

Decision And Amended Rules on Electric Competition

**BEFORE THE ARIZONA CORPORATION
COMMISSION**

MARCIA WEEKS
Commissioner

RENZ D. JENNINGS
Chairman

CARL J. KUNASEK
Commissioner

DOCKET NO. U-0000-94-165
DECISION NO. 59943

**IN THE MATTER OF THE COMPETITION
IN THE PROVISION OF ELECTRIC
SERVICES THROUGHOUT THE STATE OF ARIZONA.**

OPINION AND ORDER

DATES OF HEARING: December 2, 3 and 4, 1996

PLACES OF PUBLIC: Phoenix, Tucson, Yuma, Flagstaff, and
Kingman, Arizona

COMMENT:

PRESIDING OFFICERS: Jerry L. Rudibaugh, Jane Rodda, Scott
Wakefield

IN ATTENDANCE:

Renz D. Jennings, Chairman
Marcia Weeks, Commissioner
Carl J. Kunasek, Commissioner

APPEARANCES:

Mr. Bradford A. Borman, and Mr. Peter Breen
Staff Attorneys, Legal Division, on behalf of the Utilities Division of the
Arizona Corporation Commission.

BY THE COMMISSION:

On October 1, 1996, the Utilities Division Staff ("Staff") of the Arizona
Corporation Commission ("Commission") forwarded to the Commission
proposed new rules A.A.C. R14-2-1601 through A.A.C. R14-2-1616
("Rules" or "Electric Competition Rules") regarding competitive electric

services. By Decision No. 59870 (October 10, 1996), the Commission directed the Hearing Division to schedule Public Comment regarding the proposed Rules in Phoenix, Tucson, Yuma, Flagstaff, and Kingman, Arizona.

Our October 11, 1996 Procedural Order scheduled public comment proceedings on the above-captioned matter on December 2 in Phoenix, December 3 in Tucson and Yuma, and December 4 in Flagstaff and Kingman. Decision No. 59870 also ordered Staff to forward a Notice of Proposed Rulemaking ("Notice") to the Office of the Secretary of State for publication. The Notice was published in the Arizona Administrative Register on November 1, 1996.

DISCUSSION:

The proposed Competitive Electric Rules set forth a framework for the inevitable transition from a non-competitive to a competitive environment. It has been a process that has evolved since May 1994 as Staff has held numerous workshops prior to bringing forth the proposed Rules. Based on the amount of comments filed and the attendance at each of the public comment proceedings held, the interest in the proposed Rules is as great as it has been for as any rules the Commission has promulgated.

Based on the overall comments, we must conclude that all of the parties have expressed a desire for a more competitive electric market in Arizona. Some parties, including Arizona Public Service ("APS"), Tucson Electric Power ("TEP"), Citizens Utilities Company ("Citizens"), Salt River Project ("SRP") and the cooperatives were not as receptive to the proposed Rules as other parties. That is certainly understandable since, under the proposed Rules, their status as monopoly providers of electric service will change.

The parties were generally in agreement that competition will provide the benefit of reduced costs, at least for some consumers. However, there were concerns raised regarding the quality of service, as well as concerns that not all customers, particularly residential customers, will receive the benefits of competition as quickly as some large industrial customers. And of course, the incumbent utilities were greatly concerned regarding the recoverability of stranded costs.

While there was general agreement as to the need and inevitability of competition in the electric field, there were major disagreements over the implementation of these Rules. The parties identified complex problems such as the recoverability of stranded investment, intra-state and inter-state reciprocity, the status of the new Certificates of Convenience and Necessity ("CC&Ns"), and other issues, for which the parties assert the Rules provide insufficient guidance. Several parties have suggested holding evidentiary hearings on these issues in order to resolve them before going forward with these rules. Other parties, including Staff, have warned against delay in promulgating these rules, indicating that the competitive electric market is rapidly approaching whether these Rules are promulgated or not. We conclude that these gaps, to the extent that they exist, can be filled in later with workshops, working groups,

subsequent evidentiary hearings, and perhaps subsequent rulemaking proceedings; while competition is approaching rapidly, the transition to competition will allow time to address these issues and resolve them in a timely fashion.

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT:

1. On October 1, 1996, Staff filed the proposed Rules regarding competitive electric services.
2. On October 10, 1996, the Commission issued Decision No. 59870 which directed the Hearing Division to schedule hearings on the proposed Rules in Phoenix, Tucson, Yuma, Flagstaff, and Kingman, Arizona.
3. The purpose of the proposed Rules is to provide the Commission with a framework to open the retail electric market to competition, and to streamline the regulatory process for setting rates for competitive electric services.
4. The proposed amendments to the Rules are set forth in Appendix A, attached hereto and incorporated by reference.
5. In accordance with A.R.S. Section 41-1027, a Concise Explanatory Statement for the proposed Rules is set forth in Appendix B, attached hereto and incorporated by reference.
6. The economic impact of the proposed Rules is set forth in Appendix C, attached hereto and incorporated by reference.
7. The Notice of Rulemaking was filed with the Secretary of State and was published in the Arizona Administrative Register on November 1, 1996.
8. Public Comment sessions were held on December 2, 1996, in Phoenix, December 3, 1996 in Tucson and Yuma, and December 4, 1996 in Flagstaff and Kingman, Arizona.

CONCLUSIONS OF LAW:

1. The Commission has authority for the proposed Rules pursuant to the Arizona Constitution, Article XV, under A.R.S. Sections 40-202, -203, -250, -321, -322, -331, -332, -336, 361, -365, -367, and under the Arizona Revised Statutes, Title 40, generally.
2. Notice of the proceeding has been given in the manner prescribed by law.

3. Adoption of the proposed Rules is in the public interest.
4. The Concise Explanatory Statement set forth in Appendix B should be adopted.

ORDER:

IT IS THEREFORE ORDERED that the proposed Rules A.A.C. R14-2-1601, R14-2-1602, R14-2-1603, R14-2-1604, R14-2-1605, R14-2-1606, R14-2-1607, R14-2-1608, R14-2-1609, R14-2-1610, R14-2-1611, R14-2-1612, R14-2-1613, R14-2-1614, R14-2-1615, and R14-2-1616, as set forth in Appendix A, and the Concise Explanatory Statement, as set forth in Appendix B, are hereby adopted.

IT IS FURTHER ORDERED that the Commission's Utilities Division shall immediately forward the new Rules A.A.C. R14-2-1601, R14-2-1602, R14-2-1603, R14-2-1604, R14-2-1605, R14-2-1606, R14-2-1607, R14-2-1608, R14-2-1609, R14-2-1610, R14-2-1611, R14-2-1612, R14-2-1613, R14-2-1614, R14-2-1615, and R14-2-1616, to the Secretary of State.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, JAMES MATTHEWS, Executive Secretary of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 26th day of December , 1996.

(Signed by Philip R. Moulton, Deputy, for)

JAMES MATTHEWS
Executive Secretary

DISSENT _____

GY:DB:KEC: RTW:BAB:mmc

