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BEFORE THE ARIZONA CORPORATION COMMISSION

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

DOCKET NO. RE-00000C-94-0165

**RESPONSE OF ARIZONA PUBLIC SERVICE COMPANY TO COMMENTS
ON THE PROPOSED ELECTRIC COMPETITION RULES**

In accordance with the Procedural Order of April 21, 1999, APS hereby submits its Response to Comments regarding proposed amendments to A.A.C. R14-2-201, *et seq.*, and R14-2-1601, *et seq.* ("Electric Competition Rules" or "Rules"). These amendments were attached as Appendix A to Decision No. 61634 (April 23, 1999). Due to the large number of comments received from other parties, APS will not respond to each and every suggestion made by such comments. By not specifically responding to a party's comment or proposal, however, APS does not signify agreement with the comment or proposal. Further, the lack of a response does not signify that a party's proposal or comment is unimportant. Some of these proposals could, if adopted, cause serious damage to the Rules. However, there were several extreme proposals that APS believes are so clearly not well taken that a specific response is not warranted.

APS' reply comments, grouped by issue, are set forth below.

I. The Treatment of Codes of Conduct in the Proposed Rules.

A number of parties, including Enron and the City of Tucson, criticize the elimination of detailed code of conduct provisions in the Rules. Under proposed Rule R14-

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1 2-1616, an Affected Utility is required to file a code of conduct for Commission approval,
2 but the specific provisions required in any particular code of conduct are not mandated by
3 rule. The comments that seek to reimpose detailed code of conduct provisions in the Rules
4 ignore the fact that the Commission will have to approve any code of conduct. If the
5 Commission determines that certain generic provisions are necessary parts of any code of
6 conduct, it has the authority to include those provisions with each Affected Utility's specific
7 code of conduct.

8 Similarly, the parties hint that the elimination of detailed provisions for codes of
9 conduct is a blanket invitation to engage in cross-subsidization. This, of course, is not the
10 case and the Commission has emphasized its intent to investigate and deal with improper
11 cross-subsidization in every order granting a CC&N to an ESP affiliated with a regulated
12 electric utility. The commenting parties do not present any persuasive argument that
13 imposing detailed code of conduct requirements by rule, rather than allowing the
14 Commission some discretion to consider the specific circumstances of various utilities, is a
15 preferable policy alternative.

16 17 **II. Accelerating, Eliminating or Modifying the Phase-In Period.**

18 Several parties also comment that, due to initial delays in implementing competition,
19 the two-year phase-in period should be further accelerated.¹ Some parties go so far as to

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21 ¹ Because the phase in period terminates by rule on January 1, 2001, the
22 two-year phase-in period is already being accelerated.
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1 suggest a “flash cut” to competition.² The phase-in period was intended to allow all of the
2 stakeholders a period to work out the specific details and address the problems that *will* arise
3 as retail choice is implemented. Any delay resulting from the January 1, 1999 “start” date
4 for competition does not alter the underlying rationale supporting a controlled, phase-in
5 period.

6 Similarly, the requirement for a 40 kW threshold for aggregation during the phase-in,
7 while perhaps an inconvenience to parties that wish to immediately consolidate all of their
8 loads, provides a controlled transition period to implement aggregation. Implementation
9 issues *will* arise in the aggregation process, and the 40 kW threshold was selected at the
10 working group stage as a reasonable demand level to phase in aggregation. No party has
11 provided a compelling reason to abandon a controlled transition for aggregation.

12 New West Energy (“NWE”) also suggests “clarification” regarding the mechanics of
13 customer selection during the phase-in, which are addressed in R14-2-1604(A). APS
14 believes that the rule is clear that a “customer” is a single premise load, and does not refer to
15 multiple meters. Similarly, NWE’s request that the Rules “clarify” that if a single site is
16 over 1 MW, “all” lesser sites for the same entity are also eligible for competition. This
17 “clarification” appears to be a request for a change to the rule: A customer with a 1 MW
18 load could aggregate additional loads of 40 kW or more, assuming that the capacity remains
19 available for competitive access, but cannot aggregate additional loads below the 40 kW
20 threshold merely because it has one load over 1 MW. The rationale for a phase-in of

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22 ² For example, the City of Tucson proposes eliminating the phase-in to
23 favor a flash cut, because the experience in California demonstrated that there would not be
24 a “huge” number of customers switching to direct access at once. If this prediction proves
25 accurate, it simply means that the phase-in restrictions will have little ultimate impact on the
26 market. If there is a sizeable migration of customers to direct access, however, the loss of
control could result in significant complications to the transition process. Those who have
actually operated in California (such as APS) can also tell you that the *potential* size of the
direct access market can cause implementation problems.

1 aggregation as a distinct competitive process was discussed above, and continues to justify
2 the threshold and load limits placed on such services.
3

4 **III. The Elimination of “Self-Aggregation” as Distinct from Aggregation.**

5 The Commission’s deletion of a separate provision for “self-aggregation” has created
6 significant consternation among parties seeking to utilize load aggregation. Most, if not all,
7 of this angst results from what APS believes is a misunderstanding of the scope of the
8 Commission’s modifications to the aggregation provisions in the Rules. For example, the
9 Land and Water Fund complains that the Commission has “exclu[ded]” aggregation from
10 the Rules, thus denying “residential, small commercial, and small government customers
11 that ability to organize themselves into a larger purchasing entity.”

12 Contrary to this assertion, the Commission has not excluded aggregation from the
13 Rules. Under prior versions of the competition rules, a few parties had construed the
14 separately defined term “self-aggregation” to allow a group of customers to combine their
15 load to reach the 1 MW threshold, and then purchase power on the wholesale market from
16 *any* out-of-state generation provider. Under this misinterpretation of self-aggregation, a
17 self-aggregator might attempt to purchase power directly from Pacificorp, even though
18 Pacificorp is not a load-serving ESP certificated to provide services in Arizona. The “self”
19 in “self-aggregation” was not intended to allow some aggregators to purchase power or
20 other services from non-certificated ESPs or other non-jurisdictional entities.

21 The aggregation provisions in the Rules (both current and prior versions), however,
22 have always permitted customers to aggregate their loads and purchase services through
23 certificated load-serving ESPs. Thus, “self-aggregation” as contemplated by the
24 Commission was adequately covered by the generic aggregation provisions in the Rules.
25 Whether the customer or the load-serving ESP is considered the “aggregator” for purposes
26 of the Rules is essentially a semantic distinction—the load-serving ESP is responsible for
scheduling and procuring generation for the aggregated loads. Accordingly, aggregation is

1 alive and well, and APS believes that most parties have simply misinterpreted the impact of
2 the Commission's straightforward clarification of the aggregation provisions.

3 4 **IV. Classifying Ancillary Services and Must Run Generation.**

5 In Staff's comments to Rule R14-2-1606(C)(6) and R14-2-1612(N), it argues that
6 there are "two identifiable aspects of ancillary services: 'variable' cost and 'fixed' cost
7 ancillary services." Staff proposes listing variable cost ancillary services in the "electricity"
8 (i.e., generation) category and listing only fixed cost ancillary services in the delivery (i.e.,
9 transmission and distribution) category. Although ancillary services perhaps could be
10 characterized as relating to fixed-cost assets and variable costs, the Federal Energy
11 Regulatory Commission ("FERC") classifies all ancillary services as transmission-related
12 costs, making their inclusion in the "delivery" category of unbundled bills appropriate.

13 Treating ancillary services differently from FERC, and attempting to allocate certain
14 aspects of ancillary services between generation and delivery, is unnecessary and overly
15 complicates the unbundling process. Fixed and variable cost ancillary services are highly
16 interdependent, making allocations between the two aspects of ancillary services
17 particularly complex. For example, the cost of regulation—the frequent change in generator
18 outputs to track the minute-to-minute fluctuations in system load—depends on which units
19 (fixed cost assets) are already being dispatched to provide energy and compensate for losses,
20 their variable costs, and their operating levels relative to their maximum and minimum
21 loading points. Moreover, ancillary services are ultimately related to system reliability and
22 delivery, not load-serving generation. Accordingly, there is simply no reason to further
23 complicate an already complex issue—the specific details of which are largely meaningless
24 to customers—by grouping some aspects of ancillary services in the generation rather than
25 delivery category for unbundled billing.

26 Similarly, Staff proposes classifying must-run generation in the "electricity"
category, rather than the "delivery" category. Must-run generation relates directly to system

1 reliability and, as such, is a transmission-related service that properly belongs in the
2 “delivery” category. To modify R14-2-1606(C)(6) as requested by Staff will result in
3 needless confusion and undue administrative burden, and fails to recognize the “delivery”
4 service nature of must run generation.

5
6 **V. Transmission and Distribution Access.**

7 Staff also proposes several inappropriate changes to R14-2-1609 regarding
8 transmission and distribution access. First, Staff proposes making utility distribution
9 companies responsible for planning for and maintaining “adequate” transmission capability
10 for import, export and local operations. FERC has rules regarding the construction of
11 additional transmission facilities, and does not require an electric utility to construct
12 additional transmission resources at its own expense. Through preemption, these rules
13 prohibit the Commission from imposing different rules regarding FERC-regulated
14 transmission.

15 More importantly, however, Staff’s proposal—to shift all responsibility for
16 transmission planning and construction on the UDCs—ignores that facility siting in a
17 competitive market should be dictated by market forces. To require, as Staff proposes, a
18 UDC to construct additional transmission export capacity to accommodate the whims of any
19 potential merchant generator that chooses to locate in an area with minimal existing
20 transmission export capacity rewards inefficiency.

21 Similarly, Staff proposes requiring the Arizona Independent Scheduling
22 Administrator (“AISA”) to develop a statewide transmission planning process. AISA will
23 not be involved in transmission planning. The entities that are involved in transmission
24 planning—the Southwest Regional Transmission Authority and the Western System
25 Coordinating Council—are already established. APS has addressed these issues in more
26 depth in its Comments to the Rules, and would refer to that discussion here.

1 New West Energy makes several comments regarding AISA and transmission access
2 that erroneously construe FERC regulations or the role and missions of AISA. Specifically,
3 NWE's proposes that rule R14-2-1609(A) state that allocation of transmission capacity
4 between Standard Offer Service customers and competitive customers must be on a pro-rata
5 basis "in accordance with FERC Orders 888 and 889." FERC Orders 888 and 889,
6 however, do not address allocation of transmission capacity between Standard Offer Service
7 customers and competitive customers. Similarly, NWE proposes limiting the open access
8 requirements in R14-2-1609(A) to "retail" customers. *All* customers, however, must be
9 provided nondiscriminatory access. There is no need to include the word "retail" as a
10 modifier in this rule.

11 Also, in R14-2-1609(D)(2), NWE proposes inserting language that AISA shall
12 "audit" the implementation of operating protocols. AISA, however, will implement the
13 protocols and oversee their application—its role is not limited to auditing. In R14-2-
14 1609(D)(3), NWE proposes dispute resolution procedures to resolve discriminatory
15 treatment claims "either before or after the fact". There can be no "before the fact"
16 resolution of disputes, so NWE's proposal is meaningless.

17 Throughout R14-2-1609, NWE further proposes limiting the AISA provisions to
18 "Affected Utilities"—which would not include NWE's parent, Salt River Project ("SRP").
19 If the Commission has authority over AISA, the statewide rules should apply to all
20 participants in the entity, not just Affected Utilities. For example, in R14-2-1609(D)(4)
21 NWE proposes limiting the reach of scheduling protocols to transmission facilities
22 belonging to "Affected Utilities" and excluding transmission facilities belonging to "other
23 [AISA] participants." AISA participants agreed to all be subject to the scheduling
24 protocols. Likewise, NWE proposes limiting the development of fair and reasonable pricing
25 mechanisms for settlement and other statewide services to Affected Utilities, rather than
26 including other stakeholders. Like the other statewide provisions in R14-2-1609, all AISA
participants must be bound by the same requirements to make the process effective.

1 Finally, in R14-2-1609(I), NWE proposes deleting the various statewide protocols for
2 pricing and availability of must-run units. Such protocols are necessary to ensure that the
3 price for must-run generation is consistently determined throughout the state. Also, the
4 concept of must-run generation pricing protocols is premised on such service being offered
5 at regulated rates. Accordingly, NWE's proposal to delete "at regulated prices" in R14-2-
6 1609(I) is flawed.

7
8 **VI. Purchased Power for Standard Offer Service.**

9 The City of Tucson suggests that the requirement that UDCs purchase power for
10 Standard Offer Service "through the open market" is flawed because it could justify a UDC
11 purchasing all of its Standard Offer power on the spot market. This comment ignores that
12 Standard Offer Service is still a regulated service, subject to traditional prudent management
13 requirements. Thus, if a UDC imprudently purchased all of its Standard Offer power on the
14 spot market, its conduct could be subject to prudence review. The Rules should provide
15 UDCs with as much flexibility as possible, and there is simply no reason to cloud the
16 management of Standard Offer Service procurement by adopting the proposal suggested by
17 the City of Tucson.

18
19 **VII. Minimum Interval Metering Requirements.**

20 Some parties, including the City of Tucson and Commonwealth Energy, have
21 suggested that the Commission repeal or modify the requirement in rule R14-2-1613(K)(6)
22 that direct access customers with energy demand of over 20 kW must use meters that
23 measure hourly consumption. The threshold level for requiring hourly interval metering
24 was addressed at the working group stage. The Unbundled Services and Standard Offer
25 Working Group concluded that 20 kW is an appropriate threshold. Commonwealth asks the
26 Commission to ignore the working group (in which it did not participate) and look to

1 California's standards, but fails to provide a compelling argument of why California's
2 threshold levels are any better than Arizona's..

3 The threshold requirement is principally driven by the energy scheduling and
4 settlement process, which requires that hourly consumption data be accurately determined
5 after the fact in order to assign energy imbalance costs to those parties incurring such costs.
6 More specifically, control area operators are currently responsible for supplying the energy
7 requirements of the load within their control areas. Through the use of generation and
8 interconnection point telemetry, the control area operator knows its hourly loads and the
9 resources supplying the loads. The control area operator controls the resources needed to
10 respond to load changes. Under direct access, the control area may no longer be supplying
11 that load with its own resources. Resources to supply load will be scheduled and supplied
12 through scheduling coordinators of load-serving ESPs. Resources scheduled by the ESPs'
13 scheduling coordinators must be equal to the load for which each scheduling coordinator is
14 responsible. If the resources are not equal, the host control area's resources will respond to
15 compensate for any difference. Such a mismatch between schedule and load is termed an
16 energy imbalance.

17 Absent dynamic scheduling, it is impossible for the scheduling coordinator to
18 consistently match schedules to loads. Dynamic scheduling is currently not cost-effective,
19 so scheduling coordinators will use static schedules. This means that the control area
20 operator will control the generation resources at its disposal to respond to load changes for
21 all loads within its control area and will incur associated generation costs as energy
22 imbalances. To appropriately assign such generation costs/energy imbalances to the
23 responsible parties, accurate hourly consumption data is required.

24 Ideally, all loads would have hourly interval metering. Low-cost hourly interval
25 metering, however, is not currently available for all demand levels. Thus, as a compromise,
26 loads below a given demand threshold can be load profiled, rather than directly measured
through hourly interval metering. The working group's determination that 20 kW is the

1 appropriate threshold level for requiring hourly interval metering remains wholly
2 appropriate.

3 4 **VIII. Timing of Customer Returns to Standard Offer Service.**

5 The City of Tucson proposes deleting language in Rule R14-2-1613(I) which
6 provides that if appropriate metering equipment is in place and a request to return to
7 Standard Offer Service is made within 15 days before a scheduled meter read date, a
8 customer may return to Standard Offer Service at the next regular billing cycle. Tucson
9 proposes replacing this language with a flat 15 day notice provision. The language in the
10 Rules, however, reflects the conclusion reached by the Unbundling Working Group.

11 Tucson's comment fails to recognize the timing and coordination that may be
12 necessary to return some customers to Standard Offer Service, particularly if a joint meet to
13 replace meter equipment is necessary. Tucson's only support for its proposal is to suggest
14 that a UDC will "invent meter problems or delay processing the request" to keep customers
15 from returning to Standard Offer Service. Such unfounded conspiracy theories are
16 inappropriate—when Standard Offer Service is provided by competitive bid (and even
17 before this) the concept of intentionally keeping customers off Standard Offer Service, or
18 the notion that UDCs would perform covert economic analyses to evaluate the pros and cons
19 of individual customers seeking to return to Standard Offer Service, is unsupportable.

20 21 **IX. Disclosure of Information.**

22 Some comments, such as those of the City of Tucson, argue that the Rule R14-2-
23 1617 should require UDCs to automatically disclose resource portfolios, fuel mix, and
24 emissions profiles to all customers. If, as Tucson suggests, customers are keenly interested
25 in this information, they will obtain the information—either themselves or through market-
26 based mechanisms. For example, competitors with an attractive fuel mix or low emissions
profile are free to make lawful claims on these issues using the data available from

1 surrounding utilities. Such competitors will provide this information to attract customers to
2 whom fuel mix or emissions characteristics are important. To mandate by rule, however,
3 that all utilities “automatically” provide information slips to large numbers of customers
4 who may not care about such information does no more than add unnecessary costs to the
5 disclosing utility and, ultimately, to the customer.

6
7 **X. Statewide Standards for Electronic Data Interchange (“EDI”)**

8 NWE proposes in its comments to Rule R14-2-1612(K) that the Utility Industry
9 Group complete its standards for statewide EDI formats at least 60 days prior to the onset of
10 competition. To require the adoption of statewide standards as a precondition to
11 competition, however, will likely result in further delays. For example, California is still
12 working towards developing and implementing statewide data exchange standards. The
13 potential for further delay tied to the adoption of statewide standards is in no one’s interest,
14 and NWE’s comment should be rejected.

15
16 **XI. Comments of Commonwealth Energy Corporation and New West Energy Generally.**

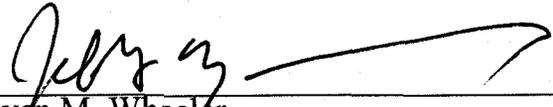
17 Without participating at all in the multi-year process of working groups and
18 rulemaking activity leading up to the current proposed Rules, Commonwealth Energy now
19 intervenes and files a 14-page single spaced treatise on various abstract benefits and
20 “cornerstones” of competition. Tellingly, Commonwealth’s comments do not propose many
21 specific changes to the rules, but consist primarily of narrative demands that the rules be
22 rewritten from the ground up. Presumably, this rewrite will be done in a manner that
23 guarantees Commonwealth a profit at the expense of various other stakeholders. APS has
24 addressed some of Commonwealth’s comments above, but more broadly suggests that the
25 Commission ignore the bulk of Commonwealth’s comments as untimely and as evidencing
26 a fundamental lack of understanding of the rulemaking and workshop processes already
undertaken in Arizona.

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Similarly, New West Energy proposes rewriting the Competition Rules to ensure that no ESP is actually supervised by the Commission, and that enforcement responsibilities will be imposed only on Commission-regulated UDCs. NWE also suggests rewriting the Rules to fully take advantage of its parent entity's status as a municipal corporation. For example, NWE notes that "the Code of Conduct set forth in Rule R14-2-1616 will apply only to Affected Utilities"—which is not defined to include SRP—"so this provision [R14-2-1616] should be modified accordingly." Similarly, in claiming that the "Commission has no authority to police state-law permit and license requirements," NWE wholly ignores the Commission's responsibility to consider the public interest when overseeing public service corporations. APS has responded to several of NWE's comments in previous sections above, but, as a general matter, does not believe that NWE's attempt to escape any regulatory supervision when acting as an ESP is justified.

RESPECTFULLY SUBMITTED this 4th day of June, 1999.

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CERTIFICATE OF SERVICE

The original and ten (10) copies of the foregoing document were filed with the Arizona Corporation Commission on this 4th day of June, 1999, and service was completed by mailing or hand-delivering a copy of the foregoing document this 4th day of June, 1999 to the accompanying service list.



Sharon Madden

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