

ORIGINAL



0000168891

TO: Docket Control
FROM: Constance J. Fitzsimmons *CJF*
Senior Paralegal, Legal Division
DATE: March 8, 2016
RE: NOTICE OF RULEMAKING DOCKET OPENING and NOTICE OF
PROPOSED RULEMAKING, Docket No. AU-00000A-15-0246

RECEIVED

2016 MAR -8 P 3:15

AZ CORP COMMISSION
DOCKET CONTROL

Attached is the Notice of Rulemaking Docket Opening and Notice of Proposed Rulemaking amending the Public Utility Holding Companies and Affiliated Interests Rules, A.A.C. R14-2-801 *et seq.*, as published in the *Arizona Administrative Register*, Volume 22, Issue 10 on March 4, 2016.

Arizona Corporation Commission

DOCKETED

MAR 08 2016

DOCKETED BY

KG

Arizona Administrative REGISTER

Published by the Department of State ~ Office of the Secretary of State

Vol. 22, Issue 10

~ Administrative Register Contents ~

March 4, 2016

Information408

Rulemaking Guide409

RULES AND RULEMAKING

Proposed Rulemaking, Notices of

 14 A.A.C. 2 Corporation Commission - Fixed Utilities411

 20 A.A.C. 5 Industrial Commission of Arizona416

Emergency Rulemaking, Notices of

 9 A.A.C. 10 Department of Health Services - Health Care Institutions: Licensing420

OTHER AGENCY NOTICES

Docket Opening, Notices of Rulemaking

 9 A.A.C. 17 Department of Health Services - Medical Marijuana Program423

 14 A.A.C. 2 Corporation Commission - Fixed Utilities424

GOVERNOR'S OFFICE

Governor's Executive Orders

 E.O. 2016-03: Internal Review of Administrative Rules; Moratorium to Promote Job Creation and Customer-Service-Oriented Agencies426

Governor's Proclamations

 Black History Month428

 Colorectal Cancer Awareness Month428

 Judge Learned Hand Awards Day429

 Narcolepsy Awareness Day429

 Saint Patrick's Day in Arizona430

ARIZONA COUNTY NOTICES

 Maricopa County431

INDEXES

 Register Index Ledger536

 Rulemaking Activity, Cumulative Index for 2016537

 Other Notices and Public Records, Cumulative Index for 2016538

CALENDAR/DEADLINES

 Rules Effective Dates Calendar539

 Register Publishing Deadlines541

GOVERNOR'S REGULATORY REVIEW COUNCIL

 Governor's Regulatory Review Council Deadlines542

DIRECTOR
Public Services Division
Scott Cancelosi

PUBLISHER
Secretary of State
MICHELE REAGAN

RULES MANAGING EDITOR
Arizona Administrative Register
Rhonda Paschal



NOTICES OF PROPOSED RULEMAKING

This section of the Arizona Administrative Register contains Notices of Proposed Rulemakings.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same Register issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the Register within three weeks of filing. See the publication schedule in the back of each issue of the Register for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the Register before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency the promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

NOTICE OF PROPOSED RULEMAKING

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

CHAPTER 2. CORPORATION COMMISSION - FIXED UTILITIES

[R16-29]

PREAMBLE

1. Article, Part, or Section Affected (as applicable)

R14-2-802

Rulemaking Action

Amend

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: Arizona Constitution Article XV, § 3; A.R.S. §§ 40-202, 40-203, and 40-321

Implementing statute: Arizona Constitution Article XV, § 3; A.R.S. §§ 40-202, 40-203, and 40-321

3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:

Notice of Rulemaking Docket Opening: 22 A.A.R. 424, March 4, 2016 (in this issue).

4. The agency's contact person who can answer questions about the rulemaking:

Name: Maureen Scott, Senior Staff Counsel, Legal Division

Address: Corporation Commission
1200 W. Washington St.

Phoenix, AZ 85007

Telephone: (602) 542-3402

Fax: (602) 542-4870

E-mail: mscott@azcc.gov

Web site: www.azcc.gov

Name: Robin Mitchell, Staff Attorney, Legal Division

Address: Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007
Telephone: (602) 542-3402
Fax: (602) 542-4870
E-mail: RMitchell@azcc.gov
Web site: www.azcc.gov

Name: Matthew Connolly, Executive Consultant, Utilities Division
Address: Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007
Telephone: (602) 542-0856
Fax: (602) 364-2270
E-mail: MConnolly@azcc.gov
Web site: www.azcc.gov

5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The purpose of the proposed rule change would be to amend R14-2-802(A) to exempt telecommunications carriers, whose retail telecommunications services have all been determined to be competitive, from application of the Affiliated Interest Rules, except as may be determined by a future Arizona Corporation Commission order. The specific change proposed is based upon and supported by the changes to A.R.S. § 40-285 made by the Arizona Legislature in 2013.

The proposed rule change is expected to relieve eligible telecommunications companies from having to submit to the Commission applications for waivers of the Affiliated Interest Rules associated with reorganizations, mergers, consolidations or refinancing, along with no longer having to submit Class A Investor-owned Utilities and Affiliates Annual Reports.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

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

Not applicable

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

NOTE – The Arizona Corporation Commission is exempt from the requirements of A.R.S. § 41-1055 relating to economic, small business, and consumer impact statements. See A.R.S. § 41-1057(2). However, under A.R.S. § 41-1057(2), the Arizona Corporation Commission is required to prepare a “substantially similar” statement.

Economic, Small Business and Consumer Impact Statement

1. Identification of the proposed rulemaking.

The purpose of the proposed rule change would be to amend R14-2-802(A) to exempt telecommunications carriers, whose retail telecommunications services have all been determined to be competitive, from application of the Affiliated Interest Rules, except as may otherwise be determined by a future Commission



order. The specific change proposed is based upon and supported by the changes to A.R.S. § 40-285 made by the Arizona Legislature in 2013¹.

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

- a. Telecommunications service providers whose services have been determined to be competitive in Arizona; and the
- b. Arizona Corporation Commission.

3. **Cost-benefit analysis.**

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

There are no probable costs to the Commission. Probable benefits to the Commission of the proposed rulemaking would include cost and time savings associated with no longer having to process applications for waivers of the Affiliated Interest Rules associated with reorganizations, mergers, consolidations or refinancing, along with no longer having to process Class A Investor-Owned Utilities and Affiliates Annual Reports filed by telecommunications companies.

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

Not applicable

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

Probable benefits to telecommunications companies meeting the eligibility requirement of the proposed rulemaking would include cost and time savings associated with no longer having to submit applications for waivers of the Affiliated Interest Rules associated with reorganizations, mergers, consolidations or refinancing, along with no longer having to submit Class A Investor-Owned Utilities and Affiliates Annual Reports. Payroll expenditures of eligible companies will probably not be affected. Any revenue increase of eligible companies as a result of no longer having to perform the aforementioned filings is probably de minimis.

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

No impact on employment is expected.

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

a. **Identification of the small businesses subject to the proposed rulemaking.**

¹ In 2013, the legislature added Subpart (F) to the statute which reads as follows: F: "This section does not apply to a telecommunications corporation whose retail telecommunications services are all classified as competitive by the commission, except as may otherwise be determined by a commission order after the effective date of this amendment to this section."

To the extent that a small business may be involved in a future merger with an eligible telecommunication company, the small business may benefit as such a transaction would be less regulatory burdensome in Arizona.

b. Administrative and other costs required for compliance with the proposed rulemaking.

None

c. A description of the methods that the agency may use to reduce the impact on small businesses.

Not applicable

d. Probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking.

There should be no costs or benefits to private persons who are customers of eligible telecommunications companies as a result of this rule making.

6. Probable effect on state revenues.

None

7. Less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking.

The Commission is unaware of any alternative methods of achieving the purpose of the rule making that would be less intrusive or less costly.

8. Description of any data on which the rule is based.

The proposed rulemaking is not based on data.

C. If for any reason adequate data are not reasonably available to comply with the requirements of subsection B of this section, the agency shall explain the limitations of the data and the methods that were employed in the attempt to obtain the data and shall characterize the probable impacts in qualitative terms.

The proposed rulemaking is not based on data.

9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:

Name: Maureen Scott, Senior Staff Counsel, Legal Division
 Address: Corporation Commission
 1200 W. Washington St.
 Phoenix, AZ 85007
 Telephone: (602) 542-3402
 Fax: (602) 542-4870
 E-mail: mscott@azcc.gov
 Web site: www.azcc.gov

Name: Robin Mitchell, Staff Attorney, Legal Division
 Address: Corporation Commission



1200 W. Washington St.
 Phoenix, AZ 85007
 Telephone: (602) 542-3402
 Fax: (602) 542-4870
 E-mail: mscott@azcc.gov

Name: Matthew Connolly
 Address: Corporation Commission
 1200 W. Washington St.
 Phoenix, AZ 85007
 Telephone: (602) 542-0856
 Fax: (602) 364-2270
 E-mail: MConnolly@azcc.gov
 Web site: www.azcc.gov

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

The Commission has scheduled the following oral proceeding for public comments:

Date: April 14, 2016
 Time: 10:00 a.m.
 Location: Arizona Corporation Commission
 Hearing Room 1
 1200 W. Washington St.
 Phoenix, AZ 85007

Nature: Oral proceeding

The Commission requests that written comments be filed by April 4, 2016 and that responsive written comments be filed by April 14, 2016. The comments may be filed with the Commission's Docket Control at the address listed above. Please reference Docket No. AU-00000A-15-0246 on all documents.

Oral comments may be provided at the proceedings on April 14, 2016, at 10:00 a.m., as noted above.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

The rule is no more stringent than Federal Communications Commission rules. (47 C.F.R. 63.04)

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

None

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

13. The full text of the rules follows:

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

CHAPTER 2. CORPORATION COMMISSION - FIXED UTILITIES

ARTICLE 8. PUBLIC UTILITY HOLDING COMPANIES AND AFFILIATED INTERESTS

Section

R14-2-802. Applicability

ARTICLE 8. PUBLIC UTILITY HOLDING COMPANIES AND AFFILIATED INTERESTS

R14-2-802. Applicability

- A. These rules are applicable to all Class A investor-owned utilities under the jurisdiction of the Commission and are applicable to all transactions entered into after the effective date of these rules. Notwithstanding the preceding sentence, these rules shall not apply to a telecommunications utility whose retail telecommunications services have been classified as competitive pursuant to A.A.C. R14-2-1101 et seq., except as may otherwise be determined by a future Commission order.
- B. No change

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

[R16-30]

PREAMBLE

1. Article, Part, or Section Affected Rulemaking Action
R20-5-715 Amend
2. Citations to agency's statutory rulemaking authority to include the authorizing statute and the implementing statute:
Authorizing statutes: A.R.S. §§ 23-107(A)(1); 23-961.01(B)
Implementing statute: A.R.S. § 23-961.01(F)
3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:
Notice of Rulemaking Docket Opening: 22 A.A.R. 239, February 12, 2016.
4. The agency's contact person who can answer questions about the rulemaking:
Name: Scott J. Cooley, Attorney
Address: Industrial Commission of Arizona
800 W. Washington St., Suite 303
Phoenix, AZ 85007
Telephone: (602) 542-5781
Fax: (602) 542-6783
E-mail: scott.cooley@azica.gov
5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:
A.R.S. § 23-961.01(F) requires that the Industrial Commission of (Commission) "adopt rules necessary for safeguarding the solvency of pools and guaranteeing that injured workers receive benefits required under [A.R.S. Title 23, Chapter 6, Workers' Compensation]. These rules shall include, at a minimum, matters pertaining to [among other things] . . . specific and aggregate excess insurance . . . necessary for participation in and administration of the workers'

Office of Administrative Counsel and Rules
 1740 W. Adams St., Suite 203
 Phoenix, AZ 85007

Telephone: (602) 542-1020
 Fax: (602) 364-1150
 E-mail: Robert.Lane@azdhs.gov

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

Written comments will be accepted at the addresses listed in item #4 until the close of record, which has not yet been determined. The Department has not scheduled any oral proceedings at this time.

6. A timetable for agency decisions or other action on the proceeding, if known:

To be announced in the Notice of Proposed Rulemaking

NOTICE OF RULEMAKING DOCKET OPENING

**CORPORATION COMMISSION
 FIXED UTILITIES**

[R16-34]

- 1. Title and its heading:** 14, Public Service Corporations; Corporations and Associations; Securities Regulation
- Chapter and its heading:** 2, Corporation Commission – Fixed Utilities
- Article and its heading:** 8, Public Utility Holding Companies and Affiliated Interests
- Section numbers:** R14-2-802

2. The subject matter of the proposed rule:

The purpose of the proposed rule change would be to amend R14-2-802(A) to exempt telecommunications carriers, whose retail telecommunications services have all been determined to be competitive, from application of the Affiliated Interest Rules, except as may otherwise be determined by a future Arizona Corporation Commission order. The specific change proposed is based upon and supported by the changes to A.R.S. § 40-285 made by the Arizona Legislature in 2013.

The agency docket number, if applicable:

Docket No. AU-00000A-15-0246

3. A citation to all published notices relating to the proceeding:

Notice of Proposed Rulemaking: 22 A.A.R. 411, March 4, 2016 (*in this issue*).

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

Name: Maureen Scott, Senior Staff Counsel, Legal Division
 Address: Corporation Commission
 1200 W. Washington St.
 Phoenix, AZ 85007
 Telephone: (602) 542-3402
 Fax: (602) 542-4870
 E-mail: mscott@azcc.gov

Name: Robin Mitchell, Staff Attorney, Legal Division
 Address: Corporation Commission
 1200 W. Washington St.
 Phoenix, AZ 85007
 Telephone: (602) 542-3402
 Fax: (602) 542-4870
 E-mail: RMitchell@azcc.gov

Name: Matthew Connolly, Executive Consultant, Utilities Division
 Address: Corporation Commission
 1200 W. Washington St.
 Phoenix, AZ 85007
 Telephone: (602) 542-0856
 Fax: (602) 364-2270
 E-mail: MConnolly@azcc.gov



5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

The Commission has scheduled the following oral proceeding for public comments:

- Date: April 14, 2016
- Time: 10:00 a.m.
- Location: Arizona Corporation Commission
Hearing Room 1
1200 W. Washington St.
Phoenix, AZ 85007
- Nature: Oral proceeding

The Commission requests that initial written comments be filed by April 4, 2016, and that responsive written comments be filed by April 14, 2016. The comments may be filed with the Commission's Docket Control at the address listed above. Please reference Docket No. AU-00000A-15-0246 on all documents. Oral comments may be provided at the proceeding on April 14, 2016, at 10:00 a.m., as noted above.

6. A timetable for agency decisions or other action on the proceeding, if known:

A timetable has not been determined.