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BEFORE THE ARIZONA CORPORATION COMMISSION

JIM IRVIN
Commissioner

Arizona Corporation Commission

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Commissioner

MAY 14 1999

CARL J. KUNASEK
Commissioner

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

DOCKET NO. RE-00000-94-0165

COMMENTS ON THE
PROPOSED RULES

Pursuant to the Hearing Division's April 21, 1999, Procedural Order, Navopache Electric Cooperative, Inc. ("Navopache") and Mohave Electric Cooperative, Inc. ("Mohave") together respectfully submit comments on the Proposed Revised Rules. In accordance with the Procedural Order, the comments refer to specific sections of the Proposed Rules and include specific suggested language changes.

I.

R14-2-1601(4): COMPETITION TRANSITION CHARGE

The Affected Utilities have incurred substantial costs, and will face on-going costs, related to the transition to the competitive market place. These costs include premature obsolescence of billing and accounting systems, changes to existing billing and accounting systems, and the potential for excess meter inventories in the likely event that competitors provide meters and the Affected Utility's meters are returned. These costs would not be incurred but for customers selecting competitive services. As a matter of fairness, customers who stay with Standard Offer service should not bear these costs. Accordingly, the following language change is recommended:

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R14-2-1601. Definitions

- 4. "Competition Transition Charge" (CTC) is a means of recovering Stranded Costs including costs incurred by the Affected Utilities in implementing the competition rules promulgated by the Commission.

II.

R14-2-1601(27): NONCOMPETITIVE SERVICES

The relationship between the customer-owned distribution cooperatives and their customers/members is different than the relationship between the investor-owned utilities and their customers. The distribution cooperatives, by definition, are non-profit and consumer owned. The purpose for the cooperatives is to make electric service available at the lowest possible cost for the mutual benefit of its rurally located members. Thus, it is necessary that the relationships and communication links between the cooperative and its members/owners be maintained for membership, voting and other purposes. Accordingly, the following language change is recommended:

R14-2-1601(27). Definitions

- 27. "Noncompetitive Services" means Distribution Service, Standard Offer Service, transmission and 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 aspects of Metering Service set forth in R14-2-1612(K). Metering, meter ownership, meter reading, billing, collections and information services are deemed to be non-competitive services in the service territories of the distribution cooperatives.

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III.

R14-2-1603: CERTIFICATE OF CONVENIENCE AND NECESSITY

Properly certificated Electric Service Providers have the same access to the market place as the Affected Utilities. Accordingly, all Electric Service Providers should be subject to the same jurisdictional controls of the Arizona Corporation Commission as the Affected Utilities. Navopache and Mohave suggest the following language change to effect this outcome:

R14-2-1603. Certificate of Convenience and Necessity

- 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;
 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;
 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; and
 9. An Electric Service Provider certificated pursuant to this Article shall be subject to the jurisdiction of the Arizona Corporation Commission.

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IV.

R14-2-1605: COMPETITIVE SERVICES

The provisions of R14-2-1605 are inconsistent with the provisions of R14-2-1615(C). R14-2-1615(C) exempts Electric Distribution Cooperatives from the requirement of separating competitive generation assets and services through the use of an unaffiliated party or a separate affiliate. However, the plain meaning of R14-2-1605 requires Electric Distribution Cooperatives to become certificated to provided competitive services even when the Electric Distribution Cooperative only intends to provide competitive services within its own service territory. Navopache and Mohave do not believe that this was the intent of rule makers. Accordingly, Navopache and Mohave propose the following clarifying language to R14-2-1605:

R14-2-1605. Competitive Services

Competitive Services shall require a Certificate of Convenience and Necessity and a tariff as described in R14-2-1603, except that this requirement shall not apply to an Electric Distribution Cooperative unless and until the Electric Distribution Cooperative offers competitive electric services outside of the service territory it had as of the effective date of these rules. A properly certificated Electric Service Provider may offer Competitive Services under bilateral or multilateral contracts with retail consumers.

V.

R14-2-1606(A): SERVICES REQUIRED TO BE MADE AVAILABLE

The Rules require that UDCs provide Standard Offer service as a Provider of Last Resort to customers who are not buying competitive services. R14-2-1601(31) limits this requirement to customers whose annual energy consumption is 100,000 kWh or less. This rule and definition assumes that all electric customers with an annual consumption of greater than 100,000 kWh will have access to an ESP willing to provide competitive service. In fact, a

1 customer may have consumption of 100,000 kWh and be considered a small commercial
2 customer according to the tariff of many utilities. This limitation, or regulatory lag, may
3 impact a considerable number of customers. For example, if a customer consumes over
4 100,000 kWh and cannot find a willing competitive supplier, it is theoretically possible that
5 there will be no suppliers available to the customer at all. It is therefore recommended that the
6 rule be amended as follows:
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8 **R14-2-1606. Services Required To Be Made Available**

9 A. On the date its service area is open to competition pursuant to R14-2-1602, each
10 Affected Utility or Utility Distribution Company shall make available Standard Offer
11 Service and Noncompetitive Services at regulated rates. After January 1, 2001,
12 Standard Offer Service and Noncompetitive Services shall be provided by Utility
13 Distribution Companies who shall also act as Providers of Last Resort. The Utility
14 Distribution Company shall offer Standard Offer Service to a customer whose load is
15 over 100,000 kWh under its Standard Offer Service tariff if the tariff includes a rate
16 schedule that adequately covers the cost of providing Standard Offer Service to the
17 customer. Nothing in this rule shall preclude the Utility Distribution Company from
18 seeking regulatory approval from the Commission for additional rate schedules that
19 would enable the Utility Distribution Company to provide Standard Offer Service to a
20 customer whose load exceeds 100,000 kWh.

17 **VI.**

18 **R14-2-1606(C). Services Required To Be Made Available**

19 R14-2-1606(C) requires the Affected Utilities to file proposed tariffs to provide
20 Standard Offer Service which are to contain details regarding specific cost elements of utility
21 service. But some small rural UDCs buy electric service on a bundled basis. Thus, it is
22 impossible for these UDCs to provide the detailed level of information pertaining to Generation
23 and Transmission Services as required under the rule. Accordingly, Mohave proposes language
24 that says that where wholesale power services are obtained on a bundled basis, proposed tariffs
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1 to provide Standard Offer Service should reflect the prices of those wholesale bundled services
2 as a service package. The following language achieves this:

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

4 C. 2. Except in situations where wholesale power supplies including generation,
5 transmission, and ancillary services are obtained on a bundled basis, Standard
6 Offer Service tariffs shall include the following elements:

- 7 a. Electricity:
8 (1) Generation
9 (2) Competition Transition Charge
10 (3) Must-Run Generating Units
11 b. Delivery:
12 (1) Distribution services
13 (2) Transmission services
14 (3) Ancillary services
15 c. Other:
16 (1) Metering Service
17 (2) Meter Reading Service
18 (3) Billing and collection
19 d. System Benefits

20 **VII.**

21 **R14-2-1609(B): TRANSMISSION AND DISTRIBUTION ACCESS**

22 R14-2-1609(B) requires UDCs to assure that adequate transmission import
23 capability is available to meet the load requirements of all distribution customers within the
24 UDCs' services areas. The problem with the rule is that it places the obligation on the UDC to
25 provide transmission service, but fails to address cost and revenue responsibility. Moreover, it
26 is questionable as to whether the Arizona Corporation Commission has jurisdictional authority
to even enforce the rule. Mohave and Navopache recommend the following language change:

R14-2-1609. Transmission and Distribution Access

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

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VIII.

R14-2-1612(K): SERVICE QUALITY, CONSUMER PROTECTION, SAFETY AND BILLING REQUIREMENTS

Navopache and Mohave propose that when UDCs provide metering data to an Electric Service Provider or customer, that the UDC be allowed to recover the costs associated with collecting and distributing the data. The following language change is appropriate:

R14-2-1612. Service Quality, Consumer Protection, Safety, and Billing Requirements

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. Utility Distribution Companies shall make available to the Customer or Electric Service Provider all metering information and may charge a fee for that service. The charge or fee shall reflect the cost of providing such information.

IX.

R14-2-1612(N): SERVICE QUALITY, CONSUMER PROTECTION, SAFETY AND BILLING REQUIREMENTS

R14-2-1612(N) requires bills to contain details regarding specific cost elements of utility service. But some small rural UDCs buy electric service on a bundled basis. Thus, it is impossible for these UDCs to provide the detailed level of information pertaining to Generation and Transmission Services as required under the rule. Accordingly, Mohave proposes language that says that where wholesale power services are obtained on a bundled basis, customer bills should reflect the prices of those wholesale bundled services as a service package. The following language achieves this:

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R14-2-1612. Service Quality, Consumer Protection, Safety, and Billing Requirements

N. Billing Elements. After the commencement of competition within a service territory pursuant to R14-2-1602, except in situations where wholesale power supplies including generation, transmission, and ancillary services are obtained on a bundled basis, all customer bills, including bills for Standard Offer customers within that service territory, 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;

- 3. Other Costs:
 - a. Metering Service,
 - b. Meter Reading Service,
 - c. Billing and collection, and
 - d. System Benefits charge.

WHEREFORE, Navopache and Mohave respectfully request that the Commission adopt the above recommended rule language changes.

RESPECTFULLY SUBMITTED this 14th day of May, 1999.

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**The original and ten (10) copies of
the foregoing filed this 14th
day of May, 1999 with:**

DOCKET CONTROL
Arizona Corporation Commission
1200 West Washington Street
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and

**A copy of the foregoing mailed
this 14th day of May, 1999 to:**

All parties of record.

By PKM