



*Arizona Administrative Register*  
**Notices of Final Rulemaking**

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Rule 117 requires issuers to provide the Commission with a statement of the issuer's current cash flow, prepared in conformity with generally accepted accounting principles. Issuers must also provide documentation of any underlying assumptions the issuer used in pro forma calculations. Issuers must provide the Commission with a ratio of earnings to fixed charges for the issuer's last five fiscal years as well as the actual calculations used to calculate the ratio of earnings to fixed charges. Issuers must provide the Commission with documentation of any agreements, contracts, or other instruments material to its demonstration of ability to service its debt obligations.

An issuer offering securities that have been rated BBB or higher by Standard & Poor's or Fitch Investors Service, Inc., or Baa or higher by Moody's Investors Service is presumed to have complied with the demonstrations required by rule 117.

**7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**

None

**8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

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

The economic, small business, and consumer impact statement for rule 117 analyzes the costs, savings, and benefits that accrue to the Commission, the office of the attorney general, the regulated public, and the general public. With the adoption of the proposed rule, the impact on established Commission procedures, Commission staff time, and other administrative costs is minimal. The estimated additional cost to the office of the attorney general is minimal. The benefits provided by rule 117 are nonquantifiable. Rule 117 should benefit the Commission's relations with the regulated public because of specified registration standards and increased uniformity with federal laws. The public will benefit from the continuation of certain standards for registered offerings. The Commission anticipates that the proposed rulemaking will not significantly increase monitoring, recordkeeping, or reporting burdens on businesses or persons. The costs of implementation or enforcement are not increased or are only marginally increased.

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

Not applicable

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

None

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

None

**13. Incorporations by reference and their location in the rules:**

Not applicable

**14. Whether the rule was previously adopted as an emergency rule and, if so, whether the text was changed between adoption as an emergency rule and the adoption of the final rule:**

Not applicable

**15. The full text of the rule follows:**

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

**CHAPTER 4. CORPORATION COMMISSION - SECURITIES**

**ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT**

Section

R14-4-117. Requirement for Registration of a Debt Offering; Definitions

**ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT**

**R14-4-117. Requirement for Registration of a Debt Offering; Definitions**

**A.** As a condition of registration of debt securities under A.R.S. Title 44, Chapter 12, Article 7, except pursuant to § 44-1901, an issuer must demonstrate its ability to service its debt obligations as they become due, including the obligations under the debt securities to be offered.

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- B.** An offering of investment grade debt securities that have been rated BBB or higher by Standard & Poor's or Fitch Investors Service, Inc., or Baa or higher by Moody's Investors Service will be considered to have complied with the requirements of this Section.
- C.** For purposes of this Section, the following definitions shall apply.
1. "Fixed charges" means the sum of interest expensed and capitalized; amortized premiums, discounts, and capitalized expenses related to indebtedness; an estimate of the interest within rental expense; and preference security dividend requirements of consolidated subsidiaries.
  2. "Earnings" is the amount resulting from subtracting the sum of the items in subsection (b) from the sum of the items in subsection (a).
    - a. Pretax income from continuing operations before adjustment for minority interests in consolidated subsidiaries or income or loss from equity investees, fixed charges; amortization of capitalized interest, distributed income of equity investees, and the issuer's share of pretax losses of equity investees for which charges arising from guarantees are included in fixed charges.
    - b. Interest capitalized, preference security dividend requirements of consolidated subsidiaries, and the minority interest in pretax income of subsidiaries that have not incurred fixed charges.
  3. "Equity investees" means investments for which the issuer accounts by using the equity method of accounting.
  4. "Pro forma ratio" means a ratio that reflects the application of proceeds from the proposed offering to repay any outstanding debt or to retire other securities.
- D.** The issuer's demonstration of its ability to service its debt obligations shall include all of the following.
1. Statement of the issuer's current cash flow prepared in conformity with generally accepted accounting principles and adjusted on a pro forma basis to reflect:
    - a. The elimination of interest and fees on debt or debt securities and of cash dividends on preferred stock that are to be retired with the proceeds of the offering.
    - b. The effect of any acquisitions or capital expenditures that were made by the issuer after its last fiscal year, or that are proposed or required for the current fiscal year, that materially affect the issuer's cash flow.
    - c. The effect of interest and fees on debt or debt securities or cash dividends paid after the issuer's last fiscal year.
    - d. The effect of any interest and fees on debt or debt securities and of cash dividends on preferred stock or common stock that were issued during the issuer's last fiscal year, but that were outstanding for only a portion of such fiscal year, as if such debt, debt securities, preferred stock, or common stock had been outstanding for entire fiscal year.
    - e. The effect of imputed or deferred charges of zero-coupon debt or debt securities for the issuer's last fiscal year and any additional charges on such debt or debt securities issued after the issuer's last fiscal year.
    - f. The effect of accrued dividends on preferred stock for the issuer's last fiscal year and any additional dividends on such preferred stock issued after the issuer's last fiscal year.
    - g. The effect of any other material changes to the issuer's future cash flow.
  2. Detailed explanation of the facts and assumptions underlying the pro forma statement of cash flow.
  3. A ratio of earnings to fixed charges for each of the last five fiscal years and the latest interim period.
    - a. If a ratio indicates less than one-to-one coverage, disclose the dollar amount of the deficiency.
    - b. If the proceeds from the proposed sale of securities will be used to repay any of the issuer's outstanding debt or to retire other securities and the change in the ratio would be 10% or greater, include a pro forma ratio. Use the net change in interest or dividends from the refinancing to calculate the pro forma ratio.
  4. A calculation using the amounts and captions used by the issuer to calculate the ratio of earnings to fixed charges.
  5. Copies of written agreements, contracts, or other instruments material to the issuer's ability to service its obligations under the debt securities to be offered.
  6. Detailed information regarding all guarantee obligations of or to the issuer in connection with any debt. Any financial statements provided to the Commission to satisfy this subsection shall be prepared in conformity with generally accepted accounting principles.
  7. Other material or information the issuer desires to include to support its demonstration.
- E.** If the Commission deems it necessary for investor protection, the Commission may require that the issuer establish a sinking fund or redemption requirements.