NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* include publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

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

CHAPTER 2. ARIZONA CORPORATION COMMISSSION FIXED UTILITIES

PREAMBLE

1. Sections Affected	Rulemaking Action
R14-2-201	Amend
R14-2-202	Amend
R14-2-203	Amend
R14-2-204	Amend
R14-2-205	Amend
R14-2-206	Amend
R14-2-207	Amend
R14-2-208	Amend
R14-2-209	Amend
R14-2-210	Amend
R14-2-212	Amend
R14-2-1601	Amend
R14-2-1602	Repeal
R14-2-1602	New Section
R14-2-1603	Amend
R14-2-1604	Amend
R14-2-1605	Amend
R14-2-1606	Amend
R14-2-1607	Amend
R14-2-1608	Amend
R14-2-1609	Repeal
R14-2-1609	Renumber
R14-2-1609	Amend
R14-2-1610	Renumber
R14-2-1610	Amend
R14-2-1611	Renumber
R14-2-1611	Amend
R14-2-1612	Renumber
R14-2-1612	Amend
R14-2-1613	Renumber
R14-2-1613	Amend
R14-2-1614	Renumber
R14-2-1614	Amend
R14-2-1615	Renumber
R14-2-1615	Amend
R14-2-1616	Renumber
R14-2-1616	New Section
R14-2-1617	Repeal

R14-2-1617	Renumber
R14-2-1617	Amend
R14-2-1618	Renumber

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

Constitutional authority: Arizona Constitution, Article XV

Authorizing statute: A.R.S. §§ 40-202, 40-203, 40-250, 40-321, 40-322, 40-331, 40-332, 40-336, 40-361, 40-365, 40-367, and A.R.S. Title 40, generally

Implementing statute: Not applicable

3. The effective date of the rules:

September 24, 1999

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

Notice of Proposed Rulemaking: 5 A.A.R. 1362, May 14, 1999.
Notice of Rulemaking Docket Opening: 5 A.A.R. 1446, May 14, 1999.
Notice of Exempt Rulemaking: 5 A.A.R. 214, January 22, 1999.
Notice of Proposed Rulemaking: 4 A.A.R. 2416, September 4, 1998.
Notice of Rulemaking Docket Opening: 4 A.A.R. 2368, September 4, 1998.
Notice of Emergency Rulemaking: 4 A.A.R. 2393, September 4, 1998.
Notice of Exempt Rulemaking: 3 A.A.R. 222, January 17, 1997.
Notice of Proposed Rulemaking: 2 A.A.R. 4400, November 1, 1996.
Notice of Rulemaking Docket Opening: 2 A.A.R. 4107, September 27, 1996.

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

Name: Ray T. Williamson, Chief Economist

Address: Arizona Corporation Commission
1200 W. Washington
Phoenix, Arizona 85007

Telephone: (602) 542-4251

Fax: (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:

On December 26, 1996, in Decision No. 59943 the Commission adopted rules which provided the framework for the introduction of retail electric competition in Arizona. These rules are codified at A.A.C. R14-2-1601 et seq. On August 10, 1998, in Decision No. 61071 the Commission adopted certain modifications to the Retail Electric Competition Rules and conforming changes to R14-2-203, R14-2-204, and R14-2-208 through R14-2-211, on an emergency basis. The Commission adopted the emergency rules on a permanent basis on December 11, 1998, in Decision No. 61272.

On January 11, 1999, the Commission issued Decision No. 61311 which stayed the effectiveness of the rules and related Decisions and ordered the Commission's Hearing Division to issue a Procedural Order to begin consideration of further comments and actions in this docket. Interested parties were given several opportunities to file comments, proposed rule changes and exceptions to the rule amendment recommendations subsequently proposed by the Hearing Division on January 26, 1999, and on March 12, 1999.

The Commission, at a special open meeting on April 14, 1999, ordered that proposed rules be forwarded to the Office of the Secretary of State for publication. The proposed rules were published in the Arizona Administrative Register on May 14, 1999.

Public Comment sessions on the proposed rules were held in Phoenix on June 14 and 23, 1999 and in Tucson on June 17, and 21, 1999. After consideration of the filed written comments and oral comments received in the public comment hearings, the Hearing Division filed its proposed modifications on August 26, 1999. At a special open meeting held on September 21, 1999, the Commission adopted the following as final rules.

Pursuant to court order, these rules are exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act. See, State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216, 848 P.2d 301 (App. 1992).

7. A reference to any study that the agency proposes to rely on in its evaluation or justification for the proposed 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:

Not applicable.

8. 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.

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

A. Economic, small business and consumer impact summary.

1. Proposed rulemaking.

The proposed rules amend the rules adopted on December 11, 1998, in Decision No. 61272 (R14-2-201 through -204, -208 through -211, R14-2-1601 through -1618). They provide for procedures and schedules for the implementation of the transition to competition in the provision of retail electric service after the rules were stayed in Decision 61311 (January 11, 1999).

2. Brief summary of the economic impact statement.

End users of competitive electricity services may benefit from greater choices of service options and rates because full competition will occur as soon as possible after resolving issues of Stranded Cost and Unbundled tariffs. Some consumers may not participate in the competitive market as quickly as under the current rules if their affected utility has not resolved its stranded cost or unbundled tariff issues.

Requirements for consumer information disclosure and unbundled bills will provide information that consumers can use to make informed choices regarding the selection of electric service providers. This will reduce the costs of searching for information. Consumers would also benefit from protections in the proposed permanent rule amendments regarding "slamming", notification of outages, and metering standards.

Affected utilities and electric service providers may incur additional costs resulting from additional reporting, billing, and consumer disclosure requirements and from negotiating service acquisition agreements. Affected utilities may also incur additional costs associated with preparing and filing residential phase-in program proposals, compliance plans, reports, and audits and in separating monopoly and competitive services and maintaining the separation.

Separating utility monopoly and competitive services mitigates the potential for anti-competitive cross-subsidization that could harm consumers of monopoly services.

Manufacturers of solar electric generation equipment may not directly benefit from increased sales after the elimination of the solar portfolio standard.

Public entities would not benefit from the implementation of the Solar Electric Fund.

Probable costs to the Commission include costs associated with new tasks, such as reviewing service acquisition agreements, reviewing utility filings of residential phase-in program proposals and quarterly reports, reviewing utility filings of reports detailing possible mechanisms to provide benefits to standard offer customers, reviewing protocols regarding must-run generating units, reviewing reports of "slamming" violations, approving requirements regarding metering and meter reading, reviewing utility filings of compliance plans, reviewing utility performance audits, and developing the format of a consumer information label.

Adoption of the proposed permanent rule amendments would allow the Commission to more effectively implement the restructuring of the retail electric market.

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

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

B. Economic, small business and consumer impact statement.

1. Proposed rulemaking.

The proposed permanent rule amendments (R14-2-201 through, -204, -208 through -211, R14-2-1601 through -1618) provide for procedures and schedules for the implementation of the transition to competition in the provision of retail electric service.

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

a. potential electric service providers

b. the public at large who are consumers of electric service

c. electric utilities

d. investors in investor-owned utilities and independent power producers

e. holders of bonds of cooperative utilities

f. state government agencies, including the Arizona Corporation Commission and the Residential Utility Consumer Office

g. Federal Energy Regulatory Commission

h. employees of utilities and potential electric service providers

i. billing and collection service providers

j. independent power producers

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.

Probable costs to the Commission include costs associated with new tasks, such as reviewing service acquisition agreements, reviewing utility filings of residential phase-in program proposals and quarterly reports, reviewing utility filings of reports detailing possible mechanisms to provide benefits to standard offer customers, reviewing protocols regarding must-run generating units, reviewing reports of "slamming" violations, approving requirements regarding metering and meter reading, reviewing utility filings of compliance plans, reviewing utility performance audits, and developing the format of a consumer information label.

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

As an end user of competitive electricity services, a political subdivision may benefit from greater choices of service options and rates from full competition Some of the smaller political subdivisions would not participate in the competitive market as quickly as originally proposed because their peak loads are too small to qualify for the phase-in period.

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

As an end user of competitive electricity services, a business may benefit sooner from greater choices of service options and rates under full competition. Some of the smaller businesses would not participate in the competitive market as quickly as originally proposed because their loads are too small to qualify for the phase-in period.

Affected utilities and electric service providers may incur additional costs resulting from additional reporting, billing, and consumer information disclosure requirements. Affected utilities may also incur additional costs associated with separating monopoly and competitive services and maintaining the separation.

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

Affected utilities may need to hire additional employees to effect and maintain the required separation of monopoly and competitive services.

The impact on public employment would likely be minimal.

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

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

Businesses subject to the proposed rule amendments are electric utilities, potential electric service providers, independent power producers, and business consumers. Some of these businesses are small, but some are also large

regional, national, or international firms.

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

Administrative costs to electric service providers would include the costs of negotiating service acquisition agreements and preparing consumer disclosure information. Administrative costs to affected utilities would include the costs of negotiating service acquisition agreements and preparing and filing residential phase-in program proposals, compliance plans, reports, and audits. Affected utilities may also incur additional costs associated with separating and maintaining the separation of monopoly and competitive services.

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

Requirements for consumer information disclosure and unbundled bills will provide information that small business consumers can use to make informed choices regarding the selection of electric service providers. This will reduce the costs of searching for information. The Commission may also undertake educational activities to further lower the costs of participating in the competitive market.

In regard to reducing the impact on potential electric service providers that are small businesses, the Commission could reduce the application requirements for obtaining a Certificate of Convenience and Necessity or consumer information disclosure requirements. However, the outcome of this alternative may be undesirable if an electric service provider does not have the technical or financial capability of providing reliable energy services or if the industry becomes more prone to companies that engage in fraudulent activities. The Commission and consumers would have less information about businesses that supply electric service.

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

Requirements for consumer information disclosure and unbundled bills will provide information that consumers can use to make informed choices regarding the selection of electric service providers. This will reduce the costs of searching for information.

Consumers would benefit from protections in the proposed permanent rule amendments regarding "slamming", notification of outages, and metering standards.

Consumers may benefit sooner from greater choices of service options and rates because full competition will occur sooner under the proposed permanent rule amendments than under the original permanent rule. Some consumers would not participate in the competitive market as quickly as originally proposed.

6. Probable effect on state revenues.

The Commission is not aware of any impact on tax revenues.

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

The Commission is unaware of any less intrusive or less costly methods that exist for achieving the purpose of the proposed permanent rule amendments.

8. 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.

Because adequate data are not available, the probable impacts are explained in qualitative terms.

Commission-initiated working groups on reliability, billing and collection, metering, low income issues, and customer education have provided input on revising the retail electric competition rules. Stakeholders have been given opportunities to provide written and oral comments on drafts of proposed rules changes. Public comment meetings have been held in Phoenix, Tucson, and Flagstaff. Commission Staff reviewed experiences with retail electric competition in other states, such as California, Massachusetts, and Pennsylvania. Information gathered from all of these sources was used to produce the proposed permanent rule amendments.

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

The modifications are not substantive. They include the following provisions:

The changes to R14-2-203 and -209 are clarifications necessitated to conform to the revisions to Article 16 and to clarify who pays charges for meter rereads, respectively.

R14-2-209 (E) is shown in its entirety, although no changes were made to it during this rulemaking. In its 1998 amendments to these electric competition rules, the Commission inadvertently deleted R14-2-209 (E)(2) from its Decision No. 61272. As a result, the Secretary of State deleted the "1." from the 1st paragraph of that rule when it published the Commission's Notice of Exempt Rulemaking on January 22, 1999. This error was repeated in the Notice of Proposed Rulemaking published on May 14, 1999, despite the fact that at no time did the Commission order the deletion of R14-2-209 (E)(2).

The modifications to R14-2-2601 provide definitions for "Aggregation" and "Self-Aggregation", "Ancillary Services" and "Public Power Entity" which were needed to clarify terms utilized in the revised rules. The definition of Utility Distribution Company was amended to reinstate the word "constructs".

The modification of R14-2-1603 clarifies that distribution cooperatives that provide Competitive Services within their distribution service territories do not need to apply for a Certificate of Convenience and Necessity ("CC&N"), and clarifies that applicants affiliated with an Affected Utility must demonstrate that they have a Commission-approved Code of Conduct as a requisite of certification.

The modifications to R14-2-1604 clarify that small users are eligible to aggregate their loads and are eligible to participate in the competitive market subject to the limitations of the phase-in period. The modification also provides that a waiting list of residential customers interested in participating in the competitive market be made available to certificated Electric Service Providers upon request.

The modification of R14-2-1605 clarifies that distribution cooperatives providing services within their service territories do not require a CC&N.

The modifications to R14-2-1606 define the term "open market" and further delineate the elements that must be unbundled in the Standard Offer Service tariffs.

The modification to R14-2-1609 clarifies that the UDC retains the obligation to assure adequate transmission import and distribution capability to meet the needs of all distribution customers within its service territory. The changes were based upon parties' comments that additional guidance regarding a UDC's obligation concerning transmission import capability would be beneficial. The modifications do not alter the obligation established in the Revised Rules.

In R14-2-1611(C), the word "terms" is changed to "provisions" to avoid confusion about the Commission's obligation concerning the confidentiality of special contracts.

The modifications to R14-2-1612(C) add protections contained in A.R.S. '40-202 regarding the authorization to switch electric providers. In addition, Section 1612(I) was revised to clarify confusion about the timeframe for terminating competitive service and returning a customer to Standard Offer Service. Section 1612(K) was revised slightly to provide that each competitive point of delivery shall be assigned a Universal Node Identifier and that the Load-Serving Entity developing the load profile determines if a load is predictable. Section 1612(N) was revised to provide the minimum elements that should appear on every bill.

R14-2-1613 was modified to remove the word "and" from Section 1613(A) and to correct the numbering of section 1613(B).

The modifications to R14-2-1615 replace the reference to "meters" in Section 1615(B) with "Meter Services and Meter Reading Services" and replace the reference to service territory at the time of these rules with "its distribution service territory" in section 1615(C). Also, the reference in Section 1615(C) to the generation cooperative is removed.

The modification to R14-2-1616 clarifies that this section, requiring a Code of Conduct, applies to Affected Utilities, including cooperatives, that plan to offer Competitive Services through an affiliate and also provides minimum guidelines for the content of the required Codes of Conduct. Further, the modification clarifies that the Code of Conduct is subject to Commission approval after a hearing.

The modifications to R14-2-1617 add language to Sections 1617(A) and (B) to clarify that Load-Serving Entities providing either generation service or Standard Offer Service must prepare the consumer information label, and correct a typo in Section 1617(D).

All other changes from the proposed rules are minor and were made to conform to the Secretary of State's publishing style.

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

R14-2-203 - Establishment of Service

203(B)

Issue**:** New West Energy ("NEW") recommended that a provision be added to Section 203(B)(6) to clarify that deposits for residential and nonresidential customers would be estimated using average monthly usage for Noncompetitive Services. The Arizona Corporation Commission ("Commission") Staff ("Staff") responded that the existing Section already contains the word "estimated" and argued no change was required.

Analysis**:** We concur with Staff.

Resolution**:** No change is necessary.

Issue**:** Commonwealth Energy Corporation ("Commonwealth") stated that Section 203(B)(9) should be deleted because Utility Distribution Companies ("UDCs") may attempt to dissuade customers from seeking competitive services by claiming customer deposits may be raised if the customers are dissatisfied with the alternative provider and return to Standard Offer Service. Staff responded that it is clear that the only reason a UDC can increase a deposit is for the return to Standard Offer Service, which may be more expensive than competitors' service. Staff argued that this provision should motivate customers to choose another Electric Service Provider ("ESP") and not return to Standard Offer Service.

Analysis**:** This Section allows the deposit to be raised only in proportion to the expected increase in monthly billing, and also requires a refund of the deposit for nondelinquent customers when a customer switches to competitive services. This Section is not anti-competitive and requires no change.

Resolution**:** No change is necessary.

203(D)(1)

Issue**:** NWE recommended that the language "including transfers between Electric Service Providers" in Section 203(D)(1) be deleted. Staff responded that no change is necessary because the Rules already contemplate a charge for transfers between ESPs.

Analysis**:** This Section requires Commission approval of such charges. ESPs may object if they believe the amount of such a charge is unreasonable.

Resolution**:** No change is necessary.

203(D)(4)

Issue: The City of Tucson ("Tucson") advocated rewriting Section 203(D)(4) regarding service establishments to clearly set time limits for actions by each party and to avoid incentives to delay processing Direct Access Service Requests ("DASRs") or meter changes.

Analysis: We agree that the language "if the direct access service request is processed 15 calendar days prior to that date" does not provide a sufficiently clear time limit, and does not avoid incentives to delay processing DASRs. As explained in our analysis of Section 1612(I), whether appropriate metering equipment is in place is an important concern in some circumstances, and that language should remain unchanged.

Resolution: Modify the 1st sentence of this Section as follows:

Service establishments with an Electric Service Provider will be scheduled for the next regular meter read date if the direct access service request is provided ~~processed~~ 15 calendar days prior to that date and appropriate metering equipment is in place.

Such change merely clarifies the intent of this provision and is not substantive.

R14-2-204 – Minimum Customer Information Requirements

Issue**:** Arizona Consumers Council ("AZCC") objected to the language in this Section on the grounds that an ESP might sign consumers up for new service without being obligated to provide adequate information regarding the offered services.

Analysis**:** Our modification to Section 1612(C) addresses this concern by requiring that the written authorization to switch providers confirm the rates, terms, conditions and nature of the service to be provided. This Section requires Load-Serving Entities to provide further information to residential consumers who request it.

Resolution**:** No change is required.

R14-2-205 – Master Metering

Issue: In late-filed comments, the Arizona Multihousing Association ("AMA") advocated for the deletion of Section 205(B) which limits master metering for newly constructed apartment complexes. The AMA asserted that the prohibition was counterproductive to achieving the critical mass necessary to benefit from aggregation. AMA also recommended that the issue of aggregation be clarified.

Analysis: The AMA raised this issue for the 1st time very late in the rule revision process and other parties have not had opportunity to respond. We do not believe revision of this existing rule is warranted, especially without input from other parties. We believe that at least some of AMA's concerns are addressed by our clarifications to the process of aggregation in Section 1604.

Resolution**:** No change is required.

R14-2-209 – Meter Reading

Issue: The AZCC raised a concern that under this Section a customer may be charged for a meter re-read when the customer had nothing to do with the request for a re-read.

Analysis: Section 209(C)(1) provides that a customer, ESP, UDC, or billing entity may request a re-read of a meter. Section 209(C)(2) provides that a re-read may be charged to the customer, ESP, UDC or billing entity at the tariff rate. It is implicit in this Section that the requesting party will be the party to be charged. However, we will modify this Section to clarify that it is the requesting party that may be charged for the re-read. Such modification merely clarifies this provision and is not substantive.

Resolution: Insert "making the request" after "or billing entity" in Section 209(C)(2).

R14-2-210 - Billing and Collection

210(A)

Issue**:** Tucson Electric Power Company ("TEP") recommended deleting Section 210(A)(5)(c) which prohibits estimated bills for direct access customers requiring load data because the utility or billing entity has the ability to do it and such bills can be estimated in accordance with Sections 209(A)(8) and 1612(K)(14). Staff responded that as a general rule, direct access customers' bills should not be estimated, and argued against changing this provision.

Analysis**:** We concur with Staff.

Resolution**:** No change is necessary.

Issue: NWE states that the terms "utility" and "customer" are not defined in Section 210(A)(2). Staff noted that these terms are defined in Section 201.

Analysis**:** The definitions in Section 201 are sufficient.

Resolution**:** No change is necessary.

Issue**:** NWE states that the rules for estimated meter readings should be developed by the working group and should not be included in Sections 210(A)(3) through (6). Staff stated that this Section sets forth conditions which the working groups have previously developed and therefore no change is warranted.

Analysis**:** We concur with Staff.

Resolution**:** No change is necessary.

210(C-I)

Issue**:** NWE states that Sections 210(C) through (I) should be stricken in their entirety because it believes they do not apply to ESPs, and that to the extent they apply to UDCs, they should be covered by the UDCs' tariffs. Staff responded that these rules apply to UDCs and ESPs.

Analysis**:** As the term "utility" is defined in Section 201, these Sections apply to both UDCs and ESPs. It is preferable that the issues covered in these Sections be prescribed by general rule rather than be provided in individual tariffs.

Resolution: No change is necessary.

R14-2-211 - Termination of Service

Issue**:** Commonwealth recommended the deletion of the opening sentences in Sections 211(B) and (C), which prohibit an ESP from ordering disconnection of service for nonpayment. Staff responded that ESPs can

terminate service to customers for nonpayment through terminating their contract with customers.

Analysis**:** This Section does not preclude an ESP from terminating a contract for nonpayment. Commonwealth's concerns about its ability to terminate contracts expediently are addressed by our revisions to Section 1612(I).

Resolution**:** No change required.

R14-2-213 - Conservation

Issue**:** TEP proposed deleting this Section because it is premature; the issue will be addressed when revisiting the Resource Planning Rules; it should apply to all utilities and ESPs; and it should be delayed until there is 100 percent statewide competition. Staff responded that this rule has been in effect for several years and there is no justification for deleting it at this time.

Analysis**:** We remain unconvinced that a change in this provision is warranted.

Recommendation**:** No change is necessary.

R14-2-1601 - Definitions

1601(2) "Aggregator"

Issue**:** The Land and Water Fund of the Rockies and the Grand Canyon Trust (collectively, the "LAW Fund") and the AZCC expressed concern that the Rules do not sufficiently encourage aggregation of smaller users. Commonwealth concurred. The Arizona Transmission Dependent Utility Group ("ATDUG") suggested deleting the term "Aggregator" and adding a new definition of "Aggregation." Staff responded that the definition of "Aggregator" was placed in the Rules, as originally drafted, to address businesses that choose to provide "aggregation" as an electric service to customers. Staff noted that apparently, that definition has created confusion, causing some to believe that in order for a group of customers to combine or "aggregate" their load, they would have to become an ESP. Staff stated that was not the intent of the Rule as originally drafted. Staff noted that in addition, there have been questions raised about whether residential customers are able to aggregate their load, either through self-aggregation or through the services of an Aggregator. Staff believed that clarification of this issue would be helpful. Staff therefore proposed new language to clarify that only entities which perform aggregation services as part of their business are required to obtain ESP certification; to provide new definitions of "Aggregation" and "Self-Aggregation"; to clarify that residential customers may also aggregate or self-aggregate their loads, subject to the phase-in percentage limitations; and to clarify that eligible residential and nonresidential customers may be aggregated together. Staff proposed the following new definition of "Aggregator":

"2. 'Aggregator' means an Electric Service Provider that, as part of its business, combines retail electric customers into a purchasing group."

Staff also suggested a new definition of "Aggregation" similar to that suggested by ATDUG:

"3. 'Aggregation' means the combination and consolidation of loads of multiple customers."

Staff proposed that a revised version of the definition of "Self-Aggregation" be included in the Rules:

"Self-Aggregation is the action of a retail electric customer or group of customers who combine their own metered loads into a single purchase block."

In addition, Staff proposed additional clarifying modifications to Sections 1604(A)(2) and (4) and 1604(B)(6) concerning aggregation and self-aggregation, which are discussed in our analysis of those Sections.

Analysis**:** Staff's recommended modifications to this Section are not substantive, but provide clarity and should be adopted.

Resolution**:** Modify Section 1601 in accordance with Staff's recommendations and renumber accordingly.

1601(3) "Ancillary Services**"**

Issue**:** Staff noted that although the Proposed Rules contain several references to the term "Ancillary Services," they do not include a definition for that term, and suggested that the following definition be added to the Rules:

"Ancillary Services" means those services designated as ancillary services in Federal Energy Regulatory Commission Order 888, including the services necessary to support the transmission of electricity from resource to load while maintaining reliable operation of the transmission system in accordance with good utility practice.

Analysis**:** The proposed definition provides clarity and is not a substantive change to the Rules.

Resolution**:** Add the definition as proposed and renumber accordingly.

1601(5) – Competitive Services

Issue**:** Arizona Public Service Company ("APS") argued that the Commission should not define "Competitive Services" simply by negative reference to another definition because it is vague. APS proposed that the definition of "Competitive Services" should be replaced with the following:

5. "Competitive Services" means retail electric Generation, Meter Service (other than those aspects of Meter Service described in R14-2-1612(K)), Meter Reading Service, and billing and collection for such services (other than joint or consolidated billing provided pursuant to a tariff). It does not include Standard Offer Service or any other electric service defined by this article as noncompetitive. ~~all aspects of retail electric service except those services specifically defined as "Noncompetitive Services" pursuant to R14-2-1601(27) or noncompetitive services as defined by the Federal Energy Regulatory Commission.~~

Arizona Electric Power Cooperative, Inc., Duncan Valley Electric Cooperative, Inc. and Graham County Electric Cooperative, Inc. ("AEPCO, Duncan and Graham") supported APS' modification of the definition. Commonwealth and Arizonans for Electric Choice and Competition ("AECC") opposed APS' proposal. In its responsive comments, Staff noted that Competitive and Noncompetitive Services as defined by the Rules are mutually exclusive, and argued that APS appears to be attempting to create a 3rd category of services: Competitive Services that may be provided by Affected Utilities or Utility Distribution Companies. Staff believed that the existing definition is sufficiently clear, and maintains the proper distinction between services that may be provided by Affected Utilities or UDCs, and those services that may not.

Analysis**:** APS' proposal could narrow the competitive environment by excluding other energy-related services. The distinction between Competitive and Noncompetitive Services is sufficiently clear without modification.

Resolution**:** No change is required.

1601(4) "Competition Transition Charge"

Issue**:** Navopache Electric Cooperative, Inc. ("Navopache") and Mohave Electric Cooperative, Inc. ("Mohave") commented that the definition of Competition Transition Charge ("CTC") should include costs incurred by the Affected Utilities in implementing these Rules. Navopache and Mohave argued that these costs would not be incurred but for customers electing to switch to competitive providers, and therefore customers who switch should bear the associated costs, rather than the customers who remain on Standard Offer Service.

Staff stated that because many of Navopache's and Mohave's concerns are already addressed by the proposed modification to the definition of Stranded Cost to include "other transition and restructuring costs," it is unnecessary to make the modification Navopache and Mohave recommend.

Analysis**:** We concur with Staff.

Resolution**:** No change is required.

1601(13) (newly proposed) "Economic Development Tariffs"

Issue**:** Staff proposed to add a new definition for "Economic Development Tariffs" as "those discounted tariffs used to attract new business expansions in Arizona" to comport with its recommendation to add language to Section 1606(C)(6), referring to "economic development tariffs that clearly mitigate Stranded Costs."

Analysis**:** As explained in our discussion under Section 1606(C) below, due to insufficient evidence in the record to support the implementation of the proposed "Economic Development Tariff", we will not revise Section 1606(C) as proposed by Staff at this time. Therefore, this proposed definition is not needed.

Resolution**:** No change is required.

1601(15) "Electric Service Provider Service Acquisition Agreement"

Issue**:** NWE recommends that the Electric Service Provider Service Acquisition Agreement be a standardized, Commission-approved agreement between an Affected Utility and an ESP because NWE believes that the rule as written creates an uncertain process that may deter potential ESPs from competing in Arizona. NWE also

argues that a standardized, Commission-approved agreement is the most efficient mechanism for controlling the technical and financial viability of competitors. Commonwealth supported the approach of a Commission pre-approved agreement for all service areas.

Staff stated it agreed with the Commission's conclusion in Decision No. 61634 on this issue, that the certification process is not overly burdensome or anti-competitive.

Analysis**:** We believe that the certification process as currently structured is not such an uncertain or burdensome process as to deter potential ESPs from competing in Arizona, and that the current process provides adequate oversight of ESPs' technical and financial viability.

Resolution**:** No change is required.

1601(27) "Noncompetitive Services"

Issue**:** Navopache and Mohave argued that it is necessary for customer-owned distribution cooperatives to maintain the relationships and communications links with their members/owners for membership, voting and other purposes. To achieve that goal, Navopache and Mohave recommended that the definition of Noncompetitive Services be modified to state that metering, meter ownership, meter reading, billing, collections and information services are deemed to be Noncompetitive Services in the service territories of the distribution cooperatives.

Staff responded that the provisions of Section 1615(B)(1) allow distribution cooperatives to maintain sufficient links with their members/owners.

Analysis**:** We agree with Staff that Section 1615(B)(1) explicitly allows an Affected Utility or UDC to bill its own customers for distribution service and to provide billing services to ESPs in conjunction with its own billing, and also allows an Affected Utility or UDC to provide billing and collections, Metering and Meter Reading Service as part of its Standard Offer Service tariff to Standard Offer Service customers.

Resolution**:** No change is required.

Issue**:** ATDUG suggested that the definition of Noncompetitive Services should be amended to add "Aggregation Service."

Analysis**:** Although the actual delivery of electricity sold to aggregated customers will be a Noncompetitive Service, there is no reason to differentiate the generation services provided to aggregated customers from generation services provided to non-aggregated customers. Both aggregated and non-aggregated competitive generation services should remain classified as Competitive Services.

Resolution**:** No change is required.

Issue**:** Commonwealth asserted that ESPs should not have to pay the utility for customer data when the customer requests its release. Commonwealth recommended that the definition of Noncompetitive Services should be amended by deleting "provision of customer demand and energy data by an Affected Utility or Utility Distribution Company to an Electric Service Provider" so that the utility cannot impose a charge on these services. Alternatively, Commonwealth argued that the Rules should provide that the data will be provided to the customer (or its authorized representative) at no charge.

Analysis**:** Because customers who switch providers will be the "cost-causers," it is appropriate that they should bear the administrative costs associated with switching providers. We share Commonwealth's concern, however, that such charges may be prohibitively high and discourage new market entrants. As this will be a tariffed item, the Commission will oversee the reasonableness of such a charge. If an ESP finds the tariffed charge unreasonable, the ESP is free to protest the tariff.

Resolution**:** No change is required.

1601(28) (former) "Net Metering or Net Billing"

Issue**:** Tucson recommended not deleting the definition of Net Metering or Net Billing from the Rules, as the potential for customer-sited generation using any sort of generation is still possible, even if not mandated. Tucson recommended striking the word "solar electric" from the definition.

Analysis**:** The terms "Net Metering or Net Billing" are not referenced in the Rules and consequently, their inclusion in the definitions is not necessary and could be confusing.

Resolution**:** No change is required.

1601 (34) (newly proposed) "Public Power Entity**"**

Issue**:** Staff noted that although the Rules have added the term "Public Power Entity" they do not include a definition for that term. Staff recommend that the definition parallel that set forth by the legislature in A.R.S. § 30-801.16. Trico Electric Cooperative ("Trico") and Commonwealth concurred.

Analysis**:** This definition is needed because prior revisions of Section 1610 introduced this term, however, the change is not substantive.

Resolution**:** Add the following definition to Section 1601 and renumber accordingly: "'Public Power Entity' incorporates by reference the definition set forth in A.R.S. § 30-801.16."

1601(35) "Stranded Cost"

Issue**:** TEP argued that the Proposed Rules' replacement of the word "value" with "net original cost" is not appropriate because the new term may be inconsistent with assets held under lease arrangements and with various regulatory assets. AECC disagreed with TEP. Staff responded that it concurs with the change made in Decision No. 61634 to replace "value" with "net original cost," and that this language will not preclude TEP from seeking what it believes to be an appropriate level of recovery for its Stranded Costs.

Trico recommended adding "and distribution assets" after "regulatory assets" in Section 1601(35)(a)(i), because distribution electric public service corporations are also entitled to recover their Stranded Costs. ATDUG and Commonwealth responded to Trico's recommendation by questioning how distribution assets could be considered "stranded" since they remain with the regulated entity. Staff responded that due to the difficulty in calculating distribution cooperatives' Stranded Costs prior to competition, it is more appropriate to deal with those costs in rate cases for distribution electric public service corporations. Staff therefore recommends that the definition of Stranded Costs not be changed.

Analysis**:** We concur with Staff that the term "net original cost" will not preclude TEP from recovering appropriate Stranded Costs. We also concur that the recovery of costs related to distribution assets are appropriately handled in a rate case.

Resolution**:** No change is necessary.

1601(36) "System Benefits"

Issue**:** NWE states that the definition of "System Benefits" is "vague and fails to specify who will determine what specific costs qualify as System Benefits." Staff responded that it believes that testimony on System Benefit charges will be taken in the Stranded Cost and Unbundled Tariff hearings that will commence in August 1999, and that based on that testimony, the Commission will determine the specific costs to be included in the System Benefits Charges in the Decisions rendered in those proceedings. Staff therefore believes that no change to this definition is necessary.

TEP recommended that non-nuclear plant decommissioning costs be included in the System Benefits charge because generating plants other than nuclear will also have decommissioning costs in the future. AEPCO, Duncan and Graham supported and Commonwealth opposed TEP's suggestion. Staff asserted that non-nuclear decommissioning costs should not be included in System Benefits, for 2 reasons. First, nuclear decommissioning costs are already being collected in rates, in part because nuclear utilities are required by the Nuclear Regulatory Commission to begin accumulating funds for decommissioning while the nuclear plants are operating. This is not the case with non-nuclear facilities. Staff pointed out that in addition, nuclear decommissioning costs are of such a great magnitude that it is reasonable to attempt to spread them over the operating life of the plant, but that it is unlikely that the costs to decommission non-nuclear plants will be as large.

Analysis**:** We concur with Staff's reasoning.

Resolution**:** No change is necessary.

1601(40) "Utility Distribution Company"

Issue**:** The Arizona State Association of Electrical Workers ("ASAEW") urged the Commission to insert the word "constructs" as part of the definition of a Utility Distribution Company so that the definition would include an entity that "operates, constructs and maintains the distribution system . . . ." TEP also argued for the inclusion of the word "constructs" in the definition because it will be the responsibility of the UDC to construct the transmission and distribution systems to ensure consistent, safe and reliable service. Staff agrees that "construction" is an integral part of the provision of electrical distribution service, and recommends adoption of TEP and ASAEW's recommendation.

Analysis**:** We concur with ASAEW, TEP and Staff. This is not a substantive change.

Resolution**:** Add the word "constructs" after "operates" in the definition of "Utility Distribution Company."

R14-2-1602 "Commencement of Competition"

Issue**:** AEPCO proposed that statewide competition commence at the same time, subject to the phase-in schedule in Section 1604. Commonwealth made a proposal that full competition commence immediately upon the conclusion of the scheduled Stranded Cost/Unbundling proceeding. Staff believes that both proposals would delay the commencement of competition until all the Stranded Cost/Unbundling proceedings are concluded, rather than bringing the benefits of competition to the citizens of Arizona as quickly as possible at the conclusion of each Affected Utility's proceedings, and that further, phasing in competition under Section 1604 establishes a workable timetable to implement competition to various customer classes. APS argued that at this date, the Commission should not make additional adjustments to start dates or phase-in schedules.

Analysis**:** We believe that the current timetable for bringing competition to the state is an expeditious and achievable means of implementing competition.

Resolution**:** No change is required.

R14-2-1603 "Certificates of Convenience and Necessity"

1603(A)

Issue**:** AEPCO, Duncan and Graham proposed modifying the 3rd sentence of Section 1603(A) as follows:

A Utility Distribution Company providing Standard Offer Service or services authorized in R14-2-1615 after January 1, 2001, need not apply for a Certificate of Convenience and Necessity.

Staff agreed with AEPCO that this change is needed to remedy the conflict between Sections 1603 and 1605 which might result if one were to conclude that a distribution cooperative needs to acquire a new Certificate of Convenience and Necessity ("CC&N") to provide competitive services pursuant to Section 1615.

Analysis**:** We concur that this clarification is needed. The change is not substantive.

Resolution**:** Amend Section 1603(A) as recommended by AEPCO, Duncan, and Graham.

1603(B)

Issue**:** Arizona Community Action Association ("ACAA") proposes to insert new language in R14-2-1603(B)(1). The new language would require the CC&N applicant to provide information as follows:

1. A description of the electric services which the applicant intends to offer; including a plan to enroll and serve at least 15% of the total residential consumers eligible on October 1, 2000;

Staff responded that although it understands that ACAA's goal in making this proposal is to encourage an equitable and robust market, this proposal directly conflicts with efforts to develop a competitive market that will attract the maximum number of potential provider applicants. Staff further commented that if implemented, this proposal might in fact discourage some competitors from entering the Arizona market, and therefore would not serve the public interest.

Analysis**:** We agree with Staff that requiring competitive ESPs to provide services to the residential market as a prerequisite to being allowed entry to the industrial and commercial markets may impede, rather than encourage the development of a truly competitive market and therefore would not serve the public interest.

Resolution**:** No change is necessary.

1603(B)(3-6)

Issue**:** NWE recommended that Section 1603(B)(3), which requires the CC&N applicant to file a tariff for each service to be provided, be modified in the following manner:

3. A tariff for each service to be provided that states the ~~maximum rate and~~ terms and conditions that will apply to the provision of the service.

NWE believes this change would be appropriate because Section 1611(A) deems market rates just and reasonable, and market forces may cause an ESP's rate to temporarily surpass its filed maximum rate. NWE requested that if maximum rates must be filed with the Commission, the Commission should clarify that those maximum rates are

deemed approved when the Commission grants a CC&N. NWE claims that items (4), (5), (6), and (8) relating to CC&N application information concerning the applicant's technical ability, financial capability, description of form of ownership, and requiring any other information the Commission or Staff may request are vague and should be deleted. Staff stated that Section 1603(B)(3)'s requirement that maximum rates be filed should remain intact because it is necessary for the Commission to have this information in order to fulfill its constitutional responsibility to evaluate the service rates of public service utilities. Staff also stated that the information required in items (4), (5), (6), and (8) are consistent with requirements for CC&Ns for other services regulated by the Commission, that CC&N and certification authority is required not only by Commission rules but by HB2663, and that the specifics of what the Commission means by technical capability, financial capability, and other information is obvious in the CC&N application form.

Analysis**:** We concur with Staff. It is in the public interest to have maximum rates and the other information included in the CC&N application as required by Section 1603(B)(3-6) and (8) for the Commission to evaluate in the course of considering the CC&N application. Approval of a CC&N application that includes maximum rates in the tariff required by Section 1603(B)(3) constitutes approval of those maximum rates, unless the Order approving the application conditions approval upon the filing of different maximum rates.

Resolution**:** No change is required.

1603(B)(7)

Issue**:** NWE suggested the following change:

7. An explanation of how an applicant which is an affiliate of an Affected Utility ~~the applicant~~ intends to comply with the requirements of R14-2-1616, or a request for waiver or modification thereof with an accompanying justification for any such requested waiver or modification.

Staff agrees with NWE that Section 1603(B)(7) should be modified to reflect the fact that Section 1616 by its terms applies only to Affected Utilities planning to provide Competitive Services through a competitive electric affiliate, and that the applicant which is an affiliate of an Affected Utility should be required to provide a statement of whether the Affected Utility has complied with the requirements of Section 1616. Staff therefore recommended replacing Section 1603(B)(7) in its entirety with the following:

7. For an applicant which is an affiliate of an Affected Utility, a statement of whether the Affected Utility has complied with the requirements of R14-2-1616, including the Commission Decision number approving the Code of Conduct, where applicable.

Analysis**:** We concur with Staff. It is in the public interest for entities that are required to have an approved Code of Conduct to be required to demonstrate compliance with this requirement as part of the certification process. This modification is not substantive.

Resolution**:** Modify Section 1603(B)(7) as recommended by Staff.

1603(E)

Issue**:** NWE proposed to delete the entire Section concerning the requirement of the CC&N applicant to provide notice of its application to each of the respective Affected Utilities, Utility Distribution Companies or an electric utility not subject to the jurisdiction of the Commission in whose service territories it wishes to offer service. NWE claims that this provision protects the Affected Utilities' market share and invites unfair business practices. Staff responded that proper notice is required for any CC&N application.

Analysis**:** This formal notice requirement is not unduly burdensome to new CC&N applicants, who, in order to serve their customers, must establish a working relationship with the UDCs. It is in the public interest to insure that the CC&N applicant provides proper notice.

Resolution**:** No change is necessary.

1603(F)

Issue**:** NWE proposes to delete this Section which states that the Commission may issue a CC&N for a specific period of time. NWE feels this provision would add a further obstacle to market entry by some ESPs and would deter some entrants from competing in Arizona. NWE feels that the necessary security provisions can be efficiently achieved through an ESP Service Agreement in lieu of this provision. Staff responded that this Section is necessary to provide the Commission with needed flexibility in certificating ESPs who have little or no experience, and that an ESP certificated under this provision may apply for an extension of the effectiveness the CC&N.

Analysis**:** Instead of creating an obstacle to market entry by ESPs with little or no experience, this provision allows the Commission to provisionally certificate such companies, and thus is pro-competitive.

Resolution**:** No change is necessary.

1603(G)(2), (4), and (5)

Issue**:** NWE proposes to delete Sections 1603(G)(2), (4), and (5). According to NWE, Section 1603(G)(2) should be deleted because the technical and financial capabilities of an ESP can be controlled through the ESP Service Agreement with the UDC, and that Section 1603(G)(4) should not be a precondition to certification, as explained in NWE's comment to Section 1603(I). NWE also opined that Section 1603(G)(5) is not necessary. Staff stated that it would not be in the public interest to issue competitive retail electric CC&Ns without explicitly addressing the public interest and consumer protection issues contained in these Sections.

Analysis**:** We concur with Staff.

Resolution**:** No change is required.

1603(G)(7)

Issue**:** ACAA proposed to insert a new Section 1603(G)(7) to provide an additional condition for the Commission to deny certification to any CC&N applicant as follows:

7. Fails to provide a plan to enroll and serve residential consumers pursuant to R14-2-1603(B)(1).

ACAA makes this recommendation in conjunction with its proposed new language for Section 1603(B)(1) that would require a CC&N applicant to provide a plan to enroll and serve at least 15% of the total residential consumers eligible for competitive services on October 1, 2000. Staff stated that although ACAA suggested this Section to help make the residential market an equitable and robust market, this proposal is too restrictive and may keep potential service providers from viewing Arizona's retail market as being entirely open to providers offering competitive service to those customers they wish to initially target.

Analysis**:** We agree with Staff. Adopting the provision ACAA suggests could discourage potential competitive ESP applicants who might find the associated costs prohibitive. Instead of leading to a more robust market, this would actually lessen the chances of developing a truly competitive market. Adoption of this recommendation would therefore not ultimately serve the public interest.

Resolution**:** No change is necessary.

1603(I)(4)

Issue**:** NWE recommends the following change to this Section:

The Electric Service Provider shall maintain on file with the Commission all current tariffs ~~and any service standards that the Commission shall require~~;

NWE argues that the term "service standards" is not defined in the rules and the requirement in this Section does not provide adequate notice of the requirements for remaining certificated in Arizona. Staff stated that it is in the public interest for the Commission to require ESPs to file any service standards the Commission deems necessary to serve its customers.

Analysis**:** We concur with Staff

Resolution**:** No change is required.

1603(I)(6)

Issue**:** NWE recommended deletion of Section 1603(I)(6), which conditions a CC&N on the ESP obtaining all necessary permits and licenses including relevant tax licenses. NWE believes that the Commission has no authority to police state-law permit and license requirements. Staff believes the item should remain in the rule because it is in the public interest.

Analysis**:** We concur with Staff.

Resolution**:** No change is necessary.

1603(I)(9)

Issue**:** ACAA proposed to insert a new Section 1603(I)(9) that contains the following additional con-

dition for an ESP to obtain a CC&N:

9. The Electric Service Provider shall comply with the provisions of R14-2-1603(B)(1) on or before September 1, 1999.

Staff disagreed with the propriety of this proposal because it is too restrictive and may keep potential service providers from viewing Arizona's retail market as being entirely open to providers offering competitive service to those customers they are targeting to serve, which could result in fewer competitors seeking to provide service in Arizona.

Analysis**:** We concur with Staff.

Resolution**:** No change is necessary.

Issue**:** Navopache and Mohave recommended the addition of a new Section 1603(I)(9) as follows:

9. An Electric Service Provider certificated pursuant to this Article shall be subject to the jurisdiction of the Arizona Corporation Commission.

Staff responded that because the Rules are specific in regard to which entities are governed by the competitive retail electric rules, and HB2663 describes the CC&N jurisdictional authority of the Commission for public power entities, this change is not necessary.

Analysis**:** We concur with Staff that this proposed amendment is unnecessary as it is addressed throughout the Rules and by HB2663.

Resolution**:** No change is necessary.

1603(K)

Issue**:** NWE recommended deletion of Section 1603(K), which allows the Commission to require in appropriate circumstances, as a precondition to certification, the procurement of a performance bond sufficient to cover any advances or deposits the applicant may collect from its customers, or order that such advances or deposits be held in escrow or trust. NWE objected to this provision because the amount of the performance bond or escrow can only be based on estimations before the ESP commences to do business in the state. Staff responded that a bond requirement is just 1 option the ESP has to address customer protection in the certification process, and that this provision is needed to provide the Commission flexibility in having the CC&N applicant address customer protection concerns prior to being certificated.

Analysis**:** We agree with Staff that Section 1603(K) provides the Commission with a means of protecting consumers. The Commission has flexibility to adjust the amount of the performance bond, escrow or trust after the ESP commences doing business. While it is true that the amount of the performance bond, escrow or trust must initially be based on estimates, the amount required, or indeed whether the bond, escrow or trust is required at all, is an issue that the CC&N applicant is free to address in the proceedings on the application.

Resolution**:** No change is necessary.

R14-2-1604 "Competitive Phases"

1604(A)

Issue**:** Commonwealth and Tucson requested that the phase-in of load be eliminated, and that a "flash cut" be substituted. Commonwealth stated that it wants to serve commercial loads of all sizes, but cannot because this Section does not include smaller customers with loads less than 1 MW or who cannot aggregate 40 kW loads into 1 MW during the phase-in to competition. Tucson stated that it desires to have its entire load served competitively, but that it cannot because the phase-in rule precludes facilities less than 40 kW, which includes many City premises, from obtaining Competitive Services. Tucson further stated that the original reason for the phase-in, to limit the exposure of Affected Utilities to the technical problems that could result from a large number of customers suddenly switching to competitive generation providers, is no longer valid because based on the experience in California, few customers are likely to initially participate in the competitive market. APS, AEPCO, Duncan and Graham opposed a flashcut. Staff agreed that a flash-cut would eliminate many of the inequities and other problems associated with a phase-in, but noted that the current phase-in is much shorter than the one in the 1996 version of the rules.

NWE commented that the rule is unclear in regard to aggregation of loads and the definition of "customer,"

and recommended that the rule clarify that, if a single site is over 1MW, all lesser sites for the same entity also become eligible for competitive generation. NWE also noted that this Section does not allow any further aggregation once 20 percent of an Affected Utility's 1995 system peak demand is reached, although more 1 MW customers could be allowed, and that this provision favors large ESPs that can provide incentives for aggregation at the earliest possible date while penalizing customers who might not be prepared to aggregate in the early phases of competition. Staff conceded that this Section currently does not require Affected Utilities to allow small commercial customers to participate in the competitive market during the phase-in, but pointed out that all classes of customers will be eligible by January 1, 2001. Staff stated that this Section makes clear that the eligibility of a customer's load is to be determined at a single premise, and that smaller loads at other premises for the same entity are not eligible. Staff agreed with NWE that this Section as currently written appears to favor 1 MW customers over aggregated 40 kWh customers, but that the intent of this Section was to give both groups of customers equal opportunity to participate. Staff recommended that in order to clarify that 1MW customers should not be favored over aggregated 40 kW customers, the sentence stating that additional aggregated customers must wait until 2001 to obtain competitive service should be deleted.

TEP asserted that only customers with a 1 MW minimum demand should be eligible for direct access under Section 1604(A)(1) and (2), and that utilizing a single non-coincident peak has the consequence of expanding direct access eligibility beyond 20 percent of TEP's 1995 system retail peak demand, thereby excluding some customers with loads in excess of 1MW. TEP also suggested that Section 1604 (A)(2) be modified to read that the 40 kWh criterion shall be met if the customer's usage exceeds 16,500 kWh in any 6 months, instead of in any month, in the event peak load data are not available. TEP believes that this would better characterize a customer whose load usage is more consistently at least 40 MW or 16,500 kWh. Staff responded to TEP's recommendations by stating that minimum demands should not be used to determine eligibility, which could exclude a customer because of 1 particular month having a lower demand than usual. Staff also disagreed with TEP's proposal to change 1 month to 6 months to determine eligibility of 40 kW customers because Staff believes there should be no increased restrictions on the eligibility of medium-size commercial customers.

In its responsive comments, TEP disagreed with Tucson regarding a flashcut and regarding the 40kW minimum requirement for aggregation.

Analysis**:** We concur with Staff that TEP's proposal to change 1 month to 6 months to determine eligibility of 40 kW customers should not be adopted.

We do not agree with Tucson that the phase-in should be eliminated based on California's experience that a only a limited number of customers are likely to initially participate in the competitive market. The current phase-in schedule is not unreasonable and will allow the Affected Utilities to continue their current course of preparation for the commencement of full competition.

We agree with Staff that deleting the last sentence of Section 1604(A)(2) would clarify that 1MW customers should not be favored over aggregated 40 kW customers. This deletion is not substantive.

Resolution**:** Delete the last sentence of Section 1604(A)(2). No other change is required.

1604(A)(2) and (4) and 1604(B)(6)

Issue**:** In response to comments filed by ATDUG on June 23, 1999, and to the numerous oral comments made at the public comment hearing on June 23, 1999, Staff proposed that these Sections be clarified regarding the ability of customers to aggregate or self-aggregate their loads, subject to the phase-in percentage limitations; and to clarify that eligible residential and nonresidential customers may be aggregated together. Staff recommended modifying the 1st sentence of Section 1604(A)(2) as follows:

> "During 1999 and 2000, an Affected Utility's customers with single premise non-coincident peak load demands of 40 kW or greater aggregated by an Electric Service Provider with other such customers or eligible residential customers into a combined load of 1 MW or greater within the Affected Utility's service territory will be eligible for competitive electric services."

Staff also recommended reinserting the following after "competitive electric services":

> "Self-Aggregation is also allowed pursuant to the minimum and combined load demands set forth in this rule.";

and adding the following sentence after the foregoing:

"Customers choosing Self-Aggregation must purchase their electricity and related services from a certificated Electric Service Provider as provided for in these rules."

Staff recommended adding a new Section 1604(A)(4) as follows:

"Effective January 1, 2001, all Affected Utility customers irrespective of size will be eligible for Aggregation and Self-Aggregation. Those customers must purchase their electricity and related services from a certificated Electric Service Provider as provided for in these rules."

Staff also recommended a new Section 1604(B)(6) as follows:

"Aggregation or Self-Aggregation of residential customers is allowed subject to the limitations of the phase-in percentages in this rule. Customers choosing Self-Aggregation must purchase their electricity and related services from a certificated Electric Service Provider as provided for in these rules."

Staff believed that the above changes would help clarify the original intent of the Rules to require certification of businesses that choose to provide Aggregation services, while also allowing customers to combine load ("Self-Aggregation") in a manner that will facilitate obtaining favorable competitive bids from ESP. Staff stated that the practice of Self-Aggregation could cut costs to competitors by having the customers themselves perform the functions of combining loads and developing purchase blocks.

ATDUG replied that some of Staff's proposed language additions to Section 1604 "are written as to regulate the conduct of customers" and make it "appear that the Commission is trying to prevent retail electric customers from buying power through aggregation or self-aggregation from Salt River Project and other legitimate electricity suppliers that are not regulated by the Commission." ATDUG suggested that the Sections in question be rewritten so as to require ESPs to sell electricity to aggregated customers, instead of requiring that aggregated customers must purchase their electricity from certificated ESPs.

Analysis**:** We agree with Staff's recommended changes. However, as written, proposed Section 1604(A) and Section 1604(B)(6) are redundant, as both state the requirement that customers choosing Self-Aggregation must purchase electricity from a certificated provider. Consequently, we will adopt Staff's recommendation, with the exception of the 2nd sentence in newly proposed Section 1604(B)(6). We do not agree that these changes will have the effect that ATDUG suggests, because in order to ensure system reliability and consumer protection, all ESPs providing competitive retail electric services in the service territories of the Affected Utilities must be certificated by the Commission. Further, we do not believe that requiring ESPs to provide designated services to designated customers would encourage competition.

The changes merely clarify the original intent of the Rules and are not substantive.

Resolution**:** Modify Sections 1604(A)(2) and (4), and Section 1604(B)(6) as recommended by Staff, with the exception of the 2nd sentence of Staff's proposed Section 1604(B)(6) which is redundant.

1604(B)

Issue**:** NWE suggested that the proposed limitations on residential participation will make the residential market unattractive to potential ESPs, but NWE did not make a specific recommendation other than that the Section should be "entirely revised." ACAA proposed that the minimum percentages for participation of residential customers be increased. Commonwealth believes that it should not have to obtain a customer list from its competing utility in order to market its services, and that the waiting list of interested residential customers should be distributed to all ESPs. Staff responded that the percentage increases ACAA proposed are probably too small to have a major impact on participation of residential customers. Staff stated that any lists of interested customers should be readily available to ESPs if the customers have given permission for their names and other information to be released, and stated that this Section does not preclude availability of such lists.

Analysis**:** We concur with Staff. This Section should be clarified with respect to the release of customer lists to ESPs. Such modification is not substantive.

Resolution**:** Add the following to Section 1604(B)(2) after "manage the residential phase-in program":

", which list shall promptly be made available to any certificated Load-Serving ESP upon request"

1604(C)

Issue**:** APS recommended that the words "such as" replace "including" when referring to rate reductions in this Section in order to clarify that this Section does not require a rate reduction. NWE commented that a mandatory rate reduction would be anti-competitive unless applied to all customers and that information about a rate reduction must be made available before competition begins.

Analysis**:** This Section as written does not require a rate reduction.

Resolution**:** No change is necessary.

R14-2-1605 "Competitive Services"

Issue**:** Section 1605 requires a CC&N for all competitive services. AEPCO, Duncan, Graham, Trico, Navopache, and Mohave (collectively, "Cooperatives") argue that this requirement conflicts with Section 1615(C), which allows distribution cooperatives to provide Competitive Services within their distribution service territories after January 1, 2001. The Cooperatives believe that it was not the intent of Section 1615(C) to require them to obtain a CC&N in order to provide competitive services within their distribution service territories. Staff agreed with these comments, and recommended the following addition to Section 1605:

"Except as provided in R14-2-1615(C), Competitive Services shall require a Certificate of Convenience and Necessity and a tariff as described in R14-2-1603."

Analysis**:** We concur with the Cooperatives and Staff that this Section should be modified to clarify that the Cooperatives do not have to apply for a CC&N to provide Competitive Services within their distribution service territories. Such modification adds clarity and is not substantive.

Resolution**:** Revise Section 1605(C) as recommended by Staff.

R14-2-1606 - Services Required to be Made Available

1606(A)

Issue**:** APS proposed that a sentence be added to state that a UDC, at its option, may provide Standard Offer Service to customers whose annual usage is more than 100,000 kWh. Navopache and Mohave proposed additional language to state that the UDC shall offer Standard Offer Service to the larger customers if the tariff covers the cost of providing the service and that the UDC could seek Commission approval for additional rate schedules to provide such service. Commonwealth suggested that ESPs be allowed to bid on services furnished to Standard Offer customers. Staff stated that the Rules already allow UDCs to provide Standard Offer Service to customers with usage greater than 100,000 kWh, but UDCs will not be Providers of Last Resort for those customers, and that because the Commission has determined that Standard Offer Service is a Noncompetitive Service, ESPs cannot bid on Standard Offer Service.

Analysis**:** UDCs may offer Standard Offer Service to any customer, but as Staff pointed out, are not required to offer Standard Offer Service to customers whose annual usage exceeds 100,000 kWh. Competitive bidding on Provider of Last Resort services is not currently contemplated in the Rules, but the Commission may consider implementing such a process in the future when the competitive generation market has developed.

Resolution**:** No change is necessary at this time.

1606(B)

Issue**:** Commonwealth proposed that power for Standard Offer Service be acquired through a competitive bid process instead of through the "open market." In addition, Commonwealth proposed that cooperatives not be excluded from the requirement of this Section. Tucson feels that the meaning of "open market" is not clear and proposed that power for Standard Offer Service be acquired "through a competitive procurement with prudent management of market risks, including management of price fluctuations." TEP proposed that a purchased power adjustment mechanism should be allowed as a means for UDCs to recover costs of procuring power for Standard Offer Service. Staff agreed with Commonwealth and Tucson that power for Standard Office Service should be acquired through competitive bidding, and agreed with Tucson's proposed language. Staff opposed the use of a purchased power adjustment mechanism because it would reduce the incentive for the utility to obtain reliable power sources at reasonable rates. Staff recommended that the following sentence be added to Section 1606(B):

"Standard Offer Service power shall be acquired through a competitive procurement with prudent management of market risks, including management of price fluctuations.

Staff further recommended that if the Commission does not adopt a competitive bid process, then the term "open market" should be defined in the Rules.

Analysis**:** There appears to be some confusion concerning the meaning of the term "open market." We do not wish to impose the constraints on energy procurement that would be associated with a competitive bid process. Consequently, we will modify Section 1606(B) to clarify the term "open market". Our clarification is not substantive.

Resolution**:** Revise Section 1606(B) by replacing "open market" with "an open, fair and arms-length transaction with prudent management of market risks, including management of price fluctuations."

1606(C)

Issue**:** Navopache and Mohave proposed adding language to Section 1606(C)(2) which would provide an exception to the requirement that Standard Offer Service be unbundled when wholesale power supplies are obtained on a bundled basis. Trico made a similar comment. APS recommended that the prohibition of "contracts with term" in Section 1606(C)(6) be deleted or at least limited to customers whose annual usage is 100,000 kWh or less because the prohibition restricts customer options and imposes burdens on the UDC when large customers leave from or return to Standard Offer Service. Commonwealth suggested that UDCs be prohibited from offering any discount, special contract, or unique tariff to any particular customer, as these services would in effect constitute Competitive Services. Commonwealth also opposed Trico's proposal because it would prevent potential customers and competitors from easily calculating Commonwealth's proposed "Generation Shopping Credit."

APS also recommended that an Affected Utility be allowed to submit for Commission approval a plan for unbundling Standard Offer Service that varies from the requirements of this Section. Commonwealth vigorously opposed APS' suggestion that the utility develop its own unbundling and billing plan because a unified billing format should be available to all customers. Commonwealth proposed addition of the new definition "Generation Shopping Credit" to Section 1601 and a new provision 1606(C)(3) to require that the "Generation Shopping Credit" appear on the bills of those customers who opt for competitive generation as follows:

> "Simultaneously with the start date for the implementation of retail choice, each Affected Utility shall provide a Generation Shopping Credit on the bill of each retail customer of an Affected Utility that chooses to purchase its electric generation service from an entity other than the Affected Utility that provides its distribution service. The Generation Shopping Credit shall be based on the Affected Utility's full cost to provide retail electric generation service to each customer class, including but not limited to the cost of energy, capacity, ancillary services, Must-Run Generating Units, all relevant taxes, reserves, transmission service (or the applicable independent system administrator or independent systems operator), marketing, administration and general costs, and the applicable rate of return on the energy, capacity, ancillary services, reserves, Must-Run Generating Units, marketing, administrative and general costs. The Commission shall determine the appropriate level of Generation Shopping Credits for each Affected Utility."
>
> Commonwealth proposed the following definition be added to Section 1601:
>
> "'Generation Shopping Credit' means the bill credit that will be afforded to each customer of an Affected Utility that chooses to purchase its electric generation service from an entity other than the Affected Utility that provides its distribution service."

Commonwealth also proposed that 1606(C)(2)(a)(1) and 1612(N)(1)(a) be amended to read: "Generation Shopping Credit", and that Must-Run Generating Units should be deleted from 1606(C)(2)(a)(3) as that cost component should be part of the Generation Shopping Credit.

Staff argued that when possible, unbundled elements need to be standard across companies so that comparisons can be made, and that APS' suggested changes to Section 1606(C)(2) are unnecessary because an Affected Utility can file for Commission approval of a waiver, if necessary. Staff stated that the intent of Section 1606(C)(6) is to prohibit tariffs for Standard Offer Service that prevent customers from accessing a competitive option, and believes that the prohibition against "contracts with term" is consistent with that intent. Staff stated that this Section should be made consistent with Section 1612(N), which identifies billing elements. Staff also stated that ancillary services should be identified as either variable costs or fixed costs. Staff therefore recommended that Section 1606(C)(2) be amended as follows:

"a. Electricity:
   (1). Generation including Ancillary Services (variable costs)
   (2) Competition Transition Charge
   (3) Must-Run Generating Units

b. Delivery:
   (1) Distribution services
   (2) Transmission services
   (3) Ancillary Services (fixed costs)

c. Other:

(1) Metering Service
(2) Meter Reading Service
(3) Billing and collection

d. System Benefits"

Staff also recommended that the date in Section 1606(C)(6) be made consistent with dates appearing elsewhere in the Rules.

In its responsive comments, Commonwealth stated that it is unclear what Staff means by "variable" ancillary services which are part of generation costs and "fixed" ancillary services, which are included in delivery costs. Commonwealth contended that all ancillary services relating to generation, both variable and fixed, should be included in the computation of the "Generation Shopping Credit." Commonwealth argued that under its proposal, the distinction between a fixed and variable ancillary service would not be a pathway for cost shifting from generation to delivery charges. Commonwealth recommended that all ancillary services be included in both the Standard Offer Service tariff provision (Section 1606(C)(2)) and the Billing provision (Section 1612(N)), under "Generation Shopping Credit." APS argued that because FERC classifies all ancillary services as transmission related costs, they should be included in the "delivery" category of unbundled bills. APS contended that to modify Section 1606(C) as Staff proposed would be confusing and an unnecessary complication.

In its responsive written comments, NWE proposed the following changes to Section 1606(C)(2):

1. Standard offer tariffs shall include the following elements, each of which shall be clearly unbundled and identified in the filed tariffs:

~~a.~~ ~~Electricity~~ Competitive Services
(1) Generation, which shall include all transaction costs and line losses
(2) Competition Transition Charge, which shall include recovery of generation related regulatory assets
(3) ~~Must Run Generating Units~~ Generation-related billing and collection
(4) Transmission Services
(5) Metering services
(6) Meter reading service
(7) Optional Ancillary Services, which shall include spinning reserve service, supplemental reserve service, regulation and frequency response service, and energy imbalance service

~~b.~~ ~~Delivery~~ Non-Competitive Services
(1) Distribution services
(2) Transmission services
~~(3~~2) Required Ancillary services, which shall include scheduling, system control and dispatch service, and reactive supply and voltage control from generation sources service
(3) Use of generating units for must-run purposes
(4) System Benefit Charges
(5) Distribution-related billing and collection

c. ~~Other~~
~~Metering Services~~
~~(2) Meter Reading Service~~
~~(3) Billing and Collection~~

~~The Competition Transition Charge shall be include in the Standard Offer Service tariffs for the purpose of clearly showing the portion of Standard Offer Service charges being collected to pay Stranded Cost.~~ Each of these unbundled elements of the standard offer price shall be clearly identified on each customer bill.

Analysis**:** Standard Offer Service tariffs must be unbundled in a manner that permits a meaningful comparison for consumers but not be cost prohibitive. Section 1606(C)(4) provides that unbundled Standard Offer Service tariffs be cost-based. If an entity is not able to comply with the unbundling provisions, it may seek a waiver after notice and a hearing.

For the most part, NWE' s proposal concerning unbundled Standard Offer Service appears reasonable and appropriately categorizes the various elements. NWE's proposed unbundled tariff elements present the existing categories in a logical manner and recognize that Ancillary Services may be either generation- or transmission–related. The Rule provides that the Commission must approve all Standard Offer Service tariffs, and it is through the approval process that the Affected Utility must demonstrate that costs are appropriately allocated. The process

of unbundling tariff elements with Commission oversight and after public hearing, should alleviate Commonwealth's concerns that costs may be unfairly shifted from generation to transmission.

We believe, however, that the last sentence in NWE's proposal requiring that each of the unbundled elements shall be identified on the customer bill is more appropriately addressed in Section 1613(K) regarding billing elements. While we agree that customer bills for Standard Offer Service must reflect all of the unbundled elements, we do not believe that the bill format must exactly parallel the detail of the tariff because of the potential confusion for consumers. As long as all bill formats are identical for all providers, and billing elements reflect the same underlying costs to permit comparisons, bills should be as simple as possible to read while providing the consumer with adequate information to make informed choices.

Our modification provides additional guidance and detail into how tariffs should be unbundled, but it does not substantively alter the original provision that requires unbundled tariffs.

Resolution**:** Replace "After January 2, 2001" with "Beginning January 1, 2001". Modify 1606(C)(2) as follows:

2. Standard Offer Service tariffs shall include the following elements, each of which shall be clearly unbundled and identified in the filed tariffs:

a. Competitive Services~~Electricity~~:
(1) Generation, which shall include all transaction costs and line losses;
(2) Competition Transition Charge, which shall include recovery of generation related regulatory assets;
(3) Generation-related billing and collection; ~~Must-Run Generating Units~~
(4) Transmission Services;
(5) Metering Services;
(6) Meter Reading Services; and
(7) Optional Ancillary Services, which shall include spinning reserve service, supplemental reserve, regulation and frequency response service, and energy imbalance service.

b. Non-Competitive Services: ~~Delivery~~
(1) Distribution services;
(2) Required Ancillary services, which shall include scheduling, system control and dispatch service, and reactive supply and voltage control from generation sources service; ~~Transmission services~~
(3) Must-Run Generating Units;~~Ancillary services~~
(4) System Benefit Charges; and
(5) Distribution-related billing and collection.

~~c. Other:~~
~~(1) Metering Service~~
~~(2) Meter Reading Service~~
~~(3) Billing and~~ collection

~~d. System Benefits~~

~~The Competition Transition Charge shall be included in the Standard Offer Service tariffs for the purpose of clearly showing that portion of Standard Offer Service charges being collected to pay Stranded Cost.~~

Issue**:** Staff recommended that Section 1606(C)(6) be modified to allow "economic development tariffs that clearly mitigate stranded costs" to be included in Standard Offer Service. AECC urged the Commission to broaden the definition of Economic Development Tariff to provide discounted tariffs to businesses for whom a discounted tariff would provide an economic benefit that would be in the public interest and ensure continued availability of jobs for Arizona citizens. At the public comment sessions, consumer and low-income groups expressed reservations about whether the implementation of such "Economic Development Tariffs" would be equitable. Commonwealth believes Staff's proposal merges the "wires" business with the "generation" business and retains the monopoly configuration of a utility. Commonwealth opposes utility generation discounts or any other special deals that drive up the distribution charges for all customers.

Analysis**:** At the present time there is insufficient evidence in the record to adopt the proposed "Economic Development Tariff" over the concerns and reservations expressed by representatives of captive Standard Offer Service ratepayers. It appears that if this tariff were allowed, it would be Standard Offer Service ratepayers who would be subsidizing this economic development program. We are therefore reluctant to implement such a program without the guidance of a cost-benefit analysis, and none was presented in the record to support this proposal. Furthermore, the benefits this proposal seeks to accord should come as a natural consequence of a competition, with competitive rates becoming available to businesses. Indeed, approval of such a tariff for UDCs could thwart the growth of competition in the generation market and thereby actually have an anticompetitive result. Absent the showing of any evidence to the contrary, we find that the proposed "Economic Development Tariff" is

neither necessary nor beneficial at this time and consequently, we decline to revise Section 1606(C) as proposed by Staff.

Resolution**:** No change is necessary.

1606(D)

Issue**:** Trico recommended that the Unbundled Service tariff not include a Noncompetitive Service tariff, but that instead, 2 separate tariffs should be filed. Staff responded that the Unbundled Service tariff should reflect all components of services available, and that it will be less confusing to all parties if Noncompetitive Services are included in the Unbundled Service tariff rather than filing 2 separate tariffs.

In its responsive comments NWE recommended adding the following modification to Section 1606(D):

> D. ~~By July 1, 1999~~, By the effective date of these rules, or pursuant to Commission Order, whichever occurs first, each Affected Utility or Utility Distribution Company shall file an Unbundled Service tariff which shall include a Noncompetitive Services tariff. The Unbundled Service tariff shall calculate the items listed in 1606(C)(2)(b) on the same basis as those items are calculated in the Standard Offer tariff.

Analysis**:** NWE's recommended modifications add clarity and should be adopted. The proposed modification is not substantive.

Resolution**:** Modify Section 1606(D) as recommended by NWE.

1606(G)

Issue**:** Commonwealth proposed that oral authorization, subject to 3rd party verification, be allowed for the release of customer data. NWE commented that the customer should be able to give the data to whomever the customer wants, but did not suggest a change to the Section. Staff believes it is important that customer information not be released without written consent from the customer, because written authorization minimizes the possibility of 3rd parties receiving customer information without customer consent. The AZCC, in public comments, opposed oral third-party verification, stating that it hasn't been of benefit to residential consumers of telephone service.

Analysis**:** Because customer data belongs to the customer, we agree with NWE that the customer should be able to give the data to whomever the customer wants. For the reasons given by Staff, however, it is important that customer information not be released without the customer's written authorization. The required written authorization to switch providers as required by Section 1612(C) can also specify the customer's consent for the release of the customer's demand and energy data. For the reasons explained below under Section 1612(C), we are not convinced at this time that permitting oral authorization for the release of customer data with 3rd party verification should be allowed.

Resolution**:** No change is necessary at this time.

1606(H)

Issue**:** Section 1606(H)(2) provides that rates for Competitive Services and for Noncompetitive Services shall reflect the costs of providing the services. Trico suggested amending Section 1606(H)(2) to clarify that cost has nothing to do with competitive rates. Trico also suggested amending Section 1606(H)(3) to clarify that flexible rates are limited to Competitive Services. Trico further stated that Sections 1606(H)(2) and (H)(3) discriminate between UDCs and ESPs. Staff asserted that it is unreasonably restrictive to limit flexible pricing to Competitive Services. Staff noted that adjuster mechanisms, which are commonly used in monopoly regulation, are a form of flexible pricing, with the maximum rates subject to Commission approval. Staff stated that because Section 1606(H) by its terms applies to both Competitive and Noncompetitive Services, there is no discrimination.

Analysis**:** We concur with Staff. Competitive tariffs are required to state a maximum rate, and the minimum rate cannot be below marginal cost. Accordingly, competitive rates are clearly related to cost. Section 1606(H)(3) allows downwardly flexible pricing if the tariff is approved by the Commission. This approval process provides a forum in which Trico may address any particular concerns.

Resolution**:** No change is necessary.

R14-2-1607 – Recovery of Stranded Cost of Affected Utilities

1607(A)

Issue**:** TEP urged the Commission to delete the reference to "expanding wholesale or retail markets or offering a wider scope of permitted regulated utility services for profit, among others" as a mechanism for mitigating Stranded Cost. TEP believes that most, if not all, new products and services will develop in the unregulated, competitive market, and because the profits therefrom will be unregulated, the Commission will not require those profits to be used to offset Affected Utilities' Stranded Cost. APS contends that the definition of "Competitive Services" in Section 1601 "all but eliminates the possibility of an Affected Utility offering such additional services" as are referred to in this Section. Staff concurs with the resolution of this issue in Decision No. 61634 when TEP's argument was not adopted, and believes that TEP's concern was adequately addressed in our earlier revision to this provision.

Analysis**:** This provision requires the Affected Utilities to take every reasonable, cost-effective measure to mitigate or offset Stranded Cost. It does not, however, mandate any particular method for doing so. We agree with APS that the definition of "Competitive Services" precludes the Affected Utilities from offering those competitive services that their competitive affiliates may offer for profit. We also agree with TEP that unsubsidized profits from the activities of competitive affiliates of Affected Utilities will not be required to offset Affected Utilities' Stranded Cost. However, we do not believe that the inclusion in this Section of various options for mitigating Stranded Cost disadvantages the UDCs.

Resolution**:** No change is required.

1607(B)

Issue**:** Trico asked the Commission to insert the word "all" before "unmitigated Stranded Costs" to clarify that Affected Utilities are entitled to recover all of their unmitigated Stranded Costs.

Analysis**:** This issue was raised and rejected in earlier revisions of the Rules. We stand by our earlier decision to reject this argument. We believe that the inclusion of the word "all" may infer that Affected Utilities are entitled to recover all Stranded Costs in all circumstances.

Resolution**:** No change is required.

1607(C)

Issue**:** Trico recommended that, after competition has been implemented, Affected Utilities be required to file on an annual basis the amount of the actual unmitigated distribution Stranded Cost incurred. Staff responded that although distribution electric public service corporations may experience distribution Stranded Cost from competition, due to the difficulty in calculating such Stranded Cost prior to competition, it would be more appropriate to deal with those costs in rate cases for distribution electric public service corporations.

Analysis**:** We concur with Staff that there is no need for distribution electric public service corporations to make a distribution-related Stranded Cost filing with the Commission outside the confines of a rate case.

Resolution**:** No change is required.

1607(F-G)

Issue**:** TEP urged the Commission to remove the exclusion of self-generated power from the calculation of recovery of Stranded Cost from a customer. TEP believes that this Section as written will increase uneconomic self-generation while increasing cost burdens on customers who purchase their power in the competitive marketplace. Staff disagreed with TEP that this Section will create significant problems, noting that although self-generation has been an option for customers even prior to competition, significant problems of cost-shifting have not developed. TEP also requested adding the following language to the end of Section 1607(G):

"Subject to Commission approval, neither Section F or G of this Rule shall preclude an Affected Utility from implementing stand-by tariffs that recover appropriate stranded costs or from providing other opportunities to recover such resultant stranded costs."

TEP argued this language is necessary to allow an Affected Utility, with Commission approval, to implement stand-by tariffs or other mechanisms to recover Stranded Costs in the event there are Stranded Cost recovery shortfalls resulting from conditions completely outside the control of the Affected Utility. Staff opposed TEP's proposal, characterizing it as transforming an opportunity to recover Stranded Costs into a guarantee of recovery. In public comments, TEP explained that it wishes for customers who self-generate, but will be taking back-up service from TEP, to come under a maintenance and backup tariff, which would include some Stranded Cost recovery. In the event self-generation raises a UDC's distribution costs, such increase is appropriately addressed in the context of a rate case.

Analysis**:** We concur with Staff that TEP's recommended language is not necessary. Sections 1607(F) and (G) do not preclude an Affected Utility from filing tariffs that apply to maintenance and backup customers who may self-generate but will remain connected to the system in order to receive backup power. It is reasonable for such customers to pay a CTC based on the amount of generation purchased from any Load-Serving Entity.

Resolution**:** No change is required.

R14-2-1609 – Transmission and Distribution Access

Issue**:** NWE suggested numerous language changes throughout this Section to emphasize that an Independent System Operator ("ISO") will be "regional" in form and that the Arizona Independent Scheduling Administrator ("AISA") is an "interim" organization. Staff responded that because Section 1609(F) adequately describes the support of an ISO being regional and the intent to transition from the AISA to an ISO, NWE's suggested addition of the descriptive terms "regional" and "interim" in the numerous locations throughout this Section would be redundant.

Analysis**:** NWE's concerns are adequately addressed by Section 1609(F).

Resolution**:** No change is necessary.

1609(B)

Issue**:** Navopache, Mohave, Trico, and APS contended that UDCs should not be required to ensure that adequate transmission import capability is available to meet the load requirements of all distribution customers within their service areas. Trico contended that such a requirement should apply only to customers receiving Standard Offer Service from the UDC. Navopache and Mohave contended that the Section as written places an obligation with the UDC but fails to address cost and revenue responsibility. AEPCO, Duncan and Graham supported the modification or deletion of Section 1609(B). Navopache, Mohave and APS question Commission jurisdictional authority to regulate a FERC jurisdictional transmission issue. As a solution, Navopache and Mohave suggested replacing the words "transmission import" with "distribution." APS suggested deletion of this Section altogether because it "arguably extends to extra-high voltage ("EHV") and other FERC-regulated transmission systems as well." APS further contended that a rule requiring UDCs to ensure adequate EHV transmission import capability could eliminate or mask market forces that rightly drive plant-siting decisions by new market entrants or merchant generators.

ATDUG suggested that additional clarity would result from the substitution of the words "transmission and distribution import, export, and local operation", for the words "transmission import" noting this would require a UDC to construct facilities to accommodate load growth. ATDUG noted that facilities subject to FERC jurisdiction would have regulations in place to determine available transfer capability ("ATC") and assigned costs for increased system transfer requirements, but that this Section is silent as to how these issues will be faced for facilities subject to Commission jurisdiction. ATDUG contended that additional safeguards are required to guarantee that ATC calculations are not used as a shield against competition.

Staff responded that the advent of electric retail competition does not remove, eliminate or diminish the obligation of UDCs to ensure reliable delivery of distribution service to all retail customers and that this obligation does not extend exclusively to only Standard Offer Service customers, because the UDC is the Provider of Last Resort for competitive retail consumers as well. Staff stated that because the ability of a UDC to meet this obligation depends upon the adequacy of its distribution system, local generation and its interconnections with the bulk transmission system, this Section's reference to transmission import capability is proper.

Staff also pointed out that because the cost of distribution system improvements is recovered via the UDC's distribution delivery charge, ensuring that such system adequacies are achieved does not imply that the UDC must absorb the full cost for required system improvements, and that transmission providers recover transmission system improvement costs via a transmission delivery charge. Staff stated that although such charges may be regulated by different jurisdictional authorities, adequate system delivery obligation remains a composite responsibility of the UDC and its interconnected transmission providers.

For those reasons, Staff did not agree with suggestions to delete this Section or eliminate use of the words "transmission import" therein. Staff did note, however, that the current rule fails to speak to the obligation of the UDC to provide an adequate distribution system as well as transmission capabilities, and recommended that this Section be amended to read as follows:

"Utility Distribution Companies shall retain the obligation to assure that adequate transmission import capability and distribution system capacity is available to meet the load requirements of all distribution customers within their services areas."

Analysis**:** We concur with Staff that the advent of electric retail competition does not remove, eliminate or diminish the obligation of UDCs to ensure reliable distribution service to all retail customers, and not exclusively to Standard Offer Service customers. Because the ability of a UDC to meet this obligation depends upon the adequacy of its distribution system, local generation, and interconnections with the bulk transmission system, this Section's reference to transmission import capability does not exceed the Commission's jurisdiction. As in the past, the cost of distribution system improvements are recoverable via the UDC's distribution delivery charge, and transmission providers can recover transmission system improvement costs via transmission delivery charges.

We will adopt Staff's recommended modification. We will not delete this Section as requested by APS, or eliminate the use of the words "transmission import" as suggested by Navopache and Mohave, because the Commission has the authority and the obligation to mandate that all distribution ratepayers in UDC service territories have access to generation provided by the certificated ESP of their choice. However, we agree that distribution issues are closely tied to transmission issues, and that ideally market forces, and not UDC decisions, should drive plant-siting decisions by new market entrants or merchant generators. We will therefore modify this Section to indicate that eventually, the obligation to assure adequate transmission import capabilities should rest with the ISO, or in the event the ISO does not become operational, by default with the AISA. Our modifications do not substantively modify this Section.

Resolution**:** Modify this Section as follows:

"Until such time that the transmission planning process mandated by R14-2-1609(D)(5) is fully implemented, or until such time that a FERC-approved and operational Independent System Operator assumes the obligations of the AISA as is contemplated by R14-2-1609(F), Utility Distribution Companies shall retain the obligation to assure that adequate transmission import capability is available to meet the load requirements of all distribution customers within their services areas. Utility Distribution Companies shall retain the obligation to assure that adequate distribution system capacity is available to meet the load requirements of all distribution customers within their services areas."

1609(D)

Issue**:** TEP proposed that transmission-owning Affected Utilities' participation in AISA formation be made optional instead of mandatory, and that the resulting optional-participation AISA should be given the latitude to determine whether the functional characteristics of the AISA contemplated by this Section are "appropriate." To this end, TEP suggested that, because the AISA should determine what functions it must carry out as circumstances change over time, the word "shall" should be replaced with the word "may" throughout this Section. NWE proposed revised language that would limit the AISA role to that of a monitor or auditor without developing and operating an overarching statewide Open Access Same-Time Information System ("OASIS"). APS stated that the AISA should be limited to verifying rather than calculating the Available Transmission Capacity ("ATC") for Arizona transmission facilities. Staff responded that the functional characteristics outlined for the AISA in this Section describe what is required to assure nondiscriminatory retail access in a robust and efficient electricity market, and that reducing or changing such functional characteristics could jeopardize the effective achievement of a fair and nondiscriminatory retail market. Staff further stated that by filing with FERC, the AISA will become a regulated entity that cannot indiscriminately change its functionality.

Staff explained that 2 stages of development are envisioned for AISA: an initial implementation and an ultimate implementation, and that the ultimate implementation includes an overarching statewide OASIS that will provide AISA with the technical ability to take an active role in the calculation and allocation of the ATC for the Arizona transmission system. Staff explained that this Section by necessity defines a fully developed AISA providing the necessary functional requirements in the absence of an ISO, and that the pace of ISO implementation will dictate to what extent the AISA becomes fully developed before handing over its responsibilities and functions to the regional ISO as contemplated by Section 1609(F). Staff therefore believes that the language changes suggested by TEP and NWE are not appropriate.

Analysis**:** It is essential that the Rules assure, in the event of any delay in the implementation of the planned regional ISO, the fair and nondiscriminatory transmission access that is essential to the development of a robust and efficient electricity market. We agree with Staff's characterization of the 2 stages of implementation of the AISA, and that this Section should remain in place as written. The role of the AISA should not be limited at this time in reliance on the planned regional ISO, which has as yet has not been officially formed and is awaiting FERC approval.

Resolution**:** No change is necessary.

1609(D)(5)

Issue**:** APS and TEP contend that the transmission planning function required of AISA by this Section is unnecessary, duplicates the efforts of the Southwest Regional Transmission Association ("SWRTA") and the Western States Coordinating Council ("WSCC"), and should be deleted. Staff stated that Affected Utilities historically assumed the responsibility to plan transmission expansion requirements, and that although SWRTA and WSCC do study the interconnected EHV transmission system's capability to perform reliably under various forecast operating conditions, the transmission system analysis functions currently performed by SWRTA and WSCC do not consider transmission alternatives to solve local transmission problems. Staff further stated that it should not be assumed that the transmission planning function accompanying a regional ISO will address the transmission interface with local UDC distribution systems. Staff agreed with APS' and TEP's assessment that because Section 1609(B) places that obligation with the UDC and its transmission providers, AISA implementation of a transmission planning process as required by Section 1609(D)(5) would be redundant and unnecessary. Staff therefore recommended that this Section be deleted.

Analysis**:** Due to our modification of Section 1609(B), this Section is not redundant, but is essential to assure that the transmission interface with local UDC distribution systems is addressed. Otherwise, we concur with Staff.

Resolution**:** No change is necessary.

1609(E)

Issue**:** APS contended that because APS has already filed a proposed AISA implementation plan on behalf of itself, AEPCO, TEP, and Citizens, Section 1609(E) is moot and should be deleted. NWE recommended inclusion of language in Section 1609(E) to require a proposed schedule for the phased development of a regional ISO. Staff agreed that a proposed schedule for the staged development of the AISA and its transition to a regional ISO is needed, and that the AISA implementation plan should be updated and re-filed with the Commission following final adoption of these rules, and recommended the following language changes to Section 1609(E):

"… the schedule for the phased development of Arizona Independent Scheduling Administrator functionality and proposed transition to a regional ISO; …"

Analysis**:** We concur with Staff's recommendation. This modification is not substantive.

Resolution**:** Make the changes to Section 1609(E) as suggested by Staff to require a proposed regional ISO transition schedule in the AISA implementation plan.

1609(F)

Issue**:** Tucson expressed doubts as to the necessity of a regional ISO, which Tucson states may be more expensive than originally anticipated, and therefore recommended deletion of Section 1609(F).

Analysis**:** Section 1609(F) directs the Affected Utilities to make good-faith efforts to develop a regional ISO. The FERC has provided guidelines for ISO formation to ensure nondiscriminatory access to the transmission grid. Section 1609(C) expresses the Commission's support for a regional ISO. We do not believe that this provision as written overly burdens the Affected Utilities, nor does it mandate the creation of an ISO if it is not economically feasible to do so.

Resolution**:** No change is required.

1609(G)

Issue**:** APS wanted assurances that the Commission "will" authorize Affected Utilities to recover costs for establishing and operating the AISA or regional ISO if FERC fails to do so within 90 days of application with FERC. Staff recognized that the cost of organizing and implementing AISA and Desert STAR has been partially assumed by Arizona's Affected Utilities, and that their timely recovery of such costs is a reasonable expectation. Staff stated, however, that this Section already accommodates such a cost recovery and therefore did not support wording changes in Section 1609(G).

Analysis**:** We concur with Staff.

Resolution**:** No change is necessary.

1609(I)

Issue**:** NWE recommended removal of language requiring AISA development of protocols for pricing and availability of Must-Run Generating Units, their presentation to the Commission for review and approval

prior to filing with FERC, provision of such services by UDCs, and recovery of such fixed-costs via a regulated charge that is part of the distribution service charge. APS opposed NWE's proposal. Staff recommended that this Section should be left intact, as the AISA is developing such protocols and is proceeding to comply with this Section as it is written.

Analysis**:** NWE's comments do not provide the basis upon which its proposed changes are premised, and do not suggest an alternative method of developing protocols for the availability of services from Must-Run Generating Units. Generation from Must-Run Generating Units is essential to maintain system reliability, and should therefore remain a Noncompetitive Service. Must-Run Generating Units should operate on a regulated cost-of-service basis.

Resolution**:** No change is necessary.

1609(J)

Issue**:** APS suggested deletion of this Section on the basis that the AISA will not address settlement protocols. Staff responded that the AISA is in fact addressing protocols for settlement of Ancillary Services, Must-Run Generation, Energy Imbalance, and After-the-Fact Checkout in order to shape and manage Scheduling Coordinators' expectations of the settlement process, and that this Section should remain as written.

Analysis**:** We concur with Staff.

Resolution**:** No change is necessary.

Former R14-2-1609 - Solar Portfolio Standard

Issue**:** Photovoltaics International, LLC encouraged the Commission to retain the Solar Portfolio Standard and further stated that in selecting a location for its next solar manufacturing plant, it would look for a state with "appropriate encouragements for adoption of solar electricity generation." Similarly, the ACAA, Golden Genesis Company, and Robert Annan recommended the reinstatement or retention of the Solar Portfolio Standard (R14-2-1609). Tucson also recommended that the Solar Portfolio Standard be retained, but indicated that it "... may be desirable to modify the standard to make it more practical, but complete elimination of the solar requirements is poor public policy." Tucson expressed support of the Environmental Portfolio Standard as outlined in Commissioner Kunasek's April 8, 1999, letter "as a substitute for the Solar Portfolio Standard." Tucson suggested that the Environmental Portfolio Standard "be formulated to follow the intent of the Solar Portfolio Standard." The LAW Fund also recommended reinstatement of the Solar Portfolio Standard. However, the LAW Fund applauded the opening of a new docket on an Environmental Portfolio Standard (E-00000A-99-0205), and stated that it will participate in the new docket. The Arizona Solar Energy Industries Association ("ARISEIA") stated that the Solar Portfolio Standard "should have been retained in the Rules." ARISEIA further stated, however that it supports the new Environmental Portfolio Standard docket, which will "provide significant economic development opportunities, cleaner air and a brighter future for Arizona."

Staff provided the following comments: "Staff has been supportive of the Solar Portfolio Standard since its inception in 1996. However, since the Amended Rules approved in Decision No. 61634 on April 23, 1999, did not include the Solar Portfolio Standard, it is problematic to attempt to reintroduce the standard at this point in the rule amendment process. To do so would be a "substantive" change in the rules, in Staff's opinion, necessitating a recommencement of the rule amendment process that might delay the start of competition. Staff believes that delaying the entire rules package would be neither prudent nor wise.

"Staff does, however, agree with Tucson, the LAW Fund and ARISEIA that the new docket for the Environmental Portfolio Standard, as suggested by Commissioner Kunasek's April 8, 1999, letter is an excellent vehicle to incorporate solar and other clean technologies into the new competitive market. In fact, Staff believes that the Environmental Portfolio Standard process, if promptly handled, and followed by a supplemental rulemaking process, could add Environmental Portfolio Standard rules that could be in effect by January 1, 2000."

Staff recommended no change to the rules at this time, but a continuation of the Environmental Portfolio Standard proceedings in the new docket.

Analysis**:** We believe that the Environmental Portfolio Standard docket constitutes the proper forum for consideration of the costs and benefits of renewable energy requirements, and that the start of competition should not be delayed pending such consideration.

Resolution**:** No change is required.

R14-2-1611 – Rates

1611(B)

Issue**:** NWE opposed the language in Section 1611(B) regarding the filing of maximum rates, stating that the market will set the price of electric services and that in certain cases, the maximums may need to be exceeded. NWE also pointed out that this provision does not establish any time limitations for the Commission to approve such rates. Staff responded that the filing of maximum rates is an established rate/regulatory practice in Arizona, and that the Commission has approved maximum rates in conjunction with its approval of ESP applications.

Analysis**:** We concur with Staff.

Resolution**:** No change is necessary.

1611(C)

Issue**:** NWE stated that Section 1611(C) is an unnecessary remnant of the regulatory regime that Arizona is now abandoning, and that it should be stricken in its entirety, but that if retained, strict time limitations for such review should be required, and submitted contracts should be presumed valid unless disapproved under clear criteria within the established time period. Staff stated that this Section requires a Commission Order for contract approval only if the contract terms deviate from a Load Serving Entity's approved tariffs. Tucson stated that this Section should be deleted because it is unclear why competitively negotiated contracts should be treated differently before January 1, 2001, than after that date. Trico recommended that because the word "terms" is ambiguous, the word "terms" should be replaced by the word "provisions" in the last sentence of Section 1611(C). Commonwealth joined in the concerns of Tucson and Trico. Staff agreed that the word "terms" may be misconstrued to mean the length of the contract and recommended adoption of Trico's proposed modification.

Analysis**:** This Section places a reasonable requirement on Load-Serving Entities in order to allow the Commission's Utilities Division to monitor the referenced contracts during the phase-in of competition. After January 1, 2001 all customers will have access to contracts with competitive suppliers, and this monitoring will no longer be necessary for contracts that comply with the provisions of approved tariffs. It is reasonable that a Commission Order be required for approval of contracts that deviate from approved tariffs, because to approve such contracts without Commission Order would render Commission approval of tariffs meaningless. We concur with Staff regarding the substitution of the word "provisions" for the word "terms."

Resolution**:** Replace the word "terms" with the word "provisions" in the last sentence of this Section. No other change is necessary.

1611(D)

Issue**:** Tucson recommended deletion of the 1st sentence of this Section. Staff responded that this Section affirms the fact that the referenced contracts no longer need to be filed with the Director, Utilities Division on or after January 1, 2001, and recommended no change.

Analysis**:** We concur with Staff.

Resolution**:** No change is necessary.

R14-2-1612 – Service Quality, Consumer Protection, Safety, and Billing Requirements

1612(A-B)

Issue**:** Trico recommended that words "each paragraph" be replaced by the words "the applicable provisions" in the last sentence of Section 1612(A) because in this Section as well as Section 1612(B), there are numerous provisions of Sections 201 through 212 that are not applicable to ESPs. Staff responded that ESPs are subject to all of the provisions of Sections 201 through 212, and therefore no change to Sections 1612(A) or (B) is necessary.

Analysis**:** We concur with Staff.

Resolution**:** No change is necessary.

1612(C)

Issue**:** Commonwealth proposed that oral authorization, subject to 3rd-party verification, be allowed for the switching of service providers in lieu of the requirement of a written authorization, and that this Section be modified accordingly. Commonwealth argued that allowing 3rd party oral verification would reduce costs for ESPs. Staff responded that a customer's service provider should not be changed without written consent from the customer, because written authorization minimizes the possibility of being switched to other service providers

without customer consent, and that there is no reason that this requirement would result in a delay of the transaction. In their oral comments, ACAA informed the Commission that it and other consumer groups have been communicating with Commonwealth regarding this issue, but that the consumer groups cannot yet endorse Commonwealth's proposal. At the public comment session, Staff stated that written confirmation is the best way to avoid any potential unauthorized switching of providers, or "slamming" problems that may occur, and recommended no change.

Analysis**:** Arizona's electricity consumers must be protected from the practice of "slamming" that is unfortunately an ongoing problem in the deregulated long-distance telecommunications industry. In that industry, the third-party oral verification process is known not to be completely effective in preventing slamming. We do not believe that requiring written authorization rather than 3rd-party oral verification will necessarily result in higher market entry costs for competitive ESPs. On the contrary, the requirement of written customer authorization will provide protection for ESPs as well as for consumers, because it will result in fewer erroneous switches, which are costly for ESPs. In keeping with the intent of A.R.S. § 40-202(C)(4), we will not modify this Section as Commonwealth requests.

Resolution**:** No change is necessary.

Issue**:** A.R.S. § 40-202(C)(4) confirms the Commission's authority to adopt consumer protection requirements related to switching service providers. Several of the requirements appearing in A.R.S. § 40-202(C)(4) are embodied in Section 1612(C), but some are not.

Analysis**:** For consistency, clarity and certainty, Section 1612(C) should include the specific requirements and prohibitions relating to written authorizations to switch service providers that appear in A.R.S. § 40-202(C)(4). Such additions to the Rules are not substantive.

Resolution**:** Modify Section 1612(C) by adding the following after "switching the consumer back to the previous provider.":

"A new provider who switches a customer without written authorization shall also refund to the retail electricity customer the entire amount of the customer's electricity charges attributable to electric generation service from the new provider for three months, or the period of the unauthorized service, whichever is less."

Add the following after "the provider's certificate.":

"The following requirements and restrictions shall apply to the written authorization form requesting electric service from the new provider:

1. The authorization shall not contain any inducements;
2. The authorization shall be in legible print with clear and plain language confirming the rates, terms, conditions and nature of the service to be provided;
3. The authorization shall not state or suggest that the customer must take action to retain the customer's current electricity supplier;
4. The authorization shall be in the same language as any promotional or inducement materials provided to the retail electric customer; and
5. No box or container may be used to collect entries for sweepstakes or a contest that, at the same time, is used to collect authorization by a retail electric customer to change their electricity supplier or to subscribe to other services.

Issue**:** Commonwealth objected to the language in Section 1612(C) that authorizes UDCs to audit ESPs written authorizations to switch providers in order to assure that a customer switch was properly authorized.

Analysis**:** We agree that this provision could unnecessarily delay the switching process. The penalties for unauthorized switching should be adequate to deter intentional unauthorized switching, which should preclude any need to audit written authorizations. However, the Commission's Consumer Services Division has the regulatory authority to conduct such audits, and if a UDC believes such an audit is necessary, the UDC should request that the Commission conduct an audit. A UDC, especially one with a competitive ESP affiliate, should not have the authority to conduct such audits itself.

Resolution**:** Replace "has the right" with "may request that the Commission's Consumer Services Division". Such modification does not substantively affect any entity's right to an audit.

1612(E)

Issue**:** NWE recommended that this Section be redrafted to clarify that compliance with applicable reliability standards is the responsibility of the scheduling coordinator, the ISO or the ISA, and that notification of

scheduled outages is the responsibility of the UDC and should not apply to ESPs. Staff responded that ESPs should remain subject to the same applicable reliability standards as UDCs and recommended no change.

Analysis**:** We concur with Staff.

Resolution**:** No change is necessary.

1612(G-H)

Issue**:** NWE stated that the provisions found in Sections 1612(G) and (H) should apply only to UDCs. Staff responded that ESPs should remain subject to the same service quality provisions as the UDCs, and recommended no change.

Analysis**:** We concur with Staff.

Resolution**:** No change is necessary.

1612(I)

Issue**:** Tucson requested that Section 1612(I) be modified to clarify the time-frames and conditions that a customer that is being served by an ESP may return to Standard Offer Service. Staff stated that it will be necessary for both the ESP and UDC to coordinate a customer returning to Standard Offer Service through the Termination of Service Agreement Direct Access Service Request (DASR) process, because once properly notified by the ESP, the UDC has the responsibility to ensure that the proper metering equipment is in place to serve a customer who is returning to Standard Offer Service. Staff stated that the time-frames and the conditions that are included in Section 1612(I) are therefore necessary and reasonable. Further, APS responded that Tucson's suggestion fails to recognize the timing and coordination that may be necessary to return some customers to Standard Offer if it is necessary to replace meter equipment.

Analysis**:** We concur with Tucson that the timeframes in this Section are ambiguous concerning the timing for providing notice to return a customer to Standard Offer Service. We agree with Staff and APS, however, that in certain situations, whether appropriate metering equipment is in place can affect the transfer of service. Provided that the appropriate metering equipment is in place, we believe 15 days notice is adequate for a UDC to return a customer to Standard Offer Service. Consequently, we adopt Tucson's proposed modification, with the exception of Tucson's proposed deletion of the reference concerning the placement of appropriate metering equipment.

Resolution**:** Revise Section 1612(I) as follows:

Electric Service Providers shall give at least 5 days notice to their customer ~~and to the appropriate Utility Distribution Company~~ of scheduled return to Standard Offer Service ~~but that return of that customer to Standard Offer Service would be at the next regular billing cycle, if appropriate metering equipment is in place and the request is processed 15 calendar days prior to the next scheduled meter read date~~. Electric Service Providers shall provide 15 calendar days notice prior to the next scheduled meter reading date to the appropriate Utility Distribution Company regarding the intent to terminate a service agreement. Return of that customer to Standard Offer Service will be at the next regular billing cycle if appropriate metering equipment is in place and the request is provided 15 calendar days prior to the next regular read date. Responsibility for charges incurred between the notice and the next scheduled read date shall rest with the Electric Service Provider.

1612(K)(1)

Issue**:** Navopache and Mohave proposed adding a sentence to Section 1612(K)(1) to allow UDCs to recover costs associated with collecting and distributing metering data when UDCs provide metering data to an ESP or customer, and proposed adding the words "Utility Distribution Companies shall make available to the Customer or Electric Service Provider all metering information and may charge a fee for that service. The charge or fee shall reflect the cost of providing such information." Staff pointed out that UDCs may request that the Commission approve this type of charge as a tariff item, and recommended no change to this Section.

Analysis**:** We concur with Staff.

Resolution**:** No change is necessary.

1612(K)(2)

Issue**:** NWE contended that the Commission should not approve tariffs for meter testing, and that rather than establishing a set percentage of error, this Section should refer to a Commission-approved standard. NWE also suggested replacing "another" with "an".

Analysis**:** This Section contains the Commission-approved standard of ± 3 percent as provided by Sec-

tion 209(F). Tariffs for meter testing should be filed for approval by the Commission. NWE's suggestion that "another" be replaced by "an" provides clarity and should be adopted.

Resolution**:** Replace "another" with "an ~~another~~". No other change is required.

1612(K)(3)

Issue**:** Staff stated that at the June 2, 1999, Metering Committee meeting it was proposed that the word "customer" be removed after the word "competitive" and be replaced with "point of delivery," and deletion of the words "for each service delivery point." Staff stated that the Metering Committee had previously determined that each point of delivery be assigned a Universal Node Identifier ("UNI"), and that because a customer could have more than 1 point of delivery, a UNI must be assigned to each point of delivery. Staff recommended that this Section be modified using the wording developed by the Metering Committee.

Analysis**:** We concur with Staff. This modification is not substantive.

Resolution**:** Modify this Section as follows:

3. Each competitive ~~customer~~ point of delivery shall be assigned a Universal Node Identifier ~~for each service delivery point~~ by the Affected Utility or the Utility Distribution Company whose distribution system serves the customer.

1612(K)(4)

Issue**:** NWE contended that the Utility Industry Group ("UIG") should be required to complete its standards at least 60 days before competition begins, and therefore proposed deleting the words "standards approved by the Utility Industry Group (UIG) that can be used by the Affected Utility or the Utility Distribution Company and the Electric Service Provider." and replacing them with "UIG standards in effect at least 60 days before the onset of competition." NWE alternatively proposed that in the penultimate line of this Section, "can" should be changed to "shall." Staff responded that because the use of EDI formats approved by UIG has been discussed by the Metering Committee, and all formats that are being used were already in effect earlier this year, NWE's 1st proposed change is unnecessary.

Analysis**:** We concur with Staff's reasoning regarding the 1st proposed change, and agree with NWE regarding its alternative proposal. This modification is not substantive.

Resolution**:** Change "can" to "shall" in the penultimate line of this Section. No other change is necessary.

1612(K)(6)

Issue**:** TEP proposed deleting the words "Predictable loads will be permitted to use load profiles to satisfy the requirement of hourly consumption data. The Affected Utility or Electric Service Provider will make the determination if a load is predictable." APS did not oppose allowing some "predictable load" to use load profiling in lieu of hourly consumption data, but believed that this Section is unclear as to who may waive the requirements for hourly consumption data. APS recommended changing the last sentence of Section 1612(K)(6) to provide that the "entity developing the load profile shall determine if a load is predictable." Staff responded that ESPs and UDCs are responsible for developing the load profiles for their respective customers and if they do not estimate the load profile correctly, the AISA will require them to pay scheduling penalties. Staff believed that APS' proposed language appropriately clarifies where this responsibility resides, and recommended that APS' wording be used.

Commonwealth disagreed with Staff's and APS' proposed modification as an additional barrier to entry and supported keeping the original language. Commonwealth argued that any ESP should be able to make its independent determination of whether or not a customer has a load it desires to serve. TEP did not agree with the modifications proposed by Staff, Tucson and APS on the basis that they do not address the concerns TEP raised. TEP argued that loads are determined by an Affected Utility's unmetered tariffs, so only the Affected Utility is in a position to determine whether load is predictable. TEP maintained that there are many reasons why load profiling fails to adequately address issues such as economic efficiency, system reliability, proper allocation of costs to customers and proper allocation of costs to third-party suppliers. TEP strongly contended that until these issues are resolved, there is no justification to avoid the use of interval metering in favor of load profiling.

ATDUG believed that some types of loads such as irrigation and other water pumping loads are inherently predictable and suggested the following sentence be added: "The Commission will identify categories of loads that are deemed predictable."

Analysis**:** TEP states there are unresolved issues that argue against the use of load profiling in lieu of interval metering. However, TEP did not provide the rationale why these issues should prevent the use of profiling

for predictable loads. We concur with Tucson, Staff and APS that it is reasonable to allow predictable loads to use load profiling in lieu of hourly consumption data. We agree with Staff that because the entity determining whether a load is predictable or not will bear the responsibility of paying any scheduling penalties stemming from inaccurate predictions, that APS' proposed language should be adopted. We do not believe that ATDUG's suggestion that the Commission should identify categories of loads to be deemed predictable is necessary at this time.

Resolution**:** Delete the last sentence of Section 1612(K)(6) and replace with "The Load-Serving Entity developing the load profiling shall determine if a load is predictable." Such modification is not substantive.

1612(K)(6) and (7)

Issue**:** Commonwealth proposed that instead of the current 20 kW and 100,000 kWh limit for hourly interval meters, that a limit of 50 kW and 250,000 kWh be imposed for the use of hourly interval meters. Tucson proposed that the 20 kW demand threshold be re-evaluated. Staff responded that 20kW was the appropriate cut-off for requiring hourly interval meters because customers over 20 kW do not have easily predictable load profiles and use of load profiling for such customers can result in higher scheduling errors and cause the Load-Serving Entities to pay scheduling penalties which would be passed on to both the Standard Offer Service and competitive consumers. APS asserted that Commonwealth has not provided a compelling argument why the threshold of 20kW, developed by the working group, is not appropriate. Staff argued that the lower limit reduces scheduling errors and results in lower costs to the Standard Offer Service and competitive customers.

Analysis**:** Section 1612(K)(6) provides a means for loads over 20 kW determined to be predictable by Load-Serving Entities developing load profiles to use those load profiles in lieu of interval meters. We concur that the 20 kW threshold, that was developed by the working group, should remain unchanged.

Resolution**:** No change is necessary.

1612(M)

Issue**:** NWE recommended that Section 1612(M) be stricken in its entirety because the Electric Power Competition Act (HB 2663) requires substantial statewide consumer outreach and education, and further informational programs by ESPs is unnecessary. Staff responded that the Commission has a duty to ensure that all customers throughout the state are well informed regarding electric competition and recommended that this provision remain.

Analysis**:** This provision provides the Commission with the ability to ensure that consumers receive information about competition.

Resolution**:** No change is necessary.

1612(N)

Issue**:** Trico, Navopache and Mohave recommend that the language in Section 1612(N) be modified to clarify that UDCs are not required to segregate Wholesale Power Contract bills which combine generation and transmission services. Staff responded that the Commission recognizes that distribution cooperatives may not have the ability to segregate Wholesale Power Contract bills which bundle generation and transmission services. Staff believed the proper remedy would be for the affected distribution cooperatives to seek a waiver from this Rule.

Analysis**:** We believe that the proper way to address the distribution cooperatives' concerns is through the waiver process rather than the revision of this Rule.

Resolution**:** No change is necessary.

Issue**:** NWE states that if an ESP is mandated by Section 1612(N) to provide the listed information on their billing statements, then Affected Utilities and UDCs should be mandated to provide such information that is in their control to the ESP in order to permit the ESP to meet its requirements. Staff responded that the billing entity will be responsible for providing this information on customer bills, and that the billing entity for direct access customers will be responsible for coordinating with UDCs, ESPs, and Meter Reader Service Providers to provide this information. Staff therefore recommended no change to this Section.

Analysis**:** We concur with Staff. This information exchange should be covered in the Electric Service Provider Service Acquisition Agreement between the ESP and the UDC.

Resolution**:** No change is necessary.

Issue**:** Most commentators who addressed the issue of bill elements opined that they should be consistent with the unbundled tariff elements established in Section 1606(C)(2).

Analysis: Bills should provide information to customers in a manner that is easily understood and that permits customers to compare the price of the various services. We believe that the format established in our revised Section 1606(C)(2) concerning unbundled tariffs provides a good framework for delineating bill elements. We agree with the Residential Utility Consumer Office's comments to a past version of these Rules that consumers likely are not interested in and may be confused by too much detail on the bill. Consequently, we believe that certain elements that are broken down for tariff purposes are better combined when presented on the bill.

Our modifications to this Section, while providing additional direction to the affected entities and clarity for consumers, are not substantive changes from the original provision.

Resolution: Revise Section 1612(N) as follows:

1. Competitive Services ~~Electricity Costs~~:
   a. Generation, which shall include generation-related billing and collection;
   b. Competition Transition Charge, and
   c. Transmission and Ancillary Services ~~Fuel or purchased power adjustor, if applicable~~;
   d. Metering Services; and
   e. Meter Reading Services.
2. Non-Competitive Services ~~Delivery costs~~:
   a. Distribution services, including distribution-related billing and collection, required Ancillary Services and Must-Run Generating Units; and
   b. System Benefit Charges. ~~Transmission services;~~
3. Regulatory assessments; and~~Other Costs:~~
   ~~a. Metering Service,~~
   ~~b. Meter Reading Service,~~
   ~~c. Billing and collection, and~~
   ~~d. System Benefits charge.~~
4. Applicable taxes.

R14-2-1613 – Reporting Requirements

Issue**:** NWE recommended that this entire Section be deleted because NWE believed that the reporting requirements are regulatory in nature with no pro-competitive justification, and that the requirements will harm consumers by raising costs, as ESPs will be forced to hire employees whose sole purpose is to fulfill these reporting requirements. TEP questioned the need for the amount of information this Section requires, arguing that the amount of information will be difficult to compile and will increase the costs that, ultimately, customers will be required to pay.

Staff responded that the reporting requirements are necessary for the Commission to monitor and determine that the bond and insurance coverage amounts are adequate to protect consumers, including customer deposits and advances. Staff contended that the reports required by this Section will also furnish the Commission with valuable information in assessing the competitiveness of the electricity market in Arizona.

Analysis**:** We agree with Staff that the information required by this Section is very valuable to the Commission, especially in the early stages of competition, and that the information is also needed to ensure continued consumer protection via bonds and insurance.

Resolution**:** No change is necessary.

R14-2-1614 – Administrative Requirements

1614(A-C)

Issue**:** NWE repeated its suggestion that there should be no requirement to file maximum rates, and therefore proposed deletion of these Sections 1614 (A), (B), and (C). Staff responded that ESPs are public service corporations, for whom the Commission is lawfully authorized to establish just and reasonable rates. Staff contended that the filing of maximum rates, subject to discount, and the filing of contracts are the means by which the Commission has decided to exercise its jurisdiction.

Evaluation**:** We concur with Staff.

Resolution**:** No change is necessary.

1614(E)

Issue**:** ACAA suggested additional language which would further define specifics surrounding the Consumer Education Program. ACAA would have this Section specifically reference adoption of a funding plan,

specify that the adopted Consumer Education Program is to be a model, and require Affected Utilities to conform to the adopted plan. Staff responded that this Section as currently written will accommodate the concerns addressed by ACAA, and recommended no change.

Analysis**:** We believe that ACAA's concerns will be addressed when the Commission adopts the Consumer Education Program required by this Section.

Resolution**:** No change is necessary.

R14-2-1615 – Separation of Monopoly and Competitive Services

1615(A)

Issue**:** Section 1615(A) requires all competitive generation and Competitive Services to be separated from an Affected Utility prior to January 1, 2001. Such separation shall either be to an unaffiliated party or to a separate corporate affiliate or affiliates. Commonwealth asserted that all generation assets, except for Must Run Generating Units, should be sold at market value to 3rd parties. Commonwealth also suggested that an Affected Utility's competitive affiliate should be precluded from acquiring generation assets unless it is the highest bidder at auction. Commonwealth believes that, without the requirement of a sale at market value, the UDCs will be able to manipulate values and shift costs from Competitive Services to Noncompetitive Services.

Staff responded that Commonwealth's proposal to require generation assets to be divested through a market auction is in direct conflict with Decision No. 61677, the Commission's Stranded Cost order, which treats divestiture as an option, not a requirement. Staff pointed out that pursuant to Section 1615(A), the asset transfer shall be at a value determined by the Commission to be fair and reasonable, and that accordingly, the asset transfer will not occur outside of Commission oversight. Staff further stated that Commonwealth's concerns regarding cost shifting between UDCs and their affiliates may be addressed through the Code of Conduct required by Section 1616 and through subsequent UDC rate cases governing Noncompetitive Services.

Commonwealth asserted that Section 1615(A) should be clarified by deleting the word "competitive", thereby requiring all generation assets except for Must-Run Generating Units to be separated from Affected Utilities prior to January 1, 2001. Staff responded that the definition of "Noncompetitive Services" clearly excludes generation services, except for Must-Run Generating Units, and that it is therefore clear that competitive generation includes all generation except for Must-Run Generating Units. Staff recommended against adoption of Commonwealth's suggested modifications to this Section.

Analysis**:** We concur with Staff.

Resolution**:** No change is necessary.

Issue**:** Section 1615(A) requires Affected Utilities to transfer their generation assets by January 1, 2001. TEP suggested changing this date to January 1, 2003 to accommodate lease and bond restrictions that may interfere with TEP's ability to comply with the 2001 deadline. Staff responded that the Rules already provide an avenue in which a public service corporation may request a waiver to the rules, and that while TEP's individual circumstances may justify a case-specific waiver from the proposed deadline, these circumstances do not justify an amendment to the Rules.

Analysis**:** We believe that TEP's concerns are best addressed through a waiver rather than a redrafting of this rule.

Resolution**:** No change is necessary.

Issue**:** Section 1615(A) allows Affected Utilities to transfer competitive generation assets to affiliates. TEP suggested adding the word "subsidiary" because it believes that transfer to a subsidiary may under some circumstances be less costly than transfer to an affiliate. Staff responded that in Decision No. 61669, the Commission clearly indicated its intent to require transfer to an affiliate, instead of a subsidiary, and that TEP's suggestion conflicts with the Commission's clearly established intent. Staff therefore recommended no change. ATDUG expressed grave concerns about the effectiveness of "separation" if the transfer of generation assets is allowed to affiliates.

Analysis**:** We agree that the requirement that competitive generation assets and Competitive Services be separated to an unaffiliated party or to a separate corporate affiliate or affiliates, will provide greater protection against cross-subsidization than would separation to a subsidiary.

Resolution**:** No change is necessary.

Issue**:** APS argued that the separation from the UDC of metering, meter reading, billing, and collec-

tion required by Section 1615 is not necessary, appropriate, or to the benefit of consumers or the competitive market. APS proposed amending Section 1615 to allow UDCs to offer nongeneration related Competitive Services without divesting such functions to affiliates. AECC opposed APS' proposal. Staff responded that Affected Utilities, such as APS, currently have substantial market power by virtue of their status as incumbent monopolists, and that the prospective competitive market will benefit by the creation of a level playing field for new market entrants so that competitors will have an incentive to enter the market. Staff therefore recommended no change to this Section.

Analysis**:** We concur that separation of monopoly and competitive services by the incumbent Affected Utilities must take place in order to foster development of a competitive market in Arizona.

Resolution**:** No change is necessary.

1615(B)

Issue**:** Section 1615(B)(1) recognizes that UDCs may provide meters for Load Profiled customers. APS proposed clarifying this Section by substituting the phrase "Meter Services and Meter Reading Services" for the word "meters." Staff supported APS' proposal as it uses defined terms in place of an undefined term.

Analysis**:** We concur with Staff. This modification eliminates ambiguity and is not substantive.

Resolution**:** Delete "meters" and replace with "Meter Services and Meter Reading Services".

1615(C)

Issue**:** Section 1615(C) allows distribution cooperatives to provide competitive electric services in areas in which they currently provide service. AEPCO, Duncan, Graham, and Trico suggested amending this Section to allow the distribution cooperatives to provide competitive services in any areas in which they will be providing Noncompetitive Services now or in the future. Staff responded that Section 1615(C) was intended to allow distribution cooperatives to provide competitive services within areas in which they are providing distribution services, and that because distribution service territories change, it would be sensible to draft the rule in a manner that recognizes this. Staff therefore recommended deleting the phrase "the service territory it had as of the effective date of these rules" and replace it with "its distribution service territory."

Analysis**:** We agree with this nonsubstantive modification.

Resolution**:** Replace "the service territory it had as of the effective date of these rules" with "its distribution service territory ~~the service territory it had as of the effective date of these rules~~."

Issue**:** Section 1615(C) states that a generation cooperative shall be subject to the same limitations to which its member cooperatives are subject. AEPCO argues that a generation cooperative, such as AEPCO, does not have a geographic service territory and does not have distribution customers. AEPCO further argued that, because it is not a distribution cooperative, it is not eligible for the exemption contained in this Section, and is therefore subject to all the requirements contained in Sections 1615(A) and (B). AEPCO therefore recommended deleting the last sentence of Section 1615(C). Staff agreed with AEPCO.

Analysis**:** The intent of this provision was to preclude a generation cooperative or its competitive affiliate from providing power in the competitive market before the territories of its member distribution cooperatives were open to competition. The reference here is misplaced and we agree it should be removed. The timing for AEPCO's competitive affiliate to begin providing Competitive Services will be addressed by Commission order in AEPCO's Stranded Cost/Unbundled tariff proceeding.

Resolution**:** Delete the last sentence of Section 1615(C). This change is not substantive.

R14-2-1616 – Code of Conduct

Issue**:** Commonwealth, Tucson, AECC and Enron Corp. ("Enron") opposed the Commission's elimination of the Affiliate Transaction rules (formerly R14-2-1617). AECC joined in and fully supported the separately filed comments of Enron and submits that the Electric Competition Rules must contain Affiliate Transaction rules to provide consumers appropriate safeguards in the competitive marketplace. Enron claimed that the Affiliate Transaction rules should be designed to prevent Affected Utilities from abusing or unfairly exerting market power due to their inherent and historical monopoly positions in Arizona. Enron argued that at a minimum, the above concerns would be reduced if Affected Utilities and their marketing affiliates are required to operate as separate corporate entities, keeping separate books and records. Enron indicated that market power concerns have been heightened recently because of the Commission's approach to Stranded Cost which does not require Affected Utilities to divest generation assets, thereby leaving Affected Utilities with tremendous competitive advantage and market power.

Enron identified the potential absence of uniformity among the Affected Utilities' Codes of Conduct as a problem resulting in the ESPs having to guess which types of activities are allowed for each individual Affected Utility and its affiliates. Commonwealth recommended that the Code of Conduct should preclude any Affected Utility from offering competitive services through an affiliate until a Code of Conduct has been approved by the Commission, after notice, comment, and hearing. Tucson urged the Commission to promulgate Affiliate Transaction rules with sufficient detail to assure the public that there is adequate Commission oversight of these relationships. Commonwealth stated that the Code of Conduct should not displace Affiliate Transaction rules or guidelines. Commonwealth suggested that, if the Affiliate Transactions rule is not reinserted back into the rules, an alternative 7 pages of guidelines for Affected Utilities and their competitive affiliates should be incorporated within the Codes of Conduct of each Affected Utility.

TEP disagreed with the comments of AECC, Tucson and Commonwealth regarding the re-adoption of the Affiliate Transaction rules, preferring the flexibility of a Code of Conduct. TEP argued that contrary to Enron's assertion, the requirements that Affected Utilities transfer their generation assets to a separate affiliate and that Standard Offer Service generation be procured in the open market, will make it impossible for the Affected Utility to favor its generation affiliates to the detriment of other ESPs. Trico and AEPCO, Duncan and Graham believed that each entity that would be subject to the Affiliate Transaction rules is unique and the parties advocating their reinstatement have not provided adequate reasons why an individually tailored Code of Conduct subject to Commission review and approval is not a satisfactory solution. ATDUG believed that Affected Utilities should not draft their own Code of Conduct without, at a minimum, a guideline or standard.

Staff responded that a Code of Conduct for Affected Utilities and their affiliates is necessary in order to ensure the development of a robust competitive market. Staff believed that, while it is not essential for all Affected Utilities to have identical Codes of Conduct, it is desirable for each Code of Conduct to address certain significant issues. Staff stated that in the absence of some minimal degree of uniformity, parties will be uncertain as to the rules governing the Arizona market, and enforcement of these issues will be difficult. Staff therefore supported amending Section 1616 to require each Affected Utility to address certain minimum standards in its Code of Conduct.

Staff recommended making the following changes to Section 1616:

No later than 90 days after adoption of these Rules, each Affected Utility which plans to offer Noncompetitive Services and which plans to offer Competitive Services through its competitive electric affiliate shall propose a Code of Conduct to prevent anti-competitive activities. Each Affected Utility that is an electric cooperative, that plans to offer Noncompetitive Services, and that is a member of any electric cooperative that plans to offer Competitive Services shall also submit a Code of Conduct to prevent anti-competitive activities. All ~~The~~ Codes of Conduct shall be subject to Commission approval.

The Code of Conduct shall address the following subjects:

1. Appropriate procedures to prevent cross subsidization between the Utility Distribution Company and any competitive affiliates;
2. Appropriate procedures to ensure that the Utility Distribution Company's competitive affiliate does not have access to confidential utility information that is not also available to other market participants;
3. Appropriate guidelines to limit the joint employment of personnel by both a Utility Distribution Company and its competitive affiliate;
4. Appropriate guidelines to govern the use of the Utility Distribution Company's name or logo by the Utility Distribution Company's competitive affiliate;
5. Appropriate procedures to ensure that the Utility Distribution Company does not give its competitive affiliate any unreasonably preferential treatment such that other market participants are unfairly disadvantaged;
6. Appropriate policies to eliminate joint advertising, joint marketing, or joint sales by a Utility Distribution Company and its competitive affiliate;
7. Appropriate procedures to govern transactions between a Utility Distribution Company and its competitive affiliate; and
8. Appropriate policies to prevent the Utility Distribution Company and its competitive affiliate from representing that customers will receive better service as a result of the affiliation.

Analysis**:** **N**early all parties providing comments on this issue suggest that the entire Affiliate Transactions rule (formerly R14-2-1617) be reinserted back into the proposed rules. Others suggested rewriting the current Code of Conduct, R14-2-1616, to include specific appropriate Affiliate Transactions rules. We believe that to promote competition it is critical to have a statewide standard for the Codes of Conduct. We believe that Staff's recommended guideline for Code of Conduct content is reasonable and will promote competition within the state while at the same time providing flexibility for individual Affected Utilities.

Resolution**:** Modify Section 1616 as recommended by Staff, adding clarification that approval shall occur

after a notice and a hearing. Staff's recommended modification provides additional detail as to what is expected in a Code of Conduct, but does not substantively change the affect of this section.

R14-2-1617 – Disclosure of Information

Issue**:** NWE and TEP proposed that this entire Section be deleted. APS proposed that only Load-Serving ESPs, and not UDCs, should be required to disclose information to consumers. Trico proposed that a new Section be added stating that the UDC would not be required to furnish the same information as provided by a Load-Serving Entity. AEPCO, Duncan and Graham believed that mandating a "guess" about the characteristics of the resource portfolio will not improve the value of data provided to the customer.

ACAA proposed that information about the resource mix be readily available to residential consumers without any acquisition barriers. Tucson expressed concern that this Section requires information about the resource portfolio to be provided only upon request and stated that experience in other states has shown that consumers "prefer a more environmentally sound mix of resources than traditional suppliers have in their portfolios." Tucson believes that since the information would have to be developed in case someone requested it, the only rationale for not providing it automatically would be to hide the resource mix. The LAW Fund pointed out that by not requiring disclosure about resources, Arizona consumers will be not be informed about their choices and will be at a disadvantage in comparison to those in other western states. Commonwealth asserts that it has found that many customers desire the option to purchase generation from environmentally-compatible sources. Commonwealth supported the disclosure requirements and urged that it be reinstated in the Rules. APS believed that market forces would operate to provide consumers with information concerning resource mix, and that mandatory disclosure adds unnecessary costs.

Staff stated that consumers are entitled to receive information so that they can make informed choices, and that research conducted in other states indicates that consumers want information on generation resources. Staff argued that all ESPs providing generation service and UDCs providing Standard Offer Service should be required to disclose generation resource information as part of the consumer information label, and not only upon request. Staff recommended restoring Sections 1617(A)(4),(5) and (6), and deleting Section 1617(B). Staff also recommended inserting "providing either generation service or Standard Offer Service" after "Load-Serving Entity" in Section 1617(A).

Analysis**:** We agree with those entities who advocate for the disclosure of a Load-Serving Entities' resource portfolio characteristics. However, we are also concerned about the costs to Load-Serving Entities and question the need to include this information, which may or may not be available, in all marketing materials. There are going to be a significant number of customers who are interested in this information. Because Load-Serving Entities will have to prepare the information concerning the resource portfolio in anticipation of customer requests, we do not believe that they will be able to hide the information, and further, market forces will work to disseminate this information.

Resolution**:** Except to add Staff's clarifying language, we do not believe that further modification is necessary. Insert "providing either generation service or Standard Offer Service" after Load-Serving Entity in Section 1617(A). This modification is not substantive.

1617(G)

Issue**:** Commonwealth proposed that the word "written" be deleted from Section 1617(G)(2) because it believes third-party orally verified customer authorizations should suffice. Staff reiterated its belief that a customer's service provider should not be changed without written consent from the customer because written authorization minimizes the possibility of being switched to other service providers without customer consent, and therefore recommended no change to this Section.

Analysis**:** We concur with Staff.

Resolution**:** No change is required.

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

Not applicable.

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

The 1997 ANSI C2 (National Electrical Safety Code) incorporated in R14-2-207(E) and R14-2-208(F); 1995 ANSI B31.1 (ASME Code for Pressure Piping) incorporated in R14-2-208(F); 1989 ANSI lC84.1 (American National Standard for electric Power systems and Equipment-Voltage Ratings [60Hz] incorporated in R14-2-208(F); Federal Energy Regulatory Commission Order 888 (III FERC Stats. and Regs. ¶31, 036 (1996)), incorporated in R14-2-

1601.

14. Was this rule previously adopted as an emergency rule? If so, please indicate the Register citation:

The Commission adopted certain modifications to these rules on an emergency basis on August 10, 1998, in Decision No. 61071. On December 11, 1998, in Decision No. 61272 the Commission adopted the emergency rules on a permanent basis. The *Register* citation is as follows: 4 A.A.R. 2393, September 4, 1998.

15. The full text of the rules follows:

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

CHAPTER 2. ARIZONA CORPORATION COMMISSSION FIXED UTILITIES

ARTICLE 2. ELECTRIC UTILITIES

Sections
R14-2-201. Definitions
R14-2-202. Certificate of Convenience and Necessity for Electric Utilities; Filing Requirements on Certain New Plants
R14-2-203. Establishment of Service
R14-2-204. Minimum Customer Information Requirements
R14-2-205. Master Metering
R14-2-206. Service Lines and Establishments
R14-2-207. Line Extensions
R14-2-208. Provision of Service
R14-2-209. Meter Reading
R14-2-210. Billing and Collection
R14-2-212. Administrative and Hearing Requirements

ARTICLE 16. RETAIL ELECTRIC COMPETITION

Sections
R14-2-1601. Definitions
R14-2-1602. ~~Filing of Tariffs by Affected Utilities~~ Repealed
R14-2-1602. Commencement of Competition
R14-2-1603. Certificates of Convenience and Necessity
R14-2-1604. Competitive Phases
R14-2-1605. Competitive Services
R14-2-1606. Services Required To Be Made Available
R14-2-1607. Recovery of Stranded Cost of Affected Utilities
R14-2-1608. System Benefits Charges
R14-2-1609. ~~Solar Portfolio Standard~~ Repealed
R14-2-1609.~~R14-2-1610.~~ Transmission and Distribution Access
R14-2-1610.~~R14-2-1611.~~ In-state Reciprocity
R14-2-1611.~~R14-2-1612.~~ Rates
R14-2-1612.~~R14-2-1613.~~ Service Quality, Consumer Protection, Safety, and Billing Requirements
R14-2-1613.~~R14-2-1614.~~ Reporting Requirements
R14-2-1614.~~R14-2-1615.~~ Administrative Requirements
R14-2-1615.~~R14-2-1616.~~ Separation of Monopoly and Competitive Services
R14-2-1616. Code of Conduct
~~R14-2-1617.~~ ~~Affiliate Transactions~~ Repealed
R14-2-1617.~~R14-2-1618.~~ Disclosure of Information

ARTICLE 2. ELECTRIC UTILITIES

R14-2-201. Definitions

In this Article, unless the context otherwise requires, the following definitions shall apply. In addition, the definitions contained in Article 16, Retail Electric Competition shall apply in this Article unless the context otherwise requires.

1. "Advance in aid of construction". Funds provided to the utility by the applicant under the terms of a line extension agreement the value of which may be refundable.

2. "Applicant". A person requesting the utility to supply electric service.
3. "Application". A request to the utility for electric service, as distinguished from an inquiry as to the availability or charges for such service.
4. "Arizona Corporation Commission". The regulatory authority of the state of Arizona having jurisdiction over public service corporations operating in Arizona.
5. "Billing month". The period between any 2 regular readings of the utility's meters at approximately 30 day intervals.
6. "Billing period". The time interval between 2 consecutive meter readings that are taken for billing purposes.
7. "Contributions in aid of construction". Funds provided to the utility by the applicant under the terms of a line extension agreement ~~and/~~or service connection tariff the value of which is not refundable.
8. "Curtailment priority". The order in which electric service is to be curtailed to various classifications of customers, as set forth in the utility's filed tariffs.
9. "Customer". The person or entity in whose name service is rendered, as evidenced by the signature on the application or contract for that service, or by the receipt and/or payment of bills regularly issued in his name regardless of the identity of the actual user of the service.
10. "Customer charge". The amount the customers must pay the utility for the availability of electric service, excluding any electricity used, as specified in the utility's tariffs.
11. "Day". Calendar day.
12. "Demand". The rate at which power is delivered during any specified period of time. Demand may be expressed in kilowatts, kilovolt-amperes, or other suitable units.
13. "Distribution lines". The utility lines operated at distribution voltage which are constructed along public roadways or other bona fide rights-of-way, including easements on customer's property.
14. "Elderly". A person who is 62 years of age or older.
15. "Energy". Electric energy, expressed in kilowatt-hours.
16. "Handicapped". A person with a physical or mental condition which substantially contributes to the person's inability to manage their ~~his or her~~ own resources, carry out activities of daily living, or protect oneself from neglect or hazardous situations without assistance from others.
17. "Illness". A medical ailment or sickness for which a residential customer obtains a verified document from a licensed medical physician stating the nature of the illness and that discontinuance of service would be especially dangerous to the customer's health.
18. "Inability to pay". Circumstances where a residential customer:
    a. Is not gainfully employed and unable to pay, or
    b. Qualifies for government welfare assistance, but has not begun to receive assistance on the date that he receives his bill and can obtain verification of that fact from the government welfare assistance agency.
    c. Has an annual income below the published federal poverty level and can produce evidence of this, and
    d. Signs a declaration verifying that the customer meets 1 of the above criteria and is either elderly, handicapped, or suffers from illness.
19. "Interruptible electric service". Electric service that is subject to interruption as specified in the utility's tariff.
20. "Kilowatt (kw)". A unit of power equal to 1,000 watts.
21. "Kilowatt-hour (kwh)". Electric energy equivalent to the amount of electric energy delivered in 1 hour when delivery is at a constant rate of 1 kilowatt.
22. "Line extension". The lines and equipment necessary to extend the electric distribution system of the utility to provide service to additional customers.
23. "Master meter". A meter for measuring or recording the flow of electricity that has passed through it at a single location where said electricity is distributed to tenants or occupants for their individual usage.
24. "Megawatt (Mw)". A unit of power equal to 1,000,000 watts.
25. "Meter". The instrument for measuring and indicating or recording the flow of electricity that has passed through it.
26. "Meter tampering". A situation where a meter has been illegally altered. Common examples are meter bypassing, use of magnets to slow the meter recording, and broken meter seals.
27. "Minimum charge". The amount the customer must pay for the availability of electric service, including an amount of usage, as specified in the utility's tariffs.
28. "Permanent customer". A customer who is a tenant or owner of a service location who applies for and receives permanent electric service.
29. "Permanent service". Service which, in the opinion of the utility, is of a permanent and established character. The use of electricity may be continuous, intermittent, or seasonal in nature.
30. "Person". Any individual, partnership, corporation, governmental agency, or other organization operating as a single entity.

31. "Point of delivery". The point where facilities owned, leased, or under license by a customer connects to the utility's facilities.
32. "Power". The rate of generating, transferring, ~~and/~~or using electric energy, usually expressed in kilowatts.
33. "Premises". All of the real property and apparatus employed in a single enterprise on an integral parcel of land undivided by public streets, alleys or railways.
34. "Residential subdivision development". Any tract of land which has been divided into 4 or more contiguous lots with an average size of 1 acre or less for use for the construction of residential buildings or permanent mobile homes for either single or multiple occupancy.
35. "Residential use". Service to customers using electricity for domestic purposes such as space heating, air conditioning, water heating, cooking, clothes drying, and other residential uses and includes use in apartment buildings, mobile home parks, and other multiunit residential buildings.
36. "Service area". The territory in which the utility has been granted a Certificate of Convenience and Necessity and is authorized by the Commission to provide electric service.
37. "Service establishment charge". The charge as specified in the utility's tariffs which covers the cost of establishing a new account.
38. "Service line". The line extending from a distribution line or transformer to the customer's premises or point of delivery.
39. "Service reconnect charge". The charge as specified in the utility's tariffs which must be paid by the customer prior to reestablishment of electric service each time the electricity is disconnected for nonpayment or whenever service is discontinued for failure otherwise to comply with the utility's tariffs.
40. "Service reestablishment charge". A charge as specified in the utility's tariffs for service at the same location where the same customer had ordered a service disconnection within the preceding 12-month period.
41. "Single family dwelling". A house, an apartment, a mobile home permanently affixed to a lot, or any other permanent residential unit which is used as a permanent home.
42. "Tariffs". The documents filed with the Commission which list the services and products offered by the utility and which set forth the terms and conditions and a schedule of the rates and charges, for those services and products.
43. "Temporary service". Service to premises or enterprises which are temporary in character, or where it is known in advance that the service will be of limited duration. Service which, in the opinion of the utility, is for operations of a speculative character is also considered temporary service.
44. "Third-party notification". A notice sent to an individual or a public entity willing to receive notification of the pending discontinuance of service of a customer of record in order to make arrangements on behalf of said customer satisfactory to the utility.
45. "Utility". The public service corporation providing electric service to the public in compliance with state law.
46. "Weather especially dangerous to health". That period of time commencing with the scheduled termination date when the local weather forecast, as predicted by the National Oceanographic and Administration Service, indicates that the temperature will not exceed 32 degrees Fahrenheit for the next day's forecast. The Commission may determine that other weather conditions are especially dangerous to health as the need arises.

R14-2-202. Certificate of Convenience and Necessity for Electric Utilities; Filing Requirements on Certain New Plants

A. Application for new Certificate of Convenience and Necessity

1. Six copies of each application for a new Certificate of Convenience and Necessity shall be submitted in a form prescribed by the Commission and shall include, at a minimum, the following information:
   a. The proper name and correct address of the proposed utility company and its owner, if a sole proprietorship, each partner, if a partnership, or the President and Secretary if a corporation.
   b. The rates proposed to be charged for the service that will be rendered.
   c. A financial statement setting forth the financial condition of the applicant.
   d. Maps of the proposed service area ~~and/~~or a description of the area proposed to be served.
   e. Appropriate city, county and~~/or~~ state agency approvals, where appropriate.
   f. The actual number of customers within the service area as of the time of filing and the estimated number of customers to be served for each of the 1st 5 ~~five~~ years of operation.
   g. Such other information as the Commission by order or the staff of the Utilities Division by written directive may request.

~~**B.** Filing requirements on certain new plants~~

~~1. Any utility proposing to construct a generating facility of over eighty Mw capacity shall, at least 180 days prior to commencement of construction, file with the Commission the following information:~~
   ~~a. The proposed site of such plant.~~
   ~~b. The approximate generating capacity of such plant and the number of generating units proposed for each plant site.~~
   ~~c. The type of fuel proposed to be used in each plant.~~

~~d. The proposed source of fuel and water for each plant.~~
~~e. The estimated date by which such plant will be in operation.~~
~~f. The load forecasting data available to such utility which, in its opinion, justifies the need for construction of such proposed generating facility.~~
~~g. The method and timing of financing the proposed plant.~~
~~h. Such further information as the Commission may, by special order, or the staff of the Utilities Division may, by written directive, require.~~

~~2. The utility shall update the information required to be filed on not less than an annual basis by January 31 of each year following the original filing until construction has been completed.~~

B.~~C.~~ Application for discontinuance or abandonment of utility service

1. Any utility proposing to discontinue or abandon utility service currently in use by the public shall prior to such action obtain authority therefor from the Commission.
2. The utility shall include in the application, studies of past, present and prospective customer use of the subject service, plant or facility as is necessary to support the application.
3. An application shall not be required to remove individual facilities where a customer has requested service discontinuance.

R14-2-203. Establishment of Service

A. Information from new applicants

1. A utility may obtain the following minimum information from each new applicant for service:
   a. Name or names of applicant~~(s)~~ or applicants.
   b. Service address or location and telephone number.
   c. Billing address/telephone number, if different than service address.
   d. Address where service was provided previously.
   e. Date applicant will be ready for service.
   f. Indication of whether premises have been supplied with utility service previously.
   g. Purpose for which service is to be used.
   h. Indication of whether applicant is owner or tenant of or agent for the premises.
   i. Information concerning the energy and demand requirements of the customer.
   j. Type and kind of life-support equipment, if any, used by the customer.
2. A utility may require a new applicant for service to appear at the utility's designated place of business to produce proof of identity and sign the utility's application form.
3. Where service is requested by 2 or more individuals the utility shall have the right to collect the full amount owed to the utility from any 1 of the applicants.

B. Deposits

1. A utility shall not require a deposit from a new applicant for residential service if the applicant is able to meet any of the following requirements:
   a. The applicant has had service of a comparable nature with the utility within the past 2 years and was not delinquent in payment more than twice during the last 12 consecutive months or disconnected for nonpayment.
   b. The applicant can produce a letter regarding credit or verification from an electric utility where service of a comparable nature was last received which states applicant had a timely payment history at time of service discontinuance.
   c. In lieu of a deposit, a new applicant may provide a Letter of Guarantee from a governmental or nonprofit entity or a surety bond as security for the utility.
2. The utility may ~~shall~~ issue a nonnegotiable receipt to the applicant for the deposit. The inability of the customer to produce such a receipt shall in no way impair his or her right to receive a refund of the deposit which is reflected on the utility's records.
3. Deposits shall be interest bearing; the interest rate and method of calculation shall be filed with and approved by the Commission in a tariff proceeding.
4. Each utility shall file a deposit refund procedure with the Commission, subject to Commission review and approval during a tariff proceeding. However, each utility's refund policy shall include provisions for residential deposits and accrued interest to be refunded or letters of guarantee or surety bonds to expire after 12 months of service if the customer has not been delinquent more than twice in the payment of utility bills.
5. A utility may require a residential customer to establish or reestablish a deposit if the customer becomes delinquent in the payment of 2 bills within a 12-consecutive- month period or has been disconnected for service during the last 12 months.
6. The amount of a deposit required by the utility shall be determined according to the following terms:
   a. Residential customer deposits shall not exceed 2 times that customer's estimated average monthly bill.
   b. Nonresidential customer deposits shall not exceed 2 1/2 times that customer's estimated maximum monthly bill.

7. The utility may review the customer's usage after service has been connected and adjust the deposit amount based upon the customer's actual usage.
8. A separate deposit may be required for each meter installed.
9. If a utility Distribution Company's customer with an established deposit elects to take competitive services from an Electric Service Provider, and is not currently delinquent in payments to the Utility Distribution Company, the Utility Distribution Company will refund a portion of the customer's deposit in proportion to the expected decrease in monthly billing. A customer returning to Standard Offer Service may be required to increase an established deposit in proportion to the expected increase in monthly billing.

C. Grounds for refusal of service

A utility may refuse to establish service if any of the following conditions exist:

1. The applicant has an outstanding amount due for the same class of utility service with the utility, and the applicant is unwilling to make arrangements with the utility for payment.
2. A condition exists which in the utility's judgment is unsafe or hazardous to the applicant, the general population, or the utility's personnel or facilities.
3. Refusal by the applicant to provide the utility with a deposit when the customer has failed to meet the credit criteria for waiver of deposit requirements.
4. Customer is known to be in violation of the utility's tariffs filed with the Commission.
5. Failure of the customer to furnish such funds, service, equipment, ~~and/~~or rights-of-way necessary to serve the customer and which have been specified by the utility as a condition for providing service.
6. Applicant falsifies their ~~his or her~~ identity for the purpose of obtaining service.

D. Service establishments, re-establishments or reconnection charge

1. Each utility may make a charge as approved by the Commission for the establishment, reestablishment, or reconnection of utility services, including transfers between Electric Service Providers.
2. Should service be established during a period other than regular working hours at the customer's request, the customer may be required to pay an after-hour charge for the service connection. Where the utility scheduling will not permit service establishment on the same day requested, the customer can elect to pay the after-hour charge for establishment that day or the customer's ~~his~~ service will be established on the next available normal working day.
3. For the purpose of this rule, the definition of service establishments are where the customer's facilities are ready and acceptable to the utility and the utility needs only to install a meter, read a meter, or turn the service on.
4. Service establishments with an Electric Service Provider will be scheduled for the next regular meter read date if the direct access service request is provided ~~processed~~ 15 calendar days prior to that date and appropriate metering equipment is in place. If a direct access service request is made in less than 15 days prior to the next regular read date, service will be established at the next regular meter read date thereafter. The utility may offer after-hours or earlier service for a fee. This section shall not apply to the establishment of new service but is limited to a change of providers of existing electric service.

E. No change.

1. No change.
2. No change.
3. No change.
4. No change.

R14-2-204. Minimum Customer Information Requirements

A. Information for residential customers

1. A utility shall make available upon customer request not later than 15 ~~60~~ days from the date of request a concise summary of the rate schedule applied for by such customer. The summary shall include the following:
   a. The monthly minimum or customer charge, identifying the amount of the charge and the specific amount of usage included in the minimum charge, where applicable.
   b. Rate blocks, where applicable.
   c. Any adjustment factor and method of calculation.
2. The utility shall to the extent practical identify its tariff that is most advantageous to the customer and notify the customer of such prior to service commencement.
3. In addition, a utility shall make available upon customer request, not later than 60 days from date of service commencement, a concise summary of the utility's tariffs or the Commission's rules and regulations concerning:
   a. Deposits
   b. Termination of service
   c. Billing and collection
   d. Complaint handling.
4. Each utility upon request of a customer shall transmit a written statement of actual consumption by such customer for each billing period during the prior 12 months unless such data is not reasonably ascertainable.
5. Each utility shall inform all new customers of their right to obtain the information specified above.

B. No change.
1. No change.
2. No change.

R14-2-205. Master Metering

A. Mobile home parks -- new construction/expansion
1. A utility shall refuse service to all new construction ~~and/~~or expansion of existing permanent residential mobile home parks unless the construction ~~and/~~or expansion is individually metered by the utility. Line extensions and service connections to serve such expansion shall be governed by the line extension and service connection tariff of the appropriate utility.
2. Permanent residential mobile home parks for the purpose of this rule shall mean mobile home parks where, in the opinion of the utility, the average length of stay for an occupant is a minimum of 6 months.
3. For the purpose of this rule, expansion means the acquisition of additional real property for permanent residential spaces in excess of that existing at the effective date of this rule.

B. Residential apartment complexes, condominiums, and other multiunit residential buildings
1. Master metering shall not be allowed for new construction of apartment complexes and condominiums unless the building~~(s)~~ or buildings will be served by a centralized heating, ventilation ~~and/~~or air conditioning system and the contractor can provide to the utility an analysis demonstrating that the central unit will result in a favorable cost/benefit relationship.
2. At a minimum, the cost/benefit analysis should consider the following elements for a central unit as compared to individual units:
   a. Equipment and labor costs,
   b. Financing costs,
   c. Maintenance costs,
   d. Estimated kwh usage,
   e. Estimated kw demand on a coincident demand and noncoincident demand basis (for individual units),
   f. Cost of meters and installation, and
   g. Customer accounting cost (one account vs. several accounts).

R14-2-206. Service Lines and Establishments

A. No change.
1. No change.
2. No change.
3. No change.
4. No change.
5. No change.
6. No change.

B. Service lines
1. Customer provided facilities
   a. Each applicant for services shall be responsible for all inside wiring including the service entrance and meter socket.
   b. Meters and service switches in conjunction with the meter shall be installed in a location where the meters will be readily and safely accessible for reading, testing and inspection and where such activities will cause the least interference and inconvenience to the customer. However, the meter locations shall not be on the front exterior wall of the home; or in the carport or garage, unless mutually agreed to between the home builder or customer and the utility. The customer shall provide, without cost to the utility, at a suitable and easily accessible location, sufficient and proper space for installation of meters.
   c. Where the meter or service line location on the customer's premises is changed at the request of the customer or due to alterations on the customer's premises, the customer shall provide and have installed at his expense all wiring and equipment necessary for relocating the meter and service line connection and the utility may make a charge for moving the meter ~~and/~~or service line.
2. Company provided facilities
   a. Each utility shall file for Commission approval, a service line tariff which defines the maximum footage ~~and/~~or equipment allowance to be provided by the utility at no charge. The maximum footage ~~and/~~or equipment allowance may be differentiated by customer class.
   b. The cost of any service line in excess of that allowed at no charge shall be paid for by the customer as a contribution in aid of construction.
   c. A customer requesting an underground service line in an area served by overhead facilities shall pay for the difference between an overhead service connection and the actual cost of the underground connection as a nonrefundable contribution.

C. Easements and rights-of-way

1. Each customer shall grant adequate easement and right-of-way satisfactory to the utility to ensure that customer's proper service connection. Failure on the part of the customer to grant adequate easement and right-of-way shall be grounds for the utility to refuse service.
2. When a utility discovers that a customer or customer's ~~his~~ agent is performing work or has constructed facilities adjacent to or within an easement or right-of-way and such work, construction or facility poses a hazard or is in violation of federal, state or local laws, ordinances, statutes, rules or regulations, or significantly interferes with the utility's access to equipment, the utility shall notify the customer or customer's ~~his~~ agent and shall take whatever actions are necessary to eliminate the hazard, obstruction or violation at the customer's expense.

R14-2-207. Line Extensions

A. No change.
1. No change.
2. No change.
3. No change.
4. No change.
5. No change.
6. No change.

B. Minimum written agreement requirements
1. Each line extension agreement shall, at a minimum, include the following information:
   a. Name and address of applicant~~(s)~~ or applicants;
   b. Proposed service address or location;
   c. Description of requested service;
   d. Description and sketch of the requested line extension;
   e. A cost estimate to include materials, labor, and other costs as necessary;
   f. Payment terms;
   g. A concise explanation of any refunding provisions, if applicable;
   h. The utility's estimated start date and completion date for construction of the line extension; and
   i. A summary of the results of the economic feasibility analysis performed by the utility to determine the amount of advance required from the applicant for the proposed line extension.
2. Each applicant shall be provided with a copy of the written line extension agreement.

C. Line extension requirements
1. Each line extension tariff shall include the following provisions:
   a. A maximum footage ~~and/~~or equipment allowance to be provided by the utility at no charge. The maximum footage ~~and/~~or equipment allowance may be differentiated by customer class.
   b. An economic feasibility analysis for those extensions which exceed the maximum footage ~~and/~~or equipment allowance. Such economic feasibility analysis shall consider the incremental revenues and costs associated with the line extension. In those instances where the requested line extension does not meet the economic feasibility criteria established by the utility, the utility may require the customer to provide funds to the utility, which will make the line extension economically feasible. The methodology employed by the utility in determining economic feasibility shall be applied uniformly and consistently to each applicant requiring a line extension.
   c. The timing and methodology by which the utility will refund any advances in aid of construction as additional customers are served off the line extension. The customer may request an annual survey to determine if additional customers have been connected to and are using service from the extension. In no case shall the amount of the refund exceed the amount originally advanced.
   d. All advances in aid of construction shall be noninterest bearing.
   e. If after 5 ~~five~~ years from the utility's receipt of the advance, the advance has not been totally refunded, the advance shall be considered a contribution in aid of construction and shall no longer be refundable.

D. No change.

E. Single phase underground extensions in subdivision developments
1. Extensions of single phase electric lines necessary to furnish permanent electric service to new residential buildings or mobile homes within a subdivision, in which facilities for electric service have not been constructed, for which applications are made by a developer shall be installed underground in accordance with the provisions set forth in this rule except where it is not feasible from an engineering, operational, or economic standpoint.
2. Rights-of-way easements
   a. The utility shall construct or cause to be constructed and shall own, operate and maintain all underground electric distribution and service lines along public streets, roads and highways and on public lands and private property which the utility has the legal right to occupy.
   b. Rights-of-way and easements suitable to the utility must be furnished by the developer at no cost to the utility and in reasonable time to meet service requirements. No underground electric facilities shall be installed by a

utility until the final grades have been established and furnished to the utility. In addition, the easement strips, alleys and streets must be graded to within 6 inches of final grade by the developer before the utility will commence construction. Such clearance and grading must be maintained by the developer during construction by the utility.

c. If, subsequent to construction, the clearance or grade is changed in such a way as to require relocation of the underground facilities or results in damage to such facilities, the cost of such relocation ~~and/~~or resulting repairs shall be borne by the developer.

3. Installation of single phase underground electric lines within a subdivision
   a. The developer shall provide the trenching, backfill (including any imported backfill required), compaction, repaving, and any earthwork for pull boxes and transformer pad sites required to install the underground electric system all in accordance with the specifications and schedules of the utility.
   b. Each utility shall inspect the trenching provided by the developer within 24 hours after a mutually agreed upon trench opening date, and allow for phased inspection of trenching as mutually agreed upon by the developer and utility. In all cases, the utility shall make every effort to expedite the inspection of developer provided trenching. The utility shall assume responsibility for the trench within 3 working days after the utility has inspected and approved the trenching.
   c. The utility shall install or cause to be installed underground electric lines and related equipment in accordance with the applicable provisions of the 1997 edition (and no future editions) of ANSI C2 (National Electrical Safety Code) with sufficient capacity and suitable materials which shall assure adequate and reasonable electric service in the foreseeable future. ANSI C2 is incorporated by reference, and on file with the Office of the Secretary of State. Copies are available from the Institute of Electrical and Electronic Engineers, Inc., 345 East 47th Street, New York, New York 10017.
   d. Underground service lines from underground residential distribution systems shall be owned, operated and maintained by the utility, and shall be installed pursuant to its effective underground line extension and service connection tariffs on file with the Commission.
4. Special conditions
   a. When the application of any of the provisions of R14-2-207(E) appears to either party not to be feasible from an engineering, operational or economic standpoint, the utility or the developer may refer the matter to the Commission for a determination as to whether an exception to the underground policy expressed within the provisions of this rule is warranted. Interested 3rd parties may present their views to the Commission in conjunction with such referrals.
   b. Notwithstanding any provision of this regulation to the contrary, no utility shall construct overhead single phase electric lines in any new subdivision to which this rule is applicable and which is contiguous to another subdivision in which electric service is furnished underground without the approval of the Commission.
   c. Underground service lines installed pursuant to this rule (R14-2-207(E)) and accepted by the utility shall not be replaced with an overhead distribution pole line except upon a verified application of the utility, as stated in R14-2-207(E)(4)(a).
5. Nonapplicability
   a. Any underground electric distribution system requiring more than single phase service is not covered by this regulation and shall be constructed pursuant to the effective line extension rules and regulations or policies of the affected utility on file with the Commission.
   b. If there <u>are 1 or more</u> ~~is an~~ existing distribution pole <u>lines</u> or ~~line(s)~~ on or across a recorded subdivision at the time of the application for electrical service for the subdivision and the line will be utilized in the subdivision. (This would not apply if the pole line were serving a building or groups of buildings or any other type of service which would be removed before construction is finished.)
   c. A distribution pole line that parallels a boundary of a subdivision and this line can serve lots within the subdivision.
   d. Subdivisions recorded prior to the effective date of this rule shall be governed by the terms and conditions of R14-2-207(E).

F. No change.

R14-2-208. Provision of Service

A. Utility responsibility
1. Each utility shall be responsible for the safe transmission and~~/or~~ distribution of electricity until it passes the point of delivery to the customer.
2. The entity having control of the meter shall be responsible for maintaining in safe operating condition all meters, equipment, and fixtures installed on the customer's premises by the entity for the purposes of delivering electric service to the customer.

3. The Utility Distribution Company may, at its option, refuse service until the customer has obtained all required permits and~~/or~~ inspections indicating that the customer's facilities comply with local construction and safety standards.

B. Customer responsibility
1. Each customer shall be responsible for maintaining all customer facilities on the customer's side of the point of delivery in safe operating condition.
2. Each customer shall be responsible for safeguarding all utility property installed in or on the customer's premises for the purpose of supplying utility service to that customer.
3. Each customer shall exercise all reasonable care to prevent loss or damage to utility property, excluding ordinary wear and tear. The customer shall be responsible for loss of or damage to utility property on the customer's premises arising from neglect, carelessness, or misuse and shall reimburse the utility for the cost of necessary repairs or replacements.
4. Each customer shall be responsible for payment for any equipment damage and estimated unmetered usage resulting from unauthorized breaking of seals, interfering, tampering and~~/or~~ bypassing the utility meter.
5. Each customer shall be responsible for notifying the utility of any equipment failure identified in the utility's equipment.

C. No change.

D. No change.
1. No change.
2. No change.
3. No change.
4. No change.
5. No change.

E. Curtailment

Each utility shall file with the Commission as a part of its general tariffs a procedural plan for handling severe supply shortages or service curtailments. The plan shall provide for equitable treatment of individual customer classes in the most reasonable and effective manner given the existing circumstances. When the availability of service is so restricted that the reduction of service on a proportionate basis to all customer classes will not maintain the integrity of the total system, the utility shall develop procedures to curtail service giving service priority to those customers and~~/or~~ customer classes where health, safety and welfare would be adversely affected.

F. No change.
1. No change.
2. No change.

R14-2-209. Meter Reading

A. No change.
1. No change.
2. No change.
3. No change.
4. No change.
5. No change.
6. No change.
7. No change.
8. No change.
9. No change.

B. No change.
1. No change.
2. No change.
3. No change.
4. No change.
5. No change.

C. Meter rereads
1. Each utility or Meter Reading Service Provider shall at the request of a customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in A.A.C. R14-2-1601), or billing entity reread that customer's meter within 10 working days after such a request.
2. Any reread may be charged to the customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in R14-2-1601), or billing entity <u>making the request</u> at a rate on file and approved by the Commission, provided that the original reading was not in error.
3. When a reading is found to be in error, the reread shall be at no charge to the customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in R14-2-1601), or billing entity.

D. No change.

E. Meter testing and maintenance program. Each utility shall file with the Commission a plan for the routine maintenance and replacement of meters which meets the requirements of the 1995 edition (and no future editions) of ANSI C12.1 (American National Standard Code for Electricity Metering), incorporated by reference and on file with the Office of the Secretary of State. Copies are available from the Institute of Electrical and Electronics Engineers, Inc., 345 East 47th Street, New York, New York 10017.

F. No change.

R14-2-210. Billing and Collection

A. Frequency and estimated bills

1. Unless otherwise approved by the Commission, the utility or billing entity shall render a bill for each billing period to every customer in accordance with its applicable rate schedule and may offer billing options for the services rendered. Meter readings shall be scheduled for periods of not less than 25 days or more than 35 days without customer authorization. If the utility or Meter Reading Service Provider changes a meter reading route or schedule resulting in a significant alteration of billing cycles, notice shall be given to the affected customers.
2. Each billing statement rendered by the utility or billing entity shall be computed on the actual usage during the billing period. If the utility or Meter Reading Service Provider is unable to obtain an actual reading, the utility or billing entity may estimate the consumption for the billing period giving consideration the following factors where applicable:
   a. The customer's usage during the same month of the previous year,
   b. The amount of usage during the preceding month.
3. Estimated bills will be issued only under the following conditions unless otherwise approved by the Commission:
   a. When extreme weather conditions, emergencies, or work stoppages prevent actual meter readings.
   b. Failure of a customer who reads his own meter to deliver his meter reading to the utility or Meter Reading Service Provider in accordance with the requirements of the utility or Meter Reading Service Provider billing cycle.
   c. When the utility or Meter Reading Service Provider is unable to obtain access to the customer's premises for the purpose of reading the meter, or in situations where the customer makes it unnecessarily difficult to gain access to the meter, that is, locked gates, blocked meters, vicious or dangerous animals~~, etc~~. If the utility or Meter Reading Service Provider is unable to obtain an actual reading for these reasons, it shall undertake reasonable alternatives to obtain a customer reading of the meter.
   d. Due to customer equipment failure, a 1-month estimation will be allowed. Failure to remedy the customer equipment condition will result in penalties for Meter Service Providers as imposed by the Commission.
   e. To facilitate timely billing for customers using load profiles.
4. After the 3rd consecutive month of estimating the customer's bill due to lack of meter access, the utility or Meter Reading Service Provider will attempt to secure an accurate reading of the meter. Failure on the part of the customer to comply with a reasonable request for meter access may lead to discontinuance of service.
5. A utility or billing entity may not render a bill based on estimated usage if:
   a. The estimating procedures employed by the utility or billing entity have not been approved by the Commission.
   b. The billing would be the customer's 1st or final bill for service.
   c. The customer is a direct-access customer requiring load data.
   d. The utility can obtain customer-supplied meter readings to determine usage.
6. When a utility or billing entity renders an estimated bill in accordance with these rules, it shall:
   a. Maintain accurate records of the reasons therefore and efforts made to secure an actual reading;
   b. Clearly and conspicuously indicate that it is an estimated bill and note the reason for its estimation.

B. Combining meters, minimum bill information

1. Each meter at a customer's premise will be considered separately for billing purposes, and the readings of 2 or more meters will not be combined unless otherwise provided for in the utility's tariffs. This provision does not apply in the case of aggregation of competitive services as described in R14-2-1601.
2. Each bill for residential service will contain the following minimum information:
   a. The beginning and ending meter readings of the billing period, the dates thereof, and the number of days in the billing period;
   b. The date when the bill will be considered due and the date when it will be delinquent, if not the same;
   c. Billing usage, demand <u>(if measured)</u>, basic monthly service charge, and total amount due;
   d. Rate schedule number or service offer;
   e. Customer's name and service account number;
   f. Any previous balance;
   g. Fuel adjustment cost, where applicable;
   h. License, occupation, gross receipts, franchise, and sales taxes;

i. The address and telephone numbers of the Electric Service Provider, and/or the Utility Distribution Company, designating where the customer may initiate an inquiry or complaint concerning the bill or services rendered;
j. The Arizona Corporation Commission address and toll-free telephone numbers;
k. Other unbundled rates and charges.

C. Billing terms
1. All bills for utility services are due and payable no later than 15 days from the date of the bill. Any payment not received within this time-frame shall be considered delinquent and could incur a late payment charge.
2. For purposes of this rule, the date a bill is rendered may be evidenced by:
   a. The postmark date;
   b. The mailing date;
   c. The billing date shown on the bill (however, the billing date shall not differ from the postmark or mailing date by more than 2 days); and
   d. The transmission date for electronic bills.
3. All delinquent bills shall be subject to the provisions of the utility's termination procedures.
4. All payments shall be made at or mailed to the office of the utility or to the utility's authorized payment agency or the office of the billing entity. The date on which the utility actually receives the customer's remittance is considered the payment date.

D. No change.
1. No change.
2. No change.
3. No change.
4. No change.
5. No change.

E. Meter error corrections
1. ~~The utility or Meter Service Provider shall test a meter upon customer or the customer's Electric Service Provider, Utility Distribution company (as defined in A.A.C. R14-2-1601) or billing entity request and each utility or billing entity shall be authorized to charge the customer for such meter test according to the tariff on file approved by the Commission. However, if the meter is found to be in error by more than 3%, no meter testing fee may be charged to the customer. If the~~ If a tested meter is found to be more than 3% in error, either fast or slow, the correction of previous bills will be made under the following terms allowing the utility or billing entity to recover or refund the difference:
   a. If the date of the meter error can be definitely fixed, the utility or billing entity shall adjust the customer's billings back to that date. If the customer has been underbilled, the utility or billing entity will allow the customer to repay this difference over an equal length of time that the underbillings occurred. The customer may be allowed to pay the backbill without late payment penalties, unless there is evidence of meter tampering or energy diversion.
   b. If it is determined that the customer has been overbilled and there is no evidence of meter tampering or energy diversion, the utility or billing entity will make prompt refunds in the difference between the original billing and the corrected billing within the next billing cycle.
2. No adjustment shall be made by the utility except to the customer last served by the meter tested.
3. Any underbilling resulting from a stopped or slow meter, utility or Meter Reading Service Provider meter reading error, or a billing calculation shall be limited to 3 months for residential customers and 6 months for nonresidential customers. However, if an underbilling by the utility occurs due to inaccurate, false, or estimated information from a 3rd party, then that utility will have a right to backbill that 3rd party to the point in time that may be definitely fixed, or 12 months. No such limitation will apply to overbillings.

F. No change.
1. No change.
2. No change.
3. No change.

G. Levelized billing plan
1. Each utility may, at its option, offer its ~~residential~~ customers a levelized billing plan.
2. Each utility offering a levelized billing plan shall develop, upon customer request, an estimate of the customer's levelized billing for a 12-month period based upon:
   a. Customer's actual consumption history, which may be adjusted for abnormal conditions such as weather variations.
   b. For new customers, the utility will estimate consumption based on the customer's anticipated load requirements.
   c. The utility's tariff schedules approved by the Commission applicable to that customer's class of service.

3. The utility shall provide the customer a concise explanation of how the levelized billing estimate was developed, the impact of levelized billing on a customer's monthly utility bill, and the utility's right to adjust the customer's billing for any variation between the utility's estimated billing and actual billing.
4. For those customers being billed under a levelized billing plan, the utility shall show, at a minimum, the following information on their monthly bill:
   a. Actual consumption,
   b. Dollar amount due for actual consumption,
   c. Levelized billing amount due, and
   d. Accumulated variation in actual-versus-levelized billing amount.
5. The utility may adjust the customer's levelized billing in the event the utility's estimate of the customer's usage or cost should vary significantly from the customer's actual usage or cost; such review to adjust the amount of the levelized billing may be initiated by the utility or upon customer request.

H. Deferred payment plan
1. Each utility may, prior to termination, offer to qualifying residential customers a deferred payment plan for the customer to retire unpaid bills for utility service.
2. Each deferred payment agreement entered into by the utility and the customer shall provide that service will not be discontinued if:
   a. Customer agrees to pay a reasonable amount of the outstanding bill at the time the parties enter into the deferred payment agreement.
   b. Customer agrees to pay all future bills for utility service in accordance with the billing and collection tariffs of the utility.
   c. Customer agrees to pay a reasonable portion of the remaining outstanding balance in installments over a period not to exceed 6 months.
3. For the purposes of determining a reasonable installment payment schedule under these rules, the utility and the customer shall give consideration to the following conditions:
   a. Size of the delinquent account,
   b. Customer's ability to pay,
   c. Customer's payment history,
   d. Length of time that the debt has been outstanding,
   e. Circumstances which resulted in the debt being outstanding, and
   f. Any other relevant factors related to the circumstances of the customer.
4. Any customer who desires to enter into a deferred payment agreement shall establish such agreement prior to the utility's scheduled termination date for nonpayment of bills. The customer's failure to execute such an agreement prior to the termination date will not prevent the utility from disconnecting service for nonpayment.
5. Deferred payment agreements may be in writing and may be signed by the customer and an authorized utility representative.
6. A deferred payment agreement may include a finance charge as approved by the Commission in a tariff proceeding.
7. If a customer has not fulfilled the terms of a deferred payment agreement, the utility shall have the right to disconnect service pursuant to the utility's termination of service rules. Under such circumstances, it shall not be required to offer subsequent negotiation of a deferred payment agreement prior to disconnection.

I. No change.
1. No change.
2. No change.
3. No change.

R14-2-212. Administrative and Hearing Requirements

A. Customer service complaints
1. Each utility shall make a full and prompt investigation of all service complaints made by its customers, either directly or through the Commission.
2. The utility shall respond to the complainant and~~/or~~ the Commission representative within 5 ~~five~~ working days as to the status of the utility investigation of the complaint.
3. The utility shall notify the complainant and~~/or~~ the Commission representative of the final disposition of each complaint. Upon request of the complainant or the Commission representative, the utility shall report the findings of its investigation in writing.
4. The utility shall inform the customer of his right of appeal to the Commission.
5. Each utility shall keep a record of all written service complaints received which shall contain, at a minimum, the following data:
   a. Name and address of the complainant;
   b. Date and nature of the complaint;
   c. Disposition of the complaint; and

d. A copy of any correspondence between the utility, the customer, and~~/or~~ the Commission.
This record shall be maintained for a minimum period of 1 ~~one~~ year and shall be available for inspection by the Commission.

B. Customer bill disputes
1. Any utility customer who disputes a portion of a bill rendered for utility service shall pay the undisputed portion of the bill and notify the utility's designated representative that such unpaid amount is in dispute prior to the delinquent date of the bill.
2. Upon receipt of the customer notice of dispute, the utility shall:
   a. Notify the customer within 5 ~~five~~ working days of the receipt of a written dispute notice.
   b. Initiate a prompt investigation as to the source of the dispute.
   c. Withhold disconnection of service until the investigation is completed and the customer is informed of the results. Upon request of the customer the utility shall report the results of the investigation in writing.
   d. Inform the customer of his right of appeal to the Commission.
3. Once the customer has received the results of the utility's investigation, the customer shall submit payment within 5 ~~five~~ working days to the utility for any disputed amounts. Failure to make full payment shall be grounds for termination of service.

C. Commission resolution of service and~~/or~~ bill disputes
1. In the event a customer and utility cannot resolve a service ~~and/~~or bill dispute, the customer shall file a written statement of dissatisfaction with the Commission; by submitting such notice to the Commission, the customer shall be deemed to have filed an informal complaint against the utility.
2. Within 30 days of the receipt of a written statement of customer dissatisfaction related to a service or bill dispute, a designated representative of the Commission shall endeavor to resolve the dispute by correspondence ~~and/~~or telephone with the utility and the customer. If resolution of the dispute is not achieved within 20 days of the Commission representative's initial effort, the Commission shall hold an informal hearing to arbitrate the resolution of the dispute. The informal hearing shall be governed by the following rules:
   a. Each party may be represented by legal counsel, if desired.
   b. All such informal hearings may be recorded or held in the presence of a stenographer.
   c. All parties will have the opportunity to present written or oral evidentiary material to support the positions of the individual parties.
   d. All parties and the Commission's representative shall be given the opportunity for cross-examination of the various parties.
   e. The Commission's representative will render a written decision to all parties within 5 ~~five~~ working days after the date of the informal hearing. Such written decision of the arbitrator is not binding on any of the parties and the parties will still have the right to make a formal complaint to the Commission.
3. The utility may implement normal termination procedures if the customer fails to pay all bills rendered during the resolution of the dispute by the Commission.
4. Each utility shall maintain a record of written statements of dissatisfaction and their resolution for a minimum of 1 ~~one~~ year and make such records available for Commission inspection.

D. Notice by utility of responsible officer or agent
1. Each utility shall file with the Commission a written statement containing the name, address (business, residence and post office) and telephone numbers (business and residence) of at least 1 ~~one~~ officer, agent or employee responsible for the general management of its operations as a utility in Arizona.
2. Each utility shall give notice, by filing a written statement with the Commission, of any change in the information required herein within 5 ~~five~~ days from the date of any such 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; and
   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.

F. No change.
1. No change.
2. No change.
3. No change.

G. No change.
1. No change.
2. No change.
3. No change.
4. No change.
5. No change.
6. No change.

H. No change.

I. No change.

J. No change.

ARTICLE 16. RETAIL ELECTRIC COMPETITION

R14-2-1601. Definitions

In this Article, unless the context otherwise requires:

1. "Affected Utilities" means the following public service corporations providing electric service:
   Tucson Electric Power Company, Arizona Public Service Company, Citizens Utilities Company, Arizona Electric Power Cooperative, Trico Electric Cooperative, Duncan Valley Electric Cooperative, Graham County Electric Cooperative, Mohave Electric Cooperative, Sulphur Springs Valley Electric Cooperative, Navopache Electric Cooperative, Ajo Improvement Company, and Morenci Water and Electric Company.
2. "Aggregation" means the combination and consolidation of loads of multiple customers.
3. ~~2.~~ "Aggregator" means an Electric Service Provider that, as part of its business, combines retail electric customers into a purchasing group.
4. "Ancillary Services" means those services designated as ancillary services in Federal Energy Regulatory Commission Order 888, including the services necessary to support the transmission of electricity from resource to load while maintaining reliable operation of the transmission system in accordance with good utility practice.
5. ~~3.~~ "Bundled Service" means electric service provided as a package to the consumer including all generation, transmission, distribution, ancillary and other services necessary to deliver and measure useful electric energy and power to consumers.
~~4. "Buy-through" refers to a purchase of electricity by a Load Serving Entity at wholesale for a particular retail consumer or aggregate of consumers or at the direction of a particular retail consumer or aggregate of consumers.~~
6. ~~5.~~ "Competition Transition Charge" (CTC) is a means of recovering Stranded Costs ~~from the customers of competitive services~~.
7. ~~6.~~ "Competitive Services" means all aspects of retail electric service except those services specifically defined as "Noncompetitive Services" ~~"noncompetitive services"~~ pursuant to R14-2-1601(27) ~~(29)~~ or noncompetitive services as defined by the Federal Energy Regulatory Commission.
8. "Consumer Education ~~Information~~" is the provision of impartial information ~~provided~~ to consumers about competition or Competitive and Noncompetitive Services ~~competitive and noncompetitive services~~ and is distinct from advertising and marketing.
9. ~~7.~~ "Control Area Operator" is the operator of an electric system or systems, bounded by interconnection metering and telemetry, capable of controlling generation to maintain its interchange schedule with other such systems and contributing to frequency regulation of the interconnection.
10. ~~9.~~ "Current Transformer" (CT) is an electrical device used in conjunction with an electric meter to provide a measurement of energy consumption for metering purposes.

11. "Delinquent Accounts" means customer accounts with outstanding past-due payment obligations that remain unpaid after the due date.
12.~~10.~~ "Direct Access Service Request" (DASR) means a form that contains all necessary billing and metering information to allow customers to switch electric service providers. This form must be submitted to the Utility Distribution Company by the customer's Electric Service Provider ~~or the customer~~.
13.~~12.~~ "Distribution Primary Voltage" is voltage as defined under the Affected Utility's Federal Energy Regulatory Commission (FERC) Open Access Transmission Tariff, except for Meter Service Providers, for which Distribution Primary Voltage is voltage at or above 600 volts (600V) through and including 25 kilovolts (25 kV).
14.~~13.~~ "Distribution Service" means the delivery of electricity to a retail consumer through wires, transformers, and other devices that are not classified as transmission services subject to the jurisdiction of the Federal Energy Regulatory Commission; Distribution Service excludes Metering Services, Meter Reading Services, and billing and collection services, as those terms are used herein.
15. "Electric Service Provider" (ESP) means a company supplying, marketing, or brokering at retail any Competitive Services ~~of the competitive services described in R14-2-1605 or R14-2-1606,~~ pursuant to a Certificate of Convenience and Necessity.
16. "Electric Service Provider Service Acquisition Agreement" or "Service Acquisition Agreement" means a contract between an Electric Service Provider and a Utility Distribution Company to deliver power to retail end users or between an Electric Service Provider and a Scheduling Coordinator to schedule transmission service.
17.~~14.~~ "Electronic Data Interchange" (EDI) is the computer-to-computer electronic exchange of business documents using standard formats which are recognized both nationally and internationally.
18.~~17.~~ "Generation" means the production of electric power or contract rights to the receipt of wholesale electric power.
19.~~18.~~ "Green Pricing" means a program offered by an Electric Service Provider where customers elect to pay a rate premium for ~~solar generated~~ electricity generated by renewable sources.
20.~~19.~~ "Independent Scheduling Administrator" (ISA) is an ~~a proposed~~ entity, independent of transmission-owning organizations, intended to facilitate nondiscriminatory retail direct access using the transmission system in Arizona.
21.~~20.~~ "Independent System Operator" (ISO) is an independent organization whose objective is to provide nondiscriminatory and open transmission access to the interconnected transmission grid under its jurisdiction, in accordance with the Federal Energy Regulatory Commission principles of independent system operation.
22.~~21.~~ "Load Profiling" is a process of estimating a customer's hourly energy consumption based on measurements of similar customers.
23.~~22.~~ "Load-Serving Entity" means an Electric Service Provider, Affected Utility, or Utility Distribution Company, excluding a Meter Service Provider, and Meter Reading Service Provider ~~or Aggregators~~.
24.~~23.~~ "Meter Reading Service" means all functions related to the collection and storage of consumption data.
25.~~24.~~"Meter Reading Service Provider" (MRSP) means an entity providing Meter Reading Service, as that term is defined herein and that reads meters, performs validation, editing, and estimation on raw meter data to create billing-ready meter data; translates billing-ready data to an approved format; posts this data to a server for retrieval by billing agents; manages the server; exchanges data with market participants; and stores meter data for problem resolution.
26.~~25.~~"Meter Service Provider" (MSP) means an entity providing Metering Service, as that term is defined herein.
27.~~26.~~"Metering and Metering Service" means all functions related to measuring electricity consumption.
28.~~27.~~ "Must-Run Generating Units" are those local generating units that are required to run to maintain distribution system reliability and to meet load requirements in times of congestion on certain portions of the interconnected transmission grid.
~~28. "Net Metering" or "Net Billing" is a method by which customers can use electricity from customer sited solar electric generators to offset electricity purchased from an Electric Service Provider. The customer only pays for the "Net" electricity purchased.~~
29. "Noncompetitive Services" means Distribution Service, ~~distribution service~~ Standard Offer Service, ~~service~~ transmission, and ~~Federal Energy Regulatory Commission required~~ any ancillary services deemed to be non-competitive by the Federal Energy Regulatory Commission, Must-Run Generating Units services, provision of customer demand and energy data by an Affected Utility or Utility Distribution Company to Electric Service Providers, and those ~~these~~ aspects of Metering Service set forth in R14-2-1612(K). ~~All components of Standard Offer service shall be deemed noncompetitive as long as those components are provided in a bundled transaction pursuant to R14-2-1606(A).~~
30. "OASIS" is Open Access Same-Time Information System, which is an electronic bulletin board where transmission-related information is posted for all interested parties to access via the Internet to enable parties to engage in transmission transactions.

31. "Operating Reserve" means the generation capability above firm system demand used to provide for regulation, load forecasting error, equipment forced and scheduled outages, and local area protection to provide system reliability.
32. "Potential Transformer" (PT) is an electrical device used to step down primary voltages to 120V for metering purposes.
33. "Provider of Last Resort" means a provider of Standard Offer Service to customers within the provider's certificated area whose annual usage is 100,000 kWh or less and who are not buying competitive services.
34. "Public Power Entity" incorporates by reference the definition set forth in A.R.S. § 30-801.16.
35.~~34.~~"Retail Electric Customer" means the person or entity in whose name service is rendered.
36.~~35.~~"Scheduling Coordinator" means an entity that provides schedules for power transactions over transmission or distribution systems to the party responsible for the operation and control of the transmission grid, such as a Control Area Operator, Arizona Independent Scheduling Administrator, or Independent System Operator.
37.~~36~~"Self-Aggregation" is the action of a retail electric customer that combines its own metered loads into a single purchase block.
~~37. "Solar Electric Fund" is the funding mechanism established by this Article through which deficiency payments are collected and solar energy projects are funded in accordance with this Article.~~
38. "Standard Offer Service" means Bundled Service offered by the Affected Utility or Utility Distribution Company to all consumers in the Affected Utility's or Utility Distribution Company's service territory at regulated rates including metering, meter reading, billing~~,~~ and collection services, demand side management services including but not limited to time-of-use, and ~~other~~ consumer information services. All components of Standard Offer Service shall be deemed noncompetitive as long as those components are provided in a bundled transaction under R14-2-1606(A).
39. "Stranded Cost" includes:
    a. The verifiable net difference between:
        i. The net original cost ~~value~~ of all the prudent jurisdictional assets and obligations necessary to furnish electricity (such as generating plants, purchased power contracts, fuel contracts, and regulatory assets), acquired or entered into prior to December 26, 1996, under traditional regulation of Affected Utilities; and
        ii. The market value of those assets and obligations directly attributable to the introduction of competition under this Article;
    b. Reasonable costs necessarily incurred by an Affected Utility to effectuate divestiture of its generation assets;
    c. Reasonable employee severance and retraining costs necessitated by electric competition, where not otherwise provided~~.~~; and
    d. Other transition and restructuring costs as approved by the Commission as part of the Affected Utility's Stranded Cost determination under R14-2-1607.
40. "System Benefits" means Commission-approved utility low income, demand side management, Consumer Education, ~~market transformation,~~ environmental, renewables, long-term public benefit research and development, and nuclear fuel disposal and nuclear power plant decommissioning programs, and other programs that may be approved by the Commission from time to time.
41. "Transmission Primary Voltage" is voltage above 25 kV as it relates to metering transformers.
42. "Transmission Service" refers to the transmission of electricity to retail electric customers or to electric distribution facilities and that is so classified by the Federal Energy Regulatory Commission or, to the extent permitted by law, so classified by the Arizona Corporation Commission.
43. "Unbundled Service" means electric service elements provided and priced separately, including, but not limited to, such service elements as generation, transmission, distribution, Must Run Generation, metering, meter reading, billing and collection, and ancillary services. Unbundled Service may be sold to consumers or to other Electric Service Providers.
44.~~46.~~ "Universal Node Identifier" is a unique, permanent, identification number assigned to each service delivery point.
45.~~44.~~ "Utility Distribution Company" (UDC) means the electric utility entity regulated by the Commission that operates, constructs, and maintains the distribution system for the delivery of power to the end user point of delivery on the distribution system.
46.~~45.~~ "Utility Industry Group" (UIG) refers to a utility industry association that establishes national standards for data formats.

R14-2-1602. Commencement of Competition ~~Filing of Tariffs by Affected Utilities~~

~~Each Affected Utility shall file tariffs consistent with this Article by December 31, 1997.~~

A. An Affected Utility's customers will be eligible for competitive electric services, subject to the phase-in schedule in R14-2-1604, on the date set by Commission Order in each Affected Utility's Stranded Cost and Unbundled Tariff proceeding.

B. An Affected Utility's competitive electric affiliates or an affiliate of which it is a member shall not be permitted to offer Competitive Services in any other Affected Utility's service territory until the Commission has ordered the service area of the potential competitor's affiliated Affected Utility opened to competition.

R14-2-1603. Certificates of Convenience and Necessity

A. Any Electric Service Provider intending to supply Competitive Services ~~services described in R14-2-1605 or R14-2-1606, other than services subject to federal jurisdictions,~~ shall obtain a Certificate of Convenience and Necessity from the Commission pursuant to this Article. ~~A Certificate is not required to offer information services, billing and collection services, or self-aggregation. However, aggregators as defined in R14-2-1601 are required to obtain a Certificate of Convenience and Necessity and Self-Aggregators are required to negotiate a Service Acquisition Agreement consistent with subsection G(6).~~ An Affected Utility need not apply for a Certificate of Convenience and Necessity to continue to provide electric service in its service area during the transition period set forth in R14-2-1604. A Utility Distribution Company providing ~~Affected Utility providing distribution and~~ Standard Offer Service, or services authorized in R14-2-1615, ~~service~~ after January 1, 2001, need not apply for a Certificate of Convenience and Necessity. All other Affected Utility affiliates created in compliance with R14-2-1615(A) ~~R14-2-1616(A)~~ shall be required to apply for appropriate Certificates of Convenience and Necessity.

B. Any company desiring such a Certificate of Convenience and Necessity shall file with the Docket Control Center the required number of copies of an application. In support of the request for a Certificate of Convenience and Necessity, the following information must be provided:

1. A description of the electric services which the applicant intends to offer;
2. The proper name and correct address of the applicant, and
   a. The full name of the owner if a sole proprietorship,
   b. The full name of each partner if a partnership,
   c. A full list of officers and directors if a corporation, or
   d. A full list of the members if a limited liability corporation;
3. A tariff for each service to be provided that states the maximum rate and terms and conditions that will apply to the provision of the service;
4. A description of the applicant's technical ability to obtain and deliver electricity if appropriate and to provide any other proposed services;
5. Documentation of the financial capability of the applicant to provide the proposed services, including the most recent income statement and balance sheet, the most recent projected income statement, and other pertinent financial information. Audited information shall be provided if available;
6. A description of the form of ownership (for example, partnership, corporation);
7. For an applicant that is an affiliate of an Affected Utility, a statement of whether the Affected Utility has complied with the requirements of R14-2-1616, including the Commission Decision approving the Code of Conduct, where applicable; and

8.~~7.~~ Such other information as the Commission or the staff may request.

C. The applicant shall report in a timely manner during the application process any changes ~~changes(s)~~ in the information initially reported to the Commission in the application for a Certificate of Convenience and Necessity.

D. No change.

E. At the time of filing for a Certificate of Convenience and Necessity, each applicant shall notify the Affected Utilities, Utility Distribution Companies, or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission in whose service territories it wishes to offer service of the application by providing a copy ~~serving notification~~ of the application to ~~on~~ the Affected Utilities, Utility Distribution Companies, or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission. Prior to Commission action, each applicant shall provide written notice to the Commission that it has provided notification to each of the respective Affected Utilities, Utility Distribution Companies, or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission. The attachment to the CC&N application should include a listing of the names and addresses of the notified Affected Utilities, Utility Distribution Companies or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission.

F. No change.

G. The Commission may deny certification to any applicant who:

1. Does not provide the information required by this Article;
2. Does not possess adequate technical or financial capabilities to provide the proposed services;
3. Seeks certification as a Load-Serving Entity and does ~~Does~~ not have an Electric Service Provider Service Acquisition Agreement with a Utility Distribution Company and Scheduling Coordinator, if the applicant is not its own Scheduling Coordinator;
4. Fails to provide a performance bond, if required;
5. Fails to demonstrate that its certification will serve the public interest;

6. Seeks certification as a Load-Serving Entity and fails ~~Fails~~ to submit an executed Service Acquisition Agreement with a Utility Distribution Company or a Scheduling Coordinator for approval by the Director, Utilities Division, prior to the offering of service to potential customers.

H. A Request for approval of an executed Service Acquisition Agreement may be included with an application for a Certificate of Convenience and Necessity. In all negotiations relative to Service Acquisition Agreements ~~service acquisition agreements~~ Affected Utilities or their successor entities are required to negotiate in good faith.

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

1. The Electric Service Provider shall comply with all Commission rules, orders, and other requirements relevant to the provision of electric service ~~and relevant to resource planning~~;
2. The Electric Service Provider shall maintain accounts and records as required by the Commission;
3. The Electric Service Provider shall file with the Director, Utilities Division, all financial and other reports that the Commission may require and in a form and at such times as the Commission may designate;
4. The Electric Service Provider shall maintain on file with the Commission all current tariffs and any service standards that the Commission shall require;
5. The Electric Service Provider shall cooperate with any Commission investigation of customer complaints;
6. The Electric Service Provider shall obtain all necessary permits and licenses, including relevant tax licenses;~~.~~
7. The Electric Service Provider shall comply with all disclosure requirements pursuant to R14-2-1617 ~~R14-2-1618~~;
8. Failure to comply with any of the above conditions may result in recision of the Electric Service Provider's Certificate of Convenience and Necessity.

J. No change.

K. 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.
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.

R14-2-1604. Competitive Phases

A. At the date established under R14-2-1602(A), each ~~Each~~ Affected Utility shall make available at least 20% of its 1995 system retail peak demand for competitive generation supply on a first-come, first-served basis as further described in this rule. First-come, first-served, for the purpose of this rule, shall be determined for nonresidential customers by the date and time of an Electric Service Provider's filing of a Direct Access Service Request with the Affected Utility or Utility Distribution Company. The effective date of the Direct Access Service Request must be within 60 ~~180~~ days of the filing date of the Direct Access Service Request. Residential customer selection will be determined under approved residential phase-in programs as specified in subsection (B)(4).

1. All Affected Utility customers with single premise noncoincident peak demand load of 1 MW or greater will be eligible for competitive electric services upon the commencement of competition. ~~no later than January 1, 1999.~~ Customers meeting this requirement shall be eligible for competitive services until at least 20% of the Affected Utility's 1995 system peak demand is served by competition.

2. Any class of customer may aggregate into a minimum combined load of 1 MW or greater within an Affected Utility's service territory and be eligible for competitive electric services. From the commencement of competition under R14-2-1602 through December 31, 2000, aggregation of new competitive customers will be allowed until such time as at least 20 percent of the Affected Utility's 1995 peak demand is served by competitors. ~~During 1999 and 2000, an Affected Utility's customers with single premise non-coincident peak load demands of 40 kW or greater aggregated into a combined load of 1 MW or greater within the Affected Utility's service territory will be eligible for competitive electric services. Self-aggregation is also allowed pursuant to the minimum and combined load demands set forth in this rule. If peak load data are not available, the 40 kW criterion shall be determined to be met if the customer's usage exceeded 16,500 kWh in any month within the last 12 consecutive months. From January 1, 1999, through December 31, 2000, aggregation of new competitive customers will be allowed until such time as at least 20% of the Affected Utility's 1995 system peak demand is served by competitors. At that point all additional aggregated customers must wait until January 1, 2001 to obtain competitive service.~~
3. Affected Utilities shall notify customers eligible under this subsection of the terms of the subsection no later than 60 days prior to the start of competition within its service territory ~~October 31, 1998~~.
4. Effective January 1, 2001, all Affected Utility customers irrespective of size will be eligible for Aggregation and Self-Aggregation. Aggregation and Self-Aggregation customers purchasing their electricity and related services at any time after the effective date of these rules must do so from a certificated Electric Provider as provided for in these rules.

B. As part of the minimum 20% of 1995 system peak demand set forth in subsection (A), each Affected Utility shall reserve a residential phase-in program that provides an increasing minimum percentage of residential customers with access to competitive electric services according to the following schedule: ~~with the following components:~~

1. | | |
|---|---|
| January 1, 1999 | 1 1/4% |
| April 1, 1999 | 2 1/2% |
| July 1, 1999 | 3 3/4% |
| October 1, 1999 | 5% |
| January 1, 2000 | 6 1/4% |
| April 1, 2000 | 7 1/2% |
| July 1, 2000 | 8 3/4% |
| October 1, 2000 | 10% |

~~1. A minimum of 1¼% of residential customers as of January 1, 1999 will have access to competitive electric services on January 1, 1999. The number of customers eligible for the residential phase-in program shall increase by an additional 1¼% every quarter until January 1, 2001.~~

2. Access to the residential phase-in program will be on a first-come, first-served basis. The Affected Utility shall create and maintain a waiting list to manage the residential phase-in program, which list shall promptly be made available to any certificated Load-Serving Electric Service Provider upon request.
3. Residential customers participating in the residential phase-in program shall be permitted to use load profiling to satisfy the requirements for hourly consumption data; however, they may choose other metering options offered by their Electric Service Provider consistent with the Commission's rules on metering.
4. If not already done, each ~~Each~~ Affected Utility shall file a residential phase-in program proposal to the Commission for approval by Director, Utilities Division, by September 15, 1999. ~~1998.~~ Interested parties will have until September 30, 1999, ~~29,1998,~~ to comment on any proposal. At a minimum, the residential phase-in program proposal will include specifics concerning the Affected Utility's proposed:
   a. Process for customer notification of residential phase-in program;
   b. Selection and tracking mechanism for customers based on first-come, first-served method;
   c. Customer notification process and other education and information services to be offered;
   d. Load Profiling methodology and actual load profiles, if available; and
   e. Method for calculation of reserved load.
5. After the commencement of competition under R14-2-1602, each ~~Each~~ Affected Utility shall file quarterly residential phase-in program reports within 45 days of the end of each quarter. The 1st such report shall be due within 45 days of the 1st quarter ending after the start of the phase-in of competition for that Affected Utility. ~~March 31, 1999.~~ The final report due under this rule shall be due within 45 days of the 1st quarter ending December 31, 2002. As a minimum, these quarterly reports shall include:
   a. The number of customers and the load currently enrolled in residential phase-in program by Energy Service Provider; ~~energy service provider;~~
   b. The number of customers currently on the waiting list,
   c. A description and examples of all customer education programs and other information services including the goals of the education program and a discussion of the effectiveness of the programs, and
   d. An overview of comments and survey results from participating residential customers.

6. Aggregation or Self-Aggregation of residential customers is allowed subject to the limitations of the phase-in percentages in this rule.

C. Each Affected Utility shall file a report by November 1, 1999, ~~September 15, 1998,~~ detailing possible mechanisms to provide benefits, including ~~such as~~ rate reductions of 3% - 5%, to all Standard Offer customers.

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

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

~~**G.** A Load Serving Entity may, beginning January 1, 1999, engage in buy throughs with individual or aggregated consumer. Any buy through contract shall ensure that the consumer pays all nonbypassable charges that would otherwise apply. Any contract for a buy through effective prior to January 1, 1999 must be approved by the Commission.~~

E.~~F.~~ Retail consumers served under existing contracts are eligible to participate in the competitive market prior to expiration of the existing contract only if the Affected Utility and the consumer agree that the retail consumer may participate in the competitive market.

F.~~H.~~ Schedule Modifications for Cooperatives

1. An electric cooperative may request that the Commission modify the schedule described in subsection (A) through (E) so as to preserve the tax-exempt status of the cooperative or to allow time to modify contractual arrangements pertaining to delivery of power supplies and associated loans.
2. As part of the request, the cooperative shall propose methods to enhance consumer choice among generation resources.
3. The Commission shall consider whether the benefits of modifying the schedule exceed the costs of modifying the schedule.

R14-2-1605. Competitive Services

Except as provided in R14-2-1615(C), Competitive Services shall require a Certificate of Convenience and Necessity and a tariff as described in R14-2-1603. A properly certificated Electric Service Provider may offer Competitive Services ~~any of the following services~~ under bilateral or multilateral contracts with retail consumers.~~:~~

~~**A.** Generation of electricity from generators at any location whether owned by the Electric Service Provider or purchased from another generator or wholesaler of electric generation.~~

~~**B.** Any service described in R14-2-1606, except Noncompetitive services as defined by R14-2-1601.29 or Noncompetitive services as defined by the Federal Energy Regulatory Commission. Billing and collection services, information services, and self aggregation services do not require a Certificate of Convenience and Necessity. Aggregation of retail electric customers into a purchasing group is considered to be a competitive service.~~

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

A. On the date its service area is open to competition under R14-2-1602, each ~~Each~~ Affected Utility or Utility Distribution Company shall make available ~~to all consumers in its service area as defined on the date indicated in R14-2-1602,~~ Standard Offer Service and Noncompetitive Services ~~bundled generation, transmission, ancillary, distribution, and other necessary services~~ at regulated rates. After January 1, 2001, Standard Offer Service and Noncompetitive Services ~~service~~ shall be provided by Utility Distribution Companies who shall also act as Providers of Last Resort.

B. After January 1, 2001, power purchased by ~~a~~ an investor owned Utility Distribution Company for Standard Offer Service shall be acquired from the competitive market through prudent, arm's length transactions, and with at least 50% through a competitive bid process. ~~to serve Standard Offer customers, except purchases made through spot markets, shall be acquired through competitive bid. Any resulting contract in excess of 12 months shall contain provisions allowing the Utility Distribution Company to ratchet down its power purchases. A Utility Distribution Company may request that the Commission modify any provision of this subsection for good cause.~~

C. Standard Offer Tariffs

1. By July 1, 1999, or pursuant to Commission Order, whichever occurs first, ~~the date indicated in R14-2-1602~~, each Affected Utility shall ~~may~~ file proposed tariffs to provide Standard Offer Service. ~~Bundled Service and~~ Such ~~such~~ rates shall not become effective until approved by the Commission. Any rate increase proposed by an Affected Utility or Utility Distribution Company for Standard Offer Service must be fully justified through a rate case proceeding. ~~If no such tariffs are filed, rates and services in existence as of the date in R14-2-1602 shall constitute the Standard Offer.~~
2. Standard Offer Service tariffs shall include the following elements, each of which shall be clearly unbundled and identified in the filed tariffs:
   a. Competitive Services:
      i. Generation, which shall include all transaction costs and line losses;
      ii. Competition Transition Charge, which shall include recovery of generation related regulatory assets;
      iii. Generation-related billing and collection;

iv. Transmission Services;
v. Metering Services;
vi. Meter Reading Services; and
vii. Optional Ancillary Services, which shall include spinning reserve service, supplemental reserve, regulation and frequency response service, and energy imbalance service.

b. Non-Competitive Services:
i. Distribution services
ii. Required Ancillary services, which shall include scheduling, system control and dispatch service, and reactive supply and voltage control from generation sources service;
iii. Must-Run Generating Units;
iv. System Benefit Charges; and
v. Distribution-related billing and collection.

3.~~2.~~ Affected Utilities and Utility Distribution Companies may file proposed revisions to such rates. ~~It is the expectation of the Commission that the rates for Standard Offer service will not increase, relative to existing rates, as a result of allowing competition.~~ Any rate increase proposed by an Affected Utility or Utility Distribution Company for Standard Offer Service ~~service~~ must be fully justified through a rate case proceeding, which may be expedited at the discretion of the Utilities Division Director.

4.~~3.~~ Such rates shall reflect the costs of providing the service.

5.~~4.~~ Consumers receiving Standard Offer Service ~~service~~ are eligible for potential future rate reductions as authorized by the Commission. ~~authorized by the Commission, such as reductions authorized in Decision No. 59601.~~

6. After January 2, 2001, tariffs for Standard Offer Service shall not include any special discounts or contracts with terms, or any tariff that prevents the customer from accessing a competitive option, other than time-of-use rates, interruptible rates, or self-generation deferral rates.

D. By the effective date of these rules, or pursuant to Commission Order, whichever occurs first, ~~the date indicated in R14-2-1602,~~ each Affected Utility or Utility Distribution Company shall file an Unbundled Service tariff~~s~~ ~~which~~ that shall include a Noncompetitive Services tariff. The Unbundled Service tariff shall calculate the items listed in R14-2-1602(C)(2)(b) on the same basis as those items are calculated in the Standard Offer Service tariff. ~~to provide the services listed below to the extent allowed by these rules to all eligible purchasers on a nondiscriminatory basis. Other entities seeking to provide any of these services must also file tariffs consistent with these rules:~~

~~1. Distribution Service;~~
~~2. Metering and Meter Reading Services;~~
~~3. Billing and collection services;~~
~~4. Open access transmission service (as approved by the Federal Energy Regulatory Commission, if applicable);~~
~~5. Ancillary services in accordance with Federal Energy Regulatory Commission Order 888 (III FERC Stats. & Regs. paragraph 31,036, 1996) incorporated herein by reference;~~
~~6. Information services such as provision of customer information to other Electric Service Providers;~~
~~7. Other ancillary services necessary for safe and reliable system operation.~~

E. No change.

F. Affected Utilities and Utility Distribution Companies must accept power and energy delivered to their distribution systems by other Load-Serving Entities and offer distribution and distribution-related ancillary services comparable to services they provide to themselves at their Noncompetitive Services tariffed rates. ~~The Affected Utilities must provide transmission and ancillary services according to the following guidelines:~~

~~1. Services must be provided consistent with applicable tariffs filed with the Federal Energy Regulatory Commission.~~
~~2. Unless otherwise required by federal regulation, Affected Utilities must accept power and energy delivered to their transmission systems by others and offer transmission and related services comparable to services they provide to themselves.~~

G. Customer Data

1. Upon written authorization by the customer, a Load-Serving Entity shall release in a timely and useful manner that customer's demand and energy data for the most recent 12-month period to a customer-specified properly certificated Electric Service Provider.
2. The Electric Service Provider requesting such customer data shall provide an accurate account number for the customer.
3. The form of data shall be mutually agreed upon by the parties and such data shall not be unreasonably withheld.
4. Utility Distribution Companies shall be allowed access to the Meter Reading Service Provider server for customers served by the Utility Distribution Company's distribution system.

H. Rates for Unbundled Services

1. The Commission shall review and approve rates for Competitive Services and Noncompetitive Services subject to Commission ~~services listed in R14-2-1606(D) and requirements listed in R14-2-1606(E), where it has~~ jurisdiction, before such services can be offered.

2. Such rates shall reflect the costs of providing the services.
3. Such rates may be downwardly flexible if approved by the Commission.

I. Electric Service Providers offering Competitive Services ~~services under this R14-2-1606~~ shall provide adequate supporting documentation for their proposed rates. Where rates are approved by another jurisdiction, such as the Federal Energy Regulatory Commission, those rates shall be provided to this Commission.

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

A. The Affected Utilities shall take every reasonable, cost-effective measure to mitigate or offset Stranded Cost by reducing costs. ~~means such as~~ expanding wholesale or retail markets, or offering a wider scope of permitted regulated utility services for profit, among others.

B. The Commission shall allow a reasonable opportunity for recovery of unmitigated Stranded Cost by Affected Utilities.

C. The Affected Utilities shall file estimates of unmitigated Stranded Cost on or before July 1, 1999, or pursuant to Commission Order, whichever occurs 1st. Such estimates shall be fully supported by analyses and by records of market transactions undertaken by willing buyers and willing sellers.

D. An Affected Utility shall request Commission approval, on or before July 1, 1999, or pursuant to Commission Order, whichever occurs 1st, ~~August 21, 1998,~~ of distribution charges or other means of recovering unmitigated Stranded Cost. The filing may include a discounted stranded cost exit methodology that a consumer may choose to use to determine an amount due the Affected Utility in lieu of making monthly distribution charge or other payments. ~~from customers who reduce or terminate service from the Affected Utility as a direct result of competition governed by this Article, or who obtain lower rates from the Affected Utility as a direct result of the competition governed by this Article.~~

E. The Commission shall, after hearing and consideration of analyses and recommendations presented by the Affected Utilities, staff, and intervenors, determine for each Affected Utility the magnitude of Stranded Cost, and appropriate Stranded Cost recovery mechanisms and charges. In making its determination of mechanisms and charges, the Commission shall consider at least the following factors:

1. The impact of Stranded Cost recovery on the effectiveness of competition;
2. The impact of Stranded Cost recovery on customers of the Affected Utility who do not participate in the competitive market;
3. The impact, if any, on the Affected Utility's ability to meet debt obligations;
4. The impact of Stranded Cost recovery on prices paid by consumers who participate in the competitive market;
5. The degree to which the Affected Utility has mitigated or offset Stranded Cost;
6. The degree to which some assets have values in excess of their book values;
7. Appropriate treatment of negative Stranded Cost;
8. The time period over which such Stranded Cost charges may be recovered. The Commission shall limit the application of such charges to a specified time period;

9.~~10.~~The applicability of Stranded Cost to interruptible customers.

~~9. The ease of determining the amount of Stranded Cost;~~

~~11. The amount of electricity generated by renewable generating resources owned by the Affected Utility.~~

F. A Competition ~~Competitive~~ Transition Charge (CTC) may be assessed on all retail customers based on the amount of generation purchased from any supplier. ~~only on customer purchases made in the competitive market using the provisions of this Article.~~ Any reduction in electricity purchases from an Affected Utility resulting from self-generation, demand side management, or other demand reduction attributable to any cause other than the retail access provisions of this Article shall not be used to calculate or recover any Stranded Cost from a consumer.

G. Stranded Cost shall be recovered from customer classes in a manner consistent with the specific company's current rate treatment of the stranded asset, in order to effect a recovery of Stranded Cost that is in substantially the same proportion as the recovery of similar costs from customers or customer classes under current rates. In no event shall the Competition Transition Charge be utilized as a mechanism for double recovery of Stranded Cost from Standard Offer Service customers.

H. The Commission may consider securitization as a financing method for recovery of Stranded Cost of the Affected Utility if the Commission finds that such method of financing will result in a lower cost alternative to customers.

~~**H.** The Commission may order an Affected Utility to file estimates of Stranded Cost and mechanisms to recover or, if negative, to refund Stranded Cost.~~

I. The Commission may after notice and hearing order regular revisions to estimates of the magnitude of Stranded Cost.

R14-2-1608. System Benefits Charges

A. Each ~~By the date indicated in R14-2-1602, each~~ Affected Utility or Utility Distribution Company shall file for Commission review nonbypassable rates or related mechanisms to recover the applicable pro-rata costs of System Benefits from all consumers located in the Affected Utility's or Utility Distribution Company's ~~Companies'~~ service area. ~~who participate in the competitive market.~~ Affected Utilities or Utility Distribution Company's shall file for review of the Systems Benefits Charge at least every 3 years. The amount collected annually through the System Benefits charge shall be sufficient to fund the Affected Utilities' or Utility Distribution Companies' Commission-approved System Benefits. ~~low income, demand side management, market transformation, environmental, renewables, long-term public benefit~~

~~research and development, and nuclear fuel disposal and nuclear power plant decommissioning programs in effect from time to time~~. ~~Now, the Commission will approve a solar water heater rebate program: $200,000 to be allocated proportionally among the state's Utility Distribution Companies in 1999, $400,000 in 2000, $600,000 in 2001, $800,000 in 2002, and $1 million in 2003; the rebate will not be more than $500 per system for Commission staff-approved solar water heaters. After 2003, future Commissions may review this program for efficacy.~~

B. No change.

C. No change.

R14-2-1609.~~R14-2-1610.~~ Transmission and Distribution Access

A. No change.

B. Utility Distribution Companies shall retain the obligation to assure that adequate transmission import capability is available to meet the load requirements of all distribution customers within their service areas. Utility Distribution Companies shall retain the obligation to assure that adequate distribution system capacity is available to meet the load requirements of all distribution customers within their service areas.

C.~~B.~~ The Commission supports the development of an Independent System Operator (ISO) or, absent an Independent System Operator, an Arizona Independent Scheduling Administrator (AISA).

D.~~C.~~ The Commission believes that an Independent Scheduling Administrator is necessary in order to provide nondiscriminatory retail access and to facilitate a robust and efficient electricity market. Therefore, those Affected Utilities that own or operate Arizona transmission facilities shall form an Arizona Independent Scheduling Administrator that shall file with the Federal Energy Regulatory Commission within 60 days of this Commission's adoption of final rules herein, ~~by October 31, 1998~~ for approval of an Independent Scheduling Administrator having the following characteristics:

1. The Arizona Independent Scheduling Administrator shall calculate Available Transmission Capacity (ATC) for Arizona transmission facilities that belong to the Affected Utilities or other Arizona Independent Scheduling Administrator participants and shall develop and operate an overarching statewide OASIS.
2. The Arizona Independent Scheduling Administrator shall implement and oversee the nondiscriminatory application of operating protocols to ensure statewide consistency for transmission access. These operating protocols shall include, but are not limited to, protocols for determining transmission system transfer capabilities, committed uses of the transmission system, available transfer capabilities, ~~and~~ Must-Run Generating Units, energy scheduling, and energy imbalances.
3. The Arizona Independent Scheduling Administrator shall provide dispute resolution processes that enable market participants to expeditiously resolve claims of discriminatory treatment in the reservation, scheduling, use, and curtailment of transmission services.
4. All requests (wholesale, Standard Offer retail, and competitive retail) for reservation and scheduling of the use of Arizona transmission facilities that belong to the Affected Utilities or other Arizona Independent Scheduling Administrator participants shall be made to, or through, the Arizona Independent Scheduling Administrator using a single, standardized procedure.
5. The Arizona Independent Scheduling Administrator shall implement a transmission planning process that includes all Arizona Independent Scheduling Administrator participants and aids in identifying the timing and key characteristics of required reinforcements to Arizona transmission facilities to assure that the future load requirements of all participants will be met.

E.~~D.~~ The Affected Utilities that own or operate Arizona transmission facilities shall file a proposed Arizona Independent Scheduling Administrator implementation plan with the Commission within 30 days of the Commission's adoption of final rules herein. ~~by September 1, 1998.~~ The implementation plan shall address Arizona Independent Scheduling Administrator governance, incorporation, financing, and staffing; the acquisition of physical facilities and staff by the Arizona Independent Scheduling Administrator; the schedule for the phased development of Arizona Independent Scheduling Administrator functionality and proposed transition to a regional ISO or Regional Transmission Organization; contingency plans to ensure that critical functionality is in place no later than 3 months following adoption of final rules herein by the Commission; ~~by January 1, 1999;~~ and any other significant issues related to the timely and successful implementation of the Arizona Independent Scheduling Administrator.

F.~~E.~~ Each of the Affected Utilities shall make good faith efforts to develop a regional, multi-state Independent System Operator, to which the Arizona Independent Scheduling Administrator should transfer its relevant assets and functions as the Independent System Operator becomes able to carry out those functions.

G.~~F.~~ It is the intent of the Commission that prudently-incurred costs incurred by the Affected Utilities in the establishment and operation of the Arizona Independent Scheduling Administrator, and subsequently the Independent System Operator, should be recovered from customers using the transmission system, including the Affected Utilities' wholesale customers, Standard Offer retail customers, and competitive retail customers on a nondiscriminatory basis through Federal Energy Regulatory Commission-regulated prices. Proposed rates for the recovery of such costs shall be filed with the Federal Energy Regulatory Commission and this ~~the~~ Commission. In the event that the Federal Energy Regulatory Commission does not permit recovery of prudently incurred Independent Scheduling Administrator costs within 90

days of the date of making an application with the Federal Energy Regulatory Commission, the Commission may authorize Affected Utilities to recover such costs through a distribution surcharge.

H.~~G.~~ The Commission supports the use of "Scheduling Coordinators" to provide aggregation of customers' schedules to the Independent Scheduling Administrator and the respective Control Area Operators simultaneously until the implementation of a regional Independent System Operator, at which time the schedules will be submitted to the Independent System Operator. The primary duties of Scheduling Coordinators are to:

1. Forecast their customers' load requirements;
2. Submit balanced schedules (that is, schedules for which total generation is equal to total load of the Scheduling Coordinator's customers plus appropriate transmission and distribution line losses) and North American Electric Reliability Council/Western Systems Coordinating Council tags;
3. Arrange for the acquisition of the necessary transmission and ancillary services;
4. Respond to contingencies and curtailments as directed by the Control Area Operators, Arizona Independent Scheduling Administrator, or Independent System Operator;
5. Actively participate in the schedule checkout process and the settlement processes of the Control Area Operators, Arizona Independent Scheduling Administrator, or Independent System Operator.

I.~~H.~~ The Affected Utilities and Utility Distribution Companies shall provide services from the Must-Run Generating Units to Standard Offer Service retail customers and competitive retail customers on a comparable, nondiscriminatory basis at regulated prices. The Affected Utilities shall specify the obligations of the Must-Run Generating Units in appropriate sales contracts prior to any divestiture. Under auspices of the Arizona Independent Scheduling Administrator, ~~Electric System Reliability and Safety Working Group,~~ the Affected Utilities and other stakeholders shall develop statewide protocols for pricing and availability of services from Must-Run Generating Units ~~with input from other stakeholders~~. These protocols shall be presented to the Commission for review and, when appropriate, approval, prior to being filed with the Federal Energy Regulatory Commission in conjunction with the Arizona Independent Scheduling Administrator tariff filing. Fixed Must-Run Generating Units costs are to be recovered through a regulated charge to end-use customers. This charge must be set by the Commission as part of the end-use customer distribution service charges. ~~if necessary, by October 31, 1998.~~

J. The Affected Utilities and other stakeholders, under the auspices of the Arizona Independent Scheduling Administrator, shall identify statewide services to be settled on and develop fair and reasonable pricing mechanisms to assure a consistent and fair settlement process.

R14-2-1609. ~~Solar Portfolio Standard~~ Repealed

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

~~B.~~ ~~Starting January 1 of each year from 2000 through 2003, the solar resource requirement shall increase by .2% with the result that starting January 1, 2003, any Electric Service Provider selling electricity or aggregating customers for the purpose of selling electricity under the provisions of this Article must derive at least 1.0% of the total retail energy sold competitively from new solar energy resources. The 1.0% requirement shall be in effect from January 1, 2003 through December 31, 2012.~~

~~C.~~ ~~The solar portfolio requirement shall only apply to competitive retail electricity in the years 1999 and 2000 and shall apply to all retail electricity in the years 2001 and thereafter.~~

~~D.~~ ~~Electric Service Providers shall be eligible for a number of extra credit multipliers that may be used to meet the solar portfolio standard requirements:~~

~~1. Early Installation Extra Credit Multiplier: For new solar electric systems installed and operating prior to December 31, 2003, Electric Service Providers would qualify for multiple extra credits for kWh produced for 5 years following operational start-up of the solar electric system. The 5-year extra credit would vary depending upon the year in which the system started up, as follows:~~

~~YEAR~~	~~EXTRA CREDIT MULTIPLIER~~
~~1997~~	~~.5~~
~~1998~~	~~.5~~
~~1999~~	~~.5~~
~~2000~~	~~.4~~
~~2001~~	~~.3~~
~~2002~~	~~.2~~
~~2003~~	~~.1~~

~~The Early Installation Extra Credit Multiplier would end in 2003.~~

~~2. Solar Economic Development Extra Credit Multipliers: There are 2 equal parts to this multiplier, an in-state installation credit and an in-state content multiplier.~~

a. In-State Power Plant Installation Extra Credit Multiplier: Solar electric power plants installed in Arizona shall receive a .5 extra credit multiplier.

b. In-State Manufacturing and Installation Content Extra Credit Multiplier: Solar electric power plants shall receive up to a .5 extra credit multiplier related to the manufacturing and installation content that comes from Arizona. The percentage of Arizona content of the total installed plant cost shall be multiplied by .5 to determine the appropriate extra credit multiplier. So, for instance, if a solar installation included 80% Arizona content, the resulting extra credit multiplier would be .4 (which is .8 X .5).

3. Distributed Solar Electric Generator and Solar Incentive Program Extra Credit Multiplier: Any distributed solar electric generator that meets more than 1 of the eligibility conditions will be limited to only one .5 extra credit multiplier from this subsection. Appropriate meters will be attached to each solar electric generator and read at least once annually to verify solar performance.

a. Solar electric generators installed at or on the customer premises in Arizona. Eligible customer premises locations will include both grid-connected and remote, non-grid-connected locations. In order for Electric Service Providers to claim an extra credit multiplier, the Electric Service Provider must have contributed at least 10% of the total installed cost or have financed at least 80% of the total installed cost.

b. Solar electric generators located in Arizona that are included in any Electric Service Provider's Green Pricing program.

c. Solar electric generators located in Arizona that are included in any Electric Service Provider's Net Metering or Net Billing program.

d. Solar electric generators located in Arizona that are included in any Electric Service Provider's solar leasing program.

e. All Green Pricing, Net Metering, Net Billing, and Solar Leasing programs must have been reviewed and approved by the Director, Utilities Division in order for the Electric Service Provider to accrue extra credit multipliers from this subsection.

4. All multipliers are additive, allowing a maximum combined extra credit multiplier of 2.0 in years 1997-2003, for equipment installed and manufactured in Arizona and either installed at customer premises or participating in approved solar incentive programs. So, if an Electric Service Provider qualifies for a 2.0 extra credit multiplier and it produces 1 solar kWh, the Electric Service Provider would get credit for 3 solar kWh (1 produced plus 2 extra credit).

E. Electric Service Providers selling electricity under the provisions of this Article shall provide reports on sales and solar power as required in this Article, clearly demonstrating the output of solar resources, the installation date of solar resources, and the transmission of energy from those solar resources to Arizona consumers. The Commission may conduct necessary monitoring to ensure the accuracy of these data.

F. If an Electric Service Provider selling electricity under the provisions of this Article fails to meet the requirement in R14-2-1609(A) or (B) in any year, the Commission shall impose a penalty on that Electric Service Provider that the Electric Service Provider pay an amount equal to 304 per kWh to the Solar Electric Fund for deficiencies in the provision of solar electricity. This Solar Electric Fund will be established and utilized to purchase solar electric generators or solar electricity in the following calendar year for the use by public entities in Arizona such as schools, cities, counties, or state agencies. Title to any equipment purchased by the Solar Electric Fund will be transferred to the public entity. In addition, if the provision of solar energy is consistently deficient, the Commission may void an Electric Service Provider's contracts negotiated under this Article.

1. The Director, Utilities Division shall establish a Solar Electric Fund in 1999 to receive deficiency payments and finance solar electricity projects.

2. The Director, Utilities Division shall select an independent administrator for the selection of projects to be financed by the Solar Electric Fund. A portion of the Solar Electric Fund shall be used for administration of the Fund and a designated portion of the Fund will be set aside for ongoing operation and maintenance of projects financed by the Fund.

G. Photovoltaic or solar thermal electric resources that are located on the consumer's premises shall count toward the solar portfolio standard applicable to the current Electric Service Provider serving that consumer.

H. Any solar electric generators installed by an Affected Utility to meet the solar portfolio standard shall be counted toward meeting renewable resource goals for Affected Utilities established in Decision No. 58643.

I. Any Electric Service Provider or independent solar electric generator that produces or purchases any solar kWh in excess of its annual portfolio requirements may save or bank those excess solar kWh for use or sale in future years. Any eligible solar kWh produced subject to this rule may be sold or traded to any Electric Service Provider that is subject to this rule. Appropriate documentation, subject to Commission review, shall be given to the purchasing entity and shall be referenced in the reports of the Electric Service Provider that is using the purchased kWh to meet its portfolio requirements.

J. Solar portfolio standard requirements shall be calculated on an annual basis, based upon electricity sold during the calendar year.

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

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

~~1999~~	~~Maximum of 50% of the portfolio requirement~~
~~2000~~	~~Maximum of 50% of the portfolio requirement~~
~~2001~~	~~Maximum of 25% of the portfolio requirement~~
~~2002~~	~~Maximum of 25% of the portfolio requirement~~
~~2003 and on~~	~~Maximum of 20% of the portfolio requirement~~

~~2. No extra credit multipliers will be allowed for this credit. In order to avoid double-counting of the same equipment, solar electric generators that are used by other Electric Service Providers to meet their Arizona solar portfolio requirements will not be allowable for credits under this Section for the manufacturer/Electric Service Provider to meet its portfolio requirements.~~

~~**L.** The Director, Utilities Division shall develop appropriate safety, durability, reliability, and performance standards necessary for solar generating equipment to qualify for the solar portfolio standard. Standards requirements will apply only to facilities constructed or acquired after the standards are publicly issued.~~

R14-2-1610.~~R14-2-1611.~~ In-state Reciprocity

A. The service territories of Arizona electric utilities which are not Affected Utilities or Public Power Entities shall not be open to competition under the provisions of this Article, nor shall Arizona electric utilities which are not Affected Utilities be able to compete for sales in the service territories of the Affected Utilities.

B. An Arizona electric utility, subject to the jurisdiction of the Commission, which is not an Affected Utility or a Public Power Entity may voluntarily participate under the provisions of this Article if it makes its service territory available for competing sellers, if it agrees to all of the requirements of this Article, and if it obtains an appropriate Certificate of Convenience and Necessity.

C. An Arizona electric utility, not subject to the jurisdiction of the Commission, and which is not a Public Power Entity, may submit a statement to the Commission that it voluntarily opens its service territory for competing sellers in a manner similar to the provisions of this Article. Such statement shall be accompanied by the electric utility's nondiscriminatory Standard Offer Tariff, electric supply tariffs, Unbundled Services rates, Stranded Cost charges, System Benefits charges, Distribution Services charges and any other applicable tariffs and policies for services the electric utility offers, for which these rules otherwise require compliance by Affected Utilities or Electric Service Providers. Such filings shall serve as authorization for such electric utility to utilize the Commission's Rules of Practice and Procedure and other applicable rules concerning any complaint that an Affected Utility or Electric Service Provider is violating any provision of this Article or is otherwise discriminating against the filing electric utility or failing to provide just and reasonable rates in tariffs filed under this Article.

D. If an electric utility is an Arizona political subdivision or municipal corporation other than a Public Power Entity, then the existing service territory of such electric utility shall be deemed open to competition if the political subdivision or municipality has entered into an intergovernmental agreement with the Commission that establishes nondiscriminatory terms and conditions for Distribution Services and other Unbundled Services, provides a procedure for complaints arising therefrom, and provides for reciprocity with Affected Utilities or their affiliates. The Commission shall conduct a hearing to consider any such intergovernmental agreement.

E. An affiliate of an Arizona electric utility which is not an Affected Utility or a Public Power Entity shall not be allowed to compete in the service territories of Affected Utilities unless the affiliate's parent company, the nonaffected electric utility, submits a statement to the Commission indicating that the parent company will voluntarily open its service territory for competing sellers in a manner similar to the provisions of this Article and the Commission makes a finding to that effect.

R14-2-1611.~~R14-2-1612.~~ Rates

A. Market determined rates for Competitive Services, ~~competitively provided services as~~ defined in R14-2-1601, ~~R14-2-1605~~ shall be deemed to be just and reasonable.

B. No change.

C. Prior to January 1, 2001, ~~the date indicated in R14-2-1604(D),~~ competitively negotiated contracts governed by this Article customized to individual customers which comply with approved tariffs do not require further Commission approval. However, all such contracts whose term is 1 year or more and for service of 1 MW or more must be filed with the Director, Utilities Division, as soon as practicable. If a contract does not comply with the provisions of the Load Serving Entity's ~~this Article and the Affected Utility's or Electric Service Provider's~~ approved tariffs, it shall not become effective without a Commission order. The provisions ~~terms~~ of such ~~Such~~ contracts shall be kept confidential by the Commission.

D. Contracts entered into on or after January 1, 2001, ~~the date indicated in R14-2-1604(D)~~ which comply with approved tariffs need not be filed with the Director, Utilities Division. If a contract does not comply with the provisions of the Load Serving Entity's ~~this Article and the Affected Utility's or the Electric Service Provider's~~ approved tariffs, it shall not become effective without a Commission order.

E. An Electric Service Provider holding a Certificate pursuant to this Article may price its Competitive Services ~~competitive services, as defined in R14-2-1605,~~ at or below the maximum rates specified in its filed tariff, provided that the price is not less than the marginal cost of providing the service.

F. Requests for changes in maximum rates or changes in terms and conditions of previously approved tariffs may be filed. Such changes shall become effective only upon Commission approval.

R14-2-1612.~~R14-2-1613.~~ Service Quality, Consumer Protection, Safety, and Billing Requirements

A. No change.

B. No change.

C. No consumer shall be deemed to have changed providers of any service authorized in this Article (including changes from ~~supply by~~ the Affected Utility to another provider) without written authorization by the consumer for service from the new provider. If a consumer is switched ~~(or slammed)~~ to a different ("new") provider without such written authorization, the new provider shall cause service by the previous provider to be resumed and the new provider shall bear all costs associated with switching the consumer back to the previous provider. A new provider who switches a customer without written authorization shall also refund to the retail electricity customer the entire amount of the customer's electricity charges attributable to the electric generation service from the new provider for 3 months, or the period of the unauthorized service, whichever is more. A Utility Distribution Company may request the Commission's Consumer Services Section to review or audit written authorizations to assure a customer switch was properly authorized. A written authorization that is obtained by deceit or deceptive practices shall not be deemed a valid written authorization. Electric Service Providers shall submit reports within 30 days of the end of each calendar quarter to the Commission itemizing the direct complaints filed by customers who have had their Electric Service Providers changed without their authorization. Violations of the Commission's rules concerning unauthorized changes of providers may result in penalties, or suspension or revocation of the provider's certificate. The following requirements and restrictions shall apply to the written authorization form requesting electric service from the new provider:

1. The authorization shall not contain any inducements;
2. The authorization shall be in legible print with clear and plain language confirming the rates, terms, conditions and nature of the service to be provided;
3. The authorization shall not state or suggest that the customer must take action to retain the customer's current electricity supplier;
4. The authorization shall be in the same language as any promotional or inducement materials provided to the retail electric customer; and
5. No box or container may be used to collect entries for sweepstakes or a contest that, at the same time, is used to collect authorization by a retail electric customer to change their electricity supplier or to subscribe to other services.

D. A residential customer ~~with an annual load of 100,000 kWh or less~~ may rescind its authorization to change providers of any service authorized in this Article within 3 business days, without penalty, by providing written notice to the provider.

E. No change.

F. No change.

G. No change.

H. No change.

I. Electric Service Providers shall give at least 5 days notice to their customer ~~and to the appropriate Utility Distribution Company~~ of scheduled return to ~~the~~ Standard Offer Service~~, but that return of that customer to the Standard Offer would be at the next regular billing cycle if appropriate metering equipment is in place, and the request is processed 15 calendar days prior to the next regular read date~~. Electric Service Providers shall provide 15 calendar days notice prior to the next scheduled meter read date to the appropriate Utility Distribution Company regarding the intent to terminate a service agreement. Return of that customer to Standard Offer Service will be at the next regular billing cycle if appropriate metering equipment is in place and the request is provided 15 calendar days prior to the next regular meter read date. Responsibility for charges incurred between the notice and the next scheduled read date shall rest with the Electric Service Provider.

J. Each Electric Service Provider shall ensure that bills rendered on its behalf include its address and toll free telephone numbers for billing, service, and safety inquiries. The bill must also include the address and toll free telephone numbers for the Phoenix and Tucson Consumer Service Sections of the Arizona Corporation Commission Utilities Division. Each Electric Service Provider shall ensure that billing and collections services rendered on its behalf comply with R14-2-1612(A). ~~R14-2-1613(A).~~

K. Additional Provisions for Metering and Meter Reading Services

1. When authorized by the consumer, an Electric Service Provider who provides metering or meter reading services pertaining to a particular consumer shall provide appropriate meter reading data via standardized EDI formats to all applicable Electric Service Providers serving that same consumer. ~~An Electric Service Provider who provides metering or meter reading services pertaining to a particular consumer shall provide access using EDI formats to meter reading data to other Electric Service Providers serving that same consumer when authorized by the consumer.~~
2. Any person or entity relying on metering information provided by an ~~another~~ Electric Service Provider may request a meter test according to the tariff on file and approved by the Commission. However, if the meter is found to be in error by more than 3%, no meter testing fee will be charged.
3. Each competitive point of delivery ~~customer~~ shall be assigned a Universal Node Identifier ~~for each service delivery point~~ by the Affected Utility or the Utility Distribution Company whose distribution system serves the customer.
4. Unless the Commission grants a specific waiver, all ~~All~~ competitive metered and billing data shall be translated into consistent, statewide Electronic Data Interchange (EDI) formats based on standards approved by the Utility Industry Group (UIG) that shall ~~can~~ be used by the Affected Utility or the Utility Distribution Company and the Electric Service Provider.
5. Unless the Commission grants a specific waiver, an ~~An~~ Electronic Data Interchange Format shall be used for all data exchange transactions from the Meter Reading Service Provider to the Electric Service Provider, Utility Distribution Company, and Schedule Coordinator. This data will be transferred via the Internet using a secure sockets layer or other secure electronic media.
6. Minimum metering requirements for competitive customers over 20 kW, or 100,000 kWh annually, should consist of hourly consumption measurement meters or meter systems. Predictable loads will be permitted to use load profiles to satisfy the requirements for hourly consumption data. The Load-Serving Entity developing the load profile shall determine if a load is predictable.
7. Competitive customers with hourly loads of 20 kW (or 100,000 kWh annually) or less, will be permitted to use Load Profiling to satisfy the requirements for hourly consumption data~~.~~, however, they may choose other metering options offered by their Electric Service Provider consistent with the Commission rules on Metering.
8. Metering equipment ownership will be limited to the Affected Utility, Utility Distribution Company, and the Electric Service Provider or their representative, or the customer, who must obtain the metering equipment through ~~obtains the meter from~~ the Affected Utility, ~~or~~ Utility Distribution Company or an Electric Service Provider.
9. Maintenance and servicing of the metering equipment will be limited to the Affected Utility, Utility Distribution Company and the Electric Service Provider or their representative.
10. Distribution primary voltage Current Transformers and Potential Transformers may be owned by the Affected Utility, Utility Distribution Company or the Electric Service Provider or their representative.
11. Transmission primary voltage Current Transformers and Potential Transformers may be owned by the Affected Utility or Utility Distribution Company only.
12. North American Electric Reliability Council recognized holidays will be used in calculating "working days" for meter data timeliness requirements.
13. By May 1, 1999, the Director, Utilities Division shall approve operating procedures to~~The operating procedures approved by the Director, Utilities Division will~~ be used by the Utility Distribution Companies and the Meter Service Providers for performing work on primary metered customers.
14. By May 1, 1999, the Director, Utilities Division shall approve operating procedures to ~~The rules approved by the Director, Utilities Division will~~ be used by the Meter Reading Service Provider for validating, editing, and estimating metering data.
15. By May 1, 1999, the Director, Utilities Division shall approve performance metering specifications and standards to ~~The performance metering specifications and standards approved by the Director, Utilities Division will~~ be used by all entities performing metering.

L.~~M.~~ Electric Service Providers shall comply with applicable reliability standards and practices established by the Western Systems Coordinating Council and the North American Electric Reliability Council or successor organizations.

~~**L.** Working Group on System Reliability and Safety~~

~~1. The Commission shall establish, by separate order, a working group to monitor and review system reliability and safety.~~

~~a. The working group may establish technical advisory panels to assist it.~~

~~b. Members of the working group shall include representatives of staff, consumers, the Residential Utility Consumer Office, utilities, other Electric Service Providers and organizations promoting energy efficiency. In addition, the Executive and Legislative Branches shall be invited to send representatives to be members of the working group.~~

~~c. The working group shall be coordinated by the Director, Utilities Division of the Commission or by the Director's designee.~~

~~2. All Electric Service Providers governed by this Article shall cooperate and participate in any investigation conducted by the working group, including provision of data reasonably related to system reliability or safety.~~
~~3. The working group shall report to the Commission on system reliability and safety regularly, and shall make recommendations to the Commission regarding improvements to reliability or safety.~~

M.~~N.~~ Electric Service Providers shall provide notification and informational materials to consumers about competition and consumer choices, such as a standardized description of services, as ordered by the Commission.

N.~~O.~~ ~~Unbundled~~ Billing Elements. After the commencement of competition within a service territory pursuant to R14-2-1602, all customer bills, including bills for Standard Offer Service customers within that service territory, ~~All customer bills after January 1, 1999~~ will list, at a minimum, the following billing cost elements:

1. Competitive Services: ~~Electricity Costs:~~
   a. Generation, which shall include generation-related billing and collection;
   b. Competition Transition Charge~~, and~~
   c. Transmission and Ancillary Services; ~~Fuel or purchased power adjustor, if applicable;~~
   d. Metering Services; and
   e. Meter Reading Services.
2. Non-Competitive Services: ~~Delivery costs:~~
   a. Distribution services, including distribution-related billing and collection, required Ancillary Services and Must-Run Generating Units; and
   b. System Benefit Charges. ~~Transmission services; and~~
   ~~c. Ancillary services~~
3. Regulatory assessments; and ~~Other Costs:~~
   ~~a. Metering Service,~~
   ~~b. Meter Reading Service,~~
   ~~c. Billing and collection, and~~
   ~~d. System Benefits charge.~~
4. Applicable taxes.

O.~~P.~~ The operating procedures approved by the Director, Utilities Division will be used for Direct Access Service Requests as well as other billing and collection transactions.

R14-2-1613.~~R14-2-1614.~~ Reporting Requirements

A. Reports covering the following items, as applicable, shall be submitted to the Director, Utilities Division, by Affected Utilities or Utility Distribution Companies and all Electric Service Providers granted a Certificate of Convenience and Necessity pursuant to this Article. These reports shall include the following information pertaining to competitive service offerings, Unbundled Services, and Standard Offer services in Arizona:

1. Type of services offered;
2. kW and kWh sales to consumers, disaggregated by customer class (for example, residential, commercial, industrial);
3.~~4.~~ Revenues from sales by customer class (for example, residential, commercial, industrial);
~~3. Solar energy sales (kWh) and sources for grid connected solar resources; kW capacity for off grid solar resources;~~
4.~~5.~~ Number of retail customers disaggregated as follows: residential, commercial under 40 kW, commercial 41 to 999 kW, commercial 1000 kW or more, industrial less than 1000 kW, industrial 1000 kW or more, agricultural (if not included in commercial), and other;
5.~~6.~~ Retail kWh sales and revenues disaggregated by term of the contract (less than 1 year, 1 to 4 years, longer than 4 years), and by type of service (for example, firm, interruptible, other);
6.~~7.~~ Amount of ~~and~~ revenues from each type of Competitive Service, ~~service provided under R14-2-1605,~~ and, if applicable, each type of Noncompetitive Service provided; ~~R14-2-1606;~~
7.~~8.~~ Value of all assets used to serve Arizona customers and accumulated depreciation;
8.~~9.~~ Tabulation of Arizona electric generation plants owned by the Electric Service Provider broken down by generation technology, fuel type, and generation capacity;
9.~~10.~~The number of customers aggregated and the amount of aggregated load; and
10.~~11.~~Other data requested by staff or the Commission.
~~12. In addition, prior to the date indicated in R14-2-1604(D), Affected Utilities shall provide data demonstrating compliance with the requirements of R14-2-1604.~~

B.~~A.~~ Reporting Schedule

1. For the period through December 31, 2003, semi-annual reports shall be due on April 15 (covering the previous period of July through December) and October 15 (covering the previous period of January through June). The 1st such report shall cover the period January 1 through June 30, 1999.
2. For the period after December 31, 2003, annual reports shall be due on April 15 (covering the previous period of January through December). The 1st such report shall cover the period January 1 through December 31, 2004.

C. The information listed above may, at the provider's option, be provided on a confidential basis. However, staff or the Commission may issue reports with aggregate statistics based on confidential information that do not disclose data pertaining to a particular seller or purchases by a particular buyer.
D. No change.
E. No change.
F. No change.
G. No change.

R14-2-1614.~~R14-2-1615.~~ Administrative Requirements

A. Any Electric Service Provider certificated under this Article may file proposed additional tariffs for Competitive Services ~~services~~ at any time which include a description of the service, maximum rates, terms, and conditions. ~~The proposed new service may not be provided until the Commission has approved the tariff.~~
B. No change.
C. No change.
D. No change.
E. Prior to October 1, 1999, the Director, Utilities Division, shall implement a Consumer Education Program as approved by the Commission.

R14-2-1615.~~R14-2-1616.~~ Separation of Monopoly and Competitive Services

A. No change.
B. Beginning January 1, 2001, ~~1999,~~ an Affected Utility or Utility Distribution Company shall not provide Competitive Services ~~competitive services~~ as defined in R14-2-1601. ~~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 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 December 31, 2000, to the existing competitive customers signed up prior to the commencement of service by the 2 competitive Electric Service Providers.~~
   1. This Section does not 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 Meter Services and Meter Reading Services for Load Profiled residential customers. Nor does this Section preclude an Affected Utility or Utility Distribution Company from providing billing and collections, Metering and Meter Reading Service as part of the Standard Offer Service tariff to Standard Offer Service customers.
   2. This Section does not preclude an Affected Utility or Utility Distribution Company from owning distribution and transmission primary voltage Current Transformers and Potential Transformers.

C. An Electric Distribution Cooperative is not subject to the provisions of R14-2-1615 ~~R14-2-1616~~ unless ~~except if~~ it offers competitive electric services outside of its distribution service territory. ~~the service territory it had as of the effective date of these rules.~~
~~D.~~ ~~To meet the solar portfolio requirement in R14-2-1609, the Utility Distribution Company may purchase, install, and operate the solar electric systems or contract with an affiliate to meet the solar portfolio requirement.~~

R14-2-1616. Code of Conduct

A. No later than 90 days after adoption of these Rules, each Affected Utility which plans to offer Noncompetitive Services and which plans to offer Competitive Services through its competitive electric affiliate shall propose a Code of Conduct to prevent anti-competitive activities. Each Affected Utility that is an electric cooperative, that plans to offer Noncompetitive Services, and that is a member of any electric cooperative that plans to offer Competitive Services shall also submit a Code of Conduct to prevent anti-competitive activities. All Codes of Conduct shall be subject to Commission approval after a hearing.
B. The Code of Conduct shall address the following subjects:
   1. Appropriate procedures to prevent cross subsidization between the Utility Distribution Company and any competitive affiliates, including but not limited to the maintenance of separate books, records and accounts;

2. Appropriate procedures to ensure that the Utility Distribution Company's competitive affiliate does not have access to confidential utility information that is not also available to other market participants;
3. Appropriate guidelines to limit the joint employment of personnel by both a Utility Distribution Company and its competitive affiliate;
4. Appropriate guidelines to govern the use of the Utility Distribution Company's name or logo by the Utility Distribution Company's competitive affiliate;
5. Appropriate procedures to ensure that the Utility Distribution Company does not give its competitive affiliate any preferential treatment such that other market participants are unfairly disadvantaged or discriminated against;
6. Appropriate policies to eliminate joint advertising, joint marketing, or joint sales by a Utility Distribution Company and its competitive affiliate;
7. Appropriate procedures to govern transactions between a Utility Distribution Company and its competitive affiliate; and
8. Appropriate policies to prevent the Utility Distribution Company and its competitive affiliate from representing that customers will receive better service as a result of the affiliation.
9. Complaints concerning violations of the Code of Conduct shall be processed under the procedures established in R14-2-212.

R14-2-1617. ~~Affiliate Transactions~~ Repealed

~~**A.** Separation~~

~~An Affected Utility or Utility Distribution Company and its affiliates shall operate as separate corporate entities. Books and records shall be kept separate, in accordance with applicable Uniform System of Accounts (USOA) and Generally Accepted Accounting Procedures (GAAP). The books and records of any Electric Service Provider that is an affiliate of an Affected Utility or Utility Distribution Company shall be open for examination by the Commission and its staff consistent with the provisions set forth in R14-2-1614. All proprietary information shall remain confidential.~~

1. ~~An Affected Utility or Utility Distribution Company shall not share office space, equipment, services, and systems with its competitive electric affiliates, nor access any computer or information systems of one another, except to the extent appropriate to perform shared corporate support functions permitted under subsection (A)(2). An Affected Utility or Utility Distribution Company shall not share office space, equipment, services, and systems with its other affiliates without full compensation in accordance with subsection (A)(7).~~
2. ~~An Affected Utility or Utility Distribution Company, its parent holding company, or a separate affiliate created solely for the purpose of corporate support functions, may share with its affiliates joint corporate oversight, governance, support systems and personnel. Any shared support shall be priced, reported and conducted in accordance with all applicable Commission pricing and reporting requirements. An Affected Utility or Utility Distribution Company shall not use shared corporate support functions as a means to transfer confidential information, allow preferential treatment, or create significant opportunities for cross-subsidization of its affiliates, and shall provide mechanisms and safeguards against such activity in its compliance plan.~~
3. ~~An affiliate of an Affected Utility or Utility Distribution Company shall not trade, promote, or advertise its affiliation with the Affected Utility or Utility Distribution Company, nor use or make use of the Affected Utility's name or logo in any material circulated by the affiliate, unless it discloses in plain legible or audible language, on the first page or at the first instance the Affected Utility or Utility Distribution Company name or logo appears, that:~~
   a. ~~The affiliate is not the same company as the Affected Utility or Utility Distribution Company, and~~
   b. ~~Customers do not have to buy the affiliate product in order to continue to receive quality regulated services from the Affected Utility or Utility Distribution Company.~~
4. ~~An Affected Utility or Utility Distribution Company shall not offer or provide to its affiliates advertising space in any customer written communication unless it provides access to all other unaffiliated service providers on the same terms and conditions.~~
5. ~~An Affected Utility or Utility Distribution Company shall not participate in joint advertising, marketing or sales with its affiliates. Any joint communication and correspondence with an existing customer by an Affected Utility or Utility Distribution Company and its affiliate shall be limited to consolidated billing, when applicable, and in accordance with these rules.~~
6. ~~Except as provided in subsection A(2), an Affected Utility or Utility Distribution Company and its affiliate shall not jointly employ the same employees. This rule applies to Board of Directors and corporate officers. However, any board member or corporate officer of a holding company may also serve in the same capacity with the Utility Distribution Company, or its affiliate, but not both. Where the Affected Utility is a multi-state utility, is not a member of a holding company structure, and assumes the corporate governance functions for its affiliates, the prohibition outlined in this section shall only apply to affiliates that operate within Arizona.~~
7. ~~Transfer of Goods and Services: To the extent that these rules do not prohibit transfer of goods and services between an Affected Utility or Utility Distribution Company and its affiliates, all such transfers shall be subject to the following price provisions:~~

a. Goods and services provided by an Affected Utility or Utility Distribution Company to an affiliate shall be transferred at the price and under the terms and conditions specified in its tariff. If the goods or service to be transferred is a non-tariffed item, the transfer price shall be the higher of fully allocated cost or the market price. Transfers from an affiliate to its affiliated Utility Distribution Company shall be priced at the lower of fully allocated cost or fair market value.
b. Goods and services produced, purchased or developed for sale on the open market by the Affected Utility or Utility Distribution Company will be provided to its affiliates and unaffiliated companies on a nondiscriminatory basis, except as otherwise permitted by these rules or applicable law.

8. No Cross-subsidization: A competitive affiliate of an Affected Utility or Utility Distribution Company shall not be subsidized by any rate or charge for any noncompetitive service, and shall not be provided access to confidential utility information.

B. Access to Information

As a general rule, an Affected Utility, Utility Distribution Company or Electric Service Provider shall provide customer information to its affiliates and nonaffiliates on a non-discriminatory basis, provided prior affirmative customer written consent is obtained. Any non-customer specific non-public information shall be made contemporaneously available by an Affected Utility, Utility Distribution Company or Electric Service Provider to its affiliates and all other service providers on the same terms and conditions.

C. An Affected Utility or Utility Distribution Company shall adhere to the following guidelines:

1. Any list of Electric Service Providers provided by an Affected Utility or Utility Distribution Company to its customers which includes or identifies the Affected Utility's or Utility Distribution Company's competitive electric affiliates must include or identify non-affiliated entities included on the list of those Electric Service Providers authorized by the Commission to provide service within the Affected Utility's or Utility Distribution Company's certificated area. The Commission shall maintain an updated list of such Electric Service Providers and make that list available to Affected Utilities or Utility Distribution Companies at no cost.
2. An Affected Utility or Utility Distribution Company may provide non-public supplier information and data, which it has received from unaffiliated suppliers, to its affiliates or nonaffiliated entities only if the Affected Utility or Utility Distribution Company receives prior authorization from the supplier.
3. Except as otherwise provided in these rules, an Affected Utility or Utility Distribution Company shall not offer or provide customers advice, which includes promoting, marketing or selling, about its affiliates or other service providers.
4. An Affected Utility or Utility Distribution Company shall maintain contemporaneous records documenting all tariffed and nontariffed transactions with its affiliates, including but not limited to, all waivers of tariff or contract provisions and all discounts. These records shall be maintained for a period of 3 years, or longer if required by this Commission or another governmental agency.

D. Nondiscrimination

An Affected Utility, Utility Distribution Company, or their affiliates shall not represent that, as a result of the affiliation, customers of such affiliates will receive any treatment different from that provided to other, non-affiliated entities or their customers. An Affected Utility, Utility Distribution Company, or their affiliates shall not provide their affiliates, or customers of their affiliates, any preference over non-affiliated supplies or their customers in the provision of services. For example:

1. Except when made generally available by an Affected Utility, Utility Distribution Company or their affiliates, through an open competitive bidding process, if the Affected Utility, Utility Distribution Company or their affiliates offers a discount or waives all or any part of any charge or fee to its affiliates, or offers a discount or waiver for a transaction in which their affiliates are involved, the entity shall contemporaneously make such discount or waiver available to all.
2. If a tariff provision allows for discretion in its application, an Affected Utility or Utility Distribution Company shall apply that provision equally among its affiliates and all other market participants and their respective customers.
3. Requests from affiliates and non-affiliated entities and their customers for services provided by the Affected Utility or Utility Distribution Company shall be processed on a nondiscriminatory basis.
4. An Affected Utility or Utility Distribution Company shall not condition or otherwise tie the provision of any service provided, nor the availability of discounts of rates or other charges or fees, rebates or waivers of terms and conditions of any services, to the taking of any goods or services from its affiliates.
5. In the course of business development and customer relations, except as otherwise provided in these rules, an Affected Utility or Utility Distribution Company shall refrain from:
   a. Providing leads to its affiliates;
   b. Soliciting business on behalf of affiliates;
   c. Acquiring information on behalf of, or provide information to, its affiliates;
   d. Sharing market analysis reports or any non publicly available reports, including but not limited to market, forecast, planning or strategic reports, with its affiliates.

E. Compliance Plans

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

~~**F.** Waivers~~

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

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

R14-2-1617.~~R14-2-1618.~~ Disclosure of Information

~~**A.** There are efforts under the auspices of the Western Conference of Public Service Commissioners to develop a tracking mechanism as to the source of electrons. To facilitate customer choice, the Commission intends to participate in developing this tracking mechanism and a side-by-side comparison for retail customers on price, price variability, fuel mix, and emissions of electricity offered for sale in Arizona and the West. Until this is accomplished, R14-2-1618 is a placeholder.~~

A.~~B.~~ Each Load-Serving Entity providing either generation service or Standard Offer Service shall prepare a consumer information label that sets forth the following information ~~for customers with a demand of less than 1 MW:~~

1. Price to be charged for generation services,
2. Price variability information,
3. Customer service information,
4. ~~Composition of resource portfolio,~~
5. ~~Fuel mix characteristics of the resource portfolio,~~
6. ~~Emissions characteristics of the resource portfolio,~~

4.~~7.~~ Time period to which the reported information applies.

B. Each Load-Serving Entity providing either generation service or Standard Offer Service shall provide, upon request, the following information (to the extent reasonably known):

1. Composition of resource portfolio,
2. Fuel mix characteristics of the resource portfolio,
3. Emissions characteristics of the resource portfolio.

C. The Director, Utilities Division, shall develop the format and reporting requirements for the consumer information label to ensure that the information ~~required by subsection (A)~~ is appropriately and accurately reported and to ensure that customers can use the labels for comparisons among Load-Serving Entities. The format developed by the Director, Utilities Division, shall be used by each Load-Serving Entity.

D. Each Load-Serving Entity shall include the information disclosure label in a prominent position in all written marketing materials~~,~~ specifically targeted ~~target~~ to Arizona. When a Load-Serving Entity advertises in nonprint media, or in written materials not specifically targeted ~~target~~ to Arizona, the marketing materials shall indicate that the Load-Serving Entity shall provide the consumer information label to the public upon request.

E. No change.

F. Each Load-Serving Entity shall prepare a statement of its terms of service that sets forth the following information:

1. Actual pricing structure or rate design according to which the customer with a load of less than 1 MW will be billed, including an explanation of price variability and price level adjustments that may cause the price to vary;
2. Length and description of the applicable contract and provisions and conditions for early termination by either party;
3. Due date of bills and consequences of late payment;
4. Conditions under which a credit agency is contacted;
5. Deposit requirements and interest on deposits;
6. Limits on warranties and damages;
7. All charges, fees, and penalties;
8. Information on consumer rights pertaining to estimated bills, 3rd-party billing, deferred payments, and recision ~~recission~~ of supplier switches within 3 days of receipt of confirmation;
9. A toll-free telephone number for service complaints;
10. Low income programs and low income rate eligibility;
11. Provisions for default service;
12. Applicable provisions of state utility laws; and

13. Method whereby customers will be notified of changes to the terms of service.

G. No change.

H. No change.

I. The Commission shall ~~may~~ establish a consumer information advisory panel to review the effectiveness of the provisions of this Section and to make recommendations for changes in the rules.

NOTICE OF EXEMPT RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 13. DEPARTMENT OF ENVIRONMENTAL QUALITY SOLID WASTE MANAGEMENT

PREAMBLE

1. Sections Affected | **Rulemaking Action**

R18-13-201	Amend
R18-13-202	New Section

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

Authorizing statute: A.R.S. § 49-104

Implementing statute: A.R.S. § 49-701.01

3. The effective date of the rules:

September 17, 1999

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

Notices of Rulemaking Docket Opening: 5 A.A.R. 2266, July 16, 1999, and 5 A.A.R. 2937, August 27, 1999.

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

Name: Deborah K. Blacik or Martha L. Seaman

Address: Department of Environmental Quality
Rule Development Section, M0836A-829
3033 N. Central Avenue

Telephone: (602) 207-2223 or within Arizona (800) 234-5677, Ext. 2223

Fax: (602) 207-2251

TTD: (602) 207-4829

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:

In this rulemaking, the Arizona Department of Environmental Quality (Department) is amending R18-13-201 to make some technical and clarifying changes. The Department is also making a new rule to exempt coal slurry discharges from pipeline that meets certain conditions from the definition of solid waste.

State law defines what is a solid waste, lists exemptions to solid waste, and allows the Department to add exemptions to the list on a site specific or statewide basis. The exemptions are then either regulated by a program at ADEQ other than solid waste or are not considered an impact on human health and the environment and, therefore, not regulated.

Black Mesa Pipeline, Inc. petitioned the Department to approve a statewide exemption to the definition of solid waste for certain coal slurry discharges from pipelines under A.R.S. § 49-701.01(C).

The Director approved the petition on June 9, 1999. Under state law, the Department determined that coal slurry discharges onto the ground from pipeline leaks are unlikely to cause or substantially contribute to a threat to the public health or the environment, and therefore are exempt from being a solid waste statewide, if the following conditions are met:

1. The discharge was the result of an accidental pipeline break; and
2. The thickness of the layer of coal on the ground, resulting from the discharge, is 3 inches or less.

7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed 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 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.

9. The summary of the economic, small business, and consumer impact:
Not applicable. This is an exempt rulemaking.

10. A description of the changes between the proposed rules, including supplemental notices, and 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:
Not applicable.

13. Incorporations by reference and their location in the rules:
Not applicable.

14. Was this rule previously adopted as an emergency rule?
No.

15. The full text of the rules follows

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 13. DEPARTMENT OF ENVIRONMENTAL QUALITY SOLID WASTE MANAGEMENT

ARTICLE 2. SOLID WASTE DEFINITIONS; EXEMPTIONS

Sections
R18-13-201. Land Application of Biosolids Exemption
R18-13-202. Coal Slurry Discharges from Pipeline Leaks Exemption

ARTICLE 2. SOLID WASTE DEFINITIONS; EXEMPTIONS

R18-13-201. Land Application of Biosolids Exemption

A. This ~~article~~ Section applies only to biosolids as defined in R18-13-1501(7). The land application of biosolids, when placed on or applied to the land in full conformity with 18 A.A.C. 13, Article 15 and A.R.S. § 49-761(F), and if the site of land application has ceased to receive application of biosolids and all applicable site restrictions set by A.A.C. Title 18 have been satisfied, is exempt statewide from the definition of solid waste found at A.R.S. § 49-701.01(A). This exemption applies only when biosolids and the soil to which it has been applied remain at the site of the application.

B. This exemption does not alter or set any new standard for the soil remediation standards found at 18 A.A.C. 7, Article 2.

R18-13-202. Coal Slurry Discharges from Pipeline Leaks Exemption

This Section applies only to coal slurry discharges onto the ground from pipeline leaks. Coal slurry discharges onto the ground from pipeline leaks are exempt statewide from the definition of solid waste prescribed in A.R.S. § 49-701.01(A) if both of the following conditions are met:

1. The discharge was the result of an accidental pipeline leak.
2. The thickness of the layer of coal slurry on the ground that resulted from the discharge is 3 inches or less.