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**Secretary of State**  
Public Services Division  
1700 West Washington, 7th Floor  
Phoenix, Arizona 85007  
(602) 542-4086

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**MEMORANDUM**

**TO:** Ray T. Williamson, Acting Director, Utilities Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007  
**FROM:** Rhonda Paschal *R.P.*  
Editor, *Arizona Administrative Register*  
**RE:** Register Material  
**DATE:** February 5, 1999

Arizona Corporation Commission  
**DOCKETED**

FEB 12 1999

DOCKETED BY *o.d.*

The item[s] listed below appeared in the January 29, 1999, issue of the *Register*.  
Notice of Exempt Rulemaking

If you detect any errors in the printing of these notices, please let me know. If you have any comments or questions, please contact me at (602) 542-4086.

ARIZONA CORPORATION  
COMMISSION  
**RECEIVED**  
FEB 10 1999  
Director of Utilities

Jan 29 1998  
R98-513

AGENCY RECEIPT

Notice of Exempt Rulemaking

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:

| <u>Subchapters, Articles, Parts, and Sections</u> | <u>Action</u> |
|---|---------------|
| Article 2   |               |
| R14-2-212   | Amend         |
| Article 3   |               |
| R14-2-312   | Amend         |
| Article 4   |               |
| R14-2-411   | Amend         |
| Article 5   |               |
| R14-2-510   | Amend         |
| Article 6   |               |
| R14-2-610   | Amend         |
| Article 9   |               |
| R14-2-902   | Amend         |
| Article 10  |               |
| R14-2-1002  | Amend         |
| Article 11  |               |
| R14-2-1103  | Amend         |
| Article 16  |               |
| R14-2-1603  | Amend         |

AGENCY CERTIFICATE

- 1. Agency name: Arizona Corporation Commission
- 2. Chapter heading: Corporation Commission-Fixed Utilities
- 3. Code citation for the Chapter: 14 A.A.C. 2
- 4. The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, listed in alphabetical and numerical order:

Dec 31 4 00 PM '83  
R96-513

| Subchapters, Articles, Parts, and Sections | Action: |
|--|---------|
| Article 2                                  |         |
| R14-2-212                                  | Amend   |
| Article 3                                  |         |
| R14-2-312                                  | Amend   |
| Article 4                                  |         |
| R14-2-411                                  | Amend   |
| Article 5                                  |         |
| R14-2-510                                  | Amend   |
| Article 6                                  |         |
| R14-2-610                                  | Amend   |
| Article 9                                  |         |
| R14-2-902                                  | Amend   |
| Article 10                                 |         |
| R14-2-1002                                 | Amend   |
| Article 11                                 |         |
| R14-2-1103                                 | Amend   |
| Article 16                                 |         |
| R14-2-1603                                 | Amend   |

5. The rules contained in this package are true and correct as adopted.

6. *Jack Rose*  
Signature of Agency Chief Executive Officer

12-31-98  
Date of signing

Jack Rose  
Printed or typed name of signer

Executive Secretary  
Title of signer

Jan 23 Rep  
R92-513

NOTICE OF EXEMPT RULEMAKING

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;

SECURITIES REGULATION

CHAPTER 2. CORPORATION COMMISSION-FIXED UTILITIES

PREAMBLE

| 1. | <u>Sections Affected</u> | <u>Rulemaking Action</u> |
|----|--------------------------|--------------------------|
|    | Article 2                |                          |
|    | R14-2-212                | Amend                    |
|    | Article 3                |                          |
|    | R14-2-312                | Amend                    |
|    | Article 4                |                          |
|    | R14-2-411                | Amend                    |
|    | Article 5                |                          |
|    | R14-2-510                | Amend                    |
|    | Article 6                |                          |
|    | R14-2-610                | Amend                    |
|    | Article 9                |                          |
|    | R14-2-902                | Amend                    |
|    | Article 10               |                          |
|    | R14-2-1002               | Amend                    |
|    | Article 11               |                          |
|    | R14-2-1103               | Amend                    |
|    | Article 16               |                          |
|    | R14-2-1603               | Amend                    |

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 40-202, 40-204, 40-281, 40-282, 40-321, 40-361, 40-365, 40-367, 41-1072 through -1078 and Title 40 generally

Constitutional authority: Arizona Constitution, Article 15, Sections 1, 2, 3, 4, 6, 7 and 9

3. The effective date of the rules: December 31, 1998

4. A list of all previous notices appearing in the Register addressing the exempt rule:

4 A.A.R. 39, September 25, 1998 (Notice of Docket Opening)  
4 A.A.R. 41, October 9, 1998 (Notice of Proposed Rulemaking)

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Ray T. Williamson, Acting Director, Utilities Division

Address: Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Telephone Number: (602) 542-0745

Fax Number: (602) 542-2129

6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:

The purpose of this rulemaking is to implement time-frames for the processing of applications for Certificates of Convenience and Necessity ("CC&N") and applications to amend or change the status of any existing CC&N. These amendments implement requirements identified in Arizona Revised Statutes §§ 41-1072 through -1078.

The Arizona Corporation Commission is exempt from regular rulemaking procedures pursuant to A.R.S. § 41-1057.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The summary of the economic, small business, and consumer impact:

The proposed amendments to R14-2-212, R14-2-312, R14-2-411, R14-2-510, R14-2-610, R14-2-902, R14-2-1002, R14-2-1103 and R14-2-1603 establish the time-frames within which the Utilities Division (the "Division") of the Arizona Corporation Commission (the "Commission") shall process the applications for Certificate of Convenience and Necessity ("CC&N") by utility service providers under its

jurisdiction. This rulemaking is mandated by Arizona Revised Statutes §§ 41-1072 through -1078 (the "time-frame statutes").

The increased cost to the Commission to provide staff time to draft the rule amendments and an economic and small business and consumer impact statement is minimal. The rules are not expected to result in any change in revenues. There are no expected increases in costs arising from noncompliance with the time-frames set by the rule.

Since no fees are collected from companies that apply for a CC&N, the time-frame rule will have no financial impact. All parties however, will benefit from a clear, concise, and an understandable certification process with definite time-frames. The use of definite time-frames prevents misunderstanding and promotes better communication between the Commission and the regulated public.

9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

None

10. A summary of the principal comments and the agency response to them:

On October 16, 1998, U S WEST Communications, Inc. ("U S WEST") filed written comments on the amendments to the Rules. On November 6, 1998, the Division filed its Response to Public Comments. At the public comment hearing on the amendments to the Rules that took place on November 10, 1998, U S WEST and MCI Telecommunications Inc. ("MCI") made public comments.

U S WEST and MCI support the amendments to the Rules. U S WEST believes that the proposed Rules should also include timeframes within which the Commission must process applications relative to the classification of competitive and non-competitive services. The Commission disagrees that time frames should be established in this rulemaking for classification of competitive and non-competitive services, because such an application is not an application for a license. The Commission believes that any procedures specifying timeframes for designation of competitive services should be established as Commission policy rather than by administrative rule. These amendments to the Rules are being adopted pursuant to the requirements of A.R.S. §§ 41-1072 through -1078, to establish timeframes for applications for licenses.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

None

13. Was this rule previously adopted as an emergency rule?

No

14. The full text of the rules:

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND  
ASSOCIATIONS; SECURITIES REGULATION**

**CHAPTER 2. CORPORATION COMMISSION - FIXED UTILITIES**

**ARTICLE 2. ELECTRIC UTILITIES**

R14-2-212. Administrative and hearing requirements

**ARTICLE 3. GAS UTILITIES**

R14-2-312. Administrative and hearing requirements

**ARTICLE 4. WATER UTILITIES**

R14-2-411. Administrative and hearing requirements

**ARTICLE 5. TELEPHONE UTILITIES**

R14-2-510. Administrative and hearing requirements

**ARTICLE 6. SEWER UTILITIES**

R14-2-610. Administrative and hearing requirements

**ARTICLE 9. CUSTOMER-OWNED PAY TELEPHONES**

R14-2-902. Application for Certificate of Convenience and Necessity

**ARTICLE 10. ALTERNATIVE OPERATOR SERVICES**

R14-2-1002. Application for Certificate of Convenience and Necessity

**ARTICLE 11. COMPETITIVE TELECOMMUNICATIONS SERVICES**

R14-2-1103. Certificates of Convenience and Necessity Required

**ARTICLE 16. RETAIL ELECTRIC COMPETITION**

R14-2-1603. Certificates of Convenience and Necessity

ARIZONA CORPORATION COMMISSION

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION**

**CHAPTER 2. CORPORATION COMMISSION - FIXED UTILITIES**

**ARTICLE 2. ELECTRIC UTILITIES**

**R14-2-212. Administrative and hearing requirements**

- A. No change.
- B. No change.
- C. No change.
- D. No change.

**E. Time-frames for processing applications for Certificates of Convenience and Necessity**

1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
2. Within 120 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.

6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:

- a. Administrative completeness review time-frame: 120 calendar days.
- b. Substantive review time-frame: 150 calendar days.
- c. Overall time-frame: 270 calendar days.

7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.

8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

~~E. Incomplete application for a Certificate of Convenience, transfer of a Certificate of Convenience, rate review~~

~~1. Applications will not be assigned a docket number until the application is complete according to the Arizona Revised Statutes and the Commission's rules and regulations.~~

~~2. The Commission shall within 15 days of receipt return the incomplete application making note of such deficiencies.~~

F. No change.

G. No change.

H. No change.

I. No change.

J. No change.

### ARTICLE 3. GAS UTILITIES

R14-2-312. Administrative and hearing requirements

A. No change.

B. No change.

C. No change.

D. No change.

E. Time-frames for processing applications for Certificates of Convenience and Necessity

ARIZONA CORPORATION COMMISSION

1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
2. Within 120 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.
6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
  - a. Administrative completeness review time-frame: 120 calendar days.
  - b. Substantive review time-frame: 150 calendar days.
  - c. Overall time-frame: 270 calendar days.
7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

E. Incomplete application for a Certificate of Convenience, transfer of a Certificate of Convenience, rate review



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administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.

5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.

6. For purposes of A.R.S § 41-1072, et seq., the Commission has established the following time-frames:

a. Administrative completeness review time-frame: 30 calendar days.

b. Substantive review time-frame: 150 calendar days.

c. Overall time-time: 180 calendar days.

7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.

8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time- frame rules.

~~C. Incomplete application for a Certificate of Convenience, transfer of a Certificate of Convenience, rate review~~

~~1. Applications will not be assigned a docket number until the application is complete according to the Arizona Revised Statutes and the Commission's rules and regulations.~~

~~2. The Commission shall within 15 days of receipt return the incomplete application making note of such deficiencies.~~

D. No change.

E. No change.

F. No change.

G. No change.

**ARTICLE 5. TELEPHONE UTILITIES**

**R14-2-510. Administrative and hearing requirements**

A. No change.

B. No change.

C. No change.

D. No change.

E. Time-frames for processing applications for Certificates of Convenience and Necessity

1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
2. Within 30 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.
6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
  - a. Administrative completeness review time-frame: 30 calendar days.
  - b. Substantive review time-frame: 150 calendar days.
  - c. Overall time-frame: 180 calendar days.
7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

ARIZONA CORPORATION COMMISSION

**E. Incomplete application for a Certificate of Convenience, transfer of a Certificate of Convenience, rate review, or financing requests**

- 1- Applications will not be docketed until the application is complete according to the Arizona Revised Statutes and the Commission's rules and regulations.
- 2- The Commission shall within 15 days of receipt return the application making note of such deficiencies.

F. No change.

G. No change.

H. No change.

I. No change.

J. No change.

#### ARTICLE 6. SEWER UTILITIES

##### **R14-2-610. Administrative and hearing requirements**

A. No change.

B. No change.

##### **C. Time frames for processing applications for Certificates of Convenience and Necessity**

1. This rule prescribes time frames for the processing of any Application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time frames shall apply to applications filed on or after the effective date of this rule.
2. Within 30 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.

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4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.

5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.

6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:

- a. Administrative completeness review time-frame: 30 calendar days.
- b. Substantive review time-frame: 150 calendar days.
- c. Overall time-frame: 180 calendar days.

7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.

8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

**C. Incomplete application for a Certificate of Convenience, transfer of a Certificate of Convenience, rate review, or financing requests**

1- Applications will not be docketed until the application is complete according to the Arizona Revised Statutes and the Commission's rules and regulations.

2- The Commission shall within 15 days of receipt return the incomplete application making note of such deficiencies.

- D. No change.
- E. No change.
- F. No change.
- G. No change.

**ARTICLE 9. CUSTOMER-OWNED PAY TELEPHONES**

**R14-2-902. Application for Certificate of Convenience and Necessity**

- A. No change.

B. No change.

C. No change.

D. No change.

E. Time-frames for processing applications for Certificates of Convenience and Necessity

1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
2. Within 30 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application, unless a formal hearing is held.
6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
  - a. Administrative completeness review time-frame: 30 calendar days.
  - b. Substantive review time-frame: 150 calendar days.
  - c. Overall time-frame: 180 calendar days.
7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.

8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

~~E.F.~~ Subsequent to adoption of this Article, the Commission shall issue an order setting time limitations within which LECs, as well as all customers of record providing service as of the effective date of this Article, shall comply with the requirements contained herein.

## ARTICLE 10. ALTERNATIVE OPERATOR SERVICES

### R14-2-1002. Application for Certificate of Convenience and Necessity

- A. No change.
- B. No change.
- C. No change.
- D. No change.

#### E. Time-frames for processing applications for Certificates of Convenience and Necessity

1. This rule prescribes time-frames for the processing of any Application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
2. Within 365 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies
3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.

5. Within 365 calendar days after an application is deemed administratively complete, the Commission shall approve or reject the application.
6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
- a. Administrative completeness review time-frame: 365 calendar days.
  - b. Substantive review time-frame: 365 calendar days.
  - c. Overall time-frame: 730 calendar days.
7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

#### **ARTICLE 11. COMPETITIVE TELECOMMUNICATIONS SERVICES**

##### **R14-2-1103. Certificates of Convenience and Necessity Required**

- A.** All telecommunications companies providing intrastate telecommunications services shall obtain a Certificate of Convenience and Necessity from the Commission, either under this Article, if competitive services are to be provided or, under Article 5. If the Commission determines that the services identified in an Application filed under this Article are not competitive, the Commission may nevertheless grant a Certificate and authorize provision of the services on a noncompetitive basis pursuant to Article 5.
- B.** Time-frames for processing applications for Certificates of Convenience and Necessity
- 1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
  - 2. Within 10 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either

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administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.

3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
5. Within 270 days after an application is deemed administratively complete, the Commission shall approve or reject the application, unless a formal hearing is held.
6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
  - a. Administrative completeness review time-frame: 10 calendar days.
  - b. Substantive review time-frame: 270 calendar days.
  - c. Overall time-frame: 280 calendar days.
7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

#### ARTICLE 16. RETAIL ELECTRIC COMPETITION

##### R14-2-1603. Certificates of Convenience and Necessity

- A. No change.
- B. No change.
- C. No change.
- D. No change.
- E. No change.
- F. No change.
- G. No change.

H. No change.

I. No change.

J. Time-frames for processing applications for Certificates of Convenience and Necessity

1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
2. Within 120 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
5. Within 180 calendar days after an application is deemed administratively complete, the Commission shall approve or reject the application.
6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
  - a. Administrative completeness review time-frame: 120 calendar days.
  - b. Substantive review time-frame: 180 calendar days.
  - c. Overall time-frame: 300 calendar days.
7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.



14-11-0000-00000

## 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**

None.

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

**ARTICLE 1. IN GENERAL**

**A.A.C. R14-1-103:**

In response to the requirement of A.R.S. §§ 41-1072 through -1078, to enact licensing time-frame rules, the Arizona Corporation Commission initiated rulemaking to prescribe time-frames for the processing of any certificate or license issued by the Arizona Corporation Commission pursuant to Title 40 of the Arizona Revised Statutes. To provide the public with clear timeframes for processing applications for Certificates of Convenience and Necessity, the Commission has promulgated new Rules A.A.C. R14-2-212, A.A.C. R14-2-312, A.A.C. R14-2-411, A.A.C. R14-2-510, A.A.C. R14-2-610, A.A.C. R14-2-902, A.A.C. R14-2-1002, A.A.C. R14-2-1103, and A.A.C. R14-2-1603.

The Rules establish time frames in which the Utilities Division shall process applications for Certificates of Convenience and Necessity. The Time Frame Statutes require the agency to establish an overall timeframe consisting of two components: an administrative completeness review timeframe; and a substantive review timeframe. The Rules establish separate timeframes for each of these components. For water, telephone, and sewer utilities, and for customer owned pay telephones, the administrative completeness review period is 30 days and the substantive review period is 150 days, for a combined overall time frame of 180 days. For electric and gas utilities, the administrative completeness review period is 120 days and the substantive review

period is 150 days, for a combined overall timeframe of 270 days. For electric competition rules, the administrative completeness review period is 120 days and the substantive review period is 180 days, for a combined overall timeframe of 300 days. For competitive telecommunications services, the administrative completeness review period is 10 days and the substantive review period is 270 days, for a combined overall timeframe of 280 days. For alternative operator services, the administrative completeness review period is 365 days and the substantive review period is 365 days, for a combined overall timeframe of 730 days.

No member of the public opposed the proposed Rules. U S WEST Communications and MCI Telecommunications supported the proposed Rules. U S WEST argued that the proposed Rules should also include timeframes within which the Commission must process applications relative to the classification of competitive and non-competitive services. Staff disagreed that timeframes should be established in this rulemaking for classification of competitive and non-competitive services, because such an application is not an application for a license. Staff believes that any procedures specifying timeframes for designation of competitive services should be established as Commission policy rather than by administrative rule. We concur with Staff. The proposed Rules are being adopted pursuant to the requirements of A.R.S. § 41-1072 through - 078 to establish timeframes for applications for licenses.

## **ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT**

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

#### **1. Proposed rulemaking.**

The proposed amendments to (R14-2-212, R14-2-312, R14-2-411, R14-2-510, R14-2-610, R14-2-902, R14-2-1002, R14-2-1103, and R14-2-1603) establish the time-frames within which the Utilities Division (the "Division") of the Arizona Corporation Commission (the "Commission") shall process the applications for Certificate of Convenience and Necessity ("CC&N") by utility service providers under its jurisdiction. This rulemaking is mandated by A.R.S. § 41-1072, *et seq.* (the "time-frame statutes").

Each amendment consists of two processing components each with its own time-frames. The first component is an administrative completeness review time-frame. Within a specified number of days after receipt of the application for a new CC&N or to change the status of an existing CC&N the Commission provides notice to the applicant that the application is administratively complete or deficient. If deficient, the notice specifies all deficiencies. The applicant receiving the deficiency notice is required to provide the Commission with the needed information within a specified number of days after receipt of the deficiency notice. Once the Commission receives the information requested in the deficiency notice, it shall have a specified number of days to notify the applicant, in writing, that the application is either administratively complete or deficient with deficiencies identified. Within a specified number of days after the application is deemed administratively complete, the Commission shall approve or reject the application.

If an applicant requests, and is granted, an extension or continuance, the appropriate time frames are tolled from the date of the request through the duration of the extension or continuance. During the second component, the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame.

#### **2. Information contained in this report.**

This economic, small business and consumer impact statement analyzes the costs, savings, and benefits that accrue to the Commission, Secretary of State, CC&N applicants, and the public. The impact of the proposed amendments on established Commission procedures, Commission staff time, and other administrative costs is minimal. The benefits to the Commission are minimal. The estimated additional cost to the Secretary of State's office is minimal. This additional cost stems from the Secretary of State's staff time publishing the rule. The benefits provided by the proposed rules are non-quantifiable. The rules should benefit the Commission's relations with regulated utility service providers by preventing misunderstandings about the time necessary for acquiring a CC&N. The public will benefit from clear and concise standards for the certification process.

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

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

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

**1. Proposed rulemaking.**

The proposed amendments to R14-2-212, R14-2-312, R14-2-411, R14-2-510, R14-2-610, R14-2-902, R14-2-1002, R14-2-1103, and R14-2-1603,) establish time-frames within which the Division shall process applications by utility companies for a Certificate of Convenience and Necessity. This rulemaking is mandated by A.R.S. §41-1072, *et seq.*

Each amendment consists of two components. The first is an administrative completeness review time-frame. Within a specified number of days after receipt of the application for a new CC&N, or to change the status of an existing CC&N the Commission provides notice to the applicant that the application is administratively complete or deficient. If deficient, the notice specifies all deficiencies. The applicant receiving the deficiency notice is required to provide the Commission with the needed information within a specified number of days after receipt of the deficiency notice. Once the Commission receives the information requested in the deficiency notice, it shall have a specified number of days to notify the applicant, in writing, that the application is either administratively complete or deficient with deficiencies identified. Within a specified number of days after the application is deemed administratively complete, the Commission shall approve or reject the application.

If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request through the duration of the extension or continuance. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame.

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

Those affected by the proposed rulemaking include fixed utility service company applicants seeking a CC &N that will allow them to provide customer services. For Fiscal Year 1997, the Division processed 136 CC&N applications.

**Cost bearers**

The costs of the time-frame rules are borne by the Commission.

**Beneficiaries**

The citizens of Arizona, certificated fixed utility companies, and the Commission benefit from clear and concise standards for the certification process.

**3. Cost/benefit analysis.**

**Cost/revenue scale**

Annual costs/revenues changes are designated as minimal when less than \$1000 in additional costs or revenues, moderate when between \$1000 and \$10,000 in additional costs or revenues, and substantial when greater than \$10,000 in additional costs or revenues.

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

The increased cost to the Commission to provide staff time to draft the rule amendments and an economic and small business and consumer impact statement is minimal. The rules are not expected to result in any change in revenues. There are no expected increase in costs arising from noncompliance with the time-frames set by the rule.

Minimal increase costs for the Secretary of State will result from staff time needed to prepare and print the proposed rules in the Register.

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

None.

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

None.

Since no fees are collected for companies to apply for a CC&N, the time-frame rule will have no financial impact. All parties however, will benefit from a clear, concise, and an understandable certification process with definite time-frames. The use of definite time-frames prevents misunderstanding and promotes better communication between the Commission and the regulated public.

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

The rules should have no impact on private and public employment.

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

