

O'Connor Cavanagh Moll



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Russell E. Jones
D. Michael Mandig
Peter Akmajian
George O. Krauja
Nathan B. Hannah
Michael J. Crawford
Elizabeth Wilson

Richard T. Coolidge
Benjamin W. Bauer
David K. Gray
Thomas E. Laursen
Paul A. Relich
Dev K. Sethi

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Of Counsel
John L. Donahue, Jr.
John F. Molloy

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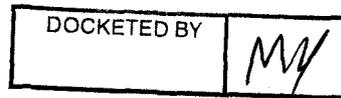
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Russell E. Jones
520-620-5522
RJones@ArizLaw.com
www.oconnorcavanagh.com

Client-Matter No. 19539-355
Tucson

Docket Control
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007



**Re: In the Matter of Competition in the Provision of Electric Services
throughout the State of Arizona
Docket No. RE-00000C-94-0165**

Dear Sir/Madam:

In accordance with the Procedural Order issued by the Hearing Division dated April 21, 1999, attached hereto are the written comments of Trico Electric Cooperative, Inc. to the Proposed Rules, as defined in the Procedural Order.

Very truly yours,

O'CONNOR CAVANAGH MOLLOY JONES

Russell E. Jones

REJ:cw

Enclosures

cc (w/enc.): Distribution List for Docket No. RE-00000C-94-0165

The Tucson Office of O'Connor, Cavanagh, Anderson, Killingsworth & Beshears, P.A.
33 North Stone, Suite 2100 PO Box 2268 Tucson, Arizona 85702 Telephone 520-622-3531 Fax 520-624-2816
Tucson Phoenix Sun City Nogales

TUC:37496.1

RE-00000C-94-0165

WRITTEN COMMENTS TO THE PROPOSED RULES
BY TRICO ELECTRIC COOPERATIVE, INC. COMMISSION

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1. R14-2-1601. Reword as follows:

"Public Power Entities' shall have the same meaning as that phrase is defined in
A.R.S. §30-801(16)."

Comment: That defined term is used in R14-2-1610.A, B, C, D and E. The definition set forth in the statute does not include all of those entities that are commonly considered to be Public Power Entities. The Proposed Rules should be consistent with HB 2663.

2. Change R14-2-1601(35)(a)(i) as follows:

"The net original cost of all the prudent jurisdictional assets and obligations necessary to furnish electricity (such as generating plants, purchased power contracts, fuel contracts, ~~and~~ regulatory assets and distribution assets) acquired or entered into ~~prior to December 26, 1996~~, under traditional regulation of Affected Utilities; and"

Comment: Distribution electric public service corporations are entitled to recover all of their Stranded Costs and they should not be recovered through any rate increase. A rate increase pertaining to a UDC's Standard Offer Rates would require those customers receiving Standard Offer to bear all of the UDC's Stranded Costs. These Stranded Costs should be charged to those electing competitive service as they are the ones who caused the Stranded Costs.

3. R14-2-1606.C.2. Change to read:

"Standard Offer Service tariffs shall include the following elements: provided if any of such elements have been provided by a third party to the Affected Utility or the Utility Distribution Company which has combined two or more of such elements, the Affected Utility or Utility Distribution Company shall not be required to provide such separate elements that have been combined."

Comment: Trico has been receiving from AEPCO pursuant to its all-requirements Wholesale Power Contract bills which combine generation and transmission services, and therefore Trico is unable to segregate the cost of those services. For this reason, the Rules should be changed.

4. **R14-2-1606.D.** Reword as follows:

"By July 1, 1999, or pursuant to Commission Order, whichever occurs first, each Affected Utility or Utility Distribution Company shall file an Unbundled Service tariff ~~which shall include~~ together with a Noncompetitive Services."

Comment: The Unbundled Service tariff should not include a Noncompetitive Service tariff. Instead, the two separate tariffs should be filed. This is necessary for clarification.

5. **R14-2-1606.H.2.** Change to read as follows:

"Such Noncompetitive Services rates shall reflect the costs of providing the services."

Comment: As Acting Director Ray Williamson testified at the hearing regarding PG&E Energy Services, Inc., Application for a CC&N as an ESP, cost has nothing to do with competitive rates except incremental costs below which rates may not be charged because to do so would constitute predatory rate pricing. Accordingly, the cost of the Competitive Services should be deleted from this subsection.

6. **R14-2-1606.H.3.** Reword as follows:

"Such Competitive Services rates may be downwardly flexible."

Comment: For the same reason as set forth in paragraph 5 above, only Competitive Service Rates should be downwardly flexible. Since R14-2-11.E permits an ESP to price its Competitive Services at or below the maximum rates specified in its filed tariff, it would be discriminatory to require AUs and UDCs to obtain Commission approval to reduce their Competitive Services rates.

7. **R14-2-1607.B.** Change to read as follows:

"The Commission shall allow a reasonable opportunity for recovery of all unmitigated Stranded Costs by Affected Utilities."

Comment: The AUs are entitled to receive all of their unmitigated Stranded Costs, and if they do not receive them, they will have been deprived of just compensation for their

property in violation of the due process clauses and the just compensation clauses of the U.S. and Arizona Constitutions, as well as other provisions of such Constitutions.

8. R14-2-1607.C. Change to read as follows:

"The Affected Utilities shall file estimates of unmitigated generation Stranded Costs on or before July 1, 1999, or pursuant to Commission Order, whichever occurs first. Affected Utilities shall file the amounts of their unmitigated distribution Stranded Costs, after electric competition is implemented, within thirty (30) days after the end of each calendar year in which such distribution Stranded Costs were incurred. Such estimates shall be fully supported by analyses and by records of market transactions undertaken by willing buyers and willing sellers."

Comment: As set forth in paragraph 2 above, Affected Utilities having distribution assets are as much entitled to Stranded Costs as those having generation assets and they should be recovered from those electing Competitive Services and should not be collected through any rate increase which affects Standard Offer customers only. Since the distribution of Stranded Costs will not be incurred until competition is implemented, a provision should be set forth stating when and how the AU, shall file the amounts of their unmitigated distribution Stranded Costs actually incurred, not estimated.

9. R14-2-1609.B. Change to read as follows:

"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 receiving Standard Offer Service within their service areas."

Comment: UDCs should be required to provide for transmission services to their Standard Offer customers only. It is extremely unfair to require the UDCs to provide such transmission capability for customers of ESPs. The ESPs should provide for such transmission services when they provide Competitive Services to the UDC's customers. If the UDCs are required to assure adequate transmission import capability for ESP customers, UDCs should receive just compensation for such additional duty.

10. R14-2-1611.C. Change to read as follows:

"Prior to January 1, 2001, 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 one continuing a 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 approved tariffs, it shall not become effective without a Commission Order. The ~~terms~~ provisions of such contract shall be kept confidential by the Commission."

Comment: The word "terms" is ambiguous. It could be interpreted to mean the period of time that the contract is in effect. This should be clarified to make it unambiguous.

11. **R14-2-1612.A.** Reword as follows:

"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 described in ~~each paragraph~~ the applicable provisions of R14-2-201 to R14-2-212. R14-2-203(E) and R14-2-212(H) shall pertain only to Utility Distribution Companies."

Comment: As noted in this subsection as well as subsection R14-2-1612.B, there are numerous provisions of R14-2-201 through R14-2-212 that are not applicable to ESPs. This should be indicated.

12. **R14-2-1612.N,** prior to R14-2-1612.N.1. Reword as follows:

"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, will list, at a minimum, the following billing cost elements, provided if any of such elements have been

provided by a third party to the Affected Utility or the Utility Distribution Company which has combined two or more of such elements, the Affected Utility or Utility Distribution Company shall not be required to provide such separate elements that have been combined."

Comment: Trico has been receiving from AEPCO pursuant to its all-requirements Wholesale Power Contract bills which combine generation and transmission services, and therefore Trico is unable to segregate the cost of those services. For this reason, the Rule should be changed.

13. **R14-2-1615.C.** Change to read as follows:

"An Electric Distribution Cooperative may provide Competitive Services within its service territory and it is not subject to the provisions of R14-2-1615 unless it offers competitive electric services outside of its 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.~~"

Comment: This section is extremely ambiguous. If Electric Distribution Cooperatives are subject to the provisions of R14-2-1605, when interpreted in conjunction with the definition of Competitive Services and Noncompetitive Services and R14-2-1603.A, the first sentence of this subsection C is meaningless after January 1, 2001. Apparently it was the intention of this subsection to permit Electric Distribution Cooperatives to provide Competitive Services within their service territories after January 1, 2001, and this subsection C should be clarified to express that intention. Provision of the electric services should not be restricted to the service territory as of the effective date of the Rules. The last sentence pertaining to Generation Cooperatives is meaningless.

14. Add a new **R14-2-1617.H** to read as follows:

"To the extent that a Load-Serving Entity that provides Generation Services furnishes the information required by this Section R14-2-1617, the Utility Distribution Company whose facilities are used to deliver such Generation Services to the end-user customer shall not be required to furnish the same information."

Reletter R14-2-1617.H to R14-2-1617.I and reletter R14-2-1617.I to R14-2-1617.J.