example of how a utility gained by proposed changes includes the deletion of the affiliate transaction rules (rules which separate regulated and competitive operations). No other state has ignored this important safeguard, designed to prevent against the practices of cross-subsidization, abuse of certain market advantages as well as

the sharing of sensitive competitive information with affiliates. Under a proposal submitted by Commissioner West, incumbent utilities would have been allowed to offer competitive service without creating a separate affiliate, thereby rendering competition dead upon arrival. Cooler heads prevailed, but the code of conduct eventually adopted allows for much less stringent oversight of how a Utility Distribution Company (UDC) will share its costs with its unregulated affiliate. Winner – Utility Companies; Losers – All classes of customers and new market entrants.

Another example of why the changes favor industry involves the stranded cost order (see dissenting opinion) and the conforming changes to the Rules which allow for stranded investment recovery. Under the old system, utilities would essentially have to divest themselves of assets to arrive at a solid, tangible stranded cost figure which would be recovered over a period of time. Here, consumers would know in advance what each Affected Utility's stranded cost figure was prior to competition, and the new system would be protected by breaking up the market power held by a UDC. The changes now allow for more options, including the net revenues lost methodology which bases stranded cost on estimates and projections. Moreover, under option #5, Affected Utilities will now be able to present the Commission with whatever plan or methodology they formulate, as long as they can prove it is a legitimate method. Under the new order, Arizona consumers may never know what they will be paying for in stranded costs until they have paid the last penny. Advantage – Utility Distribution Companies; Disadvantage – all consumers / ratepayers.

The ability for entities to self-aggregate their loads has been eliminated, and aggregation itself has come under fire with the new changes. Under the rules, only those

entities with loads of 40kw or higher can aggregate through an ESP to a minimum of 1mW, thereby denying residential consumers the opportunity to organize themselves into a larger purchasing entity. Any consumer should be able to aggregate its load with others without the qualification that it meet minimum load requirements. Losers – residential consumers, small commercial customers and government entities.

Finally, although Solar technology has overwhelming support in Arizona – the state with the most sunny days in the nation – the Environmental Standard was completely eliminated. In eliminating this section from the Rules, my colleagues proclaim that they, “do not like government mandates.” However, I find it ironic that such statements are made in an Open Meeting designed to adopt Rules mandating the electric industry to restructure itself. Nevertheless, the opportunity for Arizona to foster development of energy technologies to protect the environment is now, and the economic advantage in keeping such development within our state<sup>1</sup> can be found in billions of dollars in new jobs, industries and product development created by such research. The federal government is suggesting that 7.5% of all energy produced in the United States come from renewable sources (with legislation to follow) – far greater than the modest 1% included in Arizona’s Rules. Those states with the foresight to address this issue now will most likely be grandfathered into any future minimum mandates handed down from Washington, D.C.

Not surprisingly, utilities argue that the solar portfolio standard is too expensive, but provide no concrete evidence to support such a claim. In fact, various meetings of the

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<sup>1</sup>It should be noted that solar power could also be imported from out of state.

Solar Portfolio Standard Subcommittee – created to address this specific issue in the Rules – determined that the cost would be minimal to consumers (ranging from .15 cents to \$8.40 per year per household), 2/3 of whom support environmental energy development in Arizona. Winner – None; Loser – Arizona.

As we move forward in our effort to bring competition to Arizona, I am wary that this state may fall victim to the same pitfalls and shortcomings found in others which are paying dearly for choice in service providers. I have been criticized by one Commissioner for challenging the process, and will no doubt be criticized for pointing out specific deficiencies in the newly adopted Rules. But I remain committed in repeating that all-important question which must be answered prior to final adoption of the Rules – how are these changes in the interest of the public and the average consumer? I challenge my colleagues to provide such an answer so that healthy debate can follow, and hopefully in an open fashion. Until then, the question remains unanswered, and I therefore cannot support the Retail Electric Competition Rules as amended by this Commission. For the reasons stated above, I respectfully dissent.

**APPENDIX A**

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

**ARTICLE 2. ELECTRIC UTILITIES**

- R14-2-201. Definitions
- R14-2-202. Certificate of Convenience and Necessity for electric utilities; filing requirements on certain new plants
- R14-2-203. Establishment of service
- R14-2-204. Minimum customer information requirements
- R14-2-205. Master metering
- R14-2-206. Service lines and establishments
- R14-2-207. Line Extensions
- R14-2-208. Provision of service
- R14-2-209. Meter reading
- R14-2-210. Billing and collection
- R14-2-211. Termination of service
- R14-2-212. Administrative and hearing requirements
- R14-2-213. Conservation

## ARTICLE 2. ELECTRIC UTILITIES

### R14-2-201. Definitions

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

1. "Advance in aid of construction". Funds provided to the utility by the applicant under the terms of a line extension agreement the value of which may be refundable.
2. "Applicant". A person requesting the utility to supply electric service.
3. "Application". A request to the utility for electric service, as distinguished from an inquiry as to the availability or charges for such service.
4. "Arizona Corporation Commission". The regulatory authority of the state of Arizona having jurisdiction over public service corporations operating in Arizona.
5. "Billing month". The period between any two regular readings of the utility's meters at approximately 30 day intervals.
6. "Billing period". The time interval between two consecutive meter readings that are taken for billing purposes.
7. "Contributions in aid of construction". Funds provided to the utility by the applicant under the terms of a line extension agreement ~~and~~ or service connection tariff the value of which is not refundable.
8. "Curtailed priority". The order in which electric service is to be curtailed to various classifications of customers, as set forth in the utility's filed tariffs.
9. "Customer". The person or entity in whose name service is rendered, as evidenced by the signature on the application or contract for that service, or by the receipt or payment of bills regularly issued in his name regardless of the identity of the actual user of the service.

10. "Customer charge". The amount the customers must pay the utility for the availability of electric service, excluding any electricity used, as specified in the utility's tariffs.
11. "Day". Calendar day.
12. "Demand". The rate at which power is delivered during any specified period of time. Demand may be expressed in kilowatts, kilovolt-amperes, or other suitable units.
13. "Distribution lines". The utility lines operated at distribution voltage which are constructed along public roadways or other bona fide rights-of-way, including easements on customer's property.
14. "Elderly". A person who is 62 years of age or older.
15. "Energy". Electric energy, expressed in kilowatt-hours.
16. "Handicapped". A person with a physical or mental condition which substantially contributes to the person's inability to manage his or her own resources, carry out activities of daily living, or protect oneself from neglect or hazardous situations without assistance from others.
17. "Illness". A medical ailment or sickness for which a residential customer obtains a verified document from a licensed medical physician stating the nature of the illness and that discontinuance of service would be especially dangerous to the customer's health.
18. "Inability to pay". Circumstances where a residential customer:
  - a. Is not gainfully employed and unable to pay, or
  - b. Qualifies for government welfare assistance, but has not begun to receive assistance on the date that he receives his bill and can obtain verification of that fact from the government welfare assistance agency.
  - c. Has an annual income below the published federal poverty level and can produce evidence of this, and

- d. Signs a declaration verifying that the customer meets one of the above criteria and is either elderly, handicapped, or suffers from illness.
19. "Interruptible electric service". Electric service that is subject to interruption as specified in the utility's tariff.
  20. "Kilowatt (kw)". A unit of power equal to 1,000 watts.
  21. "Kilowatt-hour (kwh)". Electric energy equivalent to the amount of electric energy delivered in one hour when delivery is at a constant rate of one kilowatt.
  22. "Line extension". The lines and equipment necessary to extend the electric distribution system of the utility to provide service to additional customers.
  23. "Master meter". A meter for measuring or recording the flow of electricity that has passed through it at a single location where said electricity is distributed to tenants or occupants for their individual usage.
  24. "Megawatt (Mw)". A unit of power equal to 1,000,000 watts.
  25. "Meter". The instrument for measuring and indicating or recording the flow of electricity that has passed through it.
  26. "Meter tampering". A situation where a meter has been illegally altered. Common examples are meter bypassing, use of magnets to slow the meter recording, and broken meter seals.
  27. "Minimum charge". The amount the customer must pay for the availability of electric service, including an amount of usage, as specified in the utility's tariffs.
  28. "Permanent customer". A customer who is a tenant or owner of a service location who applies for and receives permanent electric service.
  29. "Permanent service". Service which, in the opinion of the utility, is of a permanent and established character. The use of electricity may be continuous, intermittent, or seasonal in nature.
  30. "Person". Any individual, partnership, corporation, governmental agency, or other organization operating as a single entity.

31. "Point of delivery". The point where facilities owned, leased, or under license by a customer connects to the utility's facilities.
32. "Power". The rate of generating, transferring ~~and~~/or using electric energy, usually expressed in kilowatts.
33. "Premises". All of the real property and apparatus employed in a single enterprise on an integral parcel of land undivided by public streets, alleys or railways.
34. "Residential subdivision development". Any tract of land which has been divided into four or more contiguous lots with an average size of one acre or less for use for the construction of residential buildings or permanent mobile homes for either single or multiple occupancy.
35. "Residential use". Service to customers using electricity for domestic purposes such as space heating, air conditioning, water heating, cooking, clothes drying, and other residential uses and includes use in apartment buildings, mobile home parks, and other multiunit residential buildings.
36. "Service area". The territory in which the utility has been granted a Certificate of Convenience and Necessity and is authorized by the Commission to provide electric service.
37. "Service establishment charge". The charge as specified in the utility's tariffs which covers the cost of establishing a new account.
38. "Service line". The line extending from a distribution line or transformer to the customer's premises or point of delivery.
39. "Service reconnect charge". The charge as specified in the utility's tariffs which must be paid by the customer prior to reestablishment of electric service each time the electricity is disconnected for nonpayment or whenever service is discontinued for failure otherwise to comply with the utility's tariffs.

40. "Service reestablishment charge". A charge as specified in the utility's tariffs for service at the same location where the same customer had ordered a service disconnection within the preceding 12-month period.
41. "Single family dwelling". A house, an apartment, a mobile home permanently affixed to a lot, or any other permanent residential unit which is used as a permanent home.
42. "Tariffs". The documents filed with the Commission which list the services and products offered by the utility and which set forth the terms and conditions and a schedule of the rates and charges, for those services and products.
43. "Temporary service". Service to premises or enterprises which are temporary in character, or where it is known in advance that the service will be of limited duration. Service which, in the opinion of the utility, is for operations of a speculative character is also considered temporary service.
44. "Third-party notification". A notice sent to an individual or a public entity willing to receive notification of the pending discontinuance of service of a customer of record in order to make arrangements on behalf of said customer satisfactory to the utility.
45. "Utility". The public service corporation providing electric service to the public in compliance with state law.
46. "Weather especially dangerous to health". That period of time commencing with the scheduled termination date when the local weather forecast, as predicted by the National Oceanographic and Administration Service, indicates that the temperature will not exceed 32 degrees Fahrenheit for the next day's forecast. The Commission may determine that other weather conditions are especially dangerous to health as the need arises.

**R14-2-202. Certificate of Convenience and Necessity for electric utilities; filing requirements on certain new plants**

**A. Application for new Certificate of Convenience and Necessity**

1. Six copies of each application for a new Certificate of Convenience and Necessity shall be submitted in a form prescribed by the Commission and shall include, at a minimum, the following information:
  - a. The proper name and correct address of the proposed utility company and its owner, if a sole proprietorship, each partner, if a partnership, or the President and Secretary if a corporation.
  - b. The rates proposed to be charged for the service that will be rendered.
  - c. A financial statement setting forth the financial condition of the applicant.
  - d. Maps of the proposed service area ~~and/or~~ a description of the area proposed to be served.
  - e. Appropriate city, county ~~and/or~~ state agency approvals, where appropriate.
  - f. The actual number of customers within the service area as of the time of filing and the estimated number of customers to be served for each of the first 5 ~~five~~ years of operation.
  - g. Such other information as the Commission by order or the staff of the Utilities Division by written directive may request.

**~~B. Filing requirements on certain new plants~~**

- ~~1. Any utility proposing to construct a generating facility of over eighty Mw capacity shall, at least 180 days prior to commencement of construction, file with the Commission the following information:~~
  - ~~a. The proposed site of such plant.~~
  - ~~b. The approximate generating capacity of such plant and the number of generating units proposed for each plant site.~~
  - ~~c. The type of fuel proposed to be used in each plant.~~

- d. ~~The proposed source of fuel and water for each plant.~~
  - e. ~~The estimated date by which such plant will be in operation.~~
  - f. ~~The load forecasting data available to such utility which, in its opinion, justifies the need for construction of such proposed generating facility.~~
  - g. ~~The method and timing of financing the proposed plant.~~
  - h. ~~Such further information as the Commission may, by special order, or the staff of the Utilities Division may, by written directive, require.~~
2. ~~The utility shall update the information required to be filed on not less than an annual basis by January 31 of each year following the original filing until construction has been completed.~~

**B. C.** Application for discontinuance or abandonment of utility service

- 1. Any utility proposing to discontinue or abandon utility service currently in use by the public shall prior to such action obtain authority therefor from the Commission.
- 2. The utility shall include in the application, studies of past, present and prospective customer use of the subject service, plant or facility as is necessary to support the application.
- 3. An application shall not be required to remove individual facilities where a customer has requested service discontinuance.

**R14-2-203. Establishment of service**

**A.** Information from new applicants

- 1. A utility may obtain the following minimum information from each new applicant for service:
  - a. Name or names of applicant(s).
  - b. Service address or location and telephone number.
  - c. Billing address/telephone number, if different than service address.
  - d. Address where service was provided previously.

- e. Date applicant will be ready for service.
  - f. Indication of whether premises have been supplied with utility service previously.
  - g. Purpose for which service is to be used.
  - h. Indication of whether applicant is owner or tenant of or agent for the premises.
  - i. Information concerning the energy and demand requirements of the customer.
  - j. Type and kind of life-support equipment, if any, used by the customer.
- 2. A utility may require a new applicant for service to appear at the utility's designated place of business to produce proof of identity and sign the utility's application form.
  - 3. Where service is requested by two or more individuals the utility shall have the right to collect the full amount owed to the utility from any one of the applicants.

**B. Deposits**

- 1. A utility shall not require a deposit from a new applicant for residential service if the applicant is able to meet any of the following requirements:
  - a. The applicant has had service of a comparable nature with the utility within the past 2 years and was not delinquent in payment more than twice during the last 12 consecutive months or disconnected for nonpayment.
  - b. The applicant can produce a letter regarding credit or verification from an electric utility where service of a comparable nature was last received which states applicant had a timely payment history at time of service discontinuance.
  - c. In lieu of a deposit, a new applicant may provide a Letter of Guarantee from a governmental or non-profit entity or a surety bond as security for the utility.

2. The utility ~~may~~ shall issue a nonnegotiable receipt to the applicant for the deposit. The inability of the customer to produce such a receipt shall in no way impair his right to receive a refund of the deposit which is reflected on the utility's records.
3. Deposits shall be interest bearing; the interest rate and method of calculation shall be filed with and approved by the Commission in a tariff proceeding.
4. Each utility shall file a deposit refund procedure with the Commission, subject to Commission review and approval during a tariff proceeding. However, each utility's refund policy shall include provisions for residential deposits and accrued interest to be refunded or letters of guarantee or surety bonds to expire after 12 months of service if the customer has not been delinquent more than twice in the payment of utility bills.
5. A utility may require a residential customer to establish or reestablish a deposit if the customer becomes delinquent in the payment of 2 bills within a 12 consecutive month period or has been disconnected for service during the last 12 months.
6. The amount of a deposit required by the utility shall be determined according to the following terms:
  - a. Residential customer deposits shall not exceed 2 times that customer's estimated average monthly bill.
  - b. Nonresidential customer deposits shall not exceed 2 ½ times that customer's estimated maximum monthly bill.
7. The utility may review the customer's usage after service has been connected and adjust the deposit amount based upon the customer's actual usage.
8. A separate deposit may be required for each meter installed.
9. If a Utility Distribution Company's customer with an established deposit elects to take competitive services from an Electric Service Provider, and is not currently delinquent in payments to the Utility Distribution Company, the Utility

Distribution Company will refund a portion of the customer's deposit in proportion to the expected decrease in monthly billing. A customer returning to Standard Offer Service may be required to increase an established deposit in proportion to the expected increase in monthly billing.

**C. Grounds for refusal of service**

1. A utility may refuse to establish service if any of the following conditions exist:
  - a. The applicant has an outstanding amount due for the same class of utility service with the utility, and the applicant is unwilling to make arrangements with the utility for payment.
  - b. A condition exists which in the utility's judgment is unsafe or hazardous to the applicant, the general population, or the utility's personnel or facilities.
  - c. Refusal by the applicant to provide the utility with a deposit when the customer has failed to meet the credit criteria for waiver of deposit requirements.
  - d. Customer is known to be in violation of the utility's tariffs filed with the Commission.
  - e. Failure of the customer to furnish such funds, service, equipment, ~~and~~ or rights-of-way necessary to serve the customer and which have been specified by the utility as a condition for providing service.
  - f. Applicant falsifies his or her identity for the purpose of obtaining service.

**D. Service establishments, re-establishments or reconnection charge**

1. Each utility may make a charge as approved by the Commission for the establishment, reestablishment, or reconnection of utility services, including transfers between Electric Service Providers.
2. Should service be established during a period other than regular working hours at the customer's request, the customer may be required to pay an after-hour charge for the service connection. Where the utility scheduling will not permit service

establishment on the same day requested, the customer can elect to pay the after-hour charge for establishment that day or his service will be established on the next available normal working day.

3. For the purpose of this rule, the definition of service establishments are where the customer's facilities are ready and acceptable to the utility and the utility needs only to install a meter, read a meter, or turn the service on.
4. Service establishments with an Electric Service Provider will be scheduled for the next regular meter read date if the direct access service request is processed 15 calendar days prior to that date and appropriate metering equipment is in place. If a direct access service request is made in less than 15 days prior to the next regular read date, service will be established at the next regular meter read date thereafter. The utility may offer after-hours or earlier service for a fee. This section shall not apply to the establishment of new service, but is limited to a change of providers of existing electric service.

**E. Temporary service**

1. Applicants for temporary service may be required to pay the utility, in advance of service establishment, the estimated cost of installing and removing the facilities necessary for furnishing the desired service.
2. Where the duration of service is to be less than one month, the applicant may also be required to advance a sum of money equal to the estimated bill for service.
3. Where the duration of service is to exceed one month, the applicant may also be required to meet the deposit requirements of the utility.
4. If at any time during the term of the agreement for services the character of a temporary customer's operations changes so that in the opinion of the utility the customer is classified as permanent, the terms of the utility's line extension rules shall apply.

**R14-2-204. Minimum customer information requirements**

**A. Information for residential customers**

1. A utility shall make available upon customer request not later than 15 ~~60~~ days from the date of request a concise summary of the rate schedule applied for by such customer. The summary shall include the following:
  - a. The monthly minimum or customer charge, identifying the amount of the charge and the specific amount of usage included in the minimum charge, where applicable.
  - b. Rate blocks, where applicable.
  - c. Any adjustment factor and method of calculation.
2. The utility shall to the extent practical identify its tariff that is most advantageous to the customer and notify the customer of such prior to service commencement.
3. In addition, a utility shall make available upon customer request, not later than 60 days from date of service commencement, a concise summary of the utility's tariffs or the Commission's rules and regulations concerning:
  - a. Deposits
  - b. Termination of service
  - c. Billing and collection
  - d. Complaint handling.
4. Each utility upon request of a customer shall transmit a written statement of actual consumption by such customer for each billing period during the prior 12 months unless such data is not reasonably ascertainable.
5. Each utility shall inform all new customers of their right to obtain the information specified above.

**B. Information required due to changes in tariffs**

1. Each utility shall transmit to affected customers a concise summary of any change in the utility's tariffs affecting those customers.

2. This information shall be transmitted to the affected customer within 60 days of the effective date of the change.

**R14-2-205. Master metering**

**A. Mobile home parks -- new construction/expansion**

1. A utility shall refuse service to all new construction ~~and/or~~ expansion of existing permanent residential mobile home parks unless the construction ~~and/or~~ expansion is individually metered by the utility. Line extensions and service connections to serve such expansion shall be governed by the line extension and service connection tariff of the appropriate utility.
2. Permanent residential mobile home parks for the purpose of this rule shall mean mobile home parks where, in the opinion of the utility, the average length of stay for an occupant is a minimum of six months.
3. For the purpose of this rule, expansion means the acquisition of additional real property for permanent residential spaces in excess of that existing at the effective date of this rule.

**B. Residential apartment complexes, condominiums, and other multiunit residential buildings**

1. Master metering shall not be allowed for new construction of apartment complexes and condominiums unless the building~~(s)~~ or buildings will be served by a centralized heating, ventilation ~~and/or~~ air conditioning system and the contractor can provide to the utility an analysis demonstrating that the central unit will result in a favorable cost/benefit relationship.
2. At a minimum, the cost/benefit analysis should consider the following elements for a central unit as compared to individual units:
  - a. Equipment and labor costs
  - b. Financing costs
  - c. Maintenance costs

- d. Estimated kwh usage
- e. Estimated kw demand on a coincident demand and noncoincident demand basis (for individual units)
- f. Cost of meters and installation
- g. Customer accounting cost (one account vs. several accounts).

**R14-2-206. Service Lines and Establishments**

**A. Priority and timing of service establishments**

1. After an applicant has complied with the utility's application and deposit requirements and has been accepted for service by the utility, the utility shall schedule that customer for service establishment.
2. Service establishments shall be scheduled for completion within five working days of the date the customer has been accepted for service, except in those instances when the customer requests service establishment beyond the five working day limitation.
3. When a utility has made arrangements to meet with a customer for service establishment purposes and the utility or the customer cannot make the appointment during the prearranged time, the utility shall reschedule the service establishment to the satisfaction of both parties.
4. A utility shall schedule service establishment appointments within a maximum range of four hours during normal working hours, unless another time frame is mutually acceptable to the utility and the customer.
5. Service establishments shall be made only by qualified utility service personnel.
6. For the purposes of this rule, service establishments are where the customer's facilities are ready and acceptable to the utility and the utility needs only to install or read a meter or turn the service on.

**B. Service lines**

1. Customer provided facilities

- a. Each applicant for services shall be responsible for all inside wiring including the service entrance and meter socket.
  - b. Meters and service switches in conjunction with the meter shall be installed in a location where the meters will be readily and safely accessible for reading, testing and inspection and where such activities will cause the least interference and inconvenience to the customer. However, the meter locations shall not be on the front exterior wall of the home; or in the carport or garage, unless mutually agreed to between the home builder or customer and the utility. The customer shall provide, without cost to the utility, at a suitable and easily accessible location, sufficient and proper space for installation of meters.
  - c. Where the meter or service line location on the customer's premises is changed at the request of the customer or due to alterations on the customer's premises, the customer shall provide and have installed at his expense all wiring and equipment necessary for relocating the meter and service line connection and the utility may make a charge for moving the meter ~~and~~ or service line.
2. Company provided facilities
- a. Each utility shall file for Commission approval, a service line tariff which defines the maximum footage ~~and~~ or equipment allowance to be provided by the utility at no charge. The maximum footage ~~and~~ or equipment allowance may be differentiated by customer class.
  - b. The cost of any service line in excess of that allowed at no charge shall be paid for by the customer as a contribution in aid of construction.
  - c. A customer requesting an underground service line in an area served by overhead facilities shall pay for the difference between an overhead

service connection and the actual cost of the underground connection as a nonrefundable contribution.

**C. Easements and rights-of-way**

1. Each customer shall grant adequate easement and right-of-way satisfactory to the utility to ensure that customer's proper service connection. Failure on the part of the customer to grant adequate easement and right-of-way shall be grounds for the utility to refuse service.
2. When a utility discovers that a customer or his agent is performing work or has constructed facilities adjacent to or within an easement or right-of-way and such work, construction or facility poses a hazard or is in violation of federal, state or local laws, ordinances, statutes, rules or regulations, or significantly interferes with the utility's access to equipment, the utility shall notify the customer or his agent and shall take whatever actions are necessary to eliminate the hazard, obstruction or violation at the customer's expense.

**R14-2-207. Line Extensions**

**A. General requirements**

1. Each utility shall file for Commission approval a line extension tariff which incorporates the provisions of this rule and specifically defines the conditions governing line extensions.
2. Upon request by an applicant for a line extension, the utility shall prepare, without charge, a preliminary sketch and rough estimate of the cost of installation to be paid by said applicant.
3. Any applicant for a line extension requesting the utility to prepare detailed plans, specifications, or cost estimates may be required to deposit with the utility an amount equal to the estimated cost of preparation. The utility shall, upon request, make available within 90 days after receipt of the deposit referred to above, such plans, specifications, or cost estimates of the proposed line extension. Where the

applicant authorizes the utility to proceed with construction of the extension, the deposit shall be credited to the cost of construction; otherwise the deposit shall be nonrefundable. If the extension is to include oversizing of facilities to be done at the utility's expense, appropriate details shall be set forth in the plans, specifications and cost estimates. Subdivisions providing the utility with approved plats shall be provided with plans, specifications, or cost estimates within 45 days after receipt of the deposit referred to above.

4. Where the utility requires an applicant to advance funds for a line extension, the utility shall furnish the applicant with a copy of the line extension tariff of the appropriate utility prior to the applicant's acceptance of the utility's extension agreement.
5. All line extension agreements requiring payment by the applicant shall be in writing and signed by each party.
6. The provisions of this rule apply only to those applicants who in the utility's judgment will be permanent customers of the utility. Applications for temporary service shall be governed by the Commission's rules concerning temporary service applications.

**B. Minimum written agreement requirements**

1. Each line extension agreement shall, at a minimum, include the following information:
  - a. Name and address of applicant(±) or applicants
  - b. Proposed service address or location
  - c. Description of requested service
  - d. Description and sketch of the requested line extension
  - e. A cost estimate to include materials, labor, and other costs as necessary
  - f. Payment terms
  - g. A concise explanation of any refunding provisions, if applicable

- h. The utility's estimated start date and completion date for construction of the line extension
  - i. A summary of the results of the economic feasibility analysis performed by the utility to determine the amount of advance required from the applicant for the proposed line extension.
2. Each applicant shall be provided with a copy of the written line extension agreement.

**C. Line extension requirements**

1. Each line extension tariff shall include the following provisions:
- a. A maximum footage ~~and~~/or equipment allowance to be provided by the utility at no charge. The maximum footage ~~and~~/or equipment allowance may be differentiated by customer class.
  - b. An economic feasibility analysis for those extensions which exceed the maximum footage ~~and~~/or equipment allowance. Such economic feasibility analysis shall consider the incremental revenues and costs associated with the line extension. In those instances where the requested line extension does not meet the economic feasibility criteria established by the utility, the utility may require the customer to provide funds to the utility, which will make the line extension economically feasible. The methodology employed by the utility in determining economic feasibility shall be applied uniformly and consistently to each applicant requiring a line extension.
  - c. The timing and methodology by which the utility will refund any advances in aid of construction as additional customers are served off the line extension. The customer may request an annual survey to determine if additional customers have been connected to and are using service from

the extension. In no case shall the amount of the refund exceed the amount originally advanced.

- d. All advances in aid of construction shall be noninterest bearing.
- e. If after 5 ~~five~~ years from the utility's receipt of the advance, the advance has not been totally refunded, the advance shall be considered a contribution in aid of construction and shall no longer be refundable.

**D. Residential subdivision development and permanent mobile home parks**

- 1. Each utility shall submit as a part of its line extension tariff separate provisions for residential subdivision developments and permanent mobile home parks.

**E. Single phase underground extensions in subdivision developments**

- 1. Extensions of single phase electric lines necessary to furnish permanent electric service to new residential buildings or mobile homes within a subdivision, in which facilities for electric service have not been constructed, for which applications are made by a developer shall be installed underground in accordance with the provisions set forth in this regulation except where it is not feasible from an engineering, operational, or economic standpoint.
- 2. Rights-of-way easements
  - a. The utility shall construct or cause to be constructed and shall own, operate and maintain all underground electric distribution and service lines along public streets, roads and highways and on public lands and private property which the utility has the legal right to occupy.
  - b. Rights-of-way and easements suitable to the utility must be furnished by the developer at no cost to the utility and in reasonable time to meet service requirements. No underground electric facilities shall be installed by a utility until the final grades have been established and furnished to the utility. In addition, the easement strips, alleys and streets must be graded to within six inches of final grade by the developer before the

utility will commence construction. Such clearance and grading must be maintained by the developer during construction by the utility.

- c. If, subsequent to construction, the clearance or grade is changed in such a way as to require relocation of the underground facilities or results in damage to such facilities, the cost of such relocation ~~and~~ or resulting repairs shall be borne by the developer.

3. Installation of single phase underground electric lines within a subdivision

- a. The developer shall provide the trenching, backfill (including any imported backfill required), compaction, repaving, and any earthwork for pull boxes and transformer pad sites required to install the underground electric system all in accordance with the specifications and schedules of the utility.
- b. Each utility shall inspect the trenching provided by the developer within 24 hours after a mutually agreed upon trench opening date, and allow for phased inspection of trenching as mutually agreed upon by the developer and utility. In all cases, the utility shall make every effort to expedite the inspection of developer provided trenching. The utility shall assume responsibility for the trench within three working days after the utility has inspected and approved the trenching.
- c. The utility shall install or cause to be installed underground electric lines and related equipment in accordance with the applicable provisions of the 1997 edition (and no future editions) of ANSI C2 (National Electrical Safety Code) with sufficient capacity and suitable materials which shall assure adequate and reasonable electric service in the foreseeable future. ANSI C2 is incorporated by reference, and on file with the Office of the Secretary of State. Copies are available from the Institute of Electrical

and Electronic Engineers, Inc., 345 East 47th Street, New York, New York 10017.

- d. Underground service lines from underground residential distribution systems shall be owned, operated and maintained by the utility, and shall be installed pursuant to its effective underground line extension and service connection tariffs on file with the Commission.

4. Special conditions

- a. When the application of any of the provisions of R14-2-207(E) appears to either party not to be feasible from an engineering, operational or economic standpoint, the utility or the developer may refer the matter to the Commission for a determination as to whether an exception to the underground policy expressed within the provisions of this regulation is warranted. Interested third parties may present their views to the Commission in conjunction with such referrals.
- b. Notwithstanding any provision of this regulation to the contrary, no utility shall construct overhead single phase electric lines in any new subdivision to which this regulation is applicable and which is contiguous to another subdivision in which electric service is furnished underground without the approval of the Commission.
- c. Underground service lines installed pursuant to this rule (R14-2-207(E)) and accepted by the utility shall not be replaced with an overhead distribution pole line except upon a verified application of the utility, as stated in R14-2-207(E)(4)(a).

5. Nonapplicability

- a. Any underground electric distribution system requiring more than single phase service is not covered by this regulation and shall be constructed

pursuant to the effective line extension rules and regulations or policies of the affected utility on file with the Commission.

- b. If there are 1 or more ~~is an~~ existing distribution pole lines ~~line(s)~~ on or across a recorded subdivision at the time of the application for electrical service for the subdivision and the line will be utilized in the subdivision. (This would not apply if the pole line were serving a building or groups of buildings or any other type of service which would be removed before construction is finished.)
- c. A distribution pole line that parallels a boundary of a subdivision and this line can serve lots within the subdivision.
- d. Subdivisions recorded prior to the effective date of this rule shall be governed by the terms and conditions of R14-2-207(E).

**F. Ownership of facilities**

1. Any facilities installed hereunder shall be the sole property of the utility.

**R14-2-208. Provision of Service**

**A. Utility responsibility**

1. Each utility shall be responsible for the safe transmission and ~~or~~ distribution of electricity until it passes the point of delivery to the customer.
2. The entity having control of the meter shall be responsible for maintaining in safe operating condition all meters, equipment and fixtures installed on the customer's premises by the entity for the purposes of delivering electric service to the customer.
3. The Utility Distribution Company may, at its option, refuse service until the customer has obtained all required permits and ~~or~~ inspections indicating that the customer's facilities comply with local construction and safety standards.

**B. Customer responsibility**

1. Each customer shall be responsible for maintaining all customer facilities on the customer's side of the point of delivery in safe operating condition.
2. Each customer shall be responsible for safeguarding all utility property installed in or on the customer's premises for the purpose of supplying utility service to that customer.
3. Each customer shall exercise all reasonable care to prevent loss or damage to utility property, excluding ordinary wear and tear. The customer shall be responsible for loss of or damage to utility property on the customer's premises arising from neglect, carelessness, or misuse and shall reimburse the utility for the cost of necessary repairs or replacements.
4. Each customer shall be responsible for payment for any equipment damage and/or estimated unmetered usage resulting from unauthorized breaking of seals, interfering, tampering or bypassing the utility meter.
5. Each customer shall be responsible for notifying the utility of any equipment failure identified in the utility's equipment.

**C. Continuity of service**

1. Each utility shall make reasonable efforts to supply a satisfactory and continuous level of service. However, no utility shall be responsible for any damage or claim of damage attributable to any interruption or discontinuation of service resulting from:
  - a. Any cause against which the utility could not have reasonably foreseen or made provision for, i.e., force majeure.
  - b. Intentional service interruptions to make repairs or perform routine maintenance.
  - c. *Curtailment.*

**D. Service interruptions**

1. Each utility shall make reasonable efforts to reestablish service within the shortest possible time when service interruptions occur.
2. Each utility shall make reasonable provisions to meet emergencies resulting from failure of service, and each utility shall issue instructions to its employees covering procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of service.
3. In the event of a national emergency or local disaster resulting in disruption of normal service, the utility may, in the public interest, interrupt service to other customers to provide necessary service to civil defense or other emergency service agencies on a temporary basis until normal service to these agencies can be restored.
4. When a utility plans to interrupt service for more than four hours to perform necessary repairs or maintenance, the utility shall attempt to inform affected customers at least 24 hours in advance of the scheduled date and estimated duration of the service interruption. Such repairs shall be completed in the shortest possible time to minimize the inconvenience to the customers of the utility.
5. The Commission shall be notified of interruption in service affecting the entire system or any significant portion thereof. The interruption of service and cause shall be reported by telephone to the Commission within two hours after the responsible representative of the utility becomes aware of said interruption and followed by a written report to the Commission.

**E. Curtailment**

1. Each utility shall file with the Commission as a part of its general tariffs a procedural plan for handling severe supply shortages or service curtailments. The plan shall provide for equitable treatment of individual customer classes in the

most reasonable and effective manner given the existing circumstances. When the availability of service is so restricted that the reduction of service on a proportionate basis to all customer classes will not maintain the integrity of the total system, the utility shall develop procedures to curtail service giving service priority to those customers and/or customer classes where health, safety and welfare would be adversely affected.

**F. Construction standard and safety**

1. Each utility shall construct all facilities in accordance with the provisions of the 1997 edition (and no future editions) of ANSI C2 (National Electrical Safety Code, incorporated by reference and on file with the Office of the Secretary of State, and the 1995 edition (and no future editions) of ANSI B31.1 (ASME Code for Pressure Piping), incorporated by reference and on file with the Office of the Secretary of State. Copies of the National Electrical Safety Code are available from the Institute of Electrical and Electronic Engineers, Inc., 345 East 47th Street, New York, New York 10017. Copies of the ASME Code for Pressure Piping are available from the American Society of Mechanical Engineers, 345 East 47th Street, New York, New York 10017.
2. Each utility shall adopt a standard alternating nominal voltage or standard alternating nominal voltages (as may be required by its distribution system) for its entire service area or for each of the several districts into which the system may be divided, which standard voltage or voltages shall be stated in the rules and regulations of each utility and shall be measured at the customer's service entrance. Each utility shall, under normal operating conditions, maintain its standard voltage within the limits of the 1989 edition (and no future editions) of ANSI C84.1 (American National Standard for Electric Power Systems and Equipment-Voltage Ratings [60Hz]), incorporated by reference and on file with

the Office of the Secretary of State. Copies are available from the American National Standards Institute, 1430 Broadway, New York, New York 10018.

**R14-2-209. Meter Reading**

**A. Company or customer meter reading**

1. Each utility, billing entity or Meter Reading Service Provider may at its discretion allow for customer reading of meters.
2. It shall be the responsibility of the utility or Meter Reading Service Provider to inform the customer how to properly read his meter.
3. Where a customer reads his own meter, the utility or Meter Reading Service Provider will read the customer's meter at least once every 6 months.
4. The utility, billing entity or Meter Reading Service Provider shall provide the customer with postage-paid cards or other methods to report the monthly reading.
5. Each utility or Meter Reading Service Provider shall specify the timing requirements for the customer to submit his or her monthly meter reading to conform with the utility's billing cycle.
6. Where the Electric Service Provider is responsible for meter reading, reads will be available for the Utility Distribution Company's or billing entity's billing cycle for that customer, or as otherwise agreed upon by the Electric Service Provider and the Utility Distribution Company or billing entity.
7. In the event the customer fails to submit the reading on time, the utility or billing entity may issue the customer an estimated bill.
8. In the event the Electric Service Provider responsible for meter reading fails to deliver reads to the Meter Reading Service Provider server within 3 days of the scheduled cycle read date, the Affected Utility may estimate the reads.
9. Meters shall be read monthly on as close to the same day as practical.

**B. Measuring of service**

1. All energy sold to customers and all energy consumed by the utility, except that

sold according to fixed charge schedules, shall be measured by commercially acceptable measuring devices, except where it is impractical to install meters, such as street lighting or security lighting, or where otherwise authorized by the Commission.

2. When there is more than 1 meter at a location, the metering equipment shall be so tagged or plainly marked as to indicate the circuit metered or metering equipment.
3. Meters which are not direct reading shall have the multiplier plainly marked on the meter.
4. All charts taken from recording meters shall be marked with the date of the record, the meter number, customer, and chart multiplier.
5. Metering equipment shall not be set "fast" or "slow" to compensate for supply transformer or line losses.

**C. Meter rereads**

1. Each utility or Meter Reading Service Provider shall at the request of a customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in A.A.C. R14-2-1601) or billing entity reread that customer's meter within 10 working days after such a request.
2. Any reread may be charged to the customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in A.A.C. R14-2-1601) or billing entity at a rate on file and approved by the Commission, provided that the original reading was not in error.
3. When a reading is found to be in error, the reread shall be at no charge to the customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in A.A.C. R14-2-1601) or billing entity.

**D. Access to customer premises**

Each utility shall have the right of safe ingress to and egress from the customer's premises at all reasonable hours for any purpose reasonably connected with property used in

furnishing service and the exercise of any and all rights secured to it by law or these rules.

**E. Meter testing and maintenance program**

1. Each utility shall file with the Commission a plan for the routine maintenance and replacement of meters which meets the requirements of the 1995 edition (and no future editions) of ANSI C12.1 (American National Standard Code for Electricity Metering), incorporated by reference and on file with the Office of the Secretary of State. Copies are available from the Institute of Electrical and Electronics Engineers, Inc., 345 East 47th Street, New York, New York 10017.
2. Each utility shall file an annual report with the Commission summarizing the results of the meter maintenance and testing program for that year. At a minimum, the report should include the following data:
  - a. Total number of meters tested, at company initiative or upon customer request.
  - b. Number of meters tested which were outside the acceptable error allowance of  $\pm 3\%$ .

**F. Request for meter tests**

A utility or Meter Service Provider shall test a meter upon the request of the customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in A.A.C. R14-2-1601) or billing entity, and each utility or billing entity shall be authorized to charge the customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in A.A.C. R14-2-1601) or billing entity for such 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 to the customer, or the customer's Electric Service Provider, Utility Distribution Company or billing entity.

**R14-2-210. Billing and collection**

**A. Frequency and estimated bills**

1. Unless otherwise approved by the Commission, the utility or billing entity shall render a bill for each billing period to every customer in accordance with its applicable rate schedule and may 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 without customer authorization. If the utility or Meter Reading Service Provider changes a meter reading route or schedule resulting in a significant alteration of billing cycles, notice shall be given to the affected customers.
2. Each billing statement rendered by the utility or billing entity shall be computed on the actual usage during the billing period. If the utility or Meter Reading Service Provider is unable to obtain an actual reading, the utility or billing entity may 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.
3. Estimated bills will be issued only under the following conditions unless otherwise approved by the Commission:
  - a. When extreme weather conditions, emergencies, or work stoppages prevent actual meter readings.
  - b. Failure of a customer who reads his own meter to deliver his meter reading to the utility or Meter Reading Service Provider in accordance with the requirements of the utility or Meter Reading Service Provider billing cycle.
  - c. When the utility or Meter Reading Service Provider 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, that is, locked gates, blocked meters, vicious or dangerous animals, etc. If the utility or Meter Reading Service Provider is unable to obtain an actual reading for these reasons, it shall undertake reasonable alternatives to obtain a customer reading of the meter.

- d. Due to customer equipment failure, a 1-month estimation will be allowed. Failure to remedy the customer equipment condition will result in penalties for Meter Service Providers as imposed by the Commission.
  - e. To facilitate timely billing for customers using load profiles.
4. After the 3<sup>rd</sup> consecutive month of estimating the customer's bill due to lack of meter access, the utility or Meter Reading Service Provider 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 utility or billing entity may not render a bill based on estimated usage if:
- a. The estimating procedures employed by the utility or billing entity have not been approved by the Commission.
  - b. The billing would be the customer's 1<sup>st</sup> or final bill for service.
  - c. The customer is a direct access customer requiring load data.
  - d. The utility can obtain customer supplied meter readings to determine usage.
6. When a utility or billing entity 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.

**B. Combining meters, minimum bill information**

1. Each meter at a customer's premise will be considered separately for billing purposes, and the readings of 2 or more meters will not be combined unless otherwise provided for in the utility's tariffs. This provision does not apply in the case of aggregation of competitive services as described in A.A.C. R14-2-1601.
2. Each bill for residential service will contain the following minimum information:
  - 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, (if measured), basic monthly service charge and total amount due;
  - d. Rate schedule number or service offer;
  - 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 the Utility Distribution Company 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;
  - k. Other unbundled rates and charges.

**C. Billing terms**

1. All bills for utility services are due and payable no later than 15 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);
  - d. The transmission date for electronic bills.
3. All delinquent bills 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 or to the utility's authorized payment agency or the office of the billing entity. The date on which the utility actually receives the customer's remittance is considered the payment date.

**D. Applicable tariffs, 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 or billing entity 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 electric service commence when the service is actually installed and connection made, whether used or not. A minimum 1-month billing period is established on the date the service is installed (excluding landlord/utility special agreements).
5. Charges for services disconnected after 1 month shall be prorated back to the customer of record.

**E. Meter error corrections**

1. ~~The utility or Meter Service Provider shall test a meter upon customer or the customer's Electric Service Provider, Utility Distribution company (as defined in A.A.C. R14 2-1601) or billing entity request and each utility or billing entity shall be authorized to charge the customer 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~~ If a tested 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 or billing entity to recover or refund the difference:
  - a. If the date of the meter error can be definitely fixed, the utility or billing entity shall adjust the customer's billings back to that date. If the customer has been underbilled, the utility or billing entity 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 utility or billing entity will make prompt refunds in the difference between the original billing and the corrected billing within the next billing cycle.
2. No adjustment shall be made by the utility except to the customer last served by the meter tested.
3. Any underbilling resulting from a stopped or slow meter, utility or Meter Reading Service Provider meter reading error, or a billing calculation shall be limited to 3 months for residential customers and 6 months for non-residential customers. However, if an underbilling by the utility occurs due to inaccurate, false or estimated information from a 3<sup>rd</sup> party, then that utility will have a right to back

bill that 3<sup>rd</sup> party to the point in time that may be definitely fixed, or 12 months.  
No such limitation will apply to overbillings.

**F. Insufficient funds (NSF) or returned checks**

1. A utility or billing entity 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 electric service with a check or other financial instrument which is returned by the customer's bank or other financial institution.
2. When the utility or billing entity is notified by the customer's bank or other financial institution that the check or financial instrument tendered for utility service will not clear, the utility or billing entity may require the customer to make payment in cash, by money order, certified check, or other means to guarantee the customer's payment.
3. A customer who tenders such a check or financial instrument shall in no way be relieved of the obligation to render payment to the utility or billing entity under the original terms of the bill nor defer the utility's provision of termination of service for nonpayment of bills.

**G. 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 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 or cost should vary significantly from the customer's actual usage 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 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 deferred payment agreement.
  - b. Customer agrees 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 6 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. The customer's failure to execute such an agreement prior to the termination date will not prevent the utility from disconnecting service for nonpayment.
  5. Deferred payment agreements may be in writing and may be 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. 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. To order service discontinued or to change occupancy, the customer must give the utility at least 3 working days advance notice in person, in writing, or by telephone.
2. The outgoing customer shall be responsible for all utility services provided or consumed up to the scheduled turnoff date.

3. The outgoing customer is responsible for providing access to the meter so that the utility may obtain a final meter reading.

**R14-2-211. Termination of service**

**A. Nonpermissible reasons to disconnect service**

1. A utility may not disconnect service for any of the reasons stated below:
  - a. Delinquency in payment for services rendered to a prior customer at the premises where service is being provided, except in the instance where the prior customer continues to reside on the premises.
  - b. Failure of the customer to pay for services or equipment which are not regulated by the Commission.
  - c. Nonpayment of a bill related to another class of service.
  - d. Failure to pay for a bill to correct a previous underbilling due to an inaccurate meter or meter failure if the customer agrees to pay over a reasonable period of time.
  - e. A utility shall not terminate residential service where the customer has an inability to pay and:
    - i. The customer can establish through medical documentation that, in the opinion of a licensed medical physician, termination would be especially dangerous to the customer's or a permanent resident residing on the customer's premises health, or
    - ii. Life supporting equipment used in the home that is dependent on utility service for operation of such apparatus, or
    - iii. Where weather will be especially dangerous to health as defined herein or as determined by the Commission.
  - f. Residential service to ill, elderly, or handicapped persons who have an inability to pay will not be terminated until all of the following have been attempted:

- i. The customer has been informed of the availability of funds from various government and social assistance agencies of which the utility is aware.
- ii. A 3<sup>rd</sup> party previously designated by the customer has been notified and has not made arrangements to pay the outstanding utility bill.
- g. A customer utilizing the provisions of d. or e. above may be required to enter into a deferred payment agreement with the utility within ten days after the scheduled termination date.
- h. Disputed bills where the customer has complied with the Commission's rules on customer bill disputes.

**B. Termination of service without notice**

- 1. In a competitive marketplace, the Electric Service Provider cannot order a disconnect for non-payment, but can only send a notice of contract cancellation to the customer and the Utility Distribution Company. Utility service may be disconnected without advance written notice under the following conditions:
  - a. The existence of an obvious hazard to the safety or health of the consumer or the general population or the utility's personnel or facilities.
  - b. The utility has evidence of meter tampering or fraud.
  - c. Failure of a customer to comply with the curtailment procedures imposed by a utility during supply shortages.
- 2. The utility shall not be required to restore service until the conditions which resulted in the termination have been corrected to the satisfaction of the utility.
- 3. Each utility shall maintain a record of all terminations of service without notice. This record shall be maintained for a minimum of 1 year and shall be available for inspection by the Commission.

**C. Termination of service with notice**

1. In a competitive marketplace, the Electric Service Provider cannot order a disconnect for non-payment, but can only send a notice of contract cancellation to the customer and the Utility Distribution Company. A utility may disconnect service to any customer for any reason stated below provided the utility has met the notice requirements established by the Commission:
  - a. Customer violation of any of the utility's tariffs,
  - b. Failure of the customer to pay a delinquent bill for utility service,
  - c. Failure to meet or maintain the utility's deposit requirements,
  - d. Failure of the customer to provide the utility reasonable access to its equipment and property,
  - e. Customer breach of a written contract for service between the utility and customer,
  - f. When necessary for the utility to comply with an order of any governmental agency having such jurisdiction.
2. Each utility shall maintain a record of all terminations of service with notice. This record shall be maintained for 1 year and be available for Commission inspection.

**D. Termination notice requirements**

1. No utility shall terminate service to any of its customers without providing advance written notice to the customer of the utility's intent to disconnect service, except under those conditions specified where advance written notice is not required.
2. Such advance written notice shall contain, at a minimum, the following information:
  - a. The name of the person whose service is to be terminated and the address where service is being rendered.

- b. The utility tariff that was violated and explanation thereof or the amount of the bill which the customer has failed to pay in accordance with the payment policy of the utility, if applicable.
  - c. The date on or after which service may be terminated.
  - d. A statement advising the customer to contact the utility at a specific address or phone number for information regarding any deferred payment or other procedures which the utility may offer or to work out some other mutually agreeable solution to avoid termination of the customer's service.
  - e. A statement advising the customer that the utility's stated reason for the termination of services may be disputed by contacting the utility at a specific address or phone number, advising the utility of the dispute and making arrangements to discuss the cause for termination with a responsible employee of the utility in advance of the scheduled date of termination. The responsible employee shall be empowered to resolve the dispute and the utility shall retain the option to terminate service after affording this opportunity for a meeting and concluding that the reason for termination is just and advising the customer of his right to file a complaint with the Commission.
3. Where applicable, a copy of the termination notice will be simultaneously forwarded to designated third parties.

**E. Timing of terminations with notice**

1. Each utility shall be required to give at least five days' advance written notice prior to the termination date.
2. Such notice shall be considered to be given to the customer when a copy thereof is left with the customer or posted first class in the United States mail, addressed to the customer's last known address.

3. If after the period of time allowed by the notice has elapsed and the delinquent account has not been paid nor arrangements made with the utility for the payment thereof or in the case of a violation of the utility's rules the customer has not satisfied the utility that such violation has ceased, the utility may then terminate service on or after the day specified in the notice without giving further notice.
4. Service may only be disconnected in conjunction with a personal visit to the premises by an authorized representative of the utility.
5. The utility shall have the right (but not the obligation) to remove any or all of its property installed on the customer's premises upon the termination of service.

**F. Landlord/tenant rule**

1. In situations where service is rendered at an address different from the mailing address of the bill or where the utility knows that a landlord/tenant relationship exists and that the landlord is the customer of the utility, and where the landlord as a customer would otherwise be subject to disconnection of service, the utility may not disconnect service until the following actions have been taken:
  - a. Where it is feasible to so provide service, the utility, after providing notice as required in these rules, shall offer the occupant the opportunity to subscribe for service in his or her own name. If the occupant then declines to so subscribe, the utility may disconnect service pursuant to the rules.
  - b. A utility shall not attempt to recover from a tenant or condition service to a tenant with the payment of any outstanding bills or other charges due upon the outstanding account of the landlord.

**R14-2-212. Administrative and hearing requirements**

**A. Customer service complaints**

1. Each utility shall make a full and prompt investigation of all service complaints made by its customers, either directly or through the Commission.

2. The utility shall respond to the complainant and~~or~~ the Commission representative within 5 ~~five~~ working days as to the status of the utility investigation of the complaint.
3. The utility shall notify the complainant and~~or~~ the Commission representative of the final disposition of each complaint. Upon request of the complainant or the Commission representative, the utility shall report the findings of its investigation in writing.
4. The utility shall inform the customer of his right of appeal to the Commission.
5. Each utility shall keep a record of all written service complaints received which shall contain, at a minimum, the following data:
  - a. Name and address of the complainant
  - b. Date and nature of the complaint
  - c. Disposition of the complaint
  - d. A copy of any correspondence between the utility, the customer, and~~or~~ the Commission.

This record shall be maintained for a minimum period of 1 ~~one~~ year and shall be available for inspection by the Commission.

**B. Customer bill disputes**

1. Any utility customer who disputes a portion of a bill rendered for utility service shall pay the undisputed portion of the bill and notify the utility's designated representative that such unpaid amount is in dispute prior to the delinquent date of the bill.
2. Upon receipt of the customer notice of dispute, the utility shall:
  - a. Notify the customer within 5 ~~five~~ working days of the receipt of a written dispute notice.
  - b. Initiate a prompt investigation as to the source of the dispute.

- c. Withhold disconnection of service until the investigation is completed and the customer is informed of the results. Upon request of the customer the utility shall report the results of the investigation in writing.
  - d. Inform the customer of his right of appeal to the Commission.
3. Once the customer has received the results of the utility's investigation, the customer shall submit payment within 5 ~~five~~ working days to the utility for any disputed amounts. Failure to make full payment shall be grounds for termination of service.

C. Commission resolution of service and/or bill disputes

1. In the event a customer and utility cannot resolve a service ~~and~~ or bill dispute, the customer shall file a written statement of dissatisfaction with the Commission; by submitting such notice to the Commission, the customer shall be deemed to have filed an informal complaint against the utility.
2. Within 30 days of the receipt of a written statement of customer dissatisfaction related to a service or bill dispute, a designated representative of the Commission shall endeavor to resolve the dispute by correspondence ~~and~~ or telephone with the utility and the customer. If resolution of the dispute is not achieved within 20 days of the Commission representative's initial effort, the Commission shall hold an informal hearing to arbitrate the resolution of the dispute. The informal hearing shall be governed by the following rules:
  - a. Each party may be represented by legal counsel, if desired.
  - b. All such informal hearings may be recorded or held in the presence of a stenographer.
  - c. All parties will have the opportunity to present written or oral evidentiary material to support the positions of the individual parties.
  - d. All parties and the Commission's representative shall be given the opportunity for cross-examination of the various parties.

- e. The Commission's representative will render a written decision to all parties within 5 ~~five~~ working days after the date of the informal hearing. Such written decision of the arbitrator is not binding on any of the parties and the parties will still have the right to make a formal complaint to the Commission.
3. The utility may implement normal termination procedures if the customer fails to pay all bills rendered during the resolution of the dispute by the Commission.
4. Each utility shall maintain a record of written statements of dissatisfaction and their resolution for a minimum of 1 ~~one~~ year and make such records available for Commission inspection.

**D.** Notice by utility of responsible officer or agent

1. Each utility shall file with the Commission a written statement containing the name, address (business, residence and post office) and telephone numbers (business and residence) of at least 1 ~~one~~ officer, agent or employee responsible for the general management of its operations as a utility in Arizona.
2. Each utility shall give notice, by filing a written statement with the Commission, of any change in the information required herein within 5 ~~five~~ days from the date of any such change.

**E.** Time-frames for processing applications for Certificates of Convenience and Necessity

1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
2. Within 120 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in

writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.

3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
5. With 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.
6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
  - a. Administrative completeness review time-frame: 120 calendar days,
  - b. Substantive review time-frame: 150 calendar days
  - c. Overall time-frame: 270 calendar days.
7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

**F. Filing of tariffs**

1. Each utility shall file with the Commission tariffs which are in compliance with the rules and regulations promulgated by the Arizona Corporation Commission within 120 days of the effective date of such rules.

2. Each utility shall file with the Commission any proposed changes to the tariffs on file with the Commission; such proposed changes shall be accompanied by a statement of justification supporting the proposed tariff change.
3. Any proposed change to the tariffs on file with the Commission shall not be effective until reviewed and approved by the Commission.

**G. Accounts and records**

1. Each utility shall keep general and auxiliary accounting records reflecting the cost of its properties, operating income and expense, assets and liabilities, and all other accounting and statistical data necessary to give complete and authentic information as to its properties and operations.
2. Each utility shall maintain its books and records in conformity with the Uniform Systems of Accounts for Class A, B, C and D Electric Utilities as adopted and amended by the Federal Energy Regulatory Commission or, for electric cooperatives, as promulgated by the Rural Electrification Administration.
3. A utility shall produce or deliver in this state any or all of its formal accounting records and related documents requested by the Commission. It may, at its option, provide verified copies of original records and documents.
4. All utilities shall submit an annual report to the Commission on a form prescribed by it. The annual report shall be filed on or before the 15th day of April for the preceding calendar year. Reports prepared by a certified or licensed public accountant on the utility, if any, shall accompany the annual report.
5. All utilities shall file with the Commission a copy of all reports required by the Securities and Exchange Commission.
6. All utilities shall file with the Commission a copy of all annual reports required by the Federal Energy Regulatory Commission and in addition, for electric cooperatives, annual reports required by the Rural Electrification Administration.

**H. Maps**

1. All utilities shall file with the Commission a map or maps clearly setting forth the location and extent of the area or areas they hold under approved certificates of convenience and necessity, in accordance with the Cadastral (Rectangular) Survey of the United States Bureau of Land Management, or by metes and bounds with a starting point determined by the aforesaid Cadastral Survey.

**I. Variations, exemptions of Commission rules and regulations**

1. Variations or exemptions from the terms and requirements of any of the rules included herein (Title 14, Chapter 2, Article 2) shall be considered upon the verified application of an affected party to the Commission setting forth the circumstances whereby the public interest requires such variation or exemption from the Commission rules and regulations. Such application will be subject to the review of the Commission, and any variation or exemption granted shall require an order of the Commission. In case of conflict between these rules and regulations and an approved tariff or order of the Commission, the provisions of the tariff or order shall apply.

**J. Prior agreements**

1. The adoption of these rules by the Commission shall not affect any agreements entered into between the utility and customers or other parties who, pursuant to such contracts, arranged for the extension of facilities in a provision of service prior to the effective date of these rules.

**R14-2-213. Conservation**

**Energy conservation plan**

1. The Arizona Corporation Commission recognizes the need for conservation of energy resources in order to maintain an adequate and continuous supply of safe, dependable, and affordable energy. Therefore, in order to promote the state's economic development and the health and welfare of its citizenry, each class A

and B electric utility shall file an energy conservation plan which encompasses at a minimum the following considerations:

- a. Development of consumer education and assistance programs to aid the populace in reducing energy consumption and cost.
  - b. Participation in various energy conservation programs sponsored by other municipal, state or federal government entities having such jurisdiction.
2. Each utility shall file an energy conservation plan with the Commission within one year of the effective date of these rules and annual updates thereafter when changes require such.

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

**ARTICLE 16. RETAIL ELECTRIC COMPETITION**

- R14-2-1601. Definitions
- R14-2-1602. Commencement of Competition
- ~~R14-2-1602. Filing of Tariffs by Affected Utilities~~
- R14-2-1603. Certificates of Convenience and Necessity
- R14-2-1604. Competitive Phases
- R14-2-1605. Competitive Services
- R14-2-1606. Services Required To Be Made Available
- R14-2-1607. Recovery of Stranded Cost of Affected Utilities
- R14-2-1608. System Benefits Charges
- R14-2-1609. Transmission and Distribution Access
- ~~R14-2-1609. Solar Portfolio Standard~~
- R14-2-1610. In-state Reciprocity
- ~~R14-2-1610. Spot Markets and Independent System Operation~~
- R14-2-1611. Rates
- ~~R14-2-1611. In-state Reciprocity~~
- R14-2-1612. Service Quality, Consumer Protection, Safety, and Billing Requirements
- ~~R14-2-1612. Rates~~
- R14-2-1613. Reporting Requirements
- ~~R14-2-1613. Service Quality, Consumer Protection, Safety, and Billing Requirements~~
- R14-2-1614. Administrative Requirements
- ~~R14-2-1614. Reporting Requirements~~

R14-2-1615 Separation of Monopoly and Competitive Services

~~R14-2-1615. Administrative Requirements~~

R14-2-1616. Code of Conduct

~~R14-2-1616. Separation of Monopoly and Competitive Services~~

R14-2-1617 Disclosure of Information

~~R14-2-1617. Affiliate Transactions~~

~~R14-2-1618. Disclosure of Information~~

## ARTICLE 16. RETAIL ELECTRIC COMPETITION

### R14-2-1601. Definitions

In this Article, unless the context otherwise requires:

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. "Aggregator" means an Electric Service Provider that combines retail electric customers into a purchasing group.
3. "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.
4. ~~"Buy through" refers to a purchase of electricity by a Load Serving Entity at wholesale for a particular retail consumer or aggregate of consumers or at the direction of a particular retail consumer or aggregate of consumers.~~
- 4.5. "Competition Transition Charge" (CTC) is a means of recovering Stranded Costs ~~from the customers of competitive services.~~
- 5.6. "Competitive Services" means all aspects of retail electric service except those services specifically defined as "Noncompetitive Services" ~~"noncompetitive services"~~ pursuant to R14-2-1601(27) (29) or noncompetitive services as defined by the Federal Energy Regulatory Commission.
- 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 such systems and contributing to frequency regulation of the interconnection.

- 7.8. “Consumer Education Information” is the provision of impartial information provided to consumers about competition or Competitive and Noncompetitive Services ~~competitive and noncompetitive services~~ and is distinct from advertising and marketing.
- 8.9. “Current Transformer” (CT) is an electrical device used in conjunction with an electric meter to provide a measurement of energy consumption for metering purposes.
- 9.10. “Direct Access Service Request” (DASR) means a form that contains all necessary billing and metering information to allow customers to switch electric service providers. This form must be submitted to the Utility Distribution Company by the customer’s Electric Service Provider ~~or the customer~~.
- 10.11. “Delinquent Accounts” means customer accounts with outstanding past due payment obligations that remain unpaid after the due date.
- 11.12. “Distribution Primary Voltage” is voltage as defined under the Affected Utility’s Federal Energy Regulatory Commission (FERC) Open Access Transmission Tariff, except for Meter Service Providers, for which Distribution Primary Voltage is voltage at or above 600 volts (600V) through and including 25 kilovolts (25 kV).
- 12.13. “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 Metering Services, Meter Reading Services, and billing and collection services, as those terms are used herein.
- 13.14. “Electronic Data Interchange” (EDI) is the computer-to-computer electronic

exchange of business documents using standard formats which are recognized both nationally and internationally.

14.15. "Electric Service Provider" (ESP) means a company supplying, marketing, or brokering at retail any Competitive Services ~~of the competitive services described in R14-2-1605 or R14-2-1606~~, pursuant to a Certificate of Convenience and Necessity.

15.16. "Electric Service Provider Service Acquisition Agreement" or "Service Acquisition Agreement" means a contract between an Electric Service Provider and a Utility Distribution Company to deliver power to retail end users or between an Electric Service Provider and a Scheduling Coordinator to schedule transmission service.

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

17.18. "Green Pricing" means a program offered by an Electric Service Provider where customers elect to pay a rate premium for ~~solar-generated~~ electricity generated by renewable resources.

18.19. "Independent Scheduling Administrator" (ISA) is an ~~a proposed~~ entity, independent of transmission owning organizations, *intended to facilitate nondiscriminatory retail direct access using the transmission system in Arizona.*

19.20. "Independent System Operator" (ISO) is an independent organization whose objective is to provide nondiscriminatory and open transmission access to the interconnected transmission grid under its jurisdiction, in accordance with the Federal Energy Regulatory Commission principles of independent system operation.

20.21. "Load Profiling" is a process of estimating a customer's hourly energy consumption based on measurements of similar customers.

21.22. "Load-Serving Entity" means an Electric Service Provider, Affected Utility or

Utility Distribution Company, excluding a Meter Service Provider, and Meter Reading Service Provider ~~or Aggregators~~.

~~22.23.~~ “Meter Reading Service” means all functions related to the collection and storage of consumption data.

~~23.24.~~ “Meter Reading Service Provider” (MRSP) means an entity providing Meter Reading Service, as that term is defined herein and that reads meters, performs validation, editing, and estimation on raw meter data to create billing-ready meter data; translates billing-ready data to an approved format; posts this data to a server for retrieval by billing agents; manages the server; exchanges data with market participants; and stores meter data for problem resolution.

~~24.25.~~ “Meter Service Provider” (MSP) means an entity providing Metering Service, as that term is defined herein.

~~25.26.~~ “Metering and Metering Service” means all functions related to measuring electricity consumption.

~~26.27.~~ “Must-Run Generating Units” are those local generating units that are required to run to maintain distribution system reliability and to meet load requirements in times of congestion on certain portions of the interconnected transmission grid.

~~28.~~ “~~Net Metering~~” or “~~Net Billing~~” is a method by which customers can use electricity from customer sited solar electric generators to offset electricity purchased from an Electric Service Provider. The customer only pays for the “~~Net~~” electricity purchased.

~~27.29.~~ “Noncompetitive Services” means Distribution Service, ~~distribution service~~, Standard Offer Service, ~~service~~ transmission and ~~Federal Energy Regulatory Commission required~~ any ancillary services deemed to be non-competitive by the Federal Energy Regulatory Commission, Must-Run Generating Units services, provision of customer demand and energy data by an Affected Utility or Utility Distribution Company to Electric Service Providers, and those ~~these~~ aspects of

Metering Service set forth in R14-2-1612(K). ~~R14-2-1613.K. All components of Standard Offer service shall be deemed noncompetitive as long as those components are provided in a bundled transaction pursuant to R14-2-1606(A).~~

28.30. "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 to enable parties to engage in transmission transactions.

29.31. "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 to provide system reliability.

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

31.33. "Provider of Last Resort" means a provider of Standard Offer Service to customers within the provider's certificated area whose annual usage is 100,000 kWh or less and who are not buying competitive services.

32.34. "Retail Electric Customer" means the person or entity in whose name service is rendered.

33.35. "Scheduling Coordinator" means an entity 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, Arizona Independent Scheduling Administrator or Independent System Operator.

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

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

34.38. "Standard Offer Service" means Bundled Service offered by the Affected Utility or Utility Distribution Company to all consumers in the Affected Utility's or Utility Distribution Company's service territory at regulated rates including metering, meter reading, billing, and collection services, demand side management services including but not limited to time-of-use, and other consumer information services. All components of Standard Offer Service shall be deemed noncompetitive as long as those components are provided in a bundled transaction pursuant to R14-2-1606(A).

35.39. "Stranded Cost" includes:

- a. The verifiable net difference between:
  - i. The net original cost 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 December 26, 1996, under traditional regulation of Affected Utilities; and
  - 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;
- c. Reasonable employee severance and retraining costs necessitated by electric competition, where not otherwise provided; and
- d. Other transition and restructuring costs as approved by the Commission as part of the Affected Utility's Stranded Cost determination pursuant to R14-2-1607.

36.40. "System Benefits" means Commission-approved utility low income, demand side management, Consumer Education, market transformation, environmental, renewables, long-term public benefit research and development and nuclear fuel

disposal and nuclear power plant decommissioning programs, and other programs that may be approved by the Commission from time to time.

37.41. "Transmission Primary Voltage" is voltage above 25 kV as it relates to metering transformers.

38.42. "Transmission Service" refers to the transmission of electricity to retail electric customers or to electric distribution facilities and that is so classified by the Federal Energy Regulatory Commission or, to the extent permitted by law, so classified by the Arizona Corporation Commission.

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

40.44. "Utility Distribution Company" (UDC) means the electric utility entity regulated by the Commission that operates ~~constructs~~ and maintains the distribution system for the delivery of power to the end user point of delivery on the distribution system.

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

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

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

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

- A. An Affected Utility's customers will be eligible for competitive electric services, subject to the phase-in schedule in R14-2-1604, on the date set by Commission Order in each Affected Utility's Stranded Cost and Unbundled Tariff proceeding.**

- B.** An Affected Utility's competitive electric affiliates or an affiliate of which it is a member shall not be permitted to offer Competitive Services in any other Affected Utility's service territory until the Commission has ordered the service area of the potential competitor's affiliated Affected Utility opened to competition.

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

- A.** Any Electric Service Provider intending to supply Competitive Services ~~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. ~~A Certificate is not required to offer information services, billing and collection services, or self aggregation. However, aggregators as defined in R14 2 1601 are required to obtain a Certificate of Convenience and Necessity and Self Aggregators are required to negotiate a Service Acquisition Agreement consistent with subsection G(6).~~ An Affected Utility need not apply for a Certificate of Convenience and Necessity to continue to provide electric service in its service area during the transition period set forth in R14-2-1604. A Utility Distribution Company providing Affected Utility providing distribution and Standard Offer Service ~~service~~ after January 1, 2001 need not apply for a Certificate of Convenience and Necessity. All other Affected Utility affiliates created in compliance with R14-2-1615(A) ~~R14 2 1616(A)~~ shall be required to apply for appropriate Certificates of Convenience and Necessity.
- 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. 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 if appropriate and to 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. A description of the form of ownership (for example, partnership, corporation);
  7. An explanation of how the applicant intends to comply with the requirements of R14-2-1616, or a request for waiver or modification thereof with an accompanying justification for any such requested waiver or modification.
  - 8.7. 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.
  - D. The applicant shall provide public notice of the application as required by the Commission.
  - E. At the time of filing for a Certificate of Convenience and Necessity, each applicant shall notify the Affected Utilities, Utility Distribution Companies or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission in whose service territories it wishes to offer service of the application by providing a copy serving notification of the application to ~~on~~ the Affected Utilities, Utility Distribution Companies or an electric utility not subject to the jurisdiction of the Arizona Corporation

Commission. Prior to Commission action, each applicant shall provide written notice to the Commission that it has provided notification to each of the respective Affected Utilities, Utility Distribution Companies or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission. The attachment to the CC&N application should include a listing of the names and addresses of the notified Affected Utilities, Utility Distribution Companies or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission.

- F.** The Commission may issue a Certificate of Convenience and Necessity that is effective for a specified period of time if the applicant has limited or no experience in providing the retail electric service that is being requested. An applicant receiving such approval shall have the responsibility to apply for appropriate extensions.
- G.** 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;
  3. Seeks certification as a Load-Serving Entity and does ~~Does~~ not have an Electric Service Provider Service Acquisition Agreement with a Utility Distribution Company and Scheduling Coordinator, if the applicant is not its own Scheduling Coordinator;
  4. Fails to provide a performance bond, if required;
  5. Fails to demonstrate that its certification will serve the public interest;
  6. Seeks certification as a Load-Serving Entity and fails ~~Fails~~ to submit an executed Service Acquisition Agreement with a Utility Distribution Company or a Scheduling Coordinator for approval by the Director, Utilities Division prior to the offering of service to potential customers.
- H.** A Request for approval of an executed Service Acquisition Agreement may be included with an application for a Certificate of Convenience and Necessity. In all negotiations

relative to Service Acquisition Agreements ~~service acquisition agreements~~ Affected Utilities or their successor entities are required to negotiate in good faith.

**I.** 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, 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 including relevant tax licenses.
7. The Electric Service Provider shall comply with all disclosure requirements pursuant to R14-2-1617 ~~R14-2-1618~~;
8. Failure to comply with any of the above conditions may result in rescission of the Electric Service Provider's Certificate of Convenience and Necessity.

**J.** Time-frames for processing applications for Certificates of Convenience and Necessity

1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.

2. Within 120 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
5. Within 180 calendar days after an application is deemed administratively complete, the Commission shall approve or reject the application.
6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
  - a. Administrative completeness review time-frame: 120 calendar days.
  - b. Substantive review time-frame: 180 calendar days.
  - c. Overall time-frame: 300 calendar days.
7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

**K.** 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**

A. At the date established pursuant to R14-2-1602(A), each ~~Each~~ Affected Utility shall make available at least 20% of its 1995 system retail peak demand for competitive generation supply on a first-come, first-served basis as further described in this rule. First-come, first-served for the purpose of this rule, shall be determined for non-residential customers by the date and time of an Electric Service Provider's filing of a Direct Access Service Request with the Affected Utility or Utility Distribution Company. The effective date of the Direct Access Service Request must be within ~~60~~<sup>180</sup> days of the filing date of the Direct Access Service Request. Residential customer selection will be determined under approved residential phase-in programs as specified in R14-2-1604.B.4.

1. All Affected Utility customers with single premise non-coincident peak demand load of 1 MW or greater will be eligible for competitive electric services upon the commencement of competition. ~~no later than January 1, 1999.~~ Customers meeting this requirement shall be eligible for competitive services until at least 20% of the Affected Utility's 1995 system peak demand is served by competition.
2. During 1999 and 2000, an Affected Utility's customers with single premise non-coincident peak load demands of 40 kW or greater aggregated by an Electric Service Provider into a combined load of 1 MW or greater within the Affected Utility's service territory will be eligible for competitive electric services. ~~Self-aggregation is also allowed pursuant to the minimum and combined load demands set forth in this rule.~~ If peak load data are not available, the 40 kW criterion shall be determined to be met if the customer's usage exceeded 16,500 kWh in any month within the last 12 consecutive months. From the commencement of competition pursuant to R14-2-1602 ~~January 1, 1999,~~ through December 31,

2000, aggregation of new competitive customers will be allowed until such time as at least 20% of the Affected Utility's 1995 system peak demand is served by competitors. At that point all additional aggregated customers must wait until January 1, 2001 to obtain competitive service.

3. Affected Utilities shall notify customers eligible under this subsection of the terms of the subsection no later than 60 days prior to the start of competition within its service territory ~~October 31, 1998~~.

**B.** As part of the minimum 20% of 1995 system peak demand set forth in R14-2-1604(A), each Affected Utility shall reserve a residential phase-in program that provides an increasing minimum percentage of residential customers with access to competitive electric services according to the following schedule: ~~with the following components:~~

1. <u>January 1, 1999</u>	<u>1 ¼%</u>
<u>April 1, 1999</u>	<u>2 ½%</u>
<u>July 1, 1999</u>	<u>3 ¾%</u>
<u>October 1, 1999</u>	<u>5%</u>
<u>January 1, 2000</u>	<u>6 ¼%</u>
<u>April 1, 2000</u>	<u>7 ½%</u>
<u>July 1, 2000</u>	<u>8 ¾%</u>
<u>October 1, 2000</u>	<u>10%</u>

~~1. A minimum of 1¼% of residential customers as of January 1, 1999 will have access to competitive electric services on January 1, 1999. The number of customers eligible for the residential phase-in program shall increase by an additional 1¼% 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. Residential customers participating in the residential phase-in program shall be

permitted to use load profiling to satisfy the requirements for hourly consumption data; however, they may choose other metering options offered by their Electric Service Provider consistent with the Commission's rules on Metering.

4. If not already done, each ~~Each~~ Affected Utility shall file a residential phase-in program proposal to the Commission for approval by Director, Utilities Division by September 15, 1999, ~~1998~~. Interested parties will have until September 30, 1999, ~~29, 1998~~, to comment on any proposal. At a minimum, the residential phase-in program proposal will include specifics concerning the Affected Utility's proposed:

- 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 education and information services to be offered;
- d. Load Profiling methodology and actual load profiles, if available; and
- e. Method for calculation of reserved load.

5. After the commencement of competition pursuant to R15-2-1602, each ~~Each~~ Affected Utility shall file quarterly residential phase-in program reports within 45 days of the end of each quarter. The 1<sup>st</sup> such report shall be due within 45 days of the 1<sup>st</sup> quarter ending after the start of the phase-in of competition for that Affected Utility, ~~March 31, 1999~~. The final report due under this rule shall be due within 45 days of the quarter ending December 31, 2002. As a minimum, these quarterly reports shall include:

- a. The number of customers and the load currently enrolled in residential phase-in program by Energy Service Provider; ~~energy service provider~~;
- b. The number of customers currently on the waiting list;
- c. A description and examples of all customer education programs and other

information services including the goals of the education program and a discussion of the effectiveness of the programs; and

- d. An overview of comments and survey results from participating residential customers.
- C. Each Affected Utility shall file a report by November 1, 1999, ~~September 15, 1998~~, detailing possible mechanisms to provide benefits, including ~~such as~~ rate reductions of 3% - 5%, to all Standard Offer customers.
- D. All customers shall be eligible to obtain competitive electric services no later than January 1, 2001, ~~at which time all customers shall be permitted to aggregate, including aggregation across service territories.~~
- ~~E. Subject to the minimum 20% limitation described in subsection (A) of this Section, all customers who produce or purchase at least 10% of their annual electricity consumption from photovoltaic or solar thermal electric resources installed in Arizona after January 1, 1997 shall be selected for participation in the competitive market if those customers apply for participation in the competitive market.~~
- E.F.** 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. A Load Serving Entity may, beginning January 1, 1999, engage in buy throughs with individual or aggregated consumers. Any buy through contract shall ensure that the consumer pays all non-bypassable charges that would otherwise apply. Any contract for a buy through effective prior to January 1, 1999 must be approved by the Commission.~~
- E.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(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**

Competitive Services shall require a Certificate of Convenience and Necessity and a tariff as described in R14-2-1603. A properly certificated Electric Service Provider may offer Competitive Services ~~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 Noncompetitive services as defined by R14 2 1601.29 or Noncompetitive services as defined by the Federal Energy Regulatory Commission. Billing and collection services, information services, and self aggregation services do not require a Certificate of Convenience and Necessity. Aggregation of retail electric customers into a purchasing group is considered to be a competitive service.~~

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

- A. On the date its service area is open to competition pursuant to R14-2-1602, each ~~Each~~ Affected Utility or Utility Distribution Company shall make available ~~to all consumers in its service area, as defined on the date indicated in R14 2 1602,~~ Standard Offer Service and Noncompetitive Services ~~bundled generation, transmission, ancillary, distribution, and other necessary services~~ at regulated rates. After January 1, 2001, Standard Offer Service and Noncompetitive Services ~~service~~ shall be provided by Utility Distribution Companies who shall also act as Providers of Last Resort.

B. After January 1, 2001, power purchased by a an investor owned Utility Distribution Company to provide serve Standard Offer Service customers, ~~except purchases made through spot markets,~~ shall be acquired through the open market. ~~competitive bid. Any resulting contract in excess of 12 months shall contain provisions allowing the Utility Distribution Company to ratchet down its power purchases. A Utility Distribution Company may request that the Commission modify any provision of this subsection for good cause.~~

C. Standard Offer Tariffs

1. By July 1, 1999, or pursuant to Commission Order, whichever occurs first, the date indicated in R14-2-1602, each Affected Utility shall may file proposed tariffs to provide Standard Offer Service. ~~Bundled Service and Such~~ such rates shall not become effective until approved by the Commission. Any rate increase proposed by an Affected Utility or Utility Distribution Company for Standard Offer Service must be fully justified through a rate case proceeding. ~~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. Standard Offer Service tariffs shall include the following elements:

a. Electricity:

- (1) Generation
- (2) Competition Transition Charge
- (3) Must-Run Generating Units

b. Delivery:

- (1) Distribution services
- (2) Transmission services
- (3) Ancillary services

c. Other:

- (1) Metering Service

(2) Meter Reading Service

(3) Billing and collection

d. System Benefits

The Competition Transition Charge shall be included in the Standard Offer Service tariffs for the purpose of clearly showing that portion of Standard Offer Service charges being collected to pay Stranded Cost.

3. 2. Affected Utilities and Utility Distribution Companies 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 or Utility Distribution Company for Standard Offer Service service must be fully justified through a rate case proceeding, which may be expedited at the discretion of the Utilities Division Director.

4. 3. Such rates shall reflect the costs of providing the service.

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

6. After January 2, 2001, tariffs for Standard Offer Service shall not include any special discounts or contracts with terms, or any tariff which prevents the customer from accessing a competitive option, other than time-of-use rates, interruptible rates or self-generation deferral rates.

D. By July 1, 1999, or pursuant to Commission Order, whichever occurs first, the date indicated in R14-2-1602, each Affected Utility or Utility Distribution Company shall file an Unbundled Service tariffs which shall include a Noncompetitive Services tariff. to provide the services listed below to the extent allowed by these rules to all eligible purchasers on a nondiscriminatory basis. Other entities seeking to provide any of these services must also file tariffs consistent with these rules:

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

E. To manage its risks, an Affected Utility or Electric Service Provider may include in its tariffs deposit requirements and advance payment requirements for Unbundled Services.

F. Affected Utilities and Utility Distribution Companies must accept power and energy delivered to their distribution systems by other Load-Serving Entities and offer distribution and distribution-related ancillary services comparable to services they provide to themselves at their Noncompetitive Services tariffed rates. ~~The Affected Utilities must provide transmission and ancillary services according to the following guidelines:~~

1. ~~Services must be provided consistent with applicable tariffs filed with the Federal Energy Regulatory Commission.~~
2. ~~Unless otherwise required by federal regulation, Affected Utilities must accept power and energy delivered to their transmission systems by others and offer transmission and related services comparable to services they provide to themselves.~~

G. Customer Data

1. Upon written authorization by the customer, a Load-Serving Entity 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 properly certificated 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.
4. Utility Distribution Companies shall be allowed access to the Meter Reading Service Provider server for customers served by the Utility Distribution Company's distribution system.

**H. Rates for Unbundled Services**

1. The Commission shall review and approve rates for Competitive Services and Noncompetitive Services subject to Commission ~~services listed in R14 2-1606(D) and requirements listed in R14 2-1606(E), 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.

- I.** Electric Service Providers offering Competitive Services ~~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.

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

- A.** The Affected Utilities shall take every reasonable, cost-effective measure to mitigate or offset Stranded Cost by reducing costs, ~~means such as~~ expanding wholesale or retail markets, or offering a wider scope of permitted regulated utility services for profit, among others.
- B.** The Commission shall allow a reasonable opportunity for recovery of unmitigated

Stranded Cost by Affected Utilities.

- C. The Affected Utilities shall file estimates of unmitigated Stranded Cost on or before July 1, 1999, or pursuant to Commission Order, whichever occurs first. Such estimates shall be fully supported by analyses and by records of market transactions undertaken by willing buyers and willing sellers.
- D. An Affected Utility shall request Commission approval, on or before July 1, 1999, or pursuant to Commission Order, whichever occurs first, ~~August 21, 1998,~~ of distribution charges or other means of recovering unmitigated Stranded Cost. The filing may include a discounted stranded cost exit methodology that a consumer may choose to use to determine an amount due the Affected Utility in lieu of making monthly distribution charge or other payments. ~~from customers who reduce or terminate service from the Affected Utility as a direct result of competition governed by this Article, or who obtain lower rates from the Affected Utility as a direct result of the competition governed by this Article.~~
- E. The Commission shall, after hearing and consideration of analyses and recommendations presented by the Affected Utilities, staff, and intervenors, determine for each Affected Utility the magnitude of Stranded Cost, and appropriate Stranded Cost recovery mechanisms and charges. In making its determination of mechanisms and charges, the Commission 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;
  7. Appropriate treatment of negative Stranded Cost;

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;
  - ~~9.10.~~ The applicability of Stranded Cost to interruptible customers;
  9. ~~The ease of determining the amount of Stranded Cost;~~
  11. ~~The amount of electricity generated by renewable generating resources owned by the Affected Utility.~~
- F. A Competition Competitive Transition Charge (CTC) may be assessed on all retail customers based on the amount of generation purchased from any supplier. only on 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.
- G. Stranded Cost shall be recovered from customer classes in a manner consistent with the specific company's current rate treatment of the stranded asset, in order to effect a recovery of Stranded Cost that is in substantially the same proportion as the recovery of similar costs from customers or customer classes under current rates. In no event shall the Competition Transition Charge be utilized as a mechanism for double recovery of Stranded Cost from Standard Offer Service customers.
- H. The Commission may consider securitization as a financing method for recovery of Stranded Costs of the Affected Utility if the Commission finds that such method of financing will result in a lower cost alternative to customers.
- I. The Commission may after notice and hearing order regular revisions to estimates of the magnitude of Stranded Cost.
- H. ~~The Commission may order an Affected Utility to file estimates of Stranded Cost and mechanisms to recover or, if negative, to refund Stranded Cost.~~

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

- A. ~~Each~~ ~~By the date indicated in R14-2-1602,~~ each Affected Utility or Utility Distribution Company 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 or Utility Distribution Company's ~~Companies'~~ service area, ~~who participate in the competitive market.~~ Affected Utilities or Utility Distribution Companies shall file for review of the Systems Benefits Charge at least every 3 years. The amount collected annually through the System Benefits charge shall be sufficient to fund the Affected Utilities' or Utility Distribution Companies' Commission-approved System Benefits. ~~low income, demand side management, market transformation, environmental, renewables, long term public benefit research and development, and nuclear fuel disposal and nuclear power plant decommissioning programs in effect from time to time. Now, the Commission will approve a solar water heater rebate program: \$200,000 to be allocated proportionally among the state's Utility Distribution Companies in 1999, \$400,000 in 2000, \$600,000 in 2001, \$800,000 in 2002, and \$1 million in 2003; the rebate will not be more than \$500 per system for Commission staff approved solar water heaters. After 2003, future Commissions may review this program for efficacy.~~
- B. Each Affected Utility or Utility Distribution Company shall provide adequate supporting documentation for its proposed rates for System Benefits.
- C. An Affected Utility or Utility Distribution Company 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.

**R14-2-1609. R14-2-1610. Transmission and Distribution Access**

- A. The Affected Utilities shall provide 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. Any transmission capacity that is reserved for use by the retail customers of the Affected Utility's Utility Distribution Company shall be allocated among Standard Offer customers and competitive market customers on a pro-rata basis.

**B.** Utility Distribution Companies shall retain the obligation to assure that adequate transmission import capability is available to meet the load requirements of all distribution customers within their service areas.

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

**D.C.** The Commission believes that an Independent Scheduling Administrator is necessary in order to provide non-discriminatory retail access and to facilitate a robust and efficient electricity market. Therefore, those Affected Utilities that own or operate Arizona transmission facilities shall form an Arizona Independent Scheduling Administrator which shall file with the Federal Energy Regulatory Commission within 60 days of this Commission's adoption of final rules herein, by October 31, 1998 for approval of an Independent Scheduling Administrator having the following characteristics:

1. The Arizona Independent Scheduling Administrator shall calculate Available Transmission Capacity (ATC) for Arizona transmission facilities that belong to the Affected Utilities or other Arizona Independent Scheduling Administrator participants, and shall develop and operate an overarching statewide OASIS.
2. The Arizona Independent Scheduling Administrator shall implement and oversee the non-discriminatory application of operating protocols to ensure statewide consistency for transmission access. These operating protocols shall include, but are not limited to, protocols for determining transmission system transfer capabilities, committed uses of the transmission system, available transfer capabilities, ~~and~~ Must-Run Generating Units, energy scheduling, and energy

imbalances.

3. The Arizona Independent Scheduling Administrator 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 Arizona Independent Scheduling Administrator participants shall be made to, or through, the Arizona Independent Scheduling Administrator using a single, standardized procedure.
5. The Arizona Independent Scheduling Administrator shall implement a transmission planning process that includes all Arizona Independent Scheduling Administrator participants and aids in identifying the timing and key characteristics of required reinforcements to Arizona transmission facilities to assure that the future load requirements of all participants will be met.

**E.D.** The Affected Utilities that own or operate Arizona transmission facilities shall file a proposed Arizona Independent Scheduling Administrator implementation plan with the Commission within 30 days of the Commission's adoption of final rules herein. ~~by September 1, 1998.~~ The implementation plan shall address Arizona Independent Scheduling Administrator governance, incorporation, financing and staffing; the acquisition of physical facilities and staff by the Arizona Independent Scheduling Administrator; the schedule for the phased development of Arizona Independent Scheduling Administrator functionality; contingency plans to ensure that critical functionality is in place no later than 3 months following adoption of final rules herein by the Commission; ~~by January 1, 1999;~~ and any other significant issues related to the timely and successful implementation of the Arizona Independent Scheduling Administrator.

**F.E.** Each of the Affected Utilities shall make good faith efforts to develop a regional, multi-state Independent System Operator, to which the Arizona Independent Scheduling Administrator should transfer its relevant assets and functions as the Independent System Operator becomes able to carry out those functions.

**G.F.** It is the intent of the Commission that prudently-incurred costs incurred by the Affected Utilities in the establishment and operation of the Arizona Independent Scheduling Administrator, and subsequently the Independent System Operator, should be recovered from customers using the transmission system, including the Affected Utilities' wholesale customers, Standard Offer retail customers, and competitive retail customers on a non-discriminatory basis through Federal Energy Regulatory Commission-regulated prices. Proposed rates for the recovery of such costs shall be filed with the Federal Energy Regulatory Commission and this ~~the~~ Commission. In the event that the Federal Energy Regulatory Commission does not permit recovery of prudently incurred Independent Scheduling Administrator costs within 90 days of the date of making an application with the Federal Energy Regulatory Commission, the Commission may authorize Affected Utilities to recover such costs through a distribution surcharge.

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

1. Forecast their customers' load requirements;
2. Submit balanced schedules (that is, schedules for which total generation is equal to total load of the Scheduling Coordinator's customers plus appropriate transmission and distribution line losses) and North American Electric Reliability Council/Western Systems Coordinating Council 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, Arizona Independent Scheduling Administrator or Independent System Operator;
5. Actively participate in the schedule checkout process and the settlement processes of the Control Area Operators, Arizona Independent Scheduling Administrator or Independent System Operator.

**I.H.** The Affected Utilities and Utility Distribution Companies shall provide services from the Must-Run Generating Units to Standard Offer Service retail customers and competitive retail customers on a comparable, non-discriminatory basis at regulated prices. The Affected Utilities shall specify the obligations of the Must-Run Generating Units in appropriate sales contracts prior to any divestiture. Under auspices of the Arizona Independent Scheduling Administrator, ~~Electric System Reliability and Safety Working Group~~, the Affected Utilities and other stakeholders shall develop statewide protocols for pricing and availability of services from Must-Run Generating Units ~~with input from other stakeholders~~. These protocols shall be presented to the Commission for review and, when appropriate, approval, prior to being filed with the Federal Energy Regulatory Commission in conjunction with the Arizona Independent Scheduling Administrator tariff filing. Fixed Must-Run Generating Units costs are to be recovered through a regulated charge to end-use customers. This charge must be set by the Commission as part of the end-use customer distribution service charges, ,if necessary, by October 31, 1998.

**J.** The Affected Utilities and other stakeholders, under the auspices of the Arizona Independent Scheduling Administrator, shall identify statewide services to be settled on and develop fair and reasonable pricing mechanisms to assure a consistent and fair settlement process.

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

**A.** ~~Starting on January 1, 1999, any Electric Service Provider selling electricity or~~

~~aggregating customers for the purpose of selling electricity under the provisions of this Article must derive at least .2% of the total retail energy sold competitively from new solar energy 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.~~

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

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

~~D. 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 5 years following operational start up of the solar electric system. The 5 year extra credit would vary depending upon the year in which the system 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>
<del>2000</del>	<del>.4</del>
<del>2001</del>	<del>.3</del>

2002	<del>.2</del>
2003	<del>.1</del>

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

- ~~2. Solar Economic Development Extra Credit Multipliers: There are 2 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: Any distributed solar electric generator that meets more than 1 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.~~

- ~~e. 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.~~
  - ~~e. All Green Pricing, Net Metering, Net Billing, and Solar Leasing programs must have been reviewed and approved by the Director, Utilities Division in order for the Electric Service Provider to accrue extra credit multipliers from this subsection.~~
- ~~4. 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 Electric Service Provider qualifies for a 2.0 extra credit multiplier and it produces 1 solar kWh, the Electric Service Provider would get credit for 3 solar kWh (1 produced plus 2 extra credit).~~
- ~~E. 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.~~
- ~~F. If an Electric Service Provider selling electricity under the provisions of this Article fails to meet the requirement in R14-2-1609(A) or (B) in any year, the Commission shall impose a penalty on that Electric Service Provider that the Electric Service Provider pay an amount equal to 30¢ per kWh to the Solar Electric Fund for deficiencies in the provision of solar electricity. This Solar Electric Fund will be established and 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.~~

- ~~1. The Director, Utilities Division shall establish a Solar Electric Fund in 1999 to receive deficiency payments and finance solar electricity projects.~~
  - ~~2. The Director, Utilities Division shall select an independent administrator for the selection of projects to be financed by the Solar Electric Fund. A portion of the Solar Electric Fund shall be used for administration of the Fund and a designated portion of the Fund will be set aside for ongoing operation and maintenance of projects financed by the Fund.~~
- ~~G. 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.~~
- ~~H. Any solar electric generators installed by an Affected Utility to meet the solar portfolio standard shall be counted toward meeting renewable resource goals for Affected Utilities established in Decision No. 58643.~~
- ~~I. 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.~~
- ~~J. Solar portfolio standard requirements shall be calculated on an annual basis, based upon electricity sold during the calendar year.~~
- ~~K. An Electric Service Provider shall be entitled to receive a partial credit against the solar portfolio requirement if the Electric Service Provider or its affiliate 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 and sold in a calendar year times 2,190 hours (approximating a 25% capacity factor).~~

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

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

~~2. 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 used by other Electric Service Providers to meet their Arizona solar portfolio requirements will not be allowable for credits under this Section for the manufacturer/Electric Service Provider to meet its portfolio requirements.~~

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

**R14-2-1610. R14-2-1611. In-state Reciprocity**

A. The service territories of Arizona electric utilities which are not Affected Utilities or Public Power Entities 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 or a Public Power Entity 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, and which is not a Public Power Entity, 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 other than a Public Power Entity, 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 or their affiliates. The Commission shall conduct a hearing to consider any such intergovernmental agreement.
- E. An affiliate of an Arizona electric utility which is not an Affected Utility or a Public Power Entity shall not be allowed to compete in the service territories of Affected Utilities unless the affiliate's parent company, the non-affected electric utility, submits a

statement to the Commission indicating that the parent company will voluntarily open its service territory for competing sellers in a manner similar to the provisions of this Article and the Commission makes a finding to that effect.

**R14-2-1611, R14-2-1612. Rates**

- A. Market determined rates for Competitive Services, ~~competitively provided services~~ as defined in R14-2-1601, 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. Prior to January 1, 2001, ~~the date indicated in R14-2-1604(D)~~, 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, Utilities Division as soon as practicable. If a contract does not comply with the provisions of the Load Serving Entity's this Article and the Affected Utility's or Electric Service Provider's approved tariffs, it shall not become effective without a Commission order. The terms of such ~~Such~~ contracts shall be kept confidential by the Commission.
- D. Contracts entered into on or after January 1, 2001, ~~the date indicated in R14-2-1604(D)~~ which comply with approved tariffs need not be filed with the Director, Utilities Division. If a contract does not comply with the provisions of the Load Serving Entity's this Article and the Affected Utility's or the Electric Service Provider's approved tariffs it shall not become effective without a Commission order.
- E. An Electric Service Provider holding a Certificate pursuant to this Article may price its Competitive Services ~~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 shall become effective only upon Commission approval.

**R14-2-1612. 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. R14-2-203(E) and R14-2-212(H) shall pertain only to Utility Distribution Companies.
- B. The following shall not apply to this Article:
1. R14-2-202 in its entirety,
  2. R14-2-206 in its entirety,
  3. R14-2-207 in its entirety,
  4. R14-2-212 (F)(1),
  5. R14-2-213,
  6. R14-2-208(E) and (F).
- C. No consumer shall be deemed to have changed providers of any service authorized in this Article (including changes from ~~supply by~~ the Affected Utility to another provider) without written authorization by the consumer for service from the new provider. If a consumer is switched (~~or slammed~~) to a different ("new") provider without such written authorization, the new provider shall cause service by the previous provider to be resumed and the new provider shall bear all costs associated with switching the consumer back to the previous provider. A Utility Distribution Company has the right to review or audit written authorizations to assure a customer switch was properly authorized. A written authorization that is obtained by deceit or deceptive practices shall not be deemed

a valid written authorization. Electric Service Providers shall submit reports within 30 days of the end of each calendar quarter 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 unauthorized changes of providers may result in penalties, or suspension or revocation of the provider's certificate.

- D. A residential customer ~~with an annual load of 100,000 kWh or less~~ may rescind its authorization to change providers of any service authorized in this Article within 3 business days, without penalty, by providing written notice to the provider.
- E. 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. Utility Distribution Companies shall make reasonable efforts to notify customers of scheduled outages, and also provide notification to the Commission.
- F. Each Electric Service Provider shall provide at least 45 days notice to all of its affected consumers of its intent to cease providing generation, transmission, distribution, or ancillary services necessitating that the consumer obtain service from another supplier of generation, transmission, distribution, or ancillary services.
- G. All Electric Service Providers rendering service under this Article shall submit accident reports as required in R14-2-101.
- H. 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.
- I. Electric Service Providers shall give at least 5 days notice to their customer and to the appropriate Utility Distribution Company of scheduled return to ~~the~~ Standard Offer

Service, but that return of that customer to ~~the~~ Standard Offer Service would be at the next regular billing cycle if appropriate metering equipment is in place, and the request is processed 15 calendar days prior to the next regular read date. Responsibility for charges incurred between the notice and the next scheduled read date shall rest with the Electric Service Provider.

**J.** Each Electric Service Provider shall ensure that bills rendered on its behalf include its address and toll free telephone numbers for billing, service, and safety inquiries. The bill must also include the address and toll free telephone numbers for the Phoenix and Tucson Consumer Service Sections of the Arizona Corporation Commission Utilities Division. Each Electric Service Provider shall ensure that billing and collections services rendered on its behalf comply with R14-2-1612(A), ~~R14-2-1613(A)~~.

**K.** 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 using EDI formats to meter reading data to other Electric Service Providers serving that same consumer when authorized by the consumer.
2. Any person or entity 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. Each competitive customer shall be assigned a Universal Node Identifier for each service delivery point by the Affected Utility or the Utility Distribution Company whose distribution system serves the customer.
4. Unless the Commission grants a specific waiver, all ~~All~~ competitive metered and billing data shall be translated into consistent, statewide Electronic Data Interchange (EDI) formats based on standards approved by the Utility Industry Group (UIG) that can be used by the Affected Utility or the Utility Distribution

Company and the Electric Service Provider.

5. Unless the Commission grants a specific waiver, an An Electronic Data Interchange Format shall be used for all data exchange transactions from the Meter Reading Service Provider to the Electric Service Provider, Utility Distribution Company, and Schedule Coordinator. This data will be transferred via the Internet using a secure sockets layer or other secure electronic media.
6. Minimum metering requirements for competitive customers over 20 kW, or 100,000 kWh annually, should consist of hourly consumption measurement meters or meter systems. Predictable loads will be permitted to use load profiles to satisfy the requirements for hourly consumption data. The Affected Utility or Electric Service Provider will make the determination if a load is predictable.
7. Competitive customers with hourly loads of 20 kW (or 100,000 kWh annually) or less, will be permitted to use Load Profiling to satisfy the requirements for hourly consumption data- , however, they may choose other metering options offered by their Electric Service Provider consistent with the Commission rules on Metering.
8. Metering equipment ownership will be limited to the Affected Utility, Utility Distribution Company, and the Electric Service Provider or their representative, or the customer, who must obtain the metering equipment through ~~obtains the meter from~~ the Affected Utility, ~~or~~ Utility Distribution Company or an Electric Service Provider.
9. Maintenance and servicing of the metering equipment will be limited to the Affected Utility, Utility Distribution Company and the Electric Service Provider or their representative.
10. Distribution primary voltage Current Transformers and Potential Transformers may be owned by the Affected Utility, Utility Distribution Company or the Electric Service Provider or their representative.
11. Transmission primary voltage Current Transformers and Potential Transformers

may be owned by the Affected Utility or Utility Distribution Company only.

12. North American Electric Reliability Council recognized holidays will be used in calculating "working days" for meter data timeliness requirements.
13. By May 1, 1999, the Director, Utilities Division shall approve operating procedures ~~The operating procedures approved by the Director, Utilities Division will~~ be used by the Utility Distribution Companies and the Meter Service Providers for performing work on primary metered customers.
14. By May 1, 1999, the Director, Utilities Division shall approve operating procedures to ~~The rules approved by the Director, Utilities Division will~~ be used by the Meter Reading Service Provider for validating, editing, and estimating metering data.
15. By May 1, 1999, the Director, Utilities Division shall approve performance metering specifications and standards to ~~The performance metering specifications and standards approved by the Director, Utilities Division will~~ be used by all entities performing metering.

**L.M.** 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.

**L.** ~~Working Group on System Reliability and Safety~~

- ~~1. 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.~~
  - ~~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.~~

- e. ~~The working group shall be coordinated by the Director, Utilities Division of the Commission or by the Director's 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.~~

M.N. 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.

N.O. ~~Unbundled~~ Billing Elements. After the commencement of competition within a service territory pursuant to R14-2-1602, all customer bills, including bills for Standard Offer customers within that service territory, All customer bills after January 1, 1999 will list, at a minimum, the following billing cost elements:

1. Electricity Costs:
  - a. Generation,
  - b. Competition Transition Charge, and
  - c. Fuel or purchased power adjustor, if applicable;
2. Delivery costs:
  - a. Distribution services, and
  - b. Transmission services; ~~and~~
  - e. ~~Ancillary services~~
3. Other Costs:
  - a. Metering Service,
  - b. Meter Reading Service,
  - c. Billing and collection, and

d. System Benefits charge.

**O.P.** The operating procedures approved by the Director, Utilities Division will be used for Direct Access Service Requests as well as other billing and collection transactions.

**R14-2-1613. R14-2-1614. Reporting Requirements**

A. Reports covering the following items, as applicable, shall be submitted to the Director, Utilities Division by Affected Utilities or Utility Distribution Companies 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:

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;~~
- ~~3.4.~~ Revenues from sales by customer class (for example, residential, commercial, industrial);
- ~~4.5.~~ Number of retail customers disaggregated as follows: residential, commercial under 40 kW, commercial 41 to 999 kW, commercial 1000 kW or more, industrial less than 1000 kW, industrial 1000 kW or more, agricultural (if not included in commercial), and other;
- ~~5.6.~~ 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);
- ~~6.7.~~ Amount of and revenues from each type of Competitive Service, ~~service provided under R14-2-1605~~, and, if applicable, each type of Noncompetitive Service provided; ~~R14-2-1606~~;
- ~~7.8.~~ Value of all assets used to serve Arizona customers and accumulated

depreciation;

~~8.9.~~ Tabulation of Arizona electric generation plants owned by the Electric Service Provider broken down by generation technology, fuel type, and generation capacity;

~~9.10.~~ The number of customers aggregated and the amount of aggregated load;

~~10.11.~~ Other data requested by staff or the Commission;

~~12.~~ ~~In addition, prior to the date indicated in R14-2-1604(D), Affected Utilities shall provide data demonstrating compliance with the requirements of R14-2-1604.~~

A. 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 1st 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 (covering the previous period of January through December). The 1st such report shall cover the period January 1 through December 31, 2004.

C. The information listed above may, at the provider's option, 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.

**R14-2-1614. R14-2-1615. Administrative Requirements**

- A. Any Electric Service Provider certificated under this Article may file proposed additional tariffs for Competitive Services ~~services~~ at any time which include a description of the service, maximum rates, terms and conditions. ~~The proposed new 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.
- D. The Commission may develop procedures for resolving disputes regarding implementation of retail electric competition.
- E. Prior to October 1, 1999, the Director, Utilities Division shall implement a Consumer Education Program as approved by the Commission.

**R14-2-1615. R14-2-1616. Separation of Monopoly and Competitive Services**

- A. All competitive generation assets and Competitive Services shall be separated from an

Affected Utility prior to January 1, 2001. Such separation shall either be to an unaffiliated party or to a separate corporate affiliate or affiliates. If an Affected Utility chooses to transfer its competitive generation assets or Competitive Services to a competitive electric affiliate, such transfer shall be at a value determined by the Commission to be fair and reasonable.

- B. Beginning January 1, ~~2001, 1999~~, an Affected Utility or Utility Distribution Company shall not provide Competitive Services ~~competitive services as defined in R14-2-1601. competitive services as defined herein, except as otherwise authorized by these rules or by the Commission. However, this rule does not preclude an Affected Utility's or Utility Distribution Company's affiliate from providing competitive services. Nor does this rule preclude an Affected Utility or Utility Distribution Company from billing its own customers for distribution service, or from providing billing services to Electric Service Providers in conjunction with its own billing or from providing meters for Load Profiled residential customers. Nor does this rule require an Affected Utility or Utility Distribution Company to separate such assets or services utilized in these circumstances. Affected Utilities and Utility Distribution Companies shall provide, if requested by an Electric Service Provider or customer, metering, meter reading, billing, and collection services within their service territories at tariffed rates to customers that do not have access to these services during the years 1999 and 2000, subject to the following limitations. The Affected Utilities and Utility Distribution Companies shall be allowed to continue to provide metering and meter reading services to competitive customers within their service territories at tariffed rates until such time as 2 or more competitive Electric Service Providers are offering such services to a particular customer class. When 2 competitive Electric Service Providers are providing such services to a particular customer class, the Affected Utilities and Utility Distribution Companies will no longer be allowed to offer the service to new competitive customers in that customer class, but may continue to offer the service through December 31, 2000, to the existing competitive~~

~~customers signed up prior to the commencement of service by the 2 competitive Electric Service Providers.~~

1. This Section does not preclude an Affected Utility or Utility Distribution Company from billing its own customers for distribution service, or from providing billing services to Electric Service Providers in conjunction with its own billing, or from providing meters for Load Profiled residential customers. Nor does this Section preclude an Affected Utility or Utility Distribution Company from providing billing and collections, Metering and Meter Reading Service as part of the Standard Offer Service tariff to Standard Offer Service customers.
  2. This Section does not preclude an Affected Utility or Utility Distribution Company from owning distribution and transmission primary voltage Current Transformers and Potential Transformers.
- C. An Electric Distribution Cooperative is not subject to the provisions of ~~R14-2-1615 R14-2-1616~~ unless ~~except~~ if it offers competitive electric services outside of the service territory it had as of the effective date of these rules. A Generation Cooperative shall be subject to the same limitations to which its member Distribution Cooperatives are subject.
- D. ~~To meet the solar portfolio requirement in R14-2-1609, the Utility Distribution Company may purchase, install, and operate the solar electric systems or contract with an affiliate to meet the solar portfolio requirement.~~

**R14-2-1616. R14-2-1617. Code of Conduct Affiliate Transactions**

No later than 90 days after adoption of these Rules, each Affected Utility which plans to offer Noncompetitive Services and Competitive Services through its competitive electric affiliate shall propose a code of conduct to prevent anti-competitive activities. The code of conduct shall be subject to Commission approval.

~~A. Separation~~

~~An Affected Utility or Utility Distribution Company and its affiliates shall operate as separate corporate entities. Books and records shall be kept separate, in accordance with applicable Uniform System of Accounts (USOA) and Generally Accepted Accounting Procedures (GAAP). The books and records of any Electric Service Provider that is an affiliate of an Affected Utility or Utility Distribution Company shall be open for examination by the Commission and its staff consistent with the provisions set forth in R14-2-1614. All proprietary information shall remain confidential.~~

- ~~1. An Affected Utility or Utility Distribution Company shall not share office space, equipment, services, and systems with its competitive electric affiliates, nor access any computer or information systems of one another, except to the extent appropriate to perform shared corporate support functions permitted under subsection (A)(2). An Affected Utility or Utility Distribution Company shall not share office space, equipment, services, and systems with its other affiliates without full compensation in accordance with subsection (A)(7).~~
- ~~2. An Affected Utility or Utility Distribution Company, 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 systems and personnel. Any shared support shall be priced, reported and conducted in accordance with all applicable Commission pricing and reporting requirements. An Affected Utility or Utility Distribution Company 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, and shall provide mechanisms and safeguards against such activity in its compliance plan.~~
- ~~3. An affiliate of an Affected Utility or Utility Distribution Company shall not trade, promote, or advertise its affiliation with the Affected Utility or Utility~~

~~Distribution Company, nor use or make use of the Affected Utility's name or logo in any material circulated by the affiliate, unless it discloses in plain legible or audible language, on the first page or at the first instance the Affected Utility or Utility Distribution Company name or logo appears, that:~~

- ~~a. The affiliate is not the same company as the Affected Utility or Utility Distribution Company, and~~
  - ~~b. Customers do not have to buy the affiliate product in order to continue to receive quality regulated services from the Affected Utility or Utility Distribution Company.~~
- ~~4. An Affected Utility or Utility Distribution Company 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 or Utility Distribution Company shall not participate in joint advertising, marketing or sales with its affiliates. Any joint communication and correspondence with an existing customer by an Affected Utility or Utility Distribution Company and its affiliate shall be limited to consolidated billing, when applicable, and in accordance with these rules.~~
  - ~~6. Except as provided in subsection A(2), an Affected Utility or Utility Distribution Company and its 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 Utility Distribution Company, or its affiliate, but not both. Where the Affected Utility 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 or Utility Distribution Company and its affiliates, all such transfers shall be subject to the following price provisions:~~

~~a. Goods and services provided by an Affected Utility or Utility Distribution Company to an affiliate shall be transferred at the price and under the terms and conditions specified in its tariff. If the goods or service to be transferred is a non-tariffed item, the transfer price shall be the higher of fully allocated cost or the market price. Transfers from an affiliate to its affiliated Utility Distribution Company shall be priced at the lower of fully allocated cost or fair market value.~~

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

~~8. No Cross subsidization: A competitive affiliate of an Affected Utility or Utility Distribution Company shall not be subsidized by any rate or charge for any noncompetitive service, and shall not be provided access to confidential utility information.~~

**B. Access to Information**

~~As a general rule, an Affected Utility, Utility Distribution Company or Electric Service Provider shall provide customer information to its affiliates and nonaffiliates 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, Utility Distribution Company or Electric Service Provider to its affiliates and all other service providers on the same terms and conditions.~~

~~C. An Affected Utility or Utility Distribution Company shall adhere to the following guidelines:~~

- ~~1. Any list of Electric Service Providers provided by an Affected Utility or Utility Distribution Company to its customers which includes or identifies the Affected Utility's or Utility Distribution Company's competitive electric affiliates must include or identify non-affiliated entities included on the list of those Electric Service Providers authorized by the Commission to provide service within the Affected Utility's or Utility Distribution Company's certificated area. The Commission shall maintain an updated list of such Electric Service Providers and make that list available to Affected Utilities or Utility Distribution Companies at no cost.~~
- ~~2. An Affected Utility or Utility Distribution Company may provide non-public supplier information and data, which it has received from unaffiliated suppliers, to its affiliates or nonaffiliated entities only if the Affected Utility or Utility Distribution Company receives prior authorization from the supplier.~~
- ~~3. Except as otherwise provided in these rules, an Affected Utility or Utility Distribution Company shall not offer or provide customers advice, which includes promoting, marketing or selling, about its affiliates or other service providers.~~
- ~~4. An Affected Utility or Utility Distribution Company shall maintain contemporaneous records documenting all tariffed and nontariffed 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 3 years, or longer if required by this Commission or another governmental agency.~~

**D. Nondiscrimination**

~~An Affected Utility, Utility Distribution Company, or their affiliates shall not represent that, as a result of the affiliation, customers of such affiliates will receive any treatment different from that provided to other, non-affiliated entities or their customers. An~~

~~Affected Utility, Utility Distribution Company, or their affiliates shall not provide their affiliates, or customers of their affiliates, any preference over non affiliated supplies or their customers in the provision of services. For example:~~

- ~~1. Except when made generally available by an Affected Utility, Utility Distribution Company or their affiliates, through an open competitive bidding process, if the Affected Utility, Utility Distribution Company or their affiliates 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 their affiliates are involved, the entity shall contemporaneously make such discount or waiver available to all.~~
- ~~2. If a tariff provision allows for discretion in its application, an Affected Utility or Utility Distribution Company shall apply that provision equally among its affiliates and all other market participants and their respective customers.~~
- ~~3. Requests from affiliates and non affiliated entities and their customers for services provided by the Affected Utility or Utility Distribution Company shall be processed on a nondiscriminatory basis.~~
- ~~4. An Affected Utility or Utility Distribution Company 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. In the course of business development and customer relations, except as otherwise provided in these rules, an Affected Utility or Utility Distribution Company shall refrain from:
  - ~~a. Providing leads to its affiliates;~~
  - ~~b. Soliciting business on behalf of affiliates;~~
  - ~~c. Acquiring information on behalf of, or provide information to, its affiliates;~~~~

- 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.~~

**E. Compliance Plans**

~~No later than December 31, 1998, each Affected Utility or Utility Distribution Company shall file a compliance plan demonstrating 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 Director, Utilities Division and shall be in effect until a determination is made regarding its compliance under these rules. The compliance plan shall thereafter be submitted annually to reflect any material changes. An Affected Utility or Utility Distribution Company shall have a performance audit prepared by an independent auditor in the 1<sup>st</sup> quarter after the end of each calendar year to examine compliance with the rules set forth herein, starting no later than the calendar year 1999, and every year thereafter until December 31, 2002. Such audits shall be filed with the Director, Utilities Division. After December 31, 2002 the Director, Utilities Division may request a Utility Distribution Company to conduct such an audit.~~

**F. Waivers**

1. ~~Any affected entity may petition the Commission for a waiver by filing a verified application for waiver setting forth with specificity the circumstances whereby the public interest justifies a waiver from all or part of the provisions of this rule.~~
2. ~~The Commission may grant such application upon a finding that a waiver is in the public interest.~~

**R14-2-1617. R14-2-1618. Disclosure of Information**

- A. ~~There are efforts under the auspices of the Western Conference of Public Service Commissioners to develop a tracking mechanism as to the source of electrons. To facilitate customer choice, the Commission intends to participate in developing this tracking mechanism and a side by side comparison for retail customers on price, price~~

~~variability, fuel mix, and emissions of electricity offered for sale in Arizona and the West. Until this is accomplished, R14-2-1618 is a placeholder.~~

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

1. Price to be charged for generation services,
2. Price variability information,
3. Customer service information,
4. ~~Composition of resource portfolio,~~
5. ~~Fuel mix characteristics of the resource portfolio,~~
6. ~~Emissions characteristics of the resource portfolio,~~
- 4.7. Time period to which the reported information applies.

B. Each Load-Serving Entity shall provide, upon request, the following information (to the extent reasonably known):

1. Composition of resource portfolio.
2. Fuel mix characteristics of the resource portfolio.
3. Emissions characteristics of the resource portfolio.

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

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

E. Each Load-Serving Entity shall prepare an annual disclosure report that aggregates the

resource portfolios of the Load-Serving Entity and its affiliates.

**F.** Each Load-Serving Entity shall prepare a statement of its terms of service that sets forth the following information:

1. Actual pricing structure or rate design according to which the customer with a load of less than 1 MW will be billed, including an explanation of price variability and price level adjustments that may cause the price to vary;
2. Length and description of the applicable contract and provisions and conditions for early termination by either party;
3. Due date of bills and consequences of late payment;
4. Conditions under which a credit agency is contacted;
5. Deposit requirements and interest on deposits;
6. Limits on warranties and damages;
7. All charges, fees, and penalties;
8. Information on consumer rights pertaining to estimated bills, 3<sup>rd</sup> party billing, deferred payments, and rescission ~~recission~~ of supplier switches within 3 days of receipt of confirmation;
9. A toll-free telephone number for service complaints;
10. Low income programs and low income rate eligibility;
11. Provisions for default service;
12. Applicable provisions of state utility laws; and
13. Method whereby customers will be notified of changes to the terms of service.

**G.** The consumer information label, the disclosure report, and the terms of service shall be distributed in accordance with the following requirements:

1. Prior to the initiation of service for any retail customer,
2. Prior to processing written authorization from a retail customer with a load of less than 1 MW to change Electric Service Providers,
3. To any person upon request,

4. Made a part of the annual report required to be filed with the Commission pursuant to law,

5. The information described in this subsection shall be posted on any electronic information medium of the Load-Serving Entities.

**H.** Failure to comply with the rules on information disclosure or dissemination of inaccurate information may result in suspension or revocation of certification or other penalties as determined by the Commission.

**I.** The Commission shall ~~may~~ establish a consumer information advisory panel to review the effectiveness of the provisions of this Section and to make recommendations for changes in the rules.

**APPENDIX B****Amendments to Retail Electric Competition Rules  
Economic, Small Business and Consumer Impact Statement****A. Economic, small business and consumer impact summary.****1. Proposed rulemaking.**

The proposed rules amend the rules adopted on December 11, 1998 in Decision No. 61272 (R14-2-201 through -204, -208 through -211, R14-2-1601 through -1618). They provide for procedures and schedules for the implementation of the transition to competition in the provision of retail electric service after the rules were stayed in Decision 61311 (January 11, 1999).

**2. Brief summary of the economic impact statement.**

End users of competitive electricity services may benefit from greater choices of service options and rates because full competition will occur as soon as possible after resolving issues of Stranded Cost and Unbundled tariffs. Some consumers may not participate in the competitive market as quickly as under the current rules if their affected utility has not resolved its stranded cost or unbundled tariff issues.

Requirements for consumer information disclosure and unbundled bills will provide information that consumers can use to make informed choices regarding the selection of electric service providers. This will reduce the costs of searching for information. Consumers would also benefit from protections in the proposed permanent rule amendments regarding "slamming", notification of outages, and metering standards.

Affected utilities and electric service providers may incur additional costs resulting from additional reporting, billing, and consumer disclosure requirements and from negotiating service acquisition agreements. Affected utilities may also incur additional costs associated with preparing and filing residential phase-in program proposals, compliance plans, reports, and audits and in separating monopoly and competitive services and maintaining the separation.

Separating utility monopoly and competitive services mitigates the potential for anti-competitive cross-subsidization that could harm consumers of monopoly services.

Manufacturers of solar electric generation equipment may not directly benefit from increased sales after the elimination of the solar portfolio standard.

Public entities would not benefit from the implementation of the Solar Electric Fund.

Probable costs to the Commission include costs associated with new tasks, such as reviewing service acquisition agreements, reviewing utility filings of residential phase-in program

proposals and quarterly reports, reviewing utility filings of reports detailing possible mechanisms to provide benefits to standard offer customers, reviewing protocols regarding must-run generating units, reviewing reports of "slamming" violations, approving requirements regarding metering and meter reading, reviewing utility filings of compliance plans, reviewing utility performance audits, and developing the format of a consumer information label.

Adoption of the proposed permanent rule amendments would allow the Commission to more effectively implement the restructuring of the retail electric market.

**3. Name and address of agency employees to contact regarding this statement.**

Ray Williamson, Acting Director, Utilities Division or Paul Bullis, Chief Counsel at the Arizona Corporation Commission, 1200 West Washington, Phoenix, Arizona 85007.

**B. Economic, small business and consumer impact statement.**

**1. Proposed rulemaking.**

The proposed permanent rule amendments (R14-2-201 through , -204, -208 through -211, R14-2-1601 through -1618) provide for procedures and schedules for the implementation of the transition to competition in the provision of retail electric service.

**2. Persons who will be directly affected by, bear the costs of, or directly benefit from the proposed rulemaking.**

- a. potential electric service providers
- b. the public at large who are consumers of electric service
- c. electric utilities
- d. investors in investor-owned utilities and independent power producers
- e. holders of bonds of cooperative utilities
- f. state government agencies, including the Arizona Corporation Commission and the Residential Utility Consumer Office
  - g. Federal Energy Regulatory Commission
  - h. employees of utilities and potential electric service providers
  - i. billing and collection service providers
  - j. independent power producers

**3. Cost-benefit analysis.**

**a. Probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed rulemaking.**

Probable costs to the Commission include costs associated with new tasks, such as reviewing service acquisition agreements, reviewing utility filings of residential phase-in program proposals and quarterly reports, reviewing utility filings of reports detailing possible mechanisms

to provide benefits to standard offer customers, reviewing protocols regarding must-run generating units, reviewing reports of "slamming" violations, approving requirements regarding metering and meter reading, reviewing utility filings of compliance plans, reviewing utility performance audits, and developing the format of a consumer information label.

**b. Probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the proposed rulemaking.**

As an end user of competitive electricity services, a political subdivision may benefit from greater choices of service options and rates from full competition. Some of the smaller political subdivisions would not participate in the competitive market as quickly as originally proposed because their peak loads are too small to qualify for the phase-in period.

**c. Probable costs and benefits to businesses directly affected by the proposed rulemaking, including any anticipated effect on the revenues or payroll expenditure of employers who are subject to the proposed rulemaking.**

As an end user of competitive electricity services, a business may benefit sooner from greater choices of service options and rates under full competition. Some of the smaller businesses would not participate in the competitive market as quickly as originally proposed because their loads are too small to qualify for the phase-in period.

Affected utilities and electric service providers may incur additional costs resulting from additional reporting, billing, and consumer information disclosure requirements. Affected utilities may also incur additional costs associated with separating monopoly and competitive services and maintaining the separation.

**4. Probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the proposed rulemaking.**

Affected utilities may need to hire additional employees to effect and maintain the required separation of monopoly and competitive services.

The impact on public employment would likely be minimal.

**5. Probable impact of the proposed rulemaking on small businesses.**

**a. Identification of the small businesses subject to the proposed rulemaking.**

Businesses subject to the proposed rule amendments are electric utilities, potential electric service providers, independent power producers, and business consumers. Some of these businesses are small, but some are also large regional, national, or international firms.

**b. Administrative and other costs required for compliance with the proposed rulemaking.**

Administrative costs to electric service providers would include the costs of negotiating service acquisition agreements and preparing consumer disclosure information. Administrative costs to affected utilities would include the costs of negotiating service acquisition agreements and preparing and filing residential phase-in program proposals, compliance plans, reports, and audits. Affected utilities may also incur additional costs associated with separating and maintaining the separation of monopoly and competitive services.

**c. A description of the methods that the agency may use to reduce the impact on small businesses.**

Requirements for consumer information disclosure and unbundled bills will provide information that small business consumers can use to make informed choices regarding the selection of electric service providers. This will reduce the costs of searching for information. The Commission may also undertake educational activities to further lower the costs of participating in the competitive market.

In regard to reducing the impact on potential electric service providers that are small businesses, the Commission could reduce the application requirements for obtaining a Certificate of Convenience and Necessity or consumer information disclosure requirements. However, the outcome of this alternative may be undesirable if an electric service provider does not have the technical or financial capability of providing reliable energy services or if the industry becomes more prone to companies that engage in fraudulent activities. The Commission and consumers would have less information about businesses that supply electric service.

**d. Probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking.**

Requirements for consumer information disclosure and unbundled bills will provide information that consumers can use to make informed choices regarding the selection of electric service providers. This will reduce the costs of searching for information.

Consumers would benefit from protections in the proposed permanent rule amendments regarding "slamming", notification of outages, and metering standards.

Consumers may benefit sooner from greater choices of service options and rates because full competition will occur sooner under the proposed permanent rule amendments than under the original permanent rule. Some consumers would not participate in the competitive market as quickly as originally proposed.

**6. Probable effect on state revenues.**

The Commission is not aware of any impact on tax revenues.

**7. Less intrusive or less costly alternative methods of achieving the purpose of the**

**proposed rulemaking.**

The Commission is unaware of any less intrusive or less costly methods that exist for achieving the purpose of the proposed permanent rule amendments.

**8. If for any reason adequate data are not reasonably available to comply with the requirements of subsection B of this section, the agency shall explain the limitations of the data and the methods that were employed in the attempt to obtain the data and shall characterize the probable impacts in qualitative terms.**

Because adequate data are not available, the probable impacts are explained in qualitative terms.

Commission-initiated working groups on reliability, billing and collection, metering, low income issues, and customer education have provided input on revising the retail electric competition rules. Stakeholders have been given opportunities to provide written and oral comments on drafts of proposed rules changes. Public comment meetings have been held in Phoenix, Tucson, and Flagstaff. Commission Staff reviewed experiences with retail electric competition in other states, such as California, Massachusetts, and Pennsylvania. Information gathered from all of these sources was used to produce the proposed permanent rule amendments.

**APPENDIX C**

**CONCISE EXPLANATORY STATEMENT**

**A. CHANGES IN THE TEXT OF THE PROPOSED RULES FROM THAT CONTAINED IN DECISION NO. 61272 (PUBLISHED ON JANUARY 22, 1999, VOL. 5, ISSUE 4 OF THE ARIZONA ADMINISTRATIVE REGISTER).**

The following sections have been modified as indicated in the text of the rules set forth in Appendix A hereto, and incorporated herein by reference:

- Article 2. Electric Utilities
  - R14-2-201 Definitions
  - R14-2-202 Certificate of Convenience and Necessity for electric utilities; filing requirements on certain new plants
  - R14-2-204 Minimum customer information requirements
  - R14-2-210 Billing and collection
  - R14-2-211 Termination of service
- Article 16. Retail Electric Competition
  - R14-2-1601 Definitions
  - R14-2-1602 Filing of Tariffs by Affected Utilities – replaced by Commencement of Competition
  - R14-2-1603. Certificates of Convenience and Necessity
  - R14-2-1604. Competitive Phases
  - R14-2-1605. Competitive Services
  - R14-2-1606. Services Required To Be Made Available
  - R14-2-1607. Recovery of Stranded Cost of Affected Utilities
  - R14-2-1608. System Benefits Charges
  - R14-2-1609. Solar Portfolio Standard
  - R14-2-1610. Transmission and Distribution Access
  - R14-2-1612. Rates

- R14-2-1613. Service Quality, Consumer Protection, Safety, and Billing Requirements
- R14-2-1614. Reporting Requirements
- R14-2-1615. Administrative Requirements
- R14-2-1616. Separation of Monopoly and Competitive Services
- R14-2-1617. Affiliate Transactions
- R14-2-1618. Disclosure of Information

**B. EVALUATION OF THE ARGUMENTS FOR AND AGAINST THE PROPOSED RULES**

**R14-2-201 – Definitions**

Issue: To clarify terms that are defined in Article 16, but used in Article 2, ASARCO Incorporated, Cyprus Climax Metals Co., Enron Corp. and Arizonans for Electric Choice and Competition (“ASARCO et al.”) proposed adding after the first sentence of section 201 “In addition, the definitions contained in Article 16, Retail Electric Competition, shall apply in this Article unless the context otherwise requires.”

Evaluation: We concur with ASARCO et al.

Resolution: Insert the above language.

**R14-2-202 – Certificate of Convenience and Necessity**

Issue: Sempra Energy Trading Corp. (“Sempra”) proposed that section 202(A)(1)(b) be revised to refer to “maximum rates.” In its exceptions, The Arizona Corporation Commission Utilities Division Staff (“Staff”) argued that this section does not apply to competitive services and the word “maximum” is not appropriate.

Evaluation: We concur with Staff.

Resolution: No change is required.

Issue: Arizona Public Service Company ("APS") recommended deleting all of section 202(B) because a recent change in A.R.S. § 40-360.02 removed the requirement of filing information regarding generation plants.

Evaluation: We concur with APS.

Resolution: Delete section 202(B) and renumber accordingly.

**R14-2-203(B)**

Issue: Citizens Utility Company ("Citizens") recommended adding section 203(B)(9) as follows: "If a Utility Distribution Company's customer with an established deposit elects to take competitive services from an Electric Service Provider, and is not currently delinquent in payments to the Utility Distribution Company, the Utility Distribution Company will refund a portion of the customer's deposit in proportion to the expected decrease in monthly billing. A customer returning to Standard Offer Service may be required to increase an established deposit in proportion to the expected increase in monthly billing."

APS proposed replacing "shall" with "may" in section 203(B)(2), as APS does not issue a receipt when deposits are made over the phone or as a credit card transaction.

The Arizona Community Action Association ("ACAA") recommended including a consumer group in the process of developing a label format and reporting requirements.

Evaluation: We concur with Citizens and APS. We believe that ACAA's concerns are addressed in section 1618.

Resolution: Modify section 203(B)(2) as discussed above. No further changes are required.

**R14-2-204 – Minimum customer information requirements**

Issue: Sempra proposed that 60 days be changed to 15 days because 60 days is not responsive to customer needs.

Evaluation: We concur.

Resolution: Replace "60" with "15".

## **R14-2-209 – Meter Reading**

Issue: ASARCO et al. proposed changing the acceptable error allowance for meters from 3% to 1%.

APS recommended inserting “kW only” before meters in section 209(A)(1), as APS noted there is no way for a customer to reset a demand or read numerous dials such as time-of-use meters.

Sempra recommended adding “Meter Reading Service Provider” to section 209(D).

Trico Electric Cooperative, Inc. (“Trico”) recommended deleting sections 209(A)(6) and (8) and (F) to prevent metering, meter reading, and billing and collection from being competitive services because historically they are part of distribution services. Trico also recommended deleting references to Electric Services Providers (“ESPs”) in sections 209(C) and 210(B) and (E).

Evaluation: Based on our initial review of the comments of ASARCO et al., we are not convinced that changes are necessary. We do not agree with Trico’s position that metering services should not be competitive. This section is sufficiently clear without further modifications.

Resolution: No change is required.

## **R14-2-210 Billing and Collection**

Issue: APS proposed replacing “authorization” with “notification” in section 210(A)(1), as APS agreed that a customer should be notified, but that it was impractical to obtain written authorization. APS recommended a new section 210(A)(3)(f) as follows: “When the Company gives customers prior notification that actual reads for kWh meters will be made on a less frequent basis.”

APS argued this would produce cost reduction measures in situations where monthly readings are not cost-effective. APS recommended deleting section 210(A)(5)(b).

Trico proposed inserting “unbundled” before “rates” and adding “except for Standard Offer services” in section 210(B)(2)(k). Trico recommended the deletion of section 210(E)(3) because it places a time limitation on the commencement of a civil action to enforce a constitutional right.

Tucson Electric Power Company (“TEP”) recommended deleting section 210(A)(5)(c), because such bills can be estimated in accordance with section 209(A)(8) and section 1613(K)(14).

TEP recommended inserting “(if measured)” after “demand” in section 210(B)(2)(c) as TEP does not measure demand for residential customers.

TEP proposed deleting "residential" from section 210(G)(1) to allow levelized billing plans to customers other than residential.

New West Energy ("NWE") claimed that the provisions of section 210 are overly technical and should not be included in the rules, and also argued that this section does not clarify who has the right to bill a customer.

The Residential Utility Consumer Office ("RUCO") proposed that section 210(C)(1) be modified to provide that bills be due no sooner than 15 days after rendered.

RUCO argued that the first sentence of section 210(E)(1) is duplicative of language included in section 209(F).

Evaluation: We concur with RUCO's recommendation to delete the first portion of section 210(E)(1) and with TEP's proposal regarding sections 210(B)(2)(c) and (G)(1). We believe APS' proposals do not afford the consumer adequate protections and we do not accept NWE's and Trico's arguments. Based on our initial review of the other comments, we are not convinced that additional changes are necessary.

Resolution: Delete the first two sentences of section 210(E)(1). Insert "(if measured)" after "demand" in section 210(B)(2)(c) and delete "residential" in section 210(G)(1).

#### **R14-2-211 – Termination of service**

Issue: APS recommended replacing "reasonable" with "mutually agreed" in section 211(A)(d), to avoid the ambiguity of the word "reasonable". In its exceptions, Staff argued that "reasonable" should remain because the term "mutually agreed" would disadvantage consumers.

Sempra recommended changing sections 211(B)(1) and (C)(1) to permit an ESP to order a disconnect for non-payment to prevent customers from hopping from ESP to ESP to avoid payment. Sempra also recommended adding "and/or ESP" throughout this provision.

Evaluation: We concur with Staff regarding the word "reasonable." We do not believe that an ESP should be allowed to order disconnection.

Resolution: No change is required.

#### **R14-2-213 - Conservation**

Issue: TEP recommended deleting section 213 because TEP argued it is premature to enact

this provision until it can be made statewide in conjunction with the legislature, and because the Commission will be revisiting the Integrated Resource Planning rules in light of the move to competition.

Evaluation: Based on our initial review, we are not convinced that changes are necessary.

Resolution: No change is required.

## **R14-2-1601 – Definitions<sup>1</sup>**

Issue: The City of Tucson (“Tucson”) recommended adding a new definition for the term “customer.” Tucson did not elaborate on the need for such addition.

Evaluation: The rules are clear without the proposed new definition.

Resolution: No change required.

### **1601(4) - Buy Through**

Issue: APS and TEP recommended deleting the definition of “Buy-Through”. New Energy Ventures Southwest, LLC (“NEV”) argued that buy-throughs should not be allowed because they allow Utility Distribution Companies (“UDCs”) to compete in the competitive market and they are unnecessary because the Rules (section 1604(F)) already permit customers under contract to access the competitive market.

Evaluation: We concur with APS, TEP and NEV. The rules have been clarified to provide that beginning January 1, 2001, Affected Utilities and UDCs may not provide Competitive Services. To permit buy-throughs prior to January 1, 2001 appears to be a method to avoid the 20 percent cap during transition to full competition.

Resolution: Delete section 1601(4), and renumber accordingly.

### **1601(5) – Competition Transition Charge (CTC)**

Issue: Mohave Electric Cooperative, Inc. and Navopache Electric Cooperative, Inc. (collectively “Mohave and Navopache”) recommended adding language to the definition of Competition Transition Charge (“CTC”) that would allow the recovery of costs incurred by the Affected Utilities to implement the Competition Rules. RUCO proposed changing the definition of CTC to clarify that it will be recovered from all customers. In its exceptions, the Arizona Transmission Dependent Utility Group (“ATDUG”) commented that deleting “from the customers of competitive services” would result in Standard Offer Service customers subsidizing customers taking Competitive Services.

Evaluation: The CTC should be collected from all customers, whether in Standard Offer

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<sup>1</sup> This and all following Rule number references are to the Rule numbers as they appear in the Rules as contained in Decision No. 61272 (December 11, 1998), and not necessarily to the Rules as they were re-numbered after the proposed changes.

Service rates or from customers taking competitive services. The CTC charge to Standard Offer Service customers should not be an additional charge, but the portion of customers' Standard Offer Service bills that is going toward Stranded Costs should be identified on Standard Offer Service bills as required by section 1613(O). Mohave and Navopache's concerns are addressed in section 1607 concerning the determination of the CTC. Clarification of the Rules to specifically provide that Standard Offer Service customers will not be paying the CTC twice is necessary. However, the definition is clear as it is. The Rules should be amended in the sections concerning Stranded Cost and Standard Offer Service tariffs to clarify that the CTC appearing on Standard Offer Service customer bills will not result in double payment of Stranded Cost by those customers.

Resolution: Delete the words "from the customers of competitive service". Add language to section 1606(C) and section 1607(G) to clarify that the CTC appearing on Standard Offer Service customer bills will not result in Standard Offer Service customers paying for Stranded Cost both in Standard Offer Service charges and in the separate CTC.

#### **1601(6)– Competitive Services**

Issue: Trico recommended the following definition for competitive services: "the retail sale of electricity obtained from the generation of electricity from generators at any location whether owned by the provider of Competitive Services or purchased from another generator or wholesaler of electric generation except Standard Offer service."

Evaluation: Trico's proposed definition is not sufficiently comprehensive.

Resolution: No change is required.

#### **1601(8) - Consumer Information**

Issue: RUCO proposed that the definition of "Consumer Information" be renamed "Consumer Education." RUCO noted that the use of "Consumer Information" in the definition is inconsistent with the use of those words in section 1618.

Evaluation: We agree that the term as used here is more properly called "Consumer Education."

Resolution: Replace "Information" with "Education". Capitalize Competitive and Noncompetitive Services.

### **1601(10) – Direct Access Service Request (DASR)**

Issue: APS proposed deleting the words “or the customer” at the end of section 1601(10) to exclude requests by the end-user because Staff’s changes to APS’ proposed Schedule 10, which were adopted by the Commission, eliminate the possibility of a direct access request by a customer. TEP proposed deleting “the customer” and inserting “self aggregator.” NEV proposed inserting “and the customer’s current Electric Service Provider” after “Utility Distribution Company” in section 1601(10) because it would be more efficient for ESPs to submit DASRs for the ESP’s customer.

Evaluation: It is more efficient for a customer’s ESP to submit the DASR to the Utility Distribution Company (“UDC”). All Aggregators are ESPs under the rules, thus no other changes are required.

Resolution: Delete “or the customer” at the end of section 1601(10).

### **1601(13) – Distribution Service**

Issue: Trico proposed changing the definition of “Distribution Service” to exclude metering service, Meter Reading Service and billing and collection services.

Evaluation: Trico’s concerns are already addressed in the definition.

Resolution: No change is required.

### **1601(15) – Electric Service Provider (ESP)**

Issue: Trico proposed modifying section 1601(15) to delete reference to sections 1605 and 1606.

Evaluation: We concur. We have attempted to revise the rules herein as necessary to eliminate ambiguity and the possibility of conflicting definitions. As the definitions formerly contained in sections 1605 and 1606 have now been incorporated into the definition of “Competitive Services” in section 1601, this conforming change is necessary.

Resolution: Replace “of the competitive services described in R14-2-1605 or R14-2-1606,” with “Competitive Services”.

### **1601(16) – Electric Service Provider Acquisition Agreement**

Issue: NWE recommended modifying the definition of “Electric Service Provider

Acquisition Agreement” to mean a standardized, Commission-approved agreement between an Affected Utility and an ESP. NWE argued that the certification process for ESPs hinders competition and argued in favor of standardized agreements as a way to control the technical and financial viability of competitors.

Evaluation: We do not believe the certification process to be overly burdensome or anti-competitive.

Resolution: No change is required.

#### **1601(17) - Generation**

Issue: Calpine Power Services (“Calpine”) proposed modifying the definition of generation to the “retail sale of electricity power”. Calpine wanted to distinguish the sale of electrons from the sale of other services.

Evaluation: The current definition is sufficiently clear.

Resolution: No change is required.

#### **1601(18) – Green Pricing**

Issue: TEP, APS and NEV recommended broadening the definition to include renewable resources other than solar. TEP also recommended deleting “offered by an Electric Service Provider” because “green pricing” should not be limited to ESPs.

Evaluation: We concur that green pricing should apply to all renewable resources.

Resolution: Delete “solar generated” and insert “generated by renewable resources” after “electricity”.

#### **1601(19) – Independent Scheduling Administrator**

Issue: TEP and ASARCO et al. recommended deleting the words “a proposed entity” from the definition of the ISA, as the Arizona Independent System Administrator has been formed.

Evaluation: We concur.

Resolution: Delete “a proposed” and insert “an”.

#### **1601(22) – Load-Serving Entity**

Issue: The Arizona Utility Investors Association (“AUIA”) argued that this definition conflicted with the definition of “Aggregators”. APS recommended deleting the words “or

Aggregators” from the end of the definition of “Load-Serving Entity” because aggregators are defined as being ESPs, so that the only “Aggregators” being referenced in this section are “self-aggregators” a concept that no longer has relevance. NEV also recommended deleting “or Aggregators.”

Evaluation: The inclusion of the term “Aggregators” here is redundant and confusing.

Resolution: Delete “or Aggregators” at the end of the sentence and insert “and” before “Meter Reading Service Provider.”

#### **1601(24) – Meter Reading Service Provider**

Issue: APS recommended inserting “that provides other ESPs” after “entity” and deleting “providing” to clarify that the “entity” being provided meter reading service is the ESP, not the end-use customer. Trico proposed replacing “an entity” with “a Utility Distribution Company” in both sections 1601(24) and (25).

Evaluation: Trico’s definition is too restrictive. The definition is sufficiently clear without modification.

Resolution: No change is required.

#### **1601(25) – Meter Service Provider**

Issue: APS proposed adding the words “to other ESPs” to the end of the definition.

Evaluation: The definition is sufficiently clear without modification.

Resolution: No change is required.

#### **1601(27) – Must-Run Generating Units**

Issue: To recognize FERC’s role in the determination of Must-Run Generating Units. Calpine proposed adding the words “as may be determined by the Federal Energy Regulatory Commission” to the end of the definition. In exceptions, Staff suggested inserting “local generating” between “those” and “units” for clarification. Staff also opposed, as did ASARCO et al. and ATDUG in their exceptions, the inclusion of the phrase “as may be determined by the Federal Energy Regulatory Commission” within this definition.

Evaluation: We agree with Staff that clarification as to the location of Must-Run Generating Units is necessary. We also agree with Staff, ASARCO et al., and ATDUG that the

phrase “as may be determined by the Federal Energy Regulatory Commission” is not appropriate within this definition.

Resolution: Insert “local generating” between “those” and “units”.

#### **1601(28) – “Net Metering” or “Net Billing”**

Issue: ASARCO et al. and RUCO recommended eliminating this definition as it is not needed with the elimination of the Solar Portfolio requirement. NEV recommended adding “or other approved renewable generators.”

Evaluation: This term is not necessary after the elimination of the solar portfolio requirements.

Resolution: Delete section 1601(28) and renumber accordingly.

#### **1601(29) – Noncompetitive Services**

Issue: Mohave and Navopache recommended adding the following to the end of the definition of “Noncompetitive Services”: “Metering, meter ownership, meter reading, billing, collections and information services are deemed to be non-competitive services in the service territories for distribution cooperatives.” Mohave and Navopache argued that it is necessary that the relationships and communication links between a cooperative and its members/customers be maintained for membership, voting and other purposes.

ASARCO et al. recommended inserting the word “certain” before “Federal Energy Regulatory Commission” and the words “which are precluded from being competitive” after “ancillary services”, as certain FERC-required ancillary services may be competitive.

Trico proposed that this definition should be simply “all aspects of retail electric service except Competitive Services.”

APS recommended placing a comma after “Standard Offer Service”. APS argued that otherwise, the sentence has a completely different meaning.

TEP proposed adding the words: “or other services approved by the Commission as “noncompetitive” at the end of the first sentence.

NEV proposed inserting “which are only allowed to be provided by an Affected Utility or a Utility Distribution Company pursuant to” before “R14-2-1613K”.

In its exceptions, APS argued that because competitive ESPs will be providing customer demand and energy data to other ESPs, provision of this information will not be a "Noncompetitive Service".

Evaluation: This definition needs clarification and should incorporate all the definitions of Noncompetitive Services found elsewhere throughout the Rules. This definition should also clarify that providing customer demand and energy data to ESPs is a Noncompetitive Service when provided by an Affected Utility or UDC. The second sentence of this definition more properly belongs with the definition of "Standard Offer Service" in section 1601. Based on our initial review, Mohave and Navopache's suggested language is unnecessary.

Resolution: Place a comma after "Standard Offer Service", incorporate all definitions of Noncompetitive Services found elsewhere in the Rules, insert "by a Utility Distribution Company" between "energy data" and "to Electric Service Providers," and move the second sentence to the definition of "Standard Offer Service" in section 1601. In addition, for clarity, replace "Federal Energy Regulatory Commission-required ancillary services" with "any ancillary services deemed to be non-competitive by the Federal Energy Regulatory Commission".

#### **1601(33) – Provider of Last Resort**

Issue: Arizona Electric Power Cooperative, Inc., ("AEPCO"), in its exceptions, recommended that the definition of "Provider of Last Resort" be modified in order to clarify the limitation on the UDCs' obligation to serve as Providers of Last Resort.

Evaluation: It is important that the Rules conform to State legislation regarding the kWh limitation on the UDCs' obligation to serve as Providers of Last Resort. We agree with AEPCO's recommendation in its exceptions that such language should be added to the definition of "Provider of Last Resort".

Resolution: Insert "whose annual usage is 100,000 kWh or less and" between "area" and "who".

#### **1601(36) – Self-Aggregation**

Issue: APS recommended deleting the definitions of "self-aggregation" as APS noted the concept was eliminated by Staff's amendments to APS's proposed schedule 10. According to APS,

Staff's amendments require all customers to obtain aggregation service through an ESP.

Evaluation: We concur.

Resolution: Delete section 1601(36) and renumber accordingly.

#### **1601(37) – Solar Electric Fund**

Issue: TEP, APS, AEPCO, Duncan Valley Electric Cooperative, Inc. (“Duncan”), and Graham County Electric Cooperative, Inc. (“Graham”), ASARCO et al. and RUCO recommended deleting the definition of “Solar Electric Fund” consistent with their recommendation to eliminate the Solar Resource Portfolio.

Evaluation: We concur. See the discussion for section 1609.

Resolution: Delete section 1601(37) and renumber accordingly.

#### **1601(38) – Standard Offer Service**

Issue: The definition of Standard Offer Service requires expansion to conform with clarifying amendments elsewhere in the Rules.

Evaluation: This definition should clarify that Standard Offer Service includes demand side management services, including but not limited to time-of-use. The second sentence of the definition of Noncompetitive Services more properly belongs with this definition and should be moved here.

Resolution: Delete the comma after “billing”; insert “and” between “billing” and “collection services”; insert “, demand side management services including but not limited to time-of use.” after “collection services”; delete “other” before “consumer information services”; insert “All components of Standard Offer Service shall be deemed noncompetitive as long as those components are provided in a bundled transaction pursuant to R14-2-1606(A).” at the end of this definition.

#### **1601(39) – Stranded Cost**

Issue: APS recommended replacing “value” with “net original cost” in section 1601(39)(a)(i), and adding a section 1601(39)(d) as follows: “Other transition and restructuring costs as approved by the Commission.” APS argued that the possibility of recovering such costs was allowed by Decision No. 60977.

ASARCO et al. recommended adding the following after the words “generation assets”: “at

a sales price at or above the minimum bid price for each asset approved by the Commission as necessary to effect divestiture without incurring transition costs that would cause the delivered price of power to customers to be greater under competition than under regulation.” ASARCO et al. argued that Affected Utilities must not be allowed to use divestiture as a means to dispose of uneconomic investments at the expense of consumers.

TEP proposed that the date should be changed to the start-date for electric competition, as proposed by TEP, of October 1, 1999.

Trico proposed deleting “(such as generating plants, purchased power contracts, fuel contracts, and regulatory assets),” and “or entered into prior to December 26, 1996,” in section 1601(39)(a)(i). Trico argued that Stranded Cost should not be restricted to Stranded Cost as to generation assets only. Trico proposed adding “and reasonable employee severance and retraining costs necessitated by electric competition where not otherwise provided.” Trico also argued that the Commission does not have the authority to mandate divestiture.

Evaluation: We concur with APS that clarifying “value” and including “other Commission-approved transition costs” are warranted. However, to avoid the possibility of an Affected Utility seeking additional Stranded Cost recovery after its Stranded Cost determination pursuant to section 1607, we will limit recovery of transition and restructuring costs to those costs which can be proved at the Affected Utility’s Stranded Cost proceeding. The date should not be changed as suggested by TEP. Trico’s concerns are already addressed in the Rule. ASARCO et al.’s concerns will be addressed in each Affected Utility’s Stranded Cost proceeding.

Resolution: Replace “value” in section 1601(39)(a)(i) with “net original cost” and insert a new section 1601(39)(d) as follows: “Other transition and restructuring costs as approved by the Commission as part of the Affected Utility’s Stranded Cost determination pursuant to R14-2-1607.”

#### **1601(40) – System Benefits**

Issue: AEPSCO, with the support of Trico, Duncan and Graham, argued that section 1601(40) should be modified to include fossil plant decommissioning costs, and suggested examples of “market transformation” costs. APS proposed adding “customer education” to the definitions of System Benefits.

Citizens recommended a new definition for "Market Transformation" as follows: "activities by a Utility Distribution Company to transform its business processes and enable its customers to take competitive services offered by Electric Service Providers." Citizens stated that the costs for required new functions should be submitted to the Commission for review and recovery. Alternatively, Citizens recommended the following additional subpart to the definition of Stranded Costs to allow for the recovery of these costs of competition: "Costs for new Utility Distribution Company functions (such as customer education and modifications and additions to key business processes) necessitated by the introduction of competition".

Citizens also recommended adding the following additional subsection to the definition of Stranded Costs: "Costs associated with metering, meter reading, billing, collections and other consumer information services rendered unrecoverable by the introduction of competition for these services."

ASARCO et al. proposed adding to the end of the definition of System Benefits the following: "provided, however, that systems benefits charges associated with nuclear power should be applied only to customers of utilities receiving power from nuclear power plants."

Calpine proposed that the definition of "System Benefits" should include the language "may include Commission-approved utility low income and demand side management programs." Calpine noted that System Benefits will vary among Affected Utilities, and that the notion of "market transformation" costs as being recovered beyond the Stranded Cost recovery period, or in addition to any CTC charge, would distort the market environment.

RUCO recommended the elimination of "market transformation" and "long-term public benefit research and development and nuclear power plant decommissioning" before "programs".

TEP proposed adding "non-nuclear" decommissioning programs and other programs approved by the Commission.

In its exceptions, Calpine pointed out that the defined term "System Benefits" should replace the definitional language that currently appears in section 1608(A).

Evaluation: We agree that any unmitigated recovery of market transformation costs, apart from consumer education, should be recovered as Stranded Cost. We also agree that System

Benefits should include consumer education. Calpine's observation regarding use of the defined term "System Benefits" in section 1608(A) is well taken. The definitional language from section 1608(A) should appear in the definition of "System Benefits" rather than in section 1608(A).

Resolution: Insert "consumer education" after "demand side management," and delete "market transformation". Modify the definition of "System Benefits" in section 1601 to include terms appearing in section 1608(A). Replace definitional language appearing in section 1608(A) with the defined term "System Benefits".

#### **1601(43) – Unbundled Service**

Issue: APS proposed adding "/or" before "priced separately" because not all electric service elements that are "priced" by a UDC can be provided by an ESP on a stand-alone basis. Trico proposed that Unbundled Service mean "Generation, Transmission (and Ancillary as defined by FERC) and Distribution Service priced separately."

Evaluation: Trico's concerns are already addressed in the Rule. Adding "/or" would create ambiguity in this definition. For completeness "Must Run Generation" should be added to this definition.

Resolution: Insert "Must Run Generation" after "as generation, transmission, distribution,"

#### **1601(44) – Utility Distribution Company (UDC)**

Issue: APS recommended defining UDC as follows: "the electric utility regulated by the Commission that operates and maintains the distribution system for the delivery of power to the end user 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 operating in Arizona, and subject to the Commission's jurisdiction." APS argued that whomever constructs or owns the distribution system is irrelevant, as operational control is the relevant point. APS argued that its proposed amendments generally exclude non-jurisdictional entities from the definition of UDC, but allow for the equal application of section 1617 to ESPs with out-of-state UDCs or in-state UDCs not subject to the Commission jurisdiction.

Evaluation: We concur with APS, with the exception of its proposed second sentence.

Resolution: Insert APS' proposed language in the first sentence. Do not include the

second proposed sentence.

#### **R14-2-1602 – Filing of Tariffs by Affected Utilities**

Issue: APS and AEPCO, with the support of Trico, Duncan and Graham, recommended striking the existing language which requires tariffs to be filed by December 31, 1997, as this date is obviously outdated. AEPCO, with the support of Trico, Duncan and Graham, suggested using this Rule to establish a new start date for competition through a separate Order by adopting the following language: “The Commission will, by separate order, establish a coordinated commencement date for competitive services and other requirements established by these Rules.”

ASARCO et al. recommended modifying the date for filing tariffs to March 19, 1999 and adding “such tariffs shall be unbundled to the highest kV service level of the historic retail customer base.” ASARCO et al. argued that customers should only be required to pay those costs that are required for the service they receive.

Evaluation: We agree that this section as currently drafted is meaningless. Consequently, we will delete the existing language and utilize this section to enact a new start date for competition. We agree with the general consensus that competition within an Affected Utility’s service territory cannot start until the issues surrounding that Affected Utility’s Stranded Cost are addressed. The Affected Utilities and other interested parties have proposed a procedural schedule that contemplates resolving the Stranded Cost issues. Consequently, we propose to establish a new start date for competition for each Affected Utility by separate order as part of its Stranded Cost/Unbundled Tariff Proceeding. It is our intent to encourage the Affected Utilities to resolve the Stranded Cost issues by restricting their competitive electric affiliates’ ability to provide competitive services in the service territory of other Affected Utilities until the Affected Utility’s service territory is open to competition by Order of the Commission. If an Affected Utility’s service territory is open for competition prior to January 1, 2001, its customers should have access to competitive services subject to the phase-in schedule of section 1604.

Resolution: Delete the existing provision and replace it with the new section “R14-2-1602-Commencement of Competition”.

Issue: In its exceptions, NEV suggested adding language to the newly proposed section

1602(B) that would prohibit a generation cooperative from competing until the service territory of its member cooperative is open to competition.

Evaluation: We agree that this section should be clarified to include generation affiliates of the electric cooperatives.

Resolution: Insert "or an affiliate of which it is a member" after "electric affiliates".

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

##### **1603(A)**

Issues: AEPCO, with the support of Trico, Duncan and Graham, recommended modifying section 1603(A) to remove the forced divestiture element of section 1616(A). Trico proposed modifying section 1603(A) to omit reference to sections 1605 or 1606 and to delete the last two sentences of section 1603(A). Trico argued that the Rule should be clear that an Affected Utility has the right under its existing Certificate of Convenience and Necessity ("Certificate" or "CC&N") to provide electric service, and is not required to obtain a CC&N under this Rule.

APS recommended deleting the words "or self aggregation" and "Self Aggregators" and inserting "competitive" before "information" in the first sentence and deleting "services". In the fourth sentence, APS proposed inserting "competitive metering and meter reading services" after "distribution". APS argued that its changes distinguish between competitive and non-competitive metering and billing services and also between services provided by Affected Utilities within their current CC&Ns and any proposal to provide those services outside that area. These changes are also consistent with APS's proposed amendment to section 1616.

ASARCO et al. proposed deleting the third sentence of section 1603 referring to Aggregators and Self-Aggregators. ASARCO et al. noted that the proposed deleted language is unnecessary and confusing because by definition, Aggregators must be ESPs.

Mohave and Navopache recommended deleting the last sentence of section 1603(A), claiming it is not needed due to proposed changes to section 1616.

NWE recommended modifying section 1603(A) by inserting "statewide" to modify "Certificate of Convenience and Necessity" and to eliminate "self aggregation" from those services not requiring a Certificate.

NEV recommended that section 1603(A) be modified to clarify that Aggregators and Self-Aggregators are required to “obtain generation and energy scheduling through an approved Electric Service Provider.”

Evaluation: This Rule must be clarified in order to provide needed certainty to all stakeholders in the electric restructuring process. The definition of “Aggregator” in R14-2-1601 should control throughout the rules, and conflicting references should be deleted. It should be clarified that beginning January 1, 2001, only UDCs will provide Standard Offer Service, unless or until this Commission determines otherwise.

Resolution: Replace “services described in R14-2-1605 or R14-2-1606, other than services subject to federal jurisdiction” with “Competitive Services”. Delete the second sentence to comport with our clarifying revision to section 1605. Delete the third sentence of section 1603(A). Replace “An Affected Utility” with “A Utility Distribution Company” and delete language which is now included in the defined term “Standard Offer Service”. Capitalize the defined term “Standard Offer Service”. Delete “other” in the last sentence.

### **1603(B)**

Issue: APS proposed a new (B)(7) as follows: “An explanation of how the applicant intends to comply with the requirements of R14-2-1617, or a request for waiver or modification thereof with an accompanying justification for any such requested waiver or modification.” APS stated that this proposal is consistent with its position that any affiliate restrictions should apply equally to all market competitors.

NWE recommended eliminating the requirement in the certification process of section 1603(B) to provide a tariff of maximum rates and to delete sections 1603(B)(4) through (7). NWE believed it too burdensome for the Commission to seek information on technical and financial capabilities of the ESP.

Evaluation: We concur with APS’ proposed section 1603(B)(7).

Resolution: Insert APS’ proposed section 1603(B)(7). Insert “to” between “and” and “provide” in section 1603(B)(4). It is not overly burdensome for the Commission to seek information on the technical and financial capabilities of an ESP. The certification process under

these Rules provides the Commission with valuable oversight that serves the public interest.

**1603(E), (F), (G)**

APS proposed replacing “serving notification” with “providing a copy to” in section 1603(E), and adding a sentence to the end as follows: “The attachment to the CC&N application should include a listing of the names and addresses of the notified Affected Utilities, Utility Distribution Companies or an electric company not subject to the jurisdiction of the Arizona Corporation Commission.” APS proposed this change as neither APS nor its legal counsel has been receiving notification or copies of CC&N applications.

NWE recommended eliminating all of sections 1603(E) and (F), believing the requirement to serve information on a competitor is anti-competitive and the provision that permits limited Certificates is a bureaucratic obstacle to market entry. Consistent with its views on certification, NWE recommended striking sections 1604(G)(2), (4) and (5).

Evaluation: The certification process under these rules is not overly burdensome or anti-competitive. It provides the Commission with valuable oversight that serves the public interest. Utility Distribution Companies should receive notice of ESPs’ intent to utilize their regulated distribution systems for planning purposes. Consequently, we do not accept NWE’s proposed modifications.

Resolution: Add APS’ proposed language changes to section 1603(E). Insert “an” between “have” and “Electric” in section 1603(G)(3).

Issue: In its exceptions to the proposed Rules, PHASER Advanced Metering Services (“PHASER”) recommended modifying this subsection to clarify that not all certified ESPs require an Electric Service Provider Service Acquisition Agreement. PHASER argued that Meter Service Providers and Meter Reading Service Providers who do not provide load service to consumers do not need an Electric Service Provider Service Acquisition Agreement.

Evaluation: We agree that section 1603(G) should be clarified.

Resolution: Modify sections 1603(G)(3) and (6) to limit these provisions to ESPs seeking certification as Load-Serving Entities.

**1603(I)**

Issues: Calpine and NWE proposed deleting “and relevant to resource planning;” from section 1603(I)(1). Calpine argued that the term “resource planning” is not defined in these rules and that with open transmission access and competitive generation marketing, integrated resource planning by the Commission is not appropriate.

To clarify that ESPs are subject to Commission jurisdiction, Mohave recommended a new section 1603(I)(9) as follows: “As a public service corporation, the Electric Service Provider shall be subject to the continuing jurisdiction of the Commission.”

NWE recommended deleting sections 1603(I)(2) and (3) because they require disclosure of information that could purportedly cause harm to an ESP. NWE argued that disclosure of accounts and records is a remnant of regulation that is not necessary in a competitive market. NWE wanted to delete “and any service standards that the Commission shall require” from 1603(I)(4) as it is undefined, and to delete section 1603(I)(6) requiring compliance with state-law permit and license requirements. NWE also suggested deleting section 1603(J).

ACAA recommended requiring ESPs to serve some portion of the residential market by adding a provision in the rules to require submission of a plan to serve residential customers and to allow for revocation of a Certificate if no plan is received.

Evaluation: Based on an initial review of the Rules, we are not convinced changes to this rule are necessary.

Resolution: No change is necessary.

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

Issues: Tucson recommended deleting the reference to requiring a single premise non-coincident peak load demand of 40 kw or greater to be able to aggregate to become eligible for competitive electric services.

ASARCO et al. proposed modifying section 1604(A) to provide that at least 30% of 1998 system retail peak demand be available for competitive generation, and deleting the reference to the first-come-first-served basis and the remainder of the subsection. ASARCO et al. proposed revising section 1604(A)(3) to permit all loads served by Load-Serving Entities under special contracts to be eligible for competitive services upon the expiration of the special contract, notwithstanding the

proposed 30 percent limitation.

Calpine proposed that access to competitive service start October 1, 1999 and that 40% of the Affected Utilities' 1995 system retail peak demand be eligible for competitive generation. Calpine recommended that 2 % of residential customers be eligible, and that the number should increase by 2 % each quarter until January 1, 2001.

TEP proposed a start date of October 1, 1999 for the 20% phase-in. TEP's recommendation is predicated on the Commission resolving issues on Stranded Cost, unbundled tariffs and operational reliability protocols in time for the companies to implement the changes in their systems. TEP stated that if competition does not start by October 1, 1999, it should not start until at least March 31, 2000, because of the "Y2K" problem.

TEP argued that using a "non-coincident" peak has unintended consequences and that only customers with a minimum 1 MW demand should be eligible for direct access. Consequently, TEP proposed replacing "non-coincident peak load" with "minimum" in sections 1604(A)(1) and (2) and replacing "month" with "six months" in (A)(2).

Sempra recommended making all customers eligible to receive competitive energy on September 1, 1999, and eliminating most of the remaining provisions of section 1604, except those that require Affected Utilities to inform customers of the start of competition by an unnamed date and that require Affected Utilities to file a report detailing possible mechanisms to provide benefits to Standard Offer Service customers. Sempra's proposal also retains the provision allowing customers under contract to participate in competition and allowing buy-throughs and schedule modifications for cooperatives.

APS suggested replacing "180" days with "60" days in 1604(A). APS proposed adding the words "single premise" after "non-coincident" to make this subsection consistent with section 1604(A)(2). APS proposed inserting "by an Electric Service Provider" after "aggregated" in section 1604(A)(2) and deleting the sentence referencing self aggregation. APS recommended deleting section 1604(A)(3) and 1604(C) as the referenced dates have passed. APS proposed deleting the remainder of the sentence of section 1604(D) after "January 1, 2001". APS recommended the deletion of section 1604(G) because it is unnecessary and confusing, because UDCs can already

engage in buy-through transactions through special contracts if approved by the Commission, while ESPs may engage such transactions whether or not approved by the Commission. TEP, NEV and NWE also recommended deleting section 1604(G). ASARCO argued that buy-throughs are required to protect consumers from delays in competition.

NWE recommended deleting the last sentence of section 1603(A)(2) because it penalizes small customers who might not be prepared to aggregate in the early phases of competition. NWE argued that section 1604(A) in general provided inadequate information of the mechanics of customer selection.

Tucson proposed a new section 1603(A)(4) as follows: "Load profiling may be used; however, residential customers participating in the residential phase-in program may choose other measurement options offered by their Electric Service Provider consistent with the Commission's rules of metering."

The Arizona Attorney General's Office ("AG") recommended inserting the following in section 1604(A) after "rule": "provided that, for any given class of customer, if customer demand for competitive generation services exceeds this 20%, the Affected Utility shall make available such additional percentage as is consistent with customer demand" the AG proposed substituting "customer" for "premise" in section 1604(A)(2).

ACAA recommended increasing "1 ¼ % of residential customers" to "15% of residential customers" in 1604(B).

RUCO proposed that a minimum of 10% of residential customers have access to competitive services on October 1, 1999 and that the number should increase by 5% every six months until October 1, 2001. Further, RUCO proposed that Affected Utilities should file an application by November 1, 1999 to decrease Standard Offer Service rates by at least three to five percent.

Citizens recommended changing the reference of "1 ¼ %" of residential customers to "1/2%" in section 1604(B)(1). NWE argued that section 1604(B) should be entirely revised, as it removes the incentive for ESPs to pursue contracts with residential customers.

TEP proposed allowing ¼ of 1% of residential customers to participate in competition and that the number should increase by ¼ of 1 % every quarter until January 1, 2001, as originally

proposed by Staff. TEP also proposed that section 1604(B)(5) be modified to provide for semi-annual reports rather than quarterly reports, and that section 1604(B)(5)(d) be deleted.

Tucson recommended eliminating the phrase "benefits such as rate" from 1604(C). NWE argued that a mandatory rate reduction would have an anti-competitive effect unless applied to all customers. NWE argued that any mandated rate reduction should specify that the reduction must occur in the CTC, the transmission rate or the distribution rate.

Mohave and Navopache recommended deleting the references in sections 1604(A)(3), (B)(4), and (C) to notices, programs and reports for which the filing deadlines have already passed. Mohave and Navopache recommended deleting the second clause of section 1604(D) concerning the ability to aggregate beginning January 1, 2001.

TEP recommended deleting "including aggregation across service territories" from the end of section 1604(D).

NEV proposed a new section 1604(H)(4) as follows: "If an electric cooperative is granted a delay in implementing competition, then any Electric Service Provider affiliated with the electric cooperative or which has the electric cooperative as a member will be prohibited from providing services in Arizona until competition has begun in the electric cooperative's service territory."

Trico recommended deleting sections 1604(A)(3), (B)(2), (C), (E), and (H)(2) and (3), as the matters are moot. Trico also proposed revising section 1604(D) to provide that all customers are "eligible for competitive services no later than January 1, 2001, at which time all customers shall be permitted to aggregate, but not across service territories."

Evaluation: There have been almost as many recommendations for a new phase-in plan as there have been entities commenting on these Rules. We believe that until January 1, 2001, the phase-in schedule should be retained. To the extent that an Affected Utility's service territory is opened for competition prior to January 1, 2001, it should make 20% of its 1995 system retail peak load available for Competitive Services. Further, the Affected Utility should reserve demand to provide an increasing percentage of retail customers with access to competitive generation. The percentage of retail customers eligible for competitive generation should start at 1 ¼ percent and increase by 1 ¼ percent quarterly until all customers are eligible for competitive services beginning

January 1, 2001.

We agree that the effective date of Direct Access Service Requests ("DASRs") should be within sixty days of the date of the DASR. We also agree that the provision permitting buy-throughs should be eliminated as well as the reference to self-aggregation.

Given the stay of the Rules and the delay in the introduction of competition, we have revised the date that an Affected Utility must notify its customers of their eligibility to receive Competitive Services to 60 days prior to the start of competition within its service territory. Our revisions also set the date of November 1, 1999 for filing a report that details possible benefits to Standard Offer Service customers that includes a 3 to 5 percent rate reduction.

We believe that NEV's concern about the fairness of delays in implementing competition for cooperatives are addressed in section 1602(B).

Furthermore, section 1604(E) should be deleted in light of our decision concerning the solar portfolio. Based on our initial review of Tucson's and TEP's comments concerning particular demand load criteria, we are not convinced that additional changes are necessary. We do not accept the arguments that during the transition period entities currently under special contracts should automatically be eligible for competitive services upon the expiration of the contract.

Resolution: Revise sections 1604(A),(B),(C),(D), (E) and (G) as discussed above.

#### **R14-2-1605 – Competitive Services**

Issue: APS and ASARCO et al. recommended that section 1605 (B) be modified to comport with the definitions of "Aggregator" and "Noncompetitive Services" in section 1601. TEP and NWE also recommended that the portion of section 1605(B) providing that aggregation of retail customers is a competitive service should be deleted.

Calpine commented that because "Generation" is a defined term in the Rules, its definition in section 1605(A) should be deleted, and that the defined term "Noncompetitive Services" should be capitalized in section 1605(B) where appropriate only.

Trico, with the support of Duncan and Graham, recommended that section 1605 be shortened to state that ESPs may provide "Competitive Services," and that the definition of "Competitive Services" should exclude metering, meter reading, and billing and collection. AEPCO recommended

that this Section should allow an Affected Utility to provide competitive services in its service territory.

NEV suggested that the current section 1605(B) be deleted and replaced by new sections B-G for clarity and consistency. NEV's proposed new section 1605 would retain the current section 1605 requirement of a CC&N for the provision of any and all competitive retail electric services, and would preclude the option of self-aggregation.

Evaluation: This section should be clarified by utilizing references to the definitions provided by section 1601 in lieu of restating those definitions within the remainder of the Rules. The definition of "Competitive Services" should not exclude the services Trico enumerated.

Resolution: Modify sections 1605 and 1601 accordingly.

#### **R14-2-1606 – Services Required to Be Made Available**

##### **1606(A)**

Issue: AEPCO and Trico, with the support of Duncan and Graham, recommended adding "and Utility Distribution Company" after "Each Affected Utility" in section 1606(A). and APS recommended adding "or Utility Distribution Company".

Evaluation: "or Utility Distribution Company" should be added to this Section as recommended, and also to other applicable provisions in the Rules.

Resolution: Change section 1606(A) and other applicable provisions in the Rules accordingly.

Issue: APS recommended including in section 1606(A) language referring to the definitions of "Standard Offer Service," and "Noncompetitive Services" in lieu of re-defining those terms within the section.

Evaluation: These modifications add clarity and should be adopted, along with a modification to section 1601 changing "Standard Offer" to "Standard Offer Service".

Resolution: Modify sections 1606(A) and 1601 accordingly.

Issue: APS recommended deletion of reference to section 1602 because the date has passed.

Evaluation: Our revision to section 1602 makes this unnecessary.

Resolution: No change is necessary.

Issue: NWE submitted that the Standard Offer tariff referred to in section 1606 is anti-competitive and should be phased out six months after competition begins.

Evaluation: Our revisions to the definition of "Standard Offer Service" in section 1601 address these concerns.

Resolution: No change is necessary.

Issue: AEPCO and Trico, with the support of Duncan and Graham, also suggested changes to section 1606(A) in order to conform to section 23 of HB 2663, which limits the Affected Utilities' requirement to serve as Providers of Last Resort to consumers whose annual usage is 100,000 kWh or less. In support of its suggested change, AEPCO characterized consumers with an annual usage of greater than 100,000 kWh as large industrial and commercial consumers. AEPCO raised the concern that requiring Affected Utilities to serve as Providers of Last Resort would provide the opportunity for large, sophisticated customers to "game the system" by going on Standard Offer Service in order to obtain lower generation prices when convenient. AEPCO also proposed that removal of the last sentence of section 1606(A) "removes the forced divestiture element of the current Rules."

Evaluation: It is important that the Rules conform to the same kWh limit as State legislation, and this language should be added to the Rules. For purposes of clarity, AEPCO's suggested language should be provided within the definition of "Provider of Last Resort" in section 1601.

Resolution: Modify the definition of "Provider of Last Resort" in section 1601 to provide a limitation on the requirement of Utility Distribution Companies to serve as the Provider of Last Resort. No change to R14-2-1606(A) is necessary to establish this limitation.

#### **R14-2-1606(B)**

Issue: Tucson recommended that section 1606(B) be revised to specify that UDCs are required to purchase power to serve their Standard Offer Service customers from the "low bidder meeting specifications."

AEPCO and Trico, with the support of Duncan, Graham and Sulphur Springs, recommended that section 1606(B) be deleted entirely, claiming that the provision is unnecessary because market

forces alone will drive the UDCs to seek lowest-cost Standard Offer Service sources and mixes. AEPCO and Trico, with the support of Duncan and Graham, also stated in their comments that section 1606(B) breaches their all-requirements agreement.

TEP, APS, and Calpine all requested removal of the ratchet-down provision of section 1606(B). TEP commented that the ratchet-down provision would likely be expensive, and that Commission oversight of the UDCs' long-term power purchases is sufficient. APS commented that there is no precedent for this provision anywhere in the country. Calpine commented that the ratchet-down provision requirement is vague, would be difficult to administer, and could lead to claims of a failed bid process. Calpine further commented that allowing the UDCs to seek Commission modifications of the bid process could circumvent the Commission's goal of creating competitive electric markets.

APS recommended that UDCs not be required to seek competitive bids at all, but should be directed to acquire power for Standard Offer Service customers through the open market. TEP recommended inclusion of language in section 1606(B) allowing the UDC and the Commission to "consider alternatives to the competitive bid process."

APS and TEP both requested the inclusion of language in section 1606 which would allow UDCs to recover all purchased power costs for the provision of Standard Offer generation service through a purchased power adjustment mechanism ("PPAM") approved by the Commission. APS recommended that such a PPAM should be approved by the Commission prior to January 1, 2001.

AUIA also commented that sections 1606(A) and (B) are flawed and will increase costs for Standard Offer Service customers, and that they conflict with the transmission access principles in section 1610.

Evaluation: We agree with the numerous parties who were critical of the "ratchet-down" provision in section 1606(B). While the intent behind this provision was to keep costs down for Standard Offer Service customers, we believe that in practice it would not accomplish this goal, and worse, would only forestall the realization of our goal of fostering a competitive retail electric market in Arizona. It is our view that because the very purpose of this electric restructuring effort is to foster a competitive retail electric market, all purchases of generation should occur on the open

market. As AEPCO pointed out, market forces alone should drive the UDCs to seek the lowest cost generation sources and mixes of generation. However, the PPAM proposed by APS and TEP would have the exact opposite effect. The proposed PPAM would allow UDCs to recover all Standard Offer Service generation costs. If the UDCs were able to pass Standard Offer Service generation costs directly through to customers via the PPAM, the UDCs would lose the incentive to seek lowest cost Standard Offer Service generation sources and mixes. The combination of open market purchase of Standard Offer Service power with a PPAM would have anticompetitive effects and we therefore cannot combine these options in the Rules. One alternative to APS' and TEP's requested Rule modifications in this regard would be to require competitive bids and institute the requested purchased power adjustor mechanism. However, we believe that this avenue would be expensive and would not lead to a competitive generation market in Arizona within the foreseeable future. It is therefore an undesirable option. The alternative course of action would be to allow the UDCs to actively participate in the open market, and also to provide the UDCs with an incentive to obtain the lowest-cost source of generation sources and mix by requiring the UDCs to request a rate increase in order to pass increases in generation costs on to Standard Offer Service customers. We believe this to be the best option and will modify section 1606 accordingly. In order to prevent hardship to the UDCs in the event a rate increase becomes absolutely necessary, such rate requests should be treated expeditiously. By this Rule revision, the Commission wishes to send a clear message to UDCs that whenever possible, it will be more preferable and desirable to find the lowest-cost generation sources and mix available than to seek a rate increase to pay for higher-cost generation for Standard Offer Service customers.

Because the Arizona cooperatives obtain their power from a membership-owned generating affiliate, the provisions of section 1606(B) should apply only to investor owned Utility Distribution Companies.

**Resolution:** Modify section 1606(B) to delete the ratchet down provision, and to provide that beginning January 1, 2001, Standard Offer Service power purchased by investor-owned Utility Distribution Companies shall be purchased on the open market. Add language to section 1606(C)(2) to provide for expeditious treatment of rate requests.

**R14-2-1606(C)**

**Issue:** RUCO suggested that additional language be included in section 1606(C)(1) to require that Standard Offer Bundled Service tariffs include the same billing cost elements as the Unbundled Service tariffs.

In its exceptions, Staff noted that the date originally indicated in section 1602 was deleted in the proposed amendments, and suggested that the date in section 1606(C)(1) be changed to be consistent with the date contained in section 1606(D). Staff also suggested in its exceptions that language be added to section 1606(C)(1) requiring a rate case proceeding to justify any proposed rate change in Affected Utilities' initial Standard Offer Service tariff filings.

**Evaluation:** RUCO's suggested language changes will provide needed guidance for the Affected Utilities to follow in the unbundling process. The filing of new Standard Offer Service tariffs should be required so that the Commission can examine the cost elements. A new section 1606(C)(2) should be added to provide the elements which should be included in the required Standard Offer Service tariffs. A more concrete filing date should also be provided. We concur with Staff that the rate case proceeding language is necessary, especially in light of our deletion of the language from section 1606(C)(2) concerning the Commission's expectations in regard to Standard Offer Service rates.

**Resolution:** Replace "the date indicated in R14-2-1602," with "July 1, 1999, or pursuant to Commission Order, whichever occurs first,"; insert "Any rate increase proposed by an Affected Utility or Utility Distribution Company for Standard Offer Service must be fully justified through a rate case proceeding" between "until approved by the Commission." and "~~If no such tariffs~~"; and add the following new R14-2-1606(C)(2) and renumber accordingly:

"2. Standard Offer Service tariffs shall include the following elements:

a. Electricity:

- (1) Generation
- (2) Competition Transition Charge
- (3) Must-Run Generating Units

b. Delivery:

- (1) Distribution services
- (2) Transmission services
- (3) Ancillary services
- c. Other:
  - (1) Metering Service
  - (2) Meter Reading Service
  - (3) Billing and collection
- d. System Benefits

The Competition Transition Charge shall be included in the Standard Offer Service tariffs for the purpose of clearly showing that portion of Standard Offer Service charges being collected to pay Stranded Cost.”

Issue: NEV recommended that an exception be made to section 1606(C) to preclude the inclusion in Standard Offer Service of special discounts or contracts with term, including but not limited to time-of-use rates, interruptible rates, self-generation deferral rates, or any tariff which would prevent consumers from accessing a competitive option.

Evaluation: Time-of-use rates, interruptible rates or self-generation deferral rates are more in line with demand side management than with Competitive Services. While ESPs should be free to contract with their customers to offer such rates, UDCs should not be precluded from managing demand by means of these measures. The remainder of NEV’s suggested language is reasonable.

We agree with the specific language Staff recommended in its exceptions to clarify the rates that UDCs may continue to offer.

Resolution: Subsection (5) has been added to section 1606(C) to preclude the inclusion in Standard Offer Service of special discounts or contracts with term, or any tariff which would prevent consumers from accessing a competitive option, and to specify that UDCs may offer time-of-use rates, interruptible rates or self-generation deferral rates. The definition of “Standard Offer Service” in section 1601(36) has also been clarified to include demand side management services.

Issue: APS requested that the language in the second sentence in section 1606(C)(2) be deleted, because Commission expectations do not belong in a Rule. APS also requested deletion of

the portion of section 1606(C) stating that rate increase proposals must be fully justified through a rate case proceeding.

Evaluation: In our discussion of the changes to section 1606(B), we explained the necessity of rate case justification for rate increases. If a rate request becomes absolutely necessary, an expedited rate case proceeding should be available to UDCs.

Resolution: Add language to section 1606(C)(2) providing that rate case proceedings may be expedited at the discretion of the Director, Utilities Division.

Issue: APS requested a modification of the language in sections 1606(C)(3) and (4).

Evaluation: The provision in section 1606(C)(3) is adequate in its current form, but APS' suggested wording changes to section 1606(C)(4) should be adopted.

Resolution: Modify section 1606(C)(4) to delete language referring to a specific Commission Decision.

Issue: The Arizona Consumers' Council recommended that a new subsection be added to section 1606(C) to require that Standard Offer Service tariffs may not subsidize costs of competitive customers.

Evaluation: This is a valid concern. The clarification of requirements for the filing of properly unbundled tariffs and standardized billing cost elements made elsewhere in the Rules addresses this issue.

Resolution: The inclusion of the suggested language is unnecessary here.

#### **R14-2-1606(D)**

Issue: The date provided in section 1606(D) should be consistent with our amendment to section 1606(C)(1).

Evaluation: The date should be changed accordingly.

Resolution: Replace "the date indicated in R14-2-1602" with "July 1, 1999, or pursuant to Commission Order, whichever occurs first,".

Issue: APS recommended that section 1606(D) be modified to clarify that the Affected Utilities should file tariffs for Noncompetitive Services as defined in section 1601. Mohave and Navopache also suggested additional language for inclusion in section 1606(D) to clarify the

difference between Unbundled Service tariffs and Standard Offer Service tariffs.

Evaluation: Clarification of this provision is necessary.

Resolution: Modify section 1606(D) and the definition of Noncompetitive Services accordingly.

Issue: ASARCO et al. proposed that language be added to section 1606(D) requiring that Unbundled Service tariffs be based on electric service requirement charges, rather than on consumption, because unbundled rates based on consumption have little relationship to actual service provision costs, and because such changes would preclude the UDCs' need for competitive energy consumption information. The proposed language also offers the optional filing of unbundled tariffs based on simple energy consumption (kWh).

Evaluation: Because UDCs will retain the obligation to insure adequate transmission import capability to meet the load requirements of all customers within their service areas under revisions to the Rules' Transmission and Distribution Access provisions, this suggested language need not be included in section 1606(D).

Resolution: No change is necessary.

Issue: ASARCO et al. suggested that section 1606(D)(2) be modified in conformance with its suggested change to section 1616(B).

Evaluation: Our modification of section 1616(B) renders this change unnecessary.

Resolution: No change is necessary.

#### **R14-2-1606(E)**

Issue: APS recommended that "Utility Distribution Company" be added to section 1606(E).

Evaluation: The intent of the Rules is that UDCs will not provide Unbundled Services as defined in section 1601, but will provide Noncompetitive Services as defined in section 1601. Under the Rules, until an Affected Utility completes its spin-off of competitive affiliates, the Affected Utility may continue to provide Unbundled Services, but the provision of Unbundled Services will cease afterward. The inclusion of "Utility Distribution Company" in section 1606(E) would therefore not be proper.

Resolution: No change is necessary.

**R14-2-1606(F)**

Issue: AEPCO recommended that section 1606(F) be modified to preclude possible FERC jurisdictional conflicts. APS recommended complete removal of section 1606(F). Staff, in its exceptions, noted that section 1606(F) is ambiguous.

Evaluation: We agree with APS that as currently written, section 1606(F) identifies distribution services only in the prefatory language and does not provide any guidance relating to the provision of distribution services. We also agree that the Commission need not require by rule what is already mandated by FERC regarding provision of services according to FERC tariffs and FERC Orders. However, section 1606(F) should clarify how Affected Utilities and UDCs will provide access to their distribution systems.

Resolution: Modify section 1606(F) accordingly.

**R14-2-1606(G)**

Issue: AEPCO recommended that section 1606(G)(1) be revised so that Load-Serving Entities are not required to release customer information that is unavailable to them.

Evaluation: Because section 1606(G)(3) provides that data shall not be "unreasonably withheld," it already meets AEPCO's stated objective.

Resolution: No change is necessary.

Issue: The Arizona Consumers' Council recommended that section 1606(G)(1) be expanded to require that customer data be released only to ESPs that have met all State of Arizona and Commission requirements.

Evaluation: Our revisions to the Rules clarify that all ESPs must be certificated by the Commission. This process provides the Commission with valuable oversight and should keep unscrupulous ESPs out of Arizona's marketplace.

Resolution: Include "properly certificated Electric Service Provider" in this provision.

**R14-2-1606(H) & (I)**

Issue: APS recommended revisions to sections 1606(H) and (I) in order to clarify that rates for competitive services must comply with section 1612.

Evaluation: Clarification is in order with use of defined terms.

Resolution: Replace references to sections 1606(D) and (E) with the defined terms "Competitive Services" and "Noncompetitive Services". Also replace "where it is" in section 1606(H) with "subject to Commission".

Issue: NEV recommended that a subsection be added to section 1606 to require UDCs to provide credits to consumers who obtain competitive services from a provider other than the UDC.

Evaluation: Properly unbundled bills pursuant to section 1613 should make clear who is providing what service to a consumer, making these recommended "credits" to consumers' bills unnecessary.

Resolution: No change is necessary.

Issue: Sempra recommended the deletion of section 1606(I), stating that its requirements add unnecessary cost burdens to ESPs, and that the market will determine proper rates.

Evaluation: It is in the public interest for the Commission to review and approve all rates at this time. ESPs are free to seek a waiver from these requirements. Granting of such a waiver will require a determination that a fully competitive market assures that the market truly does determine proper rates.

Resolution: No change is necessary.

#### **R14-2-1607 – Recovery of Stranded Cost of Affected Utilities**

##### **1607(A)**

Issue: APS proposed deleting the words "means such as" and replacing it with "reducing costs" and inserting "permitted regulated utility" after "scope of". TEP, Trico, Mohave and Sempra proposed ending the sentence after "Stranded Cost" and not delineating the means of mitigation. TEP asserted that it is unclear whether the markets and services mentioned are regulated or unregulated, and believes that most new products will develop in the unregulated competitive market.

Evaluation: We concur with APS' proposal.

Resolution: Delete "means such as" and replace with "reducing costs." and insert "permitted regulated utility" before "Services for profit".

##### **1607(B)**

Issue: APS proposed inserting "full" before "recovery" to make it consistent with the findings in the Stranded Cost proceeding. Trico proposed inserting "all" before "unmitigated".

Evaluation: We believe that this subsection is sufficiently unambiguous as written.

Resolution: No change is required.

#### **1607(C)**

Issue: Trico and Mohave and Navopache proposed deleting the second sentence of section 1607(C). Mohave and Navopache suggested inserting "together with supporting data" after "Stranded Cost." Tucson recommended adding the word "public" to modify the required estimates of unmitigated Stranded Cost Affected Utilities must file.

Evaluation: We believe this section is sufficiently clear as written, except that it should provide a time frame for filing estimates of Stranded Cost.

Resolution: Insert "on or before July 1, 1999, or pursuant to Commission Order, whichever occurs first" after "estimates of Stranded Cost".

#### **1607(D)**

Issue: Calpine proposed that the Affected Utilities file estimates of unmitigated Stranded Cost by March 19, 1999. NEV recommended deleting the remainder of section 1607(D) following "Article". ASARCO et al. proposed ending the sentence after "Stranded Cost".

ATDUG recommended adding the following language to the end of section 1607(D) to permit an exit fee: "The filing shall include a discounted stranded costs exit methodology that a customer may choose to use to determine an amount due the Affected utility in lieu of making monthly distribution charge or other payments. Each Affected Utility will bear a high burden of proof concerning stranded costs and mitigation."

Sempra recommended adding to the end of section 1607(D): "Customer specific stranded costs should be allocated to those customers on whose behalf they were incurred." Sempra argued that directly assignable costs should be allocated to those customers who benefited, and that otherwise they should be absorbed.

RUCO proposed replacing section 1607(D) with the following: "Unmitigated Stranded Costs eligible for recovery shall be recovered both from customers who reduce or terminate generation

service from the Affected Utility as a direct result of competition governed by this Article by taking generation service from alternative suppliers, as well as from customers who stay with the Standard Offer service, through a non-bypassable nondiscriminatory competitively neutral wires charge.”

Evaluation: We agree that the CTC should be recovered from all customers. Consequently, we will delete the remainder of the sentence after “Stranded Cost”. Consistent with our revisions to other Rules, we will change the date for filing requests for approval of Stranded Cost to July 1, 1999, or pursuant to Commission Order, whichever occurs first. We concur with ATDUG’s suggestion to include an exit fee methodology; however, we do not believe that the proposed language regarding the standard of proof is necessary. We believe that Sempra’s concerns will be addressed at the Stranded Cost hearing for each Affected Utility.

Resolution: Modify section 1607(D) as discussed above.

#### 1607(E)

Issue: APS recommended deleting the words “Stranded Cost recovery” from sections 1607(E)(1), (2) and (4), as APS argued it is not the recovery of Stranded Cost that is being considered, but the timing and method of recovery. APS also recommended the deletion of sections 1607(E)(5), (6) and (7) as being redundant, and recommended eliminating sections 1607(E)(9) and (11) as being irrelevant.

Trico recommended deleting subparts (1) through (11) of section 1607(E).

APS suggested inserting the words: “for the recovery of Stranded Cost and the timing of such recovery,” after “charges” in the second sentence of section 1607(E).

Tucson suggested adding “public” before “hearing”.

Because TEP believed that the amount of electricity generated by renewable generating resources is inappropriate to consider in determining Stranded Cost, TEP recommended deleting section 1607(E)(11) and replacing it with “the impact of Stranded Cost recovery on shareholders of the Affected Utility.”

Evaluation: We do not concur with APS’ interpretation of the purpose of section 1607(E) and will not adopt APS’ proposed modifications, except that we agree that subparts (9) and (11) should be deleted, as the ease of determining Stranded Cost and the generation of electricity by

renewable sources are not relevant. Regarding Tucson's concerns, all of the Commission's hearings are public.

Resolution: Delete sections 1607(E)(9) and (11).

**1607(F)**

Issue: Citizens argued that all customers should pay the CTC. Citizens noted that there has been some confusion whether customers who remain on Standard Offer Service will somehow effectively be paying for Stranded Cost through generation costs bundled in Standard Offer Service, but, Citizens argued, if the generation has been divested, the resulting Stranded Cost would not be part of Standard Offer Service, except as part of a CTC. Citizens recommended that section 1607(F) be modified to read "A Competition Transition Charge may be assessed on customers eligible to make purchases in the competitive market using the provisions of this Article."

Sempra proposed that section 1607(F) be modified to provide the CTC "will" be assessed on "all" customer purchases "regardless of supplier."

TEP was concerned that customers who leave the distribution system to self-generate as a result of these Rules will avoid paying their fair share of the CTC.

Trico recommended deleting all but the first sentence of section 1607(F).

RUCO proposed that the CTC "shall be assessed on all customers continuing to use the distribution system based on the amount of generation purchased from any supplier". Because this suggested language would create a loophole that might allow large users who receive electric service at transmission-level voltage to escape the CTC, RUCO revised its recommendation in its filed exceptions to provide that the CTC may be assessed "on all retail customers based on the amount of generation purchased from any supplier".

APS proposed replacing "customer purchases" with "customers purchasing services" in the first sentence of section 1607(F) and deleting "using the provisions of this Article" and inserting "verifiable" after "Any" in the second sentence. APS argued that its proposed changes clarify that Stranded Cost is recoverable from customers taking competitive service rather than through rates for competitive services, and that such customers include customers taking competitive services from entities that arguably are not "using the provisions of this Article."

In its exceptions to the proposed Rules, ATDUG argued that it was “unconscionable to collect Stranded Cost from all users because those remaining on Standard Offer, who already pay full costs, would be subsidizing those who choose another Electric Service Provider.”

Evaluation: We agree that all customers should pay for Stranded Cost. This does not mean that Standard Offer Service customers should pay twice. Under the proposed Rule revisions, Standard Offer Service tariffs and customer bills will include a CTC component to clearly show how much of the generation charge is attributable to Stranded Cost. We believe RUCO’s proposed language, as set forth in its exceptions to the proposed Rules, most clearly addresses the proper assessment of the CTC. We understand TEP’s concern that by leaving the distribution system completely, a customer could potentially avoid paying its share of the CTC. However, based on our initial review of TEP’s comments, we are not convinced that a change is warranted.

Resolution: Modify the first sentence of section 1607(F) to read “A Competition Transition Charge (CTC) may be assessed on all retail customers based on the amount of generation purchased from any supplier.” Add the following new sentence to section 1607(G): “In no event shall the Competition Transition Charge be utilized as a mechanism for double recovery of Stranded Cost from Standard Offer Service customers.”

#### **1607(G)**

Issue: APS suggested inserting “tariffed” before “rate” in section 1607(G) to clarify that special contract customers are not automatically entitled to special benefits even after the expiration of their contracts.

Evaluation: We concur with APS.

Resolution: Insert “tariffed” before “rate treatment”. Modify section 1607(G) as discussed previously to clarify that Standard Offer Service customers shall not be charged twice for the recovery of Stranded Cost.

#### **1607(H)**

Issue: APS recommended deleting section 1607(H) as being redundant with section 1607(C)(1). Trico proposed deleting “or, if negative, to refund” from section 1607(H) on the grounds there is no legal basis to refund so-called negative Stranded Costs.

Evaluation: We concur with APS.

Resolution: Delete section 1607(H).

**1607(I)**

Issue: Mohave and Navopache suggested adding "based upon established facts" at the end of section 1607(I). APS recommended inserting "after notice and hearing" after "The Commission may".

Evaluation: We concur with APS. This addition should also address Mohave's concerns.

Resolution: Insert "after notice and hearing" after "The Commission may".

**1607(J) (newly proposed)**

Issue: Citizens suggested the adoption of a new section 1607(J) as follows: "The Director, Utilities Division will issue no later than March 1, 1999, a description of a common methodology for calculation of Affected Utilities' CTCs."

TEP proposed a new section 1607(J) as follows: "The Commission may consider securitization as a financing method for recovery of Stranded Cost of the Affected Utility if the Commission finds that such method of financing will result in a lower cost alternative to customers."

Evaluation: We concur with TEP. Based on our initial review of Citizen's comments, we are not convinced additional changes are necessary.

Resolution: Insert new section 1607(H) (after renumbering) as proposed by TEP.

**R14-2-1608 – System Benefits Charges**

Issue: Citizens recommended deleting the reference in subsection (A) to "who participate in the competitive market" in order to clarify that both Standard Offer Service customers and customers taking competitive power will pay for System Benefits.

TEP, RUCO, Mohave and Navopache, ASARCO et al., Citizens, Calpine, Trico and AEPCO, with the support of Duncan and Graham, recommended deleting the final two sentences of section 1608(A) concerning the solar water heater rebate program, arguing that this program exceeded the Commission's jurisdiction.

ASARCO et al. proposed adding the following to the end of section 1608(A): "provided, however, that only customers benefiting from nuclear power plants shall be required to pay such

charges to fund nuclear power plant decommissioning and nuclear fuel disposal programs.”

TEP recommended adding “Direct Access implementation costs”, “non-nuclear plant decommissioning costs” and “other programs approved by the Commission” for inclusion in the System Benefits Charge.

Calpine proposed deleting the words “market transformation, environmental, renewables, long-term public benefit research and development, and nuclear fuel disposal and nuclear power plant decommissioning”. RUCO proposed eliminating market transformation, long-term public benefit research and development, and nuclear fuel disposal and nuclear power plant decommissioning from the System Benefits Charges.

APS recommended deleting “By the date indicated in R14-2-1602” at the beginning of section 1608(A) and inserting “at least” before “every 3 years” in the second sentence. APS suggested adding “At such time, the Commission shall determine whether to eliminate, modify, expand, or add to such programs” after the second sentence, and inserting “customer education, approved solar water heater rebate programs” as programs included in the System Benefits Charges.

NWE argued that section 1608 failed to provide adequate notice of the criteria for calculating the System Benefits Charges.

ATDUG recommended adding the following to the end of section 1608(B): “The burden of proof on each Affected Utility or Utility Distribution Company shall be the same as that provided in R14-2-1607.”

Evaluation: We agree that the solar water heater rebate program should be eliminated at this time; that the reference to the date in section 1602 and the reference to “who participate in the competitive market” should be deleted; and with APS’ proposal to insert “at least” before “every three years”. We addressed the programs that should comprise System Benefits in the definitions of section 1601. System Benefits should not include non-nuclear power plant decommissioning.

Resolution: Delete “By the date indicated in R14-2-1602,” and end the first sentence after “service area”. To avoid ambiguity and the possibility of conflicting definitions, eliminate the reiteration in section 1608 of individual programs comprising System Benefits and replace it with the defined term “System Benefits”.

### **R14-2-1609 – Solar Portfolio Standard**

Issue: RUCO, Citizens, APS, ASARCO et al., AEPCO with the support of Duncan and Graham, NWE, Trico, NEV, TEP, and AUIA recommended deleting section 1609 in its entirety. They argued that the Solar Portfolio Standard is enormously expensive; that it mandates construction of capacity when none is needed; that it injects government control into what is supposed to be a deregulated, market-based system; and that it requires construction of the least efficient solar application. AEPCO, with the support of Trico, Duncan and Graham argued that the Solar Portfolio Standard exceeds the Commission's jurisdiction.

TEP stated that it supported the concept of a Solar Portfolio Standard, but that the Rules set a schedule that is too aggressive and costly. TEP recommended that the Integrated Resource Planning Rules should be repealed or revised given the requirement that an Affected Utility separate its generation assets to an affiliate or non-affiliate.

The Land and Water Fund ("LAW Fund") recommended that the Solar Portfolio Standard be retained.

Mohave and Navopache suggested ending the first sentence of section 1609(C) after "Competitive retail electricity" and adding the sentence "The solar portfolio requirement shall not apply to sales under Standard Offer tariffs."

Calpine proposed clarifying this provision to refer to sales in Arizona by an ESP.

Evaluation: The Solar Portfolio Standard as currently contemplated in the Rules is extremely expensive and contrary to the spirit of these Rules. Solar generation has the potential to offer great public benefits. However, it must be brought forward in a cost-effective manner. The issue of encouraging the development of economic solar power is more properly addressed as part of System Benefits and/or the Integrated Resource Planning docket. In our effort to bring competition in the electric industry to the citizens of Arizona as quickly as we prudently are able, we must defer the issue of a Solar Portfolio Standard at this time.

Resolution: Delete section 1609 in its entirety.

### **R14-2-1610 – Transmission and Distribution Access**

Issue: APS recommended that references to an Independent Scheduling Administrator be

changed to read "Arizona Independent Scheduling Administrator" throughout this section.

Evaluation: The Arizona Independent Scheduling Administrator is an existing entity and should be referred to as such in the Rules.

Resolution: Insert "Arizona" where appropriate.

Issue: APS and AEPCO both recommended language for section 1610(A) to clarify FERC/Commission jurisdictional issues, and APS recommended wording changes throughout section 1610(C), some of them substantive. AEPCO recommended extensive revamping of this section, including many deletions, in order to avoid unnecessary jurisdictional conflicts with FERC regarding transmission rights and rates and must-run transactions and services. TEP suggested amendments to section 1610 to reflect changes it feels are necessary to ensure appropriate access to the State's transmission and distribution systems. AUIA commented that sections 1610(A), (D), (F), (G) and (H) require clarifying language.

Evaluation: Clarifying language should be added to section 1610.

Resolution: Insert recommended language where appropriate and necessary.

Issue: Mohave and Navopache and Trico, with the support of Duncan and Graham, recommended the addition of language to section 1610(C)(2) specifying that ISA protocols with respect to Must-Run Generating Units should be in accordance with FERC regulation of such units.

Evaluation: Because section 1610(C) requires the Arizona Independent Scheduling Administrator ("AISA") to file its protocols for FERC approval, we feel that it is unnecessary to include the suggested language in this subsection.

Resolution: No change is necessary.

Issue: Citizens recommended that new sections 1610(B) and (C)(5) be added to provide that the AISA will implement a transmission planning process to identify transmission needs within the State, and to clarify that UDCs will retain the obligation to assure adequate transmission import capability to meet the load requirements of all customers within their service areas.

Evaluation: This suggested addition to the Rules will serve the public interest.

Resolution: Add new sections 1610(B) and (C)(5).

Issue: ASARCO et al. recommended that language be added to section 1610(H) specifying

that service from Affected Utilities' Must-Run Generating Units be provided only in the geographical areas where Must-Run Generating Units are necessary.

Evaluation: Because the definition of "Must-Run Generating Units" in section 1601 addresses this concern, no language change to this effect is needed.

Resolution: No change is necessary.

Issue: Citizens recommended that language be added to section 1610(H) to clarify that Affected Utilities are not required to spin off their Must-Run Generating Units.

Evaluation: The inclusion of "Utility Distribution Company" in this section, along with our clarification of the definition of "Noncompetitive Services" in section 1601, accomplishes this goal, precluding the need for additional language.

Resolution: No change is necessary.

Issue: NEV proposed changes to section 1610 to add energy scheduling and energy imbalances to the necessary protocols to be overseen by the AISA.

Evaluation: This recommendation by a new market entrant is reasonable.

Resolution: Include the suggested language in section 1610(C)(2).

Issue: Staff recommended, in its exceptions, that language be added to this section 1610 clarifying the Commission's right to approve the pricing features of the Must-Run Generating Units protocol, when such approval is appropriate. Staff also recommended that clarifying language be included in this section to require that fixed Must-Run Generating Units costs be recovered through a charge to end-use customers in the appropriate load zone.

Evaluation: We concur with Staff.

Resolution: Modify section 1610 accordingly.

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

Issue: AUIA recommended that section 1611(E) should be eliminated. NWE saw no need for this section. ATDUG also suggested modifications to section 1611. ATDUG suggested adding the words "subject to the jurisdiction of the Commission" after the first "Arizona electric utilities" to clarify which utilities are subject to Commission control and to clarify that newly certified ESPs may compete in Salt River Project territory.

ATDUG recommended adding the following to the end of section 1611(C): "Upon such filings, the existing service territory of such electric utility shall be deemed open to competition." ATDUG believed this language is necessary because otherwise a political subdivision could access the complaint procedures by filing under section 1611(C), but avoid competition by failing to enter into an intergovernmental agreement under section 1611(D).

ATDUG recommended adding the following to the end of section 1611(D): "Execution of such intergovernmental agreement shall provide the electric utility authority 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."

Evaluation: Other than to clarify that the service territories of Public Power Entities should be opened to competition, no change is required.

Resolution: Revise this section accordingly.

#### **R14-2-1612 – Rates**

Issue: NWE registered objections to the requirement to file maximum rates and also objected that this section did not establish time limitations for the Commission to approve rates.

TEP proposed deleting section 1612(A) arguing that it may be unconstitutional for the market to determine that rates are just and reasonable instead of the Commission.

APS recommended inserting at the end of section 1612(B) the following: "Such tariffs may combine one or more competitive services within the rates for any other competitive service." APS asserted that this is consistent with Staff's position in the PG&E Energy Services certification process.

NWE recommended deleting all of section 1612(C), arguing that the requirement to approve customer agreements is anti-competitive and a remnant of the regulatory regime.

APS recommended deleting from the third sentence of section 1612(C) and the second sentence of section 1612(D) the words "this Article and" to keep it consistent with the first sentence of section 1612(C) and to remove uncertainty surrounding the execution of an agreement.

Evaluation: It is in the public interest at this time for the Commission to establish a policy of overseeing whether contracts between Load-Serving Entities comply with approved tariffs.

In section 1612(A), the Commission has utilized its ratemaking power to determine that market-determined rates for competitively-provided services are be just and reasonable, and there is no reason to delete this provision.

The new language APS suggested for section 1612(B) would be inconsistent with the intent of these Rules.

APS' recommended deletion of "this Article and" from the third sentence of section 1612(C) and the second sentence of section 1612(D) would clarify this Rule. In addition, sections 1612(C) and (D) should be modified to indicate a meaningful and reasonable date, and references to "Affected Utility" and "Electric Service Provider" in sections 1612(C) and (D) should be changed to "Load Serving Entity" so as to encompass UDCs as well. In section 1612(E), the defined term "Competitive Services" should be used.

Resolution: In section 1612(C), replace "the date indicated in R14-2-1604(D)" with "January 1, 2001"; delete "this Article and", and replace "Affected Utility's or Electric Service Provider's" with "Load-Serving Entity's".

In section 1612(D), replace "the date indicated in R14-2-1604(D)" with "January 1, 2001"; delete "this Article and", and replace "Affected Utility's or Electric Service Provider's" with "Load-Serving Entity's".

In section 1612(E), replace "competitive services, as defined in R14-2-1605" with "Competitive Services".

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

### **1613(A)**

Issue: Trico proposed deleting the second sentence of section 1613(A).

Evaluation: Based on our initial review, we do not believe changes are necessary.

Resolution: No change is required.

### **1613(C)**

Issue: RUCO wanted to delete the words "supply by" and "(or slammed)" from section

1613(C). TEP proposed modifying section 1613(C) by inserting after the third sentence: "A Utility Distribution Company has the right to review or audit written authorizations to assure a customer switch was properly authorized", and substituting a semi-annual report period instead of quarterly.

Evaluation: RUCO's and TEP's proposals are reasonable. In addition, we note that in the fourth sentence the word "Providers" appears to refer to "Electric Service Providers."

Resolution: Delete the language as recommended by RUCO and insert TEP's proposed sentence. Insert in the beginning of the fourth sentence "Electric Service" before "Providers".

#### **1613(D)**

Issue: NEV proposed limiting rescission to residential customers.

Evaluation: NEV's proposal is reasonable.

Resolution: Insert "residential" before "customer" in section 1613(D) and delete "with an annual load of 100,000 kWh or less".

#### **1613(E)**

Issue: Without proposing specific language, NWE argued that section 1613(E) should be redrafted to clarify that compliance with applicable reliability standards is the responsibility of the scheduling coordinator, the Independent System Operator ("ISO") or the AISA, and notification of the scheduled outages is the responsibility of the UDC.

APS recommended deleting the last sentence of section 1613(E) as it is covered by, and inconsistent with, section 208(D)(1).

Evaluation: We believe section 1613(E) sufficiently delineates responsibilities and disagree that this section is inconsistent with other Rules.

Resolution: No change is required.

#### **1613(G) & (H)**

Issue: NWE argued that sections 1613(G) and (H) should apply only to UDCs. Sempra recommended deleting section 1613(G) as an unnecessary cost burden.

Evaluation: We believe that sections 1613(G) and (H) should apply to ESPs and do not believe that section 1613(G) is overly burdensome.

Resolution: No change is required.

**1613(I)**

Issue: APS recommended conforming section 1613(I) to section 203(D)(4).

Evaluation: We concur with APS.

Resolution: Insert "if appropriate metering equipment is in place, and the request is processed 15 calendar days prior to the next regular read date" after "billing cycle"

**1613(K)**

Issue: Mohave and Navopache proposed modifying section 1613(K)(1) to allow UDCs to charge a fee for providing data to the customer or ESP.

Evaluation: Based on our initial review, we are not convinced that changes are necessary.

Resolution: No change is necessary.

Issue: Tucson recommended adding the following to the end of section 1613(K)(6): "Predictable loads, such as streetlights, will be permitted to use load profiling to satisfy the requirements for hourly consumption data. The Affected Utility or Electric Service Provider will make the determination if a load is predictable."

Evaluation: Tucson's proposal is reasonable.

Resolution: Insert Tucson's proposed language at the end of section 1613(K)(6). However, in response to Staff's exceptions to the proposed Rules, do not include the phrase "such as streetlights".

Issue: Tucson recommended increasing the maximum demand for eligibility for load profiling from 20kW to 50kW in section 1613(K)(7). NEV suggested changing the requirement to 40 kW to ensure that small commercial users have an opportunity to participate in the competitive market.

Evaluation: Based on our initial review of the Rule, we are not convinced changes are necessary.

Resolution: No change is necessary.

Issue: ASARCO et al. recommended deleting "metering or" from section 1613(K)(1) because this section applies only to Meter Reading Service Providers.

Evaluation: "Metering or Meter Reading Services" are defined terms. We do not believe

a change is required.

Resolution: No change is necessary.

Issue: Trico proposed eliminating the last sentence in section 1613(J). Trico also proposed deleting section 1613(K)(1), and adding to the end of section 1613(K)(2) the following: "The Utility Distribution Company shall make available to the customer or its Electric Service Provider all metering information requested at the incremental cost of providing such information." Trico recommended deleting "reference to Electric Service Provider" in sections 1613(K)(8), (9) and (10) and deleting sections 1613(K)(13), (14) and (15).

Evaluation: Trico's recommendations are consistent with its view that metering, meter reading, billing and collection have historically been considered part of distribution services and should not be made competitive. We have rejected this position, believing that for meaningful competition, these contact points with customers should be competitive.

Resolution: No change is necessary.

Issue: NWE argued that the provisions of section 1613(K)(4) and sections 1613(K)(10) through (15) are overly technical, and that in section 1613(K)(2), the Commission should not approve tariffs for meter testing. NWE suggested that by eliminating the reference to the allowed percentage of error, the Commission could change the standard without amending the Rule.

Evaluation: We disagree that sections 1613(K)(4) and (10) through (15) are inappropriate for inclusion in these Rules. Further, we believe tariffs for meter testing are appropriate. As for the suggestion of not delineating the allowable percentage of error, based on our initial review, we are not convinced changes are necessary. In section 1613(K)(14) it appears that the reference to "rules" should be to the "operating procedures" referred to in section 1613(K)(13).

Resolution: In section 1613(K)(14) replace the word "rules" with "operating procedures".

Issue: Citizens recommended adding provisions to sections 1613(K)(4) and (5) that would require electronic reporting unless the Commission granted a specific waiver.

Evaluation: We concur.

Resolution: Insert at the beginning of sections 1613(K)(4) and (5) the following: "Unless the Commission grants a specific waiver".

Issue: RUCO proposed adding the following to the end of section 1613(K)(7): "however, they may choose other metering options offered by their Electric Service Provider consistent with the Commission's rules on metering."

Evaluation: We concur.

Resolution: Insert RUCO's proposed language.

Issue: ASARCO et al. proposed modifying section 1613(K)(8) to refer to metering equipment ownership rather than meter ownership and specifying the customer "must obtain the metering equipment through" the Affected Utility, ESP or UDC. Tucson recommended deleting the requirement that a meter must be obtained from an Affected Utility, UDC or ESP. Mohave and Navopache wanted section 1613(K) to provide that when the Affected Utility is a distribution cooperative, meter ownership must remain with the cooperative. ASARCO et al. proposed deleting sections 1613(K)(10) and (11), as ASARCO et al. believed they create unnecessary confusion regarding ownership of metering instrument transformers, stating there is no legitimate reason to preclude ownership.

Evaluation: We concur with ASARCO et al.'s proposed revision of section 1613(K)(8). It is important that meters be obtained through a regulated entity. Based on our initial review of ASARCO et al.'s comments regarding sections 1613(K)(10) and (11), we are not convinced changes are necessary. Nor are we convinced that cooperatives must retain ownership of meters.

Resolution: Insert "equipment" after "Meter" and delete "obtains the meter from" and replace with "must obtain the metering equipment through" in section 1613(K)(8). No other changes are required.

Issue: Citizens recommended that the Director of the Utilities Division be required to issue operating procedures and performance specifications and standards by a date certain. Citizens suggested April 1, 1999.

Evaluation: We concur with Citizens that the entities providing metering services should have access to the operating procedures and specifications sooner rather than later.

Resolution: Modify sections 1613(K)(13), (14) and (15) to require the Director of the Utilities Division to issue operating procedures and specifications and standards by May 1, 1999.

**1613(L)**

Issue: APS recommended deleting section 1613(L) as the System Reliability and Safety Working Group has been dissolved and the issues it was addressing have been incorporated within the AISA Working Group.

Evaluation: APS' proposal is reasonable.

Resolution: Delete section 1613(L).

**1613(N)**

Issue: NWE also argued that section 1613(N) should be deleted as the Electric Power Competition Act requires substantial statewide consumer outreach and education, and that further informational programs by ESPs are unnecessary.

Evaluation: We do not believe that this provision adds an additional burden on ESPs, but merely provides for their participation in Consumer Education programs the Commission may require.

Resolution: No change is required.

**1613(O)**

Issue: NWE argued that to the extent ESPs are mandated to provide information on their billing statements, the Affected Utilities and UDCs should be mandated to provide such information in their control to the ESP.

Mohave and Navopache proposed modifying section 1613(O) to state that "All customer bills will list, at a minimum, the billing cost elements shown below. In cases in which power supplies (including generation, transmission and ancillary services) are obtained on a bundled basis, those costs can be shown as a bundled cost."

ASARCO et al. proposed that the section 1613(O)(1) unbundled billing elements include an additional section 1613(O)(1)(d) for "fixed Must-Run Generating Units Costs." Calpine proposed adding "Must-Run Generating Units charge" as a new section 1613(O)(3)(e).

Trico proposed deleting sections 1613(O)(3)(a) through (c), arguing that providing unbundled Standard Offer Service is not necessary.

APS proposed inserting the words "for competitive electric services" after "bills" in section

1613(O).

RUCO recommended deleting the word "Unbundled" at the beginning of section 1613(O) and deleting section 1613(O)(1)(d) Must-Run Generating Units charge and (O)(2)(c) "ancillary services". RUCO argued that these charges are reflected in generation and transmission costs.

Evaluation: We believe that after a service territory is open to competition, all customer bills, whether Standard Offer or not, should be unbundled. However, we concur with RUCO that for billing purposes, including separate charges for Must-Run Generating Units and Ancillary services will probably not assist consumers and may be confusing. Based on our decision to clarify that all customer bills should be unbundled, and on our initial review of the other comments, we are not convinced additional changes are necessary. We agree that the proper title for this section should be "Billing Elements".

Resolution: Revise section 1613(O) to provide: "Billing Elements. After commencement of competition within a service territory pursuant to R14-2-1602, all customer bills, including bills for Standard Offer Service, for customers within that service territory, will list, at a minimum the following billing cost elements:" Delete subsection (O)(2)(c).

Issue: RUCO proposed a new section 1613(P) as follows: "Within a given customer class, the bundled and unbundled bills shall include the same billing cost elements." Citizens recommended that section 1613(P) require the Director of the Utilities Division to issue procedures and specifications by April 1, 1999. APS proposed inserting at the beginning of section 1613(P) the words "Information on unbundled charges will be provided to Standard Offer customers upon request." APS argued that most Standard Offer Service customers do not want or need the information and the cost of providing it to all Standard Offer Service customers is high.

Evaluation: We believe our modifications to section 1613(O) have addressed RUCO's concerns. We disagree that Standard Offer Service customers do not need or want information on unbundled rates.

Resolution: No additional changes are necessary.

#### **R14-2-1614 – Reporting Requirements**

Issue: NWE argued that the entire section 1614 should be stricken as it is regulatory in

nature with no pro-competitive justification. AUJA requested that section 1614(A)(8) be eliminated. Sempra recommended deleting sections 1614(A)(4), (6) and (8) as the information they require would be trade secrets under competition.

APS proposed inserting the words "and if not otherwise provided," after "applicable" in section 1614(A), and proposed deleting section 1614(A)(12).

APS recommended deleting all of section 1614(B)(1) and modifying section 1614(B)(2) to require only an annual report due on April 15 of each year, commencing in 2000. APS proposed inserting "at the provider's option" in the first sentence of section 1614(C). APS also proposed deleting section 1614(F) because it believed it "silly" to mandate participation in informal proceedings such as workshops.

TEP recommended the deletion of 1614(A)(3), and the deletion of all language after the word "disaggregated" in section 1614(A)(4), and sections 1614(A)(6), (7), (8) and (9). TEP questioned the need for the amount of information currently required under the Rule, and believed it would be unnecessarily expensive.

Evaluation: The reports required by section 1614(A) will furnish the Commission with valuable information in assessing the competitiveness of the electricity market in Arizona and we will retain the requirement that they be filed, with the exception of section 1614(A)(3), which is no longer necessary due to the deletion of the solar portfolio requirement, and section 1614(A)(12), which should be deleted due to mootness.

Section 1614(A)(7) would be clarified by the use of the defined terms "Competitive Services" and "Noncompetitive Services".

APS' proposed insertion of "at the provider's option" in the first sentence of section 1614(C) clarifies the intent of that provision. This clarification also addresses Sempra's concern regarding confidentiality.

Resolution: Modify section 1614 accordingly.

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

Issue: APS and NWE both proposed that section 1615(A) be modified to provide that newly tariffed services shall become effective in thirty days unless suspended by the Commission as is the

case at present.

Evaluation: This is a reasonable recommendation.

Resolution: Remove the second sentence of this provision.

Issue: Trico, with the support of Duncan and Graham, recommended that section 1615(A) be modified to clarify that tariffs filed by ESPs are for Competitive Services.

Evaluation: This suggested modification provides clarity.

Resolution: Replace "services" with "Competitive Services" thereby incorporating the definition of "Competitive Services" in section 1601 into section 1615(A).

Issue: RUCO recommended adding a new subsection to section 1615 requiring the Director of Utilities to implement a Consumer Education program as approved by the Commission. The comments of the Arizona Consumers' Council also indicated that Consumer Education is a critical need and its main concern.

Evaluation: We recognize the need for an educated consumer for the successful implementation of competition.

Resolution: Add a subsection (D) to R14-2-1615 providing for the implementation of a Consumer Education program.

#### **R14-2-1616 – Separation of Monopoly and Competitive Services**

Issue: Many parties proposed that the bulk of the language in section 1616(B) be stricken.

Evaluation: We agree. Much of the language of condition appearing in section 1616(B) is unnecessary and does not provide the certainty to stakeholders that is vital to a rapid and orderly transition to competition. In its exceptions, Staff offered language which clarifies important portions of this section 1616(B).

Resolution: Modify section 1616 using defined terms for clarity and consistency. Insert Staff's recommended language from its exceptions as new sections 1616(B)(1) and (2).

Issue: TEP suggested that separation of transmission and generation assets not be required until 2003 because TEP will be unable to accomplish the separation prior to that. TEP also recommended waiver language to address its concern that lease and bond restrictions may hamper its ability to accomplish the separation.

Evaluation: A Rule modification to this effect is unnecessary because a legal right to request a waiver already exists. In addition, TEP or any other Affected Utility will have an opportunity to address these issues in the upcoming proceedings on its Stranded Cost issues.

Resolution: No change is necessary.

Issue: TEP recommended that language be added to section 1616(C) to make generation cooperatives subject to the same limitations as their member distribution cooperatives. TEP stated that this is necessary in order to prevent generation cooperatives from competing in the retail electric market while utilizing the services of their member distribution cooperatives.

Evaluation: TEP has raised a valid issue.

Resolution: Add TEP's suggested language.

Issue: Mohave and Navopache recommended that section 1616 be replaced with a new section 1616 entitled "Standards of Conduct."

Evaluation: Upon review of Mohave and Navopache's suggested "Standards of Conduct," we find that putting it in place of section 1616 would not accomplish the goal of section 1616, which provides a means of instituting true competition in the provision of retail electric services in the State of Arizona.

Resolution: No change is necessary.

Issue: Many of the parties providing comments on these Rules requested that section 1616(D) be deleted from the Rules.

Evaluation: Deletion is necessary to conform with the deletion of the Solar Portfolio provisions of section 1609.

Resolution: Delete section 1616(D).

#### **R14-2-1617 – Affiliate Transactions**

Issue: AEPCO recommended deleting all of section 1617 and substituting new language prohibiting cross-subsidization. AEPCO argued that section 1617 forces divestiture, unreasonably denies the economies and efficiencies of joint operation, and unfairly punishes the Affected Utilities. AEPCO further argued that the parties were not given sufficient opportunity to comment on this section which Staff first proposed in conjunction with the enactment of the Emergency Rules in

August 1998.

APS recommended deleting "An Affected Utility of" at the beginning of section 1617(A) and throughout this section based on APS' assertion that it was redundant if the Affected Utility is also an UDC and unnecessary if it is not. APS proposed inserting "competitive electric" before "affiliates" throughout this section. Citizens also proposed clarifying that the use of the word "affiliate" means a "competitive electric affiliate."

**1617(A)**

Issue: TEP recommended the deletion of section 1617(A)(1) because, it argued, section 1617(A)(2) contains all the necessary safeguards.

The AG proposed adding the words "fair market value" before "compensation" in section 1617(A)(1).

Citizens proposed adding to the beginning of section 1617(A)(1) "Without full compensation" in accordance with section 1617(A)(7), and eliminating the last sentence of 1617(A)(1).

RUCO recommended adding the following after the first sentence of section 1617(A)(2): "however, no person privy to a utility's non-public information shall serve as affiliate in any capacity or provide any guidance based on non-public information."

Issue: RUCO recommended changing the reference in section 1617(A)(4) from "customer written communication" to "written communication to customers".

Citizens recommended adding language to the beginning of section 1617(A)(4) and end of section 1617(A)(5) qualifying these sections with "Unless such activities are governed by a contract resulting from an open bidding process." Citizens proposed deleting the second sentence from section 1617(A)(6) concerning the application of the Rules to Boards of Directors.

TEP recommended that the following be added after the first sentence of section 1617(A)(6): "Because Directors and Officers of a holding company are charged with the success of all of the holding company's subsidiaries, they may also serve as Directors or Officers of all affiliated subsidiaries, provided that adequate procedures are in effect to prevent the transfer of information in violation of these Rules." TEP recommended the deletion of the currently existing second

sentence.

NEV recommended modifying section 1617(A)(6) by changing the second sentence to provide that this Rule does not apply to Boards of Directors and corporate officers, and by eliminating everything after the second sentence.

APS proposed inserting "to existing or potential retail customers" in section 1617(A)(3). In section 1617(A)(5), APS proposed inserting "with retail customers" after "sales". In section 1617(A)(6), APS recommended changing the second sentence to provide that this Rule "does not apply" to Boards of Directors and corporate officers. APS recommended deleting the third sentence. APS also proposed inserting "service company" in the fourth sentence.

Issue: TEP proposed replacing "higher of fully allocated cost of the" in section 1617(A)(7) with "no lower than the".

APS suggested that section 1617(A)(7)(a) be modified to read "Goods and services provided by a Utility Distribution Company to a competitive electric affiliate shall be transferred at the price and under the terms and conditions specified in its tariff. If the goods or service to be transferred is a non-tariffed item, and is regularly sold by the Utility Distribution Company to third parties, the transfer price shall be the market price. If market price can not be easily determined by the Utility Distribution Company or if a good or service is not regularly offered to third parties (e.g. shared service), the transfer price should not be less than the fully allocated cost of the good or service."

APS argued that its proposed language provided clarity, and that there is no reason to restrict pricing on goods and services from a competitive entity to a UDC.

APS proposed deleting section 1617(A)(7)(b) because it believes cross subsidization is covered in section 1617(A)(8). In section 1617(A)(8), APS recommended deleting the words "and shall not be provided access to confidential utility information" as this is covered in section 1617(B). Staff argued that the words APS sought to delete from section 1617(A)(8) should remain, because section 1617(B) addresses only confidential information that does not "concern customers".

RUCO proposed adding the following language to section 1617(A)(7)(a) at the end of the second and third sentences: "except that if a good or service transferred is being divested because it is used to provide a competitive service under this Article, it may be transferred at a Commission-

approved market value even if its fully-allocated cost is higher.”

Issue: The AG recommended adding “and to other Energy Service Providers,” after “nonaffiliates” in section 1617(B). RUCO proposed deleting the words “As a general rule, an” from the beginning of section 1617(B).

#### **1617(C)**

Issue: APS proposed deleting section 1617(C)(2) as being unnecessary. APS suggested adding a sentence to the end of section 1617(C)(3) as follows: “This provision does not prevent a UDC’s employees from giving customers objective, factual, and publicly available information concerning Energy Service Providers.”

Citizens proposed adding to section 1617(C)(3) “unless such activities are services governed by a contract resulting from an open competition bidding process,” after “rules” to allow the affiliate to bid in a fair, open process against other competitors.

#### **1617(D)**

Issue: APS proposed inserting “for non-competitive service” in sections 1617(D)(1) and (4) on the theory that there is no harm if one unregulated entity wants to give preference to another unregulated affiliate. APS also recommended deleting the second sentence of section 1617(D) as it is covered elsewhere.

#### **1617(E)**

Issue: Citizens proposed adding the following to the end of section 1617(E): “The Director, Utilities Division shall issue no later than December 31, 1999, detailed requirements which describe the scope of these audits and the degree of responsibility to be taken by the auditor.”

TEP proposed changing the date of December 31, 1998 in section 1617(E) to September 30, 1999, and requiring semi-annual audit reports rather than quarterly reports.

Sempra recommended that section 1617(E) be modified to require filing a compliance plan thirty days prior to the implementation of competition.

APS proposed adding language in section 1617(E) that would make requiring a UDC to hire an independent auditor discretionary for cause. APS also proposed changing “performance audit” to “compliance audit” for the sake of consistency.

## **1617(F)**

**Issue:** The AG recommended adding the following after “interest” in section 1617(F)(2): “only after notice and an opportunity to be heard is given to all parties to the Commission’s Electric Energy Restructuring consolidated docket, and to the public, and only at an open meeting called for that purpose.”

Calpine proposed a new section 1617(F)(2) as follows: “the petitioner shall notify the Electric Service Providers and provide public notice of the petition as required by the Commission.”

**Evaluation:** We concur with those parties who believe that compliance with the affiliate transaction rules as they appear in this section may be too onerous and costly. However, in the restructured market, it is imperative that Affected Utilities implement some safeguards to prevent Noncompetitive rates from possibly subsidizing the Competitive Services that will be provided by Affected Utilities and their competitive electric affiliates. Consequently, all Affected Utilities that provide Competitive Services through competitive electric affiliates should be required to formulate a code of conduct in order to protect ratepayers from such cross-subsidization. The code of conduct should be designed to prevent the occurrence of anti-competitive activities, and should be subject to Commission review and approval.

**Resolution:** Strike the entirety of section 1617 and replace with the following: “**Code of Conduct** No later than 90 days after adoption of these Rules, each Affected Utility which plans to offer Noncompetitive Services and Competitive Services through its competitive electric affiliate shall propose a code of conduct to prevent anti-competitive activities. The code of conduct shall be subject to Commission approval.”

## **R14-2-1618 – Disclosure of Information**

**Issue:** AEPCO, with the support of Trico, Duncan and Graham, recommended deleting section 1618 because the tracking mechanism necessary to assure accurate information disclosure does not currently exist. NWE argued that section 1618 should be stricken in its entirety as it is burdensome, onerous, misleading and unlikely to assist customers in making a reasoned choice of suppliers. TEP also recommended deleting section 1618 in its entirety because the costs outweigh its benefits.

Trico proposed two new provisions to replace sections 1616, 1617 and 1618:

**"R14-2-1615 - Cross Subsidization Prohibited**

Competitive Services offered by an Affected Utility, Utility Distribution Company or their affiliates, if any, shall not be subsidized by any rate or charge for any Noncompetitive Service."  
and

**"R14-2-1616 - Code of Conduct**

The Commission shall establish a Code of Conduct that shall be applicable to each Affected Utility, Utility Distribution Company or their affiliates, if any, who conduct more than one of Generation, Transmission or Distribution Services to prevent subsidization and improper communications between the two or three functions."

RUCO and APS recommended deleting section 1618(A). RUCO proposed replacing "Load-Serving Entity" in section 1618(B) with "provider of services described in Rule R14-2-1605.A". RUCO wanted to clarify that all providers of competitive generation are required to disclose the information, but that Standard Offer Service providers are not. RUCO also recommended deleting sections 1618(B)(4), (5) and (6). APS recommended deleting section 1618(G)(2), asserting that this subsection would make it too hard to change ESPs. ASARCO et al. proposed deleting sections 1618(B), (C), (D) in their entirety and the words "consumer information label" from section 1618(G), believing the product labeling requirements to be onerous. AUIA recommended eliminating sections 1618 (A), (B), (C), (D), (E), (G) and (H).

APS recommended replacing "Load-Serving Entity" in section 1618 with "ESP providing generation services" and inserting in section 1618(B) "(to the extent reasonably available or known) for residential" and deleting "with a demand of less than 1 MW". APS also proposed deleting sections 1618(F)(11) and (12).

NEV proposed modifying section 1618(D) to require the disclosure label in all "brochures and other collateral" marketing materials targeted to residential customers. NEV claimed that business customers would not require or benefit from the proposed consumer protection measures.

NEV proposed deleting section 1618(F)(12). ACAA recommended modifying section 1618(F) to refer to low income programs and rate eligibility in order to recognize that there are more than just rate programs for low-income consumers. ACAA also proposed requiring the Commission

to establish a consumer information advisory panel to assist the Commission in developing a Consumer Education program.

The AG proposed adding at the end of section 1618(I): “ a representative of the Attorney General’s Office shall be named to the panel.”

Evaluation: We believe that section 1618 provides valuable protections for consumers, but that it should be modified to be less onerous on ESPs. In reviewing Staff’s exceptions to the proposed Rules, we agree that this section should apply to Load-Serving Entities. We believe that the information provided in section 1618(B) will be helpful to consumers making choices among ESPs and between competitive service and Standard Offer Service. However, we are mindful that providers of generation services may not always know the characteristics of the resource portfolio. Consequently, we will modify this section to provide that Load-Serving Entities shall prepare a *consumer information label containing the information* currently contained in sections 1618(B)(1), (2), (3) and (7). This information should be made available in accordance with the requirements of section 1618(G). Load-Serving Entities should be required to provide upon request (to the extent reasonably known) the information concerning the resource portfolio that is currently set forth in sections 1618(B)(4), (5) and (6).

Resolution: Delete section 1618(A). Modify section 1618(B) as discussed above. Insert a new subsection requiring Load-Serving Entities to provide the information discussed above. Correct the grammar in section 1618(D) and insert “programs and” after “income” in section 1618(F)(10). Change “may” to “shall” in section 1618(I).