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BEFORE THE ARIZONA CORPORATION COMMISSION

JIM IRVIN
Commissioner-Chairman
TONY WEST
Commissioner
CARL J. KUNASEK
Commissioner

Arizona Corporation Commission

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

DOCKET NO. RE-00000C-94-165

STAFF'S COMMENTS

Arizona Corporation Commission Staff ("Staff") hereby files its comments to the Hearing Officer's January 6, 1999 Procedural Order. In that order, the Hearing Officer required all interested parties to file comments by January 20, 1999 addressing the following issues: 1) the issues that remain unresolved in electric industry restructuring, 2) the order in which the issues should be resolved, 3) the method and timing for resolving these issues, and 4) specific comments regarding the proposed procedural schedule filed by RUCO and the Attorney General on January 4, 1999.

I. ISSUES THAT REMAIN UNRESOLVED.

In Decision No. 61311, the Commission stayed the electric competition rules, A.A.C. R14-2-1601 through -1618, thereby suspending a number of previously resolved issues. In presenting its list of issues, Staff proceeds from the assumption that the Electric Competition Rules, which have been stayed, have no present effect. In the absence of valid rules, virtually all issues relating to restructuring are unresolved. The following issues are unresolved if there are no rules in place:

A. Market Structure.

1. What is the definition of vertical market power and how is it measured?
2. What is the definition of horizontal market power and how is it measured?
3. What market structure is necessary to avoid vertical and horizontal market power?
4. What policies or rules are necessary to create a market structure that minimizes the vertical or horizontal market power that any particular company may have?
5. Are there inconsistencies between the market structures established for other jurisdictions and the Affected Utilities? If so, can the Commission eliminate these inconsistencies?

1 **B. Stranded Cost Issues.**

- 2 1. What is the definition of stranded costs?
3 2. Should the Electric Competition Rules be modified regarding stranded
4 costs. If so, how?
5 3. What costs should be included as part of stranded costs and how should
6 those costs be calculated?

7 Sub-Issue No. 3(A): What calculation methodology is recommended,
8 and what assumptions are made, including any determination of market
9 price?

10 Sub-Issue No. 3(B): Are there any implications of the Statement of
11 Financial Accounting Standards No. 71 resulting from the recommended
12 stranded cost calculation and recovery methodology?

- 13 4. Should there be a limitation on the time frame over which stranded costs
14 are calculated?
15 5. Should there be a limitation on the recovery time frame for stranded costs?
16 6. How and who should pay for stranded costs and who, if anyone, should be
17 excluded from paying stranded costs?
18 7. Should there be a true-up mechanism and, if so, how would it operate?
19 8. Should there be price caps or a rate freeze imposed as part of the
20 development of a stranded cost recovery program, and if so, how should it
21 be calculated?
22 9. What factors should be considered for the mitigation of stranded costs?
23 10. Assuming competition begins before a final determination of stranded
24 costs, should there be an interim Competition Transition Charge (CTC) for
25 the collection of stranded costs and how is it calculated?
26 11. If utilities choose to divest, what are the appropriate divestiture/auction
27 protocols?
28 12. What is the appropriate treatment of negative stranded costs?

18 **C. Unbundled Rates.**

- 19 1. Do the fixed versus variable components of existing/current rates have to
20 equal the fixed versus variable components of unbundled rates?
21 2. Will the avoided or embedded cost be used for calculating unbundled
22 rates?
23 3. What is the appropriate generation (shopping) credit, adjusted for line loss
24 and load factor?
25 4. What is the appropriate degree of unbundling? Do regulatory asset
26 charges, CTC, and distribution charges need to be identified separately?
27 5. How are "must run" generation units allocated in the unbundling process?
28 6. How is the systems benefit charge calculated?

25 **D. Must Run Generation Units.**

- 26 1. How is the output from "must-run" generation units priced? Price caps,
27 regulated, or competitive pricing?
28 2. If a utility chooses to divest its generation units, will it be required to
divest "must-run" units?
3. What are the statewide protocols for pricing and availability of services
from "must-run" generating units?

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E. Phase In/ Start Date.

1. What is the date that competition will begin?
2. Will competition be phased-in? What is the phase-in period before full competition begins?
3. If competition will be phased-in, what customers will receive a competitive choice?
4. If competition will be phased-in, what are the limitations by year of the total affected utilities' load that will be available for competition?
5. If competition will be phased-in and a customer size limit is in place in order for a customer to be eligible to choose, will aggregation be allowed? If so, how?

F. Competitive Services.

1. What services will be competitive and what are the dates these services will be competitive?
2. On what date will billing and collection and metering services be competitive services?
3. If billing and collection and metering services are competitive services, can affected utilities provide these services? If so, what are the conditions of providing these services?
4. What are the necessary requirements for providing metering, meter reading, billing and collections services?
5. Who is the provider of last resort before and after full competition begins?
6. Will standard offer service continue to be offered after full competition begins? If so, for how long?
7. How and when will the Utility Distribution Company (UDC) purchase competitive power for standard offer customers?

G. Affiliated Interest Rules.

1. Will affected utilities be required to provide competitive services through affiliates? If so, what are the requirements related to the separation of monopoly and competitive services?
2. What may or may not be shared by a UDC with an affiliate or parent company? (e.g., office space, employees, etc.)
3. What are the requirements necessary for access to information that is available from a UDC? What requirements are necessary to avoid discrimination?
4. Will the affected utilities be required to file compliance plans that demonstrate the procedures and mechanisms to ensure that prohibited activities will not take place? If so, on what date?

H. Rate Reviews and Rate Reductions.

1. How will reductions or changes in costs that are a result of competitive pricing pressures be passed on to ratepayers?
2. Will rate reviews be required for affected utilities and if so, how often?
3. If there is a phase-in of competition, will customers who cannot choose an alternative electric supplier receive benefits in lieu of competition (e.g., rate reductions)?
4. If rate reductions are employed, how will they be calculated? What customers will receive rate reductions and for how long?

1 **I. Independent System Administrator (ISA), Independent System Operator (ISO), and**
2 **Transmission Issues.**

- 3 1. What are the roles of an ISA and ISO in a competitive market?
4 2. How will the competitive market function without an ISA or ISO in place
5 at the time competition begins?
6 3. What requirements for the transmission system must be in place prior to
7 the start of competition to ensure safe and reliable service to all
8 customers?
9 4. What is the role of scheduling coordinators?
10 5. What is the plan for developing an ISA and eventually an ISO?
11 6. What are the unresolved federal and state jurisdictional transmission
12 issues? How are these issues to be resolved?

13 **J. Miscellaneous Issues.**

- 14 1. What are the solar portfolio requirements?
15 2. What are the in-state reciprocity requirements?
16 3. What are the information disclosure and labeling requirements?
17 4. What procedures should be used for CC&N applications?

18 During the Open Meeting at which Decision No. 61311 was adopted, the
19 Commission indicated that it intended to proceed with electric industry restructuring as
20 expeditiously as possible. In light of these statements, Staff believes that the Commission may
21 intend to retain portions of the existing Electric Competition Rules. Therefore, Staff believes
22 that it would be helpful to all parties if the Commission were to indicate which of the existing
23 rules, if any, it will retain and which rules it will revisit. This information may significantly
24 reduce the number of unresolved issues and will allow parties to concentrate their resources upon
25 issues that are of most interest to the Commission.

26 Finally, Staff believes that the Commission should require all Affected Utilities,
27 other than Tucson Electric Power Company, Duncan Valley Electric Cooperative, Inc., and
28 Graham County Electric Cooperative, Inc.,^{1/} to file rate reviews within sufficient time for new
rates to become effective concurrent with the start of competition. Staff further suggests that the
Hearing Division issue a procedural order setting forth filing deadlines for rate reviews once the
start date for competition has been determined.

1/ Tucson Electric Power Company currently has in place an order requiring annual
rate reductions through July 1, 2000, Decision No. 61104. Duncan Valley Electric
Cooperative, Inc. and Graham County Electric Cooperative, Inc. have pending rate cases before
the Commission, Docket Nos. E-01703A-98-0431 and E-01749A-98-0545, respectively.

1 **II. THE ORDER IN WHICH THE ISSUES SHOULD BE RESOLVED.**

2 The Electric Competition Rules have been viewed as a framework for
3 implementing the transition to competition. Staff believes that certain issues that were
4 previously resolved by the rules must be decided before the restructuring process can move
5 forward. Although it is not necessary to resolve every issue addressed by the rules in order for
6 industry restructuring to continue, there are certain basic issues that, at a minimum, must be
7 addressed. The resolution of these issues affects and even defines the resolution of subsequent
8 issues. As examples, it is difficult to develop plans for an ISA or ISO in the absence of a start
9 date for competition. It is also difficult to evaluate stranded costs without a Commission-
10 approved definition and calculation method. Staff believes that the following issues comprise
11 the basic threshold issues that must be resolved before the restructuring process may continue:

- 12 1. The start date for the transition to competition.
- 13 2. Whether there will be a phase-in or a flashcut to competition. If a phase-in is
14 selected, it is necessary to know the phase-in schedule and the classes of
15 customers to which it applies.
- 16 3. The Commission's approach to stranded costs. Stranded cost recovery is
17 entirely within the Commission's discretion. In other words, the Commission
18 may choose to entirely prohibit stranded cost recovery, to allow full stranded
19 cost recovery, or to come to some resolution in between. Because the rules
20 have been stayed, it is unclear whether and to what extent the Commission
21 intends to allow stranded cost recovery.
- 22 4. The stranded cost calculation and recovery methodology, assuming that the
23 Commission intends to allow stranded cost recovery. In particular, the
24 continued viability of Decision No. 60977, the stranded cost order, will need
25 to be clarified.
- 26 5. Which services will be competitive services, i.e., which services will be
27 eligible to be offered by competitive electric service providers. The rules had
28 concluded that distribution and transmission should not be competitive
services, but that all other services should be open to competition. This
decision may impact potential stranded cost calculations and other
implementation matters.

25 All of these issues had previously been resolved by the Commission. These
26 issues, at a minimum, must be resolved in order to provide a framework within which the
27 restructuring process may move forward.

28 ...

1 **III. METHOD AND TIMING FOR RESOLVING ISSUES.**

2 The five primary issues listed in Section II should be the subject of a generic
3 policy proceeding in which the Commission accepts comments and/or testimony from interested
4 parties on these various issues and then issues an order setting forth its basic policies. As was
5 done in the stranded cost proceedings held during 1998, Staff believes it would be useful to
6 identify any rule changes that would be necessary to implement the policy decisions. This
7 proceeding could also be a vehicle in which the Commission indicates any provisions of the rules
8 that it wishes to affirm. Subsequently, the Commission could consider any necessary
9 amendments to the rules in a formal rulemaking.

10 Issues regarding unbundled tariffs and stranded cost recovery should be handled
11 in separate administrative hearings for each Affected Utility. All remaining issues should be
12 dealt with in a rulemaking proceeding.

13 In addition to the formal proceedings discussed above, Staff believes that
14 continued discussions among stakeholders should be encouraged. However, Staff supports the
15 issuance of a procedural schedule at this time to govern these proceedings, rather than waiting
16 for the outcome of settlement discussions.

17 **IV. COMMENTS ON RUCO'S AND ATTORNEY GENERAL'S SCHEDULE.**

18 Staff has reviewed the January 4, 1999 proposal of RUCO and the Attorney
19 General and generally believes that the timeframes proposed may well be too short. The
20 enormity of the tasks outlined, the inter-relationships across activities, and the fact that many
21 issues must be resolved before subsequent issues may be raised and/or resolved all suggest that
22 the RUCO/Attorney General proposal may need a more realistic schedule.

23 The RUCO/Attorney General proposal envisions three simultaneous sets of
24 activities occurring in parallel over the same five-month period. Those three major sets of
25 activities are 1) rule change discussions and a formal four to six month rule amendment process,
26 2) settlement negotiations among parties, and 3) formal evidentiary hearings on unbundled tariffs
27 and stranded costs for each of the Affected Utilities. Most parties involved in the electric
28 competition efforts will want to have the same individuals participating in each of the three

1 activities. Based upon the level of evidence and testimony filed in the generic stranded cost
2 hearings which were held in 1998, it can be anticipated that each major hearing will include
3 hundreds, if not thousands, of pages of testimony from each party, requiring review, comment,
4 and cross-examination. Since many of the parties will want to participate in every hearing and
5 proceeding that results from each of the three major activities, scheduling for all participants will
6 become difficult if an abbreviated schedule is adopted. Furthermore, as discussed above, Staff
7 believes that it is necessary to properly sequence the resolution of significant issues regarding
8 restructuring, rather than attempt to deal with all issues on parallel paths.

9 The RUCO/Attorney General schedule contemplates that settlement discussions
10 among the parties will be conducted at the same time that the Commission considers
11 amendments to the rules. While Staff agrees that the parties should be encouraged to discuss
12 resolving issues among themselves, it is unlikely that final resolution of these issues will occur
13 until the Commission has provided more certainty regarding the transition to
14 competition. The RUCO/Attorney General proposal does not explicitly recognize this fact.
15 Therefore, Staff disagrees with the RUCO/Attorney General recommendation for an arbitrary
16 termination date for settlement discussions. Staff further notes that interim unbundled tariffs
17 should not be necessary to the transition process since the rules have been stayed.

18 **V. CONCLUSION.**

19 Staff requests that the Commission specifically identify those rules that it wishes
20 to retain and/or revisit. Staff further requests that the Hearing Division set forth a procedural
21 schedule to commence a generic proceeding to determine the resolution of the five primary
22 issues set forth in Section II of these comments.

23 RESPECTFULLY SUBMITTED this 15th day of January, 1999.

24
25 By: Paul A. Bullis
26 Paul A. Bullis
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1 Original and ten copies of the
2 foregoing filed this 15th day
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6 A copy of the foregoing was
mailed this 15th day of January,
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8 All parties on the service list for
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10 By Mary Spolito

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