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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission AZ CORP COMMISSION

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JAN 29 1999

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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
COMMENTS OF CALPINE
POWER SERVICES

Pursuant to the January 26, 1999 Procedural Order of the Chief Hearing Officer, Calpine Power Services ("Calpine") submits the following comments. Relevant excerpts of the Rules as set forth in Decision No. 61272 (December 11, 1998) are presented below with lines through deletions, underlined inserts, followed by the reasoning.

R14-2-1601. Definitions
17. "Generation" means the retail sale production of electricity power ~~or contract rights to the receipt of wholesale electric power.~~

Reasoning: Purpose of the "generation" definition is to distinguish the retail sale of electrons from the sale of other services, such as metering, billing, collection, information, and distribution. Some generation in Arizona may be sold to wholesale or retail markets outside of Arizona. Sale of electric power for retail use within Arizona to Affected Utilities, Electric Service Providers, self-aggregators and end-users is, of course, subject to the Rule. The Federal Energy Regulatory Commission (FERC), under Section 201 of the Federal Power Act, gives FERC jurisdiction over transmission of generation in interstate commerce (by public utilities) without qualification. See Promoting Wholesale Competition Through Open Access Non-discrimination Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 Fed. Reg. 21,540 (1996), FERC Stats. & Regs. Para. 31,036 (1997); order on reh'g Order No. 888A, 62 Fed. Reg. 12,274 (1997), FERC Stats. & Regs. Para 31,048 (1997); order on

1 *reh*'g Order No. 888B, 81 FERC Para. 61,248 (1997). This recommended change
2 makes clear when the nexus of retail electric power transactions occur under the
3 Rules.

4 27. "Must-Run Generation Units" are those units that are required to run to maintain distribution
5 system reliability and meet load requirements in times of congestion on certain portions of the
6 interconnected transmission grid, as may be determined by the Federal Energy Regulatory
7 Commission.

8 *Reasoning:* Determination of "must-run generating units" is an integral aspect of
9 open access transmission and is made by FERC.

10 40. "System Benefits" means may include Commission-approved utility low income, and demand
11 side management, ~~market transformation, environmental, renewables, long-term public benefit~~
12 ~~research and development and nuclear fuel disposal and nuclear power plant decommissioning~~
13 programs.

14 *Reasoning:* System benefits will vary among Affected Utilities and, therefore, its
15 definition may mean different programs for different utilities. The notion of "market
16 transformation" costs, as being recovered beyond the stranded cost recovery period
17 or in addition to any competitive transition charge, will distort the competitive market
18 environment. Consumers and competitors should not have to monitor an Affected
19 Utility's system benefit charges (or participate in future proceedings) to be assured
20 that competitive costs are not being shifted to all ratepayers through this definition.
21 "Environmental" costs pertain to generation. To the extent those costs are incurred
22 as a result of electric competition, they are addressed in the stranded cost section of
23 the Rules. The term "renewables" is a vague concept which also is being
24 compensated for, if necessary, within the stranded cost section of the Rules. "Long-
25 term public benefit research and development" costs appear to relate to generation or
26 alternative types of generation. With the competitive marketing of retail and
27

1 wholesale generation, the ratepayers should not be obligated to underwrite that
2 investment for the Affected Utilities through system benefit charges. “Nuclear fuel
3 disposal and nuclear power plant decommissioning programs” are more appropriately
4 addressed under stranded costs. Even if there is no divestiture of nuclear generators,
5 the imputed cost of these programs is better addressed through the computation of
6 potential strandable costs, rather than have those generation-related charges combined
7 with “consumer-benefit” programs.

8 **R14-2-1603. Certificates of Convenience and Necessity**

9 I. Every Electric Service Provider obtaining a Certificate of Convenience and Necessity under
10 this Article shall obtain certification subject to the following conditions.

- 11 1. The Electric Service Provider shall comply with all Commission rules, orders, and
12 other requirements relevant to the provision of electric service. ~~and relevant to~~
13 ~~resource planning;~~

14 *Reasoning:* Resource planning oversight by the Commission historically pertained to
15 a monopoly environment where generation and transmission were controlled by one
16 entity. “Resource planning” is defined in R14-2-701(36) as “integrated supply and
17 demand analysis for the purpose of identifying the means of meeting electric energy
18 service needs at the lowest cost, taking into account uncertainty.” With open access
19 of transmission and the competitive marketing of generation, the need for that
20 function by the Commission, in these Electric Competition Rules, is not an
21 appropriate requirement to be mandated into law. The term “resource planning” is
22 undefined in these Electric Competition Rules and creates confusion as to what that
23 requirement might be today or in the future. The allocation of resources and the
24 planning of future resource uses are the functions of managers in the new competitive
25 environment. Deletion of this reference is strongly recommended.

1 **R14-2-1604. Competitive Phases**

2 A. Each Affected Utility shall make available at least ~~20%~~ 40% of its 1995 system retail peak
3 demand for competitive generation supply on a first-come, first-served basis as further
4 described in this rule. First-come, first-served, for the purpose of this rule, shall be
5 determined for non-residential customers by the date and time of an Electric Service
6 Provider's filing of a Direct Access Service Request with the Affected Utility or Utility
7 Distribution Company. The effective date of the Direct Access Service Request must be
8 within 180 days of the filing date of the Direct Access Service Request. Residential customer
9 selection will be determined under approved residential phase in programs as specified in R14-
10 2-1604.B.4.

11 1. All Affected Utility customers with non-coincident peak demand load of 1MW or
12 greater will be eligible for competitive electric services no later than ~~January 1, 1999~~
13 October 1, 1999. Customers meeting this requirement shall be eligible for competitive
14 services until at least ~~20%~~ 40% of the Affected Utility's 1995 system peak demand
15 is served by competition.

16 2. ~~During 1999 and~~ Starting October 1, 1999 through 2000, an Affected Utility's
17 customers with single premise non-coincident peak load demands of 40kW or greater
18 aggregated into a combined load of 1MW or greater within the Affected Utility's
19 service territory will be eligible for competitive electric services. Self-aggregation is
20 also allowed pursuant to the minimum and combined load demands set forth in this
21 rule. If peak load data are not available, the 40kW criterion shall be determined to be
22 met if the customer's usage exceeded 16,500 kWh in any month within the last 12
23 consecutive months. From ~~January 1, 1999,~~ October 1, 1999 through December 31,
24 2000, aggregation of new competitive customers will be allowed until such time as
25 at least ~~20%~~ 40% of the Affected Utility's 1995 system peak demand is served by
26 competitors. At that point all additional aggregated customers must wait until
27

1 January 1, 2001 to obtain competitive service.

2 3. Affected Utilities shall notify customers eligible under this subsection of the terms of
3 the subsection no later than ~~October 31, 1998~~ June 30, 1999.

4 B. As part of the minimum ~~20%~~ 40% of 1995 system peak demand set forth in R14-2-1604(A),
5 each Affected Utility shall reserve a residential phase-in program with the following
6 components:

7 1. A minimum of ~~14%~~ 2% of residential customers as of ~~January 1~~ October 1, 1999,
8 will have access to competitive electric services on ~~January 1~~, October 31, 1999. The
9 number of customers eligible for the residential phase-in program shall increase by an
10 additional ~~14%~~ 2% every quarter until January 1, 2001.

11 4. Each Affected Utility shall file a residential phase-in program proposal to the
12 Commission for approval by Director, Utilities Division by ~~September 15, 1998~~ April
13 30, 1999. Interested parties will have until ~~September 29, 1998~~ May 14, 1999, to
14 comment on any proposal. At a minimum, the residential phase-in program proposal
15 will include specifics concerning the Affected Utility's proposed:

- 16 a. Process for customer notification of residential phase-in program;
17 b. Selection and tracking mechanism for customers based on first-come, first-
18 served method;
19 c. Customer notification process and other education and information services
20 to be offered;
21 d. Load Profiling methodology and actual load profiles, if available; and
22 e. Method for calculation of reserved load.

23 5. Each Affected Utility shall file quarterly residential phase-in program reports within
24 45 days of the end of each quarter. The 1st such report shall be due within 45 days of
25 the quarter ending ~~March 31, 1999~~ December 31, 1999. The final report due under
26 this rule shall be due within 45 days of the quarter ending December 31, 2002. As a
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1 minimum, these quarterly reports shall include:

- 2 a. The number of customers and the load currently enrolled in residential phase-
3 in program by energy service provider;
- 4 b. The number of customers currently on the waiting list;
- 5 c. A description and examples of all customer education programs and other
6 information services including the goals of the education program and a
7 discussion of the effectiveness of the programs; and
- 8 d. An overview of comments and survey results from participating residential
9 customers.

10
11 E. Subject to the minimum ~~20%~~ 40% limitation described in subsection (A) of this Section, all
12 customers who produce or purchase at least 10% of their annual electricity consumption from
13 photovoltaic or solar thermal electric resources installed in Arizona after January 1, 1997 shall
14 be selected for participation in the competitive market if those customers apply for
15 participation in the competitive market.

16 *Reasoning:* The stay of the Rules has allowed the Affected Utilities to recoup
17 additional stranded costs which allegedly would result from the loss of customers.
18 With the delay of competition, the percentage of customers that may participate in the
19 transition phase, until complete open competition on January 1, 2001, should be
20 increased. At least 40% of the 1995 system retail peak load should be available to
21 competition during this phase in. The dates in the above proposed amendment reflect
22 the change in schedule. A firm start date of October 1, 1999 is needed in the Rules.
23 It allows consumers and competitors to plan and prepare for the advent of
24 competition. Affected Utilities would be required to again inform consumers, by June
25 30, 1999, of this new time table and opportunity. As to residential consumers, a
26 minimum of 2% of the 1995 system peak demand is suggested, which would result
27 in 10% by January 1, 2001. A supplemental residential phase-in program would be
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1 filed by April 30, 1999, and interested parties could respond by May 14, 1999.

2 **R14-2-1605. Competitive Services**

3 A properly certificated Electric Service Provider may offer any of the following services under
4 bilateral or multilateral contracts with retail consumers:

- 5 A. ~~Generation of electricity from generators at any location whether owned by the Electric~~
6 ~~Service Provider or purchased from another generator or wholesaler of electric generation.~~
7 B. Any service described in R14-2-1606, except Noncompetitive services Services as defined by
8 R14-2-1601.29 or ~~Noncompetitive~~ noncompetitive services as defined by the Federal Energy
9 Regulatory Commission. Billing and collection services, information services, and self-
10 aggregation services do not require a Certificate of Convenience and Necessity. Aggregation
11 of retail electric customers into a purchasing group is considered to be a competitive service.

12 *Reasoning:* The term "generation" is now a defined term. Therefore, the wording of
13 this section creates confusion by again explaining what is retail generation services for
14 purposes of these Rules. See the comments above on page 1. "Noncompetitive
15 Services" is a defined term with the first letter capitalized; however, in reference to
16 FERC activities, this term is not defined in these Rules.

17 **R14-2-1606. Services Required to be Made Available**

18 B. After January 1, 2001, power purchased by a Utility Distribution Company to serve Standard
19 Offer customers, except purchases made through spot markets, shall be acquired through
20 competitive bid. ~~Any resulting contract in excess of 12 months shall contain provisions~~
21 ~~allowing the Utility Distribution Company to ratchet down its power purchases. A Utility~~
22 ~~Distribution Company may request that the Commission modify any provision of this~~
23 ~~subsection for good cause.~~

24 C. Standard Offer Tariffs

- 25
26 1. ~~By the date indicated in R14-2-1602, March 19, 1999,~~ each Affected Utility may file
27 proposed tariffs to provide Standard Offer Bundled Service and such rates shall not

1 become effective until approved by the Commission. If no such tariffs are filed, rates
2 and services in existence as of the date in R14-2-1602 shall constitute the Standard
3 Offer.

4 D. By the ~~date indicated in R14-2-1602,~~ March 19, 1999, each Affected Utility shall file
5 Unbundled Service tariffs to provide the services listed below to the extent allowed by these
6 rules to all eligible purchasers on a nondiscriminatory basis. [Remainder is unchanged.]

7 *Reasoning:* The competitive bid process for Utility Distribution Companies should be
8 reflective of market conditions. Requiring UDCs to ratchet down their purchases if
9 a contract is in excess of 12 months presumes UDCs are not qualified in preparing
10 requests for proposals. Furthermore, this requirement is vague and appears difficult
11 to administer. It may also lead to claims of a failed bid process. The language that
12 states the UDCs may request the Commission to modify this provision for good cause
13 creates a cloud over any bid process. By including this language, it may discourage
14 potential bidders because they may perceive this as merely an effort to “shop for
15 quotes.” Moreover, the separation of generation from distribution and other services
16 makes this provision unnecessary. Market-priced generation should be the source for
17 all Standard Offer customers served by the UDCs. By allowing UDCs to seek
18 modification of this bid process, it would circumvent the objective of creating
19 competitive electric markets. The March 19, 1999 date is inserted as the deadline
20 for filing proposed bundled and unbundled tariffs, which is the date recommended by
21 the stakeholders in response to the January 26, 1999 Procedural Order.

22 **R14-2-1607. Recovery of Stranded Cost of Affected Utilities**

23 C. The Affected Utilities shall file estimates of unmitigated Stranded Cost by March 19, 1999.
24 Such estimates shall be fully supported by analyses and by records of market transactions
25 undertaken by willing buyers and willing sellers.

26 G. Stranded Cost shall be recovered from customer classes in a manner consistent with the
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1 specific company's current rate treatment of the stranded asset, in order to effect a recovery
2 of Stranded Cost that is in substantially the same proportion as the recovery of similar costs
3 from customers or customer classes under current rates, if the Affected Utility has positive
4 Stranded Cost.

5 *Reasoning:* The joint proposal of the Residential Utility Consumer Office and
6 Attorney General, which is to be filed this day, on the procedural schedule
7 recommends that any amendments to stranded cost filing be made by March 19, 1999.
8 This change reflects that suggestion. The phrase at the end of Subsection G merely
9 reflects that any Stranded Cost that may be recovered among customer classes can
10 only occur if the Affected Utility has positive Stranded Cost, otherwise this provision
11 is inapplicable.

12 **R14-2-1608. System Benefits Charges**

13 A. By the date indicated in R14-2-1602, each Affected Utility or Utility Distribution Company
14 shall file for Commission review non-bypassable rates or related mechanisms to recover the
15 applicable pro-rata costs of System Benefits from all consumers located in the Affected
16 Utility's or Utility Distribution Companies' Company's service area who participate in the
17 competitive market. Affected Utilities or Utility Distribution Companies shall file for review
18 of the Systems Benefits Charge every 3 years. The amount collected annually through the
19 System Benefits charge shall be sufficient to fund the Affected Utilities' or Utility Distribution
20 Companies' Commission-approved low income, demand side management, market
21 transformation, ~~environmental, renewables, long-term public benefit research and~~
22 ~~development, and nuclear fuel disposal and nuclear power plant decommissioning~~ programs
23 in effect from time to time. ~~Now, the Commission will approve a solar water heater rebate~~
24 ~~program: \$2000,000 to be allocated proportionally among the states' Utility Distribution~~
25 ~~Companies in 1999, \$400,000 in 2000, \$600,000 in 2001, \$800,000 in 2002, and \$ 1 million~~
26 ~~in 2003; the rebate will not be more than \$500 per system for Commission staff-approved~~

1 ~~solar water heaters. After 2003, future Commissions may review this program for efficacy.~~

2 *Reasoning:* To conform with the comments made previously under the definition of
3 “System Benefits” (R14-2-1601(40)), these changes have been proposed. Incentive
4 programs for alternative power sources would be better handled outside of these
5 Rules, particularly so as to address how those funds will be shared among Affected
6 Utilities and what the impacts might be on ratepayers (through increased system
7 benefits charges).

8 **R14-2-1609. Solar Portfolio Standard**

9 A. Starting on January 1, 1999, any Electric Service Provider selling electricity or aggregating
10 customers for the purpose of selling electricity under the provisions of this Article must derive
11 at least .2% of the total retail energy sold competitively in Arizona from new solar energy
12 resources, whether that solar energy is purchased or generated by the ~~seller~~ Electric Service
13 Provider. Solar resources include photovoltaic resources and solar thermal resources that
14 generate electricity. New solar resources are those installed on or after January 1, 1997.

15 *Reasoning:* The solar portfolio standard refers to the undefined term “seller.” For
16 purposes of clarification, the apparent intent is to require the Electric Service Provider
17 to comply with this standard. Furthermore, generation produced in Arizona may be
18 sold competitively in Arizona and outside this state. Also, this amendment clarifies
19 that the percentage of retail energy sold is based upon sales within Arizona.

20
21 **R14-2-1613. Service Quality, Consumer Protection, Safety, and Billing Requirements**

22 O. Unbundled Billing Elements. All customer bills after January 1, 1999, will list, at a minimum,
23 the following billing cost elements;
24
25 1. Electricity Costs:
26 a. Generation,
27 b. Competition Transition Charge, and

- 1 c. Fuel or purchased power adjustor, if applicable
- 2 2. Delivery Costs:
- 3 a. Distribution services,
- 4 b. Transmission services, and
- 5 c. Ancillary services
- 6 3. Other Costs:
- 7 a. Metering Service,
- 8 b. Meter Reading Service,
- 9 c. Billing and collection, and
- 10 d. System Benefits charge
- 11 e. Must-Run Generation Units Charge
- 12

13 *Reasoning:* If an Affected Utility has a FERC-qualified “must-run generation unit,”

14 the cost of that unit should be a line-item on the customer’s bill. Consumers should

15 be assured that they are not paying twice for these charges through stranded costs and

16 an embedded distribution charge for this must-run unit. Furthermore, consumers need

17 to know the amount of they are paying to retire the investment in the unit. Without

18 this line item on the bill, the costs associated with this unit may be blended with

19 distribution facilities and consumers may overpay.

20

21 **R14-2-1617. Affiliate Transactions**

22 F. Waivers

- 23 1. Any affected entity may petition the Commission for a waiver by filing a verified
- 24 application for waiver setting forth with specificity the circumstances whereby the
- 25 public interest justifies a waiver from all or part of the provisions of this rule.
- 26
- 27
- 28

1 2. The petitioner shall notify the Electric Service Providers and provide public notice of
2 the petition as required by the Commission.

3 2 3. The Commission may grant such application upon a finding that a waiver is in the
4 public interest.

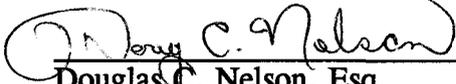
5 *Reasoning:* Notice to consumers and competitors should be given if the Commission
6 is to consider a petition to waive all or a part of the affiliate rules. Similar to the
7 notification process for an Electric Service Provider certification application (R14-2-
8 1603.D&E), this proposed amendment would require the petitioner to give public
9 notice, such as by publication, and direct notice to ESPs.

10 **CONCLUSION**

11 Calpine urges that the modifications be made to the Electric Competition Rules. Calpine
12 reserves the right to comment on these and other provisions of the Rules that might be addressed by
13 others.

14 **RESPECTFULLY** submitted this 29th day of January, 1999.

15
16 **DOUGLAS C. NELSON, P.C.**

17 
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Attorney on behalf of Calpine Power Services

20 **ORIGINAL and ten copies of the foregoing**
21 **filed this 29th day of January, 1999 to:**

22 **Docket Control**
23 **ARIZONA CORPORATION COMMISSION**
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24 **COPIES of the foregoing *hand-delivered***
25 **this 29th day of January, 1999 to:**

26 **Jerry L. Rudibaugh, Chief Hearing Officer**
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7 **COPIES** of the foregoing *mailed*
this 29th day of January, 1999 to:

8 All parties on the service list for
9 Docket No. RE-00000C-94-165

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11 By *Venus Green*

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