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AZ CORP COMMISSION

NOTICE OF EXEMPT RULEMAKING

DEC 31 11 11 PM '98  
JAN 11 12 42 PM '99

39

1. Agency name: Arizona Corporation Commission

2. The subchapters, if applicable; the Articles; the Parts if applicable; and the Sections involved in the rulemaking, listed in alphabetical and numerical order:

SECRETARY OF STATE  
DOCUMENT CONTROL

<u>Subchapters, Articles, Parts, and Sections</u>	<u>Action</u>
Article 2	
R14-2-203	Amend
R14-2-204	Amend
R14-2-208	Amend
R14-2-209	Amend
R14-2-210	Amend
R14-2-211	Amend
Article 16	
R14-2-1601	Amend
R14-2-1603	Amend
R14-2-1604	Amend
R14-2-1605	Amend
R14-2-1606	Amend
R14-2-1607	Amend
R14-2-1608	Amend
R14-2-1609	Amend
R14-2-1610	Amend
R14-2-1611	Amend
R14-2-1612	Amend
R14-2-1613	Amend

Arizona Corporation Commission

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R14-2-1614

Amend

R14-2-1615

Amend

R14-2-1616

Repeal

R14-2-1616

New Section

R14-2-1617

New Section

R14-2-1618

New Section

## CONCISE EXPLANATORY STATEMENT

This explanatory statement is provided to comply with the provisions of A.R.S. §41-1036.

### **I. CHANGES IN THE TEXT OF THE PROPOSED RULES FROM THAT CONTAINED IN THE NOTICE OF RULEMAKING FILED WITH THE SECRETARY OF STATE**

#### **A. ARTICLE 2. ELECTRIC UTILITIES**

##### **A.A.C R14-2-203 – Establishment of Service**

R14-2-203(B)(1)(a) and (6)(a) and (b) are modified to comply with the format requirements of the Secretary of State.

The following language was added to R14-2-203(D)(4): “This section shall not apply to the establishment of new service, but is limited to a change of providers of existing service.”

##### **A.A.C R14-2-204 – Minimum customer information requirements**

R14-2-204(A)(1)(c) was modified to comply with the format requirements of the Secretary of State.

##### **A.A.C R14-2-209 – Meter Reading**

R14-2-209(A)(2) and (3) and (B)(2) and (C)(1) are modified to comply with the format requirements of the Secretary of State. The word “Reader” is changed to “Reading” in R14-2-209(A)(8). R14-2-209(E)(1) is modified to refer to the current 1995 edition of ANSI C12.1 (American National Standard Code for Electricity Metering) replacing the reference to the 1988 edition.

##### **A.A.C R14-2-210 – Billing and collection**

The words “without customer authorization” is moved to the end of the second sentence in R14-2-210(A)(1). The words “for Meter Service Providers” is added after “penalties” in 210(A)(3)(d) and a new 210(A)(5)(d) is added as follows: The word “Use” is deleted and “The utility can obtain” is inserted; and “,whenever possible,” is deleted.” Provision 210(A)(6)(c) is eliminated.

In the first sentence of 210(E)(1), the word “Reader” is deleted and the words “, or the customer’s Electric Service Provider, Utility Distribution Company (as defined in A.A.C. R14-2-1601) or billing entity” is inserted after the first “customer”.

In R14-2-210(F)(1) the phrase “or other financial instrument” is inserted after “check” and the term “or other financial institution.” Is inserted after “bank”.

In paragraph (F)(3) the term “or financial instrument” is inserted after “check”.

R14-2-210(A)(4) and (5)(b), (B)(1), (D)(4) (E)(3) (G)(5) (H)(2)(c) and (I)(2) are modified to comply with the format

requirements of the Secretary of State.

**A.A.C R14-2-211 – Termination of service**

R14-2-211(A)(f)(ii), (B)(3), (C)(1)(a), (b) and (c), and (C)(2) are modified to comply with the format requirements of the Secretary of State.

**B. ARTICLE 16. RETAIL ELECTRIC COMPETITION**

**A.C.C. R14-2-1601 – Definitions**

In R14-2-1601(4) "An Affected Utility" is changed to "a Load-Serving Entity." In subparagraph (22), "Meter Reading Service" is changed to "Meter Service Provider." In subparagraph (24), "validated" is replaced with "billing-ready." In paragraph (29), subsection "J" is added to "R14-2-1613". In subparagraph (39)(a)(i) "December 26, 1996" is substituted for the phrase "the adoption of this Article." In R14-2-1601(40) insert "Market transformation" and "long-term public benefit research" and "management".

**A.C.C. R14-2-1603 – Certificates of Convenience and Necessity**

R14-2-1603(A), (C) and (G)(3) are modified to conform to the format requirements of the Secretary of State. Paragraph 1603(B)(7) is deleted and (B)(8) is renumbered as (7). Duplicate subparagraph (H) is re-lettered as (I) and original (I) is relettered as (J). The words "licenses, including relevant tax licenses" are added to paragraph 1603(I)(6).

**A.C.C. R14-2-1604 – Competitive Phases**

In Section 1604(A) add the words "First come, first served, for purposes of this rule, shall be determined for non-residential customers by the date and time of an ESP's filing of a Direct Access Service Request with the Affected Utility or Utility Distribution Company. The effective date of the Direct Access Service Request must be within 180 days of the filing date of the Direct Access Service Request. Residential customer selection will be determined under approved residential phase-in programs as specified in R14-2-1604.B.4."

In paragraph 1604(A)(2) the words "affected Utility" and "beginning January 1, 1999." Are deleted and the words "During 1999 and 2000, an Affected Utility's" are added at the beginning of the paragraph and the words "within that Affected Utility's service territory" are inserted after "1MW or greater."

In paragraph 1604(B)(1) the words "1/2 of 1%" are replaced with "1¼%." "In paragraph 1604(B)(3) the words "Load Profiling may be used; however, residential" are deleted. The word "residential" is inserted at the beginning of the sentence and the words "shall be permitted to use Load Profiling to satisfy the requirements for hourly consumption data; however they" are added after "phase-in program".

In paragraph 1604(G) the words "Affected Utility, Utility Distribution Company, or" are deleted and the year "2001" is replaced with "1999". The words "the date indicated in R14-2-1604(A)" are deleted and replaced with the date "January 1, 1999".

The words ", at which time all customers shall be permitted to aggregate, including aggregation across service territories." Are added to the end of 1604(D).

Subparagraphs 1604(B)(1), (4) and (5) are modified to comply with the format requirements of the Secretary of State.

#### **A.C.C. R14-2-1606 – Services Required To Be Made Available**

In paragraph 1606(A) the words "that class in" are deleted. And the subsection is further modified to conform to the format requirements of the Secretary of State.

#### **A.C.C. R14-2-1610 –Transmission and Distribution Access**

R14-2-1610(G)(2) is modified to conform to the format requirements of the Secretary of State.

#### **A.C.C. R14-2-1613 – Service Quality, Consumer Protection, Safety, and Billing Requirements**

In paragraph 1613(C), the words "slamming may result in fines and penalties, including but not limited to " are deleted and replaced with "Unauthorized charges or providers may result in penalties and/or".

A new paragraph (D) is inserted as follows: "A customer with an annual load of 100,000 kWh or less may rescind its authorization to change providers of any service authorized in this Article within 3 business days, without penalty, by providing written notice to the provider." The following paragraphs are renumbered accordingly.

In renumbered paragraph (I) the words "and to the appropriate Utility Distribution Company" are added after "customer".

In renumbered paragraph (K) the words "using EDI formats" are added after "shall provide access", and the words "or their representative" are added after "and the Electric Service Provider" in paragraph (K)(8).

In renumbered subparagraph 1613(L)(c), the words ""his or her" are deleted and replaced by "the Director's".

In R14-2-1613(O)(1) and ",," is added to subpart (a) and the word "and" is added to subpart (b). The same modifications are made to subpart (O)(2) and (3).

#### **A.C.C. R14-2-1616 – Separation of Monopoly and Competitive Services**

R14-2-1616 (B) is modified by deleting the word "may" and inserting "shall" in the third sentence and inserting words "if requested by an ESP or customer" after "provide", and adding the following language at the end of the sentence:

“during the years 1999 and 2000, subject to the following limitations. The Affected Utilities and Utility Distribution Companies shall be allowed to continue to provide metering and meter reading services to competitive customers within their service territories at tariffed rates until such time as two or more competitive ESPs are offering such services to a particular customer class, the Affected Utilities and Utility Distribution Companies will no longer be allowed to offer the service to new competitive customers in that customer class, but may continue to offer the service through December 31, 2000, to the existing competitive customers signed up prior to the commencement of service by the two competitive ESPs.”

**A.C.C. R14-2-1617 – Affiliate Transactions**

R14-2-1617(E) is modified to delete the words “No later than December 31, 1999, and every year thereafter until December 31, 2002.” At the beginning of the fifth sentence. The words “starting no later than the calendar year 1999, and every year thereafter until December 31, 2002” are inserted after “herein”.

**A.C.C. R14-2-1618 – Disclosure of Information**

R14-2-1618(B) is modified by deleting subpart (2) and renumbering the remaining subparts.

In R14-2-1618(D), the words “materials, including electronically published materials” are deleted and replaced with the words “materials specifically targeted to Arizona.” The words “or in written materials not specifically targeted in Arizona,” are inserted after “non-print media”.

R14-2-1618(F)(8) is modified to conform to the format requirements of the Secretary of State.

**II. EVALUATION OF THE ARGUMENTS FOR AND AGAINST THE PROPOSED RULES**

**A. Article 2 – Electric Utilities**

**A.A.C. 14-2-203(C)**

**Issue:** PG&E Energy Services (“PG&E”) proposed modifying R14-2-203(C) to include a provision that an Electric Service Provider (“ESP”) does not have to provide service to any class that it does not have a product or service offering for. Staff believed the change was not necessary because Staff did not intend to use this Rule to force ESPs to offer services for which ESPs do not have product or service offerings.

**Evaluation:** It is not the Commission’s intent to require ESPs to offer services for which they do not have a product or service offering.

**Resolution:** No change is necessary.

**A.A.C. 14-2-203(D)**

**Issue:** The Residential Utility Consumer Office (“RUCO”) proposed that R14-2-204(D)(4) should only

apply to customers who are switching ESPs. Staff concurred with RUCO.

**Evaluation:** We concur with Staff and RUCO.

**Resolution:** RUCO's proposed language should be added to the end of R14-2-203(D)(4).

**R14-2-210(A)**

**Issue:** RUCO proposed that customers be permitted to authorize meter reading schedules that are either longer or shorter than the 25 to 35 day presumptive period stated in paragraph (A)(1). Staff concurred with the proposed RUCO change to paragraph (A)(1).

**Evaluation:** We concur with RUCO and Staff that customers should be able to authorize longer or shorter meter reading periods

**Resolution:** Move the words "without customer authorization" which appears in the second sentence of paragraph (A)(1) to the end of that sentence.

**Issue:** RUCO proposed removing the last sentence of paragraph (A)(3)(d) because the Commission has no authority to impose penalties on customers of utility services. To clarify its intent, Staff proposed inserting the words "for Meter Service Providers" after the word "penalties" in the last sentence of paragraph (A)(3)(d).

**Evaluation:** We concur with Staff's proposed modification.

**Resolution:** Insert the words "for Meter Service Providers" after "penalties" in 210(A)(4)(d).

**Issue:** RUCO proposed that 210(A)(6)(c) should be reworded and moved to paragraph 210(A)(5)(d) to require that an estimated bill is not permitted if the utility can obtain a customer supplied meter reading. Staff concurred.

**Evaluation:** We concur with Staff and RUCO.

**Resolution:** Add new 210(A)(5)(d) as follows: "The utility can obtain customer supplied meter readings to determine usage." and delete 210(A)(6)(c).

**Issue:** CellNet Data Systems ("CellNet") proposed modifying R14-2-209(A)(9) to read "meter shall be read, at a minimum, monthly . . . ." Staff believed that the proposed change was not necessary because R14-2-210(A) allows for longer or shorter periods for meter reading with customer authorization.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-210(C)**

**Issue:** RUCO proposed changing paragraph (C)(1) from utility bills are due no later than 15 days after

they are rendered, to bills shall be due no sooner than 15 days after they are rendered. Staff believed that 15 days for paying bills are reasonable and that no change is necessary.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-210(E)**

**Issue:** RUCO contends that the language in paragraph (E)(1) duplicates and slightly contradicts the language in R14-2-209(F). RUCO proposed eliminating the paragraph (E)(1) in favor of the broader language in R14-2-209(F). RUCO further proposed removing the words "Company will" and insert the words "utility or billing entity shall" in paragraph (E)(1)(a) and (b).

In paragraph (E), CellNet proposed to reference the metering standards approved by the Director of the Utilities Division.

Staff believed that the possible contradiction between paragraph (E)(1) and R14-2-209(F) should be remedied by conforming the language of 210 to that of 209. Staff also believed the CellNet's suggestion is not necessary because the metering standards are already referenced by R14-2-1613(J)(15).

**Evaluation:** We concur with Staff and RUCO that R14-2-210(E)(1) and 209(F) are redundant. We concur with Staff that CellNet's proposal does not appear necessary.

**Resolution:** Adopt Staff's proposed modifications as follows: In the first sentence of paragraph (E)(1), delete the word "Reader" and insert after the first "customer" ", or the customer's Electric Service Provider, Utility Distribution Company (as defined in A.A.C. R14-2-1601) or billing entity".

**R14-2-210(F)**

**Issue:** RUCO proposed changes that would broaden the terms in these paragraphs to include financial institutions, not just banks and to include methods of payment other than checks. Staff believed RUCO's proposed changes should be adopted.

**Evaluation:** We concur with Staff and RUCO.

**Resolution:** Adopt Staff's proposed modification by inserting the words "other financial instrument" after "check" and "or other financial institution" after "bank".

**B. Article 16 – Retail Electric Competition**

**R14-2-1601(5) – Competition Transition Charge**

**Issue:** Arizona Public Service (“APS”) suggested that the definition of Competition Transition Charge (“CTC”) be modified by adding the word “purchasing” after “customers.” Citizens Utility Company (“Citizens”) suggested that the definition be expanded to include “other Commission-allowed costs attributable to the introduction of competition” in order to allow for inclusion of new costs, such as load profiling, into the CTC. Staff believed that the definition is sufficiently clear without modification and that adding costs to the CTC in addition to Stranded Costs would be inappropriate, as the CTC is not intended as a recovery mechanism for all costs associated with the move to competition.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1601(9) – Current Transformer**

**Issue:** Citizens suggested that the words “energy consumption” be replaced with “electric current” to provide a more precise definition. Staff believed the definition is sufficiently precise.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1601(10) – Direct Access Service Request**

**Issue:** CellNet argued that it would be problematic to allow the customer to submit the Direct Service Access Request (“DSAR”) directly to its Utility Distribution Company without going through the new Electric Service Provider. In addition, CellNet believed that DASR forms should be submitted using Electronic Data Interchange (“EDI”).

Staff claimed that CellNet provided no justification for the conclusion that allowing customers to submit a DASR from would pose problems. Staff believed that the suggestion that DASRs be submitted via EDI has merit, but Staff thought that requiring electronic submission would make it difficult for customers without EDI capability.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1601(12) – Distribution Primary Voltage**

**Issue:** Arizona Electric Power Cooperative (“AEPSCO”) recommended that the words “as it relates to metering transformers” be added to the definition of Distribution Primary Voltage. Staff believed the definition is sufficiently precise.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1601(13)- Distribution Service**

**Issue:** Citizens suggested replacing “to deliver” with “governing the delivery, measurement, and billing” in order to add clarity. Staff believed the definition is sufficiently clear.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1601(16) – Electric Service Provider Service Acquisition Agreement**

**Issue:** CellNet suggested that the Commission take a more active role in defining the content and general provisions of electric service provider service acquisition agreements. Staff argued the CellNet provided no specific recommendations as to what the agreements should contain. Staff believed that it is appropriate to allow the ESP and UDC to negotiate the content of the agreements. Staff noted that R14-2-1603(G) requires that the negotiation in good faith allows the use of the Commission’s complaint procedure if an Electric Service Provider is unable to reach an agreement.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1601(22) – Load Serving Entity**

**Issue:** CellNet points out that the phrase “Meter Reading Service” should be changed to “Meter Service Provider.” Staff concurred.

**Evaluation:** We concur with CellNet and Staff.

**Resolution:** Change “Meter Reading Service” to “Meter Service Provider.”

**R14-2-1601(23) – Meter Reading Service**

**Issue:** Citizens suggested that the definition of “meter reading service” be modified by adding the words “validation, posting and storage” in order to make the definition more complete. APS recommended that the words “for non-Standard Offer and other customers on non-competitive electric service” be added at the end of the definition because meter reading for Standard Offer and other non-competitive electric service customers remain regulated.

Staff believed that the definition’s inclusion of all functions related to the collection and storage of consumption data renders the definition sufficiently complete and unambiguous.

**Evaluation:** We concur with Staff

**Resolution:** No change.

**R14-2-1601(24) – Meter Reading Service Provider**

**Issue:** Citizen's suggested changing the word "validated" in the two places it occurs to "bill-ready" in order to avoid a circular definition and to utilize industry-accepted language. Staff agreed and recommended Citizen's suggestion be adopted.

**Evaluation:** We concur.

**Resolution:** Change "validated" to "bill-ready" whenever it appears in R14-2-1601(24).

#### **R14-2-1601(26) – Metering and Metering Service**

**Issue:** APS recommended that the words "for Standard Offer customer, excepting those functions related to distribution primary voltage CTs and PTs above 25 kV" be added at the end of the definition because PTs and CTs above 25 kV and Standard Offer metering remain regulated. Staff believed the additional language is unnecessary because the context makes clear whether the reference is to a monopoly or competitive service.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

#### **R14-2-1601 (27) – Must-Run Generating Units**

**Issue:** AEPCO recommended that the definition of "must-run generating units" be modified by eliminating the word "distribution" before "system reliability," and to replace from "in times of congestion" to the end of the definition with ", voltage requirements, system reliability and contingencies to meet load on certain portions of the interconnected transmission grid" to reflect current consensus thinking within the Reliability Working Group. Staff believed the definition is sufficiently precise as written.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

#### **R14-2-1601(29) – Noncompetitive Services**

**Issue:** CellNet suggested that the reference to R14-2-1613 be changed to R14-2-1613(K), since section K is the only relevant part of the that rule. Staff agreed.

**Evaluation:** We concur.

**Resolution:** Add "J" after "R14-2-1613".

#### **R14-2-1601(3) – OASIS**

**Issue:** The Attorney General's Office ("AG") believed that the definition of "OASIS" appears to be a particular brand name, and recommended that the rule define a technical standard rather than a brand name. Staff noted that

“OASIS” is not a brand name but is an acronym used in the industry for the type of electronic bulletin board described in the rule.

**Evaluation:** No change required.

**Resolution:** No change.

**R14-2-1601(32) – Potential Transformer**

**Issue:** Enron recommended that “120V” should be replaced with “levels more appropriate” and that (“E.g., 115 or 120 volts”) should be added at the end of the definition. Staff believed that the rule encompasses primary voltage levels below 120V, and that no change is necessary.

**Evaluation:** We concur with Staff

**Resolution:** No change.

**R14-2-1601(35) – Scheduling Coordinator**

**Issue:** AEPCO suggested changing the definition by replacing “control Area Operator” with “control Area Operator/Transmission Owner” in order to reflect current consensus among the Reliability Working Group. APS believed that the words “designated by the Commission” should be added after “entity” to put the Commission in charge of determining both the number and qualifications of Scheduling Coordinators. Staff believed that the definition is sufficiently precise and that the Commission does not need to play a role in designating Scheduling Coordinators.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1601(39) Stranded Cost**

**Issue:** AEPCO suggested that the definition of Stranded Cost be expanded to include one time costs incurred by Affected Utilities for changes to infrastructure required as a result of the rules. The AG recognized that the rule complies with the Commission’s Decision on stranded costs, Decision No. 60977, but argued that the Commission lacks the lawful authority to designate any cost, whether related to a “taking” or not, as stranded cost. The AG urged the Commission to continue to utilize the definition originally adopted in the rules. Enron recommended that “book” be inserted before “value” in subsection (a)(i) of the definition. APS recommended that a new subsection (d) be added, which reads “other transition costs as approved by the Commission.” RUCO recommended that the phrase “prior to the adoption of this Article” in subsection (a)(i) should be replaced with “prior to December 26, 1996,” in order to minimize confusion in light of the amendments to the rules being adopted.

Staff believed that the rule is consistent with Decision No. 60977 concerning Stranded Costs. Staff argued the language suggested by AEPCO and APS would expand the definition beyond that contained in the Commission's Decision on Stranded Costs. Staff disagreed with the conclusion of the AG that the Commission lacks the legal authority to determine Stranded Costs, and argued that the Commission's expansive ratemaking authority under Article XV of the Arizona Constitution encompasses the ability to determine what costs are recoverable by a utility. Staff agreed with Enron that the "value" referred to in subsection (a) (i) is "book value," but believed that a change was not required. Finally, Staff agreed with RUCO that confusion would be avoided by the using the date December 26, 1996, instead of referring to the date of the adoption of the rules.

**Evaluation:** We concur with Staff's analysis.

**Resolution:** Insert the date December 26, 1996 as proposed by RUCO.

**R14-2-1601(40) – System Benefits**

**Issue:** APS recommended that "customer education" be included in system benefits. RUCO objected to including nuclear power plant decommissioning costs in system benefits. Staff believed it is not necessary to determine the specific recovery mechanism for customer education costs in the rules, and that the Commission should not make a determination on the recovery mechanism until it has considered all appropriate options. Staff disagreed with RUCO regarding the nuclear plant decommissioning costs, as one of the necessary costs of a nuclear power plant is the cost of decommissioning that plant at the end of its life. Staff argued that because APS's customers have enjoyed the power from Palo Verde they should bear a responsibility for paying the costs of decommissioning and that it is appropriate to recover those costs from all APS's customers through the system benefits charge. In its analysis of the comments to R14-2-1608 System Benefits, Staff agreed that the terms "market transformation and long-term public benefit research" should be included in the definition of Systems Benefits in 1601(40).

**Evaluation:** We concur with Staff.

**Resolution:** Add the terms "market transformation" and "long-term public benefit research".

**R14-2-1601(41) – Transmission Primary Voltage**

**Issue:** Tucson Electric Power Company ("TEP") believed that the rule should state that Transmission Primary Voltage is defined under the Affected Utility's FERC Open Access Transmission Tariff. APS was concerned that the definition of Transmission Primary Voltage as being above 25 kV conflicts with the FERC's definition of transmission for APS as being 69kV and above. Staff believed that qualifying language in the definition of Transmission Service at R14-2-

1602(42), to the effect that this definition applies only “as it relates to metering transformers,” alleviates the concerns of both TEP and APS.

**Evaluation:** We concur with Staff

**Resolution:** No change.

**R14-2-1601(43) – Unbundled Service**

**Issue:** CellNet pointed out a potential contradiction between the definition of Unbundled Service and R14-2-1616(B). According to CellNet, while this definition authorizes unbundled services to be sold to consumers, R14-2-1616(B) appears to limit Affected Utilities and Utility Distribution Companies to providing certain unbundled services to customers within their service territories only when those customers do not have access to the services. Staff responded that R14-2-1616(B) does not limit the unbundled services that an Affected Utility or Utility Distribution Company may offer, and disagreed that there was any inconsistency.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**Other Comments concerning R14-2-1601**

**Issue:** Several parties recommended that new definitions be added. Staff noted that many of the definitions have been included in the rules, and argued that any definitions not included are not crucial to the proper interpretation and functioning of the rules. Staff recommended that R14-2-1601(4) defining Buy-through, be modified by replacing “Affected Utility” with “Load-Serving Entity” in order to conform to Staff’s comments regarding R14-2-1604.

**Evaluation:** We concur with Staff

**Resolution:** Delete “Affected Utility” and replace with “Load-Serving Entity.”

**R14-2-1603 – Certificate of Convenience and Necessity**

**R14-2-1603(A)**

**Issue:** TEP suggested that the phrase “or self-aggregation” be eliminated. The Western Area Power Administration recommended that Scheduling Coordinators be required to obtain Certificates of Convenience and Necessity (“CC&N’s”). ASARCO Incorporated, Cyprus Climax Metals Company, Arizonans for Electric Choice and Competition, Morenci Water and Electric Company, Ajo Improvement Company, and Phelps Dodge Corporation (collectively “ASARCO et al.”) suggested adding metering and meter reading services to the services that do not require CC&Ns.

Staff believed that an individual entity should not have to become a certificated ESP to aggregate its own load. Staff

argued the change suggested by the Western Area Power Administration is not necessary because an ESP may also be its own Scheduling Coordinator pursuant to qualifications set by the Independent Scheduling Administrator. Further, the Scheduling Coordinator does not provide a competitive retail electric service. Staff also believed that metering and meter reading services should require certification because of the safety reliability issues associated with metering.

**Evaluation:** We concur with Staff

**Resolution:** No change.

**R14-2-1603(B)**

**Issue:** New Energy Ventures ("NEV") argued that the Commission should eliminate the rule requiring filing of tariffs with maximum rates. RUCO proposed to modify the language of paragraph (B)(5) to require that unaudited information be identified as such, and that the preparer be identified.

Staff believed the public interest requires that maximum rates be set. Staff also believed that most financial reports are already identified as being audited or unaudited and thus, no change was necessary. In its additional comments filed November 24, 1998, Staff recommended deleting proposed section 1603(B)(7) concerning relevant tax licenses and moving it to 1603(H)(6).

**Evaluation:** We concur with Staff.

**Resolution:** Delete proposed 1603 (B)(7).

**R14-2-1603(C)**

**Issue:** Enron suggested that this subsection be modified to require changes to a CC&N application only when the changes are material. Staff argued that an applicant should not have to determine if any change in a CC&N application is material, and thus, no change is necessary.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1603(E)**

**Issue:** The AG believed that this rule should not require any applicant for a CC&N to notify its competitor or the UDC because the special notice implies a right to object at the CC&N stage, which a competitor should not have. Staff believed that as a holder of a CC&N, the Affected Utility should know if it will be subject to competition in its service territory, and thus, no change was necessary.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1603(G)**

**Issue:** PG&E recommended that the rule should be modified to include a deadline and standard for agreement terms to motivate the Arizona Affected Utilities to negotiate a "reasonable standard" ESP Service Agreement. The AG felt that the requirement that an ESP have a Service Acquisition Agreement is unreasonable without some deadline for the UDC to act in a non-discriminatory manner to close an ESP application. The AG also believed that R14-2-1603(G)(5) should be stricken, stating that the certification of a bona fide competitor is by definition in the public interest, and that requiring an applicant to demonstrate that its certification would be in the public interest is an unnecessary burden. TEP wanted the rules to specify the terms and conditions to the service acquisition agreement. ASARCO, et al., recommended that the entire section be deleted, as competition and not public interest should be the test to whether an applicant is certified.

Staff contended the proposed rules require good faith bargaining on the part of the UDC to negotiate a service acquisition agreement and the terms and conditions of the service acquisition agreement should be negotiated and then submitted to the Director of the Utilities Division for approval. Staff disagreed with ASARCO, et al., and the AG that CC&Ns are not necessary in the era of competition. Staff believed that the public interest still needs to be considered when deciding if a given entity is fit and proper to provide service. Thus, Staff argued no change is required.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**General Comments Concerning R14-2-1603**

**Issue:** TEP believed that Staff was attempting to add more rules through the material it is requesting in the CC&N application. TEP raised the concern that the amended rule does not address the settlement process between ESPs and UDCs, the process by which the UDC determines whether the actual power used by the ESP's customers is greater than, equal to or less than the power scheduled and delivered by the ESP and the reconciliation or resulting differences, including the issues related to pricing of such power variances. The AG suggested that the entire section be changed into a licensing procedure and not a CC&N procedure.

Staff noted that R14-2-1603(B)(8) allows the CC&N application to include such other information as the Commission or Staff may request to make a determination as to whether the application would be in the public interest. Staff reiterated its belief that the acquisition service agreement between the ESP and UDC should be negotiated and the submitted to the Utilities Division Director for approval. Staff also reiterated that the CC&N procedure as outlined in the rule is

appropriate and the Commission has a legitimate interest in ensuring that a provider will serve the public interest by entering the electric market.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1604 – Competitive Phases**

**R14-2-1604(A)**

**Issue:** AEPCO, Duncan Valley Electric Cooperative (“DVEC”) and Graham County Electric Cooperative (“GCEC”) suggested that the 40kW requirement for eligibility be based on an annual average, not a one month peak. APS recommended that the 40kW minimum requirement for eligibility be raised to 100kW. ASARCO et al. recommended that the loads of all special contract customers be eligible for competitive services upon expiration of the contracts. PG&E recommended that the 40kW minimum requirement for eligibility be reduced to 20 kW. TEP believed that “non-coincident peak” should not be used as a criterion to determine eligibility of customers with demands of 1 MW to participate in the competitive market during the phase-in. TEP also suggested that energy consumption over 6 months instead of 1 month be used as a criterion to determine eligibility of customers with 40 kW demands who do not have peak load data available.

Staff recommended the rejection of the suggestion of AEPCO and APS and that no change be made because using an annual average raising the minimum requirement would reduce the number of customers eligible to participate in the onset of competition. Staff also argued that ASARCO, et al.’s suggestion be rejected and that no change be made because the loads of contract customers should be subject to the same 20 percent limitation as other customer loads and all eligible customers should participate on a first-come, first-serve basis. Staff rejected PG&E’s suggestion because Staff believed that 40kW is a reasonable minimum requirement.

Staff stated that customers who currently are billed a demand charge can look at their bills to determine their “non-coincident peak.” If “coincident peak” is used, only the Affected Utility would know whether a customer’s load reached 1 MW at the time of the utility’s peak. Customers should know whether a customer’s load reached 1 MW at the time of the utility’s peak. Customers should have the capacity to determine their eligibility and not be dependent on the Affected Utilities for that determination. Staff also believed that one month’s consumption is sufficient for the purpose of determining eligibility. Therefore, Staff believed that no change to the rule is necessary.

For clarification, Staff recommended adding the following language after the first sentence of section 1604(A):  
“First-come, first-served, for the purpose of this rule, shall be determined for non-residential customers by the date and time

of an ESP's filing of a Direct Access Service Request with the Affected Utility or Utility Distribution Company. The effective date of the Direct Access Service Request must be within 180 days of the filing date of the Direct Access Service Request. Residential customer selection will be determined under approved residential phase-in programs as specified in R14-2-1604.B.4."

In addition, Staff recommended replacing the first sentence of R14-2-1604(A)(2) with: "During 1999 and 2000, an Affected Utility's customers with single premise non-coincident peak load demands of 40 kW or greater aggregated into a combined load of 1 MW or greater within that Affected Utility's service territory will be eligible for competitive electric services."

**Evaluation:** We concur with Staff.

**Resolution:** Modify 1604(A) as recommended by Staff above.

**R14-2-1604(B)**

**Issue:** AEPCO suggested that load profiling not be used for residential customers and that the January 1, 1999 implementation date for the residential phase-in program is not achievable. CellNet recommended changing the first sentence to begin "In addition to the minimum 20 % . . ." instead of "As part of the minimum 20% . . ." NEV recommended that customers in the competitive market have real-time interval meters instead of allowing load profiling for residential customers. RUCO proposed that the size of the residential phase-in program be significantly expanded and also proposed revised language in R14-2-1604(B)(3) to make it consistent with R1-2-1613(J)(7) regarding load profiling.

Staff argued the load profiling will be needed as a practical matter and that the January 1, 1999 implementation date is achievable. Consequently, Staff rejected AEPCO's and NEV's comments. Staff opposed CellNet's suggestions because the rule requires Affected Utilities to make available only 20 percent of their load to competition, the residential phase-in program must be part of the 20 Percent of load. Staff believed the residential phase-in program as described in the rule is adequate. Staff agreed the R14-2-1604(B) should be clarified as proposed by RUCO. In addition, we believe that the size of the residential phase-in program should be increased. By increasing the number of residential customers that will have access to competition from ½ of 1 percent to 1¼ percent each quarter, for a total of 10 percent over the two year phase-in, we increase the possibility of meaningful residential participation in the competitive market. This will benefit both the additional residential customers who will now be able to participate in the competitive market, as well as the Affected Utilities who will gain added experience in the residential competition in anticipation of full competition beginning January 1, 2001.

**Evaluation:** We concur with Staff.

**Resolution:** Delete the words "Load profiling may be used; however," in the first line and insert "shall be permitted to use load profiling to satisfy the requirements for hourly consumption date; however they" after "program" in 1604(B)(3).

**R14-2-1604(C)**

**Issue:** The Arizona Community Action Association ("ACAA") asserted that to provide small customers with real opportunities or benefits, section (C) should be revised as follows: "Each Affected Utility shall file a report detailing possible mechanisms to provide benefits, such as rate reductions of 3 percent to 5 percent, over and above those already planned, to all customers determined not to be eligible for competitive electric services directly or through aggregation in a manner consistent with R14-2-1604(B). It is the intent of the Commission that customers not able to participate in the competitive market see real benefits in lieu of competitive opportunities."

ASARCO, et al. recommended that any rate reductions given to Standard Offer customers be reflected on the distribution portion of bills so as to promote competition rather than discourage competition. RUCO proposed that the Affected Utilities be required to request rate decreases for Standard Offer customers instead of merely being required to detail mechanisms to provide benefits.

Staff opposed ASARCO et al.'s suggestion because Staff noted that the required reports were filed September 15, 1998 and Staff is reviewing the reports with the intention that customers not eligible to participate in the onset of competition be given the greatest benefits possible. Staff recommended that the rate reductions not be reflected on the distribution portion of bills because it could mislead customers into thinking that they would continue to receive the discount if they later obtain competitive services. Concerning RUCO's suggestion, Staff believed that the Commission does not have the authority to require utilities to request rate decreases.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1604(G)**

**Issue:** ASARCO, et al, recommended that Affected Utilities, UDCs and Load-Serving Entities be required to engage in buy-through with customers beginning January 1, 2001, instead of just allowing buy-throughs to occur. RUCO suggested that the terms "Affected Utility" and "Utility Distribution Company" are redundant because Load Serving Entity is defined to include both these entities. In addition, RUCO believed that the reference to the "date indicated in R14-2-1604(A)" is redundant.

Staff did not believe that Affected Utilities, UDCs and Load-Serving Entities should not be required to enter into buy-throughs. Staff agreed with RUCO that the rule should be modified.

**Evaluation:** We agree with Staff's conclusions.

**Resolution:** Amend this section to read: "A Load-Serving Entity may, beginning January 1, 1999, engage in buy-throughs with individual or aggregated consumers. Any buy-through contract shall ensure that the consumer pays all non-bypassable charges that would otherwise apply. Any contract for a buy-through effective prior to January 1, 1999, must be approved by the Commission."

#### **R14-2-1605 – Competitive Services**

**Issues:** The Arizona Consumers Council commented that without a CC&N or other similar registration, the Commission would not be able to control anti-competitive or other questionable activities by providers of services for which no CC&N is required. NEV believed that 1605(B) needed clarification related to the obligations and opportunities for UDCs to provide metering, billing and information services. NEV suggested that the UDC be allowed to provide metering, billing and information to Standard Offer customers and to an ESP under a tariff. NEV also believed 1605(B) is unclear as to under what circumstances customer groups and trade associations who aggregate would be required to obtain a CC&N. Citizens believed that Standard Offer customers should be protected with a safety net for metering and billing and information services from the UDC. Citizens believed that the rule amendment falls short and that there should be additional language that Affected Utilities and UDCs may provide meter reading billing and collection services within their service territory at tariffed rates. The AG thought 1605(B) was ambiguous and tied metering services to UDCs. The AG believed metering services should be a competitive service without Commission oversight that does not require a certificate, but merely subject to some sort of licensing procedure. Enron too, believed there may be confusion whether meter reading service is competitive.

Staff believed that the rules were sufficient to provide for consumer complaints and that amendments to provide for additional Commission oversight or certification than already provided were unnecessary. Staff believed it is clear from other provisions of the rules what services can be provided by the UDC and the ESP and what tariffs need to be filed to provide services. Staff stated that the purpose of section 1605 is to define what constitutes competitive services and noncompetitive services and to explain that certain competitive services do not require a CC&N. The purpose of the rule is not to set out the obligations between the UDC and ESP. Staff believed the rule is clear that providing self-aggregation does not require a

CC&N.

Staff agreed that metering services are competitive but that a CC&N is still required because the consumer needs to have accurate metering in a competitive environment and Commission oversight is an important aspect of providing reliability. Staff noted that unless the meter reading service is provided as a bundled transaction to Standard Offer customers, the services can be provided by a properly certificated ESP or an Affected Utility or a UDC under the rules and no amendment is necessary

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1606 – Services Required to Be Made Available**

**Issue:** NEV was generally concerned that Affected Utilities and UDCs are attempting to allocate costs unfairly to ESPs in their unbundled tariffs, although it did not offer specific amendments concerning this issue. NEV also requested the rules be amended to require that a final determination on unbundled tariffs be reached four months prior to the beginning of competition.

Staff noted that the timeframe of four months would be impossible without a delay in the onset of competition and that there was no reason that tariffs had to be approved at any particular date except at a time prior to the beginning of competition.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1606(A)**

**Issue:** APS suggested that language be added to 1606(A) that stated services offered at regulated rates would include recovery of all reasonable costs. RUCO suggested that a conforming change be made to 1606(A) striking the words "in that class" from the first sentence.

Staff noted that regulated rates by definition include recovery of reasonable costs to offer the service and therefore no change was necessary as a result of APS's comments. Staff agreed with RUCO that the phrase should be struck.

**Evaluation:** We concur with Staff.

**Resolution:** Delete the words "in that class" from the first sentence.

**R14-2-1606(B)**

**Issue:** Both APS and TEP suggest that the sentence allowing UDCs to ratchet down power purchases for

Standard Offer customers be stricken as it establishes a presumption in favor of this over other risk management tools. Citizens suggested more detail regarding power purchased by a UDC. ASARCO et al., suggested that 1606(B) be amended to require all competitive services included in Standard Offer service be put to bid.

Concerning TEP and APS's comments, Staff specifically recommended that this provision could be waived for good cause and no change is necessary. Staff also believed the rules provide adequate detail. Staff disagreed that any competitive piece of Standard Offer service should be put to bid, as the idea of Standard Offer service was to continue with "plain old electric service" during the transition period. Therefore, no change to the rule is necessary

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1606(C)**

**Issue:** The Arizona Consumers Council thought 1606(C) should be strengthened to place a rate cap on Standard Offer service. CellNet believed that 1606(C) should include a specific reference to Section 1616 (the Affiliate Rules) to solidify that unbundled tariffs should be filed for services listed only to the extent allowed by other rules.

Staff disagreed because with the Arizona Consumers Council because a utility should be allowed to file a rate case and present evidence if it feels it needs a rate increase. Further, Staff believed no clarification is necessary, and that referencing the rules as a whole prevents one rule from being taken out of context.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1606(D)**

**Issue:** APS suggested striking information services as services required to be offered by Affected Utilities and striking the word "ancillary" in 1606(D)(7).

Staff believed that information services are an important service that can be offered in a competitive market and that the word ancillary is not confusing.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1606(G)**

**Issue:** The AG suggested that 1606(G) be amended to state that price not be included in the customer data to be released by a Load Serving Entity. TEP suggested that a fee be charged for data requested from a Load Serving

Entity. PG&E thought that 1606(G) does not provide the opportunity for interested persons to participate in the unbundled rate filings.

Staff responded that this rule does not specifically articulate price as being part of the data that the Load Serving Entity has to release. However, Staff asserted that whatever data is released pursuant to the rule would be done only on written request of the customer, who should be able to release any data the customer wants, and thus, no change in the rule is necessary. Staff also believed that data requested from Load Serving Entities should be freely available to enhance a competitive market. Staff disagreed with the suggestion that there is a lack of opportunity to participate as any interested party may apply to intervene.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

#### **R14-2-1606(H)**

**Issue:** CellNet believed that the provision that requires that rates reflect costs be eliminated as unnecessarily prescriptive. PG&E suggested this language is inappropriate in a competitive market.

Staff believed this is an appropriate requirement in a competitive market and no change to the rule is necessary.

**Evaluation :** We concur with Staff.

**Resolution:** No change.

#### **R14-2-1607 – Recover of Stranded Costs of Affected Utilities**

**Issue:** As a general comment, RUCO believed that stranded cost recovery should be reflected in all customers bills and adopted the proposals made by Dr. Rosen in the evidentiary hearings on stranded costs. Staff believed that the stranded cost hearings were not part of the rulemaking process and that the Decision in that proceeding determined the relative merits of Dr. Rosen's comments.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

#### **R14-2- R 1607(C)**

**Issue:** Arizona Transmission Dependent Utilities commented on the lack of guidance regarding burden of proof under various processes, inferring that the term "fully supported" does not adequately define the requirements of the rule.

Staff disagreed and believed that "fully supported" provides a high degree of definition.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1607(D)**

**Issue:** RUCO proposed to provide recovery from both customers taking competitive service and from customers remaining on Standard Offer Service by means of a non-bypassable neutral wires charge.

Staff stated that the rules currently contemplated recovery of stranded costs from customers taking competitive service in a manner to be established in a utility-specific proceeding and that Stranded Cost recovery from customers not taking competitive service occurs under the existing bundled rate.

**Evaluation:** We concur with Staff

**Resolution:** No change.

**R14-2-1607(F)**

**Issue:** RUCO and Citizens proposed to access a Competitive Transition Charge on all customers continuing to use the distribution system based on the amount of generation purchased from any supplier.

Staff reiterated that stranded cost recovery from customers remaining on Standard Offer service will occur through their Standard Offer rates. Staff argued that to charge a CTC could over-recover stranded costs from those customers.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1608 – System Benefits Charge**

**Issue:** RUCO believed that nuclear fuel disposal and nuclear plant decommissioning programs should not be included in the System Benefits Charge (“SBC”). Staff believed that it is appropriate to collect these costs through the SBC.

RUCO also believed that the terms “market transformation” and “long-term public benefit research and development” are vague and not defined. Staff responded that “market transformation” is a common utility industry term and does not need to be defined, and that use of the term “long-term public benefit research and development” is meant to be broad in scope to provide the Commission with flexibility if in the future it wishes to fund this type of program. RUCO pointed out that the terms “market transformation” and “long-term public benefit research” are not included in the definition of System Benefits in R14-2-1601(40). Staff agreed that the terms should be included in the definition of System Benefits in R14-2-1601(40).

AEPCO argued that the Commission does not have the lawmaking or judicial powers to order the implementation of the solar water heater rebate program. TEP believed that the SBC should include competitive access implementation and evaluation program costs. APS believed that customer education should be included in the SBC. Staff disagreed with each of these proposals.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1609 – Solar Portfolio Standard**

**Issue:** The Land and Water Fund of the Rockies (“LAW”) argued that the solar Portfolio Standard (“SPS”) has been compromised enough and should be implemented on schedule. TEP wants the rules to explicitly state that an ESP is deemed in compliance with the SPS if it uses the product of a solar affiliate. NEV thought an ESP’s profit margins would be hurt by the SPS and suggested that Arizona implement a solar program through the SBC. AEPCO also criticized the SPS as expensive and challenged the Commission’s authority to establish the Solar Portfolio. AEPCO recommended striking R14-2-1609 in its entirety.

Staff agreed with LAW that the SPS should not be changed. Staff believed TEP’s suggestion was unnecessary as nothing precludes ESPs from using the solar products of an affiliate. Staff criticized NEV’s cost calculations and argued that if entities take advantage of the new extra credit multipliers, the result will be solar electricity at a fraction of the cost of the penalty. Staff also disagreed with AEPCO’s assertion that the SPS is expensive, arguing that the delivered cost of electricity for many solar technologies can be less than the true costs of electricity from a peaking plant.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1609(A)**

**Issue:** AECC expressed concern about the cost impact of SPS and requested the implementation schedules be more gradual. TEP thought the initial Solar Portfolio percentage should be reduced to 1/10<sup>th</sup> of 1 percent and that the percentage should only increase by 1/10<sup>th</sup> of 1 percent each year, until a one percent level is achieved. APS also recommended a 1/10<sup>th</sup> of 1 percent starting point.

Staff disagreed with TEP and SPS about reducing the Solar Portfolio percentage, because the starting point has already been substantially reduced. Staff argued that with the new extra multipliers, the “effective percentage” will be further reduced to 1/2 or 1/3 of the nominal percentage.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1609(B)**

**Issue:** APS was concerned that during the amendments of the Emergency Rules, proposed wording concerning a “kWh cost impact cap” failed to be included in the rule. APS suggested new wording to make the application of the SPS to Standard Offer customers in 2001 be contingent upon a Commission Order in 2000 establishing a specific cost per kWh cap.

Staff agreed with the recommendations of the SPS Subcommittee to include the kWh cost impact cap, but unfortunately, it was not included in the Emergency Rule Amendments. Staff believed that the rule modifications made in August 1998 are better than the proposed kWh cost impact cap because the SPS is locked in at 1 percent from 2003 – 2012 and the new extra credit multipliers reduce the “effective cost” of solar electricity.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1609 (C)**

**Issue:** APS complained that from the earliest draft of the rules the SPS only applied to competitive electric generation, but with the Emergency Rules, it now applies to Standard Offer sales.

Staff responded that the wording of 1609(C) was merely a clarification of the intent of the original rule. The SPS is designed to apply to competitive customers during phase-in, but to all customers when there is full competition. Staff argued that APS was a full participant in the SPS Subcommittee process and understood the intent of the rule.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1609(D)**

**Issue:** APS suggested that the Early Installation Credit Multiplier be extended to at least 2005. Staff believed that the intent of the multipliers is to provide incentive during the early years of competition and thus, should only apply in the first five years.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1609(F)**

**Issue:** TEP recommended that any penalty funds be paid directly to the Affected Utility or UDC and that the investment be monitored by the Commission. APS recommended against penalty funds going to a Solar Electric Fund. APS recommended a 30 cent kWh wires charge to be used for solar projects, with the revenues from the solar projects financed by the wires charge be used to offset the SBC.

Staff argued that paying penalty funds to the UDC would only divide the funds into a number of small accounts which might be too small to efficiently use the money for solar projects. Staff believed that by collecting the funds into one large account and allocating them to "public entities" the Solar Electric Fund would benefit all Arizona taxpayers who would otherwise be paying the public entities electric bill out of tax dollars. Staff strongly disagreed with APS's proposed 30 cent/kWh wires charge because it provides no incentive to find the cheapest solar resource and encourage competition amongst solar manufacturers to lower prices.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1609(H)**

**Issue:** PG&E was concerned that 1609(H) which allows solar electric generators installed by Affected Utilities to meet SPS requirements to also count toward meeting the renewable resource goals established in Commission Decision No. 58643, would cause unfair competition between Affected Utilities and ESP's. TEP and APS suggested that the renewable goals in the IRP orders referenced in 1609(H) be repealed.

Staff disagreed with PG&E, arguing that without this provision it would be the Affected Utility that would be disadvantaged by being subject to both the SPS and the existing renewables goals. ESP's have no similar renewables goal requirements. Staff disagreed with eliminating the renewables goals as the intent of those goals is to encourage diversification of the electric generation mix away from a few conventional fossil fuel technologies.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1610 – Transmission and Distribution Access**

**Issue:** NEV suggested language be added to the effect that Staff should work with ESPs and UDCs to develop a standard UDC service agreement and ISA agreement over the two-year phase-in period. Under this proposal, Staff could coordinate the ongoing development of standard operating procedures for UDCs to deal with ESPs over this period.

Staff disagreed, believing the Commission is moving toward allowing utilities more flexibility in the competitive

market and it would be inappropriate for Staff to impose standardized agreements. Staff thought that if ESPs can show the Commission that utility agreements are unreasonable, Staff may, at a later time get involved in developing standardized agreements.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1610(H)**

**Issue:** TEP recommended that 1610(H) be modified to allow the Affected Utility to determine which units are must-run. TEP felt this section should clearly state that the charges for must-run generation will be paid by all distribution customers as a mandatory ancillary service.

Staff disagreed with both recommendations because the rule already calls for the Affected Utilities to work with the Reliability and Safety Working Group, and the rule already calls for the services from must-run units to be offered on a non-discriminatory basis as regulated prices to both Standard Offer and competitive customers.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1612 – Rates**

**Issue:** PG&E proposed to eliminate the requirement that contracts whose term is 1 year or more and for services of 1 MW or more must be filed with the Director of the Utilities Division. As an alternative, PG&E proposed that the Commission must provide confidentiality for filed contracts.

Staff disagreed with PG&E, as it believed it is important for the Commission to determine if contract pricing is above marginal cost, and furthermore, Staff stated they have always provided confidentiality for competitive contracts.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1612(E)**

**Issue:** CellNet proposed to eliminate the phrase “provided that the price is not less than the marginal cost of providing the service.” CellNet was concerned that the rule is not specific as to whether the marginal cost will be by customer or hour by hour.

Staff believed the proposed change should not be made because this language provides the methodology the Commission will use to determine predatory pricing of particular services. Staff stated that its analysis of marginal cost will

vary depending on a number of factors.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1613 – Service Quality, Consumer Protection, Safety, And Billing Requirements**

**R14-2-1613(C)**

**Issue:** RUCO suggested that the proposed rule should be revised to clarify slamming by deleting the word “slamming” and adding the following language: “Violations of the Commission’s rules concerning unauthorized changes of providers may result in penalties and/or suspension or revocation of the provider’s certificate.”

Staff agreed with the proposed change.

**Evaluation:** We concur with Staff and RUCO.

**Resolution:** Insert RUCO’s proposed language.

**R14-2-1613(D)**

**Issue:** RUCO proposed inserting a new rule D as follows and renumbering to conform: “D. A customer with an annual load of 100,000 kWh or less may rescind its authorization to change providers of any service authorized in this Article within 3 business days, without penalty, by providing written notice to the provider.”

Staff agreed with the proposed change.

**Evaluation:** We concur with Staff and RUCO.

**Resolution:** Insert RUCO’s proposed new section and renumber accordingly.

**R14-2-1613(H)**

**Issue:** AEPSCO, DVEC and GCEC suggested that in subsection (H), after the words “to their customer” add “and to the appropriate Utility Distribution Company.”

Staff agreed with the proposed change.

**Evaluation:** We concur.

**Resolution:** Insert the proposed language.

**R14-2-1613(J)**

**Issue:** RUCO proposed modifying the existing language to provide for other metering options, as follows: “Competitive customers with hourly loads of 20kW (or 100,000kWh annually) or less shall be permitted to use Load Profiling to satisfy the requirements of hourly consumption data; however, they may choose other metering options offered

by their Electric Service Provider consistent with the Commission's rules or metering." CellNet suggested requiring the use of EDI in the release of meter data and clarifying changes to paragraph (J)(4). In paragraph (J)(5) CellNet wanted to include a date by which Affected Utilities must provide a consistent statewide set of EDI formats for DASR transactions, and in paragraph (J)(6) CellNet proposed changing the 100,000 kWh annual requirement to an 8,250 kWh in any of the previous 12 consecutive months.

RUCO proposed changing the language in (J)(8) by substituting "obtains" for "will obtain."

CellNet stated that paragraph (J)(9) should not be construed that the provision of metering equipment maintenance and servicing can be provided by an Affected Utility other than through an Affiliate, provided those competitive services are available to the customer.

RUCO requested that in paragraphs (J)(13) through (J)(15), certain metering standards approved by the Director of the Utilities Division be included in the rules.

Because load profiling is the least expensive option for the smaller customer, Staff disagreed with the proposed changes as they change the original intent of the rule.

Staff agreed with CellNet on paragraph (J)(1) and recommended that the following changes be made: after the word "access," add "using EDI formats" and after "data" add "to".

Staff agreed with CellNet on paragraph (J)(4) and suggested that the following changes be made: after the word "into", delete the word "a", and change the word "format" to "formats". Staff has contacted the largest Affected Utilities which indicated they will have the formats available by the start date for competition, so no further change is required.

Staff disagreed with the proposed change to paragraph (J)(6).

Staff agreed to the proposed change to paragraph (J)(8).

Staff addressed CellNet's comment on paragraph (J)(9) in section R14-2-1616.

Staff disagreed with RUCO's proposed changes to 1613(J)(13) through (15).

**Evaluation:** We concur with Staff's recommendations.

**Resolution:** Revise 1613(J)(1), (4) and (8) as indicated above.

**R14-2-1613(K)**

**Issue:** CellNet suggested the Commission consider establishing a working group to monitor and offer recommendations on various market operations issues that may arise after January 1, 1999.

Staff believed this can be accomplished by allowing the Metering and Billing and Collections Committees to

continue meeting until all issues are resolved.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1614 – Reporting Requirements**

**Issue:** NEV and APS believed that in general the reporting requirements were too burdensome, but did not make specific suggestions other than to work with Staff.

**Resolution:** No change.

**R14-2-1615 – Administrative Requirements**

**Issue:** NEV asserted that ESPs should not be required to file tariffs or obtain Commission approval for competitive services and recommended that subsections (A) and (B) be deleted. Enron expressed similar concerns.

Staff disagreed, believing that in an emerging competitive market, tariff filings with maximum rates are necessary to protect the public interest. The tariffs are contemplated to give ESPs as much room as possible to compete. Staff asserted that the system has worked well in the telecommunications industry.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1616 – Separation of Monopoly and Competitive Services**

**Issue:** NEV believed its comments related to 1605 to clarify the meter, billing and information services of UDCs and ESPs also apply to Section 1616. AEPCO believed that section 1616 should be struck in its entirety because it places limitations on the Affected Utilities' ability to provide competitive services without divesting or transferring its generation assets to an affiliate. AEPCO also asserted that the Commission lacks jurisdiction to require divestiture or transfer of competitive generation assets from an Affected Utility.

Citizens commented that once divestiture of generation occurs, related stranded costs would be determined and a method established for recovery that would include generation of power supply to all of Citizens customers including Standard Offer customers. As a consequence, if the CTC charge would be collected only from competitive customers, and Standard Offer customers would be free from all the stranded costs resulting from or determined by divestiture of Citizen's power contract with APS, the stranded costs would be greater than any power cost savings. Therefore, Citizens argued customers would be unlikely to switch to competitive supply. Citizens believed that if the rule for divestiture of generation assets continues to be a requirement, that the transition charge of the CTC charge should be applied to all customers, including

Standard Offer customers.

Staff argued no rule change is necessary and referred to its response in section 1605. Staff argued that only through divestiture of competitive services or the transfer of competitive services to an affiliate would subsidization and crossovers between monopoly and competition be prohibited. As for AEPSCO's comments that the rules place limitations on Arizona utilities without similar constraints on ESPs, Staff responded that the Commission is concerned with the regulation of Arizona monopolies and subsidization of competitive services provided in this state. Staff asserted that its concern is whether the Affected Utility will use its monopoly rates from Arizona ratepayers to subsidize competitive activities. Staff believed that section 1616 is not unduly restrictive. Furthermore, Staff argued, the Commission's jurisdiction in ratemaking under its constitutional powers provides that the Commission can classify services such as generation as a competitive service in order to set just and reasonable rates

Staff noted the CTC charge is applied to all customers, including Standard Offer customers and argued that Citizens' analysis does not take this into account.

To clarify when Affected Utilities and UDCs can provide metering and meter reading services to competitive customers, Staff proposed the following changes to section 1616(B): In the last sentence, replace "may" with "shall". After "provide" insert "if requested by an ESP or customers". Delete "." and insert "during the years 1999 and 2000, subject to the following limitations. The Affected Utilities and Utility Distribution Companies shall be allowed to continue to provide metering and meter reading services to competitive customers within their service territories at tariffed rates until such time as two or more competitive ESPs are offering such services to a particular customer class. When two competitive ESPs are providing such services to a particular customer class, the Affected Utilities and Utility Distribution Companies will no longer be allowed to offer service to new competitive customers in that customer class, but may continue to offer the service through December 31, 2000, to the existing competitive customers signed up prior to the commencement of service by the two competitive ESPs."

**Evaluation:** We concur with Staff.

**Resolution:** Modify section 1616(B) as proposed by Staff.

**R14-2-1616(A)**

**Issue:** Enron believed that the wording in 1616(A) is confusing and should be broken into subsections.

Enron further believed that consumers should be entitled to credits beginning on January 1, 1999 because asset transfer or divestiture will occur at some later time and customers need to understand pricing options during the transition period related

to stranded costs.

Staff believed that Enron's concerns related to customer pricing options are taken care of by the unbundled tariff requirements reflected under the rules. Staff stated that the pricing options will be clear when the utilities and the ESPs list out the unbundled cost components of providing service, which is required during the transition period and thereafter. Staff believed the language of 1616(A) is clear as written.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1616(B)**

**Issue:** AEPCO would change the date in Section (B) from January 1, 1999 to January 1, 2001 to conform with Section (A) of the rule. APS claimed a conflict exists between 1606(D) and 1616(B) resulting in a gratuitous rule provision. To clarify, AEPCO requested that everything after the first sentence of 1616(B) be deleted. CellNet thought the third sentence of 1616(B) should be deleted because it is confusing.

Staff believed the rule should not be amended, pointing out that section (B) applies to the transition period that commences on January 1, 1999 and to change that date would leave the transition period in ambiguity. Staff believed that deleting the suggested portions of 1616(B) would make the rule less clear.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1616(C)**

**Issue:** TEP suggested that additional language is needed to include AEPCO and its affiliates from competing in the retail electric market while utilizing the services of the distribution co-ops.

Staff stated that because AEPCO, as a generation cooperative, is required to separate its generation and other competition services from itself as an Affected Utility, under the provisions of Section (A), Staff did not believe it needed to be included in section (C). Staff noted that AEPCO does not have distribution services to which section (C) would apply.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1617 – Affiliate Transactions**

**Issue:** AEPCO asserted that provisions of this rule are unworkable for customer owned cooperatives because they are somewhat small and costs will be increased rather than reduced from transferring all competitive services

into a separate affiliate. AEPSCO suggested striking the provisions of this rule because the Commission has exceeded its authority, or in the alternative, that the Commission consider a rule that would require both Affected Utilities and ESPs to file, prior to January 1, 2000, a plan or code of conduct that would be approved by the Commission to regulate affiliate transactions.

APS believed that the Commission should make ESPs comply with affiliate restrictions as a condition to certification. APS proposed to fix inherent problems with rule 1617 by amending 1603 to include a section (B)(8) as follows: "A proposed compliance plan, as that term is used in Rule 1617(E), demonstrating the applicant's compliance with the restrictions of Rule 1617 if the applicant is affiliated with any entity that would be classified as a Utility Distribution Company if such entity were under the Commission's jurisdiction." And a new (H)(8) as follows: "the Electric Service Provider shall comply with the provisions of R14-2-1617 if the Electric Service Provider is affiliated with any entity that would be classified as a Utility Distribution Company if such entity were under Commission jurisdiction."

ASARCO, et al. suggested that a strict code of conduct should be developed to prevent illegal interaction between generating entities and regulated entities which at a minimum should contain policies: 1) for allocating costs between non-competitive and competitive activities to avoid cross-subsidization; 2) to prevent employees providing non-competitive services from directing retail electric customers to an Affected Utility's competitive services; 3) to prevent employees from transferring proprietary information gained in the performance of noncompetitive services to employees engaged in performing competitive services without consent of retail customer; 4) to provide retail electric customers with complete and accurate disclosure of competitive and noncompetitive services; and 5) to prohibit preferential treatment when providing non-competitive services based on retail customer's provider of competitive services.

TEP believed that this section should not be adopted at this time as further input from Affected Utilities is needed and an assessment should be made whether affiliate rules give competitive advantages to non-Affected Utilities. TEP suggested that, at the very least, 1617(A)(6) should contain a waiver provision upon demonstration by an Affected Utility that appropriate measures have been implemented to ensure that the utilization of common board members and corporate officers does not allow for sharing of confidential information with affiliates. Further, TEP argued the section should grandfather cost allocation arrangements which have been previously approved by the Commission.

Staff responded that no company is required to establish an affiliate, only if it wants to offer certain competitive services. Staff believed no change to the rule is necessary based on AEPSCO's comments.

In response to APS's comments, Staff states that the intent of section 1617 is to ensure that incumbent Affected

Utilities and their UDC do not exercise market power to the detriment of competition. Staff noted that ESPs entering the market will not have such power and therefore no change to the rule is necessary.

Staff believed that the totality of section 1617 sets the parameters to prevent this type of activity from occurring and that Codes of Conduct as recommended by ASARCO, et al. are beyond the purview of these rules.

Staff disagrees with TEP's assertion that a rule on affiliate transactions is not needed and that a rule establishing a FERC-type bulletin board is necessary. Staff noted that generation will no longer be regulated by the Commission and market forces will dictate the terms on which power is sold to parties. Finally, Staff pointed out that the Commission may grant waivers from any rule upon a showing of good cause.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**Issue:** NEV suggested there may be situations where materials should properly reference coordination of generation and distribution issues between UDC and ESP, including affiliates, and recommended adding to 1617(A)(5): "... potential customer except for any issues related to the coordination of the UDC and ESP as provided for under these rules".

RUCO stated that paragraph (A)(7) requires that transfers of non-tariffed goods from an Affected Utility to an affiliate be at the higher of fully-allocated cost or market price should be amended to explicitly state that this provision applies to an Affected Utility's divestiture of its generation assets to an affiliate.

Staff believed that the existing rule provides adequate protection to prevent the leveraging that NEV references, while providing sufficient flexibility for coordination between ESPs and UDCs as necessary. Staff disagreed with RUCO's suggestion concerning 1616(A)(7), believing that 1616(A) covers these types of transactions.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1617(D)**

**Issue:** The AG suggested that section 1617 should specifically require the severance of UDC functions from ESP functions.

Staff believed the nondiscrimination provisions of 1617(D) are adequate to prevent UDCs from unfairly sharing information with their affiliates to the detriment of competition.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**R14-2-1617(E)**

**Issue:** Citizens requested that the Commission open a generic docket to address affiliate interest issues as they apply to all competitive utility service, whether gas, electric, telephone or water. Citizens believed section 1617(E) remains unclear on audit procedures. Since the annual performance audits are due on December 31 of each year, Citizens argued the time needs to be extended so that all pertinent data can be gathered through the end of the year.

Staff believed that a generic docket examining all affiliate issues is beyond the scope of this proceeding. Staff agreed, however, that the rule should be clarified to either require the independent audit on December 31 covering a period ending prior to December 31, or to require the audit cover the period through December 31, but be prepared after December 31.

**Evaluation:** We concur with Staff.

**Resolution:** Delete phrase at beginning of fifth sentence of 1617(E) "No later than December 31, 1999, and every year thereafter until December 31, 2002," and insert after "herein" the following phrase "starting no later than the calendar year 1999, and every year thereafter until December 31, 2002."

**R14-2-1618 – Disclosure of Information**

**Issue:** APS, Citizens, TEP, AEPCO, DVEC, GCEC and Sulphur Springs claimed that rule 1618 as a whole is burdensome, costly and unnecessary. Citizens, NEV, PG&E and TEP believed that it will be difficult to obtain fuel mix information for all of the power they obtain. Most of the Affected Utilities also believed that the Commission should delete the current rule and form a working group to undertake additional study regarding disclosure methods and requirements.

Staff responded that rule 1618(I) already includes a reference to a study group for these issues. Furthermore, Staff stated that 1618(A) recognizes that there are efforts underway to develop uniform tracking methods for determining fuel mix and emissions characteristics and that 1618(C) delegates authority to the Director of the Utilities Division to develop the format and reporting requirements for the customer information label. Staff noted that entities that believe they will be unable to comply with some or all of the rule's provisions may seek a variance. Staff believed the disclosure requirements are necessary to enable customers to receive information that can be easily compared among providers. Staff believed the existing provisions of the rules adequately address the concerns raised by the Affected Utilities and therefore, does not recommend change.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**Issue:** ASARCO et al., suggested adding the words "if any" to the requirement that Load Serving Entities disclose price variability information. They noted that many contracts may be for a fixed price, whereas the rule seems to imply that variability is a given. Also, they believed that the terms of service should indicate whether service is firm or interruptible and should state which party is responsible for paying delivery related costs, such as transmission service, ancillary services, and the cost of must-run generation. AECC believed that the terms of service should make it clear whether these types of charges will be passed on to the customer.

Staff noted that these suggestions appear aimed at making the Terms of Service more helpful and informative to customers and believed that the suggestions should be adopted.

**Evaluation:** We concur.

**Resolution:** Delete provision of section 1618(B)(2) and renumber.

**Issue:** Citizens contended that distributing the disclosure label, the disclosure report, and the terms of service to any retail customer initiating service and to each retail customer on an annual basis would be costly. Citizens suggested that the Commission require Load Serving Entities to inform customers that such information is available upon request. RUCO also cautioned against establishing mandatory disclosure requirements fearing that customers may be overwhelmed with information.

Staff believed that the information required to be disclosed by R14-2-1618 will enable customers to make informed decisions in the competitive environment. Staff favors dissemination of more, rather than less information. Staff noted that UDCs should be able to include this information as a bill insert.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**Issue:** NEV and PG&E recommended applying the disclosure requirements only to residential customers.

Staff noted that section 1618 excludes customers over one megawatt, and that commercial customers with relatively small loads will benefit from disclosure information.

**Evaluation:** We concur with Staff.

**Resolution:** No change.

**Amendments to Retail Electric Competition Rules**  
**Economic, Small Business and Consumer Impact Statement**

**A. Economic, small business and consumer impact summary.**

**1. Proposed rulemaking.**

The proposed permanent rule amendments (R14-2-203, -204, -208 through -211, R14-2-1601, -1603 through -1618) provide for procedures and schedules for the implementation of the transition to competition in the provision of retail electric service.

**2. Brief summary of the economic impact statement.**

End users of competitive electricity services may benefit sooner from greater choices of service options and rates because full competition will occur sooner under the proposed permanent rule amendments than under the current permanent rule. Some smaller consumers would not participate in the competitive market as quickly as originally proposed.

Requirements for consumer information disclosure and unbundled bills will provide information that consumers can use to make informed choices regarding the selection of electric service providers. This will reduce the costs of searching for information. Consumers would also benefit from protections in the proposed permanent rule amendments regarding "slamming", notification of outages, and metering standards.

Business consumers who aggregate their loads from multiple sites will incur fewer costs associated with regulatory requirements because these customers (defined as self-aggregators) would not have to apply for a Certificate of Convenience and Necessity under the proposed permanent rule amendments.

Affected utilities and electric service providers may incur additional costs resulting from additional reporting, billing, and consumer disclosure requirements and from negotiating service acquisition agreements. Affected utilities may also incur additional costs associated with preparing and filing residential phase-in program proposals, compliance plans, reports, and audits and in separating monopoly and competitive services and maintaining the separation.

Separating utility monopoly and competitive services mitigates the potential for anti-competitive cross-subsidization that could harm consumers of monopoly services.

Manufacturers of solar electric generation equipment may benefit from increased sales, encouraged by changes to the solar portfolio standard regarding economic development. Manufacturing companies locating or expanding in Arizona may hire additional employees. Suppliers to the manufacturing companies may also benefit and hire additional employees. Tax revenues may increase from both the manufacturers and their suppliers in Arizona.

Public entities may benefit from implementation of the Solar Electric Fund through their use of the fund to purchase solar electric generators or solar electricity.

Probable costs to the Commission include costs associated with new tasks, such as reviewing service acquisition agreements, reviewing utility filings of residential phase-in program proposals and quarterly reports, reviewing utility filings of reports detailing possible mechanisms to provide benefits to standard offer customers, establishing a Solar Electric Fund, developing standards for solar generating equipment, reviewing protocols regarding must-run generating units, reviewing reports of "slamming" violations, approving requirements regarding metering and meter reading, reviewing utility filings of compliance plans, reviewing utility performance audits, and developing the format of a consumer information label.

Adoption of the proposed permanent rule amendments would allow the Commission to more effectively implement the restructuring of the retail electric market.

**3. Name and address of agency employees to contact regarding this statement.**

Ray Williamson, Acting Director, Utilities Division or Paul Bullis, Chief Counsel at the Arizona Corporation Commission, 1200 West Washington, Phoenix, Arizona 85007.

**B. Economic, small business and consumer impact statement.**

**1. Proposed rulemaking.**

The proposed permanent rule amendments (R14-2-203, -204, -208 through -211, R14-2-1601, -1603 through -1618) provide for procedures and schedules for the implementation of the transition to competition in the provision of retail electric service.

**2. Persons who will be directly affected by, bear the costs of, or directly benefit from the proposed rulemaking.**

- a. potential electric service providers
- b. the public at large who are consumers of electric service
- c. electric utilities
- d. investors in investor-owned utilities and independent power producers
- e. holders of bonds of cooperative utilities
- f. state government agencies, including the Arizona Corporation Commission and the Residential Utility Consumer Office
- g. Federal Energy Regulatory Commission
- h. manufacturers of solar power generation equipment
- i. employees of utilities and potential electric service providers
- j. billing and collection service providers
- k. independent power producers

**3. Cost-benefit analysis.**

**a. Probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed rulemaking.**

Probable costs to the Commission include costs associated with new tasks, such as reviewing service acquisition agreements, reviewing utility filings of residential phase-in program proposals and quarterly reports, reviewing utility filings of reports detailing possible mechanisms to provide benefits to standard offer customers, establishing a Solar Electric Fund, developing standards for solar generating equipment, reviewing protocols regarding must-run generating units, reviewing reports of "slamming" violations, approving requirements regarding metering and meter reading, reviewing utility filings of compliance plans, reviewing utility performance audits, and developing the format of a consumer information label.

**b. Probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the proposed rulemaking.**

As an end user of competitive electricity services, a political subdivision may benefit sooner from greater choices of service options and rates because full competition will occur sooner under the proposed permanent rule amendments than under the current permanent rule. Some of the smaller political subdivisions would not participate in the competitive market as quickly as originally proposed because their peak loads are too small to qualify for the phase-in period.

Public entities may benefit from implementation of the Solar Electric Fund through their use of the fund

to purchase solar electric generators or solar electricity.

- c. **Probable costs and benefits to businesses directly affected by the proposed rulemaking, including any anticipated effect on the revenues or payroll expenditure of employers who are subject to the proposed rulemaking.**

As an end user of competitive electricity services, a business may benefit sooner from greater choices of service options and rates because full competition will occur sooner under the proposed permanent rule amendments than under the current permanent rule. Some of the smaller businesses would not participate in the competitive market as quickly as originally proposed because their loads are too small to qualify for the phase-in period.

Businesses who aggregate their loads from multiple sites will incur fewer costs associated with regulatory requirements because these customers (defined as self-aggregators) would not have to apply for a Certificate of Convenience and Necessity under the proposed permanent rule amendments.

Affected utilities and electric service providers may incur additional costs resulting from additional reporting, billing, and consumer information disclosure requirements. Affected utilities may also incur additional costs associated with separating monopoly and competitive services and maintaining the separation.

Manufacturers of solar electric generation equipment may benefit from increased sales, encouraged by changes to the solar portfolio standard regarding economic development. Manufacturing companies locating or expanding in Arizona may hire additional employees. Suppliers to the manufacturing companies may also benefit.

4. **Probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the proposed rulemaking.**

Manufacturers of solar electric generation equipment locating or expanding in Arizona may hire additional employees. Suppliers to the manufacturing companies may also hire additional employees.

Affected utilities may need to hire additional employees to effect and maintain the required separation of monopoly and competitive services.

The impact on public employment would likely be minimal.

5. **Probable impact of the proposed rulemaking on small businesses.**

- a. **Identification of the small businesses subject to the proposed rulemaking.**

Businesses subject to the proposed permanent rule amendments are electric utilities, potential electric service providers, manufacturers of solar power generation equipment, independent power producers, and business consumers. Some of these businesses are small, but some are also large regional, national, or international firms.

- b. **Administrative and other costs required for compliance with the proposed rulemaking.**

Administrative costs to electric service providers would include the costs of negotiating service acquisition agreements and preparing consumer disclosure information. Administrative costs to affected utilities would include the costs of negotiating service acquisition agreements and preparing and filing residential phase-in program proposals, compliance plans, reports, and audits. Affected utilities may also incur additional costs associated with separating and maintaining the separation of monopoly and competitive services.

- c. **A description of the methods that the agency may use to reduce the impact on small businesses.**

Requirements for consumer information disclosure and unbundled bills will provide information that small business consumers can use to make informed choices regarding the selection of electric service providers. This will reduce the costs of searching for

information. The Commission may also undertake educational activities to further lower the costs of participating in the competitive market.

In regard to reducing the impact on potential electric service providers that are small businesses, the Commission could reduce the application requirements for obtaining a Certificate of Convenience and Necessity or consumer information disclosure requirements. However, the outcome of this alternative may be undesirable if an electric service provider does not have the technical or financial capability of providing reliable energy services or if the industry becomes more prone to companies that engage in fraudulent activities. The Commission and consumers would have less information about businesses that supply electric service.

**d. Probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking.**

Requirements for consumer information disclosure and unbundled bills will provide information that consumers can use to make informed choices regarding the selection of electric service providers. This will reduce the costs of searching for information.

Consumers would benefit from protections in the proposed permanent rule amendments regarding "slamming", notification of outages, and metering standards.

Consumers may benefit sooner from greater choices of service options and rates because full competition will occur sooner under the proposed permanent rule amendments than under the current permanent rule. Some consumers would not participate in the competitive market as quickly as originally proposed.

**6. Probable effect on state revenues.**

Tax revenues may increase from manufacturers of solar electric generation equipment locating or expanding in Arizona and from their suppliers in Arizona.

**7. Less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking.**

The Commission is unaware of any less intrusive or less costly methods that exist for achieving the purpose of the proposed permanent rule amendments.

**8. If for any reason adequate data are not reasonably available to comply with the requirements of subsection B of this section, the agency shall explain the limitations of the data and the methods that were employed in the attempt to obtain the data and shall characterize the probable impacts in qualitative terms.**

Because adequate data are not available, the probable impacts are explained in qualitative terms.

Commission-initiated working groups on reliability, billing and collection, metering, low income issues, and customer education have provided input on revising the retail electric competition rules. Stakeholders have been given opportunities to provide written and oral comments on drafts of proposed rules changes. Public comment meetings have been held in Phoenix, Tucson, and Flagstaff. Commission Staff reviewed experiences with retail electric competition in other states, such as California, Massachusetts, and Pennsylvania. Information gathered from all of these sources was used to produce the proposed permanent rule amendments.