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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

JIM IRVIN
Commissioner-Chairman

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Commissioner

JAN 29 1999

CARL J. KUNASEK
Commissioner

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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 PROPOSED CHANGES TO THE ELECTRIC COMPETITION RULES

Pursuant to the January 26, 1999, Procedural Order, Arizona Corporation Commission Staff ("Staff") hereby submits its proposed changes to the Retail Electric Competition Rules, A.A.C. R14-2-1601 et seq. ("Rules").

Staff does not propose substantive changes to the Rules. Instead, it is Staff's intent in this filing to identify language related to implementation dates and phasing in of competition which may need to be modified as a result of Decision No. 61311, which stayed the Rules.

The Commission has a variety of options for the timing of the implementation of competition in the context of the Rules. For example, the Commission could leave the phase-in dates subsequent to January 1, 1999, intact, i.e., reaching full competition at January 1, 2001, but simply pushing back the starting date to when the amended Rules become effective.^{1/} The Commission could also decide to use the full two year phase-in period contemplated by the Rules, and push back all dates so that full competition begins two years after the effective date of the amended Rules. The Commission could even decide to simply pick a date for a flash cut to competition without any phase-in.

In Staff's view, full competition should begin no later than January 1, 2001. Staff is indifferent to the intermediate dates and phases. Nevertheless, we have attempted to identify

^{1/} If this approach is adopted, the Commission should consider whether it wishes to modify the residential phase-in schedule contained in A.A.C. R14-2-1604.B.

1 all dates and references that may need to be modified to accommodate a new schedule for
2 competition.

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

4 A. Any Electric Service Provider intending to supply services described in R14-2-1605 or R-
5 14-2-1606, other than services subject to federal jurisdiction, shall obtain a Certificate of
6 Convenience and Necessity from the Commission pursuant to this Article. A Certificate
7 is not required to offer information services, billing and collection services, or self-
8 aggregation. However, aggregators as defined in R14-2-1601 are required to obtain a
9 Certificate of Convenience and Necessity and Self-Aggregators are required to negotiate
10 a Service Acquisition Agreement consistent with subsection G(6). An Affected Utility
11 need not apply for a Certificate of Convenience and Necessity to continue to provide
12 electric service in its service area during the transition period set forth in R14-2-1604.
13 An Affected Utility providing distribution and Standard Offer service after [INSERT
14 DATE] ~~January 1, 2001~~ need not apply for a Certificate of Convenience and Necessity.
15 All other Affected Utility affiliates created in compliance with R14-2-1616(A) shall be
16 required to apply for appropriate Certificates of Convenience and Necessity.

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

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

27 1. All Affected Utility customers with non-coincident peak demand load of 1 MW or
28 greater will be eligible for competitive electric services no later than [INSERT

1 **DATE] January 1, 1999.** Customers meeting this requirement shall be eligible for
2 competitive services until at least 20% of the Affected Utility's 1995 system peak
3 demand is served by competition.

- 4 2. During **[INSERT DATES] 1999 and 2000**, an Affected Utility's customers with
5 single premise non-coincident peak load demands of 40 kW or greater aggregated
6 into a combined load of 1 MW or greater within the Affected Utility's service
7 territory will be eligible for competitive electric services. Self-aggregation is also
8 allowed pursuant to the minimum and combined load demands set forth in this
9 rule. If peak load data are not available, the 40 kW criterion shall be determined
10 to be met if the customer's usage exceeded 16,500 kWh in any month within the
11 last 12 consecutive months. From **[INSERT DATE] January 1, 1999**, through
12 **[INSERT DATE] December 31, 2000**, aggregation of new competitive
13 customers will be allowed until such time as at least 20% of the Affected Utility's
14 1995 system peak demand is served by competitors. At that point all additional
15 aggregated customers must wait until **[INSERT DATE] January 1, 2001** to obtain
16 competitive service.

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

- 20 1. A minimum of 1¼% of residential customers as of **[INSERT DATE] January 1,**
21 ~~1999~~ will have access to competitive electric services on **[INSERT DATE]**
22 ~~January 1, 1999~~. The number of customers eligible for the residential phase-in
23 program shall increase by an additional 1¼ % every quarter until **[INSERT**
24 **DATE] January 1, 2001**.
- 25 5. Each Affected Utility shall file quarterly residential phase-in program reports
26 within 45 days of the end of each quarter. The 1st such report shall be due within
27 45 days of the quarter ending **[INSERT DATE] March 31, 1999**. The final report
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1 due under this rule shall be due within 45 days of the quarter ending [INSERT
2 DATE] ~~December 31, 2002~~. As a minimum, these quarterly reports shall include:

3 D. All customers shall be eligible to obtain competitive electric services no later than
4 [INSERT DATE] ~~January 1, 2001~~, at which time all customers shall be permitted to
5 aggregate, including aggregation across service territories.

6 G. A Load-Serving Entity may, beginning [INSERT DATE] ~~January 1, 1999~~, engage in
7 buy-throughs with individual or aggregated consumers. Any buy-through contract shall
8 ensure that the consumer pays all non-bypassable charges that would otherwise apply.
9 Any contract for a buy-through effective prior to [INSERT DATE] ~~January 1, 1999~~ must
10 be approved by the Commission.

11 **R14-2-1606. Services Required To Be Made Available**

12 A. Each Affected Utility shall make available to all consumers in its service area, as defined
13 on the date indicated in R14-2-1602, Standard Offer bundled generation, transmission,
14 ancillary, distribution, and other necessary services at regulated rates. After [INSERT
15 DATE] ~~January 1, 2001~~, Standard Offer service shall be provided by Utility Distribution
16 Companies who shall also act as Providers of Last Resort.

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

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

24 A. By the date indicated in R14-2-1602, each Affected Utility or Utility Distribution
25 Company shall file for Commission review non-bypassable rates or related mechanisms
26 to recover the applicable pro-rata costs of System Benefits from all consumers located in
27 the Affected Utility's or Utility Distribution Companies' service area who participate in
28 the competitive market. Affected Utilities or Utility Distribution Companies shall file for

1 review of the Systems Benefits Charge every 3 years. The amount collected annually
2 through the System Benefits charge shall be sufficient to fund the Affected Utilities' or
3 Utility Distribution Companies' Commission-approved low income, demand side
4 management, market transformation, environmental, renewables, long-term public
5 benefit research and development, and nuclear fuel disposal and nuclear power plant
6 decommissioning programs in effect from time to time. Now, the Commission will
7 approve a solar water heater rebate program: \$200,000 to be allocated proportionally
8 among the state's Utility Distribution Companies in [INSERT DATE] ~~1999~~, \$400,000 in
9 [INSERT DATE] ~~2000~~, \$600,000 in [INSERT DATE] ~~2001~~, \$800,000 in [INSERT
10 DATE] ~~2002~~, and \$1 million in [INSERT DATE] ~~2003~~; the rebate will not be more than
11 \$500 per system for Commission staff-approved solar water heaters. After [INSERT
12 DATE] ~~2003~~, future Commissions may review this program for efficacy.

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

- 14 A. Starting on [INSERT DATE] ~~January 1, 1999~~, any Electric Service Provider selling
15 electricity or aggregating customers for the purpose of selling electricity under the
16 provisions of this Article must derive at least .2% of the total retail energy sold
17 competitively from new solar energy resources, whether that solar energy is purchased or
18 generated by the seller. Solar resources include photovoltaic resources and solar thermal
19 resources that generate electricity. New solar resources are those installed on or after
20 January 1, 1997.
- 21 B. Starting January 1 of each year from [INSERT DATES] ~~2000 through 2003~~, the solar
22 resource requirement shall increase by .2% with the result that starting [INSERT DATE]
23 ~~January 1, 2003~~, any Electric Service Provider selling electricity or aggregating customers
24 for the purpose of selling electricity under the provisions of this Article must derive at
25 least 1.0% of the total retail energy sold competitively from new solar energy resources.
26 The 1.0% requirement shall be in effect from [INSERT DATES] ~~January 1, 2003 through~~
27 ~~December 31, 2012~~.

1 C. The solar portfolio requirement shall only apply to competitive retail electricity in the
2 years [INSERT DATES] ~~1999 and 2000~~ and shall apply to all retail electricity in the
3 years [INSERT DATE] ~~2001~~ and thereafter.

4 K. An Electric Service Provider shall be entitled to receive a partial credit against the solar
5 portfolio requirement if the Electric Service Provider or its affiliate owns or makes a
6 significant investment in any solar electric manufacturing plant that is located in Arizona.
7 The credit will be equal to the amount of the nameplate capacity of the solar electric
8 generators produced in Arizona and sold in a calendar year times 2,190 hours
9 (approximating a 25% capacity factor).

10 1. The credit against the portfolio requirement shall be limited to the following
11 percentages of the total portfolio requirement:

12	[INSERT DATE]	1999	Maximum of 50 % of the portfolio requirement
13	[INSERT DATE]	2000	Maximum of 50 % of the portfolio requirement
14	[INSERT DATE]	2001	Maximum of 25 % of the portfolio requirement
15	[INSERT DATE]	2002	Maximum of 25 % of the portfolio requirement
16	[INSERT DATE]	2003 and on	Maximum of 20 % of the portfolio requirement

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

17 O. Unbundled Billing Elements. All customer bills after [INSERT DATE] ~~January 1, 1999~~
18 will list, at a minimum, the following billing cost elements:

19 **R14-2-1614. Reporting Requirements**

20 **B. Reporting Schedule**

21 1. For the period through December 31, 2003, semi-annual reports shall be due on
22 April 15 (covering the previous period of July through December) and October 15
23 (covering the previous period of January through June). The 1st such report shall
24 cover the period [INSERT DATE] ~~January 1 through June 30, 1999~~.

25 **R14-2-1616. Separation of Monopoly and Competitive Services**

26 A. All competitive generation assets and competitive services shall be separated from an
27 Affected Utility prior to [INSERT DATE] ~~January 1, 2001~~. Such separation shall either
28 be to an unaffiliated party or to a separate corporate affiliate or affiliates. If an Affected

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Utility chooses to transfer its competitive generation assets or competitive services to a competitive electric affiliate, such transfer shall be at a value determined by the Commission to be fair and reasonable.

B. Beginning [INSERT DATE] ~~January 1, 1999~~, an Affected Utility or Utility Distribution Company shall not provide competitive services as defined herein, except as otherwise authorized by these rules or by the Commission. However, this rule does not preclude an Affected Utility's or Utility Distribution Company's affiliate from providing competitive services. Nor does this rule preclude an Affected Utility or Utility Distribution Company from billing its own customers for distribution service, or from providing billing services to Electric Service Providers in conjunction with its own billing or from providing meters for Load Profiled residential customers. Nor does this rule require an Affected Utility or Utility Distribution Company to separate such assets or services utilized in these circumstances. Affected Utilities and Utility Distribution Companies shall provide, if requested by an Electric Service Provider or customer, metering, meter reading, billing, and collection services within their service territories at tariffed rates to customers that do not have access to these services during the years [INSERT DATES] ~~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 2 or more competitive Electric Service Providers are offering such services to a particular customer class. When 2 competitive Electric Service Providers are providing 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 [INSERT DATE] ~~December 31, 2000~~, to the existing competitive customers signed up prior to the commencement of service by the 2 competitive Electric Service Providers.

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

2 **E. Compliance Plans**

3 No later than December 31, 1998, each Affected Utility or Utility Distribution Company
4 shall file a compliance plan demonstrating the procedures and mechanisms implemented
5 to ensure that activity prohibited by these rules will not take place. The compliance plan
6 shall be submitted to the Director, Utilities Division and shall be in effect until a
7 determination is made regarding its compliance under these rules. The compliance plan
8 shall thereafter be submitted annually to reflect any material changes. An Affected Utility
9 or Utility Distribution Company shall have a performance audit prepared by an
10 independent auditor in the 1st quarter after the end of each calendar year to examine
11 compliance with the rules set forth herein, starting no later than the calendar year
12 [INSERT DATE] 1999, and every year thereafter until December 31, 2002. Such audits
13 shall be filed with the Director, Utilities Division. After December 31, 2002 the Director,
14 Utilities Division may request a Utility Distribution Company to conduct such an audit.

15 RESPECTFULLY SUBMITTED this 29th day of January, 1999.

16
17 By: Paul A. Bullis
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19 Christopher C. Kempley
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22 Original and ten copies of the
23 foregoing filed this 29th day
24 of January, 1999 with:

25 Docket Control
26 Arizona Corporation Commission
27 1200 West Washington Street
28 Phoenix, Arizona 85007

A copy of the foregoing was
mailed this 29th day of January,
1999 to:

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

By: Mary Spolito