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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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JIM IRVIN
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Commissioner
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Commissioner

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IN THE MATTER OF THE COMPETITION) DOCKET NO. RE-00000C-94-0165
IN THE PROVISION OF ELECTRIC)
SERVICES THROUGHOUT THE) AEPCO, DUNCAN AND
STATE OF ARIZONA) GRAHAM'S RULES' COMMENTS

Pursuant to the April 21 Procedural Order, AEPCO, Duncan and Graham (the "Cooperatives") submit these initial Comments as to recommended changes and clarifications to the Rules which were attached as Appendix A to Decision No. 61634

R14-2-1615.C.

The Cooperatives suggest two changes to this paragraph of the Rule. First, the Rule allows electric distribution cooperatives such as Duncan and Graham to provide competitive electric services in the rural areas they serve. However, it limits that authorization to "the service territory it had as of the effective date of these rules." This restriction as to a service territory on a particular date is unnecessary and confusing. As the Commission knows, service territories change for a variety of reasons -- specific Certificate amendments, agreements with other utilities and/or extension rights accorded by A.R.S. § 40-281. As written, this provision would create uncertainty as to precisely which areas can receive which services and would create small "islands" of consumers which could not be served.

The intent of the Rule is to authorize distribution cooperatives to provide Competitive Services but only within their service territories. Amending the first sentence of R14-2-1615.C to read as follows will accomplish that and avoid the confusion of the current phrasing:

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1 An Electric Distribution Cooperative is not subject to the provisions
2 of R14-2-1615 unless it offers competitive electric services outside
3 of its service territory.

4 The proposed change basically deletes the language "it had as of the effective date of these rules."

5 The second change to this paragraph which the Cooperatives recommend is deletion
6 of its final sentence:

7 A Generation Cooperative shall be subject to the same limitations to
8 which its Member Distribution Cooperatives are subject.

9 As written, this sentence simply makes no sense. AEPCO (a generation cooperative) is not a
10 distribution cooperative. It does not have a geographic service territory. It can't deliver service at
11 retail. Therefore, it can't be subject "to the same limitations" as its member distribution cooperatives.

12 AEPCO is, however, an Affected Utility. The prohibition in R14-2-1615.B that
13 Affected Utilities may not after January 1, 2001 provide Competitive Services applies to it.

14 Conversely, AEPCO is not an electric distribution cooperative so the exemption in R14-2-1615.C
15 does not apply to it.

16 The final sentence does not make sense and adds nothing to the paragraph. It should
17 be deleted.

18
19 **R14-2-1603.A and 1605.**

20 As discussed, R14-2-1615.C allows electric distribution cooperatives to provide
21 Competitive Services in their service territories after January 1, 2001. R14-2-1615.B.1 and 2
22 authorize other exemptions to the Rule's general requirement of separation of monopoly and
23 competitive services.

24 However, R14-2-1603 and 1605 might be read to prohibit provision of Competitive
25 Services or to require a separate Certificate for Competitive Services notwithstanding these
26 authorizations in R14-2-1615. To remedy this conflict, the Cooperatives suggest the first sentence of
27 R14-2-1605 read as follows:

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Except as provided in R14-2-1615,¹ Competitive Services shall require a Certificate of Convenience and Necessity and a tariff as described in R14-2-1603.

The third sentence of R14-2-1603.A should be modified as follows:

A Utility Distribution Company providing Standard Offer Service or services authorized in R14-2-1615 after January 1, 2001 need not apply for a Certificate of Convenience and Necessity.

R14-2-1602.

This Rule currently envisions a utility system-by-system implementation of competition as unbundled rates and stranded costs are approved. This will lead to a checkerboard coverage pattern rather than implementation statewide on a uniform date.

The Cooperatives suggest instead statewide implementation at the same time.

Paragraphs A and B of R14-2-1602 should be stricken and the following language substituted:

The Commission will, by separate order, establish a commencement date for statewide implementation of competition, subject to the phase-in schedule in R14-2-1604.

The Cooperatives request the Rules be modified as set forth herein and reserve their right to file additional comments in this matter.

RESPECTFULLY SUBMITTED this 14th day of May, 1999.

GALLAGHER & KENNEDY, P.A.

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¹ Underlining indicates new language.

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Original and ten (10) copies of the foregoing document filed this 14th day of May, 1999, with:

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Copy of the foregoing document mailed this 14th day of May, 1999, to all parties of record.

Kathie Weston

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