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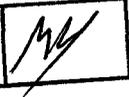
8 **BEFORE THE ARIZONA CORPORATION COMMISSION**

9 JIM IRVIN
10 COMMISSIONER-CHAIRMAN
11 CARL KUNASEK
12 COMMISSIONER
13 TONY WEST
14 COMMISSIONER

Arizona Corporation Commission

DOCKETED

MAY 14 1999

DOCKETED BY 

11 IN THE MATTER OF THE COMPETITION) Docket No. RE 00000C-94-0165
12 FOR PROVISION OF ELECTRIC SERVICE)
13 THROUGHOUT THE STATE OF ARIZONA) **COMMENTS OF NEW WEST ENERGY**

14
15 New West Energy, by and through its undersigned counsel, pursuant to the procedural order
16 dated January 26, 1999, submits the following comments on the current Electric Competition
17 Rules. As a prefatory matter, New West Energy is supportive of the changes in the proposed
18 rules. These changes will assist in the timely establishment of competitive markets and eliminate
19 some unnecessary obstacles to competition. New West Energy makes the following suggestions
20 in the spirit of further improvement to the Rules.

21 **Comments of New West Energy**

22 *In these comments, suggested changes to the text of the Rules are indicated in bold. Additional*
23 *language is added to the text in bold without any further notation. Deleted language is shown in*
24 *bold and with ~~strikethrough~~. Provisions to which NWE has no suggested changes to the language*
25 *are not reproduced.*

1 **R14-2-1601. Definitions**

2 *Suggested Change to subsection (16):*

3 (16) "Electric Service Provider Service Acquisition Agreement" or "Service
4 Acquisition Agreement" means a ~~contract between an Electric Service Provider and~~
5 ~~a Utility Distribution Company to deliver power to retail end users or between an~~
6 ~~Electric Service Provider and a Scheduling Coordinator to schedule transmission~~
7 ~~service standardized, Commission-approved agreement between an Affected~~
8 ~~Utility and an Electric Service Provider. An ESP Service Agreement shall be~~
9 ~~an "off-the-shelf" agreement specific to each Affected Utility or UDC. It shall~~
10 ~~set forth the terms and conditions of competitive services to be provided by the~~
11 ~~Electric Service Provider in the service territory of the Affected Utility or the~~
12 ~~Utility Distribution Company. At a minimum, the agreement shall include~~
13 ~~provisions related to Electronic Data Interchange, Meter Reading Service,~~
14 ~~Metering Service, and compliance with the Scheduling Coordinator.~~

15 *Comment*

16 The Rules currently establish an uncertain process to which a potential ESP will be
17 subjected if it desires to begin competing in Arizona, and to which it will be subjected again each
18 time it desires to expand its business operations in the state. This process may deter potential ESPs
19 from competing in Arizona.

20 Based on its experience in California, New West believes that limited governmental
21 involvement in market entry is sufficient. Standardized, Commission-approved agreements
22 between ESPs and Affected Utilities or UDCs is the most efficient mechanism for controlling the
23 technical and financial viability of competitors.

24 **R14-2-1602. Filing of Tariff by Affected Utility**

25 *No comments.*

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

2 *Suggested Change to subsection (B):*

3 B) Any company desiring such a Certificate of Convenience and Necessity shall
4 file with the Docket Control Center the required number of copies of an application.
5 In support of the request for a Certificate of Convenience and Necessity, the
6 following information must be provided:

- 7 1. A description of the electric services which the applicant intends to offer;
- 8 2. The proper name and correct address of the applicant, and
- 9 a. The full name of the owner if a sole proprietorship,
- 10 b. The full name of each partner if a partnership,
- 11 c. A full list of officers and directors if a corporation, or
- 12 d. A full list of the members if a limited liability corporation
- 13 3. A tariff for each service to be provided that states the ~~maximum rate and~~
14 terms and conditions that will apply to the provision of the service.
- 15 4. ~~A description of the applicant's technical ability to obtain and deliver~~
16 ~~electricity if appropriate and provide any other proposed services;~~
- 17 5. ~~Documentation of the financial capability of the applicant to provide the~~
18 ~~proposed services, including the most recent income statement and balance sheet,~~
19 ~~the most recent projected income statement, and other pertinent financial~~
20 ~~information. Audited information shall be provided if available;~~
- 21 6. ~~A description of the form of ownership (for example, partnership,~~
22 ~~corporation);~~
- 23 7. An explanation of how ~~the applicant~~ **an applicant which is an affiliate of**
24 **an Affected Utility** intends to comply with the requirements of R14-2-1616, or a
25 request for waiver or modification thereof with an accompanying justification for

1 any such requested waiver or modification.

2 ~~8. Such other information as the Commission or Staff may request.~~

3 Comment

4 The CC&N application should be analogous to a license application. The Commission
5 needs only such information as is necessary for it to contact the ESP, to monitor competition in
6 Arizona, and to fulfill its constitutional mandates relative to rate-setting.

7 In subparagraph (3), strike the requirement to file maximum rates. R14-2-1612(A) states
8 that market rates are deemed to be just and reasonable. Accordingly, the requirement to file
9 maximum rates serves no purpose. In a competitive market, customers are free to negotiate rate
10 caps. Consequences for exceeding a rate cap can be established contractually. The requirement to
11 file maximum rates, therefore inconsistent with standard business practices, and ignores that the
12 market can both cause and control instances where an ESP's rate might temporarily surpass its filed
13 maximum rate.

14 In paragraph 7, the Code of Conduct set forth in Rule R14-2-1616 will apply only to
15 Affected Utilities, so this provision of the rules should be modified accordingly.

16 In the event that the Commission retains some or all of the requirements of this subsection,
17 however, the requirements as currently drafted are vague. Such terms as "technical capability",
18 "financial capability", and "other information" should be more clearly and specifically defined in
19 order to provide potential ESPs with predictable and understandable criteria for market entry in
20 Arizona. Moreover, the Commission should clarify that any maximum rates that must be filed with
21 the Commission shall be deemed approved when the Commission grants a CC&N.

22 Suggested change to subsection (E):

23 ~~E. At the time of filing for a Certificate of Convenience and Necessity, each~~
24 ~~applicant shall notify the Affected Utilities, Utility Distribution Companies or an~~
25 ~~electric utility not subject to the jurisdiction of the Arizona Corporation~~

1 ~~Commission in whose service territories it wishes to offer service of the~~
2 ~~application by providing a copy of the application to the Affected Utilities,~~
3 ~~Utility Distribution Companies or an electric utility not subject to the~~
4 ~~jurisdiction of the Arizona Corporation Commission. Prior to Commission~~
5 ~~action, each applicant shall provide written notice to the Commission that it has~~
6 ~~provided notification to each of the respective Affected Utilities, Utility~~
7 ~~Distribution Companies or an electric utility not subject to the jurisdiction of the~~
8 ~~Arizona Corporation Commission. The attachment to the CC&N application~~
9 ~~should include a listing of the names and addresses of the notifies Affected~~
10 ~~Utilities, Utility Distribution Companies or an electric utility not subject to the~~
11 ~~jurisdiction of the Arizona Corporation Commission.~~

12 Comment to subsection (E):

13 There is no need for requiring a potential market entrant to serve information on a future
14 competitor, which information can be used by the competitor to prepare its competitive strategy,
15 including rate variations and incentives, before the new entrant has obtained the necessary legal
16 authority to compete. This provision protects the Affected Utilities' market shares and invites unfair
17 business practices.

18 Suggested change to subsection (F):

19 ~~F. The Commission may issue a Certificate of Convenience and Necessity that~~
20 ~~is effective for a specified period of time if the applicant has limited or no~~
21 ~~experience in providing the retail electric service that is being requested. An~~
22 ~~applicant receiving such approval shall have the responsibility to apply for~~
23 ~~appropriate extensions.~~

24 Comment to subsection (F):

1 The provision would add a further obstacle to market entry by some ESPs and would deter
2 some such entrants from competing in Arizona. Necessary security provisions can be efficiently
3 achieved through ESP Service Agreements.

4 Suggested Change to subsection (G):

5 (G) The Commission may deny certification to any applicant who:

- 6 1. Does not provide the information required by this Article;
- 7 ~~2. Does not possess adequate technical or financial capabilities to~~
8 ~~provide the proposed services;~~
- 9 ~~4. Fails to provide a performance bond, if required;~~
- 10 ~~5. Fails to demonstrate that its certification will serve in the public~~
11 ~~interest.~~

12 Comment

13 *Item 2* should be stricken because the technical and financial capabilities of an ESP can be
14 controlled through the ESP Service Agreements.

15 *Item 4.* The performance bond should not be a precondition to certification. This concept is
16 developed in the comment to R14-2-1603(I).

17 *Item 5* is not necessary. The Electric Power Competition Act provides that "[i]t is the public
18 policy of this state that a competitive market shall exist in the sale of electric generation service."
19 (A.R.S. § 40-202(B).) Therefore, an ESP's participation in the competitive market is now in the
20 public interest by legislative fiat. Accordingly, the ESP should not be required to make such a
21 demonstration to the Commission.

22 Suggested Change to subparagraph (I)(3):

23 ~~3. The Electric Service Provider shall file with the Director, Utilities~~
24 ~~Division all financial and other reports that the Commission may require~~
25 ~~and in a form and at such times as the Commission may designate;~~

1 Comment to subparagraph (I)(3):

2 This subparagraph should be stricken. The provision grants the Commission sweeping but
3 undefined authority that fails to adequately inform potential ESPs of the requirements to remain
4 certificated in Arizona. It requires disclosure of information that could cause competitive harm to
5 an ESP.

6 Suggested Change to subparagraph (I)(4):

7 4. The Electric Service Provider shall maintain on file with the Commission all
8 current tariffs ~~and any service standards that the Commission shall require;~~

9 Comment

10 "Service standards" is an undefined term that does not provide adequate notice of the
11 requirements for remaining certificated in Arizona.

12 Suggested change to subparagraph (I)(6):

13 ~~6. The Electric Service Provider shall obtain all necessary permits and~~
14 ~~licenses including relevant tax licenses.~~

15 Comment to subparagraph (I)(6):

16 This subparagraph should be stricken. The Commission has no authority to police state-law
17 permit and license requirements.

18 Suggested change to subparagraph (K):

19 ~~J. In appropriate circumstances, the Commission may require, as a precondition~~
20 ~~to certification, the procurement of a performance bond sufficient to cover any~~
21 ~~advances or deposits the applicant may collect from its customers, or order that~~
22 ~~such advances or deposits be held in escrow or trust.~~

23 Comment to subsection (K):

24 This subsection should be stricken. A performance bond or escrow requirement should not
25 be a precondition to certification because, before the ESP commences to do business in the state, the

1 amount of the bond or to be held in escrow can only be based on estimations. An ESP should be
2 required to post a performance bond or to hold funds in escrow that are sufficient to cover advances
3 or deposits from its customers, but this requirement should initiate after certification and should
4 reflect the actual amount of deposits.

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

6 Comment on subsection (A)

7 Generally, subsection (A) provides inadequate information concerning the mechanics of
8 customer selection. For example, it is not clear how an Affected Utility will determine when it can
9 aggregate loads. Further, the word "customer" is undefined. The rule should clarify whether a
10 "customer" refers to a single meter or to an entity with more than one meter. Moreover, the rule
11 should clarify that, if a single site is over 1 MW, all lesser sites for the same entity also become
12 eligible for competition.

13 With respect to the current draft of subsection (A), until December 31, 2000, if the total of
14 eligible customers under subsection (A)(1), plus the eligible customers under (A)(2), reaches 20%
15 of the Affected Utility's 1995 system peak demand, then no further aggregation is possible until
16 January 1, 2001. Additional customers, however, can become eligible for competition under
17 subsection (A)(1). This provision distorts the market because it favors large ESPs that can provide
18 incentives for aggregation at the earliest possible date. Moreover, it unnecessarily penalizes small
19 customers who might not be prepared to aggregate in the early phases of competition.

20 Comment on subsection (B):

21 This subsection should be entirely revised. The current draft of the provision fails to
22 provide a viable opportunity to serve residential customers. The practical effect of the provision
23 will be to remove all incentive for ESPs to pursue contracts with residential customers. The
24 experience in California has demonstrated that ESPs are discouraged from competing for residential
25 customers unless they believe they have an opportunity to serve more than 30,000 customers. The

1 proposed limitations on residential choice in Arizona will make the residential market unattractive
2 to potential ESPs.

3 Comment on subsection (C):

4 A mandatory rate reduction will have an anti-competitive effect unless it is applied to all
5 customers. Any mandated rate reduction should specify that the reduction must occur in the
6 Competition Transition Charge, the transmission rate, or the distribution rate. Finally, information
7 concerning the amount of a rate reduction and the timing of the same must be made available before
8 competition begins in order to allow customers an opportunity to understand their choices in a
9 competitive market.

10 **R14-2-1606. Services required to be made available**

11 Suggested changes to Section G

- 12 1. Upon written authorization by the customer, a Load-Serving Entity shall release in a
13 timely and useful manner that customer's demand and energy data for the most recent 12-
14 month period to a customer-specified properly certificated ESP.

15 Comment

16 This is the customer's data. The customer should be able to give the data to whomever the
17 customer wants.

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

19 Comment:

20 This definition of "System Benefits" contained in R14-2-1601(29) is vague and fails to
21 specify who will determine what specific costs qualify as System Benefits. Accordingly, this
22 section fails to provide adequate notice of the criteria for calculating System Benefits Charges.

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

24 Comment:

25

1 This section should be rewritten to more accurately reflect the role of the Arizona ISA as
2 it has been developed by the participants, and more particularly as developed by the transmission
3 owners. The text of these changes suggested by the transmission owners is set forth below.

4 Suggested change:

5 A. The Affected Utilities shall provide non-discriminatory open access to
6 transmission and distribution facilities to serve all **retail** customers. No preference or
7 priority shall be given to any distribution customer based on whether the customer is
8 purchasing power under the Affected Utility's Standard Offer or in the competitive
9 market. Any transmission capacity that is reserved for use by the retail customers of the
10 Affected Utility's Utility Distribution Company shall be allocated among Standard Offer
11 customers and competitive market customers on a pro-rata basis **in accordance with**
12 **FERC Orders 888 and 889.**

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

16 C. The Commission supports the development of an **regional** Independent System
17 Operator (ISO) or, absent an Independent System Operator, an **interim** Arizona
18 Independent Scheduling Administrator (AISA).

19 D. The Commission believes that **some form of a system/scheduling entity**
20 ~~Independent Scheduling Administrator~~ is necessary in order to provide non-
21 discriminatory retail access and to facilitate a robust and efficient electricity market.
22 Therefore, those Affected Utilities that own or operate Arizona transmission facilities
23 shall form an **interim** Arizona Independent Scheduling Administrator which shall file
24 with the Federal Energy Regulatory Commission within 60 days of this Commission's
25

1 adoption of final rules herein, for approval of an Independent Scheduling Administrator
2 having the following characteristics:

3 1. The Arizona Independent Scheduling Administrator shall **monitor the**
4 **calculation by the Affected Utilities of calculate** Available Transmission Capacity
5 **(ATC) and transmission schedules of Affected Utilities through existing Arizona**
6 **OASIS sites.** ~~for Arizona Transmission facilities that belong to the Affected Utilities or~~
7 ~~other Arizona Independent Scheduling Administrator participants, and shall develop and~~
8 ~~operate an overarching statewide OASIS.~~

9 2. The Arizona Independent Scheduling Administrator shall **audit implement and**
10 ~~oversee~~ the non-discriminatory application of **the Affected Utilities'** operating protocols
11 to ensure statewide **fair and non-discriminatory consistency** for transmission access.
12 ~~These Affected Utility~~ operating protocols shall include, but are not limited to, protocols
13 for determining transmission system transfer capabilities, committed uses of the
14 transmission system, available transfer capabilities, Must-Run Generating Units, energy
15 scheduling, and energy imbalances.

16 3. The Arizona Independent Scheduling Administrator shall provide a dispute
17 resolution processes that enable market participants to expeditiously resolve, **either**
18 **before or after the fact,** claims of discriminatory treatment in the reservation,
19 scheduling, use and curtailment of transmission services.

20 4. All requests (wholesale, Standard Offer retail, and competitive retail) for
21 reservation and scheduling of the use of Arizona transmission facilities that belong to the
22 ~~Affected Utilities or other Arizona Independent Scheduling Administrator participants~~
23 shall be **subject to review and monitoring by made to, or through,** the Arizona
24 Independent Scheduling Administrator ~~using a single, standardized procedure.~~

25

1 5. The Arizona Independent Scheduling Administrator shall implement a
2 transmission planning process that includes all Arizona Independent Scheduling
3 Administrator participants and aids in identifying the timing and key characteristics of
4 required reinforcements to Arizona transmission facilities to assure that the future load
5 requirements of all participants will be met.

6 E. The Affected Utilities that own or operate Arizona transmission facilities shall file
7 a proposed ~~Arizona Independent Scheduling Administrator~~ implementation plan with the
8 Commission within 30 days of the Commission's adoption of final rules herein. The
9 implementation plan shall address **the schedule/status for that Affected Utility's**
10 **development of operating protocols, its participation in the development of an**
11 **interim Arizona Independent Scheduling Administrator governance, incorporation,**
12 **financing and staffing; the acquisition of physical facilities and staff by the Arizona**
13 **Independent Scheduling Administrator; the schedule for the phased development of**
14 **Arizona Independent Scheduling Administrator functionality; contingency plans to**
15 **ensure that critical functionality is in place no later than 3 months following adoption of**
16 **final rules herein by the Commission; and any other significant issues related to the**
17 **timely and successful implementation of the Arizona independent Scheduling**
18 **Administrator and a proposed schedule for the phased development of a regional**
19 **ISO.**

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

24 G. It is the intent of the Commission that prudently-incurred costs incurred by the
25 Affected Utilities in the establishment and operation of the Arizona Independent

1 Scheduling Administrator, and subsequently the **regional** Independent System Operator,
2 should be recovered from customers using the transmission system, including the
3 Affected Utilities' wholesale customer, Standard Offer retail customers, and competitive
4 retail customers on a non-discriminatory basis through Federal Energy Regulatory
5 Commission-regulated prices. Proposed rates for the recovery of such costs shall be filed
6 with the Federal Energy Regulatory Commission and this Commission. In the event that
7 the Federal Energy Regulatory Commission does not permit recovery of prudently
8 incurred Independent Scheduling Administrator costs within 90 days of the date of
9 making an application with the Federal Energy Regulatory Commission , the
10 Commission may authorize Affected Utilities to recover such costs through a distribution
11 surcharge.

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

- 18 1. Forecast their customers' load requirements;
- 19 2. Submit balanced schedules (that is, schedules for which total generation is equal
20 to total load of the Scheduling Coordinator's customers plus appropriate transmission and
21 distribution line losses) and North American Electric Reliability Council/Western
22 Systems Coordinating Council tags;
- 23 3. Arrange for the acquisition of the necessary transmission and ancillary services;
- 24
- 25

1 4. Respond to contingencies and curtailments as directed by the Control Area
2 Operators, Arizona Independent Scheduling Administrator or Independent System
3 Operator;

4 5. Actively participate in the schedule checkout process and the settlement processes
5 of the Control Area Operators, Arizona Independent Scheduling Administrator or
6 Independent System Operator.

7 I. ~~The Affected Utilities and Utility Distribution Companies shall provide services~~
8 ~~from the Must-Run Generating Units to Standard Offer Service retail customers and~~
9 ~~competitive retail customers on a comparable, non-discriminatory basis at regulated~~
10 ~~prices. The Affected Utilities shall specify the obligations of the Must-Run generating~~
11 ~~Units in appropriate sales contracts prior to any divestiture. Under auspices of the~~
12 ~~Arizona Independent Scheduling Administrator, the Affected Utilities and other~~
13 ~~stakeholders shall develop statewide protocols for pricing and availability of services~~
14 ~~from Must-Run Generative Units. These protocols shall be presented to the Commission~~
15 ~~for review and, when appropriate, approval, prior to being filed with the Federal Energy~~
16 ~~Regulatory Commission in conjunction with the Arizona Independent Scheduling~~
17 ~~Administrator tariff filing. Fixed Must-Run Generating Units costs are to be recovered~~
18 ~~through a regulated charge to end-use customers. This charge must be set by the~~
19 ~~Commission as part of the end-use customer distribution service charges.~~

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

24 **R14-2-1611. Rates.**

25 Comment to subsection (B):

1 NWE reiterates its comment to R14-2-1603 with respect to the requirement to file maximum
2 rates. In addition, this provision does not establish any time limitations for the Commission to
3 approve such rates. Delay has an anti-competitive effect that should be avoided. If the Commission
4 requires maximum rates to be filed, such rates should be deemed approved unless the Commission
5 disallows them within an established period of time. The rule should also set the criteria for
6 Commission review and approval of such rates.

7 Suggested change to subsection (C):

8 ~~C. Prior to January 1, 2001, competitively negotiated contracts governed by this~~
9 ~~Article customized to individual customers which comply with approved tariffs~~
10 ~~do not require further Commission approval. However, all such contracts whose~~
11 ~~term is 1 year or more and for service of 1 MW or more must be filed with the~~
12 ~~Director, Utilities Division as soon as practicable. If a contract does not comply~~
13 ~~with the provisions of the Load Serving Entity's approved tariffs, it shall not~~
14 ~~become effective without a Commission order. The terms of such contracts~~
15 ~~shall be kept confidential by the Commission.~~

16 Comment to subsection (C):

17 This provision should be stricken in its entirety. Any requirement to approve customer
18 agreements of any kind is an unnecessary remnant of the regulatory regime that Arizona is now
19 abandoning. If review is required, the rules should establish strict time limitations for such review,
20 and contracts should be presumptively valid unless disapproved within the established time period
21 and under clear criteria.

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

23 Comment to subsection (E):

1 This section should be redrafted to clarify that compliance with applicable reliability
2 standards is the responsibility of the scheduling coordinator, the ISO or the ISA, and notification of
3 scheduled outages is the responsibility of the UDC. This section should not apply to other ESPs.

4 Comment to subsections (G) and (H):

5 These provisions should apply only to UDCs.

6 Suggested change to subsection (K)(4):

7 4. Unless the Commission grants a specific waiver, all competitive metered and
8 billing data shall be translated into consistent, statewide Electronic Data
9 Interchange (EDI) formats based on **UIG standards in effect at least 60 days**
10 **before the onset of competition standards approved**
11 ~~by the Utility Industry Group (UIG) that can be used by the Affected Utility or~~
12 ~~the Utility Distribution Company and the Electric Service Provider.~~

13 Comment to subsection (K):

14 The provisions of this subsection are overly technical. Rules of this nature may need to be
15 adjusted after competition begins to accommodate for the realities of competition. The
16 Commission's rule-making procedures would preclude the possibility of implementing changes to
17 these rules in a timely fashion. Accordingly, these rules should be promulgated by ongoing
18 working groups.

19 If the rules are included, the current draft contains numerous terms that are not defined and
20 therefore do not provide adequate notice of their requirements.

21 Suggested change to subparagraph (K)(2):

22 (2) Any person or entity relying on metering information provided by an
23 **another** Electric Service Provider may request a meter test according to the tariff on
24 file **and approved with by** the Commission. However, if the meter is found to be in
25

1 error ~~by more than 3%~~ in excess of Commission-approved standards, no meter
2 testing fee will be charged.

3 Comment

4 The Commission should not approve tariffs for meter testing. Rather than establishing a set
5 percentage of error, the rule should refer to a Commission-approved standard. This will enable
6 changes to the standard without amending the rule.

7 Suggested Change and Comment to Subparagraph (K)(4):

8 The UIG should be required to complete its standards at least 60 days before the onset of
9 competition. In the event that the standards are not completed in a timely fashion, the rule should
10 establish interim standards. In the penultimate line, "can" should be changed to "shall".

11 Comment to Subparagraph (K)(10)-(15):

12 As stated above, these subparagraphs are overly technical for the rules.

13 Suggested change to subparagraph M:

14 ~~M. Electric Service Providers shall provide notification and informational~~
15 ~~materials to consumers about competition and consumer choices, such as a~~
16 ~~standardized description of services, as ordered by the Commission.~~

17 Comment to subsection (M):

18 This provision should be stricken in its entirety. The Electric Power Competition Act
19 requires substantial statewide consumer outreach and education. Further informational programs by
20 ESPs is unnecessary. With respect to the description of services by an ESP, sufficient advertising
21 and marketing limitations already exist in the law and need not be replicated by the Commission.

22 Comment to subsection (N):

23 If an ESP is mandated to provide the listed information on their billing statements, then
24 Affected Utilities and UDCs should be mandated to provide such information that is in their control
25 to the ESP in order to permit the ESP to meet its requirements.

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

2 *Comment:*

3 This entire section should be stricken. The reporting requirements are regulatory in nature
4 with no pro-competitive justification for them. On the contrary, they will harm consumers by
5 raising costs, as ESPs are forced to hire employees whose sole purpose is to fulfill these reporting
6 requirements.

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

8 *Comment to subsection (A):*

9 NWE reiterates that there should be no requirement to file maximum rates. In addition, if
10 such a filing is required, the filed rate should be presumed valid unless the Commission disapproves
11 it within an established period of time and under clear and defined criteria. Subsections A, B and C
12 should be stricken.

13 *Comment to subsection (B):*

14 NWE reiterates that there should be no requirement to file contracts.

15 *Comment to subsection (C):*

16 The simplification of the Rules that NWE is proposing herein obviates the need for any
17 exemptions or variations.

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

19 *Comment:*

20 This section should stricken in its entirety. It is burdensome and unlikely to assist customers
21 in making a reasoned choice of electricity suppliers.

22 **R14-2-203. Establishment of Service.**

23 *Suggested Change to section B subsection 6:*

24 The amount of a deposit required by the utility shall be determined according to the
25 following terms:

1 a. Residential customer deposits shall not exceed two times that customer's estimated
2 average monthly bill for standard offer services. If an ESP provides this service, the deposit
3 should not exceed two times that customer's estimated average monthly usage for
4 noncompetitive services.

5 b. Nonresidential customer deposits shall not exceed 2 ½ times that customer's
6 estimated average monthly bill for standard offer services. If an EPS provides this service,
7 the deposit should not exceed 2 ½ times that customer's estimated average monthly usage
8 for noncompetitive services.

9 Suggested Change to section D subsection 1:

10 Each utility may make a change as approved by the Commission for the establishment,
11 reestablishment or reconnection of utility services, ~~including transfers between Electric~~
12 ~~Service Providers.~~

13 **R14-2-210. Billing and Collection.**

14 Comment:

15 In general, these provision are overly technical and should not be included in the Rules.
16 Despite their technicality, however, the section fails to clarify a significant issue: who has the right
17 to bill a customer?

18 Comment to subparagraph (A)(2):

19 The terms "utility" and "customer" are not defined.

20 Comment to subparagraphs (A)(3)-(6):

21 As stated above, the rules for estimated meter reading should be developed by the working
22 group and should not be included in these rules.

23 Comment to subsections (C)-(I):

24 These provisions should be stricken in their entirety. They do not apply to ESPs, and to the
25 extent they apply to UDCs, they should be covered by the UDC's tariffs.

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RESPECTFULLY SUBMITTED this 14th day of May, 1999.

JENNINGS, STROUSS & SALMON, P.L.C.



By

Kenneth C. Sundlof, Jr.
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Sixteenth Floor
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Copies mailed to the mailing list
attached to the January 27, 1999
Procedural Order