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BEFORE THE

COMMISSION

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COMMISSIONER-CHAIRMAN
TONY WEST
COMMISSIONER
CARL J. KUNASEK
COMMISSIONER

Arizona Corporation Commission

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

DOCKET NO. RE-00000C-94-0165

**CITIZENS UTILITIES COMPANY'S
PROPOSED WORDING CHANGES
TO COMPETITION RULES**

In response to direction given by the Hearing Officer at the January 22, 1999, Prehearing Conference in this docket, Citizens Utilities Company ("Citizens") submits the following specific proposals for wording changes to the Electric Competition Rules ("Rules"). These proposed wording changes reflect the comments on the Rules submitted by Citizens on January 20, 1999.

R14-2-203(B):

Add the following subsection 9.

- 9. If a Utility Distribution Company's customer with an established deposit elects to take competitive services from an Electric Service Provider, and is not currently delinquent in payments to the Utility Distribution Company, the Utility Distribution Company will refund a portion of the customer's deposit in proportion to the expected decrease in monthly billing. A customer returning to Standard Offer Service may be required to increase an established deposit in proportion to the expected increase in monthly billing.

Explanation: This addition coordinates the traditional deposit requirements in Article 2 with the competitive requirements of Article 16.

R14-2-1601:

Add the following definition in the appropriate alphabetical sequence, and re-number subsequent definitions accordingly:

1 "Market Transformation" means activities by a Utility Distribution Company
2 to transform its business processes and enable its customers to take
3 competitive services offered by Electric Service Providers."

4 **Explanation:** Citizens proposes this definition of Market Transformation to
5 enable inclusion of costs for required new functions under open competition in the
6 Systems Benefits Charge to be filed by an Affected Utility under R14-2-1608A.
7 This proposed change would allow these legitimate costs to be submitted to the
8 Commission for review and recovery.

9 Citizens proposes the following addition of a subpart "d" to the definition of
10 "Stranded Cost:"

11 d. Costs associated with metering, meter reading, billing, collections and
12 other consumer information services rendered unrecoverable by the
13 introduction of competition for these services.

14 These are equally as strandable as those in subparts a-c.

15 If the definition of "Market Transformation" is not included, then Citizens
16 suggests the addition of a subpart "e." to the definition of "Stranded Cost:"

17 e. Costs for new Utility Distribution Company functions (such as
18 customer education and modifications and additions to key business
19 processes) necessitated by the introduction of competition.

20 This is another way to be sure these legitimate transition costs are appropriately
21 recovered.

22 **R14-2-1604:**

23 While Citizens does not have any specific proposals at this time, it notes
24 that several dates in this section of the Rules need to be revisited, including those
25 in subsections: A.1., A.2., B.1., B.5., D., and G.

26 In addition, Citizens strongly favors returning to the previous participation
27 limit established for the Residential Phase-in Program (which was previously set
28 after significant debate on the subject) by changing the references to "1¼%" of
29 residential customers to "½%" in subsection B.1.

1 **R14-2-1607:**

2 Citizens has demonstrated in previous filings that the requirements to
3 divest all generation as a condition for Stranded Costs recovery and to serve
4 Standard Offer customers with market-priced resources acquired through an
5 open bid process, cannot co-exist with charging a Competitive Transition Charge
6 ("CTC") only to customers taking competitive service. Loading all these costs
7 only upon those who elect competition will ensure that no one will make that
8 election.

9 There has been some confusion that customers who remain on the
10 Standard Offer will somehow effectively be paying for stranded costs through
11 generation costs bundled in the Standard Offer. But if the generation has been
12 divested, the resulting stranded costs would not be part of Standard Offer
13 service, except as part of a CTC. Therefore, all customers **must** pay the CTC.

14 Citizens suggests the following change to the first sentence of R14-2-
15 1607F:

16 A Competitive Transition Charge may be assessed ~~only~~ on customers
17 eligible to make purchases made in the competitive market using the
18 provisions of this Article.

19 (If divestiture were to occur before all customers were eligible, then **all**
20 customers, eligible or not, should pay.)

21 A consistent approach for all Affected Utilities to calculate CTCs would
22 ensure fairness and less marketplace confusion, as pointed out in Citizens'
23 January 20, 1999 filing. Citizens suggests the addition of subsection J. to R14-2-
24 1607, as follows:

25 J. The Director, Utilities Division will issue no later than March 1, 1999,
26 a description of a common methology for calculation of Affected
27 Utilities' CTCs.

1 **R14-2-1608:**

2 Citizens proposes the following changes to R14-2-1608 to remove the Solar
3 Water Heater Rebate Program and to clarify that both Standard Offer customers
4 and customers taking competitive power will pay for System Benefits:

- 5 A. By the date indicated in R14-2-1602, each Affected Utility or Utility
6 Distribution Company shall file for Commission review non-bypassable
7 rates or related mechanisms to recover the applicable pro-rata costs
8 of System Benefits from all consumers located in the Affected Utility's
9 or Utility Distribution Company's service area ~~who participate in the~~
10 ~~competitive market.~~ Affected Utilities or Utility Distribution
11 Companies shall file for review of the System Benefits Charge every
12 three years. The amount collected annually through the Systems
13 Benefits charge shall be sufficient to fund the Affected Utilities' or
14 Utility Distribution companies' Commission-approved low income,
15 demand side management, market transformation, environmental,
16 long-term public research and development, and nuclear fuel disposal
17 and nuclear power decommissioning program in effect from time to
18 time. ~~Now, the Commission will approve a solar water heater rebate~~
19 ~~program: \$200,000 to be allocated proportionally among the state's~~
20 ~~Utility Distribution Companies in 1999, \$400,000 in 2000, \$600,000~~
21 ~~in 2001, \$800,000 in 2002, and \$1 million in 2003, the rebate will not~~
22 ~~be more than \$500 per system for Commission Staff approved solar~~
23 ~~water heaters. After 2003, future Commissions may review this~~
24 ~~program for efficacy.~~

25 **R14-2-1609:**

26 Citizens proposes that this section of the Rules be removed in its entirety.
27 It is inconsistent with a competitive electricity market. If customers wish to
28 purchase "solar" or "green" electricity the market should provide this option.
29

1 **R14-2-1610:**

2 In its January 20, 1999, submittal, Citizens commented on access to and
3 planning for transmission capacity to serve the Affected Utility customer loads.
4 While R14-2-1610A addresses the non-discriminatory allocation of existing
5 transmission capacity between Standard Offer and competitive loads, the Rules
6 leave open the question of where the obligation lies to insure adequate capacity
7 to serve these loads. If the Commission wishes to retain the principle of non-
8 discrimination embodied in R14-2-1608A, Citizens believes that the only viable
9 alternative is for UDCs to be responsible for assuring that adequate transmission
10 import capability is available to serve all loads. To provide the reasonable
11 assurance that prudent and used-and-useful investments in transmission planning
12 and construction are recoverable, the Rules should unambiguously place the duty
13 to provide adequate transmission resources with UDCs.

14 Citizens also notes that the Arizona Independent System Administrator
15 ("AISA"), with participation by virtually all parties involved in the industry, is a
16 natural focal point for the transmission planning process. To assure that effective
17 transmission planning is possible under competition, Citizens suggests that the
18 Rules define a role in transmission planning for the AISA.

19 Accordingly, Citizens offers the following additions to R14-2-1608. Add as
20 subsection B. (and re-letter as appropriate):

- 21 B. Utility Distribution Companies will retain the obligation to assure
22 adequate transmission import capability is available to meet the load
23 requirements of all customers within their service areas whether
24 purchasing power under Standard Offer Service or in the competitive
25 market.

26 Add to R14-2-1610C a subsection 5:

- 27 5. The Independent Scheduling Administrator will implement a
28 transmission planning process that includes all Independent
29 Scheduling Administrator participants and aids in identifying the

1 timing and key characteristics of required reinforcements to Arizona
2 transmission facilities to assure that all participants' future load
3 requirements are met.

4 Citizens has commented on numerous occasions that Affected Utilities
5 electing generation divestiture for Stranded Cost recovery should be permitted to
6 retain Must-Run Generation Units and recover their costs as a part of Utility
7 Distribution Company regulated rates. Accordingly, Citizens suggests the
8 following changes to R14-2-1610H:

9 H. The Affected Utilities shall provide services from the Must-Run
10 Generation Units to Standard Offer retail customers and competitive
11 retail customers on a comparable, non-discriminatory basis at
12 regulated rates. Divestiture of generation deemed to be Must-Run
13 Generating Units is not required of Affected Utilities as a condition of
14 Stranded Cost recovery. However, if divested, the Affected Utilities
15 shall specify the obligations of the Must-Run Generating Units in
16 appropriate sales contracts prior to any divestiture. Under auspices
17 of the Electric System Reliability and Safety Working Group, the
18 Affected Utilities shall develop statewide protocols for pricing and
19 availability of services from Must-Run Generating Units with input
20 from other stakeholders. These protocols shall be presented to the
21 Commission for review and filed with the Federal Energy Regulatory
22 Commission, if necessary, by October 31, 1998.

23 **R14-2-1613:**

24 Citizens proposes the following changes to subsections R14-2-1613K.4 and
25 R14-2-1613K.5 to allow flexibility in the implementation of electronic data
26 interchange:

27 4. Unless a specific waiver is granted by the Commission to an Affected
28 Utility or Utility Distribution Company, All competitive metered and
29 billing data shall be translated into consistent, statewide Electronic

1 Data Interchange ("EDI") format based on standards approved by the
2 Utility Industry Group ("UIG") that can be used by the Affected Utility
3 or the Utility Distribution Company and the Electric Service Provider.

- 4 5. Unless a specific waiver is granted by the Commission for a particular
5 party(ies), An Electronic Data Interchange Format shall be used for
6 all data exchange transactions from the Meter Reading Service
7 Provider to the Electric Service Provider, Utility Distribution Company,
8 and Schedule Coordinator. This data will be transferred via Internet
9 using a secure sockets layer or other secure electronic media.

10 To remove the uncertainty resulting from the indefinite future time that
11 rules and procedures may be issued on key aspects of electric competition,
12 Citizens suggests adding a date-certain to subsections R14-2-1613K.13, 14, and
13 15. And subsection P, as follows:

- 14 13. The operating procedures approved by the Director, Utilities Division,
15 which will be issued no later than April 1, 1999, will be used by the
16 Utility Distribution Companies and the Meter Service Providers for
17 performing work on primary metered customers.
- 18 14. The rules approved by the Director, Utilities Division, which will be
19 issued no later than April 1, 1999, will be used by the Meter Reading
20 Service Provider for validating, editing, and estimating metering data.
- 21 15. The performance metering specifications and standards approved by
22 the Director, Utilities Division, which will be issued no later than April
23 1, 1999, will be used by all entities performing metering.
- 24 P. The operating procedures approved by the Director, Utilities Division,
25 which will be issued no later than April 1, 1999, will be used for Direct
26 Access Service Requests as well as other billing and collections
27 transactions.
- 28
29

1 **R14-2-1616:**

2 Citizens has commented extensively and repeatedly on why UDC should
3 continue to offer metering, meter reading, billing, and collections services within
4 their service areas at tariffed rates after the implementation of competition. To
5 summarize; no one is harmed if the UDC continues to offer these services. If
6 competitors offer a lower price, consumers can select that option. But if only
7 limited competition (only a few providers) is available, the continued availability
8 of tariffed service will prevent these providers from exerting market power and
9 gouging consumers.

10 Citizens suggests wording changes to R14-2-1616B. The following
11 sentence in the middle of R14-2-1616B should be changed as indicated below,
12 and the balance of R14-2-1616B should be stricken:

13 Affected Utilities and Utility Distribution Companies shall provide, if
14 requested by an Electric Service Provider or customer, metering, meter
15 reading, billing and collections services within their service territories at
16 tariffed rates. ~~to customers that do not have access to these services~~
17 ~~during the years 1999 to 2000, subject to the following limitations.~~

18 Consistent with Citizens' proposal to remove section R14-2-1609 from the
19 Rules, section R14-2-1616D, which addresses the solar portfolio requirement,
20 should be stricken in entirety.

21 **R14-2-1617:**

22 In comments filed with the Commission on July 6, July 22, and September
23 18, 1998, Citizens provided extensive comments on the need for changes to the
24 Affiliate Transactions section of the Rules. Citizens proposes the following specific
25 wording changes to R14-2-1617:

26 Add to the front of R14-2-1617A:

27 Unless otherwise stated, the use of the word "affiliate" associated with an
28 Affected Utility or Utility Distribution Company in this section means a
29 "competitive electric affiliate."

1 **Explanation:** The reason for this addition is that if the AU or UDC does
2 not have a competitive electric affiliate, there is no reason to impose these
3 additional requirements. Alternatively, replace "affiliate" with "competitive
4 electric affiliate" and add new definition.

5 Proposed wording changes to R14-2-1617A.1:

- 6 1. Without full compensation in accordance with subsection (A)(7), Aa
7 Affected Utility or Utility Distribution Company shall not share office
8 space, equipment, services, and systems with its affiliates, nor access
9 any computer or information systems of one another, except to the
10 extent appropriate to perform shared corporate support functions
11 permitted under subsection (A)(2). ~~An Affected Utility or Utility~~
12 ~~Distribution Company shall not share office space, equipment,~~
13 ~~services, and systems with its other affiliates without full~~
14 ~~compensation in accordance with subsection (A)(7).~~

15 **Explanation:** As long as full compensation is gained, this is fair to the
16 utility, the affiliate, competitors, and customers.

17 Proposed wording changes to subsections R14-2-1617A.4, 5, and 6:

- 18 4. Unless such activities are services governed by a contract resulting
19 from an open bidding process, Aa Affected Utility or Utility
20 Distribution Company shall not offer or provide to its affiliates
21 advertising space in any customer written communication unless it
22 provides to all other unaffiliated competitive electric service providers
23 on the same terms and conditions.
- 24 5. An Affected Utility or Utility Distribution company shall not participate
25 in joint advertising, marketing or sales with its affiliates and. Any
26 joint communication and correspondence with an existing customer
27 by an affected Utility or Utility Distribution company and its affiliate
28 shall be limited to consolidated billing unless these activities are
29 services governed by a contract resulting from an open bidding

1 process.

2 6. Except as provided in subsection A(2), an Affected Utility or Utility
3 Distribution Company and its affiliate shall not jointly employ the
4 same employees. ~~This rule applies to Board of Directors and~~
5 ~~corporate officers. However, any board member or corporate officer~~
6 ~~of a holding company may also serve in the same capacity with the~~
7 ~~Affected Utility or Utility Distribution Company, or its affiliate, but not~~
8 ~~both.~~ Where the Affected Utility is a multi-state utility, is not a
9 member of a holding company structure, and assumes the corporate
10 governance functions for its affiliates, the prohibition outlined in this
11 section shall only apply to affiliates that operate within Arizona.

12 **Explanation:** This requirement would burden only utilities, not ESPs.

13 There is no reason to prevent common officers and directors for utilities and
14 affiliates, particularly if ESPs are allowed these cost savings and efficiencies.
15 Further, gas, water and telephone utilities endure no similar restrictions.

16 Proposed wording changes to subsection R14-2-1617C.3:

17 2. Except as otherwise provided in these rules, and unless such activities
18 are services governed by a contract resulting from an open
19 competitive bidding process, an Affected Utility or Utility Distribution
20 Company shall not offer or provide customers advice, which includes
21 promoting, marketing or selling, about its affiliates or other service
22 providers.

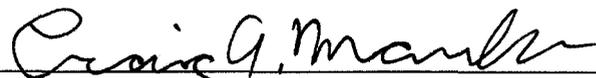
23 **Explanation:** This allows the affiliate to bid in a fair, open process against
24 other competitors.

25 Proposed wording change to R14-2-1617E: Add the following to the end of
26 this subsection:

27 The Director, Utilities Division shall issue no later than December 31, 1999,
28 detailed requirements which describe the scope of these audits and the
29 degree of responsibility to be taken by the auditor.

1 **Explanation:** Reasonable rules need to be in place governing the scope of
2 and procedures for the audits.

3 **RESPECTFULLY SUBMITTED** on January 29, 1999.

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